

ARTICLE 6

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ARTICLE 6

TEXT OF ARTICLE 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

INTRODUCTORY NOTE

1. During the period under review, neither the General Assembly nor the Security Council adopted resolutions or decisions initiating procedures under Article 6 or invoking the language of the Article.
2. However the Security Council considered at length, and voted on, a draft resolution invoking Article 6 together with other provisions of the Charter and recommending to the General Assembly the expulsion of a Member State from the Organization. This draft resolution, which failed of adoption, is dealt with in the summary of practice.
3. In connexion with the debate on that issue in the Security Council and on other occasions there were numerous instances where Article 6, often together with Article 5, was explicitly invoked. These references are also to be found in the summary of practice.
4. None of these references and arguments was of such constitutional significance that it would have required treatment in a separate analytical summary of practice.

SUMMARY OF PRACTICE

5. At its 1802nd meeting, on 25 October 1974, while the Security Council was considering the relationship between the United Nations and South Africa, a draft resolution¹ was submitted to the Council, co-sponsored by Kenya, Mauritania, the United Republic of Cameroon and, subsequently, by Iraq, which read as follows:

"The Security Council,

"Having considered General Assembly resolution 3207 (XXIX) of 30 September 1974, in which the Assembly called upon the Security Council to review the relationship between the United Nations and South Africa in the light of the constant violation by South Africa of the principles of the Charter and the Universal Declaration of Human Rights,

"Having heard the statements of the persons invited to address the Council on this issue,

"Taking note of the report of the Special Committee on Apartheid entitled 'Violations of the Charter of the United Nations and resolutions of the General Assembly and the Security Council by the South African régime' (S/11537),

"Mindful of the provisions of the Charter concerning the rights and obligations of Member States, particularly those of Articles 1, 2, 6, 55 and 56,

"Recalling its resolutions 134 (1960) of 1 April 1960, 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963, 190 (1964) of 9 June 1964, 282 (1970) of 23 July 1970 and 311 (1972) of 4 February 1972, on the question of the policies of apartheid of the Government of the Republic of South Africa,

"Reaffirming that the policies of apartheid are contrary to the principles and purposes of the Charter and inconsistent with the provisions of the Universal Declaration of Human Rights, as well as South Africa's obligations under the Charter,

"Recalling that the General Assembly and the Security Council have more than once condemned the South African Government for its persistent refusal to abandon its

policies of apartheid and to abide by its obligations under the Charter, as called for by the Council and the Assembly,

"Noting with concern South Africa's refusal to withdraw its police and military forces, as well as its civilian personnel, from the Mandated Territory of Namibia and to co-operate with the United Nations in enabling the people of Namibia as a whole to attain self-determination and independence,

"Noting further that, in violation of the pertinent resolutions of the Security Council, particularly resolution 253 (1968) of 29 May 1968, South Africa has not only given support to the illegal régime in Southern Rhodesia, but has also sent into that Territory military and police personnel for the purpose of strengthening that régime in its attempt to impede the exercise by the people of the Territory of their inalienable rights,

"Considering that effective measures should be taken to resolve the present situation arising out of the policies of apartheid of the Government of South Africa,

"Recommends to the General Assembly the immediate expulsion of South Africa from the United Nations in compliance with Article 6 of the Charter."

6. In introducing the draft resolution at the 1806th meeting of the Council on 29 October 1974, one of the sponsors stated that the policies of apartheid of the Government of South Africa were clearly incompatible with its obligations as a Member of the United Nations and that the Council had repeatedly expressed grave concern that the situation in South Africa seriously disturbed international peace and security in the region. He also recalled that South Africa had persistently defied the decisions of the United Nations in violation of Article 25 of the Charter. Under these circumstances, South Africa did not deserve anything other than expulsion from the Organization in accordance with Article 6. He rejected the argument that such a step would violate the principle of universality of membership, because South Africa's continued membership in the United Nations would

compromise the Charter and thereby erode the foundation of the Organization.

