



Seventy-fourth session
Salvador de Bahía, Brazil, 2 and 3 December 2004
Provisional agenda item 4(b)

ADMINISTRATIVE, FINANCIAL AND STATUTORY MATTERS

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

Note of the Secretary-General

The Secretary-General informs the Executive Council in the following document of the application of Article 34 of the Statutes and paragraph 13 of the Financing Rules attached to the Statutes, in accordance with resolutions 451(XV) and 452(XV) adopted by the General Assembly at its Fifteenth session.

ADMINISTRATIVE, FINANCIAL AND STATUTORY MATTERS

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

1. At 15 October 2004, 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 24 Members listed below.

FULL MEMBERS MEMBRES EFFECTIFS MIEMBROS EFECTIVOS	PARAGR. 13 PARRAFO 13	ART. 34	ARREAR CONTRIBUTIONS ARRIÉRÉS DE CONTRIBUTIONS CONTRIBUCIONES ATRASADAS		
			YEARS/ ANNÉES/ AÑOS	TOTAL YEARS/ ANNÉES AÑOS	TOTAL EUR
AFGHANISTAN /AFGANISTÁN	X	X	81-87, 89-03	22	512.617,77
BURKINA FASO	X	X	89-90,92-97, 00,02,03	12	242.940,48
CAMBODIA/CAMBODGE/CAMBOYA	X	X	76-92,96-98	20	450.376,23
CAPE VERDE /CAP VERT /CABO VERDE	X		02-03	2	33.512,00
CONGO	X	X	87-03	16	414.084,26
CHAD/TCHAD	X	X	88-03	15	360.801,76
GABON / GABÓN	X	X	00-03	4	150.621,47
GAMBIA /GAMBIE	X	X	81-84, 86-03	22	458.312,99
GHANA	X	X	95,97,00,02,03	5	97.243,62
GUINEA-BISSAU / GUINÉE BISSAU	X	X	92-96,99-03	10	183.697,55
KYRGYZSTAN / KIRGHIZISTAN / KIRGUISTÁN	X	X	95-03	9	222.046,49
LAO PEOPLE'S DEMOCRATIC REP./ RÉP.DEMOCRATIQUE POPULAIRE LAO/ REP.DEMOCRÁTICA POPULAR LAO	X	X	83-85, 88-95, 01-03	14	333.589,29
MALAWI	X		00,02,03	3	48.462,24
MAURITANIA / MAURITANIE	X	X	76-03	28	633.367,79
MONGOLIA / MONGOLIE	X	X	91-00	10	297.620,51
NIGER	X	X	81-87,90-03	21	469.297,10
PERU / PEROU / PERÚ (*)	X	X	87-91,95,96,03	8	265.590,30
SAO TOME AND PRINCIPE / SAO TOME ET PRINCIPE/ SANTO TOME Y PRINCIPE	X	X	86-03	18	388.341,65
SIERRA LEONE / SIERRA LEONA	X	X	79-00,03	23	521.069,15
TOGO	X	X	96,97,99-03	7	136.000,58
TURKMENISTAN / TURKMÉNISTAN / TURKMENISTÁN	X	X	95-98,00-03	8	246.142,40
UGANDA / OUGANDA	X	X	91,92,95-00, 02,03	10	213.817,76
VENEZUELA	X	X	00-03	4	398.073,88
ZIMBABWE	X		01-03	3	62.186,01
TOTAL:					7.139.813,28

(*) By letter dated 7 August 2004, Peru's Minister of External Trade and Tourism, H.E. Mr. Alfred Ferrero, assured the Secretary-General that proposals were being prepared by the Peruvian Government to liquidate that country's WTO contribution arrears, in anticipation of the period during which Peru will serve on the Executive Council (2006-2007).

2. In pursuance of Resolutions 451 (XV) and 464(XV) 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 452 (XV), 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 report of the Secretary-General concerning the communications of the Full Members: Georgia and Sudan, regarding the contribution arrears accumulated by these Members,

Considering the recommendation formulated by the seventy-first session of the Executive Council,

