

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 adopt or consider any draft resolutions referring to that Article.

2. On one occasion, the General Assembly adopted a resolution which contained an explicit reference to Article 43. The adoption of this resolution did not give rise to a constitutional discussion; it is therefore dealt with in the Summary of Practice.

3. Throughout the period under review the General Assembly continued to adopt resolutions which might

be considered to have a bearing on Article 43. The discussions preceding their adoption are also recalled in the Summary of Practice.

4. Incidental references to Article 43 in the proceedings of the General Assembly and the Security Council are listed in the Summary of Practice.

5. In the course of the consideration of certain items, Article 43 was invoked together with other Articles of the Charter, particularly Articles 44, 45, 46 and 47. Studies of those Articles in this *Supplement* as well as of other related Articles should, therefore, be consulted.

SUMMARY OF PRACTICE

6. During the twenty-fifth session, the General Assembly, in connexion with the consideration of measures for the strengthening of international security,¹ adopted, as its resolution 2734 (XXV), the Declaration on the Strengthening of International Security, which, in its paragraph 9, reads as follows:

“9. *Recommends* that the Security Council take steps to facilitate the conclusion of the agreements envisaged in Article 43 of the Charter in order fully to develop its capacity for enforcement action as provided for under Chapter VII of the Charter;”.

7. In the deliberations of the First Committee, the draft that was finally adopted by the Assembly² emerged only after several earlier drafts—none of which contained an explicit reference to Article 43, but referred

to it implicitly³—had been discussed; the Committee decided to authorize its Chairman and the other officers to hold consultations with sponsors of proposals and other interested delegations in order to formulate, if possible, a single text.⁴ As a result of these consultations⁵ the Chairman was able to announce that agreement had been reached on a text,⁶ which for the first time contained the explicit reference to Article 43 together with the recommendation to the Security

¹See G A (25), Annexes, a.i. 32, A/8096, paras. 1 and 2. Under G A resolution 2606 (XXIV) of 16 December 1969 the General Assembly expressed the desire that the twenty-fifth year of the Organization's existence should be marked by new initiatives to promote peace, security, disarmament and economic and social progress for all mankind and the conviction of the urgent need to make the United Nations more effective as an instrument for maintaining international peace and security. In accordance with this decision the item was included in the agenda of the General Assembly during the twenty-fifth session and allocated to the First Committee for consideration and report.

²*Ibid.*, A/C.1/L.558. The draft resolution, as amended, was adopted by the First Committee and recommended to the General Assembly for adoption.

³For implicit references see *ibid.*, draft resolution A/C.1/L.513, submitted by Bulgaria, the Byelorussian SSR, Czechoslovakia, Hungary, Mongolia, Poland, the Ukrainian SSR and the USSR, para. 10; draft resolution A/C.1/L.514, submitted by Australia, Belgium, Canada, Italy and Japan, paras. 9-11; draft resolution A/C.1/L.517, submitted by Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay and Venezuela, para. 14; draft resolution A/C.1/L.518, submitted by Afghanistan, Algeria, Cameroon, Ceylon, Cyprus, Ghana, Guyana, India, Indonesia, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libya, Malaysia, Mali, Mauritania, Morocco, Nepal, Nigeria, Sierra Leone, Singapore, the Sudan, Uganda, the United Arab Republic, the United Republic of Tanzania, Yugoslavia and Zambia, and also by Burundi, Senegal and Tunisia, para. 15.

⁴*Ibid.*, A/8096, para. 6. An informal working group was set up to consider the problem of a single text.

⁵*Ibid.*, paras. 6 and 7. A drafting committee consisting of two representatives each of Belgium, Brazil, Bulgaria, Ecuador, India, Italy, Poland and Yugoslavia was set up for intensive deliberations.

⁶*Ibid.*, para. 8. The revised unified text was introduced by Brazil.

Council that was adopted in G A resolution 2734 (XXV).

8. The inclusion of the explicit reference to Article 43 and the strong recommendation to the Security Council in the Declaration on the Strengthening of International Security did not give rise to a constitutional discussion, but resulted merely in a few explicit references to the Article in the proceedings of the First Committee⁷ as well as general statements regretting that the provisions of Article 43 had still not been implemented and expressing the view that in the mean time the rules regarding the conduct and financing of peace-keeping operations should be further consolidated to enable the Security Council to meet its obligations under Chapters VI and VII.⁸

9. In subsequent sessions, when the Assembly considered the implementation of the Declaration on the Strengthening of International Security, Article 43 was rather frequently invoked⁹ and demands were reiterated that the Security Council fulfil its Charter mandate regarding the conclusion of suitable agreements under the Article.

10. During the period under review, the General Assembly continued¹⁰ to consider the item "Comprehensive review of the whole question of peace-keeping operations in all their aspects"¹¹ without being able to conclude its work on the establishment of a model of peace-keeping operations.

