

The Joint Inspection Unit of the United Nations and the Specialized Agencies

The Role and Working Methods of a Comprehensive Oversight Institution in the United Nations System

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I. Historical Background, Legal Basis of the JIU

As of 1 January 1998, the Joint Inspection Unit (JIU) has been in existence for 30 years. As such, this is an appropriate occasion to take stock of its past, to scrutinize what has and could have been achieved, and in what areas it was less successful, thereby not fulfilling the expectations of the Unit's founders. It is also a chance to consider the JIU's actual role in the United Nations System and review the opportunities for strengthening its impact in enhancing efforts to make United Nations System activities more cost-effective.

The idea of the creation of the JIU dates back to one of the most serious financial crises in United Nations history, which arose in the early 1960s when France, the then Soviet Union, and a few other socialist countries refused for legal reasons, to participate in the financing of the Peace-keeping Operation in Congo (ONUC).¹ At the end of 1964, the General

¹ The principle argument was that the Security Council had not properly established the legal terms for the mandate of ONUC. For further details, see Advisory Opinion of the ICJ of 20 July 1962, ICJ Reports 1962, 151 et seq. — Certain Expenses of the United Nations — and C. Tomuschat, "On Article 19", 327 et seq., Mn. 6, in: B. Simma (ed.), *The Charter of the United Nations. A Commentary*, 1994. Furthermore a number of socialist states refused to pay assessed contributions for UN peace-keeping activities in Suez (UNEF).

Assembly was not even in a position to adopt the regular budget for 1965² so that emergency budgetary measures had to be applied temporarily. In response, the General Assembly began to discuss initiatives to solve that financial crisis, which was the starting point for establishing the JIU. Through Resolution A/RES/2049 (XX) of 13 December 1965, the General Assembly created an *ad-hoc* committee of 14 Member States, to be appointed by the President of the Assembly, that was mandated to examine the financial situation of the United Nations and of the Specialized Agencies. The President appointed as members Argentina, Brazil, Canada, France, Hungary, India, Italy, Japan, Nigeria, Senegal, the USSR, the United Arab Republic, the United Kingdom and the United States. Upon the initiative of the French representative, G. Guindey, the committee recommended in its report dated 19 July 1966, *inter alia*, to establish an external control body that should:

- have a system-wide oversight function, rather than focusing on one organisation; and
- in substantial terms, focus on management auditing (value for money auditing) and less on classical financial auditing, such as voucher auditing.³

The features of the French “Cour des Comptes”, which is equipped with strong powers in the French constitutional system, was considered by the framers of the JIU as one possible model.⁴

The report of the *ad-hoc* committee was adopted one year later through A/RES/2150 (XXI) of 4 November 1966. The twenty-first session of the General Assembly recognized that “the Joint Inspection Unit should be brought into operation not later than 1 January 1968.”⁵ According to the report of the *ad-hoc* committee, the President of the Assembly invited Argentina, France, India, the USSR, the United Kingdom, Tanzania, the

² At that time, the regular budget of the United Nations did not operate on a biennial basis.

³ Doc. A/6343 of 19 July 1966, para. 67.

⁴ For more details on the history of the JIU and general information about the JIU, see V.Y. Ghebali, “L’Evolution du Corps Commun d’Inspection des Nations Unies”, *AFDI* 32 (1986), 439 et seq.; K. Hübner, “The Joint Inspection Unit”, in: R. Wolfrum (ed.), *United Nations Law, Policies and Practice*, Vol. 2, 1995, 827 et seq.

⁵ See A/RES/2360 (XXII) of 19 December 1967, para 2. The notion of the “Joint Inspection Unit” appears at this stage for the first time in a General Assembly Resolution.

United States and Yugoslavia to nominate candidates for membership in the JIU.⁶

In subsequent years the mandate of the JIU, still operating on an experimental basis, was extended for a period of 4 years each through A/RES/2735 A (XXV) of 17 December 1970 and 2924 B (XXVII) of 24 November 1972. On 22 December 1976, A/RES/31/192 established the statute of the JIU, thereby changing its status from that of a temporary organization to a permanent one. This resolution establishing the JIU has not been revised since 1976. The JIU was granted both the status of a subsidiary organ of the General Assembly in accordance with Article 22 of the UN-Charter, and of the legislative bodies of those organizations of the United Nations System which adopted the JIU statute (article 1 para. 2).⁷ Thus, the JIU became a common subsidiary organ of a principal organ of the United Nations and of principal organs of other international organizations. Legal questions have been raised in the literature as to whether the establishment of joint bodies might go beyond the authority vested in the General Assembly by Article 22 of the United Nations Charter, as this Article, if strictly interpreted, covers only United Nations related functions. In the view of the then United Nations Secretary-General, who considered committees set up jointly with other international organizations to be permissible in appropriate circumstances (so his legal opinion contained in a letter to FAO dated 4 January 1963), it was considered state practice to accept joint subsidiary bodies established by United Nations principle organs.⁸

Eleven specialized agencies and the IAEA initially adopted the Statute of the JIU.⁹ There have been single cases of organizations adopting the Statute with reservations regarding the legal status of the JIU in relation to the legislative organ of a specialized agency. The most prominent case is that of UNESCO's General Conference which decided on 27 November 1978 "... to accept the Statute of the Joint Inspection Unit, qualifying its

6 The composition of the JIU at its starting point was as follows: Maurice Bertrand (France), Lucio Garcia del Solar (Argentina), Sreten Ilic (Yugoslavia), Robert Macy (United States), R.S. Mani (India), Joseph Adolf Sawe (Tanzania), Sir Leonard Scopes (United Kingdom), Aleksei F. Sokirkin (USSR). See Doc. A/7034 of the Secretary-General dated 4 January 1968.

