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## 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. As in the previous *Supplement*,<sup>1</sup> the general survey briefly summarizes the practice followed by the General Assembly in relation to the application of Article 19.
2. The analytical summary of practice contains a detailed account of the decisions of the General Assembly, which have direct bearing on the interpretation and application of Article 19 and were preceded or followed by constitutional discussion.
3. In order to cover new developments concerning procedural aspects of the application of Article 19, sections (d) and (e) have been added in the analytical summary of practice.

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<sup>1</sup> See, *Repertory, Supplement No. 8*, vol. II, study under Article 19.

## I. General survey

4. During the period under review, the General Assembly continued a consistent pattern of practice with respect to Member States that were in arrears within the terms of Article 19. At the first plenary meeting of each regular session of the General Assembly, the Secretary-General in a letter addressed to the President of the General Assembly under the agenda item "Scale of assessments for the apportionment of the expenses of the United Nations" notified the President of the names of those Member States that were in arrears within the terms of Article 19 and listed the minimum payments necessary to reduce their arrears below the amount specified in Article 19 ("minimum payments").<sup>2</sup> At the beginning of each resumed session, the Secretary-General also in a similar letter notified the President of the General Assembly of the names of those Member States that were in arrears within the terms of Article 19

and their respective minimum payments.<sup>3</sup> Since 1997, the Secretary-General also issued similar notifications to the President of the General Assembly during its tenth emergency special session<sup>4</sup> and four special sessions.<sup>5</sup> In 1999, the Secretary-General issued three more letters to the same effect, in addition to the letters referred to above.<sup>6</sup> By issuing addenda, subsequent to those communications, the Secretary-General informed the President of the names of those Member States that had made the minimum payments and avoided losing the right to vote in the General Assembly.<sup>7</sup> Upon receipt of

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<sup>2</sup> See A/50/444, A/51/366, A/52/350, A/53/345 and A/54/333.

<sup>3</sup> See A/49/838, A/50/888, A/51/780, A/52/785 and A/53/835.

<sup>4</sup> See A/ES-10/3, A/ES-10/25 and A/ES-10/33.

<sup>5</sup> See A/S-19/20, A/S-20/8, A/S-21/3 and A/S-22/7.

<sup>6</sup> See A/53/1020, A/53/1040 and A/54/464.

<sup>7</sup> See A/49/838/Add.1-5, A/50/444/Add.1-6, A/50/888/Add.1-12, A/51/366/Add.1-4, A/51/780/Add.1-8, A/S-19/20/Add.1, A/ES-10/3/Add.1, A/52/350/Add.1-5, A/ES-10/3/Add.2, A/52/785/Add.1-11, A/53/345/Add.1-6, A/53/835/Add.1-8, A/53/1020/Add.1, A/53/1040/Add.1 and 2, A/54/333/Add.1-3 and A/54/464/Add.1.

the above notifications, the President drew the attention of the General Assembly to the Secretary-General's communications<sup>8</sup> and addenda.<sup>9</sup>

5. During the period under review, 18 Member States requested the General Assembly for permission to vote,<sup>10</sup> with 9 of them making such requests at least twice.<sup>11</sup> The requesting Member States attributed the failure to pay their assessed contributions to economic difficulties, political instability, natural disasters or a

combination of these factors,<sup>12</sup> which were conditions beyond their control.<sup>13</sup>

6. The Committee on Contributions continued to advise the General Assembly upon its request<sup>14</sup> on the action to be taken with regard to the application of Article 19 in accordance with rule 160 of the rules of procedure of the General Assembly.<sup>15</sup> After reviewing the requests and considering the representations from the requesting Member States, the Committee either made, inter alia, the following recommendations to the General Assembly, or acted along the following lines:

- that certain Member States be permitted to vote for a period of time,<sup>16</sup> when there was agreement in the Committee that situations in those Member States were due to conditions beyond their control;<sup>17</sup>
- that certain Member States be permitted to vote temporarily during a particular session of the General Assembly and pending the receipt of the necessary payments when the Member States expressed their intentions to pay their arrears, partially or fully, in the near future;<sup>18</sup>
- that Article 19 was no longer applicable to certain Member States because they had made the necessary payments to reduce their arrears;<sup>19</sup>

<sup>8</sup> See statements of the President, A/49/PV.96, p. 1; A/50/PV.1, p. 1; A/50/PV.101, pp. 3-4; A/51/PV.1, p. 1; A/51/PV.90, p. 4 (also taking note of A/51/780/Add.1); A/ES-10/PV.1, p. 2, A/ES-10/PV.2, p. 28; A/S-19/PV.1, p. 1; A/S-19/PV.2, p. 1; A/52/PV.1, p. 1; A/52/PV.80, p. 1; A/ES-10/PV.8, p. 2; A/S-20/PV.1, p. 1; A/53/PV.1, p. 1; A/ES-10/PV.10, p. 2; A/53/PV.94, p. 1; A/S-21/PV.1, p. 1; A/53/PV.104, p. 1; A/53/PV.106, p. 1 (also taking note of A/53/1040/Add.1); A/54/PV.1, p. 1; A/S-22/PV.1, p. 1; A/54/PV.34, p. 3.

