

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. This study deals with the practice followed by the General Assembly in instances when Member States were in arrears within the terms of Article 19 during the period from 1 January 1970 to 31 December 1978.

I. GENERAL SURVEY

2. At its resumed nineteenth session, on 1 September 1965, the General Assembly adopted the report of the Special Committee on Peace-keeping Operations¹ as well as the consensus of the Special Committee which stated "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 to the United Nations Operation in the Congo". On the basis of the foregoing and following the advice of the Legal Counsel that the Secretary-General should inform the President of the General Assembly if any Member State was in arrears in its contributions to the regular budget to the extent that Article 19 applied, the computation of arrears in payment within the terms of Article 19 has since then included only those toward the contributions to the regular budget.

3. A new United Nations Emergency Force (UNEF) came into being pursuant to a decision of the Security Council on 25 October 1973.² The Secretary-General, in his report on the implementation of that decision,³ stated, with respect to the method of financing the Force, that "the costs of the Force shall be considered as expenses of the Organization to be borne by Members in accordance with Article 17(2) of the

Charter". The Security Council approved the report on 27 October 1973.⁴ The same principle was laid down by the Secretary-General with respect to the financing of the United Nations Disengagement Observer Force (UNDOF) and of the United Nations Interim Force in Lebanon (UNIFIL), established by the Security Council on 31 May 1974⁵ and on 19 March 1978⁶ respectively. In reporting to the General Assembly on arrears of Member States within the terms of Article 19, the Secretary-General has computed the arrears of contributions in respect of the UNEF, UNDOF and UNIFIL operations as arrears within the meaning of Article 19.

4. At the opening of each session of the General Assembly, the Secretary-General continued the practice of advising by letter addressed to the President of the General Assembly of any Member States which were in arrears within the terms of Article 19. During the period under review, there were instances when the General Assembly had to decide on the action to be taken with respect to one or more Members in arrears within the limits of Article 19. The summary of practice which follows deals specifically with the action so undertaken.

II. SUMMARY OF PRACTICE

5. Under the terms of reference of the Committee on Contributions, one of its functions is "to consider and report to the General Assembly on the action to be taken if Members fall into default with their contributions" and, in this connexion, "the Committee should advise the Assembly in regard to the application of Article 19 of the Charter".⁷ It has been the practice of the Committee to include in its report to the General Assembly a paragraph listing the Member States which, at the conclusion of the Committee's session, were in arrears within the terms of Article 19 of the Charter. If necessary, an addendum to its report is issued and the information therein is reported by the Secretary-General to the General Assembly at the opening of each session.

6. At the opening of the twenty-fifth, twenty-seventh, sixth special and thirtieth sessions of the General Assembly, those Member States reported by the Secretary-General as being in arrears within the terms of Article 19 made the required payments ahead of time to reduce their arrears below the limits prescribed by Article 19 and thus retained their right to vote.

7. At the twenty-sixth session, the one Member State in arrears at the opening of the session⁸ cited certain circum-

stances which it claimed caused the delay in its remittance. In anticipation of the payment by the Member State concerned, the General Assembly agreed, on the proposal of the Temporary President, to exercise the option vested in it by the second sentence of Article 19⁹ by allowing the Member State to vote. The matter was settled a few days later with the receipt of the payment from the Member State.¹⁰

8. At the beginning of 1972, the amount of arrears in payment by China exceeded the amount of assessed contributions due by it for the years 1970 and 1971. The Government of the People's Republic of China indicated to the Secretary-General that it declined to make payments to meet obligations incurred before 25 October 1971, "the day of the restoration of all the legitimate rights of the People's Republic of China in the United Nations".¹¹ At its twenty-seventh session, the General Assembly adopted resolution 3049 C (XXVII) by which it requested the Secretary-General to transfer to a special account the balances of all unpaid assessed contributions of China prior to 25 October 1971; of the amount so transferred, the balance arising from regular budget assessments was to be included as a part of the short-term deficit of the Organization.

9. The Secretary-General reported four Member States in arrears under Article 19 at the beginning of the twenty-eighth session of the General Assembly.¹² The Member States in question made a similar request to the Assembly as had been made by the Member in arrears at the twenty-sixth session. The Assembly followed the same procedure¹³ and within a week's time three of the Member States made payment in sufficient amounts to reduce their arrears below the limit specified in Article 19.¹⁴ The fourth Member State claimed that circumstances beyond its control had caused the delay in its remittance and that efforts were being made to pay the soonest possible. The President of the Assembly informed the Assembly that an "understanding" on the matter in compliance with Article 19 had been reached and that the Assembly would be informed of any new development.¹⁵ A short time later the required payment was made.

