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GENERAL COMMITTEE

RECORD OF THE SECOND MEETING

Held at the Austria Center Vienna
on Tuesday, 22 September 1998, at 9.40 a.m.

CONTENTS

Item of the
provisional
agenda*

Paragraphs

- Restoration of voting rights

1 - 78

[*] GC(42)/2.

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ATTENDANCE AT THE MEETING

Chairman

Ms. LAJOUS VARGAS (Mexico), President of the General Conference

Members

Mr. MIAH, Vice-President of the General Conference, and
Mr. CHOWDHURY (Bangladesh)

Mr. CODORNIÚ PUJALS (Cuba), Vice-President of the General Conference

Mr. FÖRSTER (Netherlands), Vice-President of the General Conference

Mr. ZAIDE (Philippines), Vice-President of the General Conference

Mr. PAVLINOV, representing Mr. ADAMOV (Russian Federation),
Vice-President of the General Conference

Mr. DAVIES, representing Mr. MADUNA (South Africa), Vice-President of the
General Conference

Mr. STRATFORD, representing Mr. RICHARDSON (United States of America),
Vice-President of the General Conference

Mr. JOSEPH (Australia), Chairman of the Committee of the Whole

Ms. OGNJANOVAC and Mr. NOBILO, representing Mr. PORGES (Croatia),
Additional Member

Mr. TWIST, representing Ms. DORAN (Ireland), Additional Member

Mr. AL-GHAIS (Kuwait), Additional Member

Mr. BENMOUSSA and Mr. BOURITA, representing Mr. TAHIRI (Morocco),
Additional Member

Mr. GREGORIČ (Slovenia), Additional Member

Mr. FREEMAN, representing Mr. HEATHCOTE (United Kingdom of Great Britain
and Northern Ireland), Additional Member

Secretariat

Mr. SANMUGANATHAN, Secretary of the Committee

Mr. JOHNSON, Director of the Legal Division

Mr. ESPINO, Director of the Division of Budget and Finance

RESTORATION OF VOTING RIGHTS
(GC(42)/INF/9, 16, 17 and 18)

1. The CHAIRMAN said that requests for the restoration of voting rights had been received from Belarus, Afghanistan, Kazakhstan and Kenya, whose cases were explained in documents GC(42)/INF/9, 16, 17 and 18, respectively. Under Article XIX.A of the Statute, the General Conference could permit a Member State disqualified from voting because of default in the payment of its contributions to vote if it was satisfied that the failure to pay was due to conditions beyond the Member State's control.

Mr. Förster (Netherlands) took the Chair.

2. Mr. BENMOUSSA (Morocco), referring to the discussion at the Committee's preceding meeting concerning Kuwait's request for an additional agenda item on the participation of Palestine in the work of the Agency, said he understood that the Rules of Procedures of the General Conference laid down various deadlines for the submission of proposals for items to be included in the Conference's agenda. For instance, any proposals for amendments to the Statute had to be submitted at least 90 days in advance, and proposals for supplementary items were subject to a 30-day deadline. The request by Kuwait was subject to Rule 15 of the Rules of Procedure, which required additional items to meet a seven-day deadline unless a two-thirds majority of the General Conference decided otherwise. The purpose behind that rule would seem to be to avoid unexpected items. However, the letter which had been submitted by the Resident Representative of Kuwait had been dated 10 September and thus had complied with the seven-day deadline. When the Plenary came to adopt the agenda, only a simple majority should therefore be required under Rule 15 for the item to be included in the agenda. He asked the Agency's Legal Adviser whether he agreed with that interpretation of Rule 15.

3. Mr. JOHNSON (Director, Legal Division) said that it was indeed the intention of Rule 15 to avoid unexpected items being placed on the agenda. However, Rule 15 clearly did not establish a seven-day time limit in advance of the Conference, since the seven-day period only started when an item was placed on the agenda. The rule in question had been adopted at a time when the General Conference lasted for more than one week, and what was intended was that any item placed on the agenda under Rule 15 could not be discussed at the Conference until seven days later, unless the General Conference decided otherwise by a two-thirds majority vote. Since the General Conference currently only lasted a week, the seven-day rule contained in Rule 15 could no longer be applied as intended and accordingly any additional items proposed could only be accepted if Rule 15 was waived by a two-thirds majority of the Conference.

4. Mr. BENMOUSSA (Morocco) noted that Rule 15 was indeed an outdated rule which had been formulated at a time when modern electronic forms of communications had not existed. However, his delegation was willing to go along with any procedure which was legal.

