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# FINANCE COMMITTEE

## Hundred and Ninety-first Session

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**Restoration by the Conference of the voting rights of Member Nations in arrears in the payment of their financial contributions to the Organization**

Queries on the substantive content of this document may be addressed to:

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### EXECUTIVE SUMMARY

- This document responds to the request of the 168th Session of the Council (CL 168/REP, para. 27b) where the Council “*recalled the request of the 42nd Session of the Conference for a comprehensive review of the process for reinstating voting rights for Member Nations in arrears for consideration by the relevant Governing Bodies, asked Management to study options, including through leveraging local currencies and repayment plans to address this issue, and looked forward to its consideration by the Finance Committee at its next Session concerning FAO matters, in line with its mandate*”.
- The document provides an overview of prior actions taken regarding restoration of voting rights, the practices adopted by FAO and other United Nations agencies, and concludes by proposing next steps.
- *Section I.* Introduces FAO’s practice on restoration of voting rights.
- *Section II.* Provides information on previous examinations by FAO’s Governing Bodies of the restoration of voting rights.
- *Section III.* Outlines the practice of other United Nations agencies.
- *Section IV.* Provides information on the financial analysis of payment of arrears in local currency.
- *Section V.* Includes considerations relevant to the issues of: timing and content of requests to restore voting rights; definition of the criteria of “conditions beyond control”; and the maximum number of years allowed for any instalment plan.
- *Section VI.* Provides information on the status of the ICC informal consultations at the time of preparing the document.

### GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

- The Finance Committee is invited to examine the results of the review of the process for reinstating voting rights for Member Nations in arrears for consideration by the relevant Governing Bodies, to consider the matter within the context of its mandate and provide guidance on next steps, as deemed appropriate.

#### Draft Advice

##### **The Finance Committee:**

- **noted the comprehensive review conducted by Management on the process for reinstating voting rights for Member Nations in arrears as requested by the 42nd Session of the Conference;**
- **supported the considerations presented by Management to strengthen the existing procedures followed by the Organization when reviewing requests for reinstating voting rights.**

## I. FAO's Practice on Restoration of Voting Rights

1. The Organization's Basic Texts define that "Each Member Nation shall have only one vote. A Member Nation which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Conference if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Conference may, nevertheless, permit such a Member Nation to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member Nation".<sup>1</sup> Thus, Member Nations in arrears at the opening of a Conference Session automatically lose their voting rights, unless they make a payment during the Session reducing their arrears below the objective threshold set out in Article III, paragraph 4 of the Constitution. Such instances amount to an automatic restoration of voting rights, requiring no further approval by the Conference.

2. In the absence of explicit provisions in the Basic Texts concerning the implementation of Article III, paragraph 4, of the Constitution, a practice has developed whereby the General Committee has made recommendations and the Conference has restored the voting rights of Member Nations in arrears on the basis of special consideration. The General Committee assesses whether the arrears of the Member Nation concerned resulted from "conditions beyond [its] control" and may note any reasons provided by the Member Nation in its request. The Committee's reports do not set out the reasoning for these recommendations. As per the established practice, Member Nations in arrears may request to repay their arrears through instalment plans reviewed by the General Committee and approved by Conference resolution. Instalment plans are generally for up to ten years, but no time frame has been definitively established.

3. The processes for restoration of voting rights described above is initiated by a request from the Member Nation concerned. A review of the past seven reports of the Regular Sessions of Conference, from 2009 to 2021, indicates that there have been 112 instances where Member Nations were in arrears at the beginning of the Conference. In 42 of those instances, the concerned Member Nation either did not make a payment during the Session or request the Conference to restore their voting rights.<sup>2</sup>

## II. Previous Examination of the Restoration of Voting Rights by the Governing Bodies

4. The establishment of procedures and criteria for the restoration of voting rights has been a matter frequently considered by the Governing Bodies. At its 113th Session in October 2021, the Committee on Constitutional and Legal Matters (CCLM) considered a document describing the main legal provisions and the Organization's practices regarding restoration by the Conference of voting rights of Member Nations in arrears.<sup>3</sup> Following its review of the document, the CCLM, consistent with the request of the Forty-second Session of the Conference, looked forward to additional consultations led by the Independent Chairperson of the Council (ICC) on the subject matter, and recommended that these discussions address whether substantive and practical criteria were needed. The CCLM expressed its readiness to consider within the context of its mandate, any criteria developed by this process.<sup>4</sup> The CCLM document also recalled the instances in which the question of the restoration of voting rights was examined by Governing Bodies, as described in the paragraphs reproduced below for the information of the Finance Committee.<sup>5</sup>

