

Explanatory note regarding Congress 2022 Doc 24.7 Rev 1

The original Congress 2022 Doc 24.7 has been replaced with Congress 2022 Doc 24.7 Rev 1.

Similarly, the accompanying proposal (05) has been replaced with proposal 05 Rev 1.

The two documents (Congress 2022 Doc 24.7 Rev 1 and proposal 05 Rev 1) are immediately below this explanatory note. However, the changes that have been made to the original documents are not marked in the “Rev” versions. This is partly to make the documents easier to follow.

The effect of the changes in the revised documentation is to make it clear that the incoming EC has the ability to take current and new factors into consideration for the proposal it submits to the 2026 Congress for releasing Nauru from its historical debt.

Should a fully edited copy of the original Congress 2022 Doc 24.7 be required, please contact the Bureau with your request (kwanjai@appu-bureau.org).

4 August 2022

REQUEST FROM NAURU FOR THE WAIVING OF ARREARS IN CONTRIBUTIONS TO THE APPU
(Document prepared by the Bureau in consultation with the Chair of the 2017-2022 EC Finance Committee)

<p>1. Subject Informing Congress on:</p> <ul style="list-style-type: none"> - the inter-related nature of three subjects that deal with financial contributions, one of which is the current document (Congress 2022 Doc 24.7 Rev 1) - the request from Nauru for unpaid contributions totalling US\$10,100 to be waived - the absence of provisions authorising the waiver of debt in the APPU - changes in the UPU and measures introduced to enable the recovery of arrears, to reduce the payment required to provide relief and to set aside unpaid balances, thus providing scope for similar consideration by the APPU - the main features of the UPU debt recovery / release system - the commitment made by the APPU to consider steps to releasing Nauru from its historical debt - technical aspects of applying the UPU decisions to the Nauru situation - an outline of a decisive position that Congress might offer to Nauru 	<p>References/paragraphs</p> <p>§ 1</p> <p>§ 2</p> <p>§ 3.3</p> <p>§§ 4.1 – 4.2</p> <p>§§ 4.3, Appendix 1</p> <p>§ 6.2</p> <p>§§ 7 - 8</p> <p>§§ 9, Appendix 2</p>
<p>2. Decisions expected Congress is asked to:</p> <ul style="list-style-type: none"> - note the three inter-related financial subjects, one of which is the debt waiving request from Nauru - note the commitment made by the APPU to consider Nauru's appeal concerning its historical debt - approve the proposal being offered to Nauru to reduce the payment required to release it from its historical debt, subject to the various arrangements prescribed 	<p>§ 1</p> <p>§ 6.2</p> <p>§§ 9.2, Appendix 2</p>

1. Background note regarding three inter-related financial subjects

1.1 There are three subjects of a financial nature that are inter-related i.e.:

Congress 2022 Doc 24.5: Reduction in contribution unit for APPU members who qualify for the UPU 0.1-unit contribution class (this is referred to as “**Subject 1**”)

Congress 2022 Doc 24.6: Full review of APPU financial contributions system (this is referred to as “**Subject 2**”)

Congress 2022 Doc 24.7 Rev 1: Request from Nauru for the waiving of arrears in contributions to the APPU (this is referred to as “**Subject 3**”)

1.2 This background note is placed at the start of each of these three documents.

1.3 The inter-related nature of these three subjects is described as follows.

1.3.1 It is clear that there is a relationship between **Subject 1** (reduction of contribution units) and **Subject 2** (overall review of APPU financial contributions system). The relationship might be described as:

- (i) an immediate, arbitrary reduction in contribution unit to be proposed to the 2022 Congress as an interim arrangement; and
- (ii) a further, possible reduction in contribution unit when the proposed overall review of the APPU financial contributions system is completed.

1.3.2 There is no substantive relationship between **Subject 1** (reduction of contribution units) and **Subject 3** (Nauru's request for the waiving of arrears in contributions)

1.3.3 There could be a relationship between **Subject 2** (overall review of the APPU financial contributions system) and **Subject 3** (Nauru's request for the waiving of arrears in contributions). Comments in this regard are as follows.

- (i) The system for recovering debts in arrears introduced by the UPU in 2021 resulted in the 0.1 contribution unit being used as the multiplier for the earlier years used in the "reduced debt calculation" for which payment would be required. This is of significant benefit to the countries concerned; and
- (ii) If the APPU takes a similar approach to the UPU, then the final position reached on contribution classes (when an overall review of the system is completed), may have a significant bearing on the final debt relief payment calculations.

2. Introduction

2.1 In 2019 Nauru requested that historic debt owed for unpaid contributions to the APPU be waived. The amount of debt arising from unpaid APPU contributions was US\$10,100 at that time. It remains at that level.

