



Eighty-fifth session
Bamako, Mali, 7 and 8 May 2009
Provisional agenda item 5(e)

ADMINISTRATIVE, FINANCIAL AND STATUTORY MATTERS

**(e) 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 522(XVII) and 523(XVII) adopted by the General Assembly at its seventeenth session.

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 15 February 2009, 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 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 | 27 | 628.433,77 |
| BAHRAIN / BAHREIN / BAHREIN | X | X | 77-84,02 | 9 | 311.042,35 |
| BURUNDI | X | X | 77-07 | 31 | 702.974,96 |
| CAPE VERDE /CAP VERT /CABO VERDE | X | X | 02-08 | 7 | 125.966,00 |
| CENTRAL AFRICAN REPUBLIC/ RÉPUBLIQUE CENTRAFRICAINE/ REPÚBLICA CENTROAFRICANA | X | | 06-08 | 3 | 53.076,00 |
| CONGO | X | X | 87-00 02-08 | 21 | 506.040,66 |
| CÔTE D'IVOIRE | X | X | 04-08 | 5 | 136.419,00 |
| CHAD / TCHAD | X | X | 88-08 | 21 | 476.368,76 |
| DJIBOUTI | X | X | 03-08 | 6 | 123.064,00 |
| GABON / GABÓN | X | | 05-07 | 3 | 136.549,00 |
| GUINEA / GUINÉE | X | X | 95-08 | 7 | 155.715,75 |
| GUINEA BISSAU / GUINÉE-BISSAU | X | X | 92-96,99-08 | 15 | 299.264,55 |
| KYRGYZSTAN / KIRGHIZISTAN / KIRGUISTÁN | X | X | 95-08 | 14 | 340.704,49 |
| LEBANON / LIBAN / LIBANO | X | | 07-08 | 2 | 119.499,00 |
| LIBYAN ARAB JAMAHIRIYA / JAMAHIRIYA ARABE LIBYENNE / JAMAHIRIYA ÁRABE LIBIA | X | X | 04-06,08 | 4 | 319.167,00 |
| MALAWI | X | X | 00,02,04-08 | 7 | 149.856,24 |
| SAO TOME AND PRINCIPE / SAO TOME ET PRINCIPE/ SANTO TOME Y PRÍNCIPE | X | X | 86-08 | 23 | 480.795,65 |
| SIERRA LEONE / SIERRA LEONA | X | X | 79-00,03-08 | 28 | 603.132,39 |
| SUDAN / SOUDAN/SUDÁN | X | X | 83-86,89-03 06-08 | 22 | 468.683,92 |
| TOGO | X | X | 97,99-06 | 9 | 161.577,03 |
| TURKMENISTAN / TURKMÉNISTAN / TURKMENISTÁN | X | X | 95-98,00-08 | 13 | 384.822,40 |
| UGANDA / OUGANDA | X | X | 91,92,95-00, 02-04 | 11 | 224.980,76 |
| UNITED REPUBLIC OF TANZANIA / RÉPUBLIQUE-UNIE DE TANZANIE/ REPUBLICA UNIDA DE TANZANIA | X | | 06-08 | 3 | 68.910,14 |
| ZIMBABWE | X | X | 01-08 | 8 | 198.605,01 |
| TOTAL: | | | | | 7.175.648,83 |

2. In pursuance of Resolution 523(XVII) 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 523(XVII), 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 78th, 79th and 80th sessions with respect to requests 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. *Approves the Executive Council's recommendations;*
2. *Decides to renew the temporary exemption from the provisions of paragraph 13 of the Financing Rules as they apply to Costa Rica, El Salvador, Mali, Mongolia, and Nicaragua 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 Georgia, Guinea, Guinea Bissau, Niger, Peru, Lao People's Democratic Republic, Rwanda 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 April 2008;*
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 Bolivia, Burkina Faso, Cambodia, Democratic Republic of Congo, Gambia, Mauritania and Uruguay, which submitted payment plans approved by the Council; and*