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<sup>1</sup> Constitution, Article III, para. 4

<sup>2</sup> CCLM 113/3 para. 8

<sup>3</sup> CCLM 113/3

<sup>4</sup> CCLM 113/30

<sup>5</sup> CCLM 113/3, paras. 9-18

5. At its Twenty-seventh Session in November 1993, the Conference, mindful of concerns about the procedures and practices followed by the Organization regarding the restoration of voting rights “requested the Finance Committee and the Council to address the issue and report their findings to the 28th Session of the Conference”. The Conference also specifically requested that these findings include a review of “the application of the provisions of Article III-4 [...] in general and with a view to defining the criteria to be applied in assessing and determining the conditions beyond the control of a Member Nation”. The Director-General was requested by the Conference to facilitate this work by reviewing the procedures and practices of the UN and the other Specialized Agencies and providing the Finance Committee with an assessment of the alternatives relative to those followed by the Organization at that time.<sup>6</sup>

6. At its Hundred and Seventh Session in November 1994, the Council expressed great concern over the deterioration of the payment of arrears at the time and considered that redressing the situation required a more restrictive approach for the restoration of voting rights.<sup>7</sup> Its conclusions transmitted to the Conference reflected, *inter alia*, that “the criteria for what constitutes ‘conditions beyond the control of the Member Nation concerned’ were very difficult to define formally and fixed definitions could present complications. Accordingly, while keeping in mind the broad parameters of what might constitute such conditions, voting rights should only be restored in exceptional cases and only on the basis of a formal request by the Member Nation concerned, specifying the circumstances that in its view constituted ‘conditions beyond its control’”.<sup>8</sup> It recommended that the Director-General continue searching for sustainable schemes that would respond to the “particular problems of developing countries” without endangering the financial viability of the Organization, and taking into account the experience of other UN organizations.<sup>9</sup>

7. At the Twenty-eighth Session of the Conference in November 1995, the General Committee recommended to the Conference that the voting rights of Member Nations in arrears be restored only in exceptional circumstances and in accordance with the recommendations of the Hundred and Seventh Session of the Council in November 1994.<sup>10</sup> The Conference adopted this recommendation and stressed the necessity for outstanding arrears to be reduced over the next biennium and encouraged Member Nations to make timely payment of their assessed contributions.<sup>11</sup>

8. At its Thirty-third Session in November 2005, the Conference expressed its “view that any past recommendations that voting rights be restored for all Member Nations on the first day of the Conference, or upon submission of a letter to that effect, should not be regarded as preventing the Conference from taking a different position in future”.<sup>12</sup> It recommended that the normal course of action should consist of actively encouraging Member Nations to submit instalment plans for the settlement of their arrears as a condition for the restoration of voting rights, without prejudice, however, to the authority of the Conference to permit such Nations to vote as contemplated in Article III, paragraph 4, of the Constitution. The Conference also recommended that, in future, requests for restoration of voting rights be referred to the Director-General for submission to the Session of the Finance Committee preceding the Conference, and that the Finance Committee submit its views to the Conference, through the Council, for consideration by the General Committee.

9. Subsequently, in the course of the 2006-2007 biennium, the Finance Committee considered measures to address a cash shortage situation of the Organization<sup>13</sup> and, at its Hundred and Eighteenth Session in May 2007, agreed to recommend two draft resolutions to the Conference, through the

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<sup>6</sup> C 1993/REP, para. 38

<sup>7</sup> CL 107/REP, para. 207

<sup>8</sup> CL 107/REP, para. 208, subpara. (b)

<sup>9</sup> CL 107/REP, para. 208, subpara. (e)

<sup>10</sup> C 95/LIM/28, para. 4

<sup>11</sup> C 1995/REP, para. 115

<sup>12</sup> C 2005/REP, paras. 32-33

<sup>13</sup> FC 115/8 (2006); FC 118/13 (2007); FC 119/8 (2007)

Council.<sup>14</sup> The proposed measures included, *inter alia*, (i) the introduction of a rule requiring Member Nations in arrears for two calendar years to submit an instalment plan to the Finance Committee for review and subsequent approval by the Conference as a condition for the restoration of their voting rights; and (ii) the discontinuation of the practice of automatically restoring voting rights for all Member Nations on the first day of the Conference<sup>15</sup> as had been recommended by the Conference in 2005.

