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ASSEMBLY ! 35TH SESSION

EXECUTIVE COMMITTEE
ADMINISTRATIVE COMMISSION

- Agenda Item 12.1: Report on arrangements to settle contributions in arrears**
Agenda Item 12.2: Action to be taken in the case of Contracting States failing to discharge their financial obligations to the Organization
Agenda Item 41.1: Financial aspects of the question of contributions in arrears
Agenda Item 41.2: Incentive schemes for settlement of long-outstanding arrears

FINANCIAL ASPECTS OF THE QUESTION OF CONTRIBUTIONS IN ARREARS

SUMMARY

This paper provides information on the status of contributions in arrears and States that had their voting privileges suspended as at 17 September 2004. The Council is submitting for the Assembly's consideration three Assembly Resolutions relating to arrears of contributions. The draft Resolution in **Appendix D** confirms the amendments to Financial Regulations 6.5 and 6.7. The draft Resolution in **Appendix E** consolidates Assembly Resolutions A21-10 and A31-26, modifies the conditions for suspension of voting privileges for Group A States and introduces new measures to encourage States to pay their contributions promptly. The draft Resolution in **Appendix F** introduces a change to the method of allocating receipts of long-outstanding arrears to the Incentive Scheme for the Settlement of Long-outstanding Arrears.

Action by the Assembly: Paragraph 6

REFERENCES

- Doc 9820, *Resolutions and Minutes of the Plenary Meetings of the 34th Session (Extraordinary) of the Assembly*
Doc 9790, *Assembly Resolutions in Force (as of 5 October 2001)*
Doc 7515/11, *The ICAO Financial Regulations*
Doc 7300/8, *Convention on International Civil Aviation*

1. INTRODUCTION

1.1 Assembly Resolutions A21-10 and A31-26 contain resolving clauses that, *inter alia*, require Contracting States to recognize the necessity to pay their contributions in the year in which they fall due, set out the conditions and terms under which Contracting States may enter into arrangements to liquidate long-outstanding arrears, and make reference to the application of the provisions of Article 62 of the Convention relating to the suspension of voting power. Assembly Resolution A31-26 also directs the Council to further intensify the current policy of inviting States in arrears to make settlement proposals in accordance with the provisions of Assembly Resolution A21-10.

1.2 Assembly Resolutions A26-23 and A33-27 describe the incentive schemes relating to contributions of assessments in arrears. In addition, Assembly Resolution A33-27, *inter alia*, requests the Council to closely monitor the question of outstanding contributions, the effect of the incentive schemes on payment of arrears by States, and to report to the next ordinary session of the Assembly on the results of their efforts including other measures to be considered.

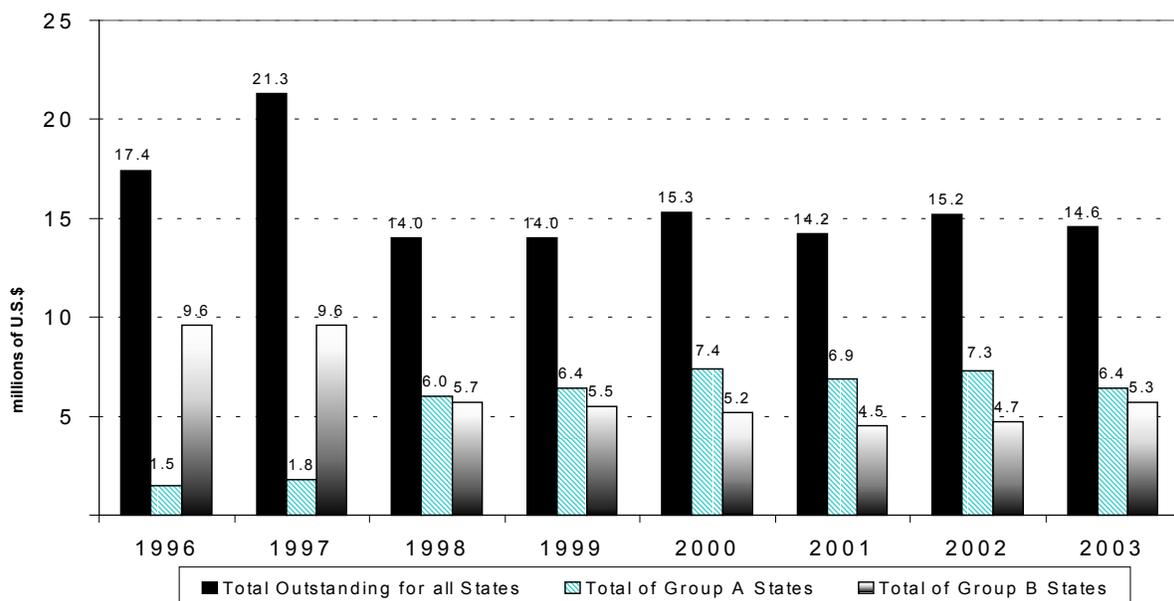
2. STATUS OF CONTRIBUTIONS IN ARREARS

2.1 Status of Contributions in Arrears as at 31 December 2003

2.1.1 The total outstanding contributions as at 31 December 2003 was \$ 14.6 million, of which \$ 12.2 million was in arrears in respect to 2002 and prior years and \$ 2.4 million was with respect to 2003.

2.1.2 Figure 1 below shows the comparative position of total outstanding assessments as at 31 December for the years 1996 to 2003. In addition, the figure also shows separately the arrears position of Group A and Group B States (please see definition in paragraph 2.2.1). It will be noted that, after some significant progress in 1998 and 1999, the status of total arrears has regressed slightly and fluctuates between \$ 14.2 million and \$ 15.3 million. However, the total arrears outstanding as at 31 December 2003 amounting to \$ 14.6 million was less than the outstanding amount of \$ 15.2 million as at 31 December 2002. The outstanding assessments of Group B States had decreased progressively from a peak of \$ 9.6 million as at 31 December 1996 to a low of \$ 4.5 million as at 31 December 2001 as more States entered into agreements to settle their long-outstanding arrears. However, the amount outstanding for Group B States has gradually increased since the year 2001 and was \$ 5.3 million as at 31 December 2003. The combined outstanding assessments in respect of Group A and Group B States has deteriorated over the years from \$ 11.1 million as at December 1996 to \$ 11.7 million as at 31 December 2003.