10. The same procedure was followed by the Assembly at its thirty-first session with respect to two Member States in arrears at that time,¹⁶ and at the resumed thirty-first session with respect to two of the four Member States in arrears at the opening of the session.¹⁷ The two other Member States were Democratic Kampuchea and South Africa. With regard to South Africa, the question of the right to vote, in terms of Article 19, was a theoretical one since no delegation had been accredited by it to the General Assembly session and consequently no decision needed to be taken regarding the application of Article 19 with respect to its arrears.¹⁸ Democratic Kampuchea indicated that it should not be required to pay those arrears incurred by the previous régime which governed the country from 18 March 1970 to 17 April 1975. At the suggestion of its President, the General Assembly decided to hold the application of Article 19 to Democratic Kampuchea in abeyance until it had the opportunity to consider the matter at its thirty-second session.¹⁹

11. At the opening of the thirty-second session, no solution had yet been found that would satisfy the requirements of Article 19 and at the same time take account of the position of Democratic Kampuchea. At the Temporary President's suggestion, and without constituting a precedent, the General Assembly decided to waive rule 92 of its rules of procedure and proceeded to elect the President of the thirty-second session by acclamation on the basis of the endorsement of his candidacy by all regional groups.²⁰ A short time afterward, Democratic Kampuchea made a payment in an amount sufficient to avoid application of Article 19.²¹

12. At the opening of the eighth and ninth special sessions of the General Assembly, six Member States were in arrears within the terms of Article 19.²² At the ninth special session, noting that the names of those Member States were not called during a roll-call vote and consequently they had been unable to take part in the voting, the Union of Soviet Socialist Republics questioned the attempt to automatically deprive these States of the right to vote under Article 19 of the Charter. It maintained that the provisions of Article 19 should be applied in accordance with Article 18(2) of the Charter, which states that "Decisions of the General Assembly on important questions should be made by a two-thirds majority

of the members present and voting. These questions shall include . . . the suspension of the rights and privileges of membership."²³

13. As regards the inclusion of assessed contributions for the financing of peace-keeping operations in the computation of arrears within the terms of Article 19, some Member States maintained that, in accordance with the decision taken by the General Assembly in 1965 in connexion with the reports of the Special Committees on Peace-keeping Operations, any arrears in regard to those expenses did not come within the terms of Article 19 since they were expenses pursuant to action taken by the Security Council under Chapter VII of the Charter and not by the General Assembly under Chapter IV thereof. A number of other Member States expressed the contrary view that peace-keeping expenses were, in practice, United Nations expenses within the meaning of paragraph 2 of Article 17 of the Charter²⁴ and related arrears fell within the scope of Article 19.

NOTES

¹ G A (XIX), Annexes, a.i. 21, A/5915 and Add.1 and A/5916 and Add.1. See also *Repertory, Supplement No. 3*, vol. 1, under Article 19, paras. 15-26.

² S C resolution 340 (1973).

³ S C (28), Suppl. for Oct.-Dec. 1973, S/11052/Rev.1, para. 7.

⁴ S C resolution 341 (1973).

⁵ S C resolution 350 (1974).

⁶ S C resolutions 425 (1978) and 426 (1978), and S C (33), Suppl. for Jan.-March 1978, S/12611.

⁷ G A resolution 14(I) A, para. 3. See also P C 20, chap. IX, sect. 2, para. 17(c).

⁸ A/8397 (mimeographed).

⁹ G A (26), Plen., 1934th mtg., paras. 21-23.

¹⁰ A/8397/Add.1 (mimeographed) and G A (26), Plen., 1940th mtg., para. 1.

¹¹ G A resolution 2758 (XXVI) and G A (27), Suppl. No. 11 (A/8711), paras. 29-32.

¹² A/9157 (mimeographed).

¹³ G A (28), Plen., 2117th mtg.

¹⁴ A/9157, Add.1 and 2 (mimeographed).

¹⁵ G A (28), Plen., 2131st mtg., paras. 68-70. The understanding reached was that the Member State would not participate in the voting of the General Assembly and its Committees until the necessary payment was received, nor would the Member State's name be called in roll-call votes or its signals recognized in other votes.

¹⁶ A/9547 (mimeographed) and G A (S-VI), Plen., 2207th mtg.

¹⁷ A/31/481 and G A (31), Plen., 108th mtg., paras. 1-4.

¹⁸ The situation regarding South Africa's position with respect to Article 19 continued during the period under review. See also G A (31), Plen., 108th mtg.

¹⁹ *Ibid.*, para. 3.

²⁰ G A (32), Plen., 1st mtg., paras. 16-18. Rule 92 of the rules of procedure of the General Assembly states that "All elections shall be held by secret ballot. There shall be no nominations".

²¹ A/32/224/Add.1 (mimeographed).

²² A/S-8/6 (mimeographed).

²³ G A (S-IX), Plen., 15th mtg., paras. 61-65.

²⁴ G A (33), 5th Com., mtgs.: 4th-6th, 8th and 10th.