10. At its Hundred and Thirty-second Session in June 2007, the Council agreed in principle to propose these resolutions to the Conference on the understanding that their text would be discussed and refined.<sup>16</sup> At its Hundred and Thirty-fourth Session in November 2007, the Council noted that discussions were ongoing among concerned Member Nations on the two draft resolutions and that additional time was required in order to arrive at a consensus.<sup>17</sup> As a result of negotiations during the Thirty-fourth Session of the Conference in November 2007, the two draft resolutions were submitted for adoption.<sup>18</sup> The Conference adopted Conference resolutions 13/2007 and 14/2007 without, however, these proposed measures. Nevertheless, Conference resolution 13/2007 “urge[d] all Member Nations [...] to submit instalment plans to accommodate the payment of their arrears, where appropriate”.<sup>19</sup>

11. The matter was again examined by the Finance Committee in the 2008-2009 biennium, but no concrete measures were proposed. The Conference, at its Thirty-sixth Session in 2009, requested that the matter remain under review.

12. In October 2012, the CCLM considered a document concerning “Legal aspects of the treatment of arrears (restoration by the Conference of the voting rights of Member Nations in arrears)”.<sup>20</sup> It indicated that the Conference’s practice for the implementation of Article III, paragraph 4, of the Constitution had been to rely on the advice of the General Committee. At its Hundred and Forty-fifth Session in December 2012, the Council took note of the CCLM’s discussions and called upon the Finance Committee to examine the matter, taking into account the guidance provided by the Conference in November 2005.<sup>21</sup>

13. The Finance Committee, at its Hundred and Forty-eighth Session in March 2013, requested the CCLM to examine whether the implementation of the recommendations of the Conference in November 2005 (set out in paragraph 13 above) would involve changes to the Basic Texts. At its Ninety-seventh Session in October 2013, the CCLM advised that it considered that these recommendations could be implemented through an amendment of the General Rules of the Organization (GRO) or the adoption of a Conference resolution included in Volume II of the Basic Texts. This resolution introduced a procedure whereby Member Nations in arrears could voluntarily present to the Director-General, for submission to the Finance Committee, requests for the restoration of the voting rights (i) indicating that failure to pay is due to “reasons beyond their control”; or (ii) proposing an instalment plan, including, *inter alia*: the total amount of arrears of contributions; the number of years over which payments will be made; the amount to be paid each year; and the date on which the payments will commence. Without prejudice to the authority of the Conference under Article III, paragraph 4, of the Constitution, the Finance Committee would then examine such requests and, through the Council, present its views to the General Committee. However, at its Hundred and Forty-ninth Session in June 2014, the Council did not endorse the draft Conference resolution

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<sup>14</sup> FC 118/REP (2007), paras. 55-57

<sup>15</sup> C 2007/LIM/7, page 3

<sup>16</sup> CL 132/REP, para. 96

<sup>17</sup> CL 133/REP, para. 37

<sup>18</sup> C 2007/LIM/22, para. 2

<sup>19</sup> Conference resolution 13/2007, Measures to Encourage Timely Payment of Contributions, para. 1.

<sup>20</sup> CCLM 95/14.

<sup>21</sup> CL 145/REP, para. 39, subpara. (f)

proposed by the CCLM and looked forward to reviewing the matter in the next biennium following further review by the Finance Committee.<sup>22</sup>

14. FAO's practice concerning the restoration of voting rights under Article III, paragraph 4, of the Constitution has not been directly examined by the Governing Bodies since 2014. However, at its Hundred and Eight Session in March 2019, the CCLM considered a document proposing measures to improve timely payment of assessed contributions. This contained, *inter alia*, two draft resolutions for consideration by the Conference amending the Constitution, GRO and Financial Regulations to (i) prevent representatives of Member Nations in arrears from being nominated in elections of the Council Committees and participating in the work of the Technical Committees, and (ii) amend the definition of arrears under Article III, paragraph 4, of the Constitution to an amount equal or exceeding one million United States Dollars (USD 1 000 000) due within the previous calendar year. The CCLM did not endorse these proposals and urged FAO Management to apply strictly existing mechanisms provided for in the GRO to ensure compliance with the requirements to pay assessed contributions on time.

