

Executive Council

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Provisional agenda item 5(e)

CE/90/5(e)
Madrid, March 2011
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Administrative, financial and statutory matters

(e) Application of Article 34 of the Statutes and paragraph 13 of the Financing Rules attached to the Statutes

1. At 28 February 2011, the provisions of Article 34 of the Statutes and /or paragraph 13 of the Financing Rules attached to the Statutes, the texts of which are contained in the Annex to this document, are applied to the 26 Members listed below.

| FULL MEMBERS MEMBRES EFFECTIFS MIEMBROS EFECTIVOS | PARAGR. 13 PÁRRAFO 13 | ART. 34 | ARREAR CONTRIBUTIONS ARRIÉRÉS DE CONTRIBUTIONS CONTRIBUCIONES ATRASADAS | | |
|--|--------------------------------|------------|---|-----------------------------------|--------------|
| | | | YEARS/ ANNÉES/ AÑOS | TOTAL YEARS/ ANNÉES AÑOS | TOTAL EUR |
| AFGHANISTAN /AFGANISTAN/ AFGANISTÁN | X | X | 81-87, 89-08,10 | 28 | 653.095,77 |
| BAHRAIN / BAHREIN / BAHREIN | X | X | 77-10 | 10 | 352.996,25 |
| BURUNDI | X | X | 77-07 | 31 | 701.347,61 |
| CAPE VERDE /CAP VERT /CABO VERDE | X | X | 02-10 | 9 | 165.714,00 |
| CENTRAL AFRICAN REPUBLIC/ RÉPUBLIQUE CENTRAFRICAINE/ REPÚBLICA CENTROAFRICANA | X | X | 06-10 | 5 | 102.762,00 |
| CÔTE D'IVOIRE | X | X | 04-10 | 7 | 186.105,00 |
| CHAD / TCHAD | X | | 07-08.10 | 3 | 73.315,00 |
| DJIBOUTI | X | X | 03-10 | 8 | 167.782,00 |
| DEM. REPUBLIC OF THE CONGO / RÉP. DÉMOCRATIQUE DU CONGO / REP. DEMOCRÁTICA DEL CONGO | X | X | 91-96,98-00, 02- 06, 08-10 | 17 | 337.407,26 |
| GAMBIA / GAMBIE | X | X | 91-05, 08-10 | 18 | 346.325,15 |
| GUINEA / GUINÉE | X | X | 95-96,98-00, 07-10 | 9 | 205.401,75 |
| GUINEA BISSAU / GUINÉE-BISSAU | X | X | 92-96,99-10 | 17 | 348.950,55 |

| | | | | | |
|---|---|---|----------------------|----|---------------------|
| KYRGYZSTAN / KIRGHIZISTAN / KIRGUISTÁN | X | X | 95-10 | 16 | 369.619,89 |
| LESOTHO | X | | 09-10 | 2 | 49.686,00 |
| LIBYAN ARAB JAMAHIRIYA / JAMAHIRIYA ARABE LIBYENNE / JAMAHIRIYA ÁRABE LIBIA | X | X | 04-06,09 | 4 | 244.004,00 |
| MALAWI | X | X | 00,02,04-10 | 9 | 199.542,24 |
| MALI | X | X | 91-93, 96-98 | 6 | 139.424,37 |
| MAURITANIA / MAURITANIE | X | X | 76-05 | 30 | 659.390,57 |
| MONGOLIA / MONGOLIE | X | X | 93-099 | 7 | 214.799,06 |
| PAPUA NEW GUINEA / PAPOUASIE-NOUVELLE-GUINÉE / PAPUA NUEVA GUINEA | X | | 08-10 | 3 | 68.762,00 |
| SAO TOME AND PRINCIPE / SAO TOME ET PRINCIPE/ SANTO TOME Y PRÍNCIPE | X | X | 86-10 | 25 | 520.543,65 |
| SIERRA LEONE / SIERRA LEONA | X | X | 79-00,03-10 | 30 | 652.818,39 |
| SUDAN / SOUDAN/SUDÁN | X | X | 84-86,89-03 06-08 | 21 | 457.439,92 |
| TURKMENISTAN / TURKMÉNISTAN / TURKMENISTÁN | X | X | 95-98,00-10 | 15 | 444.444,40 |
| UGANDA / OUGANDA | X | X | 95-00, 02-04,10 | 10 | 196.541,76 |
| UZBEKISTAN / OUZBÉKISTAN / UZBEKISTÁN | X | | 09-10 | 2 | 49.686,00 |
| TOTAL: | | | | | 7.907.904,59 |