2.2 The basis for the request was financial hardship in recent years whereby the arrears was a significant burden that adversely impacted the recovery of the business (noting that the annual turnover of the Nauru postal business was, at the time, of the order of US\$14,200).

3. Background

3.1 The US\$10,100 comprises Nauru's invoiced contributions for:

2013: US\$1,500	2016: US\$1,950	2018: US\$2,650
2015: US\$1,850	2017: US\$2,150	

3.2 From 2019 onwards, Nauru has been a prompt payer of its annual contribution to the APPU.

3.3 The APPU does not have any provisions that authorise the waiving, release from or reduction of unpaid membership contributions. There are two points to be made in this regard i.e.,

- (i) membership assumes a commitment to pay annual contributions; and
- (ii) the APPU followed UPU policy for unpaid contributions (i.e., up until 2021, the UPU had no provisions to permit the reduction of, or relief from unpaid contributions). The UPU did, however, have arrangements to permit the time payment of debts in arrears by

means of an amortisation agreement over a period of up to 10 years and to release a member country from having to pay interest on the principal component of the debt).

4. Changes in UPU provisions in 2021

- 4.1 The 2021 Abidjan UPU Congress introduced provisions that enabled the payment required of a member country to gain relief from historic unpaid contributions to be reduced, and for the member country to be released from the unpaid debt which would be set aside. Because of the significance of the change that this represented, the criteria under which release could take place were specific, conditional on a range of associated commitments being met, and subject to ongoing compliance with future financial obligations.
- 4.2 The rules for the release from historic, accumulated unpaid contributions are set out in UPU General Regulations, Article 147 (effective 1 July 2022). They are complex. A summary is provided at Appendix 1.
- 4.3 The main features of the UPU provisions for reducing the payment required and enabling relief from historic accumulated debt are set out below.
 - (i) Reduction of the payment required and release from UPU debt is a “last resort” option, and is only available in exceptional circumstances as determined by the UPU Congress or the Council of Administration (CA).
 - (ii) Two options exist:
 - (a) pay at least half of the debt (capital only) in arrears and relief will be provided for the balance which shall be set aside; or
 - (b) pay the last five years (capital only - including the current year) and the relief will be provided for the earlier years, as the balance shall be set aside.
 - (iii) In the case of LDCs or SIDS, at least 50% of the amount paid is earmarked for Union-led postal technical assistance projects aimed at benefiting that same country.
 - (iv) Any unpaid contributions that remain unpaid are not cancelled. Instead, they are set aside and treated according to the relevant financial rules. If a member country concerned subsequently falls under automatic sanctions, the amounts that have been set aside will be re-registered by the Union, with immediate effect, as debts in arrears for the member country in question.

5. Nauru debt situation with the UPU

- 5.1 Information from UPU documents provides the following information.

Unpaid contributions as at the 2022 CA meeting (S1): 2.115 million Swiss Francs (US\$2.136 million - capital and interest) and 1.111 million Swiss Francs (US\$1.122 million - capital only) ^{1 2}

Number of years covered in unpaid contributions: 39³

¹ Source for information on debts in arrears accumulated by Nauru: CA C 1 2022.1–Doc 4b. Annex 1.

² Converted to USD at rate on 12 June 2022 (CHF1 = USD1.01= US\$2.136 million.

6. The relevance of the UPU change in approach to historic debt

- 6.1 The APPU takes its lead on a number of policies and processes from those adopted by the UPU. It would be fair to say that, in principle, the treatment of historic debt would be an area where the APPU should reflect seriously on any precedent set by the UPU. However, it cannot be automatically assumed that the APPU would, or should follow the UPU lead without first examining what is relevant and realistic.
- 6.2 The 2021 EC meeting adopted a proposal that specified “once the UPU Congress had decided on the question of arrears (for UPU contributions), then the (APPU) Bureau and Finance Committee should prepare a decisive position for consideration by the 2022 APPU Congress”.⁴
- 6.3 At the very least, the APPU must show evidence of the process it undertook to ensure the Union can be seen to have treated the matter carefully and responsibly.

7. Key considerations for the APPU

- 7.1 For the APPU to decide on the request for the waiver of arrears from Nauru, there are some aspects that need to be covered as part of due diligence and responsible management.
- 7.2 First and foremost, the decision to wait for the UPU to complete its review of reducing arrears creates an expectation that relevant elements of the UPU solution will be considered for the APPU solution. To deal with this in a practical sense, a complication needs to be highlighted and addressed, as set out below.
- (i) The UPU arrears recovery and relief system appears to be based on debt ranging from the current year backwards i.e., for contributions relating to 2022 and backwards through years 2021, 2020, and so on. When the First and Second Options in Appendix 1 are applied to the actual Nauru situation, the outcomes are not necessarily as the parties involved (Nauru and the APPU) might expect or intend. To explain:
- (a) **UPU First Option:** pay at least half of the arrears (capital only) and relief for the balance will be provided.
- Nauru has debt of US\$10,100. Applying the UPU First Option would require a payment of US\$5,050 for release from the balance of debt which would be set aside. This might not be the outcome Nauru expects.
- (b) **UPU Second Option:** pay the most recent five years of contributions (including the current year – capital only) and years older than five years will be set aside.
- For the five most recent years (2018-2022), Nauru’s debt is only for 2018 (at US\$2,650). The remaining debt of US\$7,450 would be set aside. This might not be how the APPU sees the system working.⁵

³ The duration of unpaid contributions commenced from 1981.