7 Articles without specific reference are those of the JIU Statute, JIU Statute: GAOR 31st Sess., Suppl. 39,163-5.

8 For further details see G. Jaenicke, "On Article 7", 195 et seq., Mn. 35, 36, in: Simma, see note 1.

9 The Statute was not adopted by the IMF, the Members of the World Bank Group and IFAD.

acceptance by a declaration to the effect that, for constitutional reasons, the Joint Inspection Unit is not considered a subsidiary body of the General Conference, as required in para. 2 of Article 1 of the Statute.¹⁰ Such a reservation could be understood in the light of the request contained in article X of the Constitution of UNESCO to respect the autonomy of the organization when bringing it into relation with the United Nations, as provided for in Articles 57 and 63 of the United Nations Charter.¹¹ Regardless of the formal legal status of the JIU, such a reservation had no restrictive impact on the activities of the JIU *vis à vis* certain organizations neither in legal nor in practical terms. There is no case of a reservation being made against article 5 para. 1 stipulating, "The Inspectors shall have the broadest powers of investigation in all matters having a bearing on the efficiency of the services and the proper use of funds." Only such a reservation could legally restrict the authority of Inspectors in a substantive manner. The opinion of the Director General of UNESCO is unconvincing, in that the exclusion of the JIU from being a subsidiary body of the General Conference had to be explained in the context of the freedom of the General Conference to decide whether JIU recommendations could be useful to implement and the means for implementation.¹² In any case, a legislative organ is free to adopt, to reject, or to take whatever action on recommendations submitted to him by its subsidiary bodies for consideration.

Likewise, particularities related to the legal status of the JIU do not play a role with regard to its financing. As is the case with other jointly financed institutions in the United Nations System, such as the International Civil Service Commission (ICSC) or various committees of the Administrative Committee on Coordination (ACC), organizations participating in the

¹⁰ See UNESCO Resolution-Doc. 20 C/Resolution 39.1.

¹¹ Article X reads: "This Organization shall be brought into relation with the United Nations Organization, as soon as practicable, as one of the Specialized Agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected through an agreement with the United Nations Organization under Article 63 of the Charter, which agreement shall be subject to the approval of the General Conference of this Organization. The agreement shall provide for effective co-operation between the two Organizations in the pursuit of their common purposes, and at the time shall recognize the autonomy of this Organization, within the fields of its competence as defined in this Constitution. Such agreement may, among other matters, provide for the approval and financing of the budget of the Organization by the General Assembly of the United Nations."

¹² See UNESCO Doc. 149 Ex/33 dated 11 March 1996.

JIU Statute have agreed to finance the Unit on the basis of a cost-sharing agreement. The costs of the JIU are apportioned on the basis of expenditure; expenditure consists of all expenditure reported in the audited accounts of participating organizations, excluding:

- expenditure related to peace-keeping;
- expenditure in kind; and
- 50 per cent of the expenditure of the International Trade Centre (ITC) corresponding to its share of the World Trade Organization (WTO).¹³

In the biennium of 1996-1997, the United Nations contributed approximately 20 per cent of the JIU budget; the Operational Funds and Programmes (including UNHCR, UNRWA, UNICEF, UNDP, UNFPA, WFP) contributed approximately 44 per cent, and the Specialized Agencies and IAEA¹⁴ contributed approximately 35 per cent. The 1996-1997 budget of the JIU was US\$9.3 million, and for the current biennium, it is even smaller, i.e. approximately US\$8.2 million. According to article 20 of the JIU Statute, the Unit's budget shall be included in the regular budget of the United Nations, and will be prepared by the Secretary-General after consultation with the ACC on the basis of proposals made by the JIU, with final approval by the General Assembly. The shares of the other participating organizations used to be included in Income Section 2 of the United Nations regular budget, which shows miscellaneous income, such as contributions from non Member States of the United Nations or revenue from interest. In his budget proposal for the biennium 1998-1999, the Secretary-General proposed switching to "net budgeting,"¹⁵ by which the full budget of the JIU will continue to be presented to the General Assembly for consideration and approval, but the appropriations and the apportionment among United Nations Member States would be made on the basis of the United Nations share in the JIU budget only. The purpose of this operation, also to be applied to ICSC and to the Vienna Conference and Security Services, is rather obvious — it helps to reduce the level of the regular budget of the United Nations in a more or less cosmetic way. This concept of "net budgeting" represents a major deviation from standard United Nations budgetary practice. In response, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) of the

¹³ See Doc. ACC/1996/FB/R.27 dated 18 December 1996; ITC is a joint subsidiary organ of WTO/UNCTAD and is equally financed by WTO and the UN.

