

Executive Council

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 Madrid, 18 April 2012
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Administrative and statutory matters

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

I. Introduction

1. At 31 March 2012, 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 21 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 / BAHREÏN / BAHREIN	X	X	77-84,02,10-12	11	396.048,35
BURUNDI	X	X	77-07	31	701.347,61
BURKINA FASO	X	X	02-04,11	4	77.281,46
CAPE VERDE /CAP-VERT /CABO VERDE	X	X	02-11	10	185.588,00
CÔTE D'IVOIRE	X	X	04-07,11	5	109.302,34
CHAD / TCHAD	X	X	07,08,10,11	4	98.158,00
DJIBOUTI	X	X	03-11	9	190.141,00
DEM. REPUBLIC OF THE CONGO / RÉP. DÉMOCRATIQUE DU CONGO / REP. DEMOCRÁTICA DEL CONGO	X	X	91-96,98-00, 02- 06, 08-11	18	362.250,26
GUINEA BISSAU / GUINÉE-BISSAU	X	X	92-96,99-11	18	373.793,55
KYRGYZSTAN / KIRGHIZISTAN / KIRGUISTÁN	X	X	95-10	16	369.619,89
MALAWI	X	X	00,02,04-11	10	224.385,24
NIGER / NÍGER	X	X	82-87,90- 07,10,11	26	589.878,14
PAKISTAN / PAKISTÁN	X		08,10-11	3	61.372,24
PAPUA NEW GUINEA / PAPOUASIE- NOUVELLE-GUINÉE / PAPUA NUEVA GUINEA	X	X	08-11	4	93.605,00



SAO TOME AND PRINCIPE / SAO TOME-ET-PRINCIPE/ SANTO TOME Y PRÍNCIPE	X	X	86-11	26	540.417,65
SIERRA LEONE / SIERRA LEONA	X	X	79-00,03-11	31	677.661,39
SUDAN / SOUDAN / SUDÁN	X	X	84-86,89-03 06-08	21	457.439,92
TURKMENISTAN / TURKMÉNISTAN / TURKMENISTÁN	X	X	95-98,00-11	16	474.255,40
UGANDA / OUGANDA	X	X	95-00, 02-04, 10-11	11	221.384,76
VANUATU	X		10-11	2	39.748,00
TOTAL:					6.896.773,97

2. In pursuance of resolution A/RES/588(XIX) 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.

II. 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 A/RES/588(XIX), 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 89th, 90th and 91st 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,

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 Cambodia, Congo, Lao People's Democratic Republic, Togo and Yemen and grants temporary exemption from the provisions of paragraph 13 of the Financing Rules to Full Members Central African Republic, Gambia, Guinea, Iraq, Mauritania, Mongolia, Nicaragua and to the Affiliate Members Centro Italiano di Studi Superiori sul Turismo e sulla Promozione Turistica di Assisi (CST) and Souv Club Cameroon;*
2. *Also decides to maintain the temporary exemption of Bolivia, Burkina Faso, El Salvador, Niger, Peru, and Uruguay, as well as that of Affiliate Members Confederación de Organizaciones Turísticas de la América Latina (COTAL) and University of Tourism Economics and Law (KUTEL) 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 2012;*
3. *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 provisions for exemption from the payment of contributions;*

4. *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;*
5. *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 2 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 2012 to Burkina Faso and Niger which are now included in the table on pages 1 and 2 of this document as well as to the Affiliate Member Confederación de Organizaciones Turísticas de la América Latina (COTAL).

5. As of the date of this document, out of the current seven Associate Members only Puerto Rico is subject to the provisions of paragraph 13 of the Financing Rules.

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 19th General Assembly.

**MEMBERS GRANTED TEMPORARY EXEMPTION FROM THE APPLICATION OF
PARAGRAPH 13 (RESOLUTION A/RES/588(XIX))**

Compliance with the conditions laid down by the Assembly
Situation at 31 March 2012

		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	2008-2011 2012	YES NO	YES NO
CAMBODIA	in 30 years beginning in 2006	2006	YES	2006-2012	YES	YES
CENTRAL AFRICAN REPUBLIC	in 4 years beginning in 2011	2011	NO	2011-2012	NO	NO
CONGO	in 30 years beginning in 2009	2009	NO	2009-2011 2012	YES NO	YES NO
EL SALVADOR (1)	in 10 years beginning in 1999	1997	YES	1998-2010 2011 2012	YES YES NO	YES NO NO
IRAQ (2)	--	--	--	--	--	--
GAMBIA	in 20 years beginning in 2011	2011	NO	2011 2012	YES NO	YES NO
GUINEA	in 15 years beginning in 2012	2011	YES	2012	NO	NO
LAO PEOPLE'S DEM. REPUBLIC	in 25 years beginning in 2005	2005	YES	2005-2011 2012	YES NO	YES NO
MAURITANIA	in 30 years beginning in 2011	2011	NO	2011 2012	YES NO	YES NO
NICARAGUA	in 12 years Beginning in 2010	2010	YES	2010-2011 2012	YES NO	YES YES
PERU	in 15 years beginning in 2005	2005	YES	2005-2011 2012	YES NO	YES NO
TOGO	in 10 years beginning in 2009	2009	YES	2009-2011 2012	YES NO	YES NO
URUGUAY	in 15 years beginning in 2007	2007	YES	2007-2011 2012	YES NO	YES NO
YEMEN (3)	in 13 years beginning in 2001	1999	YES	2000-2011 2012	YES NO	YES NO

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 the 20th session of the General Assembly while their payment plan starting on 1 January 2014 becomes in force.
- (3) **Yemen:** The Minister of Tourism of Yemen, 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.

III. Updates from previous statement contained in document A/19/4(b) add.1

When compared with the information contained in the above-mentioned document as of 31 August 2011 submitted to the previous session of the Executive Council, the following updates can be observed:

(a) Countries in Article 34 of the Statutes:

Provisions of Article 34 of the Statutes are no longer applicable to Central African Republic, and Guinea since the 19th General Assembly approved their payment plans. Libya, Mali and Mongolia had their arrears settled and are no longer under these provisions.

The Full Members Chad and Papua New Guinea became subject to the provisions of Article 34 of the Statutes as of 1 January 2012.

Countries in paragraph 13 of the Financing Rules:

Provisions in paragraph 13 of the Financial Rules are no longer applicable to Lesotho since it settled its arrears.

The Full Members Pakistan, Vanuatu and the Associate Member Puerto Rico became subject to the provisions of paragraph 13 of the Financial Rules on 1 January 2012.

(b)	Amount due by these Members as of 31 August 2011.....	7,858,218.59 euros
	Amount due by these Members as of 31 March 2012.....	<u>6,896,773.97</u> euros
	Total arrears received during the period:.....	<u>961,444.62</u> euros

Annex

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."