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Agenda item 4(c)

C/ES.29/4(c)
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RESOURCE MANAGEMENT

(c) Consideration of requests by Members, if any, for waiver of the application of Article 61 of the IMO Convention Note by the Secretary-General

SUMMARY

<i>Executive summary:</i>	This document provides background information on the application of Article 61 of the IMO Convention and requests by Members, if any, for waiver of its application
<i>Strategic direction:</i>	4
<i>High-level action:</i>	4.0.1
<i>Output:</i>	4.0.1.4
<i>Action to be taken:</i>	Paragraph 11
<i>Related documents:</i>	C 118/4(d), C/ES.28/4(c) and its addenda

Introduction

1 The Council, at its ninety-third session, having noted the Secretary-General's report on the application of rule 56*bis* of the IMO Convention in the context of the Council's review of the Organization's Financial Framework in accordance with resolution A.967(24), reiterated its position that rule 56*bis* should be retained in its present form. It also recalled that, under Article 61, subject to the grant of a waiver, a Member with dues outstanding for more than one year loses the right to vote not only in subsequent sessions of the Assembly and the Council but also in the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, the Technical Cooperation Committee and the Facilitation Committee. Since this situation can arise between sessions of the Assembly, the Council decided that, in the interest of sustaining the Organization's financial health, the application of Article 61 should be strictly enforced between Assembly years.

2 With this in mind, this document provides background information on Article 61 of the IMO Convention and, also, a summary of the present arrears position for the Organization's Members to enable the Council to report to the Assembly on the matter of Article 61 waivers, as appropriate. The Council will, in due course, be advised of any requests for waivers that may be received.

Background

3 The Assembly, at its seventeenth session, agreed to a package of measures designed to improve the financial position of the Organization and to promote the timely payment of the contributions of Member States. One component of the package was the adoption of rules 56*bis* and 56*ter* to the Rules of Procedure of the Assembly, which define the detailed application of Article 61 of the IMO Convention concerning the right to vote. Article 61 states that:

"Any Member which fails to discharge its financial obligation to the Organization within one year from the date on which it is due shall have no vote in the Assembly, the Council, the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, the Technical Co-operation Committee or the Facilitation Committee unless the Assembly, at its discretion, waives this provision."

4 The Assembly, at its nineteenth session, strengthened the provisions of rule 56*bis* and decided that, for the waiver by the Assembly of Article 61 of the IMO Convention, the following revised procedure shall be applied (see rule 56*bis* of the Rules of Procedure of the Assembly):

- "(i) The Secretary-General shall send at least one written notification to any Member which has failed to discharge its financial obligations to the Organization under Article 61 of the Convention. The notification shall call attention to the terms of Article 61 regarding the loss of vote in the Assembly, the Council, the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, the Technical Cooperation Committee and the Facilitation Committee.
- (ii) Any Member wishing to request a waiver of the provision of Article 61 in respect of itself shall submit a written application to the Secretary-General at least one month before the Assembly giving reasons therefor, with a payment schedule indicating the timescale over which arrears will be paid.
- (iii) The Secretary-General shall submit to the Council a list of Members which have failed to discharge their financial obligations, together with any requests for waiver of the provision of Article 61 which have been received from any such Members.
- (iv) The Council shall submit to the Assembly a report on the matter, together with its recommendations on the submission by any Member of a request for waiver of the provision of Article 61 of the IMO Convention.
- (v) The Assembly shall consider the report of the Council at the commencement of each session. Taking into account the recommendations of the Council, and assessing each application on its individual merits, the Assembly shall take decisions on the waiver of the provision of Article 61 of the Convention in respect of any or all of the Members from which requests for waiver have been received, together with any conditions attached to such a waiver.
- (vi) A decision to waive the provision of Article 61 may only be taken in respect of a Member which has submitted a request for waiver in accordance with subparagraph (ii) above.

- (vii) A decision to waive the provision of Article 61 will normally be taken only in respect of a Member which has discharged in full the requirements, at the date of submitting the request for waiver, of the financial undertaking given under the terms of any previous request for waiver.
- (viii) In exercising its discretion, the Assembly will not normally consider an application for waiver from a Member whose payments are three years or more in arrears."

