
Article 12

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Text of Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Introductory note

1. The scope and effect of the limitations on the powers of the General Assembly provided for in Article 12 were not expressly discussed by the General Assembly or the Security Council during the period under review in the present *Supplement*. However, proposals for enhancing the effectiveness of the United Nations continued to be made and/or discussed within the framework of the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization¹ and in plenary meetings of the General Assembly.²

¹ See, in particular, the reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, GA (52), Suppl. No. 33, para. 59 and GA (53), Suppl. No. 33, para. 84.

² For example, during the plenary meeting of the GA in which the report of the Security Council (A/53/2) was considered, the Colombian delegation made an explicit reference to Articles 10 to 17 of the Charter and the Ukrainian delegation referred to Articles 11 and 12 thereof; see A/53/PV.40, pps. 7 and 9, respectively.

I. General survey

2. None of the resolutions adopted by the General Assembly or the Security Council during the period under review in the present *Supplement* made explicit reference to Article 12.

3. During this period, the General Assembly did not adopt any resolutions that fell within the scope of the exception envisaged in Article 12 (1) *in fine*; in particular, the Security Council did not convene any special session of the General Assembly for that purpose.

4. However, various situations or issues were considered by both the Security Council and the General Assembly and the Assembly adopted a number of resolutions on situations or issues that were also

examined by the Council.³ In addition, in some of these resolutions, the General Assembly made recommendations, namely to States and Governments,⁴ stakeholders,⁵ United Nations organs, specialized agencies and other relevant international organizations,⁶ as well as to the Secretary-General of the United Nations.⁷

5. In its resolution 49/37 of 9 February 1995 entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects”, the General Assembly interpreted Article 12 (1) without, however, making explicit reference to it, stressing that “while the Security Council bears primary responsibility for the maintenance of international peace and security, the Charter also provides for General Assembly functions and powers in this regard and that, in addition to its responsibility for financing peacekeeping

operations, the Assembly could, inter alia, recommend, in accordance with relevant articles of Chapter IV of the Charter, principles and guidelines for the conduct of peacekeeping operations, for their effective management and, consistent with the Charter, for encouraging support of their mandates”.⁸

6. In accordance with Article 12 (2) of the Charter of the United Nations, the Secretary-General notified the General Assembly of the matters relating to the maintenance of international peace and security that were being dealt with by the Security Council, and of those that the Council had ceased to deal with.⁹ However, this practice, established in article 11 of the provisional rules of procedure of the Security Council, was modified during the period under review in the present *Supplement*.

7. On the basis of two successive notes issued by the President of the Security Council on 30 July and 29 August 1996, respectively,¹⁰ matters which have not been considered in the preceding five years may now be deleted from the list of matters of which the Council is seized, subject to certain conditions such as the absence of an objection by a Member State.

³ See, in particular, the following situations or issues, listed together with the applicable GA resolutions: Afghanistan (resolutions 51/108 and 52/145, 52/211 B, 53/203 B and 54/185); Angola (resolutions 52/8 A-C, 53/228, 54/17 A-B, 50/209 A-B and 51/213); Bosnia-Herzegovina (resolutions 51/203, 52/150, 53/35 and 54/119); Haiti (resolutions 50/196, 51/110, 51/196 A-B, 52/138, 52/174, 53/95, 53/159 and 54/193); Kosovo (resolutions 50/190, 51/111, 52/139, 53/16, 54/183 and 54/245); Iraq (resolutions 50/191, 51/106, 52/141, 53/157 and 54/178); Middle East (resolutions 50/22 B, 51/28, 52/54, 53/38, 54/38, 51/135, 52/68, 53/57, 54/80, 52/49, 50/84 D, 51/26, 52/52, 53/42, 50/22 A, 51/27, 52/53, 53/37, 54/37, 52/59, 52/64, 52/65, 52/66, 51/67, 52/68, 53/74, 54/79 and 54/230); Rwanda (resolutions 50/200, 51/114, 52/146, 53/156, 54/188 and 52/218); Western Sahara (resolutions 50/36, 51/143, 52/75, 53/64 and 54/87); Tajikistan (resolutions 52/169 I, 53/1 K and 54/96 A); and Yugoslavia (resolutions 52/169 H, 52/48, 50/193, 51/116, 52/147, 53/163 and 54/184).

⁴ See, inter alia, the following GA resolutions: 54/185, paras. 7 and 15; 51/108, para. 13; 53/165, paras. 9 and 15; 51/195 A, para. 8; 54/74, para. 3; 53/157, paras. 2, 3, 9, 10, 12-15 and 17; 54/187, paras. 10 and 11; 51/237, para. 4; 50/193, para. 20; 54/80, paras. 1, 2, 4 and 6; 54/51, paras. 5-7; and 54/188, paras. 6, 10, 17 and 23.

