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International Atomic Energy Agency

BOARD OF GOVERNORS GENERAL CONFERENCE

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Item 8 of the Board's provisional agenda (GOV/2000/33)
Sub-item 5(c) of the Conference's provisional agenda (GC(44)/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 as Attachment 1 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.

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.”

2. The purpose of this document is to facilitate an assessment of the usefulness and pertinence only of the criteria and guidelines, since - as indicated in paragraph 3 below - the measures were not approved by the Board until November 1998 and are to be reviewed three years after being approved (i.e. in 2001).

RELEVANT DEVELOPMENTS SINCE THE CONFERENCE'S 1998 SESSION

3. On 27 November 1998, the Board approved, for an initial period of three years, a scheme (proposed in document GOV/1998/54/Rev.2) 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.

4. 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 three subsequently paid the minimum amounts necessary in their cases and one made a partial payment.

5. 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

6. 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

7. 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

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.

8. 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

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

10. During the Committee's consideration of each of the four requests, the issue of whether the requesting State had complied with the criteria and guidelines adopted by the General Conference was raised. The summary records of the discussions in the Committee regarding these requests (GC(43)/GEN.OR.1, paragraphs 24-44; GC(43)/GEN/OR.2, paragraphs 4-16) are attached as Attachment 2.

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

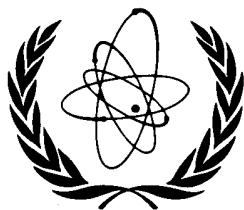
FUTURE SECRETARIAT ACTION

12. The Secretariat will provide, immediately prior to the forthcoming regular session of the General Conference, a report on the measures taken by it in 2000 to facilitate the payment of contributions by Member States and information regarding the participation of Member States in payment plans.

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

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.



International Atomic Energy Agency

GENERAL CONFERENCE

GC

GC(42)/10
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Forty-second regular session
Sub-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;

- (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.

EXCERPT FROM THE RECORD OF THE GENERAL COMMITTEE'S
FIRST MEETING DURING THE 1999 SESSION OF THE
GENERAL CONFERENCE

(GC(43)/GEN/OR.1)

RESTORATION OF VOTING RIGHTS

(GC(43)/INF/9 and Add.1, INF/10 and Add.1)

24. The CHAIRMAN said that requests for restoration of voting rights had been submitted by Iraq and Belarus in documents GC(43)/INF/9 and Add.1 and GC(43)/INF/10 and Add.1.

25. Under Article XIX.A of the Statute, a Member State which was in arrears with the payment of its financial contributions to the Agency had no vote in the Agency if the amount of its arrears equalled or exceeded the amount of the contributions due from it for the preceding two years. However, the General Conference could nevertheless permit such a member to vote if it was satisfied that the failure to pay was due to conditions beyond the control of the member. It was on that basis that Iraq and Belarus had applied to have their votes restored.

26. During its preceding session, the General Conference had adopted, through resolution GC(42)/RES/4, the criteria and guidelines for consideration by the Conference of future requests for the restoration of voting rights contained in document GC(42)/10. Subsequently, in November 1998, at the request of the General Conference, the Board of Governors had adopted some measures to facilitate the payment and settlement of contributions by Member States in arrears. 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.

27. Mr. ESPINO (Director, Division of Budget and Finance) informed the Committee that, on 5 February 1999, letters had been sent to 37 Member States which had no right to vote in the Agency during 1999 unless a specified minimum amount was paid. Their attention had been drawn to the decisions of the General Conference and the Board, so that they could take action to settle their arrears and have their voting rights restored if they so wished. The availability of a payment plan to facilitate the process had been explained. In response to those letters, five Member States had paid the amount required to have their voting rights restored, and one Member State, the Republic of Belarus, had opted for a five-year payment plan with the Agency.

28. On 20 July 1999, reminders had been sent to 32 Member States urging them to take the necessary action to settle their arrears. Since then, two Member States had paid the required

amount and two had made partial payments towards the amount required to restore their voting rights.

29. A final reminder had been sent on 3 September 1999 to 30 Member States still faced with the loss of their voting rights. To date, three of those Member States had paid the required amount to have their voting rights restored and one had made a partial payment.

30. Mr. BENMOUSSA (Morocco), noting that only two requests for restoration of voting rights had so far been received for consideration by the General Conference, asked whether the Committee would also be discussing other requests received later, and whether there was a fixed deadline for such requests. He urged the Committee to consider favourably requests from countries which had made clear efforts to settle their arrears, mentioning in particular Belarus, Bosnia and Herzegovina, Madagascar and Zambia.

31. The CHAIRMAN said that, to the extent that the Rules of Procedure of the General Conference, the Statute and time allowed, any subsequent requests which were submitted would be given consideration.

32. Mr. ABDULAATI (Libyan Arab Jamahiriya) agreed with the Chairman of the Committee of the Whole that Member States in arrears owing to circumstances beyond their control, especially African Member States in such a position, should be given the opportunity to submit requests to have their voting rights restored. In particular, he supported restoration of Belarus's voting rights.

33. Mr. ADAM (Belgium) said that in considering requests for the restoration of voting rights the Committee should not ignore the criteria and guidelines which had been approved. One of those criteria stipulated that the affected Member State should submit in a timely fashion factual and well-documented evidence that it had serious financial difficulties. The countries which had not yet submitted requests had been warned three times of their position and had thus been given ample opportunity to take action.