### III. Practice of Other UN Agencies regarding the Restoration of Voting Rights

15. FAO's practice is generally in line with those of other UN organizations in terms of eligibility and conditions applied (see Table 1 below and Web Annex 1 to CCLM 113/3 paper which provides a more detailed comparison).<sup>23</sup> Other UN organizations, however, have developed more formalized procedures in terms of the nature and timing of the submissions for consideration.

16. The comparison of FAO's practice with that of other UN agencies with regard to the restoration of voting rights highlights that the majority of the organizations have in place rules similar to Article III, paragraph 4, of the FAO Constitution which enable their governing bodies to permit a Member in arrears to vote if satisfied that its failure to pay is due to 'exceptional and unavoidable circumstances' or 'conditions beyond its control'.

17. However, with the notable exception of UNESCO,<sup>24</sup> there are no provisions in place defining 'exceptional and unavoidable circumstances' or 'conditions beyond its control'.

18. For most of these organizations, including FAO, this discretion is exercised on the basis of a case-by-case decision, guided by the recommendations of a committee, commission, or other subsidiary organ.

19. Table 1 below shows the summary of the rules and practices of UN System organizations concerning the restoration of voting rights of Members in arrears.

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<sup>22</sup> CL 145/REP, para. 39, subpara. (f)

<sup>23</sup> CCLM 113/3 WA1 "Web Annex 1: Restoration by the Conference of the voting rights of Member Nations in arrears in the payment of their financial contributions to the Organization".

<sup>24</sup> UNESCO's formal criteria define 'conditions beyond the control' of the Member as being "wars and armed conflicts, economic and financial criteria, and natural disasters".

Table 1<sup>25</sup>

Organization	Rules providing for the suspension of voting rights for Members in arrears	General Rules providing for a discretionary decision to restore voting rights	Provisions for restoration of voting rights based on an instalment plan	Provisions for restoration of voting rights due to 'conditions beyond the control'	Provisions defining 'conditions beyond the control'
Food and Agriculture Organization (FAO)	YES	NO	NO	NO	NO
United Nations (UN)	YES	YES	NO	YES	NO
United Nations Educational, Scientific and Cultural Organization (UNESCO)	YES	YES	YES, Optional	YES	YES
United Nations Industrial Development Organization (UNIDO)	YES	YES	NO	YES	NO
United Nations World Tourism Organization (UNWTO)	YES	YES	NO	YES	NO
World Trade Organization (WTO)	NO	NO	NO	NO	NO
International Labour Organization (ILO)	YES	YES	YES, Optional	YES	NO
World Health Organization (WHO)	YES	YES	YES, Mandatory	NO	NO
World Intellectual Property Organization (WIPO)	YES	YES	NO	YES	NO
International Civil Aviation Organization (ICAO)	YES	YES	YES, Mandatory	NO	NO
International Maritime Organization (IMO)	YES	YES	YES, Mandatory	NO	NO
Universal Postal Union (UPU)	YES	YES	YES, Mandatory	NO	NO
Preparatory Commission for the Comprehensive Nuclear Test-Ban-Treaty Organization (CTBTO)	YES	YES	NO	YES	NO

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<sup>25</sup> CCLM 113/3, Annex 1

#### IV. Financial Analysis of Payment of Arrears in Local Currency

20. The Organization's Financial Regulations<sup>26</sup> prescribe the payment of arrears in freely convertible currencies. "Should a Member Nation or Associate Member pay any part of its current year contribution or arrears in a currency other than United States Dollar or Euro, it will be the responsibility of that Member Nation or Associate Member to ensure the free convertibility of that currency into United States Dollars or Euro. The exchange rate applicable to any payment in a non-assessed currency shall be the market rate of the Euro or the United States Dollar to the currency of payment on the first business day in January of the calendar year in which the contribution is due, or the rate in effect on the day the payment is made, whichever is higher".