2. In pursuance of Resolution 557(XVIII) the Secretary-General has written to all these Members, urging them to discharge their debts or propose plans for their payment in instalments over a period of years according to their circumstances.

TEMPORARY EXEMPTION FROM THE APPLICATION OF THE PROVISIONS OF ARTICLE 34 AND PARAGRAPH 13

3. At the request of the Members mentioned below, the General Assembly agreed, in its resolution 557(XVIII), to grant them temporary exemption from the application of the aforementioned provisions, once an instalment payment plan of their arrear contributions was agreed upon.

"The General Assembly,

Having taken note of the recommendations made by the Executive Council at its 83rd, 84th and 85th sessions with respect to requests made by various Full Members for temporary exception from the application of paragraph 13 of the Financing Rules,

Considering the documents submitted by the Secretary-General regarding this matter,

1. *Decides, in view of their compliance with the agreed payment plans, to renew the temporary exemption from the provisions of paragraph 13 of the Financing Rules of Full Members Bolivia, Burkina Faso, Cambodia, El Salvador, Lao People's Democratic Republic, and Togo;*
2. *Also decides to maintain the temporary exemption of Congo, Democratic Republic of the Congo, Gambia, Mali, Mauritania, Mongolia, Nicaragua, Niger, Peru, Uruguay and Yemen, from the provisions of paragraph 13, albeit making it clear that these provisions will be reapplied to these Members if they are not up to date with their payment plans by 1 April 2010;*
3. *Requests the Secretary-General to inform Yemen that it must submit a new payment plan for its debt corresponding the years 1979 to 1989, given that the regulations in force do not contain any provisions for exemption from the payment of contributions;*

Recalling decisions 7(LXXVIII), 5(LXXIX) and 8(LXXX) adopted by the Executive Council concerning Iraq and pursuant to resolution A/RES/523(XVII),

4. *Notes that this Full Member has paid the full amount of its contribution for 2008 and 2009 to the Organization;*
5. *Further notes that according to General Assembly resolution [A/RES/523(XVII)] Iraq has submitted a payment plan to the 86th session of the Executive Council and decides to extend the grace period accorded until the 88th Executive Council session. Failure to reach an agreement on the settlement of arrears with Iraq before the 88th Council session would result in Iraq being subject to suspension of its membership;*
6. *Adopts the recommendation of the Executive Council establishing the following conditions for the Members requesting temporary exemption from the provisions of paragraph 13 of the Financing Rules and which propose payment plans to settle their arrears in instalments:*
 - (a) *to discharge the contribution corresponding to the present year before the General Assembly session at which their case is reviewed;*
 - (b) *strict observance of the plan agreed for the settlement of arrears;*
7. *Requests the Secretary-General to inform the Full Members concerned, that the decision just taken in their regard remains subject to strict compliance with the aforementioned conditions; and ..."*

4. In accordance with paragraph 3 of the above-mentioned resolution, the stipulations of Article 34 of the Statutes and/or of paragraph 13 of the Financing Rules attached to the Statutes are once again applicable as of 1st April 2010 to Gambia, Mali, Mauritania, Mongolia, and the Democratic Republic of the Congo, which are now included in the table on pages 1 and 2 of this document.

5. As of the date of this document, out of the current seven Associate Members only the Netherlands Antilles is subject to the stipulations of Article 34 of the Statutes.

