



ASSEMBLY — 38TH SESSION

**EXECUTIVE COMMITTEE
ADMINISTRATIVE COMMISSION**

Agenda Item 10: Contributions in arrears

Agenda Item 53: Contributions in arrears

FINANCIAL ASPECTS OF THE QUESTION OF CONTRIBUTIONS IN ARREARS

(Presented by the Council of ICAO)

EXECUTIVE SUMMARY

This paper provides information on the status of contributions in arrears and of Member States that had their voting rights deemed suspended as at 18 September 2013. This working paper also deals with the impact of delays in receipt of contributions, measures in dealing with contributions in arrears and the incentive scheme for settlement of arrears.

The list of States that are in arrears is in Appendix A; States that have entered into agreements to settle their outstanding assessments over a period of years are listed in Appendix B; States that have their voting rights deemed suspended are in Appendix C; and the draft Resolution for adoption by the Assembly is in Appendix D.

Action: Pursuant to Assembly Resolution A37-32 the Assembly is invited to:

- a) note the progress made in the collection of long outstanding arrears; and
- b) adopt the draft Resolution in Appendix D.

<i>Strategic Objectives:</i>	This working paper relates Supporting Implementation Strategy – Budget and Financial Management.
<i>Financial implications:</i>	The delay in the receipt of contributions impacts the cash resources of the Organization and could impact programme delivery.
<i>References:</i>	A37-WP/62 Doc 9958, <i>Assembly Resolutions in Force (as of 8 October 2010)</i> Doc 7515, <i>The ICAO Financial Regulations</i> Doc 7300, <i>Convention on International Civil Aviation</i> , signed at Chicago on 7 December 1944 and amended by the ICAO Assembly

1. INTRODUCTION

1.1 Article 62 of the *Convention on International Civil Aviation* (Chicago, 1944) stipulates that the Assembly may suspend the voting rights in the Assembly and in the Council of any Member State that fails to discharge, within a reasonable period, its financial obligations to the Organization. Assembly Resolution A37-32 contains resolving clauses that, *inter alia*, require Member 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 Member States may enter into agreements 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 rights. Assembly Resolution A37-32 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 the Assembly.

1.2 Assembly Resolution A35-27 describes the incentives for the settlement of long outstanding arrears. In addition, Assembly Resolution A35-27, *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. This paper addresses these requirements.

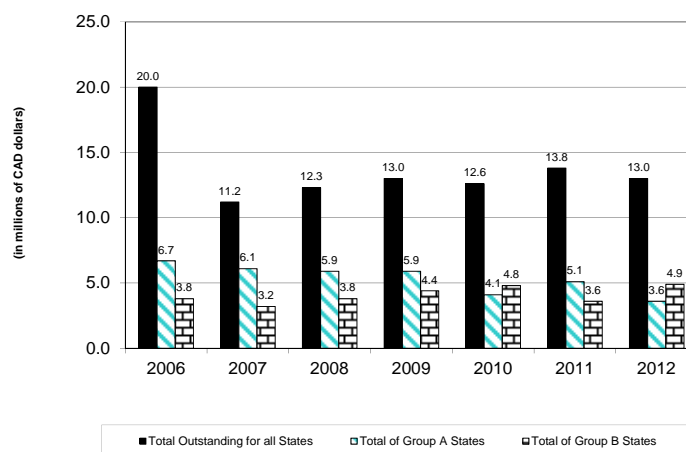
2. STATUS OF CONTRIBUTIONS IN ARREARS

2.1 Status of Contributions in Arrears since 2006

2.1.1 Figure 1 below shows the comparative position of total outstanding assessments as at 31 December for the years 2006 to 2012. The figure also shows separately the arrears for Group A and Group B States (please refer to the definition in paragraph 2.2).

