

ARTICLE 5

TEXT OF ARTICLE 5

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 exercise of these rights and privileges may be restored by the Security Council.

NOTE

1. No decisions requiring treatment under this Article¹ were taken by the organs of the United Nations during the period under review, but there were references to it. Statements containing such references were made in discussions of certain questions, including those in the General Assembly concerned with the question of treatment of people of Indian and Indo-Pakistan origin in the Republic of South Africa² and those in the Security Council concerned with the question relating to Territories under Portuguese administration³ as well as those concerned with the question relating to the policies of *apartheid* of the Government of the Republic of South Africa in the General Assembly⁴ and in the Security Council.⁵ In those instances, the application of Article 5 was suggested on the ground that the Government concerned had failed to bring its policies into conformity with its obligations and responsibilities under the Charter of the United Nations, and to correct the situation arising from its racial policies.

2. In two instances references were made to the terms of Article 5 under which preventive or enforcement action by the Security Council against a Member State was taken to be the prerequisite for the suspension of the exercise of the rights and privileges of membership. During the consideration in the Security Council of the question relating to Territories under Portuguese administration, it was noted that that prerequisite had not been fulfilled. The Security Council, it was observed, not having taken "preventive or enforcement action" against Portugal with regard to the whole of the Territories

under its administration, was not in a position to recommend to the General Assembly the measure envisaged in Article 5.⁶ In connexion with the question relating to the policies of *apartheid* of the Government of the Republic of South Africa, it was maintained in the Security Council that in adopting its resolution 181 (1963) of 7 August 1963 calling for total embargo on the sale and shipment of arms to South Africa, the Council had in effect taken a "preventive" action and, since South Africa had not made any concrete move to correct the situation which had led to the adoption of the aforementioned resolution, the Council should invoke Article 5 against that State.⁷

3. Article 5 was mentioned also in the General Assembly during the discussion, in the First Committee, of the complaint by Cuba of threats to international peace and security.⁸

4. Article 5, together with Article 6, was referred to also by the International Court of Justice in its advisory opinion of 20 July 1962 dealing with the expenses of the United Nations.⁹ On the relations established by the Charter between the General Assembly and the Security Council, the Court observed that, in connexion with the suspension of rights and privileges of membership and expulsion from membership under Articles 5 and 6, it was the Security Council which had only the power to recommend and it was the General Assembly which decided and whose decision determined status, but that there was a close collaboration between the two organs. Those powers of decision of the General Assembly under Articles 5 and 6, the Court noted, were specifically related to preventive or enforcement measures.¹⁰

¹ For suspension from membership in the subsidiary organs of the Economic and Social Council, see this *Supplement* under Article 68.

² G A (XV), Spec. Pol. Com., 231st mtg.: Saudi Arabia, para. 8.

³ S C, 18th yr., 1042nd mtg.: Ghana, para. 98; 1043rd mtg.: Brazil, para. 9.

⁴ G A (XVIII), Spec. Pol. Com., 379th mtg.: Guinea, para. 20; 384th mtg.: Tunisia, para. 11; 387th mtg.: Mali, para. 22; 396th mtg.: Jordan, para. 28. See also: G A (XVIII), Annexes, a.i. 30/Addendum, A/5497 and Add.1, para. 517.

⁵ S C, 18th yr., 1074th mtg.: Ghana, paras. 36 and 37.

⁶ *Ibid.*, 1043rd mtg.: Brazil, para. 9.

⁷ *Ibid.*, 1074th mtg., Ghana, paras. 36 and 37.

⁸ G A (XVI), 1st Com., 1236th mtg.: Dominican Republic, para. 11.

⁹ Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: ICJ, *Reports 1962*, p. 151.

¹⁰ *Ibid.*, pp. 163 and 164.