¹⁴ Each Specialized Agency pays according to its size, (with WHO paying the largest amount and UPU the smallest).

¹⁵ See Doc. A/52/6 (Part I), para 12.

General Assembly has cautioned quite explicitly against the use of “net budgeting.” Specifically, the ACABQ has identified several issues of concern, including the requirements of article 20 of the JIU Statute and article 21 of the ICSC Statute that state their respective budgets are to be included in the regular budget of the United Nations and a question of the legal basis, in the absence of an appropriation, to advance funds to the JIU and ICSC, pending receipt of contributions from the participating agencies. The ACABQ has proposed to the General Assembly to maintain the *status quo* until a specific decision is taken by the Assembly on the concept of “net budgeting.”¹⁶ Nevertheless, the General Assembly accepted the new approach of the Secretary-General in principle, but requested him to make provisions to ensure that all three entities were allotted the funds approved in the budget to allow for the full implementation of their mandates. Furthermore, the General Assembly decided to keep the issue of “net budgeting” under review and requested the Secretary-General to report on this subject in the fifty-third session of the Assembly.¹⁷

II. Composition of the JIU, Electoral Procedures, Conditions of Service of Inspectors

The JIU is composed of up to 11 Inspectors whose qualifications should be based on experience gained in national supervision or inspection bodies, or from special experience in national or international administrative and

¹⁶ See Doc. A/52/7 Chapter I, para. 45. “The Advisory Committee recalls that, in the report ... it had been requested that the Secretary-General seek approval prior to submission of the proposed programme budget for the biennium 1998–1999 by way of a policy paper detailing implications, if any, with respect to the statutes of the Joint Inspection Unit and the International Civil Service Commission. No paper was provided and in the absence of any specific decision by the General Assembly the same issues remain outstanding. The Committee reiterates the request made in its report (Doc. A/51/720) that the Secretary-General be requested to produce proposals to ensure the required cash-flow for the entities concerned; he should also address the issue of the status of the budgets of the International Civil Service Commission and the Joint Inspection Unit as now presented in the new budget format vis-à-vis the requirements of their respective statutes. A clear format for the presentation of the related budgetary proposals (including relevant staffing tables) also needs to be developed. Pending the receipt of the requested report and a specific decision by the Assembly on the concept of net budgeting, the status quo should be maintained.” See also Doc. A/52/7 Add.1, para. 55.

¹⁷ See A/RES/52/220II of 22 December 1997.

financial matters, including management issues. Article 2 para. 2 of the JIU Statute prohibits the membership of several Inspectors holding the same nationality, which reflects the principle of equal geographical distribution as one of the fundamental rules governing the composition of United Nations expert bodies.¹⁸ During the “experimental phase” of the JIU’s existence, there were only eight Inspectors. Since the current Statute was entered into force on 1 January 1978, Member States always exhausted the possibility of filling all 11 posts. According to permanent practice — there is no written rule on this subject — two seats each are reserved for the African, Asian, Eastern European and for the Latin American and Caribbean Regional Group, while three seats are available to the Western European and Other States Group (WEOG). The privileged treatment of WEOG can be interpreted in the light of acceptance of the increased interest of these states in financial control and administrative oversight as they, taken together, contribute far more to the regular budget of the United Nations and to the financing of Peace-keeping Operations than the members of all other regional groups. The same applies, *mutatis mutandis*, to the financing of Operational Funds and Programmes and other voluntarily funded institutions, as well as to the financing of IAEA and Specialized Agencies.

The duration of each Inspector’s mandate is five years (article 4 para. 1), with one consecutive re-election being allowed. The term limitation is a maximum of ten consecutive years, a provision that did not exist prior to the Statute being entered into force and is favourable to the principle of rotation. This principle facilitates the opportunity for bringing new, innovative ideas to the Unit. Furthermore, term limitation also includes an element of confining political power, which is vested in Inspectors, to provide them with a high degree of efficiency in implementing their mandates.

The procedure of electing and appointing Inspectors is more complicated and lengthier when compared to the electoral procedures of other expert bodies such as ACABQ or the Committee on Contributions. At the beginning of the cycle, Member States have to signalize their interest in filling a post when they envisage one or more vacancies within their regional group. The General Assembly, without preceding participation of the Fifth Committee of the General Assembly as is the case with elections to previously mentioned committees, directly elects at an ad-

¹⁸ See also Rules of Procedure of the General Assembly — Doc. A/520/Rev.15/Amend.2, Rules 156 and 159, with regard to the membership in the ACABQ and in the Committee on Contributions or article 3 para. 2 of the Statute of the ICSC.