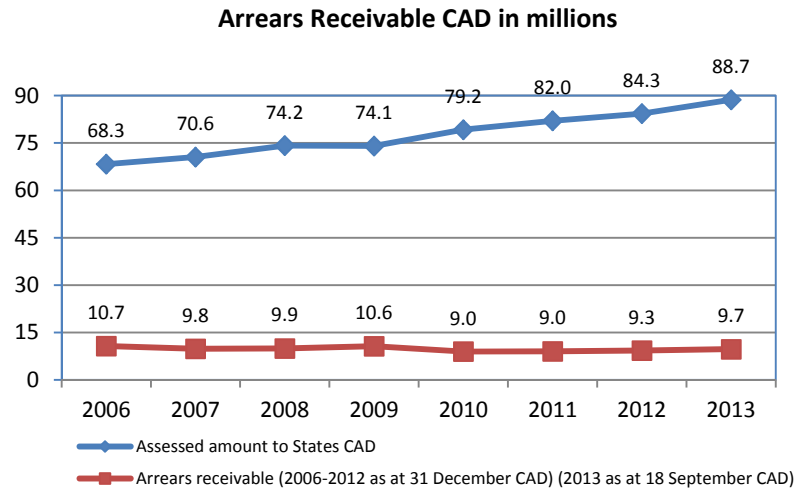
2.1.2 The outstanding assessments of Group B States increased from CAD 3.8 million as at 31 December 2006 to CAD 4.9 million as at 31 December 2012. The combined outstanding assessments in respect of Group A and Group B States improved over the years from CAD 10.5 million as at December 2006 to CAD 8.5 million as at 31 December 2012 even as the amount billed to States increased from CAD 68.3 million to CAD 84.3 million over the same period.

FIGURE 1
ASSESSMENTS RECEIVABLE FROM MEMBER STATES
AS AT 31 DECEMBER



2.1.3 Figure 2 below shows the positive effort in collections relative to the billing to States.

FIGURE 2



2.2 Status of Contributions in Arrears as at 18 September 2013

2.2.1 The total contributions in arrears as at 18 September 2013 was CAD 9.7 million of which CAD 7.6 million was in arrears in respect to 2011 and prior years and CAD 2.1 million related to 2012. Appendix A contains a schedule of unpaid contributions as at 18 September 2013 for all financial years presented in the following four groups:

Group A - States that have concluded agreements with the Council to liquidate their arrears over a period of years in accordance with Assembly Resolution A37-32, Resolving Clauses 3 and 4. (13 States);

Group B - 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. (9 States);

Group C - States with contributions in arrears for more than one year, but less than three full years. (13 States); and

Group D - States with contributions outstanding only for the year 2012 (12 States).

2.2.2 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 18 September 2013.

2.3 Impact of Delays in Receipt of Contributions

2.3.1 Delays in the payment of contributions by Member States against the current year assessments and arrears, which continue to be a matter of concern, have an adverse impact on the cash

position of the Organization and the possible delay in the implementation of the work programmes. Member States have an obligation to ensure that the Organization continues to operate effectively. In previous triennia, accumulated cash surplus covered shortfall in receipt of the current year's dues. However, the Organization is currently in a cash deficit situation and the accumulation of contributions in arrears created serious cash flow difficulties at certain times.

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 A37-32, 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). In addition, since 2004, the status of contributions has been published on the ICAO web site, with access restricted to Member States only, to further enhance the frequency and timeliness of the information available to Member States.

3.2 Suspension of Voting Rights under Assembly Resolution A37-32

3.2.1 The power to suspend voting rights is provided under Article 62 of the Convention. In accordance with Clause 6 of Assembly Resolution A37-32, the voting rights in the Council and Assembly are suspended for 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. Since the effective date of this Resolution from 1 January 2011, Clause 6 has been applied automatically and consistently by the Secretariat through a close monitoring of unpaid assessments. In accordance with Resolving Clause 7 of the proposed Assembly Resolution to be adopted by the 38th Session of the Assembly, the voting rights in the Council will be suspended for the Council Member States that have annual assessed contributions in arrears for longer than 18 months.

3.2.2 Appendix C presents the arrears of the 12 Member States that fall within Article 62 of the Convention, relating to the suspension of voting rights, as at 18 September 2013.

3.2.3 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 rights. For States with agreements, the minimum amount needed to reinstate voting rights comprises the assessments and instalments due in accordance with their agreement.

