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International Atomic Energy Agency

BOARD OF GOVERNORS GENERAL CONFERENCE

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Item 6(d) of the Board's provisional agenda
(GOV/2002/38)

Item 5(c) of the Conference's provisional agenda
(GC(46)/1)

RESTORATION OF VOTING RIGHTS

BACKGROUND

1. On 25 September 1998, in resolution GC(42)/RES/4, the General Conference, inter alia,
 - adopted, pursuant to recommendations made by the Board, criteria and guidelines for the consideration of future requests made by Member States in arrears in the payment of their financial contributions to the Agency for the restoration of voting rights and procedural rules and practices related to early notification to Member States in arrears (the criteria and guidelines and the procedural rules and practices were set forth in document GC(42)/10, which is attached to the present document);¹
 - took note with interest of proposed measures to facilitate the payment of arrears of contributions which were being considered by the Board (and were set forth in document GOV/1998/54), entrusted the Board with the completion of its consideration of those measures and authorized the Director General “to implement any such measures if and when agreed by the Board...”; and
 - decided to undertake “a follow-up assessment of the usefulness and pertinence of the above-mentioned criteria, guidelines and measures” at its forty-fourth (2000) regular session, through the Board.
2. On 27 November 1998, the Board approved, for an initial period of three years, a scheme (proposed in document GOV/1998/54/Rev.2 and attached to the present document) for the payment of contributions by Member States in arrears, including the suspension of Financial Regulation 5.07 to the extent necessary to permit the operation of payment plans as described in that document.

¹ The question of the suspension and restoration of the voting rights of Member States in arrears is governed by Article XIX.A of the Statute, which reads as follows: “A member of the Agency which is in arrears in the payment of its financial contributions to the Agency shall have no vote in the Agency if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years. The General Conference may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.”

3. On 22 September 2000, by decision GC(44)/DEC/8 the General Conference requested the Board of Governors to review after November 2001 the criteria, guidelines and measures being applied in connection with requests for the restoration of voting rights and to report on its findings to the General Conference in 2002.

4. The purpose of this document is to facilitate an assessment of the usefulness and pertinence of the criteria, guidelines and measures.

ACTIONS TAKEN DURING 1999

5. On 5 February 1999, the Secretariat sent letters to 37 Member States which had no right to vote in the Agency during 1999 informing each of them what minimum amount it would have to pay in order to regain its right to vote. The attention of those Member States was drawn to the relevant decisions of the Conference and the Board, and the availability of a payment plan was pointed out. In response to those letters, five Member States paid the minimum amounts necessary in their cases, and one - Belarus - opted for a five-year payment plan. On 20 July 1999, the Secretariat sent reminders to 32 Member States urging them to take action in order to regain the right to vote, and subsequently two Member States paid the minimum amounts necessary in their cases and two made partial payments. On 3 September 1999, the Secretariat sent further reminders to 30 Member States, of which five subsequently paid the minimum amounts necessary in their cases and one made a partial payment.

6. On 27 and 30 September 1999, at the Conference's 1999 session, the General Committee considered requests for the restoration of voting rights submitted by four Member States (Afghanistan, Belarus, Iraq and Senegal). At the start of its deliberations, the Chairman explained to the Committee, inter alia, that "Compliance by affected Member States with agreed arrangements for settling arrears in accordance with measures adopted by the Board had been intended to be one of the criteria by which the Conference would be guided in its consideration of requests for the restoration of voting rights."²

7. In the case of Afghanistan, the Committee, while recognizing that that country was experiencing a difficult situation, recommended that the Conference reject its request for the restoration of its voting rights since that request had not been submitted in accordance with the rules laid down by the Board and approved by the Conference.³

8. In the case of Belarus, the Committee, having been informed by the Director of the Division of Budget and Finance that it had opted for a five-year payment plan, recommended that its voting rights be restored.⁴

9. In the case of Iraq, the Committee decided that, as there was no consensus in favour of approval of its request, a recommendation should be made that the Conference reject that request.⁵

10. In the case of Senegal, the Committee recommended that its request be rejected.⁶

² See para. 26 of GC(43)/GEN/OR.1.