21. The Governing Bodies have frequently dealt with the Organization's volatile and in times critical liquidity situation in the past. Having noted that the Regular Programme liquidity situation of the Organization can only be improved through timely payment of assessed contributions by the Member Nations and having recognized that additional measures are required in order to encourage timely payment from Member Nations of assessed contributions, the Conference adopted resolution 14/2007. The resolution approves a derogation from Financial Regulation 5.6 to allow the Director-General to accept contributions in non-freely convertible local currencies under certain conditions to enable the payment of contributions by those Member Nations with limited availability of convertible currency. Member Nations wishing to avail themselves of this payment method shall submit a request to the Director-General and obtain approval prior to effecting any transfer of funds to the Organization. The Director-General shall decide on such a request based on whether it is in the best interests of the Organization and involves no risk of financial loss.

22. Conference resolution 14/2007 states that payment in non-freely convertible currencies can only be accepted under the following conditions:

- 1) the Organization requires to have activities in the country for which the currency can be spent;
- 2) the currency is usable without further negotiation within the exchange regulations of the country;
- 3) local currency contributions can only be accepted in such amounts as can be utilized during a short period of time, with a view to ensuring that the currency is received and spent at the same UN operational exchange rate;
- 4) credit shall be granted against assessed contributions at the UN operational rates of exchange in force on the date the local currency is received in a bank account of the Organization;
- 5) where the UN operational rate of exchange differs significantly from the market exchange, the rate of exchange to be applied for the purpose of crediting the contribution of the Member Nation is the rate that FAO will have obtained for the conversion into Euros/Dollars at the date on which the local currency is credited to the bank account of the Organization;
- 6) local currency amounts will not be accepted for those countries whose currency is subject to persistent devaluation. If at any time during the period of utilization of the local currency funds, there shall occur a reduction in the exchange value or a significant devaluation of the local currency with respect to the Euro/Dollar, the Member Nation will be required upon notification to make an adjusting payment to cover the exchange loss pertaining to the unspent balance of that contribution;
- 7) payments of arrears shall not be accepted in non-freely convertible currencies.

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<sup>26</sup> Financial Regulation 5.6



23. There are substantial risks for accepting payments in local currency, specifically currencies that are not readily convertible into United States Dollar or Euro. Large balances in non-convertible currencies increase the Organization's exposure to foreign exchange risk, banking risk, as well as the loss of investment income due to non-invested assets. In order to minimize these risks, in applying this Conference resolution, the Finance Division defines "a short period of time" as not exceeding two months local currency expenditures. Applying this risk valuation to arrears as well as current year assessed contributions would limit greatly what could be paid in local currency.

24. As at 28 February 2022, eighty (80) Member Nations had arrears with a total amount of USD 94 million, while thirty-two (32) Member Nations had potential voting rights issues.

25. The Finance Division has performed a detailed review of the implications of local currency payments. The analysis focused on the proportion of expenditure incurred annually in local currency versus the amounts in arrears.

26. The analysis highlighted that the number of Member Nations having a level of local currency expenditures that would enable them to spend the amount of their respective arrears paid in local currency is low.

27. Table 2 below shows the Member Nations with potential voting rights issues as at 28 February 2022 and the functional currency (United States Dollars) equivalent of their respective annual expenditure in local currency as well as the number of years of average expenditures it would take to use the funds in the corresponding Country Office.

28. Even when considering full annual expenditures in local currency, there are only four (4) Member Nations where the Country Offices would be able to use the amount of the arrears received in local currency within one year. Altogether, this would only total USD 0.3 million out of total USD 44.5 million arrears owed by Member Nations with potential voting rights issues. For fifteen (15) Member Nations with arrears it would take more than five (5) years to use the local currency received.