FIGURE 1
ASSESSMENTS RECEIVABLE FROM CONTRACTING STATES
AS AT 31 DECEMBER



2.2 **Status of Contributions in Arrears as at 17 September 2004**

2.2.1 The total outstanding contributions as at 17 September 2004 was \$ 29.2 million, of which \$ 12.4 million was in arrears in respect to 2003 and prior years and \$ 16.8 million was with respect to 2004. **Appendix A** contains a schedule of contributions in arrears as at 17 September 2004 for all financial years through 2003 arranged in four groups.

Group A (34 States)

States that have concluded agreements with the Council to liquidate their arrears over a period of years in accordance with Assembly Resolution A21-10, Resolving Clause 3.

Group B (11 States)

States with contributions in arrears equivalent to the assessments of the three preceding years or more and which have not concluded agreements with the Council to liquidate their arrears.

Group C (9 States)

States with contributions in arrears for more than one year but less than three full years.

Group D (11 States)

States with contributions outstanding only for the year 2003.

2.2.2 Immediately prior to the 33rd Session of the Assembly in 2001, there were 33 Contracting States in Group A. Since that time, 3 Contracting States have paid in full their obligations under the agreements, 4 Contracting States have entered into new agreements, and 3 States renegotiated the terms of their agreement. The repayment terms for States with agreements outstanding as at 17 September 2004 are as follows:

Repayment over 5 years - 1 State
Repayment over 7 years - 1 State
Repayment over 10 years - 4 States
Repayment over 11 years - 1 State
Repayment over 15 years - 9 States
Repayment over 20 years - 17 States
Repayment over 25 years - 1 State

2.2.3 In accordance with their agreements, Group A States are required to pay the current year assessment and an agreed annual instalment to liquidate long-outstanding prior years' arrears of assessments. **Appendix B** shows the status of assessments and instalments outstanding for prior years in respect of Group A States as at 17 September 2004.

2.3 **Impact of Delays in Receipt of Contributions**

2.3.1 Delays in the payment of contributions by Contracting States against the current year assessments and arrears, which continue to be of concern, have an adverse impact on the cash position of the Organization and the implementation of the work programmes. Member States have an obligation to ensure that the Organization continues to operate effectively. As a result of delays in receipt of contributions, the cash available to the General Fund has gradually decreased over time, and reached the level of only \$ 6.7 million as at 31 August 2004. If the trend in delays of contributions continues, cumulative receipts will fall short of cumulative expenditure throughout the year 2005 and for future years, except during the first quarter, as shown in the Table 1 that follows.

TABLE 1
Trend Expected for 2005 and Future Years
of Cumulative Percentage of Assessments Received and Expenditure

	Average Per cent Assessment Trend	Per cent Estimated Expenditure	Cashflow Surplus/Shortfall
end of quarter 1	30 %	25 %	5 %
end of quarter 2	48 %	50 %	(2) %
end of quarter 3	57 %	75 %	(18) %
end of quarter 4	95 %	100 %	(5) %

In previous triennia, any shortfall in receipt of current years dues was covered by accumulated cash surplus, however, all the cash surplus will have been fully utilized by the end of 2004. This will have repercussions on the Organization's ability to deliver on its work programme.

3.3.2 As a result of delays in the receipt of contributions, the Organization experienced a cash deficit of \$ 1.1 million as at 31 December 2002 and \$ 0.2 million as at 31 December 2003. In order to prevent the recurrence of such cash deficits, it is imperative that the recovery of outstanding assessments be improved. Additional measures need to be put into place to encourage Contracting States to pay their assessments promptly.

3. MEASURES IN DEALING WITH CONTRIBUTIONS IN ARREARS

3.1 Advising States of Balances Outstanding

3.1.1 The Organization follows up on the collection of assessments in accordance with Resolving Clause 2 of Assembly Resolution A21-10, Financial Regulations 6.4 and 6.5, and Financial Rule 106.4. For practical reasons, the State letters have been issued in May (reflecting status at April) upon completion of the External Audit, in July (for status at June) and November (for status at October as well as to inform of the assessment for the following year). A status report is not provided for the September quarter, as issuing one State letter in November allows for combining the notification of the new year's assessment along with the current status of contributions, and minimizes the cost of issuing separate State letters for each purpose. The current practice of sending 3 instead of 4 State letters per year is considered economical and provides adequate and timely information to the States concerning the current status of their contributions. The proposed revision to Resolving Clause 2 of Assembly Resolution A21-10, in **Appendix E** reflects current practice. In addition, starting in the latter half of 2004, the status of contributions will be published, with access restricted to Contracting States only, on the ICAO web site, to further enhance the frequency and timeliness of the information available to Contracting States.

3.1.2 The President of the Council and the Secretary General make every possible effort, not only by means of letters to States, but also through personal contacts during their visits to Contracting States and when receiving delegations visiting ICAO Headquarters, to urge settlement of outstanding contributions. ICAO also responds to *ad-hoc* enquiries from States concerning the status of their outstanding contributions.

3.2 **Definition of Arrears**

3.2.1 Financial Regulation 6.5 stipulates that:

- a) contributions and advances to the Working Capital Fund, shall be considered as due and payable in full upon expiry of thirty days from receipt of the notification from the Secretary General under Regulations 6.4 b) and 7.4 b), or as of the first day of the financial year to which they relate, whichever is the later; and
- b) as of 1 January of the following year, any unpaid balance of such contributions and advances shall be considered to be one year in arrears.