<sup>9</sup> See statements of the President, A/49/PV.97, p. 2; A/49/PV.103, p. 1; A/49/PV.104, p. 2; A/49/PV.105, pp. 1-2; A/49/PV.107, p. 1; A/49/PV.108, p. 1; A/50/PV.3, p. 1; A/50/PV.15, p. 1; A/50/PV.19, p. 1; A/50/PV.31, p. 1; A/50/PV.33, p. 2; A/50/PV.40, p. 1; A/50/PV.102, p. 1; A/50/PV.103, p. 4; A/50/PV.104, p. 1; A/50/PV.108, p. 1; A/50/PV.113, p. 1; A/50/PV.116, p. 11; A/50/PV.118, p. 1; A/50/PV.122, p. 1; A/50/PV.123, p. 1; A/50/PV.125, p. 1; A/50/PV.126, p. 1; A/50/PV.128, p. 1; A/51/PV.3, p. 1; A/51/PV.19, p. 1; A/51/PV.31, p. 1; A/51/PV.36, p. 27; A/51/PV.90, p. 4 (also taking note of A/51/780); A/51/PV.91, p. 8; A/51/PV.94, p. 1; A/51/PV.96, p. 1; A/51/PV.98, p. 2; A/51/PV.101, p. 4; A/S-19/PV.5, p. 1; A/ES-10/PV.4, p. 1; A/51/PV.107, p. 5; A/52/PV.15, p. 1; A/52/PV.25, p. 1; A/52/PV.29, p. 1; A/52/PV.30, p. 1; A/52/PV.37, p. 1; A/ES-10/PV.6, p. 1; A/52/PV.81, p. 1; A/52/PV.82, p. 1; A/52/PV.83, p. 1; A/52/PV.84, p. 1; A/52/PV.85, p. 1; A/52/PV.86, p. 2; A/52/PV.87, p. 1; A/52/PV.89, p. 1; A/52/PV.90, p. 2; A/52/PV.91, p. 1; A/52/PV.92, p. 1; A/53/PV.3, p. 1; A/53/PV.10, p. 1; A/53/PV.12, p. 1; A/53/PV.16, p. 1; A/53/PV.24, p. 1; A/53/PV.26, p. 1; A/53/PV.98, p. 2; A/53/PV.99, pp. 1-2; A/53/PV.100, p. 1; A/53/PV.101, p. 1; A/53/PV.106, p. 1 (also taking note of A/53/1040); A/53/PV.107, p. 1; A/54/PV.3, p. 1; A/54/PV.4, p. 1; A/54/PV.14, p. 1; A/54/PV.42, p. 2.

<sup>10</sup> See A/C.5/50/37; GA resolution 50/207 A and the report of the Committee on Contributions, A/50/11/Add. 1, paras. 18, 21, 26, 29, 32, 34 and 37 and A/50/11/Add.2, para. 9; A/51/11, paras. 16, 20 and 24; A/53/11, paras. 29 and 33; A/C.5/53/21, A/C.5/53/22, A/C.5/53/23, A/C.5/53/24, A/C.5/53/28, A/53/11/Add.1, paras. 14, 20, 27, 34, 41, 49, 58 and 65; A/54/11, paras. 89, 93, 99, 102 and 106; and A/C.5/53/65.

<sup>11</sup> Ibid.

<sup>12</sup> See A/C.5/50/37, annex; A/50/11/Add.1, paras. 19, 24, 27, 30, 35 and 38; A/50/11/Add.2, para. 10; A/C.5/53/21; A/C.5/53/22; A/C.5/53/23; A/C.5/52/24; A/53/11/Add.1, paras. 21, 22, 35, 36, 50-51, 66 and 68; and A/54/11, paras. 94, 95 and 103.

<sup>13</sup> Some requests did not explicitly refer to the "conditions beyond control" exception. See A/C.5/53/22, annex; A/C.5/53/24, annex; A/53/900; and A/C.5/53/65, annex.

<sup>14</sup> See A/50/11, para. 62; A/51/11, paras. 16, 20 and 24; A/53/11, paras. 29 and 33; A/53/11/Add.1, paras. 14, 20, 27, 34, 41, 49, 58 and 65; and A/54/11, paras. 89, 93, 99, 102 and 106; see also GA resolutions 50/207 A and B, 53/36 A and G; cf. A/50/11, para. 54 (the Committee did not advise the GA on the application of Article 19 to Kyrgyzstan absent a request from the GA).