11. At each session the General Assembly received a report of the Special Political Committee together with a separate report of the Special Committee on Peace-keeping Operations including the annexed report of its Working Group¹² and each year adopted a new resolution¹³ deploring the lack of progress in the completion of guidelines for the conduct of peace-keeping opera-

tions and urging the Special Committee to expedite its work.¹⁴

12. During the discussions in the Special Political Committee, Article 43 was frequently referred to explicitly¹⁵ and implicitly¹⁶ in considering ways to make peace-keeping operations more effective and in weighing the respective roles of the Security Council and the General Assembly in this respect. Opinions continued to be divided over the question whether the Security Council under the Charter had exclusive competence in this field of action or whether the General Assembly could also act with regard to peace-keeping operations.¹⁷ The Working Group failed to resolve the disagreement on that important question, and the Special Committee had to report the deadlock to the General Assembly.¹⁸

13. During the period under review incidental explicit references to Article 43 were made in the General

¹⁴The language of the resolutions adopted on the item of peace-keeping operations underwent some changes during the years under review but the main elements of the Assembly's appeal were regret about the lack of progress and hope for the work to be expedited.

¹⁵Article 43 was explicitly referred to in connexion with the review of peace-keeping operations as follows: during the twenty-fifth session, G A (25), Spec. Pol. Com., 715th mtg.: Mexico, para. 52; 716th mtg.: Kuwait, para. 12; 719th mtg.: Cyprus, para. 50; Poland, para. 20; 721st mtg.: Lebanon, para. 16; during the twenty-sixth session, G A (26), Spec. Pol. Com., 794th mtg.: Czechoslovakia, para. 3; during the twenty-seventh session, G A (27), Spec. Pol. Com., 846th mtg.: France, paras. 3, 7; during the twenty-eighth session, G A (28), Spec. Pol. Com., 899th mtg.: India, para. 57; Italy, para. 28; during the twenty-ninth session, G A (29), Spec. Pol. Com., 934th mtg.: Czechoslovakia, para. 33; USSR, para. 66; United Kingdom, para. 47; 935th mtg.: Ukrainian SSR, para. 55. There were also some explicit references in the deliberations of the Special Committee on Peace-keeping Operations during the period under review.

¹⁶During the twenty-fifth through thirty-third sessions Article 43 was frequently referred to implicitly in the deliberations of the Special Political Committee in connexion with the item on peace-keeping operations and in the proceedings of the Special Committee on Peace-keeping Operations. The discussions also gave rise to detailed statements regarding the role and validity of peace-keeping operations in the light of the provisions of Article 43 and in the overall context of Chapter VII of the Charter, but none of these contributions raised any new constitutional points of view.

¹⁷The question of the respective competence of the General Assembly and the Security Council in respect to peace-keeping operations was a major concern during the period covered in Supplement No. 4. It continued to occupy a major place in the deliberations between 1970 and 1978, but more practical issues relating in particular to the respective authority of the Security Council and the Secretary-General in the conduct of current operations tended to command more attention in the Special Committee as well as in the Special Political Committee.

¹⁸On a recurrent basis, the reports of the Working Group, attached as a rule to the annual reports of the Special Committee, offer the authoritative record of what was discussed and why the deadlock could not be resolved. (See footnote 12 above for the relevant documents.) On a few occasions, special documents became available representing additional efforts on the part of the members of the Special Committee to seek a breakthrough in the task to formulate a model or models of peace-keeping operations in accordance with the Charter. See G A (27), a.i. 41, A/8669 (Letter dated 17 March 1972 from the USSR containing "basic guiding principles for the conduct of United Nations peace-keeping operations including United Nations observer missions") and A/8676 (Letter dated 30 March 1972 from the United States containing a "memorandum on establishment and conduct of United Nations peace-keeping operations which are authorized by the Security Council"); see also G A (33), a.i. 56, A/SPC/33/3, in which the representatives of Denmark, Finland, Norway and Sweden transmitted an updated version of the study "Nordic Stand-by Forces in United Nations Service".

⁷G A (XXV), 1st Com., 1725th mtg.: Brazil, para. 70, 1734th mtg.: United Arab Republic, para. 14.

⁸*Ibid.*, 1727th mtg.: Canada, para. 21; 1734th mtg.: Kuwait, para. 271.

⁹Article 43 was explicitly referred to in connexion with the implementation of the Declaration on the Strengthening of International Security as follows: during the twenty-sixth session, G A (26), 1st Com., 1806th mtg.: Egypt, para. 111; 1807th meeting: Indonesia, paras. 29, 36; 1808th mtg.: India, para. 39; 1810th mtg.: Finland, para. 10; 1816th mtg.: Nepal, para. 15; during the twenty-seventh session, G A (27), 1st Com., 1901st mtg.: Finland, para. 35; 1917th mtg.: Cyprus, para. 77; 1919th mtg.: Mauritius, para. 75; during the thirtieth session, G A (30), 1st Com., 2056th mtg.: Argentina, p. 11; 2059th mtg.: Cyprus, pp. 83-85; during the thirty-first session, G A (31), 1st Com., 57th mtg.: Bangladesh, p. 55; Cyprus, pp. 57-60, 61; during the thirty-second session, G A (32), 1st Com., 54th mtg.: Cyprus, pp. 18-20; 57th mtg.: Cyprus, p. 46; during the thirty-third session, G A (33), 1st Com., 64th mtg.: Syria, p. 2; 66th mtg.: Cyprus, p. 96.