5. The CHAIRMAN pointed out that the General Committee's agenda currently required it to be discussing requests for the restoration of voting rights rather than problems with the Conference's Rules of Procedure.

6. In that context, the Board of Governors had submitted a document (GC(42)/10) entitled "Criteria or guidelines for consideration of requests for the restoration of voting rights" which had been developed pursuant to widespread consultations and which the Board was recommending to the General Conference for adoption. Those guidelines had not yet been approved or even discussed by the Committee of the Whole. However, he suggested that the General Committee might wish to consider the requests which had been submitted in the light of those guidelines, without prejudice to the forthcoming discussion of the guidelines in the Committee of the Whole.

7. Mr. JOSEPH (Chairman of the Committee of the Whole) said that to discuss the requests in that manner would indeed prejudice the debate in the Committee of the Whole; the General Committee should consider those requests in the same informal manner as it had done in previous years.

8. Mr. FREEMAN (United Kingdom) endorsed the comment of the Chairman of the Committee of the Whole.

9. The CHAIRMAN replied that the Committee would indeed consider the requests, one by one, in the same informal manner as previously; however, it could use the document submitted by the Board as a guide for its discussions.

Request from Belarus (GC(42)/INF/9)

10. Mr. FREEMAN (United Kingdom) said that, in assessing the request of Belarus, it would be useful if the Secretariat could provide some information as to Belarus's contribution situation in other organizations of the United Nations system since, if it had paid its contributions elsewhere, it could be expected to pay its contributions to the Agency also. Mr. ESPINO (Director, Division of Budget and Finance) replied that the Secretariat currently had no information on that matter. Mr. FREEMAN (United Kingdom) said that, if no information was available, then the Committee had no basis on which to take a decision.

11. Mr. BENMOUSSA (Morocco) said he could not agree with the representative of the United Kingdom that the question whether countries had paid their contributions to other organizations should be allowed to influence the decision taken on this issue in the Agency, which was an independent organization and should not be influenced by what happened in other organizations. He for his part had great sympathy with those States which could not pay and would never speak against the restoration of their voting rights as a matter of principle.

12. Mr. FREEMAN (United Kingdom) responded that the Agency's Statute made it quite clear that a country's circumstances had to be exceptional in order for its voting rights to be restored, and information concerning its payments to other organizations was helpful in

judging those circumstances. Considerations of that kind were also taken into account elsewhere, for example by the United Nations Committee on Contributions in New York.

13. Mr. DAVIES (South Africa) noted that only four requests for restoration of voting rights had been submitted. Until the criteria and guidelines for consideration of such requests were approved, he urged that the Committee should not debate matters of principle at great length but should follow past practice and deal with the requests informally.

14. Mr. PAVLNOV (Russian Federation) endorsed the comments which had been made by the representative of Morocco. A State's contribution record in other organizations should not be allowed to influence the decision taken in the Agency. He urged the Committee to follow past practice in considering requests, and to respond favourably to the one from Belarus.

15. Mr. JOSEPH (Chairman of the Committee of the Whole) said that, if the criteria and guidelines were to be applied even informally, it would be helpful to have access to the kind of information requested by the representative of the United Kingdom, who had rightly pointed out that such information was indeed taken into account in New York.

16. With regard to the specific request from Belarus, he noted that it cited the Chernobyl accident, which had occurred more than 12 years previously, as one of the factors that had prevented it from paying its contributions. He did not find that argument convincing and felt that the request should therefore not be approved.

17. Mr. ZAIDE (Philippines) said that while document GC(42)/10 might indeed provide useful guidance for the evaluation of the requests submitted, it was difficult to see how it could be used in that manner until it had been approved by the Conference.

18. The CHAIRMAN asked the Committee if it wished to postpone discussion of the requests until the criteria and guidelines had been approved. The delay would also offer an opportunity for the provision of further information.

19. Mr. DAVIES (South Africa) said that, unless some delegation had a violent objection regarding a particular case, the Committee should proceed to deal with the requests in the same manner as in previous years.

20. Mr. PAVLNOV (Russian Federation) agreed with the representative of South Africa. The consideration of the requests should not be linked to document GC(42)/10. To do so would place the Committee in an ambiguous procedural situation, particularly if the criteria and guidelines were not approved. Past practice should therefore be followed.

21. Mr. FREEMAN (United Kingdom) said that he was prepared to discuss the requests either immediately or later.

22. Mr. BENMOUSSA (Morocco) said that, if the Committee so wished, it could follow the criteria and guidelines, even though they had not yet been approved by the Conference. Should there be a disagreement within the General Committee concerning a particular case, the Chairman would then simply report the views of the Committee to the Conference rather than passing on a decision. Looking at the criteria and guidelines set forth in document GC(42)/10, he felt that many of them clearly did apply to the requests which had been submitted.

