



COUNCIL
23rd extraordinary session
Agenda item 3

C/ES.23/3(c)/Add.1
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RESOURCE MANAGEMENT

(c) Consideration of requests by Members, if any, for waiver of the application of Article 56 of the IMO Convention

Note by the Secretary-General

SUMMARY

Executive summary: This document updates the information to the Council on the application of Article 56 of the IMO Convention and requests for waiver

Action to be taken: Paragraph 6

Related document: C/ES.23/3(c)

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 Rules of Procedure of the Assembly in the context of the Council's review of the Organization's Financial Framework in accordance with resolution A.942(23), reiterated its position that Rule 56*bis* should be retained in its present form. At the same Council session, it was recalled that, under Article 56 of the IMO Convention, 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 Co-operation Committee and the Facilitation Committee. Since this situation can arise between sessions of the Assembly (see document C 93/9(c)/Add.1), the Council decided that, in the interest of sustaining the Organization's financial health, the application of Article 56 should be strictly enforced between Assembly years.

2 Document C/ES.23/3(c) provided background to Article 56 and the arrears position of the Organization's Members. This document provides an update on those Members presently under Article 56 and information on those requests for waiver which have been received to date. Further updates will be provided as and when additional requests for waiver are received.

Updated position on requests for waiver

3 As set out in document C/ES.23/3(c), in accordance with the provisions of Rule 56*bis*, the Secretary-General has written to those Member States, which fall within the provision of Article 56, drawing attention to the requirements of Rule 56*bis* and, in particular, the need for them to submit a written application for waiver at least one month before the Assembly. The position of each Member State as at 30 September 2005, by reference to their status under the terms of Article 56, is shown at annex 1 to document C/ES.23(b)/Add.3. 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 56, a list of Member States which fall within the provision of Article 56 as at 30 September 2005, is attached at annex 1 to this document to assist the Council in its consideration of the issue.

4 To date, the Secretary-General has received communications from Bolivia, Haiti and Peru requesting a waiver of the provisions of Article 56 of the IMO Convention. These communications are attached at annexes 2, 3 and 4 to this document. A history of the payment record in respect of these Member States, since the 23rd session of the Assembly in November 2003, is summarized below:

- .1 Bolivia's outstanding balance, at the 23rd session of the Assembly, was £15,914.59. This consisted of £7,987.59 and £7,927.00 which were due for 2002 and 2003 respectively. Bolivia was granted a waiver of the application of Article 56 by the Assembly. Subsequently, £12,960 and £15,116 were assessed for 2004 and 2005 respectively. On 11 May 2005, a payment of £16,492.36 was received, fully clearing the arrears for 2002 and 2003, and partly clearing the arrears for 2004. No further payments have been received to date. The current outstanding balance is £27,498.23, comprising £12,382.23 and £15,116.00 which are due for 2004 and 2005 respectively.
- .2 Haiti's outstanding balance, at the 23rd session of the Assembly, was \$10,299.11 and £47,117.98, representing amounts due for the years 1978-1983 (when the IMO assessment was dollar-denominated) and 1988-2003 respectively. Haiti did not apply for a waiver of the application of Article 56 at that session. Subsequently, £3,619 and £3,795 were assessed for 2004 and 2005 respectively. On 23 December 2004, a payment of 21,829.00 Euros was received, fully clearing the arrears up to 1991, and partly clearing the arrears for 1992. On 29 April 2005, a further payment of £3,795.00 was received, fully clearing the arrears for 1992 and 1993, and partly clearing the arrears for 1994. No further payments have been made to date. The current outstanding balance is £40,939.38, comprising £33,525.38, £3,619.00 and £3,795.00 in respect of the years 1994-2003, 2004 and 2005 respectively; and
- .3 Peru's small outstanding balance, at the 23rd session of the Assembly, was £24.00 which was due for 2003. Subsequently, £15,683.00 and £15,958.00 were assessed for 2004 and 2005 respectively. The total thus due is £31,665.00. No payment has been received from Peru since the last session of Assembly.

5 The Council will be advised of any further requests for waiver which may be received, in order that it can report on the matter and make its recommendations to the Assembly in accordance with Rule 56*bis* subparagraph (iv) of its Rules of Procedure.

Action requested of the Council

6 The Council is invited:

- .1 to take note of the information contained in this document;
- .2 to note that, in accordance with Rule 56*bis* subparagraph (iv) of the Assembly's Rules of Procedure, the Council is required to report to the Assembly on the matter with its recommendations on the submission from any Member requesting waiver of the provision of Article 56 of the IMO Convention; and
- .3 to decide accordingly on the requests for waiver from Bolivia, Haiti and Peru outlined in paragraph 4.