vanced stage of its annual session, the Member State(s) — not specific individuals — which will be invited to propose candidates for the posts of Inspectors. In reality, the names of the candidates are already well-known far earlier in the process. In this way Member States can improve their electoral chances by underlining the particular qualifications of their candidate(s) during the campaign. After the election the President of the General Assembly has to consult with the President of ECOSOC and with the Secretary-General in his capacity as Chairman of the ACC regarding the qualification of the proposed candidate(s) for the inspectorate. Theoretically, a candidate could be rejected at that stage of the electoral procedure. However, this has never happened and remains rather unlikely to happen in the future. It is likely that a major political disturbance would occur if the Secretary-General contested the qualification of a proposed candidate, knowing the assessment of the General Assembly on the individual. Nevertheless, ACC made such an attempt in 1996 when it aimed at suspending the filling of foreseeable vacancies within the JIU. The purpose of this idea was, *inter alia*, to reduce expenditures and — this is even more likely — reduce the influence of the JIU, which is an unpopular control machine. The General Assembly did not endorse the ACC proposal and filled all vacancies, which had to be decided upon in 1996. Thus, it prevented disturbing the regional balance in the composition of the JIU (two posts for all regional groups except WEOG to which one more is conceded). After consultations between the Presidents of the General Assembly and ECOSOC, and the Secretary-General are concluded, the designated Inspectors are finally appointed by the General Assembly. The electoral procedure is held a year in advance of the newly appointed Inspector(s) assuming his/her office(s). The rationale behind this procedure, which deviates from other electoral habits in the United Nations, is to give the future Inspector(s) the opportunity to prepare him/herself intensively for the new job, including the preparation necessary for moving to Geneva, the seat of the JIU.¹⁹

The conditions of service of JIU-members are established in arts. 13 to 15 of the JIU Statute. The Inspectors are not staff members of the United Nations²⁰ and consequently are not under the supervision of the Secretary-General. No disciplinary measures can be taken against them, a particular privilege they share with judges of national constitutional courts or with the judges of the ICJ. The only possible way to remove an Inspector from office, which has never occurred, is provided for in the Statute, article 4 para. 4, which reads:

¹⁹ See article 16 of the JIU Statute.

²⁰ Prior to 1978 they were staff members.

“The term of office of an Inspector shall be terminated only if, in the unanimous opinion of all the other Inspectors, he has ceased to discharge his duties in a manner consistent with the provisions of the present statute and after that conclusion is confirmed by the General Assembly.”

The salary of an Inspector is equivalent to that of a director in the United Nations system (D2, step IV.) JIU members participate in the United Nations Pension Fund (compare in this respect — H.J. Prieß, “Civil Service International”, in: R. Wolfrum (ed.), *United Nations: Law, Policies and Practice*, 1995, 94 et seq. (97)) and do enjoy, in social terms, the same benefits of vacation, home leave, health care, etc. and other conditions of service as any other staff member. Their particular status, which is rather unique in the United Nations System, emanates from the independence Inspectors need for the optimal and independent implementation of their functions. The Chairman of the ACABQ; the Chairman and Vice-Chairman of the ICSC; and the Executive Chair of the United Nations Special Commission, established by S/RES/687 (1991) of 3 April 1991 — UNSCOM are in a comparable position. According to article 15 of the Statute, they have to concentrate fully on their office as Inspectors and they shall not be appointed “or serve as an official or consultant of an organization while in office as an Inspector or within three years of ceasing to be a member of the Unit.”

It has been a standing practice that the Chairman of the JIU — as well as the Vice-Chairman and subsequent Chairman — were elected by the members of the Unit for the duration of one year (more or less identical with the calendar year) based on the principle of geographical rotation among the five regional groups. The annual change in the chairmanship reflects the position of the Chairman as a *primus inter pares*. Furthermore, it protects him/her from being entrusted with administrative and representational tasks for too long, thereby increasing the risk of losing his/her skills as an Inspector, that is to say, slowly becoming alienated from the genuine work of an Inspector. A similar thought is applied in the academic world as far as the duration of the office of the dean of a faculty is concerned. On the other hand, a strict application of the principle of annual rotation may lead to disadvantages as well. The change in the chairmanship may occur “in the wrong moment”, when continuity would be more important than other reflections. In holding the position of the Chairman for just one year, the individual can not develop a strong United Nations exposure as it has often been the case with Chairmen of expert bodies in the United Nations. This may end up in tactical disadvantages for the JIU with regard to negotiations with the organizations participating in the JIU Statute that do not all necessarily encounter the JIU in a friendly spirit.

This is why the JIU is contemplating ending the practice of mandatory annual rotation.²¹ In this context, it is also worth mentioning that the JIU decided to “copy” a political practice developed in the Council of the European Union: the establishment of a “Troika”, consisting of the Chairman, the Vice-Chairman and the preceding Chairman. The establishment of a Troika is supposed to strengthen the element of continuity in the leadership of the JIU.²²

Members of the JIU are assisted by the Executive Secretary and by additional staff (article 19). The current budget provides for 18 posts, of which 9 posts are research officers (some of which are presently vacant) and 9 general service staff, of which several provide research support. Compared to the broad mandate of the JIU and the challenge of the work the Unit’s equipment with human and financial resources must be qualified as rather modest.

