

Hundred and seventy-fourth session

174 EX/37 Rev.
PARIS, 17 March 2006
Original: English

Item 41 of the provisional agenda

**FOLLOW-UP TO THE JAKARTA DECLARATION ADOPTED AT THE
INTERNATIONAL CONFERENCE (DECEMBER 2005) ON THE
RIGHT TO BASIC EDUCATION AS A FUNDAMENTAL HUMAN
RIGHT AND THE LEGAL FRAMEWORK FOR ITS FINANCING**

SUMMARY

This item has been included in the provisional agenda of the 174th session of the Executive Board at the request of Indonesia.

An explanatory note together with a draft decision is attached.

Decision proposed: paragraph 7.

Explanatory note

1. The Jakarta Declaration (Annex) is a very significant development in the context of Education for All (EFA). The Declaration was adopted at the International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for its Financing, held in Jakarta, Indonesia, from 2 to 4 December 2005, which was addressed by the President, Vice-President and Minister of National Education of the Republic of Indonesia, the Director-General of UNESCO, the Chairman of the United Nations Human Rights Commission, and high-level international experts on education, representatives of the UNESCO Member States as well as scholars and schoolteachers participated in the Conference. The right to education and the theme discussed in the Conference corresponds to UNESCO's Constitutional mission of ensuring "full and equal opportunities for education for all".
2. The Jakarta Declaration emphasizes the importance of the right to basic education as a fundamental right. This is most important in the context of EFA. The right to basic education and equality of education opportunities is recognized in the resolution adopted by the General Conference in October 2005 on Major Programme I – Education, 3(a)(i) ("Authorizes the Director-General to implement the corresponding plan of action in order to promote the right to education through support for the efforts of Member States to ensure equality of opportunities for all in basic education").
3. This is also recognized in the Jakarta Declaration. It is crucial that in the context of decision on EFA, the Member States also discuss the right to basic education as provided for in their Constitution and law and in UNESCO's education programme on EFA. Such exchange of experience and knowledge will contribute to promoting EFA.
4. A major limitation on national-level action for EFA consists in financial constraints. It is indispensable that countries mobilize financial resources to advance EFA. To that end, it is crucial to adopt a legal framework for financing basic education. It will be very advantageous for Member States to exchange knowledge and experience as to how the constitution, laws and national education policy make provision for financing basic education. It is also most opportune and even critical for UNESCO to examine the legal framework for financing basic education and for Member States to adopt a legal framework and implement it fully. This is an area which deserves to be examined extensively in terms of national-level action and UNESCO's promotional role.
5. In this respect it is also important, as recommended in the Jakarta Declaration, that UNESCO collect and analyse national legislation on the right to basic education and education law. The international Conference contributed to UNESCO's normative action for more effective implementation of conventions and recommendations in the field of education and to strengthening the foundations of the right to education in national legal systems. In view of the key importance attached to the right to education as a fundamental human right, and given UNESCO's principal role and responsibility within the United Nations system, the recommendations and suggestions emerging from the Conference deserve UNESCO's full support.
6. For this purpose it is pertinent to convene a meeting of experts and stakeholders on basic education which has the aim of producing a UNESCO Declaration on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for its Financing.

Proposed draft decision

7. In the light of the above, the Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Having examined document 174 EX/37 Rev., and underlining the significance of the Jakarta Declaration,
2. Recognizing the need and the importance of examining the constitutional basis of the right to basic education for promoting Education for All (EFA),
3. Attaching high significance to the provision on financing basic education in the constitutional and national legislation, as examined during the International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for its Financing held in Jakarta, Indonesia from 2 to 4 December 2005,
4. Recommends to the Director-General to take necessary measures to promote country-level action as well as activities in UNESCO on the constitutional basis of the right to education as a follow-up to the Jakarta Declaration, i.e. by convening an experts' and stakeholders' meeting in basic education which has the aim of producing a UNESCO Declaration on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for its Financing;
5. Further requests the Director-General to develop activities for supporting the legal framework for financing basic education as a crucial aspect of promoting EFA and follow-up to the Jakarta Declaration;
6. Also requests the Director-General to report to the Executive Board at its 176th session on the implementation of the decision.

ANNEX



JAKARTA DECLARATION

adopted at

**The International Conference on the Right to Basic Education
as a Fundamental Human Right and the Legal Framework for its Financing**

2-4 December 2005
Jakarta, Indonesia

organized by the Ministry of National Education, Government of Indonesia,
in cooperation with UNESCO on the occasion of the 60th anniversary of UNESCO

We, the participants in the International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing, comprising of Ministers of Education, Members of Parliaments, Government Officials, diplomatic corps, high level experts, educationists, lawyers, international and non-governmental organizations, private sector, and stakeholders in the field of education coming from 14 countries;

Expressing our deepest gratitude to the Government of Indonesia for their generosity and hospitality extended to us in this land of unity and diversity – Bhinneka Tunggal Ika,

Greatly honoured in having a Special Session with H.E. Soesilo Bambang Yudhoyono, President of the Republic of Indonesia, who expressed the determination of the Government of Indonesia to achieve the fundamental right of every child to education and allocate resources as provided in the Constitution and Law and to promote a culture of excellence for education,