7. Another representative expressed the view that the Security Council should recommend the suspension of South Africa from membership in accordance with Article 5 and set at the same time a date by which the South African Government would be expected to comply with certain provisional measures under Article 40 with regard to the withdrawal from Namibia.

8. A third line of argument was voiced by a few representatives who warned against the use of expulsion under Article 6 under the prevailing circumstances; expulsion was to be seen as a very last resort if all other means had failed. They objected to the pressure exerted by the General Assembly on the Council in this question and emphasized that it was the Council's exclusive responsibility to arrive at a recommendation to the Assembly for the expulsion of a Member State. They insisted furthermore that the principle of universality should be carefully upheld in questions of membership.²

9. At the 1808th meeting, on 30 October 1974, the four-Power draft resolution was put to the vote. It obtained 10 votes in favour, and 3 against, with 2 abstentions, and failed of adoption owing to the negative vote of three permanent members of the Council.³

10. During the long deliberations in the Security Council on this question Article 6 was frequently referred to explicitly as well as implicitly.⁴

11. There were additional references to Article 6 in connexion with a few other questions⁵ before the Security Council.

12. The explicit references to Article 6 in the General Assembly focused mostly on issues relating to South Africa,⁶ but also on some other items.⁷

13. None of these invocations of Article 6 gave rise to new constitutional arguments, but they were representative of the wide range of opinions prevailing among Member States of the United Nations about the ultimate sanction of expulsion from the organization.⁸

NOTES

¹ S C (29), Suppl. for Oct.-Dec. 1974, S/11543.

² For the texts of relevant statements see S C (29), 1796th mtg.: Sierra Leone, Somalia, Tunisia; 1797th mtg.: Egypt, Mauritius, Nigeria, Syrian Arab Republic, Zaire; 1798th mtg.: Algeria, Bangladesh, Dahomey, Guyana; 1800th mtg.: Cuba, Uganda, Yugoslavia; 1801st mtg.: Madagascar, United Arab Emirates; 1802nd mtg.: Barbados, India, Pakistan; 1803rd mtg.: Kuwait, Mali, Romania, United Republic of Tanzania; 1804th mtg.: Guinea, Libyan Arab Republic, People's Republic of the Congo, Upper Volta, 1806th mtg.: China, Kenya, Mauritania, Morocco, Peru, USSR; 1807th mtg.: Byelorussian SSR, Indonesia, Iraq; 1808th mtg.: Costa Rica, France, United Kingdom, United Republic of Cameroon, United States

³ S C (29), 1808th mtg.

⁴ For explicit references to Article 6, see S C (29), 1796th mtg.: Somalia, Tunisia; 1797th mtg.: Mauritius, Nigeria, Syrian Arab Republic, Zaire, 1798th mtg.: Dahomey, Guyana; 1800th mtg.: Uganda; 1801st mtg.: Mada-

gascar; 1802nd mtg.: Barbados, India; 1803rd mtg.: Mali, Qatar, United Republic of Tanzania; 1804th mtg.: Congo, Upper Volta; 1806th mtg.: China, Kenya, Mauritania, Morocco, Peru; 1808th mtg.: Austria, Costa Rica, France, United Kingdom, United Republic of Cameroon. The implicit references to Article 6 are too numerous to be listed here.

⁵ S C (27), 1651st mtg.: Syrian Arab Republic, para. 195 in connexion with the situation in the Middle East; S C (30), 1845th mtg.: Iraq, in connexion with the admission of New Members to the United Nations; applications of the Republic of South Viet Nam and the Democratic Republic of Viet Nam: S C (32), 1988th mtg.: Egypt, para. 145; 1991st mtg.: Madagascar, para. 84, in connexion with the question of South Africa. See also the letter dated 28 September 1975 from the representative of Mexico to the Secretary-General (S C (30), Suppl. for July-Sept. 1975; S/11831), in which Mexico invoked Article 6 together with Article 5 and asked for a meeting of the Security Council for the purpose of recommending to the General Assembly "that the Spanish régime be suspended from the exercise of the rights and privileges of its membership".