III. Tasks and Functioning of the JIU

The task of the JIU is in essence:

- to provide an independent view through inspection and evaluation, aimed at improving management and methods and at achieving greater coordination between organizations (article 5 para. 2); and
- monitor that the activities undertaken by the organizations are carried out in the most economical manner and that the optimum use is made of resources available for carrying out these activities (article 5 para. 3).

The JIU implements its role through the presentation of reports, which can be characterized as an inspection, an evaluation or an investigation. The latter case is extremely rare, as the JIU is not sufficiently equipped to undertake an investigation. The JIU applies standards and procedures for the conduct of inquiries and investigations, as requested by article 8, which were finalized by the Unit early in 1996 and published in the annual report of the JIU.²³ It cannot be ignored that the JIU triggered criticism and weakened itself by not having agreed earlier on the final text of such guidelines, in spite of the clear legal request contained in article 8. JIU

²¹ See Annual Report of the JIU to the 52nd General Assembly, Doc. A/52/34, para. 27.

²² See Annual Report of the JIU to the 51st General Assembly, Doc. A/51/34, para. 34.

²³ Doc. A/51/34 Annex I.

reports are addressed to the legislative body of a participating organization in the shape of an official document and are commented on by the Executive Head of that organization. If it is a system-wide report or if it affects several organizations, it will go to the legislative organs of all organizations concerned after consultation by the ACC for the sake of arriving at a coordinated comment from Secretariats. The time limit for the presentation of comments on system-wide reports is six months and for single agency reports, three months. Other than through reports, the JIU can express itself also through notes or confidential letters. This happens less often; notes and confidential letters are appropriate in cases of areas that do not require consideration by a legislative body. Confidential letters are not published by the JIU — the publication of notes is at the discretion of the Executive Head of an organization.

Reports are written by a single Inspector or by small groups of two to four Inspectors depending on the significance of the subject and the volume of research work. It also occurs from time to time that a report is presented by the “Unit as a whole.”²⁴ Responsibility for reports and related recommendations lies with the Inspector(s). But it is their duty to capitalize on the knowledge and experience of the whole Unit with the view of optimizing the quality of a report and the weight of its recommendations. This conclusion has to be derived from article 11 para. 2 that says in its second sentence, “The reports shall be finalized after consultation among the Inspectors so as to test recommendations being made against the *collective wisdom* of the Unit” (emphasis added by the author). In cases of a major disagreement among Inspectors — this situation is untypical at present — standards and procedures provide for a procedure of reconciliation. This procedure may result in, if no consensus can be achieved, the publication of a dissenting opinion annexed to the report, although this is rather theoretical in real terms.²⁵

The Statute empowers the Inspectors with broad competences and investigative rights, on-the-spot inquiries and investigations, some of which may be *without prior notification*, (emphasis added by the author).²⁶ The organizations are obliged to fully cooperate with the Inspectors (article 6 para. 2). Yet, Inspectors are not authorized to interfere in management of an organization or to take decisions in lieu of the administra-

²⁴ Recent examples include JIU/REP/96/2 (Doc. A/51/642) on the feasibility of the relocation of UNITAR to Turin, which was requested by the Board of Trustees of UNITAR, and JIU/REP/97/6 (Doc. A/52/559) on training institutions in the United Nations System.

²⁵ See paras 45 and 46 of the standards and procedures, published in Doc. A/51/34 Annex I.

²⁶ Article 6 para. 1.

tion. They are confined to present proposals and recommendations that require the approval of legislative organs of organizations to be binding for the administration. Once approval is given, the implementation of approved recommendations lies with the Executive Heads of the organizations.

Since 1968, the JIU has published 291 reports and 33 notes. In addition the JIU publishes an annual report, as required by article 10 para. 2, and a number of smaller texts such as a short summary of the objectives of reports which are under way to keep the General Assembly informed on current business of the Unit. In substance, JIU reports published during the past few years focussed on the following subjects:

- management, administration, financial and personnel questions (increasingly important in that context is also the complex of information technology);
- developmental activities;
- peace-keeping operations (which rose almost explosively since the late 1980s); and
- humanitarian assistance.²⁷

The mandates for JIU reports originate either from a legislative organ of an organization, the Secretariat of one or several participating organizations, or from the JIU itself. Two recent examples of reports proposed by a legislative organ are JIU/REP/97/2 (Doc. A/51/946) on United Nations Publications, as requested by A/RES/50/206 C on the pattern of conferences of 23 December 1995 after discussions in the Fifth Committee; and JIU/REP/97/6 (Doc. A/52/559) on Training Institutions in the United Nations System, as requested by A/RES/51/188 of 16 December 1996, after discussions in the Second Committee. Two recent examples of reports proposed by the Secretariat of participating organizations are JIU/REP/97/5 (Doc. A/52/338), "The Challenge of Outsourcing for the United Nations System" that goes back to a proposal made by FAO; and the JIU report on issues related to the coherence among oversight mechanisms in the United Nations System, which is scheduled for publication in the resumed session of the Fifty-second session of the General Assembly and

²⁷ For further details of the work programme of the Unit during the first 20 years, see Y. Beigbeder, *Management Problems in United Nations Organizations — Reform or Decline?* 1987, 65 et seq.; S. Schumm, "Die Joint Inspection Unit als Versuch der Einführung organisatorischer Rationalität in internationalen Organisationen", in: K. Dicke/K. Hüfner (eds), *Die Leistungsfähigkeit des VN-Systems: Politische Kritik und wissenschaftliche Analyse*, UN-Texte 37, 1987, 72 et seq. (75–77).

was requested by the United Nations, ICAO and WMO. Two examples of reports initiated by the JIU itself are JIU/REP/95/13, "Strengthening of the United Nations System Capacity for Conflict Prevention", as well as a report under way on an assessment of the United Nations Office for Programme Services since receiving its new legal status starting 1 January 1995.