6. The table below shows the degree of compliance with the conditions laid down by the Assembly for Members with which instalment payment plans had been agreed for the settlement of their outstanding balance, and which have been granted a temporary exemption from the application of the stipulations of paragraph 13 by the 18th General Assembly.

**MEMBERS GRANTED TEMPORARY EXEMPTION FROM THE APPLICATION OF
PARAGRAPH 13 (RESOLUTION 557 (XVIII))**

Compliance with the conditions laid down by the Assembly
Situation at 28 February 2011

| | | CONDITIONS LAID DOWN BY THE GENERAL ASSEMBLY | | | | |
|-------------------------------|----------------------------------|--|-----|---|-------------------|------------------------------|
| | | Payment of the year the G.A./ E.C. approved the plan | | Strict fulfilment of the agreed payment plan | | |
| FULL MEMBERS: | Arrears payment plan | | | Payment made | | |
| | | | | Contribution for the year | | Annual payment of arrears |
| BOLIVIA | in 10 years beginning in 2008 | 2007 | YES | 2008-2009 2010-2011 | YES NO | YES NO |
| BURKINA FASO | in 6 years beginning in 2006 | 2006 | YES | 2006-2010 2011 | YES NO | YES NO |
| CAMBODIA | in 30 years beginning in 2006 | 2006 | YES | 2006-2010 2011 | YES NO | YES NO |
| CONGO | in 30 years beginning in 2009 | 2009 | NO | 2009-2010 2011 | YES NO | YES NO |
| EL SALVADOR (1) | in 10 years beginning in 1999 | 1997 | YES | 1998-2010 2011 | YES NO | YES NO |
| IRAQ (2) | -- | -- | -- | -- | -- | -- |
| LAO PEOPLE'S DEM. REPUBLIC | in 25 years beginning in 2005 | 2005 | YES | 2005-2010 2011 | YES NO | YES NO |
| NICARAGUA | In 12 years Beginning in 2010 | 2010 | YES | 2010 2011 | YES NO | YES NO |
| NIGER | in 10 years beginning in 2008 | 2007 | NO | 2008-2009 2010 2011 | YES PART NO | YES NO NO |
| PERU | in 15 years beginning in 2005 | 2005 | YES | 2005-2010 2011 | YES NO | YES NO |
| TOGO | in 10 years beginning in 2009 | 2009 | YES | 2009-2010 2011 | YES NO | YES NO |
| URUGUAY | in 15 years beginning in 2007 | 2007 | YES | 2007-2010 2011 | YES NO | YES NO |
| YEMEN (3) | in 13 years beginning in 2001 | 1999 | YES | 2000-2011 | YES | YES |

OBSERVATIONS:

- (1) **El Salvador:** Since the debt of El Salvador is less than the amount of its assessed contributions for the past two years, the provisions of paragraph 13 are no longer applicable to this Member.
- (2) **Iraq:** Grace period extended until 19th session of the General Assembly pending approval of payment plan to start on 1st January 2014.
- (3) **Yemen:** The Minister of Tourism of Yemen, H.E. Mr. Nabil Hassan Al Fakir, confirmed in his letter dated 13 May 2006 that the necessary measures will be taken to agree on a new payment plan upon the conclusion of the current one, which would cover contributions corresponding to the years 1979-1989 owed by the former People's Republic of Yemen.

UPDATES FROM PREVIOUS STATEMENT CONTAINED IN DOCUMENT CE/89/5(b) Add.1

8. When compared with the information contained in the above mentioned document as of 30th September 2010 submitted to the last session of the Executive Council, the following updates can be observed:

(a) Countries in Article 34 of the Statutes Rules:

Provisions of Article 34 of the Statutes are no longer applicable to Nicaragua since the Executive Council at its 89th session approved its payment plan.

