



ORGANIZATION OF AMERICAN STATES
GENERAL SECRETARIAT (GS/OAS)
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Secretariat for Administration and Finance (SAF)

**Documents to facilitate the Member States' discussions
on the financing of the 2008 Regular Fund Program-
Budget of the Organization**

August 16, 2007

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1. Legal opinion on the uses of the Reserve Subfund.



Organización de los Estados Americanos
Organização dos Estados Americanos
Organization des États Américains
Organization of American States

17th and Constitution Ave., N.W. • Washington, D.C. 20006

August 14, 2007

Excellency:

Certain questions have been raised in the CAAP regarding the legal use of the Reserve Subfund to cover part of the 2008 Program-Budget amount. My opinion is set forth below.

The General Assembly has placed limitations on the use of the Reserve Subfund.

In Article 72.b. i. and ii of the General Standards, the General Assembly has limited use of the Reverse Subfund to the following two situations:

i. Expenditures under the program-budget financed by the Regular Fund, pending full receipt of the anticipated income; and

ii. Special expenditures not provided for in the program-budget. Such expenditures must be authorized by the General Assembly or, when it is not in session, by the Permanent Council, which shall first hear a report on the condition of the Reserve Subfund and the reasons for such expenditures

Notwithstanding the provisions of Article b.i and b.ii of the General Standards, the OAS General Assembly, as the “supreme organ of the Organization of American States”, has the authority under Article 54 of the OAS Charter to make exceptions to the provisions of Article 72.b.i and b.ii in order to provide that the expected shortfall in the 2008 Program-Budget can be funded from the Reserve Subfund.

Please see Paragraph I, below for the provisions of Article 72 of the General Standards, and Paragraph II , below,, for the provisions of Article 54 of the OAS Charter.

His Excellency
Camilo Ospina
Ambassador, Permanent Representative
of Colombia to the OAS
Washington, D.C.

If you should have any further questions regarding this matter, please contact me.

Accept, Excellency, the assurances of my highest consideration.

Louis G. Ferrand
Legal Advisor to the Secretary General
Director, Department of Legal Services

I. General Standards.

Article 72. Regular Fund. This is made up mainly of the quotas collected from the Member States and includes the contributions from other funds for technical supervision and administrative support provided by the General Secretariat. Funds received for unspecified purposes shall be treated as miscellaneous income under the Regular Fund. The purpose of this Fund is to finance: the regular secretariat and general support services provided by the Secretariat; technical supervision and administrative support to the programs; and multilateral integral development programs, as established in Article 32 of the Charter and as specified in the approved program-budget. The Career Service may be financed only by the Regular Fund of the Organization.

The Regular Fund includes the following subfunds:

a. Operations Subfund to which shall be credited all income of the Regular Fund, and against which shall be charged all obligations and expenditures in accordance with the Regular Fund program-budget.

At the end of each year, any excess in income over obligations and expenditures shall be transferred from the Operations Subfund to the Reserve Subfund, or any excess in obligations and expenditures over income shall be transferred from the Reserve Subfund to the Operations Subfund. The General Secretariat shall report on these actions to the Permanent Council within thirty days of the date the transfer was made.

b. Reserve Subfund, the purpose of which is to ensure the regular and continuous financial functioning of the General Secretariat.

The amount of this Subfund shall be 30 percent of the total of the annual quotas of the Member States. This amount shall be reached through crediting to this subfund the annual income in excess of the obligations and expenditures of the Operations Subfund. To the extent that the Subfund exceeds 30 percent of the total of the annual quotas of the Member States, the excess shall be available for any purpose approved by the General Assembly.

The Reserve Subfund may be used only on a temporary basis to cover:

i. Expenditures under the program-budget financed by the Regular Fund, pending full receipt of the anticipated income; and

ii. Special expenditures not provided for in the program-budget. Such expenditures must be authorized by the General Assembly or, when it is not in session, by the Permanent Council, which shall first hear a report on the condition of the Reserve Subfund and the reasons for such expenditures from its Committee on Administrative and Budgetary Affairs (CAAP).

No withdrawals shall be made from the Reserve Subfund for purposes other than to ensure the regular and continuous financial functioning of the General Secretariat until such time as the Reserve Subfund shall have reached 10 percent of the annual quotas of the Member States earmarked for the program-budget of the Regular Fund approved by the General Assembly.

