

Executive Council

104th session

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Report of the Secretary-General

Part III: Administrative and statutory matters

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

I. Introduction

1. At 30 June 2016, 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 22 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- 08,10,12,14	30	703,988.77
BAHRAIN / BAHREÏN / BAHREIN	X	X	78-84,02,10,15	10	389,715.05
BENIN / BÉNIN	X		12,14,15	3	77,672.00
CENTRAL AFRICAN REPUBLIC / RÉPUBLIQUE CENTRAFRICAINE / REPÚBLICA CENTROAFRICANA	X	X	06-15	10	230,617.00
CHAD / TCHAD	X	X	12-15	4	103,005.56
DJIBOUTI	X	X	03-15	13	282,852.00
EQUATORIAL GUINEA / GUINÉE ÉQUATORIALE / GUINEA ECUATORIAL	X		13-15	3	81,218.00
GUINEA / GUINÉE	X	X	96,98-00,07- 09,14-15	9	206,000.75
GUINEA BISSAU / GUINÉE-BISSAU	X	X	92-96,99-15	22	476,805.55
LIBERIA	X	X	12-15	4	103,012.00
MALAWI	X	X	11-15	5	125,786.99
NIGER / NÍGER	X	X	83-87,90-07,10- 11,14-15	27	626,574.81



PAKISTAN / PAKISTÁN	X	X	10,12,13,15	4	39,398.89
PAPUA NEW GUINEA / PAPOUASIE-NOUVELLE-GUINÉE / PAPUA NUEVA GUINEA	X	X	08-15	8	196,617.00
SIERRA LEONE / SIERRA LEONA	X	X	80-00,03-15	34	771,369.12
SYRIAN ARAB REPUBLIC / RÉPUBLIQUE ARABE SYRIENNE / REPÚBLICA ÁRABE SIRIA	X	X	12-15	4	247,224.00
TOGO	X	X	03-06	4	56,131.53
TURKMENISTAN / TURKMÉNISTAN / TURKMENISTÁN	X	X	95-98,00-12	17	504,066.40
UGANDA / OUGANDA	X	X	96-00,02-04,10-15	12	237,877.05
UNITED REPUBLIC OF TANZANIA / RÉPUBLIQUE-UNIE DE TANZANIE / REPÚBLICA UNIDA DE TANZANIA	X		13-15	3	90,670.31
VANUATU	X	X	10-15	6	122,154.00
YEMEN / YÉMEN	X	X	79-89,95,14-15	14	290,128.45
TOTAL:					5,962,885.23

2. The United Arab Emirates has arrears for the period 1981-1987 for a total amount of 518,247.76 euros. Agreement on the settlement of arrears is expected shortly.

3. Payment from Iraq in relation to its 2014 contribution is expected shortly.

4. It is also noted the Secretariat is maintaining negotiations with the following Members in order to have settlement of their arrears as follows: Afghanistan, Bahrain, Equatorial Guinea, Guinea, Guinea Bissau, Sierra Leona, Syrian Arab Republic, Turkmenistan and Yemen.

5. In pursuance of resolutions A/RES/646(XXI) and A/RES/658(XXI) here below, 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.

“The General Assembly,

(...)

Having taken note of the recommendations made by the Executive Council at its 98th and 101st sessions with respect to requests made by various Full and Affiliate Members for temporary exemption from the application of paragraph 13 of the Financing Rules,

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

7. Decides in view of their compliance with the agreed payment plans, to renew the temporary exemption from provisions of paragraph 13 of the Financing Rules of Full Members Cambodia, Lao People’s Democratic Republic and Nicaragua and grants temporary exemption from the provisions of paragraph 13 of the Financing Rules to Full Members Burundi, Madagascar and Sao Tome and Principe and to the Affiliate Members Camara de Turismo de Cabo Verde and Instituto de Turismo Responsable;

8. Also decides to grant temporary exemption from provisions of paragraph 13 of the Financing Rules to the Full Members Gambia and Sudan who have submitted payment plans to the present session of the General Assembly;

9. Further decides to maintain the temporary exemption of Bolivia, Burkina Faso, Democratic Republic of the Congo, Iraq, Guinea, Niger, Togo, Uganda, Uruguay and

Yemen, as well as that of Affiliate Members Fundação CTI Nordeste, International Hotel & Restaurante Association (IH&RA) and Fédération Inter-États des Syndicats des Agences de Voyages et de Tourisme de l'Afrique de l'Ouest et du Centre (FISAVET) 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 2016;

10. *Requests the Secretary-General to inform Yemen that it must submit a new payment plan for its debt corresponding to the years 1979 to 1989, given that the regulations in force do not contain any provision for exemption from the payment of contributions;*

11. *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;

12. *Requests the Secretary-General to inform the Full Members concerned, that the decision just taken in their regards remains subject to strict compliance with the aforementioned conditions; and*

6. In accordance with paragraph 9 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 1 April 2016 to the Full Members Guinea, Niger, Togo, Uganda and Yemen, which are now included in the table on pages 1 and 2 of this document, as well as to the Affiliate Members Fédération Inter-États des Syndicats des Agences de Voyages et de Tourisme de l'Afrique de l'Ouest et du Centre (FISAVET) and Fundação CTI Nordeste.