The JIU produces, on average, 10 to 12 reports per year. It is needless to mention that first priority is given to requests from legislative organs. Proposals from Secretariats are the second priority. The JIU tries to find a good balance between the United Nations and its Operational Funds and Programmes on the one hand and the Specialized Agencies on the other hand with regard to the choice of subjects. Likewise a good balance is also important between the choice of subjects affecting only one or two organizations and system-wide reports. Finally, the JIU considers its own ideas for reporting based on the subjects already covered by requests from legislative organs and proposals from Secretariats. The principle guidance for all reflections is the relevance of a certain subject for the Member States of the organizations in the United Nations System: the JIU considers only what is relevant for a delegate or for a civil servant in the capital of a Member State (occasionally also for Members of Parliaments or for national auditors) for recognizing an issue, to develop ideas of what possible solutions could be identified, to discuss them to establish a governmental position, and after all to find an agreement among the Member States. In practical terms it is also important to foresee whether the "man power" within the JIU is sufficient to deliver a report of convincing quality. The JIU must not underestimate in this context the costs caused by research, in particular for travel. System-wide reports can easily trigger high travel costs going beyond the limit of justifiable expenditure. This type of report represents the very *charme* of the JIU, more or less its *raison d'être*, because no other institution in the United Nations System is mandated with such a transorganizational and fully comprehensive role of oversight, control and advice. This enables the JIU alone to have a comprehensive view on certain issues and to develop ideas for improvement which may be valid for one, several or even all organizations of the system. However, the availability of travel funds is rather limited in times of major budgetary constraints, which sets a fairly narrow limit to the feasibility of producing a great number of system-wide reports. All the more, this is valid given the particular role of the JIU of having the moral obligation to set a good example in a modest use of travel funds.

De facto, the decision-making process in the JIU and the subsequent implementation are as follows. At the beginning of the year, the Inspectors and the Executive Secretary come together to discuss proposals made by

organizations.²⁸ This discussion usually lasts several days. At the end Inspectors agree, by consensus, on the subjects to be included in the work programme and decide who will assume responsibility for a particular subject. If there is more than one Inspector involved in a report, the team nominates a coordinator. The Executive Secretary assigns research staff, whose first task is to find out and to examine the documentation already available on the subject (many issues in the United Nations System are not really new, but have a long history). Subsequently, they assist in preparing the interviews and drafting the first version or portions of the final product. It is important to mention that even once the JIU work programme is finalized, it is not written in stone. It still remains subject to changes, either through deletion (if a subject is overtaken by events) or addition (if there is an unexpected request for urgent delivery of a report, as was the case with JIU/REP/96/2 on the feasibility of the relocation of UNITAR).

At the beginning of each report there is a "brain storming" session wherein all members of the JIU meet to reflect on what should be the objective of the report, what should be its focus, whether the JIU should deviate from a specific proposal by consolidating it with several similarly defined proposals (even including those that were included in a previous year's work programme), and what methodology should be applied. This meeting is one way in which the Unit capitalizes on the advantages of collective wisdom (article 11 para. 2). The next step is to look into all JIU files and scrutinize any previous reports of the JIU (or those of other oversight bodies) that are related to the new subject. This exercise usually leads to questions to be addressed to the organizations or to the compilation of a questionnaire requesting information on a certain administrative practice, the degree of coordination of work with other organizations etc. After a careful consideration of the responses Inspectors, accompanied by research officers in some cases, visit the Headquarters of an organization and/or a duty station in the field to raise additional or supplementary questions, to clarify ambiguities or gaps contained in the organizations' responses, to listen to the voices of staff "working on the front lines," to inspect technical installations on the spot, or to meet with counterparts from internal oversight institutions. Provided that no major expenses have to be incurred, Inspectors consult with, in appropriate cases, international organizations outside the United Nations System to optimize the value of recommendations (as well as JIU is sometimes consulted by the adminis-

²⁸ The report cycle of the JIU used to cover the period from 1 July to 30 June like the one of the United Nations Board of Auditors. At a meeting of the Inspectors in July of 1998 they decided to return to the previous cycle of work which is identical with the calendar year.

trator of those organizations if they need information or advice on certain administrative practices applied in the United Nations System). The information gathered then goes into a first draft and into draft recommendations that are circulated among all Inspectors for all sorts of comments. This process is one way in which the Unit uses the “collective wisdom” of the Inspectors. A revised version of the draft report — fine-tuned in the light of the internal discussion of Inspectors — is then presented to the organizations concerned for comments. Factual corrections are made, if necessary, requests for deletions, amendments or proposals for deviating appraisals are carefully considered — sometimes accepted, partially accepted or rejected. Often Inspectors are involved again with organizations, either verbally or in writing, to avoid any misunderstanding, unjustified appraisals or whatever weakness to be “cast into concrete” in the final version of the report. The philosophy behind these endeavours is to facilitate the perception of the JIU as a cooperative partner of the organizations and not as a quasi-prosecutor.