The amounts withdrawn for the purposes set forth in this article shall be reimbursed to the Reserve Subfund in the following manner: in the case covered by subparagraph/ (i) above, as soon as the corresponding income permits; and, in the case of subparagraph (ii), by means of equivalent appropriations in the program-budget for the next fiscal period or in such a manner as may be determined by the General Assembly. [Emphasis added.]

II. The OAS Charter.

Chapter IX

THE GENERAL ASSEMBLY

Article 54

The General Assembly is the supreme organ of the Organization of American States. It has as its principal powers, in addition to such others as are assigned to it by the Charter, the following:

- a) To decide the general action and policy of the Organization, determine the structure and functions of its organs, and consider any matter relating to friendly relations among the American States;
- b) To establish measures for coordinating the activities of the organs, agencies, and entities of the Organization among themselves, and such activities with those of the other institutions of the Inter American system;
- c) To strengthen and coordinate cooperation with the United Nations and its specialized agencies;
- d) To promote collaboration, especially in the economic, social, and cultural fields, with other international organizations whose purposes are similar to those of the Organization of American States;
- e) To approve the program-budget of the Organization and determine the quotas of the Member States;
- f) To consider the reports of the Meeting of Consultation of Ministers of Foreign Affairs and the observations and recommendations presented by the Permanent Council with regard to the reports that should be presented by the other organs and entities, in accordance with the provisions of Article 91.f, as well as the reports of any organ which may be required by the General Assembly itself;
- g) To adopt general standards to govern the operations of the General Secretariat; and**
- h) To adopt its own rules of procedure and, by a two-thirds vote, its agenda.

The General Assembly shall exercise its powers in accordance with the provisions of the Charter and of other inter-American treaties. [Emphasis added.]

2. 2008 Regular Fund Program-Budget:
Sources of Financing.

**2008 Regular Fund Program-Budget
Sources of Financing**
(in thousands)

	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7
Sources of Financing							
Quota Assessment	\$ 83,106.0	\$ 81,936.3	\$ 78,390.2	\$ 76,107.0	\$ 76,107.0	\$ 76,107.0	\$ 76,107.0
Over quota commitments	194.0	363.7	954.8	1,340.9	1,340.9	1,340.9	1,340.9
Indirect Cost Recovery (ICR)	2,500.0	2,500.0	2,500.0	2,500.0	2,500.0	2,500.0	2,500.0
Administrative and Technical Support (FEMCIDI)	780.4	780.4	780.4	780.4	780.4	780.4	780.4
Other Income (rental, interest and miscellaneous)	919.6	1,419.6	1,419.6	1,419.6	1,419.6	1,419.6	1,419.6
Reserve Subfund		500.0	3,455.0	852.1	5,352.1	2,676.1	-
Unobligated Appropriations	-	-	-	4,500.0	-	2,676.1	5,352.1
	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>	<u>\$ 87,500.0</u>

Scenario 1:

As presented in the Program-Budget proposal submitted in March 2007 (AG/CP/doc. 719/07). Attached at Chart 1 is the quota assessment impact on Member States.

Scenario 2:

Includes a reduction of \$1 million in the proposed quota and over quota assessment from Scenario 1 and assumes an increase of \$1.0 million drawn in equal parts from other income and from the Reserve Subfund. Attached at Chart 2 is the quota assessment impact on Member States.

Scenario 3:

Includes a 3% increase over the approved 2008 quota assessment of \$77,447.9. The Reserve Subfund would cover a gap of \$3,455.0. Attached at Chart 3 is the quota assessment impact on Member States. See on Chart 4 the Reserve Subfund projections.

Scenario 4:

Includes the approved 2008 quota assessment of \$77,447.9. The Unobligated Appropriation would cover \$4,500.0 and the Reserve Subfund would cover a gap of \$852.1.

Scenario 5:

Includes the approved 2008 quota assessment of \$77,447.9. The Reserve Subfund would cover the gap of \$5,352.1.

Scenario 6:

Includes the approved 2008 quota assessment of \$77,447.9. The Unobligated Appropriation would cover 50% (\$2,676.1) and the Reserve Subfund would cover the other 50% (\$2,676.1).

Scenario 7:

Includes the approved 2008 quota assessment of \$77,447.9. The Unobligated Appropriation would cover the gap of \$5,352.1.