7. Full Member Kyrgyzstan submits to the present session of the Executive Council, for approval, a twenty-year payment plan to cover its arrears for an amount of 472,631.89 euros starting in 2017.

II. Temporary exemption from the applications of the provisions of Article 34 and paragraph 13

8. The table below shows the degree of compliance with the conditions laid down by the Assembly for Members with agreed payment plans 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 General Assembly at its 21st session.

9. At the request of the Members mentioned below, the General Assembly agreed, in its resolution A/RES/646(XXI), to grant them temporary exemption from the application of the aforementioned provisions, once an instalment payment plan of their arrear contributions was agreed upon.

MEMBERS GRANTED TEMPORARY EXEMPTION FROM THE APPLICATION OF PARAGRAPH 13 (RESOLUTION A/RES/646(XXI))						
Compliance with the conditions laid down by the Assembly Situation at 30 June 2016						
		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	2008-2015 2016	YES NO	YES NO
BURKINA FASO	in 4 years beginning in 2013	2013	NO	2013-2015 2016	YES NO	YES NO
BURUNDI	in 30 years beginning in 2014	2014	PART	2014 2015-2016	YES NO	PART NO
CAMBODIA	in 30 years beginning in 2006	2006	YES	2006-2016	YES	YES
DEMOCRATIC REPUBLIC OF THE CONGO	in 20 years beginning in 2014	2013	YES	2014-2015 2016	YES NO	YES NO
GAMBIA ISLAMIQUE REPUBLIC OF	in 15 years beginning in 2016	2015	YES	2016	YES	YES
IRAQ	in 25 years beginning in 2014	2010	YES	2014 2015 2016	NO YES NO	NO YES NO
LAO PEOPLE'S DEM. REPUBLIC	in 25 years beginning in 2005	2005	YES	2005-2016	YES	YES
MADAGASCAR	in 3 years beginning in 2014	2014	NO	2014 2015 2016	YES PART NO	YES YES NO
MAURITANIA	In 30 years beginning in 2015	2015	NO	2015 2016	NO NO	PART NO
NICARAGUA	in 12 years beginning in 2010	2010	YES	2010-2016	YES	YES
SAO TOME AND PRINCIPE	in 34 years beginning in 2015	2015	YES	2016	NO	NO
SUDAN	in 25 years beginning in 2016	2015	YES	2016	YES	PART
URUGUAY	in 15 years beginning in 2007	2007	YES	2007-2015 2016	YES NO	YES NO

III. Updates from previous statement contained in document CE/103/7(c)

10. Comparing the information contained in this document with that submitted to the previous session of the Executive Council as of 31 March 2016, the following updates can be observed:

(a) Countries in Article 34 of the Statutes:

Full Members Kyrgyzstan and Mauritania are no longer under the provisions of Article 34 of the Statutes since they each submitted payment plans for the settlement of their arrears.

Countries in paragraph 13 of the Financing Rules:

Full Member Gabon is no longer subject to the provisions of paragraph 13 of the Financing Rules since it has reduced its contribution arrears to less than two years' contributions.

(b) Amount due by Members under the above-mentioned provisions at 31 March 2016:	7,197,579.29 euros
Amount due by Members under the above-mentioned provisions at 30 June 2016:	<u>5,962,885.23 euros</u>
Total balance during the period:	<u>1,234,694.06 euros</u>

IV. Actions to be taken by the Executive Council

11. The Executive Council is invited:

- (a) To thank the Members that have made the necessary efforts in order to fulfil their financial obligations despite their internal constraints;
- (b) To note that Cambodia, the Gambia, the Lao People's Democratic Republic and Nicaragua have respected their agreed payment plans up to 2016;
- (c) To note with appreciation that Full Member Gabon is no longer subject to the provisions of paragraph 13 of the Financing Rules since it has reduced its contribution arrears partially;
- (d) To approve the payment plan submitted by Kyrgyzstan for the settlement of its arrears;
- (e) To remind Members to pay their contributions to the budget within the time period stipulated by regulation 7(2) of the Financial Regulations; and
- (f) To request the Secretary-General to inform it, at its next session, about the Members' compliance with the agreements made with a view, as the case may be, to maintaining the temporary exemption from the provisions of paragraph 13 that they were granted by the General Assembly or reapplying those provisions to them if they have not fulfilled their commitments.

Annex: Article 34 of the Statutes and Paragraph 13 of the Financing Rules attached to the Statutes

A. 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 A/RES/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 CE/DEC/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."

B. 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."