

## ARTICLE 19

### CONTENTS

|  | <i>Paragraphs</i> |
|--|-------------------|
| Text of Article 19   |                   |
| Introductory Note . . . . .  | 1–2               |
| I. General Survey . . . . .  | 3–14              |
| II. Summary of Practice . . . . .  | 15–27             |
| A. Decisions of the General Assembly during the nineteenth session . . . . .                                 | 15–26             |
| 1. Non-confrontation with regard to the general debate and the taking of<br>decisions by consensus . . . . . | 15–21             |
| a. Consensus with regard to the general debate . . . . .   | 15–16             |
| b. Agreement on continuation of the consensus at the resumed nineteenth<br>session . . . . .                 | 17–19             |
| c. Challenge to the President's ruling on the consensus . . . . .  | 20–21             |
| 2. Resolutions adopted by the General Assembly on the basis of consensus . . . . .                           | 22–26             |
| a. Interim financial arrangements . . . . .  | 22                |
| b. Establishment of the United Nations Conference on Trade and<br>Development . . . . .                      | 23                |
| c. Other resolutions . . . . .   | 24–26             |
| B. Further reports by the Committee on Contributions . . . . .   | 27                |

## TEXT OF ARTICLE 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

## INTRODUCTORY NOTE

1. During the period under review, the question at issue was whether Article 19 was applicable to the costs of the two peace-keeping operations of the Organization, namely, the United Nations Emergency Force (UNEF) and the United Nations Operation in the Congo (ONUC).
2. This study deals with the circumstances giving rise to the issue and the decisions taken thereon by the General Assembly.

## I. GENERAL SURVEY

3. Since the inception of the UNEF and ONUC operations, certain Member States maintained that the two peace-keeping operations were not being conducted in conformity with the requirements of the Charter. Because the costs of the operations, in the opinion of those Member States, were not expenses of the Organization within the meaning of Article 17 (2), they would withhold, on principle, their share of assessed contributions to the two accounts.

4. In response to the request of the General Assembly in resolution 1731 (XVI) for authoritative legal guidance as to the obligations of Member States under the Charter in the matter of financing the peace-keeping operations, the International Court of Justice delivered an advisory opinion<sup>1</sup> on 20 July 1962 to the effect that "expenditures authorized by the General Assembly to meet the costs of UNEF and ONUC constituted 'expenses of the Organization' within the meaning of Article 17, paragraph 2, of the Charter".

5. In its report<sup>2</sup> to the General Assembly at its seventeenth session, the Committee on Contributions stated:

"At the present time, the amount of arrears due by any Member State to the regular budget is in all cases less than the amount of contributions due from it for the preceding two full years. If the contributions to the United Nations Emergency Force Special Account and to the Congo *ad hoc* Account are included in the calculations, the contributions unpaid by a few Member States

would at present exceed the total amounts for which they were assessed by the General Assembly for 1960 and 1961."

6. Before the opening of the seventeenth session of the General Assembly the Member States in arrears had all made payments in sufficient amounts to reduce their arrears of assessed contributions to the three accounts to a level which was less than the total of the contributions due for the preceding two full years 1960 and 1961.

7. At its seventeenth session, the General Assembly accepted the advisory opinion of the International Court of Justice.<sup>3</sup>

8. The Member States withholding their share of assessed contributions to the costs of the peace-keeping operations did not accept the Court's opinion as binding on their Governments and questioned the applicability of Article 19 to the UNEF and ONUC accounts. In their view, the arrears under those accounts were not arrears in the payment of expenses under Article 17 and should not be included in any calculation of arrears under Article 19.

9. The report of the Committee on Contributions to the General Assembly at its eighteenth session<sup>4</sup> indicated that no Member State was in arrears in the payment of its contributions to the United Nations to the extent that Article 19 of the Charter would apply.

10. In its report to the General Assembly at its nineteenth session,<sup>5</sup> the Committee on Contributions stated that "the Secretary-General has informed the Committee that, at this time, on the basis of the

<sup>1</sup> Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), ICJ, *Reports 1962*, p. 151 (see also G A (XVIII), Annexes, a.i. 64, A/5161 and Corr. 1, and this *Supplement* under Article 17 (2)).

<sup>2</sup> G A (XVII), Suppl. No. 10, para. 25.

<sup>3</sup> Resolution 1854 A (XVII) of 19 December 1962.

<sup>4</sup> G A (XVIII), Suppl. No. 10, para. 25.

<sup>5</sup> G A (XIX), Suppl. No. 10, para. 47 and annexes I-VI.