In applying this Regulation, States are not considered in arrears until 1 January of the following year, at which time they are one year in arrears.

3.2.2 Financial Regulation 6.5 a) relates the definition of timely payment to the date of the receipt of the Secretary General's communication regarding the assessment. As it is not feasible to determine the exact date that each Contracting State receives the State letter, the Council considers it prudent to fix the due date as thirty days after the date of issuance of the notification, rather than from the date of its receipt. Accordingly, the Council approved a revision to Financial Regulation 6.5 a) presented in **Appendix D**.

3.2.3 The payments made by Group A States in accordance with the terms of an agreement entered into with the Organization are not mentioned in the Financial Regulations. In the absence of such specific reference, a strict legal interpretation of this Regulation means that the amount owing for instalments and the current year contribution would be considered due on the date provided for in the terms of the agreement. The agreement terms vary, with approximately two thirds of the agreements requiring payment on 1 January while the others do not specify a due date.

3.2.4 In light of the differences in the agreements noted in paragraph 3.2.3 above, and in order to resolve this ambiguity and reflect current practice, an amendment to Financial Regulation 6.5 and related Financial Regulation 6.7 was approved by the Council, to specifically mention the application of payments under terms of an agreement.

3.2.5 The amendments to Financial Regulations 6.5 and 6.7 reflected in **Appendix D** are effective from the date of approval by the Council on 5 December 2003 and are subject to confirmation by the Assembly.

3.3 **Suspension of Voting Power under Assembly Resolution A31-26**

3.3.1 The power to suspend voting privileges is provided under Article 62 of the Convention. In accordance with Clause 6 of Assembly Resolution A21-10, only States in arrears for an amount equal to or in excess of the total amount assessed for the two preceding financial years may have their voting power suspended. Clause 3 of Assembly Resolution A31-26 redefines the suspension criteria as those States that have failed to discharge their financial obligations to the Organization equivalent to the preceding three years' assessments or more, and which have not concluded an agreement or have not complied with the terms of the agreement. Resolving Clause 6 of Assembly Resolution A21-10 has been superseded by Clause 3 of Assembly Resolution A31-26, and it is therefore proposed to consolidate these two resolutions, as reflected in **Appendix E** in order to avoid ambiguity.

3.3.2 **Appendix C** presents the arrears of the 24 Contracting States that fall within Article 62 of the Convention, relating to the suspension of voting power, as at 17 September 2004. Table 2 presents the comparative situation immediately prior to the 34th Session (Extraordinary) of the Assembly in March/April 2003 and as at 1 January of 2002, 2003, and 2004.

TABLE 2
NUMBER OF STATES WITH VOTING POWER SUSPENDED

	Group A	Group B	Total
at 17 September 2004	13	11	24
at 1 January 2004	19	14	33
34 th Session (Extraordinary) of Assembly - at 31 March 2003	10	11	21
at 1 January 2003	30	12	42
at 1 January 2002	24	13	37

3.3.3 It should be noted that some States delay paying their obligations until immediately prior to the Assembly, and pay only the minimum amount required to reinstate their voting privileges. For States with agreements, the minimum amount needed to reinstate voting power comprises the assessments and instalments due since inception of the arrangement, but excludes the instalment and assessment of the current year.

3.3.4 Resolving Clause 3 of Assembly Resolution A31-26 provides that suspension of voting privileges will be immediately revoked upon either the payment in full of contributions that are in arrears for at least three years or the conclusion with the Council of an agreement to liquidate arrears over a period of time and compliance with the terms of the agreement. For Contracting States with existing agreements, the practice has been to reinstate the voting power when the level of arrears falls below the level of the three preceding years' assessments, even if that Contracting State has not complied with the terms of its agreement.

3.3.5 In order to encourage States to honor their agreements to repay arrears in full and make timely payments, it is proposed that, effective from 1 January 2005, the voting power of a State with an agreement be suspended if it is not in compliance with the terms of its agreement, irrespective of the amount of arrears outstanding. The proposal, contained in Resolving Clause 6 of the draft Resolution in **Appendix E**, would have the effect of increasing, from 19 to 23, the number of Group A States whose voting power was suspended as at 1 January 2004, and from 13 to 18 as at 17 September 2004.

3.3.6 It should be noted that, should the change proposed in paragraph 3.3.5 and presented in the Resolving Clause 6 of the draft Assembly Resolution in **Appendix E** be adopted, the treatment of Group A and Group B States as concerns reinstatement of voting rights would differ: Group B States would be required to bring the balance of arrears outstanding below the level of three preceding years' assessments, whereas Group A States would be required to comply with the terms of their agreement irrespective of the amount of arrears outstanding.

3.4 Arrangements for payment of arrears

3.4.1 Resolving Clause 4 of Assembly Resolution A21-10 sets out the pre-conditions for entering into an arrangement for repayment of arrears.

3.4.2 In applying the above Assembly Resolution, the established practice has been for States to pay the minimum amount towards arrears plus the current year's assessment before their proposal for an agreement is submitted for approval to the Council. However, some States have indicated that the Assembly Resolution could also be interpreted in such a way that only the minimum payment specified in Resolving Clause 4 a) is required as a pre-condition to enter into an agreement, and that the State could make the payment of the current year contribution after entering into the agreement, but before the close of the financial year. The revised wording of Resolving Clause 4 a) of the draft Assembly Resolution presented in **Appendix E** more clearly reflects the current practice.

3.4.3 Resolving Clause 4 b) of Assembly Resolution A21-10 stipulates that agreements will provide for repayment over a period of no more than ten years, subject to extension in special cases, to fifteen years or more. The Council proposes that the term "special cases" be defined as those Contracting States that are classified as Least Developed Countries by the United Nations. Furthermore, it is proposed that agreements should normally be a period of no more than 10 years, except for those Contracting States considered to be within the definition of "special cases", whose agreement terms could be up to a maximum of 20 years. The revisions are reflected in Resolving Clause 4 b) of the draft Assembly Resolution presented in **Appendix E**.