³ See paras 11 and 12 of GC(43)/GEN/OR.2.

⁴ See paras 27, 37 and 38 of GC(43)/GEN/OR.1.

⁵ See paras 43 and 44 of GC(43)/GEN/OR.1.

11. The Conference accepted the Committee's recommendations.⁷

ACTIONS TAKEN DURING 2000

12. On 23 February 2000, the Secretariat sent letters to 36 Member States which had no right to vote in the Agency during 2000 informing each of them what minimum amount it would have to pay in order to regain its right to vote. The attention of those Member States was drawn to the relevant decisions of the Conference and the Board, and the availability of a payment plan was pointed out. In response to those letters, one Member State paid the minimum amount necessary in its case, and four Member States made partial payments. One Member - Belarus - participating in a payment plan agreement with the Agency paid the required instalment plus its contribution for 2000. On 19 July 2000, the Secretariat sent reminders to 35 Member States urging them to take action in order to regain the right to vote, and subsequently three Member States paid the minimum amounts necessary in their cases and one made a partial payment. The Secretariat was in discussion with one Member State - Kazakhstan - regarding a payment plan. On 28 August 2000, the Secretariat sent final reminders to 32 Member States, of which three subsequently paid the minimum amounts necessary in their cases and two made partial payments.

13. On 18 September 2000, at the Conference's 2000 session, the General Committee considered a request for the restoration of voting rights submitted by Iraq. The Committee recommended that as Iraq's failure to pay the amount necessary to avoid the application of Article XIX.A of the Statute was not due to conditions beyond its control, Iraq not be permitted to vote.⁸ Upon request of the delegate of Iraq, the Conference was invited to vote upon the General Committee's recommendation that Iraq's right to vote during the 2000 session not be restored. The Committee's recommendation was accepted by the Conference.⁹

14. On 21 September 2000, the General Committee considered a request for the restoration of voting rights submitted by Belarus. The Chairman pointed out that Belarus had been participating in a payment plan with the Agency since 1999, and it was requesting that its voting rights be restored for the remaining three years of the plan. The Committee recommended that Belarus be permitted to vote during the 2000 session of the Conference in view of its continued adherence to its payment plan with the Agency and further that the voting rights of Belarus be restored until the end of its payment plan on the understating that the Secretariat would report annually on the status of that plan.¹⁰ The Conference accepted the Committee's recommendation.¹¹

ACTIONS TAKEN DURING 2001

15. On 18 February 2001, the Secretariat sent letters to 37 Member States which had no right to vote in the Agency during 2001 informing each of them what minimum amount it

⁶ See paras 15 and 16 of GC(43)/GEN/OR.2.

⁷ See paras 16 and 17 of GC(43)/OR.3 and paras 62 and 63 of GC(43)/OR.8.

⁸ See paras 19 and 20 of GC(44)/GEN/OR.1.

⁹ See paras 12-14 of GC(44)/OR.2.

¹⁰ See paras 10, 17 and 18 of GC(44)/GEN/OR.2.

¹¹ See paras 2 and 3 of GC(44)/OR.7.

would have to pay in order to regain its right to vote. The attention of those Member States was drawn to the relevant decisions of the Conference and the Board, and the availability of a payment plan was pointed out. In response to those letters, five Member States paid the minimum amounts necessary in their cases, one made a partial payment and one - Kazakhstan - opted for a five-year payment plan. One Member - Belarus - participating in a payment plan agreement with the Agency paid the required instalment plus its contribution for 2001. On 20 July 2001, the Secretariat sent reminders to 31 Member States urging them to take action in order to regain the right to vote, and subsequently one Member State paid the minimum amount and one Member State submitted a request for restoration of voting rights to be forwarded to the Conference. On 28/29 August 2001, the Secretariat sent final reminders to 29 Member States, of which three subsequently paid the minimum amounts necessary in their cases and one made a partial payment.

16. On 17 and 20 September 2001, at the Conference's 2001 session, the General Committee considered requests for the restoration of voting rights submitted by two Member States (Kazakhstan and Iraq).