23. With specific reference to the case of Belarus, he noted that that country had paid US \$1.3 million of its arrears, had taken steps to pay some of its assessed programme costs and had made a contribution to the Technical Co-operation Fund for 1998. Those actions were a sign of its good will and it should therefore be encouraged.

24. Mr. TWIST (Ireland) asked what proportion of its assessed contributions for 1998 the \$1.3 million Belarus had paid represented. Mr. ESPINO (Director, Division of Budget and Finance) replied that the scale of assessment for Belarus had decreased and that that country's assessed contributions for 1998 amounted to only \$478 000.

25. Mr. JOSEPH (Chairman of the Committee of the Whole) said that despite its assessment having diminished notably in recent years, Belarus was still claiming that the Chernobyl accident prevented it from paying its contributions. If the Committee were to continue to accept an argument of that kind, it could find itself faced with similar requests citing catastrophes which had occurred even farther back in the past. The crucial issue was whether Belarus was in a position to collect sufficient revenue to pay its assessed contributions. It had clearly made an effort to pay back some of its arrears, and that effort had to be acknowledged. In the preceding year, the Committee had agreed to Belarus's request for restoration of its voting rights, but he did not think that sufficient grounds had been provided to accede to that request in the current year.

26. Mr. PAVLINOV (Russian Federation) said that even though the Chernobyl accident might have occurred a long time in the past, it had nevertheless led to a drop in the country's gross national product. Moreover, like all members of the Commonwealth of Independent States, Belarus was suffering from severe, long-standing economic and financial problems due to restructuring. It could not pay its contributions to international organizations in full. The payment of the \$1.3 million had required a tremendous effort which justified a less formal application of the criteria.

27. Mr. TWIST (Ireland) noted the significant difference between the submissions of Kazakhstan and the other three countries and wondered whether there was any precedent for being persuaded by the argument of the former, and in particular whether the Secretariat knew what Kazakhstan meant by "near future"?

28. Mr. FREEMAN (United Kingdom) said that Kazakhstan clearly had no case at all whereas a substantial case was being made for Belarus. However, if the Committee was to be guided by the criteria in document GC(42)/10, it should examine each request in detail with advice from the Secretariat on each and every one.

29. The CHAIRMAN said that his impression in the Informal Working Group which had developed the criteria and guidelines contained in document GC(42)/10 had been that the majority had considered the guidelines as a basis for discussion, but not as detailed guidance.

30. Mr. BENMOUSSA (Morocco) said that the Committee only had four cases before it. If it were to decide that all four were acceptable, its recommendation could go to the Plenary, where the Committee would undoubtedly be commended for its work. The result would make no difference to the Conference itself.

31. In addition, and for the sake of intellectual honesty, the Committee might usefully consider setting a deadline for the submission of additional requests. If there were none, the Committee would only have the matter of credentials to consider at its next meeting. That was a humane and legal solution which he urged the Committee to adopt, bearing in mind that the situation would be different the following year.

32. The CHAIRMAN replied that the en bloc approval which the representative of Morocco had suggested went beyond the mandate of the General Committee and would not be fair to other countries in similar positions which might submit applications later on.

33. Mr. FREEMAN (United Kingdom) reiterated his suggestion that the Secretariat ought to be able to provide advice as to how the problem was addressed elsewhere, especially in New York.

34. Mr. JOSEPH (Chairman of the Committee of the Whole) said that if the Committee was informally to apply the criteria which the representative of Morocco wished it to apply, according to the information available, Belarus satisfied two criteria out of seven at the most. Even on the basis of the major criterion of the old procedure, whether Belarus was capable of collecting the revenue, its case still failed. The country's difficulties were not exceptional, it did not meet either the old or the new criteria, and there was no reason simply to approve its request. To do so would be a charade in which he could not participate.

35. Mr. DAVIES (South Africa) said that he was impressed by the attempts of Belarus to meet its arrears and was in favour of restoring its voting rights.

36. Mr. FREEMAN (United Kingdom) said that under the old dispensation, Belarus had made a good case but under the new dispensation he shared the view of the Chairman of the Committee of the Whole.

37. The Committee should certainly not agree to approve the cases en bloc. It was crucial to the future of the mechanism in the United Nations system as a whole that the cases should be considered individually, on their merits, in the light of guidelines borne of experience.