Member States falling under the provisions of Article 61 as at 31 August 2017

5 In accordance with the provisions of rule 56*bis*, the Acting Director, Administrative Division, wrote in February and August of this year to 34 Member States, excluding the Socialist Federal Republic of Yugoslavia, which fell under the provision of Article 61 as at 1 January 2017, drawing their attention to the requirements of rule 56*bis*.

6 The Council, at its 118th session, was informed that a total of 34 Member States, excluding the former Socialist Federal Republic of Yugoslavia, fell under the provision of Article 61 as at 1 January 2017. Between 1 January 2017 and 31 August 2017, the Plurinational State of Bolivia, the Republic of the Congo, the Republic of Djibouti, the Arab Republic of Egypt, the Islamic Republic of Iran, the Lebanese Republic, Libya, the Republic of Mozambique, the Republic of Namibia, the Republic of Senegal, the Republic of the Sudan, the former Yugoslav Republic of Macedonia, the Democratic Republic of Timor-Leste, Turkmenistan, the Eastern Republic of Uruguay, the Republic of Yemen and the Republic of Zimbabwe cleared their arrears in full up to 2016. Consequently, these 17 Member States no longer fall under the provisions of Article 61.

7 As the Council is required to report to the Assembly on its recommendation on the submission by any Member requesting waiver of the provision of Article 61, a list of 17 Member States which fall within the provision of Article 61, as at 31 August 2017, is provided in annex 1 to assist the Council in its consideration of the issue.

Request for waiver of the provision of Article 61

8 In accordance with Rule 56*bis*(ii) of the Assembly's rules of procedure, "any Member wishing to request a waiver of the provision of Article 61 in respect of itself shall submit a written application to the Secretary-General at least one month before the Assembly giving reasons therefor, with a payment schedule indicating the timescale over which arrears will be paid."

9 A communication has been received from the Union of the Comoros advising the Secretariat of its wish to settle its outstanding contributions by payment plan and accordingly seeking a waiver of the provisions of Article 61. The letter is attached in annex 2 to this document.

10 The Council will, in due course, be advised of the details of requests for waiver which may be received after this document has been issued, in order that it can report on the matter and make its recommendations to the Assembly in accordance with rule 56*bis* subparagraph (iv).

Action requested of the Council

- 11 The Council is invited:
- .1 to take note of the information provided in this document and any addendum thereto;
 - .2 consider the request for waiver of the provision of Article 61 of the IMO Convention, as submitted by the Union of the Comoros (see annex 2) and recommend to the Assembly as it deems appropriate; and
 - .3 report to the Assembly in accordance with rule 56*bis*, subparagraph (iv) of the Rules of Procedure of the Assembly.