17. In the case of Kazakhstan the Chairman noted that a payment plan had been agreed with the Agency in 2001 along the lines envisaged in the Board's decision of November 1998 and that Kazakhstan had paid the agreed instalment as well as its contribution for 2001. The Committee recommended that in view of Kazakhstan's adherence to its payment plan agreement with the Agency, it be permitted to vote during the 2001 session of the Conference and that its voting rights be restored until the end of its payment plan on the understating that the Secretariat would report annually on the status of that plan.¹² The Committee's recommendation was accepted by the Conference.¹³

18. In the case of Iraq, the Committee was of the opinion that Iraq's failure to pay the amount necessary to avoid the application of Article XIX.A of the Statute was not due to conditions beyond its control and that Iraq not be permitted to vote. However some delegates had expressed reservations.¹⁴ Upon request of the delegate of Iraq, the Conference was invited to vote upon the General Committee's recommendation that Iraq's right to vote during the 2001 session not be restored. The Committee's recommendation was accepted by the Conference.¹⁵

ACTIONS TAKEN DURING 2002

19. On 28 February 2002, the Secretariat sent letters to 34 Member States which had no right to vote in the Agency during 2002 informing each of them what minimum amount it would have to pay in order to regain its right to vote. The attention of those Member States was drawn to the relevant decisions of the Conference and the Board, and the availability of a payment plan was pointed out. In response to those letters, three Member States paid the minimum amounts necessary in their cases and six made partial payments. Two Member States - Belarus and Kazakhstan - participating in payment plan agreements with the Agency paid the required instalments plus their contributions for 2002. One Member State submitted

¹² See paras 24, 27 and 28 of GC(45)/GEN/OR.1.

¹³ See paras 40 and 41 of GC(45)/OR.2.

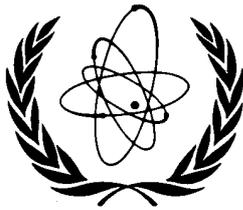
¹⁴ See paras 10 and 17-19 of GC(45)/GEN/OR.2

¹⁵ See paras 2, 5 and 6 of GC(45)/OR.10.

a request for restoration of voting rights to be forwarded to the General Conference. On 17 July 2002, the Secretariat sent reminders to 31 Member States urging them to take action in order to regain the right to vote.

FUTURE SECRETARIAT ACTION

20. The Secretariat will provide, immediately prior to the forthcoming September session of the Board of Governors, an updated report on the measures taken by it in 2002 to facilitate payment of contributions by Member States.



International Atomic Energy Agency

GENERAL CONFERENCE**GC**GC(42)/10
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Forty-second regular session of the General Conference
Item 5(c) of the provisional agenda
(GC(42)/2)

**CRITERIA OR GUIDELINES FOR CONSIDERATION OF
REQUESTS FOR THE RESTORATION OF VOTING RIGHTS****Recommendation by the Board of Governors**

1. At its 41st regular session, the General Conference requested the Board of Governors to develop, for acceptance by the Conference in 1998, criteria or guidelines which should govern future consideration of requests for the restoration of voting rights of Member States in arrears in the payment of their financial contributions to the Agency (GC(41)/DEC/8.C). Subsequently, at its meeting on 6 October 1997, the Board agreed to establish an open-ended Informal Working Group for this purpose and subsequently, on 9 December 1997, appointed Ambassador Abderrahim Benmoussa of Morocco as Chairman of the Working Group.

2. After widespread consultations by the Chairman both with Member States and with the Secretariat and after extensive deliberations by the Working Group, the Working Group produced a consensus paper which was considered by the Board at its meeting on 11 June 1998. As a result, the Board agreed to recommend to the General Conference the following criteria or guidelines to be used in future consideration of requests by Member States for the restoration of voting rights:

- (a) Provision in a timely fashion of factual and well documented evidence/information by the affected Member State that it had serious financial difficulties in obtaining revenues and in meeting its domestic and international financial obligations, because, inter alia, of situations described below;
- (b) Provision of factual and well documented evidence/information through the UN Humanitarian Assistance Coordinator that the affected Member State had been stricken by a natural or technological disaster that had resulted in loss of lives, property and infrastructures of such magnitude that the concerned Government had to seek international and multilateral assistance to meet its economic and social difficulties. The same to apply to Member States experiencing a critical situation because of, inter alia, civil wars, international conflicts, riots, refugee upheavals and food emergency crises;