Chart 1
(Scenario 1)

2008 Regular Fund Program-Budget
Distribution of Quota Assessment at \$83.3 million level
2008 Proposed Program-Budget (AG/CP/doc. 719/07)
(in thousands)

	2007 Approved Quota Assessment	Scenario 1		
		Quota Assessment	Over-Quota	Total Adjusted Assessment
Antigua and Barbuda	\$ 18.5	\$ 20.2	\$ -	\$ 20.2
Dominica	14.9	14.3	0.6	14.9
Guyana	16.9	18.5	-	18.5
Saint Kitts and Nevis	16.9	18.5	-	18.5
St. Vincent and Grenadines	16.9	18.5	-	18.5
Belize	22.4	21.8	0.6	22.4
Grenada	22.4	18.5	3.9	22.4
Saint Lucia	22.4	20.2	2.2	22.4
Bahamas	64.3	70.2	-	70.2
Bolivia	52.3	50.1	2.2	52.3
El Salvador	64.6	70.5	-	70.5
Haiti	52.3	50.1	2.2	52.3
Honduras	52.3	50.1	2.2	52.3
Nicaragua	52.3	50.1	2.2	52.3
Suriname	52.3	50.1	2.2	52.3
Barbados	61.5	67.1	-	67.1
Costa Rica	115.1	125.7	-	125.7
Guatemala	115.1	125.7	-	125.7
Panamá	100.1	109.3	-	109.3
Ecuador	134.4	138.9	-	138.9
Jamaica	134.4	137.2	-	137.2
Paraguay	134.4	138.9	-	138.9
República Dominicana	134.4	138.6	-	138.6
Trinidad and Tobago	138.7	151.5	-	151.5
Uruguay	194.1	187.5	6.6	194.1
Perú	340.3	371.6	-	371.6
Chile	877.3	933.7	-	933.7
Colombia	701.7	677.6	24.1	701.7
Venezuela	2,388.9	2,306.7	82.2	2,388.9
Argentina	3,658.0	3,595.2	62.8	3,658.0
México	4,815.0	5,468.5	-	5,468.5
Brasil	6,382.8	6,403.1	-	6,403.1
Canada	10,581.4	11,554.5	-	11,554.5
United States	45,727.9	49,933.0	-	49,933.0
Sub-Total	77,277.2	83,106.0	194.0	83,300.0
Cuba	925.7	857.5	68.2	925.7
Total	\$ 78,202.9	\$ 83,963.5	\$ 262.2	\$ 84,225.7

Chart 2
(Scenario 2)

2008 Regular Fund Program-Budget
Distribution of Quota Assessment at \$82.3 million level
(in thousands)

	2007 Approved Quota Assessment	Scenario 2		Variance
		Over-Quota	Total Adjusted Assessment	2007 Approved vs Scenario 2
Antigua and Barbuda	\$ 18.5	\$ -	\$ 19.9	\$ 1.4
Dominica	14.9	0.8	14.9	-
Guyana	16.9	-	18.2	1.3
Saint Kitts and Nevis	16.9	-	18.2	1.3
St. Vincent and Grenadines	16.9	-	18.2	1.3
Belize	22.4	0.9	22.4	-
Grenada	22.4	4.2	22.4	-
Saint Lucia	22.4	2.5	22.4	-
Bahamas	64.3	-	69.2	4.9
Bolivia	52.3	2.9	52.3	-
El Salvador	64.6	-	69.5	4.9
Haiti	52.3	2.9	52.3	-
Honduras	52.3	2.9	52.3	-
Nicaragua	52.3	2.9	52.3	-
Suriname	52.3	2.9	52.3	-
Barbados	61.5	-	66.2	4.7
Costa Rica	115.1	-	123.9	8.8
Guatemala	115.1	-	123.9	8.8
Panamá	100.1	-	107.8	7.7
Ecuador	134.4	-	136.9	2.5
Jamaica	134.4	-	135.3	0.9
Paraguay	134.4	-	136.9	2.5
República Dominicana	134.4	-	136.7	2.3
Trinidad and Tobago	138.7	-	149.3	10.6
Uruguay	194.1	9.2	194.1	-
Perú	340.3	-	366.3	26.0
Chile	877.3	-	920.5	43.2
Colombia	701.7	33.7	701.7	-
Venezuela	2,388.9	114.7	2,388.9	-
Argentina	3,658.0	113.4	3,658.0	-
México	4,815.0	-	5,391.6	576.6
Brasil	6,382.8	69.8	6,382.8	-
Canada	10,581.4	-	11,391.9	810.5
United States	45,727.9	-	49,230.5	3,502.6
Sub-Total	77,277.2	363.7	82,300.0	5,022.8
Cuba	925.7	80.2	925.7	-
Total	\$ 78,202.9	\$ 443.9	\$ 83,225.7	\$ 5,022.8

Chart 3
(Scenario 3)