MEMBER STATES FALLING WITHIN THE PROVISIONS OF ARTICLE 56 OF THE IMO CONVENTION AS AT 30 SEPTEMBER 2005
ASSESSMENTS AND RECEIPTS AS AT 30 SEPTEMBER 2005

BALANCE DUE AS AT 1/01/05			RECEIPTS			BALANCE DUE AS AT 30/09/05			TOTAL DUE £
2005 £	1988-04 £	EARLIER \$	2005 £	1988-04 £	EARLIER \$	2005 £	1988-04 £	EARLIER \$	

i Member States under Article 56 and which were granted a waiver at the 23rd session of the Assembly

DEMOCRATIC REPUBLIC OF THE CONGO	3,795	28,631	0	0	8,000	0	3,795	20,631	0	24,426
URUGUAY	5,271	31,186	0	0	0	0	5,271	31,186	0	36,457
	£9,066	£59,817	\$0	£0	£8,000	\$0	£9,066	£51,817	\$0	£60,883

ii Member States under Article 56 which were not granted a waiver at the 23rd session of the Assembly

BENIN	3,795	7,524	0	0	0	0	3,795	7,524	0	11,319
DJIBOUTI	3,795	43,922	0	0	0	0	3,795	43,922	0	47,717
EQUATORIAL GUINEA	3,795	54,560	30,250	0	0	0	3,795	54,560	30,250	75,295
GUINEA-BISSAU	3,795	53,860	13,721	0	0	0	3,795	53,860	13,721	65,339
HAITI	3,795	40,939	0	0	3,795	0	3,795	37,144	0	40,939
IRAQ	7,931	480,145	94,824	0	0	0	7,931	480,145	94,824	541,177
LIBYAN ARAB JAMAHIRIYA	13,879	78,575	0	0	0	0	13,879	78,575	0	92,454
MALAWI	3,795	13,716	0	0	0	0	3,795	13,716	0	17,511
MOLDOVA	3,795	10,575	0	0	0	0	3,795	10,575	0	14,370
PARAGUAY	3,795	7,591	0	0	0	0	3,795	7,591	0	11,386
SAO TOME & PRINCIPE	5,301	62,722	0	0	0	0	5,301	62,722	0	68,023
SOLOMON ISLANDS	3,795	23,990	0	0	0	0	3,795	23,990	0	27,785
SOMALIA	3,795	49,780	0	0	0	0	3,795	49,780	0	53,575
TOGO	3,795	25,647	0	0	0	0	3,795	25,647	0	29,442
	£68,856	£953,546	\$138,795	£0	£3,795	\$0	£68,856	£949,751	\$138,795	£1,096,332

iii Member States under Article 56 since the 23rd session of the Assembly

BOLIVIA	15,116	28,874	0	0	16,492	0	15,116	12,382	0	27,498
CAMBODIA	60,154	68,214	0	0	58,926	0	60,154	9,288	0	69,443
CAMEROON	8,573	7,123	0	0	0	0	8,573	7,123	0	15,696
CONGO	3,795	5,893	0	0	0	0	3,795	5,893	0	9,688
COTE D'IVOIRE	3,795	1,874	0	0	0	0	3,795	1,874	0	5,669
NICARAGUA	3,795	3,712	0	0	3,113	0	3,795	599	0	4,394
PERU	15,958	15,707	0	0	0	0	15,958	15,707	0	31,665
SEYCHELLES	4,965	23	0	0	0	0	4,965	23	0	4,988
The former YUGOSLAV REPUBLIC OF MACEDONIA	3,795	3,607	0	0	3,595	0	3,795	12	0	3,807
	£119,946	£135,027	\$0	£0	£82,126	\$0	£119,946	£52,901	\$0	£172,848
YUGOSLAVIA*	0	355,306	0	0	0	0	0	355,306	0	355,306
	£119,946	£490,333	\$0	£0	£82,126	\$0	£119,946	£408,207	\$0	£528,154

*The former SFRY pre-dissolution arrears due from the five successor states pending a decision by the United Nations General Assembly.

Arrears due in US Dollars have been converted to sterling at the September 2005 UN rate of exchange of \$1.00 = £0.56

ANNEX 2

LETTER FROM THE GOVERNMENT OF BOLIVIA

Translation

Letter from the Ambassador of Bolivia to the United Kingdom, dated 10 October 2005, addressed to the Secretary-General

Ref. No. EBRG-232/05

Dear Sir,

Bolivia is currently engaged in preparations for a general election, to be held on 4 December.

This situation has affected Bolivia's hierarchical and administrative system at every level, including the maritime authority, which is concerned with IMO affairs.

Nevertheless, the maritime authority of Bolivia has been able to take the necessary steps to pay 40 per cent of Bolivia's outstanding contributions to IMO.

Concerning the remainder, the maritime authority has informed this embassy that the amount owed will be included in the Annual Plan of Operations for 2006, with a view to payment being made during the first six months of 2006.