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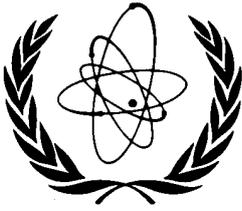
- (c) Appreciation by the General Committee of the extent to which the affected Member State could be regarded as responsible for the alleged conditions beyond its control under Article XIX.A of the Statute;
- (d) The duration for which the Member State has accumulated arrears equalling or exceeding the amount of the contributions due for the preceding two years;
- (e) The frequency of requests for restoration of voting rights by the affected Member State;
- (f) Provision of evidence that the affected Member State had actually transferred a partial amount of the arrears, which had not been received by the Agency, or similarly a minimum due, the payment of which would take the applicant below the critical threshold, within the sense of Article XIX.A;
- (g) Indication of the specific measures taken by the affected Member State to wipe out its arrears (eg. by a schedule of proposed payments).

3. Further, the Board agreed to recommend to the General Conference the following procedural rules and practice, related to early notification to Member States who risk losing their voting rights as well as to written explanations presented by defaulting Member States who experience situations beyond their control, in order to facilitate the consideration of requests for the restoration of voting rights:

- (a) circulation by the Secretariat of early notification to all Member States who risk to lose their voting rights, at least two months in advance of the General Conference and a reminder to them three weeks before the General Conference;
- (b) submission by applicant Member States of written explanations preferably at least 15 days in advance, without prejudice to requests submitted later on to the General Committee; and
- (c) circulation by the Secretariat of requests/applications for the restoration of voting rights at least one week prior to the opening of the General Conference.

RECOMMENDATION BY THE BOARD TO THE GENERAL CONFERENCE

The Board of Governors recommends that the General Conference adopt the criteria and guidelines to be used in future consideration of requests for the restoration of voting rights, as well as the procedural rules and practices related to early notification to Member States in arrears, as set out in paragraphs 2 and 3 above.



International Atomic Energy Agency

BOARD OF GOVERNORS

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Item 5 of the provisional agenda
(GOV/1998/58)**CRITERIA OR GUIDELINES FOR THE CONSIDERATION OF
REQUESTS FOR THE RESTORATION OF VOTING RIGHTS*****Measures to facilitate the payment of contributions***

1. By resolution GC(42)/RES/4 of 25 September 1998, the General Conference entrusted the Board of Governors to complete its consideration of the measures proposed in document GOV/1998/54, which had been before the Board at its earlier September session, and authorised the Director General to implement any such measures if and when agreed by the Board. Accordingly the document was re-issued, incorporating certain technical revisions by the Secretariat of a legal or financial nature as GOV/1998/54/Rev.1. In the course of consultations, the Chairman felt that further revisions were necessary and hence a further revised paper is hereby issued.
2. In June this year, the Board endorsed the criteria or guidelines to govern future consideration by the General Conference of requests by Member States for the restoration of voting rights, which had been recommended by the Informal Working Group. Article XIX.A of the Statute exceptionally permits the restoration of voting rights in cases where the General Conference is satisfied that failure to pay is due to conditions beyond the control of the Member State concerned. The Board also endorsed the procedural rules and practices related to early notification to Member States in arrears, also recommended by the Informal Working Group. The measures so endorsed by the Board were subsequently adopted by the General Conference (GC(42)/RES/4).
3. At the same time, with regard to the separate question of measures designed to facilitate the payment of contributions by Member States in arrears, notably payment of assessed contributions by LDCs in local currencies and pre-agreed schemes of payment by Member States in critical situations, the Board had no objection to it being taken up as desired by some Member States and authorized the Chairman of the Board to hold consultations with a view to formulating appropriate recommendations in September. As stated in paragraph 1 above, the report by the Chairman (GOV/1998/54) was considered by the Board and the General Conference subsequently entrusted the Board to complete its consideration of the measures proposed.
4. Among considerations taken into account in some international organisations when requests are made for the restoration of voting rights is the willingness on the part of the Member State in arrears to agree with the organisation specific measures designed to settle the arrears within a reasonable period. Arrears may be consolidated and made payable in annual instalments over a

number of years. Any decision by the organisation permitting the Member State to vote is valid as long as the Member State concerned pays both its current contributions and the instalments on its consolidated arrears during the year in respect of which they are due. It is probably difficult to formulate payment plans which are universally applicable. Each case must be considered on its own merits.