<sup>15</sup> A/520/Rev.15.

<sup>16</sup> The period of time was until or through the next session, through the then current session, or until a specific date (see note 17).

<sup>17</sup> See A/50/11/Add.1, paras. 31 and 36; A/50/11/Add.2, para. 12; A/51/11, paras. 19, 23 and 27; A/53/11, paras. 32 and 36 (Tajikistan); A/53/11/Add.1, paras. 19, 26, 33, 40, 48, 56 and 72; A/54/11, paras. 92, 98, 105 and 109.

<sup>18</sup> See A/50/11/Add.1, para. 20.

<sup>19</sup> See A/50/11/Add.1, paras. 25 and 33.

- the Committee needed more information to ascertain the applicability of Article 19 with respect to certain Member States;<sup>20</sup>
- the Committee was unable to recommend exemptions under Article 19.<sup>21</sup>

7. During the period under review, the General Assembly decided, on an exceptional basis, to grant temporary exemption under Article 19 to two Member States, because the Committee could not review their requests due to the late submission of their written representations.<sup>22</sup>

8. The Committee on Contributions began and continued to review the procedural aspects of the consideration of requests for exemption under Article 19<sup>23</sup> and procedures for the application of Article 19<sup>24</sup> at the request of the General Assembly.<sup>25</sup> It also considered the possibilities for tightening the application of Article 19, including measures to encourage the timely, full and unconditional payment of assessed contributions,<sup>26</sup> at the request of the General Assembly.<sup>27</sup> The details of the

<sup>20</sup> See A/50/11, para. 61; A/50/11/Add.1, para. 40; A/54/11, para. 101.

<sup>21</sup> See A/50/11, para. 66; A/50/11/Add.1, paras. 17 and 28; and A/53/11/Add.1, para. 63.

<sup>22</sup> See resolutions 50/207 B and 53/36 G.

<sup>23</sup> See A/50/11/Add.2, paras. 5-7; A/51/11, paras. 6-15; A/53/11, paras. 6-10; and A/54/11, paras. 46-56.

<sup>24</sup> See A/53/11, paras. 11-28; and A/54/11, paras. 57-60.

<sup>25</sup> See resolutions 50/207 B, para. 11, 52/215 B, paras. 4-5, and 53/36 C, para. 4.

<sup>26</sup> See A/54/11, paras. 61-86.

<sup>27</sup> See resolutions 53/36 C, paras. 3 and 5, and 54/237 B, para. 2.

Committee's consideration of these issues will be discussed in the analytical summary of practice.

9. During the period under review, the arrears of Belarus and Ukraine were about to rise to the level where they would have lost their voting rights in the General Assembly.<sup>28</sup> These Member States claimed that their rising arrears were mainly due to the unreasonably high assessments pursuant to the grouping assignments made in the 1970s.<sup>29</sup> The General Assembly had decided that the arrears of the two Member States were due to conditions beyond their control, as stated in the previous *Supplement*.<sup>30</sup> In this period, the General Assembly further considered the relocation of the two Member States to a more suitable group and the calculation of arrears under Article 19, the details of which will be discussed in the analytical summary of practice.

10. The Special Committee on Peacekeeping Operations in its reports to the General Assembly "reaffirm[ed] that the financing of peacekeeping operations is the collective responsibility of all Member States".<sup>31</sup> Therefore, the computation and reporting of arrears within the meaning of Article 19 continued to include arrears relating to peacekeeping operations.<sup>32</sup>

<sup>28</sup> See e.g., A/49/956, annex.

<sup>29</sup> See e.g., *ibid.*

<sup>30</sup> See *Repertory, Supplement No. 8*, vol. II, study under Article 19.

<sup>31</sup> A/50/230, para. 86; see also A/51/130, para. 71; A/52/209, para. 81; A/53/127, para. 102; and A/54/87, para. 107.

<sup>32</sup> See e.g., resolution 50/207 A.

## II. Analytical summary of practice

### (a) *Normalization of the situation concerning South Africa*<sup>33</sup>

11. In the light of General Assembly resolution 48/258 A adopted prior to the period under review,<sup>34</sup>

<sup>33</sup> This was agenda item 164 of the fiftieth session of the General Assembly. In spite of its name, agenda item 164 deals exclusively with South Africa's arrears accruing during the period from 30 September 1974 to 23 June 1994.

<sup>34</sup> The General Assembly by its resolution 48/258 A invited South Africa to resume its participation in the work of the Assembly and decided as an exceptional measure that South Africa's arrears were due to conditions beyond its control.