Financial Regulations and the relevant resolutions of the General Assembly, ten Member States are in arrears in the payment of their financial contributions to the United Nations in amounts in excess of the amounts of their assessed contributions for the preceding two full years, namely 1962 and 1963". Details of those arrears to the United Nations Regular Budget, the United Nations Emergency Force Special Account and the Congo *ad hoc* Account were appended to the Committee's report as annex I. The Committee further stated that "none of these States has informed, or sought to demonstrate to, this Committee that its failure to pay is due to conditions beyond its control". The views of four members of the Committee who wished to express separate views on the question dealt with in paragraph 47 of the report were set out in annexes II, III, IV and V.

11. The Committee authorized its Chairman, on the basis of information made available by the Secretary-General after the date of its report, to submit to the General Assembly, on the date of the opening of its nineteenth session, an addendum to its report setting forth any additional information received with respect to the status of the contributions payments of the Member States referred to above. In an addendum<sup>6</sup> issued on 30 November 1964, the General Assembly was informed that as a result of payments by three of the ten Member States, those three Member States were no longer in arrears in the payment of their financial contributions to the United Nations by amounts equal to or exceeding the amounts of the contributions due from them for the preceding two full years, 1962 and 1963.

12. The Secretary-General, in compliance with regulation 5.7 of the Financial Regulations of the

<sup>6</sup> *Ibid.*, Suppl. No. 10/Addendum.

United Nations, issued a report<sup>7</sup> on the collection of contributions as at 30 November 1964, calling attention to paragraphs 47 and 48 of the report of the Committee on Contributions<sup>8</sup> dealing with Article 19 and to the addendum to the report. The Secretary-General noted that the amounts listed as arrears had been arrived at on the basis of the Financial Regulations of the United Nations and the relevant resolutions of the General Assembly, in particular resolution 1854 A (XVII) of 19 December 1962. The report then mentioned those Member States which had requested that attention be called to their position in respect of the financing of the UNEF and ONUC accounts which, in their view, had been illegally included in the statement of arrears, and to the fact that they did not consider themselves bound to participate in such expenses.

13. At the opening of its nineteenth session, on 1 December 1964, the General Assembly was confronted with the application of Article 19 to those Member States whose arrears of assessed contributions to the regular budget as well as to the UNEF and ONUC accounts were in excess of the total of their contributions due for the preceding two full years and which were, therefore, liable to forfeit their vote under the terms of Article 19.

14. In order to avoid such a confrontation on the application of Article 19, the General Assembly decided<sup>9</sup> to consider only issues that could be disposed of without objection. A number of resolutions were adopted during the nineteenth session on the basis of that decision.<sup>10</sup>

<sup>7</sup> A/5822 (mimeographed). See also paras. 17 and 18 below.

<sup>8</sup> G A (XIX), Suppl. No. 10.

<sup>9</sup> G A (XIX), Plen., 1286th mtg., paras. 7-11.

<sup>10</sup> See paras. 22-26 below.

## II. SUMMARY OF PRACTICE

### A. Decisions of the General Assembly during the nineteenth session

#### 1. NON-CONFRONTATION WITH REGARD TO THE GENERAL DEBATE AND THE TAKING OF DECISIONS BY CONSENSUS

##### a. Consensus with regard to the general debate

15. At the opening of the nineteenth session of the General Assembly on 1 December 1964, the Secretary-General stated that, in view of the differences of opinion which had arisen among Member States regarding the conduct of the session, he had been in consultation with several delegations with the sole purpose of avoiding a confrontation on the question of the applicability of Article 19. There was, he continued, an understanding that issues other than those that could be disposed of without objection would not be raised during the general debate. A decision was taken by the General Assembly to proceed by way of no-objection as suggested by the Secretary-General.<sup>11</sup>

<sup>11</sup> G A (XIX), Plen., 1286th mtg., paras. 7-11.

16. The general debate opened on 3 December and continued until 23 December without any formal challenge being raised to the procedure agreed on at the opening meeting.

##### b. Agreement on continuation of the consensus at the resumed nineteenth session

17. When the Assembly reconvened on 18 January 1965, the Secretary-General issued a further report concerning the collection of contributions as at 17 January 1965<sup>12</sup>. That report indicated that, on the basis of the Financial Regulations and the relevant resolutions of the General Assembly, sixteen Member States were in arrears in amounts in excess of their assessed contributions for the preceding two full years, namely 1963 and 1964. On 29 January 1965, the Secretary-General, in response to several written protests, issued a revised version of the above-mentioned report including in full the information contained in his report of 30 November 1964 regarding the position of certain Member States on the question of the expenses of the peace-keeping

<sup>12</sup> A/5847/Rev. 1 (mimeographed). See also para. 12 above.

operations and also referring to other Member States which had protested.

18. The Secretary-General issued further reports on the collection of contributions on 2 February<sup>13</sup> and 3 February 1965.<sup>14</sup> Three Member States had made sufficient payments for them to be removed from the list of those in arrears contained in the previous report.

19. On 8 February it was agreed<sup>15</sup> that, with respect to certain agenda items which required decision by the General Assembly, the procedure of consensus would apply.