Table 2<sup>27</sup>

	Member Nations	Arrears		Consolidated arrears	Contribution Due for Two Preceding Years		Minimum Payment Required to Ensure Vote	Annual local currency expenditure (2021)	Number of years to spend local currency if arrear is paid in local currency	Local currency can be spent within one (1) year	Local currency can be spent over five (5) years
		USD '000	EUR '000		USD '000	USD '000					
1	Antigua and Barbuda	5.41	16.75	25.84	10.83	7.53	5.83	6.10	4		
2	Central African Republic	16.82	11.37	30.69	5.41	3.76	20.68	15.99	2		
3	Chad	9.39	45.38	65.05	21.66	15.06	25.02	10.58	6		yes
4	Comoros	248.74	5.65	255.63	5.41	3.76	245.62	n/a	n/a		
5	Cuba	565.11	423.48	1,081.70	433.12	301.14	281.19	9.66	112		yes
6	Democratic Republic of the Congo	54.14	90.72	165.72	54.14	37.64	65.66	0.01	26,725		yes
7	Ecuador	614.49	698.64	1,466.70	433.12	301.14	666.19	n/a	n/a		
8	El Salvador	64.97	45.17	120.08	64.97	45.17	0.00	n/a	n/a		
9	Gabon	150.90	197.29	391.57	81.21	56.46	241.47	3.22	121		yes
10	Ghana	87.61	56.46	156.49	81.21	56.46	6.40	750.83	0.2	yes	
11	Guinea	16.24	11.29	30.02	16.24	11.29	0.00	0.27	110		yes
12	Iran (Islamic Republic of)	6,748.11	3,732.16	11,300.48	2,154.77	1,498.16	7,317.96	0.03	376,683		yes
13	Iraq	726.81	737.96	1,626.99	698.40	485.59	336.17	0.04	40,930		yes
14	Kyrgyzstan	69.70	3.82	74.35	10.83	7.53	54.34	13.97	5		yes
15	Lao People's Democratic Republic	27.07	18.82	50.03	27.07	18.82	0.00	0.14	353		yes
16	Liberia	16.29	11.37	30.16	5.41	3.76	20.15	n/a	n/a		
17	Libya	1,124.52	946.64	2,341.27	162.42	112.93	2,041.08	n/a	n/a		
18	Marshall Islands	5.41	12.37	20.58	5.41	3.76	10.57	0.00	n/a		
19	Micronesia (Federated States of)	0.00	9.45	11.53	5.41	3.76	1.52	0.00	n/a		
20	Mozambique	16.10	30.11	52.83	21.66	15.06	12.81	142.36	0.4	yes	
21	Nigeria	2,478.21	1,845.76	4,729.66	1,353.50	941.06	2,228.07	28.17	168		yes
22	Niue	5.41	3.76	10.01	5.41	3.76	0.00	0.00	n/a		
23	North Macedonia	56.85	39.52	105.06	37.90	26.35	35.02	n/a	n/a		
24	Palau	2.71	8.22	12.73	5.41	3.76	2.72	0.00	n/a		
25	Saint Lucia	10.83	0.00	10.83	5.41	3.76	0.82	116.35	0.1	yes	
26	Sao Tome and Principe	233.51	33.91	276.72	5.41	3.76	266.72	156.85	2		
27	Somalia	383.05	33.91	426.26	5.41	3.76	416.25	0.18	2,316		yes
28	Suriname	69.09	50.16	130.35	27.07	18.82	80.32	3.05	43		yes
29	Uganda	0.00	71.98	87.81	43.31	30.11	7.76	5.29	17		yes
30	Venezuela (Bolivarian Republic of)	10,456.52	7,114.31	19,134.93	3,941.38	2,740.36	11,850.30	231.13	83		yes
31	Yemen	131.41	75.28	223.24	54.14	37.64	123.18	0.44	510		yes
32	Zambia	56.58	33.88	97.91	48.73	33.88	7.86	206.39	0.5	yes	
	<b>TOTAL</b>	<b>24,452.01</b>	<b>16,415.60</b>	<b>44,543.21</b>	<b>9,831.81</b>	<b>6,835.84</b>	<b>26,371.71</b>				

Amount of arrears received in local currency that could be spent within a year (USD '000)			318.07								
Number of countries which can spend local currency within one year if arrears are paid in local currency										4	

<sup>27</sup> Data as of 28 February 2022.

29. The practice adopted by other UN Organizations - with the notable exception of WHO and UNIDO - is that local currency payments are not accepted. WHO regulations<sup>28</sup> allow Members to request approval from the Director-General to make the payment in local currency. The provisions of WHO's Financial Regulations and Financial Rules prescribe that "*acceptance by the Director General of any currency that is not fully convertible shall be subject to a specific, annual approval on a case-by-case basis by the Director-General*".<sup>29</sup> In addition the approval includes "*any terms and conditions as deemed necessary by the Director General to protect the World Health Organization*".<sup>30</sup> Requests to have their voting rights restored are to be submitted in writing to the Director-General, to be received no later than 31 March, including at least the following information: (i) the total amount due, including the current year's assessment; (ii) the period over which payment is proposed; (iii) the minimum amount of payment that the Member State intends to make each year; and (iv) an indication of whether the Member State expects to request approval from the Director-General to make the payment in local currency, in accordance with the Financial Regulations and Financial Rules.<sup>31</sup>

30. UNIDO has occasionally accepted payments in local currencies through UNDP. In such cases, UNDP decides whether to accept local currencies based on its short-term cash requirements, taking into account local conditions and then remits the equivalent in United States dollars to UNIDO at the United Nations operational rate of exchange in effect at the date of utilization.