3.2.4 Resolving Clause 6 of Assembly Resolution A37-32 provides that suspension of voting rights 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. It should be noted that with effect from 1 January 2005, the voting rights of a State with an agreement is suspended if it is not in compliance with the terms of its agreement, irrespective of the amount of arrears outstanding. Since 1 January 2005, the treatment of Group A and Group B States as concerns reinstatement of voting rights differs: 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. Resolving Clause 7 of the proposed

Assembly Resolution to be adopted by the 38th Session of the Assembly, provides that suspension of voting rights in the Council will be immediately revoked upon payment in full of contributions that are in arrears for 18 months.

3.2.5 The additional measures needed to encourage Member States to pay their contributions when due were approved in previous triennia in Clause 9 of Assembly Resolution A37-32, for application to the Member States whose voting rights have been suspended under Article 62 of the Convention with effect from 1 January 2005. These measures continue to be applied by the Secretary General and monitored by the Council.

3.2.6 The Council also recommended 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.

3.3 **Special Arrangements for payment of arrears**

3.3.1 Resolving Clause 4 of Assembly Resolution A37-32 sets out the pre-conditions for entering into an agreement for repayment of arrears. No new State has negotiated an agreement during this triennium.

3.3.2 In order to discourage the practice by some States of only making a token payment during the Assembly to enter into agreement and restore their voting rights, Clause 4 a) of Assembly Resolution A37-32 was amended to ensure that the deposit paid is commensurate with the outstanding arrears.

3.4 **Incentive Scheme for the Settlement of Long-outstanding Arrears**

3.4.1 The 32nd Session of the Assembly approved Assembly Resolution A32-27, creating the Incentive Scheme for the Settlement of Long-outstanding Arrears and a related special account. Its continuation was confirmed by Assembly Resolution A35-27 in Resolving Clause 3. The amounts and movements in the special account are reported separately.

3.4.2 Noting that States' Assessment cannot be spent twice, the transfer of the arrears of contributions to a separate account in accordance with Assembly Resolution A35-27 is conditional upon there being an unspent cash surplus at the time of transfer. No transfer of funds to this separate account has been made in this triennium due to the negative cash surplus of the Organization.

3.4.3 Therefore, it is proposed to have a periodic review of the incentive scheme throughout the triennium and monitor the status to ensure proper action is taken in the event that the Organization is no longer in a negative cash surplus situation.

4. CONCLUSION

4.1 Considering the progress made in the collection of long outstanding arrears since the last Assembly Session, especially from Group A and Group B, it is noteworthy that we continue to pursue the States with arrears and encourage them to settle their dues in accordance with the ICAO Financial Regulations. During the previous Assembly Session, eighteen States had agreements to settle their arrears with ICAO. Currently there are thirteen States with agreements to settle their arrears. Three States have settled their agreements in full and two States have had their agreement expire without complying to the terms of the agreement and have moved to Group B. There remains one State with repayment terms of more than twenty years while all other agreements have repayment terms of twenty years or less.

4.2 It is proposed to continue to monitor the long outstanding arrears and to apply the measures adopted by the Assembly during the next triennium, and to report on the financial aspects of the question of contribution in arrears at the next ordinary session of the Assembly.

APPENDIX A
STATUS OF CONTRIBUTIONS IN ARREARS FOR THE FINANCIAL YEARS 1988-2012
AS AT 18 SEPTEMBER 2013
(in Canadian dollars)

