

ARTICLE 19

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ARTICLE 19

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 principal issue relating to Article 19 was the procedure to be followed for its application by the General Assembly.
2. This study is concerned with the circumstances giving rise to this issue and the manner in which the question was dealt with.

I. GENERAL SURVEY

3. Prior to the period under review, those Member States in arrears under the terms of Article 19 at the opening of a General Assembly session subsequently paid the amount necessary to reduce their arrears of contributions to the United Nations regular budget below the limit specified in Article 19 in sufficient time to avoid losing their voting rights.
4. During the period under review the specific question relating to Article 19 was concerned with the interpretation of the language of the Article, namely, whether in the first sentence the phrase “. . . shall have no vote in the General Assembly . . .” implied an automatic loss of voting rights of those Members in arrears, or whether the second sentence intended that it was for the General Assembly in the first instance to consider and decide on the question of deprivation of vote.

II. SUMMARY OF PRACTICE

5. During the fifth special session, at the 1518th plenary meeting, held on 19 May 1967, when the name of a Member State at that time in arrears within the terms of Article 19 was not called out during a roll-call vote, no question was raised.¹

6. At the resumed twenty-second session, in a letter dated 18 June 1968,² the Permanent Representative of the Soviet Union drew the attention of the Secretary-General to the fact that, during the voting at the 1582nd meeting of the First Committee, as well as at the 1671st and 1672nd

plenary meetings of the General Assembly, members of the Secretariat, during a roll-call vote, had not called the names of the two Member States which the Secretary-General had informed the Assembly were at that time in arrears within the terms of Article 19, thus depriving them of their voting rights.

7. The Soviet Union maintained that the provisions of Article 19 did not imply an automatic loss of vote and should be applied in strict accordance with those procedures for taking decisions on the suspension of the right of Member States set out in article 18 (2) of the Charter to the effect that: “Decisions of the General Assembly on important questions shall be made by a two-thirds majority of

¹ A/7146, Annex, para. 9 (mimeographed).

² A/7111 (mimeographed).

the Members present and voting. These questions shall include . . . the suspension of the rights and privileges of membership . . . ”.

8. The Soviet Union maintained that the second sentence of Article 19 to the effect that: “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”, was sufficient indication that the question of voting could only be decided by the Assembly itself. It was precisely because the Assembly was the competent body to decide on this question that rule 161³ of the rules of procedure of the General Assembly stipulated that the Committee on Contributions “. . . shall also advise the General Assembly . . . on the action to be taken with regard to the application of Article 19 of the Charter.” Three other Member States addressed letters to the Secretary-General similar to that of the Soviet Union.⁴

9. In his response to the Soviet Union⁵ the Secretary-General noted that his conclusions on this question were based upon legal considerations as analyzed in an opinion of the Legal Counsel appended to his letter. It was the understanding of the Secretary-General that the express language of the first sentence of Article 19 did not call for a decision of the General Assembly prior to deprivation of vote. Contrary to the opinion expressed by the Soviet Union, the provision of that sentence was entirely distinct from Article 18 (2) concerning the two-thirds majority with respect to “the suspension of the rights and privileges of membership”. The latter provision related rather to Article 5 of the Charter which provided that “A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council.” The Article listed such instances successively as the admission of new Members, suspension of rights and privileges of membership and the expulsion of members, which were covered respectively by Articles 4, 5 and 6 of the Charter, and all of which—unlike Article 19—required action by both the Security Council and the General Assembly. The wording of Article 19 did not contain the phrase “suspension of rights and privileges.” It provided for a specific sanction—“shall

have no vote in the General Assembly”—but did not affect a Member’s other rights and privileges, including participation in discussion in the General Assembly and voting in organs of the United Nations other than the plenary meetings of the General Assembly and its Main Committee.

10. The Secretary-General believed that the only instances where a decision of the General Assembly was required under Article 19 would be in the event that his report to the Assembly indicating those Members in arrears was challenged as factually incorrect, or if a Member State in arrears were to request the Assembly to exercise the discretion accorded it in the second sentence of Article 19 to permit the Member State to vote, provided the Assembly was satisfied that failure to pay was due to conditions beyond the Member State’s control. The two Member States concerned in the instances indicated by the Soviet Union had not contested the amounts of their arrears specified in the letter from the Secretary-General, nor had they submitted data regarding “conditions beyond the control of the Member” which would permit the Assembly to arrive at a decision under the second sentence of Article 19.

11. The Secretary-General considered that the Secretariat was obliged to continue to act in accordance with its understanding of the relevant provisions of the Charter and with the precedents cited in paragraphs 4 and 6 above until such time as the General Assembly would indicate that it did not share that understanding and that different procedures should be followed which would release the Secretariat from its unavoidable responsibility.

12. At the twenty-third session of the General Assembly, one Member State in arrears under Article 19 cited a number of economic reasons in explanation of its failure to meet its obligations and requested a three-month period of grace in order to do so.⁶ The General Assembly permitted the Member to vote during the session pending advice from the Committee on Contributions under rule 161⁷ of the rules of procedure of the General Assembly. The Committee on Contributions concluded that it could not support the Member’s contention that failure to pay was beyond its control.⁸ Prior to the end of the session the Member State in question paid the necessary amounts to reduce its arrears below the limit specified in Article 19.

³ Subsequently renumbered as rule 160.

⁴ A/7167-A/7169 (mimeographed).

⁵ Circulated as document A/7146 (mimeographed).

⁶ A/7237 (mimeographed).

⁷ Subsequently renumbered as rule 160.

⁸ G A (XXIII), Suppl. No. 10A.