

ARTICLE 103

TEXT OF ARTICLE 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

NOTE

1. During the period under review, no decision had been taken by United Nations organs concerning the interpretation or application of Article 103.

2. Article 103 had been referred to by representatives during the discussion of the agenda item "Application under the auspices of the United Nations of the principle of equal rights and self-determination of peoples in the case of the population of the Island of Cyprus" at the ninth session of the General Assembly. 1/ On the one hand, it was alleged 2/ that Member States had, by ratifying the Charter, assumed the contractual obligation to respect the principle of self-determination, that the Charter was a more recent treaty than the Treaty of Lausanne of 1923, and that Article 103 of the Charter affirmed that the provisions of the Charter should prevail over any other contractual obligation that conflicted therewith. On the other hand, the following arguments were advanced: 3/ (a) While the Charter might affirm in a general way the principle of self-determination of peoples, it contained no positive obligation to grant self-determination in any particular case or to any particular ethnic group. Consequently, when a treaty laid down a definite frontier or placed a territory under the jurisdiction of a Member State, the provisions of that treaty must prevail. To invoke Article 103 of the Charter in such a case would call all frontiers into question. (b) It could not be said that Article 103 might be interpreted to mean that the United Nations was competent to decide that particular treaties had been superseded by the Charter.

3. By resolution 814 (IX), the General Assembly "considering that, for the time being, it does not appear appropriate to adopt a resolution on the question of Cyprus", decided not to consider the item further.

1/ Reference had also been made to Article 103 in connexion with the draft International Covenants on Human Rights. A proposal to add a paragraph to article 5 in the draft Covenant on Civil and Political Rights stating that "nothing in this Covenant may be regarded as in any way detracting from the powers and functions of the organs of the United Nations as laid down in the Charter" was rejected as being unnecessary in view of Article 103 of the Charter. See G A (X), annexes, a.i. 28 (Part II), A/2929, p. 26. Cf. same document, pp. 27 and 102.

2/ G A (IX), Plen., 477th mtg., para. 169; 1st Com., 751st mtg., para. 7.

3/ G A (IX), Plen., 477th mtg., paras. 129, 130 and 223; 1st Com., 750th mtg., paras. 73 and 74.