3.5 Incentive Scheme for the Settlement of Long-outstanding Arrears

3.5.1 The 32nd Session of the Assembly approved Assembly Resolution A32-27, creating the Incentive Scheme for the Settlement of Long-outstanding Arrears. Its continuation was confirmed by Resolving Clause 3 of Assembly Resolution A33-27, and stipulates that:

“payments from Contracting States with arrears of three full years or more will be retained in a separate account to finance expenditure on aviation security activities, and new and unforeseen projects related to aviation safety, and/or to the enhancement of the efficient delivery of ICAO programmes, such action to be under the control of the Council and reported to the next ordinary session of the Assembly;”.

3.5.2 Up to 31 December 2003, receipts of arrears totaling \$ 5.1 million, falling within the criteria established by the Resolution, have been credited to the Special Account. Of the \$ 5.1 million credited to the account, approximately \$ 3.14 million plus interest has already been committed for specific purposes by Assembly Resolution A34-1, and \$ 0.4 million by C-DEC 160/3. The estimated balance of uncommitted funds in the Special Account as at 31 December 2003 amounted to \$ 1.56 million. The balance had increased to approximately \$ 2.09 million as at 17 September 2004.

3.5.3 The transfer of the arrears of contributions to a separate account in accordance with Assembly Resolution A33-27 means that the cash available for funding the Regular Programme Budget is correspondingly reduced. It may be noted that this procedure, as far as it could be determined, is unique within the UN system as no other organization has established separate special accounts for setting aside arrears of assessments for funding activities outside of the Regular Programme Budget.

3.5.4 Considering that nearly 18 per cent of Contracting States have now entered into agreements to settle long-outstanding arrears, the fact that some States make payments only prior to an Assembly, and in light of the deteriorating cash position of the General Fund, it is proposed to credit the incentive account for only that portion of the payment that pertains to the long-outstanding arrears. For Contracting States with agreements, only the instalment payments under arrangements to settle arrears will be credited to the Special Account. For Contracting States without agreements, only that portion of a payment that is in excess of the sum of the three preceding years' assessments would be credited to the incentive scheme. If this method of application had been used since the inception of the Special Account, the credits to the scheme would have been approximately \$ 3.0 million as compared to \$ 5.1 million as at 31 December 2003. The proposed revision to Assembly Resolution A33-27 is presented in **Appendix F**.

4. **ADDITIONAL MEASURES IN DEALING WITH CONTRIBUTIONS IN ARREARS**

4.1 The Council, being very concerned with the level of the arrears, is of the view that additional measures are needed to encourage Contracting States to pay their contributions when due. The following additional measures are recommended for application to the Contracting States whose voting rights have been suspended under Article 62 of the Convention:

- a) lose eligibility to host meetings, conferences, workshops and seminars which are funded, in whole or in part, by the Regular Programme;
- b) receive only the same free documentation as that provided to non-Contracting States, including those provided in electronic media, and any other documents that are essential for the safety, regularity or efficiency of international air navigation;
- c) Nationals or Representatives lose eligibility for nomination to elected offices;
- d) for purposes of recruitment to posts in the Secretariat, if all other circumstances are equal, candidates from States in arrears would be considered as having the status of candidates from a State that has already achieved the desired level of representation (under equal geographical representation principles), even if it has not achieved that level; and
- e) lose the right to participate in the ICAO Familiarization course.

4.2 The Council also recommends that only those States that have no outstanding annual assessed contributions except for the current year's assessment be eligible for election to the Council, Committees and bodies.

4.3 For ease of application, the additional new measures in paragraphs 4.1 and 4.2, which have been incorporated in Resolving Clauses 9 and 10 of the draft Assembly Resolution in **Appendix E**, should be effective from 1 January 2005.

5. OTHER MATTERS DEALING WITH ARREARS

5.1 Financial Regulation 6.7

5.1.1 Financial Regulation 6.7 stipulates that payments from Contracting States shall be credited first to advances due to the Working Capital Fund and any balance applied against outstanding contributions beginning with the earliest. In the case of States with agreements, whilst the Assembly Resolutions and the Financial Regulations do not expressly refer to the payment of instalments for repayment of arrears, payments are credited in the following order: first to the Working Capital Fund, and any balance to the instalment (which represents arrears) and to the annual contribution due since the inception date of the agreement, beginning with the earliest.

5.1.2 During the 34th Session (Extraordinary) of the Assembly, a third party (service provider) made a payment on behalf of three Contracting States and instructed that the payment should be applied only against the current year (2003) assessments of those States, notwithstanding that the States have special agreements with instalments outstanding on those agreements. The party indicated that future payments from them must be applied to the current year's assessment only, as it is not responsible for the settlement of the arrears of Member States. Similarly, another third party has advised that, from 2004, it will make payments of the current year contributions on behalf of 15 Contracting States.

5.1.3 The method of application of the payments requested by the third parties contravenes the procedures prescribed by Financial Regulation 6.7 as most of these States have not paid the prior years' arrears. Nevertheless, this request is considered as a positive development in that the Contracting States concerned are making an attempt to pay their current assessments on time. The Council is hereby informing the Assembly that it has used the authority granted under Financial Regulation 14.1 to exempt the application of Financial Regulation 6.7 for the Contracting States whose payments are made by third parties.