5. Nevertheless, the following payment schedule and procedures relating thereto are offered as guidance to the General Conference and the Secretariat.

Requirements of the payment plan

6. The payment plan, to be agreed between the Member State in arrears which wishes to have its voting rights restored, and the Secretariat, should consist of outstanding advances to the Working Capital Fund, equal annual instalments to pay off the total amount in arrears to the Regular Budget and the current year's assessed contribution.

7. In any case, the maximum duration of the payment plan should not exceed 5 years. All payments, including outstanding advances to the Working Capital Fund and the assessed contribution for the current year, should be received by the Agency two weeks before the commencement of the relevant session of the General Conference.

8. A commitment will be required from the Member State in arrears, to be contained in an official letter to the Director General signed by the responsible person of ministerial rank, to pay its future assessed contributions in full and on time in accordance with the Financial Regulations of the Agency and to liquidate its arrears in accordance with the above payment plan.

9. Any decision which may be taken by the General Conference to permit a Member State which is in arrears in the payment of its contributions to vote notwithstanding such arrears shall be made conditional upon the member complying with the agreed arrangements for settling the arrears and the Member State shall be automatically deprived of its voting rights if its outstanding advances to the Working Capital Fund, its agreed amount of arrears and its current assessed contribution are not received by the Agency at least two weeks before the commencement of the relevant session of the General Conference. Notwithstanding the above, if the amount of arrears falls and remains below the threshold amount stated in Article XIX.A of the Statute, the voting rights of the Member State in question will be automatically restored and remain restored.

10. Relevant Financial Regulations, specifically Financial Regulation 5.07,¹ will need amendment or suspension in order to accommodate the proposed payment plan, since it is envisaged that the discharge of financial obligations will take place in the following order: first, outstanding advances to the Working Capital Fund; thereafter, the agreed instalment of arrears; thereafter, the contribution for the current year.

¹ Financial Regulation 5.07 provides that "Payments made by a Member State shall be applied first to discharge that Member State's assessment with respect to the Working Capital Fund and then to discharge that Member State's assessment with respect to the annual contributions payable by it in the order in which the latter assessments were made".

Modalities of payment

11. A Member State in arrears wishing to obtain restoration of its voting rights and to participate in a scheduled payment of arrears should indicate this intention to the Secretariat at least 3 months before the opening of the General Conference, by means of an official letter signed by the responsible person of ministerial rank. In that letter, and in accordance with the terms of the Agency's payment plan, the Member State should indicate to the Secretariat the number of years envisaged as constituting the payment period and the annual equal instalment which it thereby intends to pay. The letter must provide a commitment by the Member State to pay its future assessed contributions in full and on time in accordance with the Financial Regulations of the Agency and to settle its arrears in accordance with this payment plan.

12. The Secretariat will confirm to the Member State that this payment plan is acceptable and in conformity with the Agency's requirements. Thereupon, the Member State will commence the payment procedure by transferring to the Secretariat any outstanding advances to the Working Capital Fund, the agreed first instalment of the arrears and the assessed contribution for the current year, to be received by the Agency at least two weeks before the opening of the General Conference.

13. It may be noted that an arrangement already exists for payment of contributions to the Agency in local currency through the offices of the United Nations Development Programme, credit being given by the Agency when payment has been received in accordance with the Agency's Financial Regulations.

14. The General Conference will receive an annual update from the Secretariat on the number of Member States participating in a payment plan and a status report on the payment schedules of each. In addition, the information provided in this annual update will also be taken into account by the General Conference in its consideration of individual requests by Member States for the restoration of voting rights.

RECOMMENDED ACTION BY THE BOARD

15. The Board may wish to approve the proposed scheme for payment by Member States in arrears with their contributions, including the suspension of Financial Regulation 5.07 to the extent necessary to permit the operation of payment plans as described above, for an initial period of three years, after which time the scheme will be reviewed.