Member States	2012	2011	2010	2009	2008	2007	2006-1988	Years	Total Arrears	Working Capital Fund	Total Amount Outstanding
Group A											
Cambodia							120 493	(2000-1996)	120 493		120 493
Cook Islands							45 176	(1998-1997)	45 176		45 176
Gambia	50 314	268					143 513	(2002-1995)	143 781		194 095
Georgia							208 661	(2005-1999)	208 661		208 661
Grenada	50 314	48 582	46 236	44 436	44 510		191 427	(2000-1994)	375 192		425 506
Guinea							118 842	(1997-1993)	118 842		118 842
Iraq				62 261		35 780	538 807	(2006-1995)	636 848		636 848
Kyrgyzstan							46 112	(2000-1999)	46 112		46 112
Liberia							162 865	(2003-1992)	162 865		162 865
Rwanda	50 314	48 582	46 236				4 208	(1997)	99 026		149 340
Sao Tome and Principe	50 314	48 582	46 236	44 436	44 510	35 780	348 308	(2006-1989)	567 852		618 166
Sierra Leone							177 914	(2003-1992)	177 914		177 914
Solomon Islands							47 153	(2003-2002)	47 153		47 153
Total Group A	201 256	146 014	138 708	151 133	89 020	71 560	2 153 480		2 749 916		2 951 172
Group B											
Antigua and Barbuda	50 314	48 582	46 236	44 436	44 510	35 780	498 854	(2006-1989)	718 398	962	769 674
Djibouti	50 314	48 582	46 236	44 436	44 510	35 780	515 672	(2006-1988)	735 217		785 531
Malawi	50 314	48 582	46 236	44 436	44 510	35 780	199 769	(2006-1996)	419 313		469 627
Marshall Islands	50 314	48 582	46 236	44 436	44 510	35 780	35 679	(2006-2005)	255 223		305 537
Nauru	50 314	48 582	46 236	44 436	44 510	35 780	358 620	(2006-1995)	578 164		628 478
Palau	50 314	48 582	46 236	44 436	44 510	35 780	94 812	(2006-2004)	314 356		364 670
Suriname	50 314	48 582	46 236	44 436	44 510				183 764		234 078
Syrian Arab Republic	50 314	48 582	46 236	44 436	4 478				143 732		194 046
Timor-Leste	50 314	48 582	46 236	44 436	44 510				183 764		234 078
Total Group B	452 826	437 238	416 125	399 924	360 558	214 680	1 703 406		3 531 931	962	3 985 719
Group C											
Andorra	50 314	16 655							16 655		66 969
Bosnia and Herzegovina	50 314	39 118							39 118		89 432
Burundi	50 314	48 582	895						49 477		99 791
Eritrea	50 314	14 940							14 940		65 254
Ethiopia	67 086	19 805							19 805		86 891
Iran, Islamic Republic of	167 714	112 305							112 305		280 019
Kiribati	50 314	48 582	37 124						85 706		136 020
Kuwait	192 871	100 567							100 567		293 438
Lesotho	50 314	14 015							14 015		64 329
Micronesia, Federated States of	50 314	48 582	46 116						94 698		145 012
Saint Vincent and the Grenadines	50 314	48 582	33 265						81 847		132 161
Turkmenistan	50 314	48 582	11 914						60 496		110 810
Zimbabwe	50 314	48 582	18 330						66 912		117 226
Total Group C	930 811	608 897	147 644	-	-	-	-		756 540	-	1 687 351
Group D											
Bahrain	101 613										101 613
Barbados	4 146										4 146
Brunei Darussalam	50 314										50 314
Greece	8 654										8 654
Lao People's Democratic Republic	15 563										15 563
Maldives	28 858										28 858
Pakistan	18 736										18 736
Papua New Guinea	19 076										19 076
Qatar	223 428										223 428
Tajikistan	42 983										42 983
Tunisia	7 196										7 196
Zambia	15 757										15 757
Total Group D	536 324	-	-	-	-	-	-		-	-	536 324
The former Socialist Federal Republic of Yugoslavia*							501 175	(1992-1990)	501 175		501 175
Grand Total	2 121 217	1 192 149	702 478	551 057	449 578	286 240	4 358 061		7 539 562	962	9 661 741

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

** Details may not add to totals due to rounding.

APPENDIX B

CONTRIBUTIONS AND INSTALMENTS PAYABLE FOR PRIOR YEARS
UNDER AGREEMENTS FOR SETTLEMENT OF ARREARS
AS AT 18 SEPTEMBER 2013

(in Canadian dollars)