¹⁰The consideration of the agenda item on the comprehensive review of the whole question of peace-keeping operations in all their aspects began during the nineteenth session in 1964 and was resumed each year. See in *Repertory, Supplement No. 4*, vol. 1, under Article 43, for a summary of the developments until the twenty-fourth session.

¹¹The full title of the agenda item reads as follows: Comprehensive review of the whole question of peace-keeping operations in all their aspects: report of the Special Committee on Peace-keeping Operations.

¹²G A (25), Annexes, a.i. 36, A/8081; G A (26), Annexes, a.i. 39, A/8550; G A (27), Annexes, a.i. 41, A/8888; G A (28), Annexes, a.i. 44, A/9236; G A (29), Annexes, a.i. 39, A/9827; G A (30), Annexes, a.i. 51, A/10366; G A (31), Annexes, a.i. 54, A/31/337; G A (32), Annexes, a.i. 56, A/32/394. During the thirty-third session no report was issued, since the Assembly at its thirty-second session, by G A resolution 32/106, decided to request the Special Committee to report to the General Assembly at the thirty-fourth session.

¹³G A resolutions 2670 (XXV); 2835 (XXVI); 2965 (XXVII); 3091 (XXVIII); 3239 (XXIX); 3457 (XXX); 31/105; 32/106; and 33/114.

Assembly in connexion with a number of agenda items.¹⁹

¹⁹References to Article 43 were as follows: in connexion with the celebration of the twenty-fifth anniversary of the United Nations: G A (25), Plen., 1875th mtg.: Jamaica, paras. 51, 53; in connexion with the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States: G A (26), Plen., 2089th mtg.: Greece, para. 33; Iran, para. 147; in connexion with the non-use of force in international relations and permanent prohibition of the use of nuclear weapons: G A (26), Plen., 2082nd mtg.: Lebanon, para. 67; in connexion with the need to consider suggestions regarding the review of the Charter of the United Nations: G A (27), 6th Com., 1380th mtg.: Greece, para. 4; in connexion with the need to consider suggestions regarding the review of the Charter of the United Nations: G A (29), 6th Com., 1517th mtg.: Kenya, para. 16; in connexion with the election of the President: G A (30), Plen., 2351st mtg.: President, para. 46; in connexion with items relating to disarmament: G A (31), 1st Com., 39th mtg.: Cyprus, p. 36; in connexion with the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization: G A (31), 6th Com., 43rd mtg.: Mexico, para. 25; 49th mtg.: Cyprus, paras. 84, 85; G A (32), 6th Com., 26th mtg.: Nigeria, para. 53; in connexion with the measures to prevent international terrorism: G A (32), 6th Com., 57th mtg.: Cyprus, para. 33; in connexion with the deepening and consolidation of international détente and prevention of the danger of nuclear war: G A (32), 1st Com., 7th mtg.: Cyprus, p. 11; 54th mtg.: Cyprus, pp. 18-20; 57th mtg.: Cyprus, p. 46; in connexion with the question of Namibia: G A (33), Plen., 76th mtg.: Benin, para. 205; in connexion with disarmament: G A (33), 1st Com., 34th mtg.: Italy, pp. 44-45; and G A (S-10), Plen., 14th mtg.: Italy, para. 54; 23rd mtg.: Guyana, para. 55; 27th mtg.: Italy, para. 435. None of these explicit references nor a number of implicit references to Article 43 resulted in a constitutional discussion.

14. Explicit references to Article 43 were also made in connexion with the consideration by the Security Council of the question of South Africa²⁰ and the situation in Cyprus.²¹ These references did not give rise to any constitutional argument.

²⁰During the consideration of the question of South Africa in March 1977, the representatives of Benin, the Libyan Arab Jamahiriya and Mauritius submitted four draft resolutions, one of which (S/12310) invoked, in its paragraph 5, Article 43 together with Articles 39-42, 44-46 and Chapter VII. For the text see S C (32), Suppl. for Jan.-March, 1977, S/12310. This explicit reference was also cited by Senegal at the 2039th mtg., para. 36, of the Security Council. It was maintained in the revised draft resolution (S C (32), Suppl. for Oct.-Dec., 1977, S/12310/Rev.1), which was put to the vote at the 2045th meeting of the Council and failed of adoption, owing to the negative votes of three permanent members of the Council. No constitutional discussion regarding Article 43 took place in the Council in connexion with this draft resolution.

²¹S C (33), 2081st mtg.: Cyprus, para. 25.