38. Mr. CODORNIÚ PUJALS (Cuba) agreed with the representative of the United Kingdom. However, Belarus was making commendable efforts to pay and its case should be accepted.

39. Mr. BENMOUSSA (Morocco) said that his intention had not been to obtain an en bloc decision and that he was aware that consideration would always be on a case-by-case basis.

40. The CHAIRMAN said that as he had only heard reservations from two delegations, he took it that the Committee agreed, with two reservations, to recommend to the General Conference that the voting rights of Belarus be restored.

41. It was so decided.

Request from Kazakhstan (GC(42)/INF/17)

42. Mr. FREEMAN (United Kingdom) said that there was no case to be made for Kazakhstan and its request should be rejected.

43. Mr. TWIST (Ireland) said that in the absence of clarification on the two questions he had put earlier to the Secretariat, he had no choice but to oppose the request by Kazakhstan.

44. Mr. PAVLINOV (Russian Federation) wondered whether the Secretariat had any information as to possible technical delays in the transmission of funds from Kazakhstan, or whether its statement that it would pay its budget contributions in the near future must be taken merely as a general pledge to pay its contributions to the Regular Budget.

45. Mr. ESPINO (Director, Division of Budget and Finance) said that the Secretariat had asked Kazakhstan about the timing of its payments and had received no reply.

46. Mr. PAVLINOV (Russian Federation), supported by Mr. BENMOUSSA (Morocco), said that despite the lack of response, Kazakhstan's request should be accepted in view of its difficult situation.

47. Mr. JOSEPH (Chairman of the Committee of the Whole) observed that Kazakhstan had greater difficulties than Belarus, even though they were not documented.

48. Mr. FREEMAN (United Kingdom) said that the Committee was trying to uphold a rational system of analysis as to the legitimacy of individual Member States' applications for restoration of their voting rights in the absence of payment of their arrears. It should therefore operate on the basis of what Member States articulated and not on the basis of information otherwise available. Kazakhstan had articulated nothing, and to approve its case would make a farce of the General Committee.

49. Mr. GREGORIČ (Slovenia) said that while Kazakhstan had so far provided no facts on which its case could be judged, the provision of more information at the Committee's request might make a discussion of its case possible.

50. Mr. DAVIES (South Africa) said that Kazakhstan's application could not be considered as a serious one.

51. Mr. ZAIDE (Philippines) said that he was not in favour of restoring the voting rights of Kazakhstan because no reason had been provided by the applicant. However, if the delegation of Kazakhstan could provide a more detailed explanation, he would be amenable to changing his position.

52. Mr. AL-GHAIS (Kuwait), supported by Mr. CODORNIÚ PUJALS (Cuba), said that although Kazakhstan had adduced no substantial reason, it should be given the benefit of the doubt and offered a deadline by which to provide solid information which could be considered at a later stage. If it failed to meet the deadline, the Committee could decide the case as it saw fit.

53. The CHAIRMAN said that it appeared from the discussion that on the basis of the information currently available, there was no majority in the Committee for the restoration of voting rights to Kazakhstan. He therefore proposed that the Committee's recommendation to the General Conference be negative but that Kazakhstan be given the opportunity to submit additional information in time for the Committee's next meeting which might change the recommendation.

54. It was so decided.

Request from Afghanistan (GC(42)/INF/16)

55. Mr. BENMOUSSA (Morocco) recalled that as Chairman of the Informal Working Group on Guidelines for the Restoration of Voting Rights, he had written to the Treasurer of the United Nations Development Programme (UNDP) in New York to ask whether there was a procedure whereby the least developed countries (LDCs), including Afghanistan, could pay their arrears in local currencies, which would then be converted by the UNDP field offices into United States dollars for the Agency; he had been informed that the conversion procedure, which would take approximately one month, was available for all LDCs with the exception of Afghanistan on the grounds that it was in a state of war. The United Nations had no presence in that country. Its case should therefore be considered in the affirmative.

56. Mr. FREEMAN (United Kingdom) supported that position.

57. The CHAIRMAN said that in the absence of dissension he would take it that there was a clear majority in favour of restoring voting rights to Afghanistan.

58. It was so decided.

Request from Kenya (GC(42)/INF/18)

59. Mr. DAVIES (South Africa) said that Kenya had submitted a good case. It had made a serious attempt to reduce its arrears, having paid the equivalent of two years of assessed contributions in the past year, and its application should be supported.

60. Mr. AL-GHAIS (Kuwait) said that Kenya presented a good case for benefiting from special treatment by the General Conference, both because of its financial situation and in view of the recent act of terrorism against the United States Embassy there.