2008 Regular Fund Program-Budget
Distribution of Quota Assessment at \$79.3 million level
Includes a 3% increase over 2008 approved quota assessment
(in thousands)

	2007 Approved Quota Assessment	Scenario 3		
		Quota Assessment	Over-Quota	Total Adjusted Assessment
Antigua and Barbuda	\$ 18.5	\$ 19.0	\$ -	\$ 19.0
Dominica	14.9	13.5	1.4	14.9
Guyana	16.9	17.4	-	17.4
Saint Kitts and Nevis	16.9	17.4	-	17.4
St. Vincent and Grenadines	16.9	17.4	-	17.4
Belize	22.4	20.6	1.8	22.4
Grenada	22.4	17.4	5.0	22.4
Saint Lucia	22.4	19.0	3.4	22.4
Bahamas	64.3	66.2	-	66.2
Bolivia	52.3	47.3	5.0	52.3
El Salvador	64.6	66.5	-	66.5
Haiti	52.3	47.3	5.0	52.3
Honduras	52.3	47.3	5.0	52.3
Nicaragua	52.3	47.3	5.0	52.3
Suriname	52.3	47.3	5.0	52.3
Barbados	61.5	63.3	-	63.3
Costa Rica	115.1	118.5	-	118.5
Guatemala	115.1	118.5	-	118.5
Panamá	100.1	103.1	-	103.1
Ecuador	134.4	131.0	3.4	134.4
Jamaica	134.4	129.4	5.0	134.4
Paraguay	134.4	131.0	3.4	134.4
República Dominicana	134.4	130.7	3.7	134.4
Trinidad and Tobago	138.7	142.9	-	142.9
Uruguay	194.1	176.9	17.2	194.1
Perú	340.3	350.5	-	350.5
Chile	877.3	880.7	-	880.7
Colombia	701.7	639.1	62.6	701.7
Venezuela	2,388.9	2,175.8	213.1	2,388.9
Argentina	3,658.0	3,391.2	266.8	3,658.0
México	4,815.0	5,158.2	-	5,158.2
Brasil	6,382.8	6,039.8	343.0	6,382.8
Canada	10,581.4	10,898.9	-	10,898.9
United States	45,727.9	47,099.8	-	47,099.8
Sub-Total	77,277.2	78,390.2	954.8	79,345.0
Cuba	925.7	808.9	116.8	925.7
Total	\$ 78,202.9	\$ 79,199.1	\$ 1,071.6	\$ 80,270.7

ORGANIZATION OF AMERICAN STATES



STATEMENT OF CHANGES IN THE REGULAR FUND BALANCE

For the period from January 1 to July 31, 2007 with projection to December 31, 2007
(in thousands)

	Actual (7/31/07)	Projections	Total (12/31/07)
Increases:			
Quotas/Pledges Collections	\$ 41,264	25,712 ¹	66,976
Quotas/Pledges Collections (Arrears) ²	8,454	3,658 ¹	12,112
Less: Prompt payment credits	(233)	-	(233)
	<u>49,485</u>	<u>29,370</u>	<u>78,855</u>
Administrative Support - FEMCIDI	448	471	919
Interest	499	43	542
Rentals	328	172	500
Miscellaneous (refunds from prior years and sales tax refunds)	245	355	600
Americas Magazine Subscriptions	201	132	333
Indirect Cost Recovery	-	2,532	2,532
	<u>51,206</u>	<u>33,076</u>	<u>84,283</u>
Decreases:			
Expenditures and obligations	73,477 ³	6,312 ⁴	79,789
Supplementary appropriations (FONDEM)	45	15	60
Americas Magazine	191	142	333
Transfers (Existing Conditions and Facilities Assessment Report)	55	-	55
Fellowships (2006 appropriation)	338	1,450	1,788
	<u>74,106</u>	<u>7,919</u>	<u>82,025</u>
Change during period	(22,900)	25,158	2,258
Balance at beginning of period	13,850 ⁵	-	13,850
Fund Balance at the end of Period:			
- Reserve subfund	(17,212)	27,570	10,358
- Restricted Balance for Fellowships	8,162	(2,412)	5,750
Fund Balance at the end of Period	<u>\$ (9,050)</u>	<u>25,158</u>	<u>16,108</u>

¹ Figures are based on payment plans, payment intention letters and prior payment history.

² Arrears include amounts owed for years prior to 2007.

³ Includes payroll encumbrances to the end of the year in the amount of \$22,556.

⁴ Unobligated appropriations.

⁵ Includes \$3,000 restricted for fellowships.