34. Mr. DUBOIS (Canada) endorsed the comments of the representative of Belgium. Only two actual requests were before the Committee. That of Belarus should be approved in view of the considerable efforts that country had made to clear its arrears. The situation with regard to Iraq was very different since it could not be deemed not to have paid owing to a situation which was beyond its control. Another point which argued in Iraq's disfavour was the lack of co-operation it had shown the Agency. Iraq's request should therefore be refused.

35. Mr. SALEHI (Islamic Republic of Iran), supported by Mr. ADAM (Belgium), noted that time was too short to discuss hypothetical requests. Belarus appeared to have met the criteria contained in document GC(42)/10 and its request could therefore be approved. Iraq had not met the criteria and so its request could not be approved.

36. Mr. BENMOUSSA (Morocco) and Mr. PAVLINOV (Russian Federation) concurred that Belarus had clearly fulfilled the relevant criteria and that its request should be approved.

37. The CHAIRMAN said he took it that the Committee wished to recommend that Belarus's voting rights be restored.

38. It was so decided.

39. Ms. KENNEDY (United States of America) asked the Chairman to clarify whether Belarus would be able to vote only in the General Conference, or whether it could also vote subsequently in the Board. The CHAIRMAN replied that Belarus's voting rights had been restored until the next session of the General Conference, and then invited the Committee to turn to Iraq's request.

40. Mr. ADAM (Belgium) said that Iraq did not meet criterion 2(c) in document GC(42)/10, nor was there any sign that it intended to adopt measures to pay its outstanding contributions. Its request should therefore be refused.

41. Mr. ABDULAATI (Libyan Arab Jamahiriya) said that the criteria and guidelines which had been approved had to be respected. However, he wondered whether information was available regarding the situation in Iraq, and suggested that Iraq might well not be paying for reasons beyond its control.

42. Ms. KENNEDY (United States of America) said she did not believe that Iraq's inability to pay was beyond its control. If Iraq complied with the terms which had been imposed upon it by the Security Council the sanctions against it would be lifted.

43. The CHAIRMAN said that since there was clearly no consensus in favour of approving Iraq's request, he assumed that the Committee wished to reject it.

44. It was so decided.

EXCERPT FROM THE RECORD OF THE GENERAL COMMITTEE'S
SECOND MEETING DURING THE 1999 SESSION OF THE
GENERAL CONFERENCE

(GC(43)/GEN/OR.2)

RESTORATION OF VOTING RIGHTS

(GC(43)/INF/17 and 21)

4. The CHAIRMAN said that the Committee had three requests for the restoration of voting rights before it, from Afghanistan, Senegal and Zambia. Since its request had been received, Zambia had paid a contribution and was no longer in arrears as defined in the first sentence of Article XIX.A of the Statute. Thus, Zambia's vote was automatically restored and there was no need to consider its request.

5. Article XIX.A of the Statute stated that "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 circumstances beyond the control of the member". It was pursuant to the second part of Article XIX.A that Afghanistan and Senegal had applied to have their votes restored.

6. When the Committee had discussed the question of restoration of voting rights at its meeting on the preceding Monday, he had drawn attention to the criteria or guidelines for the consideration of such requests contained in document GC(42)/10 which the Conference had adopted the previous year, and to the measures to facilitate the settlement of arrears by the Member States concerned contained in document GOV/1998/54/Rev.2 which the Board had approved in November of the previous year. The present requests should be assessed in the light of those decisions.

7. Ms. KENNEDY (United States of America) said that she had not received instructions because, contrary to what was laid down in the criteria or guidelines, Afghanistan's request had not been submitted in advance but that same day.

8. Mr. BENMOUSSA (Morocco) said that paragraph 3(b) of the criteria or guidelines provided that Member States should submit their requests preferably at least 15 days in advance, without prejudice to requests submitted later on to the General Committee. Moreover, Afghanistan was experiencing a critical situation of the kind envisaged in paragraph 2(b) of the same document. It also belonged to the category of least developed countries, with a per capita income of less than 100 dollars per month. Furthermore, since there would probably be no vote during the current session and restoring Afghanistan's voting rights would have no practical implications, he urged the Committee to show generosity and accede to the requests of Afghanistan and Senegal.

9. Mr. ADAM (Belgium) said that, though it had a mission in Vienna, Afghanistan had shown a regrettably casual attitude towards the Agency by not giving an explanation in advance for its failure to pay.

10. Mr. GREGORIČ (Slovenia) said that Afghanistan was in an illegal situation because it had not paid any contributions since November 1993, and paragraph 7 of document GOV/1998/54/Rev.2 stipulated that “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”.

11. The CHAIRMAN took it that the Committee, while recognizing that Afghanistan was experiencing a difficult situation, wished to recommend that the General 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 of Governors and approved by the General Conference.

12. It was so decided.

13. The CHAIRMAN then invited the members of the Committee to express their views on Senegal’s request.

14. Mr. ADAM (Belgium) said that Senegal had claimed neither economic difficulties nor a state of war, but merely an administrative problem. It therefore did not meet the criteria or guidelines approved by the General Conference.

15. The CHAIRMAN took it that the Committee wished to recommend to the General Conference that it reject Senegal’s request.

16. It was so decided.