*c. Challenge to the President's ruling on the consensus*

20. On 16 February 1965, at the 1329th plenary meeting, a formal challenge was entered by the representative of Albania with respect to the President's ruling to continue consideration of the remaining items of discussion on the same basis of consensus as had been decided on at the beginning of the nineteenth session.

21. A lengthy procedural debate followed and, at the 1330th plenary meeting on 18 February 1965, at the request of the representative of Albania, a roll-call vote was taken on his challenge to the President's ruling. The appeal against the ruling the President was rejected by 97 votes to 2 with 13 abstentions.

2. RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY ON THE BASIS OF CONSENSUS

*a. Interim financial arrangements*

22. After the first part of the general debate in December 1964, the General Assembly proceeded to consider the annual appropriation action which, under the Financial Regulations and Rules of the Organization, constitutes authorization to the Secretary-General to commit funds and incur expenditures in respect of the next financial year. The Assembly decided<sup>16</sup> on a no-objection basis:

(1) to authorize the Secretary-General, pending decisions to be taken at the resumed session in 1965, to enter into commitments and to make payments at levels not to exceed, subject to statutory requirements, the corresponding commitments and payments for the year 1964 and to continue existing arrangements with respect to unforeseen and extraordinary expenses and the Working Capital Fund. It was understood that such an authorization would be without prejudice to the basic positions and objections of certain countries with respect to certain sections of the budget and to the budget as a whole; and

(2) to allocate funds, as requested by the relevant resolutions, to organizations participating in the Expanded Programme of Technical Assist-

ance approved by the Technical Assistance Committee in November 1964 for the budgetary year 1965–1966.<sup>17</sup>

*b. Establishment of the United Nations Conference on Trade and Development*

23. Before recessing on 30 December 1964, the Assembly also adopted, on the same consensus basis, a resolution<sup>18</sup> establishing the United Nations Conference on Trade and Development as an organ of the General Assembly.

*c. Other resolutions*

24. At the 1328th plenary meeting on 10 February 1965, resolutions regarding the filling of existing vacancies in various subsidiary bodies of the General Assembly, as well as resolutions concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations International School and the United Nations Joint Staff Pension Board were also adopted by the Assembly on a no-objection basis.

25. At the 1330th plenary meeting on 18 February 1965, before recessing, the General Assembly agreed without objection to the adoption of resolutions in respect of:

(1) the continuation of interim financial arrangements and authorisations for 1965;<sup>19</sup>

(2) the supervision by the United Nations of the elections to be held on the Cook Islands;<sup>20</sup> and

(3) the establishment of a Special Committee on Peace-keeping Operations to undertake a comprehensive review of the whole question of peace-keeping operations in all their aspects, and to report to the General Assembly not later than 15 June 1965.<sup>21</sup>

26. When the nineteenth session reconvened on 1 September 1965, the General Assembly, at its 1331st plenary meeting, adopted the reports of the Special Committee on Peace-keeping Operations<sup>22</sup> as well as the following consensus of the Special Committee:

“(a) That the General Assembly will carry on its work normally in accordance with its rules of procedure;

“(b) That the question of the applicability of Article 19 of the Charter will not be raised with regard to the United Nations Emergency Force and the United Nations Operation in the Congo;

“(c) That the financial difficulties of the Organization should be solved through voluntary contributions by Member States, with the highly developed countries making substantial contributions.”

<sup>17</sup> Resolution 1994 (XIX).

<sup>18</sup> Resolution 1995 (XIX).

<sup>19</sup> Resolution 2004 (XIX). See also para. 22 above.

<sup>20</sup> Resolution 2005 (XIX).

<sup>21</sup> Resolution 2006 (XIX). See also G A (XIX), Plen., 1331st mtg., paras. 3–5.

<sup>22</sup> G A (XIX), Annexes, Annex No. 21, A/5915 and Add. 1 and A/5916 and Add. 1.

<sup>13</sup> A/5847/Rev. 1/Add. 1 (mimeographed).

<sup>14</sup> A/5847/Rev. 1/Add. 2 (mimeographed).

<sup>15</sup> G A (XIX), Plen., 1327th mtg., paras. 6–42.

<sup>16</sup> *Ibid.*, 1314th mtg., paras. 4–7 and 12.

**B. Further reports by the Committee on Contributions**

27. The reports of the Committee on Contributions to the General Assembly at its twentieth<sup>23</sup> and twenty-first<sup>24</sup> sessions referred to the above-mentioned consensus of the General Assembly and

indicated that at the time of the issuance of the reports no Member State was in arrears in the payment of its contribution to the United Nations Regular Budget to the extent that Article 19 would apply.

<sup>23</sup> G A (XX), Suppl. No. 10, paras. 15–17.

<sup>24</sup> G A (XXI), Suppl. No. 10, para. 12.