1. *Approves the Executive Council's decision;*
2. *Decides to renew the temporary exemption from the provisions of paragraph 13 of the Financing Rules as they apply to Bolivia, El Salvador, Guinea, Kazakhstan and Mali which are complying with the agreed plans for the settlement of their contribution arrears;*
3. *Decides to renew the temporary exemption from the provisions of paragraph 13 of the Financing Rules to the Full Members Burkina Faso, Cambodia, Ghana, Peru, Sierra Leone and Yemen, albeit making it clear that these provisions will once again be applied to these Members if they are not up to date in their payment plans by 1 January 2004;*
4. *Entrusts the Secretary-General with informing Yemen that it should submit a new payment plan for the debt corresponding to the years 1979 to 1989, there being no provision in the existing regulations for exemption from contributions;*
5. *Decides to grant temporary exemption from the provisions of paragraph 13 to the Full Members Georgia and Sudan, which submitted payment plans approved by the Council; Burundi until a legal position is adopted concerning that Member's request for a temporary suspension of its full membership; Republic of Moldova while a legal study is undertaken to ascertain the true date of that country's admission to WTO, and Democratic Republic of the Congo and Rwanda, whose payment plans were submitted to the present session;*

Noting that Iraq is no longer subject to United Nations sanctions,

6. *Decides that it is now up to that country to present a payment plan for its contribution arrears to the Executive Council session preceding its sixteenth session, at the latest;*
7. ***Adopts the recommendations of the Executive Council and establishes 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;***
8. *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 January 2004 to Burkina Faso, Cambodia, Ghana, Peru and Sierra Leone, which are now included in the table on page 2 of this document.

5. As of the date of this document, none of the current seven Associate Members are subject to the stipulations of Article 34 of the Statutes. Only the Netherlands Antilles is subject to the provisions of paragraph 13 of the Financing Rules attached to 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 15th General Assembly.

**MEMBERS GRANTED TEMPORARY EXEMPTION FROM THE APPLICATION OF
PARAGRAPH 13 (RESOLUTION 452 (XV))**
Compliance with the conditions laid down by the Assembly
Situation at 15 October 2004

		CONDITIONS LAID DOWN BY THE GENERAL ASSEMBLY				
		Payment of the year the G.A. approved the plan		Strict fulfilment of the agreed payment plan		
FULL MEMBERS:	Arrears payment plan			Payment made		
				Contribution for the year	Annual quota of arrears	
BOLIVIA (1)	in 5 years beginning in 1999	1999	YES	1999-2003 2004	YES YES	YES PART
BURUNDI (2)		---	---	---	---	---
COSTA RICA (3)	in 15 years beginning in 1996	1995	YES	1996-2003 2004	YES YES	YES YES
EL SALVADOR (4)	in 10 years beginning in 1999	1997	YES	1998-2003 2004	YES YES	YES YES
GEORGIA	in 4 years beginning in 2004	2003	NO	2004	YES	YES
GUINEA	in 20 years beginning in 2002	2001	YES	2001-2003 2004	YES YES	YES YES
IRAQ (5)		---	---	---	---	---
KAZAKHSTAN	in 20 years beginning in 2000	---	---	2000-2003 2004	YES YES	YES YES
MALI	in 21 years beginning in 2002	2001	YES	2001-2003 2004	YES YES	YES PART
NICARAGUA	in 20 years beginning in 2004	2004	YES	2004	YES	YES
DEM. REP. OF THE CONGO	in 20 years beginning in 2004	2003	PART	2004	NO	NO
REP. OF MOLDOVA (6)		---	---	---	---	---
RWANDA	in 5 years beginning in 2004	2003	YES	2004	NO	YES
SUDAN	in 35 years beginning in 2004	2003	NO	2004	YES	YES
URUGUAY	in 10 years beginning in 2004	2004	NO	2004	NO	NO
YEMEN (7)	in 13 years beginning in 2001	1999	YES	2000-2003 2004	YES YES	YES NO

OBSERVATIONS:

- (1) **Bolivia:** The payment plan covers part of the debt. From 2003 onwards, the payment of arrears pending should have been the subject of a new agreement.
- (2) **Burundi:** Until a legal position is adopted concerning this Member's request for a temporary suspension of its full membership.
- (3) **Costa Rica:** Since the debt of Costa Rica is less than the amount of its assessed contributions for the past two years, the provisions of paragraph 13 are no longer applicable to it.

- (4) **El Salvador:** El Salvador has proposed a rescheduling of its current payment plan to settle its outstanding debt over 15 years beginning in 2003.
- (5) **Iraq:** Since Iraq is no longer subject to United Nations sanctions, it is now up to that country to present a payment plan for its contribution arrears to the Executive Council session preceding the General Assembly's sixteenth session at the latest.
- (6) **Rep. Moldova:** While a legal study is undertaken to ascertain the true date of this country's admission to WTO.
- (7) **Yemen:** The payment plan covers the arrears for the period 1990-1998. Once the present plan has been concluded, the payment of arrears pending (1979-1989), owed by the former People's Republic of Yemen, will be the subject of a new agreement.

ANNEX**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."