⁴ EC 2021 Doc 16 (“Waiving of terminal dues, waiving of UPU / APPU arrears, reduced APPU membership fees”) refers.

⁵ Part of the issue may be not applying payment to the oldest debts when contributions are made. If this had been done, then only the most recent years would be unpaid.

- (ii) The Bureau **recommends** that, if the UPU system is to be used as a guideline, then the “five years” applies to the most recent five years for which unpaid contributions exist, that is, the total of the debt (being for the five years 2013, 2015, 2016, 2017 and 2018).

7.3 Having established the debt to be dealt with, the Bureau **recommends** the adoption of the following UPU elements in any scheme of payment for or release from accumulated arrears implemented by the APPU.

- (i) If the UPU Second Option is selected, then the multiplier is the more favourable of the:
 - (a) proposed interim contribution class (0.5 units – ref Congress 2022 Doc 24.5); or
 - (b) possible revised unit following the overall review of the APPU financial contributions system (ref Congress 2022 Doc 24.6).
- (ii) Any debt that is set aside is not cancelled. Instead, it is treated according to the relevant financial rules. If Nauru finds itself again with arrears (the criteria for which need to be defined by the Union) then the amounts set aside may be re-registered by the Union. It should be noted that the smaller the payment required, the larger will be the amount set aside.

8. Other considerations for APPU

8.1 The Bureau outlines the points below for consideration in dealing with the reduction of the payment required to provide Nauru with relief from its debt in arrears.

- (i) The Nauru debt situation in the APPU is not a mirror-image of the UPU situation for Nauru e.g., in the UPU the debt (capital only) is more than one hundred times greater than the APPU debt, the UPU debt stretches back over nearly 40 years (whereas the APPU debt is less than ten years old). The Bureau recognises these differences but accepts that the APPU debt is part of an original problem that first manifested itself in the accumulation of debt in other areas (for Nauru). The fact that the APPU debt is much smaller, and “newer”, should not be taken to mean it is easier to repay.
- (ii) The APPU needs to be clear in its mind regarding the action of Nauru in seeking to have its debts waived. External parties not familiar with the background could think that the APPU was taking a “soft” approach to the matter e.g.:
 - (a) the party owing the debt (Nauru) is proposing to the other party (the APPU) that the debt be waived; and
 - (b) apart from showing the unpaid amounts in its annual financial documentation, there is no evidence of anxiety or urgency in the APPU about the unpaid amounts. Further, the Union has not applied interest penalties, although Article 117, § 6 of the APPU General Regulations requires it to do so.

The Bureau has reflected on the request by Nauru and sees it quite clearly as part of an overall effort to deal with an historical problem, albeit one that has less history and size compared to the UPU situation.

9. Preparation of a decisive position for consideration by Congress

9.1 The Bureau believes that the following points should be viewed positively by Congress.

- (i) Nauru has an historical debt issue of which the APPU is a small part. That said, being a “small part” does not necessarily make it easier for Nauru to resolve the issue.
- (ii) Since 2019 Nauru has demonstrated a constructive and positive approach to the APPU in terms of participation and financial contribution. Nauru is well aware that in prior years its ability to participate and contribute were less than it desired; however, it has not brushed over that – rather, it has explained the situation, made a fresh start, and initiated a discussion to deal with the period prior to 2019. It is important for the APPU to recognise this and do what it can to act in like spirit.
- (v) The debt payment recovery and relief methods adopted at the 2021 UPU Abidjan Congress form an intensely-researched model. In the lead up to the 2022 APPU Congress, both parties (Nauru and the APPU) have referred to the UPU proposals as strong guidance for any APPU action.

9.2 In anticipation of Congress concurring with the above points, the Bureau **recommends** the adoption of a Resolution by the 2022 Bangkok Congress that directs the EC, during the period 2022-2026, to develop a position to deal with Nauru’s arrears in contributions that includes the following considerations.

