

ARTICLE 43

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ARTICLE 43

TEXT OF ARTICLE 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

INTRODUCTORY NOTE

1. No agreements provided for in Article 43 were concluded during the period under review. Nor did the Security Council or the General Assembly adopt any resolution containing an explicit reference to Article 43.

2. On one occasion, a main committee of the General Assembly adopted two resolutions containing explicit references to Article 43; these were not, however, voted upon in the plenary.

3. On another occasion, the General Assembly adopted a resolution which contained language similar to that of Article 43. The relevant discussions are treated in the Summary of Practice.

4. Since, in the course of the discussion on these draft resolutions, Articles 44, 45 and 46 were frequently referred to, together with Article 43, the Summary of Practice below incorporates references to these Articles.

5. Incidental references to Article 43 made in the course of the proceedings of the Security Council and of the General Assembly are also contained in the Summary of Practice.

SUMMARY OF PRACTICE

6. During the consideration of the item "Comprehensive review of the whole question of peace-keeping operations in all their aspects: report of the Special Committee on Peace-keeping Operations" at the twenty-first, fifth special, twenty-second, twenty-third and twenty-fourth sessions¹ of the General Assembly, Article 43 was frequently cited in the course of the consideration of ways to make

peace-keeping operations more effective and the respective roles of the Security Council and the General Assembly in this regard.

7. During the consideration of this item at the twenty-first session, the Special Political Committee approved² two draft resolutions³ by which the General Assembly would recommend to the Security Council, *inter alia*, to

¹ G A (XXI), Annexes, a.i. 33; G A (S-V), Annexes, a.i. 8; G A (XXII), Annexes, a.i. 37; G A (XXIII), Annexes, a.i. 32; G A (XXIV), Annexes, a.i. 35.

² G A (XXI), Spec. Pol. Com., 545th mtg., paras. 71 and 73.

³ G A (XXI), Annexes, a.i. 33, A/6603, para. 25, draft resolution B, para. 5 (c), and draft resolution C, para. 1.

proceed to negotiate agreements with Member States for the provision of "armed forces, assistance and facilities" in accordance with the provisions of Article 43. One of these resolutions also cited Articles 42 and 45⁴ as well as Article 43. The Assembly, however, decided to refer the report of the Special Political Committee to the fifth special session⁵ and not to vote on either of these two draft resolutions.⁶

8. At the fifth special session, a resolution was adopted⁷ by which the General Assembly requested the Special Committee on Peace-keeping Operations to continue its work and to report to the Assembly at its twenty-second session.

9. In the course of the consideration of the same item during the twenty-second session, the Special Political Committee had before it a draft resolution under paragraph 2 of which the General Assembly, citing Article 47⁸ of the Charter, would recommend to the Security Council, *inter alia*:

"(a) That the Military Staff Committee prepare a study on matters related to facilities, services and personnel which Member States might provide to the Security Council in accordance with the Charter for United Nations peace-keeping operation;

"(b) That the Military Staff Committee extend invitations to an agreed number of Member States to assist in the above-mentioned study".⁹

Subsequently, amendments¹⁰ to the above draft resolution were accepted by the sponsors,¹¹ proposing, *inter alia*, to delete the fifth preambular paragraph which contained the explicit reference to Article 47 and to replace paragraph 2, quoted above, with the following:

"Considers that the preparation of a study on matters related to facilities, services and personnel which Member States might provide, in accordance with the Charter of the United Nations, for United Nations peace-keeping operations would be appropriate".

The amended draft resolution was adopted¹² by the Gen-

⁴ *Ibid.*, draft resolution C, para. 1.

⁵ G A resolution 2220 (XXI) of 19 December 1966

⁶ G A (XXI), Plen., 1499th mtg., paras. 94, 95 and 114.

⁷ G A resolution 2249 (S-V) of 23 May 1967

⁸ A/SPC/L.150, 5th preamb. para. (reproduced in G A (XXII), Annexes, a.i. 37, A/6959, para. 5).

⁹ *Ibid.*, para. 2 (reproduced in G A (XXII), Annexes, a.i. 37, A/6959, para. 5).

¹⁰ G A (XXII), Annexes, a. i. 37, A/SPC/L.154.

¹¹ G A (XXII) Spec. Pol. Com., 583rd mtg., para. 2.

¹² G A (XXIII), Plen., 1629th mtg., para. 114.

¹³ G A (XXIII), Annexes, a.i. 32, A/7131: "Progress report of the Special Committee on Peace-keeping Operations".

¹⁴ For the texts of the statements referred to in paras. 11 and 12, see: Spec. Pol. Com., 517th mtg.: Canada, para. 6; Iran, para. 17; 518th mtg.: Sweden, para. 5; 519th mtg.: Nigeria, para. 19; 520th mtg.: Venezuela, para. 2; 521st mtg.: Canada, para. 18; Philippines, para. 25; 522nd mtg.: France, para. 15; Nepal, paras. 7, 8; USSR, paras. 24, 28, 523rd mtg.: Italy, para. 32; Tanzania, para. 26; United States, para. 38; 524th mtg.: Hungary, para. 40; Uganda, para. 17; 526th mtg.: Byelorussian SSR, para. 28; Czechoslovakia, para. 47; India, para. 33; Malta, para. 21; Ukrainian SSR, paras. 1 and 3; 527th mtg.: Jamaica, paras. 21, 22, 24 and 25; 543rd mtg.: Cyprus, para. 59; Jamaica, para. 28; Mexico, para. 25; United Arab Republic, para. 2; 544th mtg.: USSR, paras. 9 and

eral Assembly on 13 December 1967 as its resolution 2308 (XXII).