6. ACTION BY THE ASSEMBLY

6.1 The Council:

- a) recommends that the Assembly consider the arrears of States in **Appendix A**, in the light of information in this paper and any additional information that States may submit to the Assembly;
- b) invites the Assembly to note the list of States that have their voting privileges suspended as shown in **Appendix C**;
- c) invites the Assembly to confirm the amendments to the Financial Regulations as set out in **Appendix D**;
- d) invites the Assembly to consider and approve the draft Resolution in **Appendix E** to this working paper, which:
 - i) consolidates all essential elements of Assembly Resolutions A31-26 and A21-10 to avoid ambiguity;

- ii) revises Clauses 2 and 4 of Assembly Resolution A21-10 to reflect current practice, to define the term “special cases” as referring to those Contracting States that are classified as Least Developed Countries by the United Nations, and to establish maximum terms applicable to agreements;
- iii) suspends the voting privileges of States who are not in compliance with their agreements, irrespective of the amount of arrears outstanding; and
- iv) introduces, with effect from 1 January 2005, new measures to encourage States to pay their contributions promptly; and
- e) invites the Assembly to consider and approve the draft Resolution in **Appendix F** to this working paper, which limits the credits to the Incentive Scheme for Long-outstanding Arrears to only that portion of a payment that is applicable to long-outstanding arrears.

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APPENDIX A

CONTRIBUTIONS IN ARREARS FOR THE FINANCIAL YEARS 1982-2003
AS AT 17 SEPTEMBER 2004

(in United States dollars)

Contracting States							1982-1998	Years	Total Arrears Outstanding	Working Capital Fund	Amount Outstanding
	2003	2002	2001	2000	1999						
Group A											
BELARUS	30 198	29 014					4 021 (1 997)	63 233		63 233	
BENIN	25 924						156 166 (1997-1992)	182 090		182 090	
BOSNIA/HERZEGOVINA	7 325						22 873 (1994-1994)	30 198		30 198	
BURKINA FASO							163 475 (1997-1992)	163 475		163 475	
BURUNDI							38 206 (1990-1989)	38 206		38 206	
CAMBODIA				29 148	28 464		184 047 (1998-1992)	241 659		241 659	
CENTRAL AFRICAN REPUBLIC	30 198						290 532 (1997-1985)	320 730		320 730	
CHAD	30 198						334 767 (1997-1982)	364 965		364 965	
CONGO	30 198	29 964	29 964				274 202 (1997-1986)	364 328		364 328	
COOK ISLANDS							119 053 (1998-1994)	119 053		119 053	
COTE D'IVOIRE	18 793						125 279 (1997-1991)	144 072		144 072	
EL SALVADOR	30 198	29 964	29 964				75 397 (1991-1988)	165 523		165 523	
GABON							123 820 (1997-1993)	123 820		123 820	
GAMBIA		29 964	29 964				232 661 (1997-1988)	292 589		292 589	
GRENADA				29 148	28 464		202 635 (1998-1991)	260 247		260 247	
GUINEA							206 833 (1997-1990)	206 833		206 833	
KAZAKHSTAN					28 464		302 833 (1998-1994)	331 297		331 297	
KYRGYZSTAN	30 198	358		29 148	28 464		135 570 (1998-1994)	223 738		223 738	
LIBERIA	198	8 621					269 934 (1997-1986)	278 753		278 753	
MADAGASCAR	30 198	8 912					17 631 (1 997)	56 741		56 741	
MALAWI	30 198	29 964	29 028				12 800 (1996-1996)	101 990		101 990	
MALI							220 895 (1997-1989)	220 895		220 895	
MAURITANIA	30 198						213 248 (1997-1990)	243 446		243 446	
NICARAGUA	30 198						56 199 (1991-1989)	86 397		86 397	
NIGER							56 881 (1996-1995)	56 881		56 881	
PARAGUAY							28 237 (1990-1989)	28 237		28 237	
REPUBLIC OF MOLDOVA			29 964	29 148	28 464		77 718 (1998-1993)	165 294		165 294	
RWANDA							90 332 (1997-1994)	90 332		90 332	
SAO TOME AND PRINCIPE	30 198	29 964	29 964				306 087 (1998-1986)	396 213		396 213	
SEYCHELLES	10 424			29 148	28 464		22 089 (1 998)	90 125		90 125	
SIERRA LEONE	198	29 964					271 785 (1997-1986)	301 947		301 947	
SOLOMON ISLANDS	30 198	29 964	29 964	29 148	28 464		28 510 (1 998)	176 248		176 248	
SURINAME	13 666			29 148	28 464		45 137 (1998-1997)	116 415		116 415	
ZAMBIA		29 964	29 964				40 244 (1997-1996)	100 172		100 172	
Group Total:	438 904	286 617	238 776	204 036	227 712		4 750 097	6 146 142		6 146 142	
Group B											
AFGHANISTAN*	30 198	29 964	29 964	29 148	28 464		142 427 (1998-1994)	290 165		290 165	
ANTIGUA AND BARBUDA	30 198	29 964	29 964	29 148	28 464		259 129 (1998-1989)	406 867	981	407 848	
COMOROS	30 198	29 964	29 964	29 148	28 464		317 856 (1998-1985)	465 594	540	466 134	
DEMOCRATIC REPUBLIC OF THE CONGO	30 198	29 964	29 964	29 148	28 464		134 315 (1998-1994)	282 053		282 053	
DJIBOUTI	30 198	29 964	29 964	29 148	28 464		311 438 (1998-1986)	459 176	1 080	460 256	
GEORGIA	30 198	29 964	29 964	29 148	28 464		193 930 (1998-1994)	341 668	3 600	345 268	
GUINEA-BISSAU	30 198	29 964	29 964	29 148	28 464		372 269 (1998-1982)	520 007	1 080	521 087	
IRAQ	45 297	49 940	29 964	29 148	28 464		949 485 (1998-1989)	1 132 298	2 400	1 134 698	
NAURU	30 198	29 964	29 964	29 148	28 464		116 180 (1998-1995)	263 918		263 918	
SOMALIA	30 198	29 964	29 964	29 148	28 464		329 646 (1998-1985)	477 384	1 080	478 464	
URUGUAY	30 198	29 964	29 964	25 893				116 019		116 019	
Group Total:	347 277	349 580	329 604	317 373	284 640		3 126 675	4 755 149	10 761	4 765 910	

* Funds have been received towards an agreement and a proposal is pending from the Government.