Contracting States	Year of Agreement	Due in 2012		Due in 2011		Due in 2010		Total Currently Overdue	Total Prior Years Overdue	Due in 2013 and Future Years	Total Due
		Assessment	Instalment	Assessment	Instalment	Assessment	Instalment				
CAMBODIA	2001									120 493	120 493
COOK ISLANDS	1999									45 176	45 176
GAMBIA	2003	50 314	20 502	268				71 084		123 011	194 095
GEORGIA	2006									208 661	208 661
GRENADA	2001	50 314	21 292	48 582	21 292	46 236	21 292	209 008	131 333	85 165	425 506
GUINEA	2006									118 842	118 842
IRAQ	2010									636 848	636 848
KYRGYZSTAN	2001									46 112	46 112
LIBERIA	2006									162 865	162 865
RWANDA	1998	50 314		48 582		46 236		145 132		4 208	149 340
SAO TOME AND PRINCIP	2000	50 314	16 015	48 582	16 015	46 236	16 015	193 177	312 892	112 097	618 166
SIERRA LEONE	2006									177 914	177 914
SOLOMON ISLANDS	2004									47 153	47 153
TOTAL		201 256	57 809	146 014	37 307	138 708	37 307	618 401	444 225	1 888 546	2 951 172

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 RIGHTS DEEMED SUSPENDED AS AT 18 SEPTEMBER 2013
(in Canadian dollars and United States dollars)

Group	State	CAD				Total CAD	USD				Total USD	CAD Requested*	USD Requested*
		2012	2011	2010	Over 3 Yrs		2012	2011	2010	Over 3 Yrs			
A	Grenada	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	195 135	240 392	187 974	153 577
	Rwanda	32 779	31 927	34 322		99 028	17 124	16 655	11 478	4 290	49 547	99 028	45 257
	Sao Tome and Principe	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	391 527	436 784	187 974	322 515
B	Antigua and Barbuda	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	545 969	591 226	88 947	545 970
	Djibouti	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	562 133	607 390	88 947	562 134
	Malawi	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	240 111	285 368	88 947	240 112
	Marshall Islands	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	72 843	118 100	88 947	72 844
	Nauru	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	402 039	447 296	88 947	402 040
	Palau	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478	133 121	178 378	88 947	133 122
	Suriname	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478		45 257	88 947	
	Syrian Arab Republic	32 779	31 927	34 322	48 914	147 942	17 124	16 655	11 478		45 257	48 915	
	Timor-Leste	32 779	31 927	34 322	88 946	187 974	17 124	16 655	11 478		45 257	88 947	
Total Outstanding		393 348	383 124	411 864	938 374	2 126 710	205 488	199 860	137 736	2 547 168	3 090 252	1 235 467	2 477 571

Group A: States that have concluded agreements with the Council to liquidate their arrears over a number of years, but are not in compliance with the terms of the agreement

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.

*Minimum payment necessary in both currencies to restore voting rights.

APPENDIX D

**DRAFT ASSEMBLY RESOLUTION
FOR ADOPTION BY THE 38TH SESSION OF THE ASSEMBLY**
(to supersede A37-32)

Resolution A10/1: Discharge by Member 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 Member 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 Member States shall be considered due and payable in full as of the first day of the financial year to which they relate;

Noting that the delays in payment of current year contributions have constituted an obstacle to the implementation of the work programme and created serious cash flow difficulties;

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

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

Resolves that:

1. all Member 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 Member 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 Member 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 Member States that 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 5 per cent of the arrears; and
- 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 Member States which are classified by the United Nations as Least Developed Countries;

5. the Council should further intensify the current policy of inviting Member 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 Member States in arrears for an amount equal to or in excess of the total assessments for the three preceding financial years and of those Member 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 in the Council be suspended for those Council Member States that have annual assessed contributions or part thereof, in arrears for longer than 18 months, such suspension to be revoked immediately upon the settlement of outstanding amounts due; and

8. the voting power of a Member 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;

9. 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 8 a) above, provided that a willingness on its part to reach an equitable settlement of its financial obligations to the Organization has been demonstrated;

10. the following additional measures be applied to those Member 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-Member 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;

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

12. the Secretary General be directed to report to Council any voting rights deemed to be suspended and suspension revoked under Clauses 6 and 7, and to apply measures stipulated in Clause 10 accordingly; and

13. this Resolution supersedes Assembly Resolution ~~A36-33~~ A37-32.

— END —