South Africa was not included in the Secretary-General's communications to the President of the General Assembly concerning the list of Member States that were in arrears under the terms of Article 19 during the period under review.<sup>35</sup>

12. On 14 September 1995, South Africa requested the inclusion in the agenda of the fiftieth session of the General Assembly of an additional item entitled "Normalization of the situation concerning South Africa" with the aim of settling its Article 19 arrears accruing

<sup>35</sup> See A/49/838 and A/50/444.

during the apartheid regime.<sup>36</sup> A draft resolution submitted by a number of Member States later clarified that the request concerns arrears “accruing during the period from 30 September 1974 to 23 June 1994”.<sup>37</sup> The relevant paragraphs of the draft resolution, *inter alia*, read as follows:

1. *Decides* that, owing to these unique and exceptional circumstances, South Africa’s unpaid assessments accruing during the period from 30 September 1974 to 23 June 1994 for the regular budget of the United Nations shall be considered no longer due and payable and that the amount of authorized retained surplus in the General Fund pursuant to General Assembly resolution 42/216 A of 21 December 1987 shall be reduced accordingly;

2. *Decides also* that, ... South Africa’s unpaid assessments accruing during the period from 30 September 1974 to 23 June 1994 for United Nations [peacekeeping] operations shall be considered no longer due and payable;

3. *Decides further* that under no circumstances shall the decisions referred to in paragraph 1 and 2 of the present resolution be used as a precedent.<sup>38</sup>

13. Owing to the financial complexity of this request, the General Assembly invited the Fifth Committee to provide technical observations regarding the implementation of draft resolution A/50/L.44.<sup>39</sup> At the 37th meeting of the Fifth Committee, the Controller noted that South Africa’s outstanding debt to the Working Capital Fund was presumably unaffected.<sup>40</sup> The Controller also explained the financial implications for other Member States if South Africa’s request was accepted.<sup>41</sup> One Member State raised several concerns

<sup>36</sup> A/50/231.

<sup>37</sup> A/50/L.44.

<sup>38</sup> *Ibid.*

<sup>39</sup> A/C.5/50/SR.37, para. 41; see also A/C.5/50/SR.39.

<sup>40</sup> A/C.5/50/SR.37, para. 44.

<sup>41</sup> *Ibid.*, paras. 43 and 45. To offset the shortfall of the regular budget, the Member States would permanently waive the right to their respective shares in \$53,881,711 of the surplus for the biennium 1986-1987 retained under the terms of GA resolution 42/216 A, on a pro rata basis. To offset the shortfall of the peacekeeping budget, the Member States would either receive additional assessments totalling the equivalent amount of the shortfall or permanently waive their shares in the budgetary surpluses for two peacekeeping accounts, on a pro rata basis.

on this request, including the confusing effect of such waiver against the background of a serious financial crisis at the United Nations; the negative effect of such an unprecedented practice on the application of Article 19; the idea that Member States which were sponsors rather than all Member States should be the ones to waive their rights to their respective shares of the budgetary surpluses; and a request for the exact amount of what Member States would waive.<sup>42</sup> The majority of Member States, nevertheless, supported South Africa’s request. One Member State considered it a matter of principle unrelated to the financial crisis<sup>43</sup> and another Member State emphasized that the amount of money involved was expenses of the United Nations and should be borne by all Member States without exception.<sup>44</sup> Subsequently, during the 39th meeting of the Fifth Committee, South Africa agreed to waive any credits it would receive from budgetary surpluses retained in the regular budget and the peacekeeping special accounts for the period from 30 September 1974 to 23 June 1994.<sup>45</sup> The Rapporteur introduced the Committee’s agreement on a number of amendments to draft resolution A/50/L.44 which was included in the recommendation to the General Assembly.<sup>46</sup>

14. On the recommendation of the Fifth Committee, the General Assembly finally adopted resolution 50/83 which, *inter alia*, read as follows:

1. *Accepts*, owing to these exceptional and unique circumstances, South Africa’s request not to pay its contributions for the period from 30 September 1974 to 23 June 1994, and decides that the consequent burden for the Organization shall be borne by Member States pursuant to Article 17 ... and the provisions of the present resolution;

2. *Welcomes and endorses* the statement of South Africa that it will waive any credits it would receive ... from budgetary surpluses retained in the regular budget and the peacekeeping special accounts respectively, for the period from 30 September 1974 to 23 June 1994;

3. *Decides* to ... waive the share of the credits [from regular budget surpluses] among other Member States on the basis of the respective

<sup>42</sup> *Ibid.*, paras. 46-48 and 64.

<sup>43</sup> *Ibid.*, para. 65.

<sup>44</sup> *Ibid.*, para. 66.

<sup>45</sup> A/C.5/50/SR.39, para. 20.