(b) Countries in paragraph 13 of the Financing Rules:

Lesotho, Papua New Guinea and Uzbekistan became subject to provision of paragraph 13 of the Financing Rules on 1st January 2011.

(c) Amount due by these Members as of 30 September 2010: 7,784,083.81 Euros

Amount due by these Members as of 28 February 2011: 7,907,904.59 Euros

Total arrears during the period: 123,820.78 Euros

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(d) Yemen has fully complied with its payment plan for 2011 since 30th September 2010, date of the previous statement submitted to the Executive Council. Furthermore, Gambia has submitted a twenty year long payment plan to the present session of the Executive Council for approval.

ANNEX 1

ARTICLE 34 OF THE STATUTES

1. Article 34 of the Statutes concerning the suspension of Members provides as follows:

"1. If any Member is found by the Assembly to persist in a policy that is contrary to the fundamental aim of the Organization as mentioned in Article 3 of these Statutes, the Assembly may, by a resolution adopted by a majority of two-thirds of Full Members present and voting, suspend such Member from exercising the rights and enjoying the privileges of membership.

"2. The suspension shall remain in force until a change of such policy is recognized by the Assembly."

2. At its seventh session the General Assembly adopted the following resolution 217(VII) concerning the application of these provisions:

A/RES/217(VII)

**Suspension of Members in arrears in the payment of
statutory contributions: Article 34 of the Statutes**

"The General Assembly,

"Considering decision 2(XXX) by which the Executive Council recommended the Assembly to apply Article 34 of the Statutes and consequently to suspend the Members of the Organization whose contribution arrears are equal to or exceed the contributions owed by such Members for four financial years and who have not, within six months, agreed with the Secretary-General on a payment plan for reimbursing these arrears,

"Considering document A/7/10(j) prepared by the Secretary-General pursuant to the above Executive Council decision,

"Recognizing that Article 34 of the Statutes, which provides the sanction of suspension when a Member persists in a policy that is contrary to the fundamental aim of the Organization as mentioned in Article 3 of the Statutes, becomes applicable in the case of prolonged non-payment of obligatory contributions to the Organization's budget, such an attitude clearly constituting a policy contrary to the aims of WTO,

"1. Decides to apply henceforward the measure of suspension provided for in Article 34 of the Statutes:

"(a) when a Member of the Organization has accumulated contribution arrears in respect of any four financial years, which need not be consecutive, partial payment of contributions not preventing the measure of suspension being applied, and;

"(b) when the aforementioned Member has not agreed a payment plan for the contribution arrears with the Secretary-General within a period of one year from the date of the resolution by which the Assembly noted that the measure of suspension was applicable to the Member pursuant to Article 34 of the Statutes;

.....

"3. Requests the Secretary-General to apply the present resolution and to inform each session of the Executive Council concerning its application."

PARAGRAPH 13 OF THE FINANCING RULES ATTACHED TO THE STATUTES

3. The provisions of paragraph 13 of the Financing Rules attached to the Statutes read as follows:

"13. A Member which is in arrears in the payment of its financial contributions to the Organization's expenditure shall be deprived of the privileges enjoyed by the Members in the form of services and the right to vote in the Assembly and the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years. At the request of the Council, the Assembly may, however, permit such a Member to vote and to enjoy the services of the Organization if it is satisfied that the failure to pay is due to conditions beyond the control of the Members."

4. In this regard, at its sixth session the Assembly adopted the following resolution:

A/RES/162(VI)

"The General Assembly,

.....

"Confirms the following provisions;

"When a Full Member becomes subject to the provisions of paragraph 13 of the Financing Rules and Regulation 8(7) of the Financial Regulations, the Assembly may restore that Member's right to vote and to enjoy the services of the Organization, only on an exceptional basis, when:

- "1. the Member has explained the reasons for its failure to pay in writing and has requested the restoration of its rights in writing;
- "2. the Council finds that the circumstances are beyond the Member's control;
- "3. the Council and the country concerned have agreed to the measures which should be taken in order to settle the arrears."