Inspired by the opening address by H.E. Mr Koïchiro Matsuura, Director-General of UNESCO, in which he stated that the universal right to education is at the heart of Education for All (EFA) and that achieving this right is also central to the development challenge of our times,

Guided by the perspective provided by the Vice-President of the Republic of Indonesia, H.E. Muhammad Jusuf Kalla in his inaugural address, in which he emphasized that the right to basic education carries with it the responsibilities as well,

Finding it commendable that the Act on the National Education System of Indonesia (2003) guarantees the right to basic education as a fundamental human right as well as provides the legal framework for its financing,

Bearing in mind the increasing evidence that the right to education is a prerequisite for the defence and enjoyment of all other human rights, and the degree to which education is instrumental for enhancing democracy and social and cultural development, and recognizing education, especially basic education, as a public good,

Appreciating that the Conference provided an occasion to share experiences on the mechanism of formulating legal framework for education and advancing EFA in a spirit of friendship and cooperation to promote the right to basic education as a fundamental right for all,

Bearing in mind that UNESCO has a key role to promote the right to education as an integral part of its constitutional mandate and that the Organization has the principal role and responsibility in the United Nations system in the field of the right to education, and appreciating UNESCO's work in this field,

Adopt solemnly the Declaration on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for its Financing:

I. We emphasize that the right to education is an internationally recognized right in its interrelationship with the right to development; and that the legal and constitutional protection of this right is indispensable to its full realization.

We are of the view that the shift from the Commission on Human Rights to the proposed council on human rights should not result in down-grading the economic, social and cultural rights, of which right to education forms the core element. The right to education is a measurable right, whose normative content and interrelated essential features are clearly defined by General Comment 13 on Article 13 – Right to education – of the International Covenant on Economic, Social and Cultural Rights, elaborated by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in cooperation with UNESCO.

II. We recommend to UNESCO, to the Office of the High Commissioner for Human Rights, and to the intellectual community (i) to undertake in a comparative perspective the analysis of provisions on the right to basic education in constitution and laws, (ii) to highlight the “best practices” for promoting basic education in the countries whose Constitutions or laws contain provisions and implement the right to basic education, (iii) to conduct reflection for providing operational definition of basic education universally accepted, on the basis of which this right can be monitored.

We urge States (i) to provide for the right to basic education in the constitutions and in laws, with a focus on EFA; and (ii) to take measures for its effective implementation, taking into account the legal culture and government priorities. We recommend that in order to inform the world community about good practices, UNESCO in cooperation with the European Association for Education Law and Policy (ELA) should be encouraged to create a data bank on the right to education, including the constitutions, legislation and policy plans. It is also important to prepare a glossary of educational legislation.

III. The fundamental principles of non-discrimination and equality of educational opportunities are of key importance to govern the implementation of the right to education. We consider that it is important (i) to promote quality education with emphasis on quality learning outcome, rights-based

schools which are child-friendly and respectful of human rights and moral values, are inclusive and welcome diversity; (ii) to improve working conditions of teachers, both in public and private educational establishments and to make the teaching profession more attractive for which legislation should set standards; and (iii) to ensure full respect of minority and language rights. Governments, community, parents and teachers all have a role and responsibility in this respect.

IV. On the basis of the four pioneering national experiences on financing education through a legal framework, namely Indonesia, Nigeria, India and Brazil, which we examined in detail, we recommend that (i) governments elaborate legal framework for financing education; (ii) the CESSCR considers means of generalizing this approach through discussions within country reports; and (iii) designing legal framework be based upon public financing principles. Furthermore, we (i) encourage the private sector to enter into partnerships with governments for equitably sharing responsibilities and dedicate more investment to educational activities which have been proved to be economically rewarding and have direct impact on employment, productivity and poverty eradication; (ii) suggest to international financial institutions to give priority to financing educational projects specially as incentives to countries to promote EFA. Resource mobilization for financing education at national and international levels deserves new international thinking, both in terms of fundraising and international partnerships for the right to education.

V. The Conference was a landmark in examining the follow-up to the resolutions 2005/21 on the right to education adopted by the Commission on Human Rights. We suggest that: (i) the Chairperson of the Commission on Human Rights should present this Declaration to the forthcoming session of the Commission; and that (ii) the representative from Indonesia to UNESCO's Executive Board should present this Declaration to UNESCO's Executive Board at its forthcoming session, with the expectation that this Declaration is followed up.

VI. We are encouraged by the fact that the Conference provided a forum for the specialists and experts for exchange of experience and professional accomplishments and planning action for establishment of networks/partnership to promote the right to education as a fundamental human right.

VII. We express our appreciation that on the occasion of the Conference, a Special Session on the role of Parliamentarians for promoting right to basic education for all was organized and we recommend to UNESCO that, drawing upon the experience of Forum of African Parliamentarians For Education (FAPED), it is important to create a Forum of South and East Asian Parliamentarians for this purpose which could be broadened subsequently.

VIII. We commit ourselves, individually and collectively, to give follow-up to this Declaration.