- (i) A proposal that reduces the payment required from Nauru to gain relief from its historical, accumulated debt, based on the system adopted by the UPU in 2021.
- (ii) If the application of the UPU system brings the “five years” criterion into consideration, then the five years is the most recent five years for which unpaid contributions exist (i.e., 2013, 2015, 2016, 2017 and 2018).
- (iii) If the UPU Second Option is selected, then the multiplier is the more favourable of the:
 - (a) proposed interim contribution class (0.5 units); or
 - (b) possible revised unit following the overall review of the APPU financial contributions system.
- (iv) Any debt that remains is not cancelled. Instead, it is set aside and treated according to the relevant financial rules. If Nauru finds itself again with arrears (the criteria for which will need to be defined by the Union) then the amounts set aside may be re-registered by the Union.
- (v) The end-point of the EC’s work would be a Resolution for the 2026 Congress that finalises the arrears in contributions matter.

9.3 A draft Resolution giving effect to the points in paragraph 9.2 is at Appendix 2.

9.4 The Bureau does not recommend including any debt release provisions in the Acts of the Union. That is considered more a matter for the overall financial contributions review.

Summary of UPU provisions for providing for recovery of arrears, reduced payments required and relief from historic, accumulated debt

1. Context for reduced payment and/or release from UPU debt

The context for releasing a UPU member with unpaid, accumulated contributions is a highly exceptional measure taken only after all other options have been tried. Its application is solely at the discretion of the UPU Congress or the Council of Administration (CA). A member country with a debt issue has no automatic entitlement to any reduction in payment required or release process irrespective of any previous actions or precedents.

2. Pre-conditions for release from debt

- (i) Having paid the required debt relief amount, a member must request release from unpaid contributions in writing.
- (ii) Congress or the CA must agree that exceptional circumstances exist for the request to proceed to full consideration.

3. Release from unpaid contributions

3.1 First option (debts in arrears)

- (i) A member can be released from its unpaid contributions if they make a payment at least equivalent to half of the debts in arrears (Capital only-UPU General Regulations, Article 147, paragraph 7).

3.2 Second option (long-standing debts in arrears, being debts incurred over a period longer than the last five years (UPU General Regulations, Article 147, paragraph 8.1)).

- (i) A member can be released from unpaid contributions for long-standing debts in arrears if they pay the most recent five years of contributions (Capital only-including the current financial year). For clarity regarding this option, the unpaid contributions that are set aside are debts older than five years (UPU General Regulations, Article 147, paragraph 8).
- (ii) Where a member is an LDC or a SIDS (as defined in Article 151.1 of the UPU General Regulations), the last five years of contributions is calculated according to the current contribution class of the member i.e., the relevant current contribution class is multiplied by five (UPU General Regulations, Article 147, paragraph 8.2).

4. Assignment of contributions paid

Where a member, defined as an LDC or SIDS, completes either the first option or second option, at least 50% of the amount paid shall be earmarked for Union-led postal technical assistance projects aimed at benefiting that same country (UPU General Regulations, Article 147, paragraph 9).

5. Assignment of unpaid contributions (i.e., not paid)

Any unpaid contributions from which a member is released under either the first option or the second option are not cancelled. Instead, they are set aside and treated according to the relevant financial rules. If a member country concerned subsequently falls under automatic sanctions, the amounts that have been set aside will be re-registered by the Union, with immediate effect, as debts in arrears for the member country in question (UPU General Regulations, Article 147, paragraph 10).

CONGRESS

Proposal of a general nature

05 Rev 1

EXECUTIVE COUNCIL

Resolution

Nauru's arrears in contributions to the APPU

Congress,

noting the request from Nauru for the waiving of its historical debt to the APPU totalling US\$10,100 covering the period 2013, 2015-2018,

noting that the APPU does not have any provisions to deal with the waiving of, reduction in the payment for, or release from debts,

being aware that at its 2021 Abidjan Congress the UPU approved procedures for the reduction in the payments required and release from debt in certain circumstances and under specific conditions for application,

agreeing that there are strong grounds for the APPU to follow the lead of the UPU in reducing debts by providing members with payment schemes to enable their release from debt but also recognising, at the same time, that the Nauru debt situations in the UPU and APPU are not identical,

confirming, nevertheless, that despite the difference between the debt situations (UPU v APPU), the underlying problem facing Nauru is one and the same in terms of capacity to account for prior years,

acknowledging that since 2019 Nauru has been a committed participant in the Union's work and has paid all contributions for that year and onwards,

recognising, however, that any decision taken by the 2022 Congress in this matter cannot limit the ability of the 2022-2026 EC to take current and new factors into consideration in arriving at a final proposal for releasing Nauru from its historical debt,

decides to adopt the considerations set out in Congress 2022 Doc 24.7 Rev 1 (paragraph 9.2) for the 2022-2026 EC to follow in its review of the arrears in contributions,

requests the EC, in conjunction with the Bureau, to undertake the necessary work for the completion of this matter and for it to be brought to the 2026 APPU Congress in an appropriate Resolution.

Reasons – see Congress 2022 Doc 24.7 Rev 1