<sup>46</sup> See A/50/815.

scale of assessments ... in order to account for the reduction in outstanding contributions resulting from paragraph 1 above;

4. *Also decides* to ... waive the share of credits [from the peacekeeping special accounts] among other Member States on the basis of the respective scale of assessments for the period in which the surpluses arose, in order to account for the reduction in outstanding contributions resulting from paragraph 1 above;

5. *Further decides* that, owing to the unique and exceptional circumstances arising from apartheid, the decisions set out in paragraphs 3 and 4 of the present resolution shall under no circumstances constitute a precedent.<sup>47</sup>

*(b) Requests by Iraq under Article 19*

15. During the period under review, the Secretary-General in his communications to the President of the General Assembly included Iraq as one of the Member States that were in arrears under the terms of Article 19.<sup>48</sup> In June 1995, the Committee on Contributions reviewed the 1994 request by Iraq for an Article 19 waiver based on conditions beyond its control,<sup>49</sup> but failed to reach a consensus on the matter.<sup>50</sup> Some Member States supported Iraq's request; others did not support Iraq because they believed the Committee lacked adequate statistical information on the current economic and financial situation of Iraq; and the view was also expressed that the issue had political connotations, which was outside the mandate of the Committee.<sup>51</sup>

<sup>47</sup> GA resolution 50/83.

<sup>48</sup> See A/50/444, A/51/366, A/52/350, A/53/345, A/54/333, A/49/838, A/50/888, A/51/780, A/52/785 and A/53/835.

<sup>49</sup> See *Repertory, Supplement No. 8*, vol. II, study under Article 19; see also A/C.5/49/39.

<sup>50</sup> See A/50/11, paras. 62-67. Iraq argued that the comprehensive embargo imposed by Security Council resolutions deprived Iraq of all its financial resources; moreover, Iraq's proposals to pay its contribution in local currency or unblock \$300,000 Iraqi frozen funds were rejected "on the grounds that the United Nations agencies operating in Iraq had no need for local currency and that resolution 778 (1992) provides that frozen funds can be unblocked only for humanitarian purposes".

<sup>51</sup> See A/50/11, para. 66.

16. Iraq repeated the same request at a later date of the same year,<sup>52</sup> and introduced a draft resolution<sup>53</sup> which would have decided its arrears were due to conditions beyond its control.<sup>54</sup> During the consideration of the draft resolution in the Fifth Committee, some Member States proposed that no action be taken on draft resolution A/C.5/50/L.8, because it was inconsistent with the spirit of the Charter to grant Article 19 waiver in circumstances such as those prevailing in Iraq.<sup>55</sup> Some others supported the position of Iraq.<sup>56</sup> Nevertheless, one Member State proposed a motion under rule 117 of the rules of procedure of the General Assembly that the debate on that draft resolution be closed.<sup>57</sup> The motion was adopted by a recorded vote of 48 to 3, with 23 abstentions.<sup>58</sup>

*(c) Peacekeeping arrears of Belarus and Ukraine*

17. On 14 August 1995, Belarus requested the United Nations that it be relocated to the group of Member States set out in paragraph 3(c) of General Assembly resolution 43/232 for the apportionment of the cost of peacekeeping operations (group C).<sup>59</sup> Belarus claimed that its assignment in group B pursuant to General Assembly resolution 3101 (XXVIII) of 11 December 1973 was due to political and ideological reasons as it was part of the former Soviet Union at that time.<sup>60</sup> Consequently, its contributions to the peacekeeping operations budget were more than its capacity to pay and historically obsolete, since its legal status under international law had changed and its economic situation had greatly deteriorated.<sup>61</sup> In its view, the relocation was reasonable in the context of General Assembly decision 49/470.<sup>62</sup> Ukraine, by advancing

<sup>52</sup> See A/C.5/50/37.

<sup>53</sup> A/C.5/50/L.8.

<sup>54</sup> See generally, A/50/843.

<sup>55</sup> See A/C.5/50/SR.44, paras. 17-20 and 23.

<sup>56</sup> See, e.g., A/C.5/50/SR.44, para. 24.

<sup>57</sup> *Ibid.*, para. 19.

<sup>58</sup> A/50/843, para. 10.

<sup>59</sup> See A/49/956.

<sup>60</sup> *Ibid.*, annex, para. 1.

<sup>61</sup> *Ibid.*, annex, para. 2.