APPENDIX A

CONTRIBUTIONS IN ARREARS FOR THE FINANCIAL YEARS 1982-2003
AS AT 17 SEPTEMBER 2004

(in United States dollars)

Contracting States								Total Arrears Outstanding	Working Capital Fund	Amount Outstanding
	2003	2002	2001	2000	1999	1982-1998	Years			
Group C										
ARMENIA	30 198	29 628						59 826		59 826
CAPE VERDE	30 198	29 964						60 162		60 162
COLOMBIA	125 825	54 935						180 760		180 760
KENYA	30 198	28 221						58 419		58 419
LIBYAN ARAB JAMAHIRIYA	30 198	16 572						46 770		46 770
MARSHALL ISLANDS	30 198	27 715						57 913		57 913
MICRONESIA	30 198	3 356						33 554		33 554
TAJIKISTAN	30 198	29 964						60 162		60 162
VANUATU	30 198	29 964						60 162		60 162
Group Total:	367 409	250 319						617 728		617 728
Group D										
ANGOLA	284							284		284
AZERBAIJAN	30 198							30 198		30 198
BRUNEI DARUSSALAM	30 198							30 198		30 198
CAMEROON	1 755							1 755		1 755
ISRAEL	113 756							113 756		113 756
LITHUANIA	15 099							15 099		15 099
MYANMAR	2 837							2 837		2 837
PANAMA	30 198							30 198		30 198
SAINT KITTS & NEVIS	30 198							30 198		30 198
UZBEKISTAN	30 198							30 198		30 198
VENEZUELA	68 831							68 831		68 831
Group Total:	353 552							353 552		353 552
the former Socialist Federal Republic of Yugoslavia **						510 882	(1992-1990)	510 882		510 882
TOTALS	1 507 142	886 516	568 380	521 409	512 352	8 387 654		12 383 453	10 761	12 394 214

** The devolution of the amount owing by the former Socialist Federal Republic of Yugoslavia is to be ascertained.

Group A: States that have concluded agreements with the Council to liquidate their arrears over a period of years.

Group B: States with contributions in arrears for three full years or more which have not concluded agreements with the Council to liquidate their arrears.

Group C: States with contributions in arrears for more than one year but less than three full years.

Group D: States with outstanding contributions only for the year 2003.

APPENDIX B

**CONTRIBUTIONS AND INSTALMENTS PAYABLE FOR PRIOR YEARS
UNDER AGREEMENTS FOR SETTLEMENT OF ARREARS
AS AT 17 SEPTEMBER 2004**

(in United States dollars)

Contracting States	Year of Agreement	Due in 2003		Due in 2002		Due in 2001		Total Currently Overdue	Due in 2004 and Future Years	Total Due
		Assessment	Instalment	Assessment	Instalment	Assessment	Instalment			
BELARUS	1998	30 198		29 014				59 212	4 021	63 233
BENIN	1998	25 924						25 924	156 166	182 090
BOSNIA/HERZEGOVINA	1996	7 325						7 325	22 873	30 198
BURKINA FASO	1998								163 475	163 475
BURUNDI	1991								38 206	38 206
CAMBODIA	2001								241 659	241 659
CENTRAL AFRICAN REPUBLIC	1998	30 198	17 456					47 654	273 076	320 730
CHAD	1998	30 198	19 602					49 800	315 165	364 965
CONGO	1998	30 198	34 292	29 964	34 292	29 964	34 162	192 872	171 456	364 328
COOK ISLANDS	1999								119 053	119 053
COTE D'IVOIRE	1998	18 793						18 793	125 279	144 072
EL SALVADOR	1993	30 198	10 771	29 964	10 771	29 964	10 771	122 439	43 084	165 523
GABON	1998								123 820	123 820
GAMBIA	2003								292 589	292 589
GRENADA	2001								260 247	260 247
GUINEA	1998								206 833	206 833
KAZAKHSTAN	2000								331 297	331 297
KYRGYZSTAN	2001	30 198	8 050	358				38 606	185 132	223 738
LIBERIA	1998	198	16 872	8 621				25 691	253 062	278 753
MADAGASCAR	1998	30 198		8 912				39 110	17 631	56 741
MALAWI	1997	30 198		29 964	12 800	29 028		101 990		101 990
MALI	1998								220 895	220 895
MAURITANIA	1998	30 198	34 731					64 929	178 517	243 446
NICARAGUA	1992	30 198	11 239					41 437	44 960	86 397
NIGER	1997								56 881	56 881
PARAGUAY	1992								28 237	28 237
REPUBLIC OF MOLDOVA	2002								165 294	165 294
RWANDA	1998								90 332	90 332
SAO TOME AND PRINCIPE	2000	30 198	16 325	29 964	16 325	29 964	12 243	135 019	261 194	396 213
SEYCHELLES	2001	10 424						10 424	79 701	90 125
SIERRA LEONE	1998	198	16 465	29 964	8 362			54 989	246 958	301 947
SOLOMON ISLANDS	2004								176 248	176 248
SURINAME	2001	13 666						13 666	102 749	116 415
ZAMBIA	2003								100 172	100 172
Total		408 706	185 803	196 725	82 550	118 920	57 176	1 049 880	5 096 262	6 146 142

NOTE: The amount due each year includes the current year's assessment plus an agreed instalment.