10. In pursuance of this resolution, the Special Committee on Peace-keeping Operations established, on 8 April 1968, a Working Group which began to prepare working papers for the study referred to in the resolution. The Special Committee approved, as a first model in the programme of its Working Group, a study of the United Nations military observers established or authorized by the Security Council for observation purposes pursuant to Council resolutions.¹³ During the period under review, however, the Working Group did not complete its work on the model. The General Assembly, by resolutions 2451 (XXIII) of 19 December 1968 and 2576 (XXIV) of 15 December 1969, took note of the progress achieved by the Special Committee and requested it to continue its work.

11. In the course of constitutional discussions¹⁴ bearing on Article 43 that took place in connexion with the resolutions referred to in the preceding paragraphs as well as related draft resolutions, a number of representatives expressed the view that the Security Council was the only organ of the United Nations competent to authorize operations of a military nature and that, pursuant to the provisions of Article 43, the Council had the exclusive competence to make armed forces and facilities available to the United Nations and provide for their financing through agreements concluded between the Council and Member States. It was argued in this connexion that to confer on the General Assembly certain powers in regard to the preparation, conduct and financing of operations by United Nations armed forces, as suggested in the aforementioned draft resolutions,¹⁵ would be contrary to the Charter. To ensure effective United Nations peace-keeping, the Security Council should therefore proceed to negotiate agreements as provided for in Article 43.

12. It was argued, on the other hand, that a distinction must be made between enforcement action under Chapter VII of the Charter and "consent-type" peace-keeping operations, whether the latter be considered as measures under Chapter VI or as a new type of military operation which had evolved in the United Nations practice. Since the exclusive competence of the Security Council under

10; 545th mtg.: France, para. 51; Netherlands, para. 43; G A (XXI), Plen., 1497th mtg.: Canada, para. 192; Cuba, para. 274; France, para. 202 and 203; Hungary, para. 247; Italy, para. 239; USSR, paras. 211, 225, 226 and 228, 1499th mtg.: Liberia, paras. 63 and 67; Mexico, para. 119; G A (S-V), Plen., 1520th mtg.: USSR, para. 104; United Kingdom, para. 25; 1521st mtg.: Bulgaria, paras. 101, 102, 107 and 108; Jamaica, paras. 115, 116 and 120; Pakistan, paras. 33, 35 and 53; Ukrainian SSR, para. 14; G A (XXII), Spec. Pol. Com., 570th mtg.: Mexico, para. 54; United States, paras. 86-88; 571st mtg.: United Kingdom, para. 7; 572nd mtg.: Norway, para. 8; Upper Volta, para. 48; 573rd mtg.: France, paras. 51 and 52; Sweden, para. 12; 574th mtg.: USSR, para. 24; 575th mtg.: Czechoslovakia, para. 18, 576th mtg.: Chile, para. 58; Nigeria, para. 18; 577th mtg.: Jordan, paras. 12 and 17; 578th mtg.: Italy, paras. 71 and 72; 579th mtg.: Poland, para. 25; 580th mtg.: Afghanistan, para. 38; G A (XXIII), Spec. Pol. Com., 637th mtg.: France, paras. 15-20; 639th mtg.: Nepal, para. 14. On the question of peace-keeping see also Article 11, paras. 22-27, in this Supplement.

¹⁵ References were made to proposals that the General Assembly adopt a system of mandatory financing of peace-keeping operations (G A (XXI), Annexes, a.i. 33, A/6603, para. 25, draft resolution A, para. 1 (a)-(c) and draft resolution B, paras. 1 (a) 2, 3) and that the General Assembly invite Member States to communicate to the United Nations information concerning kinds of forces or services they might be in a position to provide in response to a request to participate in peace-keeping operations (*Ibid.*, draft resolution B, para. 4).

Article 43 extended only to enforcement action, the General Assembly was also competent to deal with peace-keeping operations.

13. In the course of this discussion, references were made also to Articles 44, 45, and 46, or to these Articles collectively,¹⁶ together with Article 43.

¹⁶ For texts of relevant statements, see: G A (XXI), Spec. Pol. Com., 526th mtg.: Byelorussian SSR, para. 28; Malta, para. 21; 527th mtg.: Jamaica, para. 25; 543rd mtg.: Jamaica, para. 28; Mexico, para. 25; 545th mtg.: France, para. 51; G A (XXI), Plen., 1497th mtg.: USSR, para. 222; G A (S-V), Plen., 1521st mtg.: Bulgaria, para. 107; Pakistan, para. 47; Ukrainian SSR, paras. 14 and 15; G A (XXII), Spec. Pol. Com., 570th mtg.: Mexico, para. 54; 572nd mtg.: Upper Volta, para. 48; 573rd mtg.: France, para. 51.

14. Incidental references to Article 43 were made in the Security Council in the course of the consideration of the situation in Southern Rhodesia.¹⁷

15. Incidental references to Article 43¹⁸ were also made in the General Assembly at its twenty-fourth session during its consideration of the item "The strengthening of international security".¹⁹

¹⁷ S C, 21st yr., 1332nd mtg.: Argentina, para. 57; 1339th mtg.: China, para. 41; 1340th mtg.: Uruguay, para. 36

¹⁸ G A (XXIV), 1st Com., 1653rd mtg.: Poland, para. 61; 1660th mtg.: Cyprus, para. 86.

¹⁹ G A (XXIV), Annexes, a.i. 103.