Article 107

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Text of Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

Note

1. No decisions requiring treatment under this Article were taken by the organs of the United Nations during the period under review. However, as in the past,[1] the Article was referred to at various times in the course of discussion of certain issues in the General Assembly, in particular the question of the review of the Charter, when suggestions were made for its deletion on the ground that its provisions had become obsolete.

2. Discussion during the period under review with respect to the "enemy-State clauses" referred specifically to Articles 107 as well as 53 and 77. In the context of the item "Report of the Special Committee on the Charter and on the Strengthening of the Role of the Organization", a number of references were made to Article 107 in the Sixth Committee of the General Assembly by delegations considering the provision obsolete.[2] At the forty-ninth session of the Assembly, the delegation of Poland stated that, as the United Nations approached its fiftieth anniversary, it seemed appropriate to consider the removal of the so-called "enemy-State" clauses from the Charter. The States covered by those clauses, in the opinion of the delegation, had become not only an inseparable part of the democratic world, but also a crucial element of the United Nations system. The delegation informed the committee that it had prepared a draft resolution on the subject.[3] A number of delegations made statements in support of the proposal by the delegation of Poland.[4] The delegation of the Democratic People's Republic of Korea, however, stated the contrary view that Article 107 was still relevant and valid: in the case of Japan, one of the "enemy States", in contrast with those other States referred to in the "enemy-State" clauses of the Charter who had settled their historical obligations, Japan had not atoned for its past, the delegation maintained, nor had it undertaken in good faith not to repeat such acts. The delegation would not object, however, to the relevant Articles being amended in such a way that the new provisions would apply only to the other countries referred to in the "enemy-State" clauses.[5]

3. Subsequently, on the recommendation of the Sixth Committee, the General Assembly, at its forty-ninth session, considering that the provisions of parts of

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[1] See *Repertory, Supplement No. 5*, vol. V, under this Article; and *Supplement No. 6*, vol. III, under this Article, para. 2.

[2] See G A (44), 6th Comm., 12th mtg.; G A (46), 6th Comm., 9th mtg.; G A (47), 6th Comm., 12th mtg.; G A (48), 9th mtg.

[3] G A (49), 6th Comm., 8th mtg., para. 20. Although the proposal, contained in draft resolution A/C.6/49/L.3, was later withdrawn (A/49/741), the text of draft resolution A/C.6/49/L.18 substantially reflected the provisions of the former draft.

[4] Ibid., 9th-12th and 40th mtgs.

[5] Ibid., 40th mtg., paras. 15-20. The delegation, having been unsuccessful in obtaining a separate vote on the provisions of the draft resolution dealing with the enemy-State clauses, abstained in the final vote on the draft resolution in the Sixth Committee. Ibid., paras. 39-40.

Article 53 and the provisions of Article 107 had become obsolete, requested the Special Committee, at its session in 1995, to consider the question of the deletion of the "enemy-State" clauses of the Charter, contained in Article 53, paragraphs 1 and 2, and Article 107, and to recommend to the General Assembly at its fiftieth session the most appropriate legal action to be taken on this question.[6]

[6] G A resolution 49/58.