⁶ For explicit references to Article 6 in connexion with the policies of apartheid of the Government of South Africa, see: G A (25), (a.i. 34), Spec. Pol. Com., 697th mtg.: Chad, para. 29; 701st mtg.: Mexico, paras. 28-29; 709th mtg.: Mali, para. 27; G A (28), (a.i. 42), Spec. Pol. Com., 869th mtg.: Greece, para. 4; G A (29), (a.i. 37), Spec. Pol. Com., 912th mtg.: Colombia, para. 43; 920th mtg.: Guyana, para. 54; G A (30), (a.i. 53), Spec. Pol. Com., 964th mtg.: Madagascar, para. 22. For explicit references in connexion with the consideration of the credentials of representatives (a.i. 3) of South Africa, see G A (25), Plen., 1900th mtg.: Indonesia, para. 44; Nigeria, para. 103; 1902nd mtg.: United States, para. 87; G A (29), Plen., 2248th mtg.: Guyana, Nigeria, Syrian Arab Republic; 2281st mtg.: Federal Republic of Germany, Philippines, United Kingdom, United States, G A (33), Plen., 99th mtg.: Canada, para. 30; Costa Rica, para. 36; Mexico, para. 26; Sweden, para. 20. For explicit references to Article 6 with regard to South Africa during the general debate (a.i. 9) see G A (27), Plen., 2059th mtg.: Yemen, para. 30; G A (28), Plen., 2140th mtg.: Senegal, para. 17. For explicit references to Article 6 see also G A (25), 3rd Com., 1766th mtg.: Sudan, para. 23 (a.i. 53 and 60. Elimination of all forms of racial discrimination; and the importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights); G A (28), Plen., 2176th mtg.: Mali, para. 147, (a.i. 23: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples); G A (29), Plen., 2316th mtg.: Ghana, (a.i. 20. Strengthening of the role of the United Nations. . .); G A (30), 4th Com., 2153rd mtg.: Gabon, para. 55 (a.i. 87: Question of Namibia); G A (33), Plen., 99th mtg.: Burundi, para. 79; 102nd mtg.: Kenya, para. 128 (a.i. 27: Question of Namibia).

⁷ For other explicit references see G A (25), 1st Com., 1729th mtg.: China, para. 11 (a.i. 32: Consideration of measures for the strengthening of international security); Plen., 1908th mtg.: Gambia, para. 47; 1913th mtg.: Madagascar, paras. 13-15 (a.i. 97: Restoration of the lawful rights of the People's Republic of China in the United Nations); G A (27), Plen., 2061st mtg.: Burundi, para. 26; 2062nd mtg.: Egypt, para. 104 (a.i. 9: General debate); Plen., 2092nd mtg.: Egypt, para. 51; 2099th mtg.: Syrian Arab Republic, para. 49; 2103rd mtg.: Mali, para. 122 (a.i. 21: The situation in the Middle East); 1st Com., 1917th mtg.: Yemen, (a.i. 35: Implementation of the Declaration on the Strengthening of International Security); G A (28), Plen., 2162nd mtg.: Yemen, para. 24 (a.i. 107: Illegal occupation by Portuguese military forces of certain sectors of the Republic of Guinea-Bissau and acts of aggression committed by them against the people of the Republic); G A (30), 6th Com., 1572nd mtg.: New Zealand, para. 50 (a.i. 113 and 29: Report of the *Ad Hoc* Committee on the Charter of the United Nations, and strengthening of the role of the United Nations).

⁸ The various debates about issues relating to South Africa reflected most fully the range of opinions held by United Nations members on the question of when and how to wield the instrument of expulsion under the provisions of Article 6