REPORT ON MEMBER STATES' CONTRIBUTION

MEMBER STATES FALLING UNDER THE PROVISIONS OF ARTICLE 61 AS AT 31 AUGUST 2017										
	ASSESSMENT			RECEIPTS			BALANCE DUE AS AT 31/08/2017			TOTAL
	2017	1988-16	EARLIER*	2017	1988-16	EARLIER	2017	1988-16	EARLIER*	DUE
	£	£	\$	£	£	\$	£	£	\$	£
i Member States under Article 61 which were granted a waiver at the 29th session of the Assembly										
SOMALIA	5,133.00	105,732.56	0.00	0.00	0.00	0.00	5,133.00	105,732.56	0.00	110,865.56
1	5,133.00	105,732.56	0.00	0.00	0.00	0.00	5,133.00	105,732.56	0.00	110,865.56
ii Member States under Article 61 which were not granted a waiver at the 29th session of the Assembly										
CABO VERDE	5,133.00	10,896.68	0.00	0.00	0.00	0.00	5,133.00	10,896.68	0.00	16,029.68
COMOROS	15,086.00	80,593.71	0.00	0.00	17,351.51	0.00	15,086.00	63,242.20	0.00	78,328.20
DOMINICA	12,663.00	80,048.38	0.00	0.00	0.00	0.00	12,663.00	80,048.38	0.00	92,711.38
GUINEA-BISSAU*	5,133.00	109,813.00	13,721.00	0.00	0.00	0.00	5,133.00	109,813.00	13,721.00	125,511.17
MALAWI	5,133.00	44,111.00	0.00	0.00	0.00	0.00	5,133.00	44,111.00	0.00	49,244.00
SAO TOME AND PRINCIPE	5,133.00	120,181.00	0.00	0.00	0.00	0.00	5,133.00	120,181.00	0.00	125,314.00
SYRIAN ARAB REPUBLIC	5,133.00	16,108.25	0.00	0.00	0.00	0.00	5,133.00	16,108.25	0.00	21,241.25
YUGOSLAVIA**		355,063.51	0.00	0.00	0.00	0.00	0.00	355,063.51	0.00	355,063.51
7	53,414.00	816,815.53	13,721.00	0.00	17,351.51	0.00	53,414.00	799,464.02	13,721.00	863,443.19
iii Member States under Article 61 since the 29th session of the Assembly										
CAMBODIA	12,972.00	189.77	0.00	0.00	0.00	0.00	12,972.00	189.77	0.00	13,161.77
CAMEROON	8,589.00	14,874.28	0.00	0.00	0.00	0.00	8,589.00	14,874.28	0.00	23,463.28
DEMOCRATIC REPUBLIC OF THE CONGO	7,466.00	5,133.00	0.00	0.00	0.00	0.00	7,466.00	5,133.00	0.00	12,599.00
DOMINICAN REPUBLIC	5,133.00	5,105.33	0.00	0.00	0.00	0.00	5,133.00	5,105.33	0.00	10,238.33
ERITREA	5,133.00	27.94	0.00	0.00	0.00	0.00	5,133.00	27.94	0.00	5,160.94
NEPAL	5,133.00	5,156.38	0.00	0.00	5,085.63	0.00	5,133.00	70.75	0.00	5,203.75
SAMOA	5,133.00	9.54	0.00	0.00	0.00	0.00	5,133.00	9.54	0.00	5,142.54
SOLOMON ISLANDS	5,133.00	5,123.29	0.00	0.00	0.00	0.00	5,133.00	5,123.29	0.00	10,256.29
ZAMBIA	5,133.00	11,156.00	0.00	0.00	4,860.68	0.00	5,133.00	6,295.32	0.00	11,428.32
9	59,825.00	46,775.53	0.00	0.00	9,946.31	0.00	59,825.00	36,829.22	0.00	96,654.22
TOTAL	118,372.00	969,323.62	13,721.00	0.00	27,297.82	0.00	118,372.00	942,025.80	13,721.00	1,070,962.97
17										
Note:										
* Arrears due in US dollars have been converted to sterling at the August 2017 UN rate of exchange of \$1.00 = £0.77										
**The former SFRY pre-dissolution arrears due from the five successor States is not included in the above count pending a decision by the United Nations General Assembly.										

UNION OF THE COMOROS

Unity–Solidarity–Development

**Vice-Presidency responsible for the Ministry of Transport,
Post and Telecommunications,
and Information and Communication Technologies**

The Vice-President

No.17/46/VP-MTPPTIC

Moroni, 8 August 2017

Secretary-General of the International
Maritime Organization (IMO)
London

Re. Financial obligations of the Union of the Comoros

Your Excellency,

I have the honour to inform you that our Administration hereby acknowledges that the current balance held by the International Maritime Organization is seventy-eight thousand three hundred and twenty-eight pounds sterling (78,328.20).

Our Administration has recently undergone a fundamental reorganization as well as disputes, and service costs exceeding our limited resources and our Administration's budget have been committed. For this reason, please inform the Assembly that our Administration will settle the balance due in instalments during the course of the next three (3) years (2018, 2019 and 2020).

Please consider this request as a formal request to the Assembly to delay application of the provisions of Article 61, part XIII of the IMO Convention.

Please accept, Sir, the assurances of my highest consideration.

[stamped and signed]

ABDALLAH SAID SAROUMA