⁵ See, in particular, the following GA resolutions: 54/185, paras. 8, 9, 10 and 17; 53/203 A, paras. 3, 5, 11, 12, 16 and 17; 53/165, paras. 8, 10, 12 and 17; 51/108, paras. 4, 5, 7, 9 and 11; 54/184, paras. 5-7; 53/35, paras. 7 and 19; 54/77, para. 3; 53/74, para. 9; 53/42, para. 4; 52/62, para. 4; and 52/75, para. 3.

⁶ See, in particular, the following GA resolutions: 54/185, paras. 13 and 14; 51/108, para. 12; 54/193, para. 8; 54/72, paras. 4-7; 52/49, paras. 6 and 7; and 50/200 paras. 17 and 23.

⁷ See, in particular, GA resolutions 54/185, paras. 13 and 14; 54/51, para. 10; and 54/76, para. 8.

⁸ Para. 8

⁹ See the successive notifications by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations, contained in documents A/50/442 and Add.1, A/51/522, A/52/392, A/53/357 and A/54/398.

¹⁰ S/1996/603 and S/1996/704.

II. Analytical summary of practice

****A. Question of the scope of the term “recommendation” as used in Article 12 (1)**

****B. Question of the meaning of the phrase “While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter”, and its effect upon the power of the General Assembly**

****C. Inclusion in the agenda of the General Assembly, for consideration, of an item that falls within the primary responsibility of the Security Council**

****D. Constitutional relationship between the General Assembly and the Security Council as envisaged in Member States proposals to amend the Charter and strengthen the United Nations**

E. Consideration of and making recommendations on items already before the Council

8. In its resolution 1193 (1998) of 28 August 1998 on the situation in Afghanistan, the Security Council took a position on the common and consolidated role of the United Nations agencies in the context of that situation. After recalling General Assembly resolution 52/211 of 19 December 1997 on Afghanistan, the Council expressed its grave concern at the escalation of the Afghan conflict and deplored the fact that, despite repeated pleas by the Security Council, the General Assembly and the Secretary-General to halt foreign interference in Afghanistan, such interference continued unabated.¹¹ Having also stressed the central and impartial role of the United Nations in a peaceful resolution of the Afghan conflict,¹² the Council requested the Secretary-General, among others, to “continue investigations into alleged mass killings of prisoners of war and civilians as well as ethnically

based forced displacement of large groups of the population and other forms of mass persecution in Afghanistan, and to submit the reports to the General Assembly and the Security Council as soon as they become available”.¹³

9. In addition, the Security Council has occasionally referred expressly to the institutional role of the General Assembly¹⁴ and to the particular role of some of its resolutions within the framework of the maintenance of international peace and security.¹⁵ Other Council resolutions refer to General Assembly resolutions, either specifically¹⁶ or by recalling more generally the resolutions “adopted by the General Assembly.”¹⁷

F. Questions of requests by the Security Council to the General Assembly in accordance with the proviso of Article 12 (1)

10. The practice of the principal organs appears to have assigned a specific meaning to requests by the Security Council to the General Assembly under Article 12 (1); these requests concern the convening of an emergency special session as provided in General Assembly resolution 377 (V) of 3 November 1950.¹⁸ During the period under review, the Security Council made no such request of the General Assembly.

¹³ Para. 13.

¹⁴ See, *inter alia*, para. 2 of Security Council resolution 1170 (1998) on the situation in Africa.

¹⁵ See Security Council resolution 1198 (1998) on the situation concerning Western Sahara. In paragraph 4 of that resolution, the Council recalls, with respect to MINURSO, that, pending the conclusion of status-of-forces agreements with the Secretary-General, “the model status-of-forces agreement ...” (established by the Secretary-General (A/45/594) at the request of the GA, in its resolution 44/49), “as provided for in GA resolution 52/12 B, should apply provisionally”.

¹⁶ See Security Council resolutions 1189 (1998), preamble; 1193 (1998), preamble; 1997 (1998), preamble; 1198 (1998), para. 4; 1208 (1998), preamble; 1209 (1998), preamble; and 1214 (1998), preamble.

¹⁷ See Security Council resolution 1212 (1998) on the question concerning Haiti, preamble.

¹⁸ See the study in *Supplement No. 7*, para. 31.

¹¹ Preamble to resolution 1193 (1998).

¹² *Ibid.*