The final version, usually written in English, will then be translated into the other official languages and appear as an official document of the General Assembly or of the legislative bodies of the Specialized Agencies. The reports, as well as the comments of an organization or of the ACC,²⁹ are presented to the legislative organs for consideration and approval. After recommendations are approved or partially approved by legislative organs, Executive Heads of organizations are obliged to implement them “as expeditiously as possible” (article 12).

The above description of the production phase of a JIU report — from the moment of inception in the work programme to its “happy end” — is a very concentrated summary of the work involved in this exercise, and it is also somewhat idealistic. In reality, frictions do occur. For example, organizations sometimes do not provide their responses in a timely manner, or may provide incomplete, uncoordinated, or even contradictory information. This results in delaying the publication of a JIU report. Sometimes organizations complain that the information they delivered is not fully reflected in a report. It also happens that JIU reports have been criticized by Member States as not being relevant, useful, or sufficiently specific, and thus, not implementable. It is even worse when Member States just ignore reports. Last, but not least, is a significant weakness in the lack of an appropriate “follow-up system” for monitoring whether JIU recommendations approved by legislative bodies are implemented. The

²⁹ The ACC addresses its comments to the final version, of course, and a copy of the JIU report is also provided to the ACABQ for information purposes.

lack of an appropriate “follow-up system” weakened the effectiveness of the JIU in its oversight function quite considerably in the past.

IV. Future Perspectives of Work

The existence of the JIU hasn't always and consistently been appreciated by its participating organizations.³⁰ This is no surprise, as it is a somewhat natural fate JIU shares with other institutions of management control and oversight. As indicated in the previous section, some Member States have been critical of the JIU as well, even going so far as to advocate disbanding it. Surprisingly, the most critical voices among Member States include a number of major contributors to the United Nations and the Specialized Agencies which, in principle, attach importance to the existence and to the functioning of oversight bodies. Some elements of criticism in the past have been, for example:

- qualification of Inspectors not always meeting the standards set by the JIU Statute;
- relevance of subjects of certain JIU reports;
- lack of specificity of reports and recommendations; and
- sizeable costs of JIU reports, particularly when compared with private consultants.

For each of these criticisms, there are a number of questions that must be asked in order to understand the criticism in the proper context. As for the qualifications of the Inspectors, one must ask what is the responsibility of the JIU and of the Member States. Member States are responsible for presenting qualified candidates, not the JIU itself. As for the relevance of subjects addressed in the JIU, the question is why some organizations do not take advantage more often of the opportunity to present proposals for reports? What is the role of Member States with regard to proposing subjects that would be of interest to them? Regarding the specificity of reports, wouldn't it be fair to concede that some of the major managerial improvements in the UN System can be traced to research conducted by the JIU, and even presented by organizations to the public as their own achievements? The argument related to the cost of JIU reports has its origin in the empire of polemics and it is obviously used in such a spirit. First of

³⁰ To be fair it has to be admitted that some of the organizations have always been cooperative and did not qualify the JIU's activities as disturbing, but as a mutual give and take.

all, the value of the JIU's work is difficult to express in a simple mathematical operation. Furthermore, the reference made to the opportunities of taking advantage from a private consultant, is unacceptable as such a person could not give his advice from a standpoint of independence as required by the Statute (article 5 paras. 2, 7). The author prefers to apply self-restraint in this discussion as he is a member of the Unit and, thus, not neutral.³¹

In the early 1990s, voices were raised in the United Nations membership that the internal control function in the United Nations Secretariat, formerly a part of the Department for Administration and Management, ought to be significantly strengthened. As a result, A/RES/48/218 B of 29 July 1994 resulted in the creation of the Office of Internal Oversight Services (OIOS).³² According to an OIOS publication, "the OIOS mission is to promote effective programme management by identifying, reporting on and proposing remedies to address problems of waste, fraud, abuse and mismanagement within the Organization. The General Assembly requires OIOS to exercise operational independence in the conduct of its duties while still being under the authority of the Secretary-General. No Secretariat official can prohibit OIOS from carrying out any action within the purview of its mandate. The reports of OIOS can be "transmitted," unchanged to the General Assembly, under cover of a note by the Secretary General."³³ As such, the OIOS operates somewhat differently from other internal oversight mechanisms in that its individual reports can be submitted to the General Assembly.

While the OIOS and JIU both submit reports to the General Assembly, there are essential differences between the two oversight mechanisms. Specifically, the Head of the OIOS, notwithstanding his particular position of being appointed by the General Assembly, is proposed by the *Secretary-General* to the Member States and is accountable to *him*.