61. The CHAIRMAN noted that although in its submission the Kenyan Government had stated that it had paid more than the equivalent of two years of assessed contributions since the forty-first regular session of the General Conference, the Secretariat had not received the money and was unable to confirm the payment.

62. Mr. FREEMAN (United Kingdom) suggested that if the money had not been received the submission might possibly be untrue.

63. Mr. STRATFORD (United States of America) said that it would be unfortunate if the submission was not truthful. Kenya was facing a very difficult situation and deserved to have its voting rights restored.

64. Mr. ZAIDE (Philippines) supported the restoration of voting rights for Kenya.

65. Mr. BENMOUSSA (Morocco), referring to the possibility mentioned by the representative of the United Kingdom, said that given the enormous delays to which transfers from Africa were subject, Kenya should be given the benefit of the doubt and allowed maximum tolerance.

66. Mr. ESPINO (Director, Division of Budget and Finance) said that the last payment made by Kenya had been \$3253 on 10 June 1997. Before issuing the document on the loss of voting rights, the Secretariat had checked bank records and found that there was no payment in hand or in transit.

67. Mr. JOSEPH (Chairman of the Committee of the Whole) said that he was in favour of approving Kenya's case for political reasons rather than in terms of Article XIX or the criteria to be recommended to the General Conference for adoption.

68. The CHAIRMAN said that the Committee would make its recommendation to the General Conference without specifying reasons.

69. Mr. TWIST (Ireland) said that while the political reasons for accepting Kenya's application might be persuasive, it was important that there should be consistency and integrity in the way the system operated. Cases in future would depend on the provision of evidence and the Committee would no longer need to rely on giving countries the benefit of the doubt or otherwise. In the present case, he saw no reason why the Kenyan authorities could not be asked to fax a copy of their bank transfer in time for consideration at the Committee's next meeting when Kazakhstan's case was to be reconsidered.

70. Mr. GREGORIČ (Slovenia) said that his delegation supported the restoration of Kenya's voting rights but felt that clarification should be provided regarding the payment it claimed to have made. He therefore suggested, as had been done in the case of Kazakhstan, that a final decision be deferred until the Committee's next meeting.

71. Mr. DAVIES (South Africa) endorsed the comments which had been made by the representative of Morocco. It was wrong to jump to conclusions, and it should be noted that the letter from the Kenyan Mission bore the date of the preceding day. It could well be that the payment in question was still in transit. He also urged against demanding the submission of documentary evidence, as Kenya might be prevented by logistical difficulties from providing such proof at the current moment.

72. The CHAIRMAN said he assumed that the Secretariat would in any case be making enquiries with regard to the payment Kenya claimed to have made.

73. Mr. FREEMAN (United Kingdom) said that he did not wish to call into question the good faith of Kenya, nor to oppose its request for the restoration of its voting rights; however, he would like the Secretariat to provide information regarding the payment at the Committee's next meeting.

74. Mr. BENMOUSSA (Morocco) said that transparency was important and that it was a very serious matter if a country told an untruth. However, he did not believe that that was the case in the current instance. His own country had also had the experience of payments getting lost and taking several months to arrive at their destination. He appealed to the members of the Committee not to doubt Kenya's good faith, particularly in the light of the difficulties it was experiencing. Moreover, the issue of the missing payment could also be taken into account by the General Committee at the following regular session of the General Conference. He therefore urged that Kenya's voting rights should be restored without conditions.

75. Mr. NOBILO (Croatia) said that the payment which Kenya claimed to have made was only one of the reasons which it had put forward in support of its request for restoration of its voting rights, and that its other reasons were more important. However, he agreed with previous speakers that the question of the payment should be clarified.

76. The CHAIRMAN said he took it that the Committee wished to recommend that Kenya's voting rights be restored, and that it also wished to request the Secretariat to provide clarification regarding Kenya's payment at the Committee's next meeting.

77. It was so decided.

78. The CHAIRMAN, summing up the Committee's discussion of the issue of restoration of voting rights, said that the Committee had approved the restoration of Belarus's voting rights, though some members had reserved their position; it had not approved the restoration of Kazakhstan's voting rights, but had expressed its willingness to reconsider that decision if by the time of its next meeting that country had provided additional information

that would satisfy the Committee of the justness of the request; it had recommended the restoration of Afghanistan's voting rights; and, finally, it had approved the restoration of Kenya's voting rights, but had requested clarification regarding the payment that country claimed to have made.

The meeting rose at 11.20 a.m.