<sup>62</sup> On 23 December 1994, the GA decided to consider, as an exceptional measure, any arrears of Belarus and Ukraine in the peacekeeping operations as being due to conditions beyond their control.

similar arguments later in 1995,<sup>63</sup> also made a request for relocation from group B to group C.<sup>64</sup>

18. With respect to the request of Belarus, Portugal voluntarily moved from group C to group B<sup>65</sup> and Belarus expressed its intention to deal with its arrears for the financing of peacekeeping operations.<sup>66</sup> Consequently, the General Assembly decided, as a special ad hoc arrangement, to relocate Belarus to group C, on the understanding that the reduction in the United States dollar amounts to be assessed on Belarus beginning 1 July 1995 should be equal to the additional United States dollar amounts assessed on Portugal in accordance with Assembly resolution 49/249 A, subject to possible future adjustment by the General Assembly.<sup>67</sup>

19. With respect to Ukraine's request, Greece voluntarily moved from group C to group B and gradually increased its contributions to offset the loss of contributions by the possible relocation of Ukraine.<sup>68</sup> Moreover, Ukraine expressed its intention to settle its arrears with respect to the peacekeeping operations budget.<sup>69</sup> As a result, the General Assembly decided, as an ad hoc arrangement, to relocate Ukraine from group B to group C, on the understanding that the reduction in the United Nations dollar amounts to be assessed on Ukraine beginning 1 July 1996 should be equal to the additional United States dollar amounts assessed on Greece in accordance with the scheme of gradual increase, subject to possible future adjustment.<sup>70</sup>

20. At the end of 1999, the General Assembly decided that all financial contributions of Belarus and Ukraine to the Organization, including those for which assessments were issued prior to 1996, should be taken into account when determining whether the arrears of

the two Member States, as calculated according to decision 49/470, fell within Article 19.<sup>71</sup> At the same time, the General Assembly emphasized that this resolution should not exempt Belarus and Ukraine from their obligation to pay outstanding contributions and called upon them to settle their peacekeeping arrears.<sup>72</sup>

*(d) Review of the procedural aspects of exemption under Article 19*

21. As indicated in the general survey, upon the request from the General Assembly in 1996,<sup>73</sup> the Committee on Contributions reviewed the procedural aspects of consideration of requests for exemption under Article 19.<sup>74</sup> In addition to a general review of the practice of exemption under Article 19 in previous years, the Committee considered a problem arising from the timing of the request for exemption under Article 19,<sup>75</sup> and observed that Article 19 was applied from 1 January of each year and that the Committee did not normally meet until June. Accordingly, Member States requesting exemption under Article 19 were liable to the loss of their right to vote until action was taken by the Committee and the General Assembly, regardless of the outcome of their request.<sup>76</sup> This problem became serious as more resumed sessions of the General Assembly were convened during the period under review.<sup>77</sup> The General Assembly in the past had tentatively approved exemptions until the end of the concurrent or next session so that the Committee could consider any exemption requests before Member States concerned could lose their voting rights.<sup>78</sup> Nevertheless, the problem remained for those Member States for which an exemption had not been granted earlier.<sup>79</sup>

22. The Committee discussed the feasibility of several suggestions to solve this problem, which included automatic interim exemptions pending actions by the Committee and the General Assembly; adjustment of the period for calculation from the calendar year to a period beginning closer to the annual sessions of the

<sup>63</sup> See A/50/502.

<sup>64</sup> Some Member States other than Belarus and Ukraine also requested to relocate from group B to group C, but for reasons unrelated to the Article 19 discussion.

<sup>65</sup> See GA resolution 49/249 A.

<sup>66</sup> A/49/947/Add.1, para. 5.

<sup>67</sup> GA resolution 49/249 B, para. 1.

<sup>68</sup> See GA resolution 50/224, para. 2 (a). Greece increased its share of the costs of peacekeeping operations on the basis of the proportions determined by the scale of assessments in the following manner: "35 per cent beginning 1 July 1996, 55 per cent in 1997, 75 per cent in 1998, 95 per cent in 1999 and 100 per cent in 2000 and subsequent years".

<sup>69</sup> Ibid., para. 4.

<sup>70</sup> Ibid., para. 2 (b).

<sup>71</sup> GA resolution 54/242, para. 1.

<sup>72</sup> Ibid., para. 2.

<sup>73</sup> See GA resolution 50/207 B, para. 11.

<sup>74</sup> See A/51/11, paras. 6-15.

<sup>75</sup> Ibid., paras. 9-11.

<sup>76</sup> Ibid., para. 9.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid., para. 10.

<sup>79</sup> Ibid.