Recalling its decisions CE/DEC/5(LXXIX) and CE/DEC/8 (LXXX) concerning Iraq,

6. *Notes with satisfaction that this Full Member has paid the total of its 2007 contribution to the Organization;*

Aware that Iraq and the Secretariat are pursuing their negotiations concerning that country's contribution arrears;

7. *Agrees* pursuant to CE/DEC/7(LXXXVIII), to accord a grace period of two years for Iraq, to submit to its 86th session a payment plan prepared in cooperation with the Secretariat;
8. *Decides* accordingly to grant Iraq temporary exemption from the application of Paragraph 13 of the Financing Rules subject to discharge of its regular contributions in 2008 and 2009, and in accordance with the agreement reached with the Secretariat on 13 November 2007;
9. *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 installments:
 - (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;
10. *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 April 2006 to Guinea, and Guinea-Bissau, which are now included in the table on page 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 17th General Assembly.

**MEMBERS GRANTED TEMPORARY EXEMPTION FROM THE APPLICATION OF
PARAGRAPH 13 (RESOLUTION 523 (XVII))**
Compliance with the conditions laid down by the Assembly
Situation at 15 February 2009

| | | 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 | in 10 years beginning in 2008 | 2007 | YES | 2008-2009 | YES | YES |
| BURKINA FASO | in 6 years beginning in 2006 | 2006 | YES | 2006-2008 2009 | YES NO | YES NO |
| CAMBODIA | in 30 years beginning in 2006 | 2006 | YES | 2006-2007 2009 | YES NO | YES NO |
| COSTA RICA (1) | in 15 years beginning in 1996 | 1995 | YES | 1996-2008 2009 | YES NO | YES NO |
| DEM. REP. OF THE CONGO | in 25 years beginning in 2005 | 2007 | YES | 2008-2009 | NO | NO |
| EL SALVADOR | in 10 years beginning in 1999 | 1997 | YES | 1998-2008 2009 | YES NO | YES NO |
| GAMBIA | In 16 years Beginning in 2007 | 2007 | YES | 2008-2009 | NO | NO |
| IRAQ (2) | -- | -- | -- | -- | -- | -- |
| LAO PEOPLE'S DEM. REPUBLIC | in 25 years beginning in 2005 | 2005 | YES | 2005-2007 2008 2009 | YES YES NO | YES NO NO |
| MALI | in 21 years beginning in 2002 | 2001 | YES | 2001-2007 2008 2009 | YES PART NO | YES NO NO |
| MAURITANIA | in 30 years beginning 2008 | 2007 | YES | 2008 2009 | YES NO | YES NO |
| MONGOLIA | in 25 years beginning in 2005 | 2005 | YES | 2005-2007 2008-2009 | YES NO | YES NO |
| NICARAGUA | in 20 years beginning in 2004 | 2004 | YES | 2004-2007 2008-2009 | YES NO | YES NO |
| NIGER | in 10 years beginning in 2008 | 2007 | NO | 2008 2009 | PART NO | YES NO |
| PERU | in 15 years beginning in 2005 | 2005 | YES | 2005-2007 2008 2009 | YES YES NO | YES PART NO |
| URUGUAY | in 15 years beginning in 2007 | 2007 | YES | 2007-2008 2009 | YES NO | YES NO |
| YEMEN (3) | in 13 years beginning in 2001 | 1999 | YES | 2000-2007 2008 2009 | YES YES NO | YES PART NO |

OBSERVATIONS:

- (1) **Costa Rica:** Since the debt of Costa Rica is less than the amounts of their respective assessed contributions for the past two years, the provisions of paragraph 13 are no longer applicable to them.
- (2) **Iraq:** Grace period of two years granted by the XVII General Assembly
- (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 current one, which would cover contributions corresponding to the years 1979-1989 owed by the former People's Republic of Yemen.

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."