APPENDIX C

ARREARS OF CONTRACTING STATES THAT HAVE THEIR VOTING POWER SUSPENDED
AS AT 17 SEPTEMBER 2004

(in United States dollars)

Contracting States	2003	2002	2001	2000	1999	1998	1982-1997	Years	Total Arrears	Working Capital Fund	Amount Outstanding
Group A											
BENIN	25 924						156 166	(1997-1992)	182 090		182 090
CENTRAL AFRICAN REPUBLIC	30 198						290 532	(1997-1985)	320 730		320 730
CHAD	30 198						334 767	(1997-1982)	364 965		364 965
CONGO	30 198	29 964	29 964				274 202	(1997-1986)	364 328		364 328
COTE D'IVOIRE	18 793						125 279	(1997-1991)	144 072		144 072
EL SALVADOR	30 198	29 964	29 964				75 397	(1991-1988)	165 523		165 523
KYRGYZSTAN	30 198	358		29 148	28 464	30 510	105 060	(1997-1994)	223 738		223 738
LIBERIA	198	8 621					269 934	(1997-1986)	278 753		278 753
MALAWI	30 198	29 964	29 028				12 800	(1996-1996)	101 990		101 990
MAURITANIA	30 198						213 248	(1997-1990)	243 446		243 446
SAO TOME AND PRINCIPE	30 198	29 964	29 964			30 510	275 577	(1997-1986)	396 213		396 213
SIERRA LEONE	198	29 964					271 785	(1997-1986)	301 947		301 947
SURINAME	13 666			29 148	28 464	30 510	14 627	(1997-1997)	116 415		116 415
											3 204 210
Group B											
AFGHANISTAN*	30 198	29 964	29 964	29 148	28 464	30 510	111 917	(1997-1994)	290 165		290 165
ANTIGUA AND BARBUDA	30 198	29 964	29 964	29 148	28 464	30 510	228 619	(1997-1989)	406 867	981	407 848
COMOROS	30 198	29 964	29 964	29 148	28 464	30 510	287 346	(1997-1985)	465 594	540	466 134
DEMOCRATIC REPUBLIC OF THE CONGO	30 198	29 964	29 964	29 148	28 464	30 510	103 805	(1997-1994)	282 053		282 053
DJIBOUTI	30 198	29 964	29 964	29 148	28 464	30 510	280 928	(1997-1986)	459 176	1 080	460 256
GEORGIA	30 198	29 964	29 964	29 148	28 464	30 510	163 420	(1997-1994)	341 668	3 600	345 268
GUINEA-BISSAU	30 198	29 964	29 964	29 148	28 464	30 510	341 759	(1997-1982)	520 007	1 080	521 087
IRAQ	45 297	49 940	29 964	29 148	28 464	61 020	888 465	(1997-1989)	1 132 298	2 400	1 134 698
NAURU	30 198	29 964	29 964	29 148	28 464	30 510	85 670	(1997-1995)	263 918		263 918
SOMALIA	30 198	29 964	29 964	29 148	28 464	30 510	299 136	(1997-1985)	477 384	1 080	478 464
URUGUAY	30 198	29 964	29 964	25 893					116 019		116 019
											4 765 910
Total Outstanding	647 640	508 379	448 524	375 669	341 568	427 140	5 210 439		7 959 359	10 761	7 970 120

* Funds have been received towards an agreement and a proposal is pending from the Government.

Group A: States that have concluded agreements with the Council to liquidate their arrears over a period of years.

Group B: States with contributions in arrears equivalent to the assessments for the three preceding years or more which have not concluded agreements with the Council to liquidate their arrears.

APPENDIX D

DRAFT RESOLUTION FOR ADOPTION BY THE 35TH SESSION OF THE ASSEMBLY

Resolution 41.1/1

Amendment to the Financial Regulations

Whereas the Council has reported to the Assembly on its experience in applying Financial Regulations 6.5 and 6.7; and

Whereas the Council has noted the need to revise Financial Regulations 6.5 and 6.7 for the sake of clarity.

The Assembly:

1. *Resolves* that the amendments set out below are confirmed:

Financial Regulation 6.5

6.5 Except as otherwise provided in these Regulations or where the Assembly otherwise determines:

- a) contributions, **payments under terms of agreements for settlement of arrears**, and advances to the Working Capital Fund, shall be considered as due and payable in full upon the expiry of thirty days from **the date that receipt of** the notification from the Secretary General **is dispatched** under Regulations 6.4 b) and 7.4 b), or as of the first day of the financial year to which they relate, whichever is the later; and
- b) as of 1 January of the following financial year, any unpaid balance of such contributions, **payments under terms of agreements for settlement of arrears**, and advances **to the Working Capital Fund**, shall be considered to be one year in arrears.

Financial Regulation 6.7

6.7 Payments by Contracting States, **including those of Contracting States with agreements for settlement of arrears**, shall be credited first to advances due to the Working Capital Fund and any balance applied against outstanding **amounts relating to agreements and** contributions, beginning with the earliest.

APPENDIX E

**DRAFT RESOLUTION FOR ADOPTION BY THE
35TH SESSION OF THE ASSEMBLY**
(Consolidation of A21-10 and A31-26)

Resolution 41.1/2

Discharge by Contracting States of financial obligations to the Organization and action to be taken in case of their failure to do so

Whereas Article 62 of the Convention on International Civil Aviation provides that the Assembly may suspend the voting power in the Assembly and in the Council of any Contracting State that fails to discharge, within a reasonable period, its financial obligations to the Organization;

The Assembly:

Considering that Article 6.5 of the ICAO Financial Regulations provides that contributions from Contracting States shall be considered due and payable in full as of the first day of the financial year to which they relate;

Noting that in recent years the accumulation of contributions in arrears has increased considerably and has constituted, together with the delays in payment of current year contributions, an obstacle to the implementation of the work programme and created serious cash flow difficulties;

Urges that all Contracting States in arrears make suitable arrangements for liquidating their arrears;

Urges all Contracting States and in particular, the States elected to the Council, to take all necessary measures to pay their contributions on time;

Resolves that, with effect from 1 January 2005:

1. all Contracting States should recognize the necessity to pay their contributions at the beginning of the year in which they fall due, in order to avoid the need for the Organization to draw on the Working Capital Fund to make good the shortfall;

2. the Secretary General be directed to dispatch to all Contracting States, at least three times in the year, schedules showing the current amounts due for the current year and up to 31 December of the previous year;

3. the Council be authorized to discuss and conclude arrangements with Contracting States, whose contributions are in arrears for three or more years, for the settlement of accumulated arrears to the Organization, any such settlements or arrangements to be reported to the next session of the Assembly;

4. all Contracting States which are three years or more in arrears in the payment of their contributions should:

- a) effect without delay payment of the amounts outstanding with respect to advances to the Working Capital Fund, the current year contribution, and partial settlement of their arrears in the amount of no less than \$ 2 000, such minimum amount to be increased proportionately in cases of States which are assessed at more than the minimum contribution of the ICAO scale;

Appendix E

- b) conclude within six months of the date of the payment referred to in sub-paragraph a) above, if they have not already done so, an agreement with the Organization for the settlement of the balance of their arrears, such agreement to provide for the payment annually, in full, of their current contributions and the balance of the arrears in instalments over a period of no more than ten years, which period may, at the discretion of the Council, be extended, to a maximum of twenty years in respect of special cases i.e. those Contracting States that are classified as Least Developed Countries by the United Nations;
5. the Council should further intensify the current policy of inviting Contracting States in arrears to make settlement proposals for the liquidation of long outstanding arrears of contributions in accordance with the provisions of Resolving Clause 4 above, taking full account of the economic position of the States concerned including the possibility of accepting other currencies in accordance with the provisions of Article 6.6 of the Financial Regulations, to the extent that the Secretary General can use these currencies;
 6. the voting power in the Assembly and the Council be suspended for those Contracting States in arrears for an amount equal to or in excess of the total assessments for the three preceding financial years and of those Contracting States not in compliance with agreements entered into in accordance with Resolving Clause 4 b) above, such suspension to be revoked immediately upon the settlement of outstanding amounts due under agreements; and
 7. the voting power of a Contracting State suspended under Resolving Clause 6 may also be restored by action of the Assembly or the Council provided:
 - a) it has already concluded with the Council an agreement that provides for the settlement of its outstanding obligations and for the payment of current contributions and has complied with the terms of that agreement; or
 - b) the Assembly is satisfied that the State's willingness to reach an equitable settlement of its financial obligations to the Organization has been demonstrated;
 8. any State whose voting power has been suspended by the Assembly under Article 62 of the Convention may have it restored by the Council under the conditions stipulated in Resolving Clause 7 a) above, provided that a willingness on its part to reach an equitable settlement of its financial obligations to the Organization has been demonstrated;
 9. the following additional measures be applied to those Contracting States whose voting rights have been suspended under Article 62 of the Convention:
 - a) lose eligibility to host meetings, conferences, workshops and seminars which are funded, in whole or in part, by the Regular Programme;
 - b) receive only the same free documentation as that provided to non-Contracting States, including those available in electronic media, and any other documents that are essential for safety, regularity or efficiency of international air navigation;
 - c) Nationals or Representatives lose eligibility for nomination to elected offices;

- d) for purposes of recruitment to posts in the Secretariat, if all other circumstances are equal, candidates from States in arrears would be considered as having the status of candidates from a State that has already achieved the desired level of representation (under equal geographical representation principles), even if it has not achieved that level; and
- e) lose the right to participate in the ICAO Familiarization course.

10. only those States that have no outstanding annual assessed contributions except for the current year's assessment will be eligible for election to the Council, Committees, and bodies;

11. this Resolution supersedes Assembly Resolutions A21-10 and A31-26.

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APPENDIX F

DRAFT RESOLUTION FOR ADOPTION BY THE
35TH SESSION OF THE ASSEMBLY
(To supersede A33-27)

Resolution 41.2/1

Incentives for the settlement of long-outstanding arrears

The Assembly,

Recalling the concern expressed by previous Assemblies at the increase in the contributions in arrears;

Reiterating the necessity of all Contracting States to pay their contributions on the date on which they fall due;

Noting that a number of States have had their voting power suspended in the Assembly and the Council in accordance with Assembly Resolution [];

Reaffirming the extreme importance of participation by all States in the activities of the Organization;

Noting that the cash surplus had traditionally been distributed to those Contracting States that have paid their contributions for the financial years for which the surpluses had been determined; and

Wishing to encourage States to liquidate their arrears and at the same time provide incentives for doing so;

Resolves that:

1. the distribution of cash surpluses be restricted to Contracting States that, at the date of the distribution of the surpluses, have paid their contributions for the financial years for which the surpluses had been determined and that the entitlement to the surpluses be terminated for States which have outstanding contributions for the years concerned, except for those States with agreements and which have complied with the terms of their agreements;

2. Contracting States with arrears of three full years or more and which either have existing agreements or enter into agreements for settlement of long outstanding arrears, and which have complied with the terms of their agreements, shall have their share of cash surplus distributed even though they have not paid the assessments for the financial years for which the surpluses had been determined;

3. with effect from 1 January 2005, only that portion of a payment from a Contracting State that is in excess of the sum of the three preceding years' assessments and all instalments due under agreements entered into under Resolving Clause 4 of Assembly Resolution [] shall be retained in a separate account to finance expenditure on aviation security activities, and new and unforeseen projects related to aviation safety, and/or to the enhancement of the efficient delivery of ICAO programmes, such action to be under the control of the Council and reported to the next ordinary session of the Assembly;

4. the Council be requested to closely monitor the question of outstanding contributions, the effects of the incentive schemes on payment of arrears by States, and report to the next ordinary session of the Assembly on the results of their efforts including other measures to be considered; and

5. this Resolution supersedes Assembly Resolution A33-27.