Committee; and special sessions to review requests.<sup>80</sup> However, the Committee could not arrive at an agreement on these suggestions.<sup>81</sup>

23. With respect to the exemption review process, the Committee urged Member States to provide the fullest possible information so that it could better consider the requests for exemption under Article 19.<sup>82</sup> With respect to the review standards, the Committee discussed the possibility of certain guidelines to grant exemptions under Article 19,<sup>83</sup> but was doubtful as to whether one set of guidelines could be applied uniformly to all requests.<sup>84</sup> The Committee agreed to consider the particular circumstances of each Member State concerned, as well as precedents, as appropriate, during the review of requests for exemption.<sup>85</sup> Moreover, the Committee agreed that requests for extension of exemption should be fully reviewed on their own merits.<sup>86</sup>

24. Late in 1997, the General Assembly took note of these observations<sup>87</sup> and requested the Committee to keep this matter under review and to make recommendations, as appropriate.<sup>88</sup>

25. The Committee, therefore, continued its review of the exemption practice in 1998.<sup>89</sup> In addition to the above observations, the Committee agreed that the exemptions under Article 19 that it recommended should be of limited duration<sup>90</sup> and, again, urged Member States to provide the fullest possible information for exemption consideration, including on economic aggregates, government revenues, foreign exchange resources, indebtedness and any difficulties

in meeting domestic or international financial obligations.<sup>91</sup>

26. In 1999, the Committee further continued its review and emphasized the importance of the obligation of Member States to pay all assessed contributions in full and on time and stressed the need for a stringent standard to review the requests for exemption.<sup>92</sup> With respect to the three suggestions to solve the timing problem which was raised in 1996, the Committee observed that automatic interim exemptions tended to weaken the effect of Article 19 and prejudice the merits of the requests; that calculation period adjustment would require amendments to the Financial Regulations and Rules of the United Nations; and that special sessions have financial implications and may not always be necessary.<sup>93</sup> The Committee also considered the possibility of holding its regular sessions earlier in the year, but concluded that this might complicate its work in advising the General Assembly on the scale of assessments.<sup>94</sup>

27. In the same year, the Committee also considered a second timing problem, namely, the period between the adoption of recommendations by the Committee and action on those recommendations by the General Assembly, and decided to remit such recommendations to the [concurrent] session of the Assembly so as to permit the earliest possible action.<sup>95</sup>

28. Still in the same year, the Committee also considered a third timing problem relating to requests for exemption received after the Committee's regular session, the final action on which could be delayed for over one year.<sup>96</sup> It observed that, although holding the Committee's regular sessions later in the year might help solve this problem, this would increase the time between the application of Article 19 and its review of requests for exemption and complicate the Committee's consideration of other issues.<sup>97</sup> In the view of the Committee, review by correspondence was not feasible because such process would not constitute a decision by the Committee; it could be time-consuming and would lack certain aspects of a regular

<sup>80</sup> *Ibid.*, para. 11.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*, para. 13.

<sup>83</sup> *Ibid.*, para. 14. Guidelines include evidence that the Government of the Member State concerned had serious difficulties in obtaining revenues and in meeting its domestic and international financial obligations and the importance of providing a payment plan by the Member States concerned.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*, para. 15.

<sup>87</sup> See GA resolution 52/215 B, para. 3.

<sup>88</sup> *Ibid.*, para. 4; see also GA resolution 53/36 C, para. 4.

<sup>89</sup> See A/53/11, paras. 6-10 and A/54/11, paras. 46-56.

<sup>90</sup> A/53/11, para. 9.

<sup>91</sup> *Ibid.*, para. 10.

<sup>92</sup> See A/54/11, para. 47.

<sup>93</sup> *Ibid.*, para. 51.

<sup>94</sup> *Ibid.*, para. 52.

<sup>95</sup> *Ibid.*, para. 53.

<sup>96</sup> *Ibid.*, para. 54.

<sup>97</sup> *Ibid.*, para. 55.

review such as interaction and questioning.<sup>98</sup> Review by video- or teleconferencing would also be difficult because of technical and practical issues.<sup>99</sup>

29. In the same year, the General Assembly considered the Committee's observations and recommendations and urged all Member States to pay their assessed contributions in full, on time and without conditions.<sup>100</sup> It also urged those Member States requesting exemptions under Article 19 to provide the fullest possible information<sup>101</sup> and decided that requests for exemption under Article 19 must be submitted by Member States to the President of the General Assembly, at least two weeks before the session of the Committee, to ensure a complete review of the requests.<sup>102</sup>

*(e) Review of procedures for the application of Article 19*

30. Upon a request by the General Assembly in 1997,<sup>103</sup> the Committee on Contributions reviewed the procedures for the application of Article 19.<sup>104</sup> The Committee noted three distinct methodological elements in the existing procedures for the application of Article 19: the determination of the amount of arrears; the interpretation given to "the amount of contributions due from it for the preceding two years"; and the use of gross and net amounts in the determination of arrears and contributions due.<sup>105</sup> Firstly, although Article 19 does not specify how to calculate arrears, it has been the previous practice not to consider unpaid amounts as arrears until the first day of January of the year following the year during which such contributions fell due.<sup>106</sup> Secondly, the phrase "preceding two full years" has been interpreted to mean the preceding two full calendar years.<sup>107</sup> Thirdly, arrears were computed in net terms, which are actual amounts payable after adjustments.<sup>108</sup>

