

ARTICLE 19

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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. The present study deals with the practice followed by the General Assembly during the period from 1 January 1979 to 31 December 1984 in respect of Member States that were in arrears within the terms of Article 19 of the Charter of the United Nations.

I. GENERAL SURVEY

2. During the period under review, the Secretary-General continued the practice of notifying the President of the General Assembly by letter of any Member State that was in arrears within the terms of Article 19. At the 1st plenary meeting of each session or resumed session of the General Assembly, the President drew the attention of the Assembly to the Secretary-General's notification. By subsequent communications, the Secretary-General also informed the President of the names of those Member States that had reduced their arrears below the limits specified by Article 19 and thereby restored their right to vote.

3. During the period under review, three Member States made requests, two of them twice, in the context of the second sentence of Article 19, to be permitted to vote on the basis that their failure to pay was due to conditions beyond their control. These requests for exceptions attributed the failure to pay either to economic difficulties or to a breakdown in the national administration.

4. When invited to advise the General Assembly on such requests, in accordance with rule 160 of the rules of procedure, the Committee on Contributions examined the economic situation of the Members concerned and made its recommendations to the Assembly on the action to be taken. The Committee

continued to be advised by the Secretary-General of the names of Member States in arrears under the terms of Article 19 and ascertained whether the Member States concerned had been informed of their arrears ahead of time.¹ Those Member States that remained in arrears under the terms of Article 19 at the conclusion of the Committee's sessions were listed in its annual reports.

5. With regard to the financing of peacekeeping operations, as stated in the previous *Repertory* and its *Supplement*,² the Secretary-General in 1973 informed the Security Council that the expenses of the United Nations Emergency Force (UNEF) were expenses of the Organization to be borne by Member States, in accordance with Article 17(2) of the Charter. That position was also applied to the United Nations Disengagement Observer Force (UNDOF) and the United Nations Interim Force In Lebanon (UNIFIL), at their establishment in 1974 and 1978, respectively. During the current period, therefore, the computation of arrears and its reporting to the General Assembly within the meaning of Article 19 included those arrears relating to UNEF, UNDOF and UNIFIL operations.

6. The summary of practice which follows deals specifically with actions taken by the General Assembly with respect to Member States in arrears within the meaning of Article 19.

II. SUMMARY OF PRACTICE

7. During the period under review, the General Assembly decided to agree to four requests from two Member States that were more than two years in arrears to be permitted to vote in the Assembly under the provisions of the second sentence of Article 19, once at the sixth emergency special session, twice at

the seventh emergency special session and once at the thirty-fifth session. In addition, the request of a Member State in arrears under the terms of Article 19 during the resumed thirty-fifth session of the General Assembly was referred to the Committee on Contributions for advice, in accordance with rule 160

of the rules of procedure of the General Assembly, on action to be taken in the implementation of the provisions of Article 19. The three Member States made the required minimum payments within a few months.

8. Throughout the period under review, South Africa remained in arrears under the terms of Article 19. The Secretary-General therefore included South Africa in his communications to the President of the General Assembly when notifying him of the names of those Member States that were in arrears under the terms of Article 19. Although South Africa remained a Member, following the adoption by the General Assembly of resolution 3207 (XXIX) and the subsequent interpretation given to it by the President, which was upheld by a majority vote, in 1974 it was suspended from participation in the work of the General Assembly.

9. On 2 March 1981, the 102nd plenary meeting of the General Assembly, which was considering the question of Namibia, was interrupted because of the presence in the General Assembly hall of the representatives of the delegation of South Africa. The credentials of the representatives of that Member were challenged by members of the Group of African States, who called for action by the Assembly. The General Assembly, on the suggestion of its President, called an urgent meeting of the Credentials Committee, which met and submitted an oral report the same day, rejecting the credentials of the South African delegation by a majority vote. In its resolution 35/4 C the General Assembly approved the Committee's report reaffirming its rejection of the credentials of the delegation of South Africa.³ Consequently, and in view of the continued rejection of the credentials of that Member State, the question of the application of the terms of Article 19 to South Africa was essentially theoretical.

10. A total of nine Member States were more than two years in arrears at one time or another during the sixth, seventh (including the resumed session), eighth and ninth emergency special sessions and the eleventh and twelfth special sessions of the General Assembly, two persistently. A few of them paid their outstanding arrears relatively shortly after the publication of their names in the Secretary-General's notification to the President at each session and maintained their right to vote. As mentioned above, at the sixth and seventh emergency special sessions, two Members in arrears requested that their right to vote be maintained, attributing their inability to pay to circumstances beyond their control.⁴ The Assembly permitted those Member States to participate in the voting during those sessions.

11. At the resumption of the thirty-third regular session of the General Assembly on 15 January 1979, seven Member States were in arrears within the terms of Article 19 of the Charter. However, at the suggestion of the President of the General Assembly, who stated that steps were being taken to expedite payment of the contributions, the Assembly allowed the Member States concerned to maintain their voting rights. Of the seven Member States in arrears, four made the necessary remittances, two of them shortly after the resumption of the session and the other two in May 1979. While South Africa remained in arrears and did not participate in the work of the General Assembly during the period under review, the remaining two Member States made the necessary payments to reduce their arrears after the opening of the thirty-fourth session of the General Assembly in September 1979.