On behalf of the Government of Bolivia therefore, I should like to request that my country be granted waiver under Article 56 of the IMO Convention enabling it to play a full part in the proceedings of the twenty-fourth session of the Assembly.

I take this opportunity to renew the assurance of my highest esteem.

(Signed) Gonzalo Montenegro
Ambassador

(Seal of the embassy)

ANNEX 3

LETTER FROM THE GOVERNMENT OF HAITI



*Mission Permanente de la République d'Haïti
auprès des Nations Unies*

MPH/OMI 05-011

The Permanent Mission of Haïti to the United Nations presents its compliments to the International Maritime Organization and, in reference to its letter dated October 31st 2005, has the honor to inform that the undated letter MPH/LM/05-029 and the note AMB/B/2005/0338/MDR dated 19 April 2005 should be circulated to IMO's Council and the Assembly for consideration, on November 17th 2005, of Haïti's request for waiver of article 56.

Further more, this Mission informs that the note MPH/TIDM 05-010, dated June 15, 2005, relates to the International Tribunal of the Law of the Sea, not the IMO and should be voided in the present context.

The Permanent Mission of Haïti to the United Nations is very thankful to the International Maritime Organization for its assistance in solving the matter and avails itself this opportunity to renew to the Organization the assurances of its highest consideration.

A handwritten signature in black ink, appearing to be 'he' followed by a flourish.

New York, October 31, 2005



**INTERNATIONAL MARITIME ORGANIZATION
4 ALBERT EMBANKMENT
LONDON SE1 7SR, ENGLAND**

Translation

Letter (undated) from the Permanent Mission of Haiti to the United Nations, addressed to the Director, Administration Division, IMO.

Ref. No. MPH/LM/NU 05-229

Dear Sir,

I have the honour to acknowledge receipt of your letter of 15 August 2005 concerning the application of article 56 of the IMO Convention to the Republic of Haiti in respect of its arrears of contributions to IMO.

I should like to point out that on 1 August 2004, Haiti sent to the International Maritime Organization a cheque in the amount of 21,829 euros representing its arrears of contributions for the period from 1978 to 1992. Subsequently, we received a letter dated 12 December 2004 stating that Haiti's contribution for 2005 was £3,795; this sum, converted into United States dollars, was then transmitted to your office by means of note No.MPH/TIDM 05-010 of 15 June 2005.

These two payments show that, despite its problems, Haiti is determined to fulfil its international commitments and to pay its contributions to the international organizations of which it is a member. Until the Government is able to provide you with a payment schedule, I should be greatly obliged if you would kindly permit Haiti to continue to enjoy its voting rights at IMO, a matter to which it attaches great importance.

With my gratitude in advance for your co-operation, I take this opportunity to renew the assurances of my highest esteem.

(Signed) Léo Mérorès
Ambassador

Translation

Note from the Embassy of Haiti in Belgium, dated 19 April 2005, addressed to the Financial Services Section of IMO

Ref. No. AMB/B/2005/0338/MDR

The Embassy of Haiti in the Kingdom of Belgium presents its compliments to the International Maritime Organization and has the honour to transmit the enclosed cheque No.8594704417 (Unibank), dated 15 March 2005, in the amount of THREE THOUSAND SEVEN HUNDRED AND NINETY-FIVE POUNDS (£3,795), representing payment of contributions by the Republic of Haiti to the budget of the Organization.

The Embassy of Haiti in the Kingdom of Belgium takes this opportunity to renew to the International Maritime Organization the assurance of its highest esteem.

(Seal of the Embassy)

Enc. One Unibank cheque

ANNEX 4

LETTER FROM THE GOVERNMENT OF PERU

Translation

Letter from the Permanent Representative of Peru to IMO, dated 21 October 2005, addressed to the Secretary-General

Ref. No. 5-17-H/20

The Permanent Representative of Peru to the International Maritime Organization has the honour to inform the Secretary-General of IMO, with reference to the contributions owed by Peru to the Organization, that the amount now outstanding is £31,665 sterling.

In this regard, and in view of the importance that Peru attaches to the Organization, I enclose a schedule of payments for the amount owed; Peru accordingly wishes to invoke paragraph (ii), article 56*bis* of the IMO Convention.

I take this opportunity to renew to the Secretary-General the assurance of my highest esteem.

(Seal of the Embassy of Peru in the United Kingdom)

Enc.

PAYMENT SCHEDULE

15 September 2006

The following payments to be made:

- Outstanding balance from 2003 £ 24
- Contribution for 2004 £ 15,683
- Contribution for 2005 £ 15,958

15 September 2007

The following payments to be made:

- Contribution for 2006;
- Contribution for 2007.

London, 21 October 2005