31. The Committee observed, however, that the phrase "the amount of the contributions due ... for the preceding two full years" has been interpreted as referring to the amounts "as apportioned by the General Assembly" under Article 17 that are the gross amounts assessed on Member States.<sup>109</sup> The gross amounts are usually higher than the net amount of assessments so that this approach tends to reduce the amount of minimum payments that Member States must pay to retain their voting rights.<sup>110</sup>

32. The Committee noted that the Assistant Secretary-General for Legal Affairs had advised that the existing procedures were consistent with relevant decisions of the General Assembly which, in turn, were consistent with Article 19<sup>111</sup> and that the General Assembly could direct the Secretary-General by a resolution to change the practice with or without changing the Financial Regulations of the United Nations.<sup>112</sup>

33. The Committee also noted that the loss of voting rights under Article 19 was then the only sanction against Member States not meeting their financial obligations to the Organization<sup>113</sup> and such action alone could not solve the financial problems of the United Nations.<sup>114</sup> Nevertheless, the Committee indicated there was scope for changing the existing procedures for the application of Article 19, which might have a positive impact on payments by the Member States affected and, thus, on the overall financial situation of the Organization.<sup>115</sup>

34. Hence, the Committee considered several measures and proposals, including semi-annual calculation, which would require a revision of Financial Regulation 5.4 with regard to the definition of arrears and interpreting "preceding two full years" as the preceding 24 months;<sup>116</sup> annual calculation and application of Article 19 with a full year that begins on 1 July;<sup>117</sup> and comparing arrears (net arrears) with the amount actually assessed and payable for the preceding

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> GA resolution 54/237 C, para. 1.

<sup>101</sup> Ibid., para. 3.

<sup>102</sup> Ibid., para. 4.

<sup>103</sup> See GA resolution 52/215 B, para. 5.

<sup>104</sup> See A/53/11, paras. 11-28.

<sup>105</sup> Ibid., para. 11.

<sup>106</sup> Ibid., para. 13.

<sup>107</sup> Ibid., para. 14.

<sup>108</sup> Ibid., para. 16.

<sup>109</sup> Ibid., para. 17.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid., para. 18.

<sup>112</sup> Ibid., para. 19.

<sup>113</sup> Ibid., para. 21.

<sup>114</sup> Ibid., para. 22.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid., para. 23.

<sup>117</sup> Ibid., para. 24.

two full years (net assessments).<sup>118</sup> It finally decided to continue to consider the matter further.<sup>119</sup>

35. In 1998, the General Assembly further requested the Committee on Contributions to consider and make recommendations on possibilities for tightening the application of Article 19 and measures to encourage the timely, full and unconditional payment of assessed contributions.<sup>120</sup>

36. The Committee on Contributions reviewed this matter in 1999. The Committee understood the phrase “tightening the application of Article 19” to refer to changes in the current procedures for its application that would decrease the amount of past due contributions that a Member State could carry before losing its vote in the Assembly.<sup>121</sup> Two measures that had been discussed in the 1998 report of the Committee<sup>122</sup> were considered in this regard. However, the Committee decided to consider these questions further at an appropriate future session, in the light of any policy guidance by the General Assembly, and recommended that such measures should not be implemented before 2001.<sup>123</sup>

37. With respect to the measures to encourage the timely, full and unconditional payment of assessed contributions, the Committee reviewed a number of measures,<sup>124</sup> which raised complex technical issues and would require further study by the Committee if mandated by the General Assembly.<sup>125</sup> Generally, the Committee demanded clarification on rules and standards to define arrears and timely payment of contributions to implement any of the measures discussed above,<sup>126</sup> including whether the 30-day deadline according to Financial Regulation 5.4 was impractical and a longer period should be specified;<sup>127</sup> whether the measures listed above should be based on the overall status of each Member State’s payments or on an account-by-account basis;<sup>128</sup> whether it is prudent to fix a deadline for timely payment of assessed contributions from the date of issuance of the assessments rather than from that of their receipt according to the current Financial Regulation 5.4, because it is difficult to verify exactly when assessment letters are received.<sup>129</sup>

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<sup>118</sup> Ibid., para. 25.

<sup>119</sup> Ibid., para. 27.

<sup>120</sup> See GA resolution 53/36 C, paras. 3 and 5.

<sup>121</sup> See A/54/11, para. 57.

<sup>122</sup> See A/53/11, paras. 23-25; see also para. 33 of this supplement: applying Article 19 more often or at a different time and comparing net arrears to net assessments.

<sup>123</sup> See A/54/11, para. 60.

<sup>124</sup> Ibid., paras. 66-86.

<sup>125</sup> See A/54/11, para. 65.

<sup>126</sup> Ibid., para. 63.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid., para. 64.