31. Based on the above analysis as well as the substantial foreign exchange, banking and investment risks posed by accepting payment in non-readily convertible currencies, the payment of arrears in local currency would not be a viable alternative without raising the Organization's financial risk, outweighing any possible benefit to the cash position

## **V. Considerations Relevant to the Standardization of the Practice of Voting Rights Restoration**

32. Consistent with the request of the Forty-second Session of the Conference and having regard to the practice adopted by a number of other United Nations organizations regarding the restoration of voting rights, the Committee could review the following considerations relevant to standardization of the existing practice of restoration of voting rights:

- a) the timing and content of requests by Members to restore voting rights;
- b) the criteria that define the "conditions beyond control" of the Member;
- c) the maximum number of years allowed for any instalment plan.

### ***a) The timing and content of requests by Members to restore voting rights***

33. In the absence of provisions defining the timing and content of requests by Members to restore voting rights, the existing practice is to submit requests to the General Committee for assessment before the start of the Conference. Based on the recommendations of the General Committee, the Conference may restore the voting rights of a Member in arrears on the basis of special consideration. However, requests submitted very close to the start of the Conference or, alternatively, payments made during the Session itself allow a narrow time frame for the General Committee to assess the requests. This is made more difficult without clearly defined assessment criteria.

34. Accordingly, it could be considered that it would be preferable to set the timing of the submission of requests as being a month prior to the start of the Conference.

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<sup>28</sup> Health Assembly Resolution WHA54.6

<sup>29</sup> WHO Financial Regulations and Rules 6.8

<sup>30</sup> WHO Financial Regulations and Rules 6.8

<sup>31</sup> Health Assembly Resolution WHA54.6

b) *The criteria that define the “conditions beyond control” of the Member*

35. As FAO, most UN agencies, with the exception of UNESCO, do not define in their rules “conditions beyond the control” or “exceptional and unavoidable circumstances” of the Member. The Committee could firstly give consideration to the need to define or give more guidance regarding the situations that could constitute "conditions beyond control" (e.g. wars and armed conflicts, severe economic and financial constraints and natural disasters). Secondly, the Committee could discuss whether requests should also be required to provide explanations as to whether the circumstances beyond control were unforeseeable and/ or unavoidable and whether even the implementation of mitigating measures could not reasonably have been expected to prevent the events from taking place or reducing their negative impact on the economy. Thirdly, consideration could be given to require requests to include a description of measures taken by the Members to compensate for the loss of income or to address the financial or economic consequences as a result of the events in question.

c) *The maximum number of years allowed for any instalment plan*

36. According to the established practice, there is no formal requirement for an instalment plan in order to request restoration of voting rights. However, when a Member in arrears indicates they would be unable to pay their current balance to restore voting rights by 31 December of any Council/Conference year, or if a request to restore voting rights is requested for two sessions of Council/Conference in a row, the Member is requested to submit an instalment plan to settle arrears. As per past experience, instalment plans are generally for a duration of up to ten (10) years, but no time frame has been definitively established. The Committee could give consideration to limiting the duration of instalments plan to a maximum of ten (10) years to ensure that arrears are reduced within a foreseeable medium term contributing to the maintenance of the liquidity of the Organization.

## **VI. Informal Consultations held by the Independent Chairperson of the Council**

37. The 168th Session of the Council “*encouraged the ICC to hold transparent and inclusive informal consultations open to all Members on the subject-matter, taking into account the existing rules and procedures, the CCLM’s findings and recommendations and relevant United Nations General Assembly (UNGA) resolutions, as appropriate, and invited the ICC to report the progress to the Council at its next Session*”. At the date of preparation of this document the process of informal consultations with Members is ongoing.