12. At the opening of the thirty-fourth session of the General Assembly, on 18 September 1979, three Member States were reported to be in arrears. Two of them made the necessary payments to reduce their arrears immediately and maintained their right to vote, while one Member remained in arrears.⁵ On 4 January 1980, when the thirty-fourth General Assembly session reconvened after a short recess, the President informed the Assembly that 11 Member States were in arrears within the terms of Article 19, only two Members having made the necessary payments since the publication of the Secretary-General's letter.⁶ In view of the short notice, at the plenary meeting of that session scheduled on 4 January 1980 to elect the five non-permanent members of the Security Council, the Assembly authorized, as an exceptional measure, those Member States to participate in the voting until 11 January 1980.⁷ Except for South Africa, this authorization was further extended to all Member States that were in arrears at the opening of the Sixth Emergency Special Session of the General Assembly on 10 January 1980.⁸

13. The President of the General Assembly, on 15 January 1981, reported to the General Assembly at its resumed thirty-fifth session that eight Member States were in arrears under the terms of Article 19. He also indicated that, as a result, those Member States would not be authorized to participate in the vote.⁹ In the event, however, only South Africa and the Central African Republic were unable to vote, as four of the Members concerned made their payments the next day and two more prior to the reconvening of the session on 2 March 1981. At that plenary meeting, in response to the President's announcement, the Union of Soviet Socialist Republics expressed its reservation

about the procedure of depriving States that were in arrears of their rights to vote. The Assembly proceeded to the election by secret ballot of judges to the International Court of Justice, after the President assured the USSR that its observation would be reflected in the records.¹⁰

14. At the 102nd plenary meeting on 3 March in 1981, the President of the General Assembly drew the attention of the Assembly to a letter from a Member State in which it requested that its right to vote be maintained, as the delay in the payment of its outstanding contributions was due to conditions beyond its control.¹¹ On the proposal of the President, the Assembly, in accordance with rule 160 of its rules of procedure, decided, without a vote, to refer the request of that Member State to the Committee on Contributions.¹² The Member State concerned did not participate in the voting on 6 March 1981 when the Assembly took action on 10 draft resolutions relating to the question of Namibia.¹³

15. In view of the relatively small amount involved and the fact that several Member States also found themselves in a similarly difficult situation, the Committee on Contributions did not agree that the non-payment of arrears below the limit specified in Article 19 was due to conditions beyond the particular Member State's control. The Committee stressed that, as a matter of principle, all Member States had the responsibility of paying their assessed contributions in order to continue enjoying the benefits of membership in the United Nations.¹⁴

16. In a statement on 12 October 1981, during the Fifth Committee's consideration of the item on the scale of assessments, the representative of the Member State informed the Committee that Article 19 of the Charter would not be applicable to it, as a portion of its arrears had been paid. The representative also assured the Fifth Committee that the balance of his country's arrears should be considered on the way to settlement.¹⁵ At that session, the General Assembly in its resolution 36/116 B urged all Member States to review their pattern of payment of contributions to the regular budget of the United Nations with a view to paying future contributions in good time, in accordance with regulation 5.4 of the Financial Regulations.

17. During the consideration of the above-mentioned request under Article 19 by the Committee on Contributions, some members raised the question of whether assessed contributions for the financing of peacekeeping operations should be included in the computation of arrears within the terms of Article 19. Those members expressed the opinion that expenses

of peacekeeping operations were not relevant to arrears under the terms of Article 19. Others held the view that it was not within the Committee's competence to make a judgement on the legal and judicial aspects of the matter. They stressed that, in practice, peacekeeping expenses were United Nations expenses within the meaning of paragraph 2 of Article 17 of the Charter.¹⁶

18. In respect of China's unpaid assessments between 25 October 1971 and 31 December 1981, the General Assembly, in its resolution 36/116 A, decided that the question of the applicability of Article 19 of the Charter would not be raised. Instead the Assembly requested the Secretary-General to compute and transfer the amount for that period to a special account. They noted at the same time that China's rate of assessment from 25 October 1971 to 31 December 1973 had been 4 per cent and for the period 1974 to 1979 inclusive, 5.5 per cent, whereas after national income and related data became available to the Committee on Contributions for the first time, the rate for 1980-1981 had been established at 1.62 per cent.¹⁷

19. With the exception of South Africa, those Member States that were in arrears persistently during the thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth sessions of the General Assembly made the necessary payments, after some delays, and reduced their arrears below the amount specified in Article 19 and maintained their right to vote.¹⁸

NOTES

¹ G A (38), Suppl. No. 11, para. 65; see also G A (39), Suppl. No. 11, para. 63.

² See *Repertory, Supplement No. 5*, under Article 19, paras. 2-3.

³ G A (35), Plen., 102nd and 103rd mtgs.

⁴ A/ES/6-2, A/ES-7/6 and A/ES/7/6/Add.1.

⁵ A/34/474 and Add.1-2.

⁶ A/34/851 and Add.1.

⁷ G A (34), 119th mtg.

⁸ A/ES-6/2 and Add.1. and 2.

⁹ G A (35), Plen., paras. 7-8.

¹⁰ *Ibid.*, paras. 19-20.

¹¹ A/35/792/Add.3.

¹² G A (35), Plen., 104th mtg., paras. 1-2.

¹³ *Ibid.*, 110th mtg.

¹⁴ G A (36), Suppl. No. 11, para. 58.

¹⁵ *Ibid.*, 5th Comm., 10th mtg., para. 1.

¹⁶ *Ibid.*, Suppl. No. 11, para. 57.

¹⁷ G A (34), Suppl. No. 11, paras. 30-42.

¹⁸ A/36/502; A/37/461 and Add.1; A/38/430 and Add.1; A/39/498 and Add.1.