Members of the JIU are proposed and appointed by the *Member States* and are accountable to *them* (emphasis added by the author). There was

³¹ An objective and comprehensive evaluation on the JIU, containing critical, but constructive observations has been published by the General Accounting Office, the supreme audit organ of the United States: United Nations — More can be done to strengthen the U.N. Joint Inspection Unit, GAO/NSIAD-86-141.

³² For further detail see K.T. Paschke, "Innenrevision in den Vereinten Nationen — eine neue Erfahrung", VN 44 (1996), 41 et seq.

³³ Cited from: The Office of Internal Oversight Services of the United Nations — *Its Genesis, its Mission, its Working Methods, its Impact*, published by the United Nations Department of Public Information DPI/1761, February 1996, p. 5.

speculation during negotiations on the resolution creating OIOS that the JIU might become superfluous in future. Such a position totally ignores the different roles, functions and levels of accountability of both institutions. Already A/RES/48/221 of 23 December 1993 gave credit to the JIU “for the measures taken with regard to improving its programming methods, increasing its productivity and enhancing its performance” and encouraged it by giving specific instructions on how to further improve its performance. A/RES/48/218 B, the OIOS resolution, “reaffirmed the role of the Joint Inspection Unit in accordance with its mandate, contained in General Assembly Resolution 31/192 of 22 December 1976”. A/RES/50/233 of 7 June 1996, in a preambular paragraph, establishes a cornerstone for the future of the JIU by stating that “the impact of the Unit on the cost-effectiveness of activities within the United Nations system is a *shared responsibility* of the Member States, the Unit and the secretariats of the participating organizations” (emphasis added by the author). In other words, all parties have to contribute their share of effort in order for the JIU to function effectively.

The JIU’s portion of this “shared responsibility” includes, *inter alia*:

- delivering timely reports on relevant, priority subjects;
- issuing reports well in advance of meetings of the legislative organs or participating organizations;
- presenting practical, action-oriented measures to solve significant problems, in a manner that is convincing and well-supported by the facts and analysis in the report (and identifying those responsible for taking action so that implementation and resulting impact can be clearly tracked);
- preparing reports that are more “reader-friendly”, short, and concise;
- coordinating its work with the work of other oversight bodies, in particular with the United Nations Board of Auditors and with the OIOS to avoid duplication and overlap in activities.

The latter is important so as not to give grounds for criticism from some secretariats who complain that the magnitude of requests from oversight bodies impedes their regular work. Since 1997, the three institutions mentioned above have held joint meetings, on a regular basis, to ensure an optimal coordination of work.

The Member States’ portion of this “shared responsibility” includes, *inter alia*:

- dedicating the appropriate consideration to the substance of JIU reports and not simply concluding the relevant agenda-item of meetings of legislative bodies by only taking note of a JIU report; and

- taking clear decisions on recommendations (i.e. endorsement, partial endorsement or rejection.)

The value of a JIU report, no matter how good its content, depends on effective follow-up. Only clear decisions by legislative bodies can serve as a basis for such a follow-up.

The Secretariats' portion of "shared responsibility" includes, *inter alia*:

- responding to information requests made by the JIU in a timely and accurate manner;
- commenting on draft reports presented to secretariats for consideration in substance (to avoid misgivings which happened in the past, when an organization kept silent on a draft report and later on criticized the final version as not being helpful);
- distributing reports immediately to Member States of their organizations and submitting reports with their comments to appropriate legislative organs within the time-frames specified in the Statute;
- making sure that thematic reports are listed under appropriate agenda items of the meetings of legislative organs; and
- cooperating in a constructive manner in the expeditious implementation of approved recommendations and reporting on implementation measures.³⁴

Shortly before its closure, the fifty-first General Assembly adopted a resolution on strengthening of the United Nations System, based on a report of an Open-ended High-level Working Group on the Strengthening of the United Nations System.³⁵ One section of the Annex of that resolution deals with oversight and the accountability of the United Nations Secretariat. In para. 51 Member States are invited to conduct a detailed and structured examination, in the Main Committees, of the relevant reports of the Board of Auditors, the JIU and the OIOS in relation to the substantive work of these Committees. This can be understood as another encouragement for the JIU on the eve of entering into its fourth decade of existence. It is also encouraging that the Secretary-General expressed the view in his strategic paper "Renewing the United Nations: A Programme

³⁴ Based on operative para. 16 of A/RES/50/233 the JIU has recently developed a follow-up system with regard to approved recommendations, published in Annex I of the Annual Report to the 52nd General Assembly (Doc. A/52/34); see also a note, in which the JIU expressed its views on strengthening oversight bodies, including its own role, published as Doc. A/51/674 dated 13 November 1996.

³⁵ A/RES/51/241 of 31 July 1997.

for Reform” (Doc. A/51/950 of 14 July 1997) that “OIOS together with the Board of Auditors and the JIU provided a range of oversight functions and services that are indispensable for the effective functioning of the Organization” (para. 225). It is desirable that the spirit of the above-mentioned resolutions and the opinion of the Secretary-General will prevail and guide all players in carrying their responsibility for a well-functioning United Nations System.