

ARTICLE 43

CONTENTS

	<i>Paragraphs</i>
Text of Article 43	
Introductory note	1-4
Summary of practice	5-12

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 of the Charter were concluded during the period under review.

2. On one occasion, the President of the Security Council issued a note which contained explicit references to Article 43. On another occasion, the General Assembly adopted a resolution which contained an implicit reference to the Article.

3. Throughout the period under review, the General Assembly continued to adopt resolutions which may have a bearing on Article 43. Prior to the adoption of those resolutions, explicit and implicit references to the Article, often with Articles 45, 46 and 47 of the Charter, were made in the proceedings of the Main Committees of the General Assembly as well as in the reports of two special committees.

4. None of those decisions or references gave rise to constitutional discussions regarding the application or interpretation of Article 43. Consequently, the present study consists only of a summary of practice.

SUMMARY OF PRACTICE

5. On 12 September 1983, in accordance with the decision taken in the course of consultations held on 17 August 1983, the President of the Security Council issued a note¹ in connection with the consideration of the 1982 report of the Secretary-General on the work of the organization.² In the note, the members of the Council welcomed the ideas and observations contained in the report of the Secretary-General, which had contributed to "wide-ranging exchanges of views" structured under five main aspects, including: "(d) measures for giving effect to Article 43 of the Charter, including the role of the Military Staff Committee in Articles 43 to 47".³ In the course of the discussion, inter alia, the Council members had "heard suggestions on the possibility of activating the work of the Military Staff Committee in fulfilling the tasks assigned to it under the Charter".⁴

¹ S/15971.

² G A (38), Suppl. No. 1.

³ S/15971, paras. 1 and 2(d).

⁴ *Ibid.*, para. 17. On 28 September 1984, in accordance with the decision taken in the course of consultations held on the same date, the President of the Security Council issued another note (S/16760) on the

6. In connection with the review and implementation of the Concluding Document of the Twelfth Special Session of the General Assembly, on 15 December 1983, the General Assembly adopted resolution 38/73 H, entitled "Disarmament and international security". The operative paragraphs of the resolution read as follows:

"The General Assembly,

"...

"1. Requests the Security Council to expedite the conclusion of the agreements making armed forces available to the Security Council, as required by the Charter of the United Nations, to render operative the collective security system provided for in the Charter and thereby facilitate productive negotiations for the cessation of the arms race, particularly the nuclear-arms race, and for progress on disarmament;

subject, which stated, inter alia, that Council members, having retained the five main aspects agreed to in 1983, had initiated a new round of discussions on the basis of the points contained in the previous note, to which the present note was an addition. However, in the second note, there was no reference to Article 43.

"2. *Further requests* the Security Council to submit a report, through the Secretary-General, to the General Assembly at its thirty-ninth session."

7. It should be noted that the Concluding Document of the Twelfth Special Session⁵ contains only an incidental explicit reference to Article 43.⁶

8. As in previous years, the General Assembly adopted resolutions⁷ on the implementation of the Declaration on the Strengthening of International Security.⁸ Paragraph 9 of the Declaration contains the recommendation 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". In the deliberations of the First Committee, on several occasions, one delegation emphasized the importance of implementing paragraph 9 of the Declaration, and thus Article 43 of the Charter, to enforce Security Council decisions and strengthen international security.⁹ None of the draft resolutions before the First Committee, as subsequently adopted by the Assembly,¹⁰ contained a reference to the Article.

9. The General Assembly continued its consideration of the agenda item entitled "Comprehensive review of the whole question of peacekeeping operations in all their aspects".¹¹ The Special Committee on Peacekeeping Opera-

⁵ G A (S-XII), annexes, a.i. 9-13, document A/S-12/32.

⁶ See *ibid.*, annex I, p. 45. Section V, sub-heading "Disarmament and international security", contains the following paragraph:

"In order to improve the capability of the United Nations to maintain international peace and security, all States should support the strengthening of the role of the United Nations, in particular by enhancing its effectiveness in accordance with Chapters VI and VII of the Charter of the United Nations, [particularly Article 43] in the following areas: action with respect to threats to the peace, breaches of the peace, and acts of aggression; pacific settlement of disputes as well as in international cooperation in the widest possible range of spheres."

⁷ G A resolutions 34/100, 35/158, 36/102, 37/118, 38/190, 39/154 and 39/155.

⁸ G A resolution 2734 (XXV). For details regarding the adoption of the Declaration on the Strengthening of International Security, see *Repertory, Supplement No. 5*, vol. IV, under Article 43, paras. 6-9.

⁹ G A (35), 1st Comm., 50th mtg.: Cyprus, pp. 47 and 49-51; G A (36), 1st Comm., 46th mtg.: Cyprus, pp. 26-27 and 32-37; *ibid.*, 50th mtg.: Cyprus, pp. 44-46; G A (37), 1st Comm., 46th mtg.: Cyprus, pp. 8-9; *ibid.*, 53rd mtg.: Cyprus, pp. 6-11; *ibid.*, 59th mtg.: Cyprus, pp. 27-30; G A (38), 1st Comm., 47th mtg.: Cyprus, p. 21; G A (39), 1st Comm., 56th mtg.: Cyprus, pp. 3-6. The Group of Experts on the Implementation of the Declaration on the Strengthening of International Security, appointed pursuant to paragraph 14 of G A resolution 34/100, made a similar recommendation in its report: see A/35/505, annex, para. 42; A/35/505/Add.1 (reply from Chile). See also G A (37), 1st Comm., 56th mtg.: Ghana, pp. 12, 14-15.

¹⁰ See footnote 7 above.

¹¹ For prior consideration of this item by the General Assembly, see *Repertory, Supplement No. 3*, vol. II, under Article 43, para. 11; *Supplement No. 4*, vol. I, *ibid.*, paras. 6-13; *Supplement No. 5*, vol. II, *ibid.*, paras. 10-12.

tions, mandated by the Assembly¹² to work towards the completion of agreed guidelines which would govern the conduct of peacekeeping operations of the United Nations in accordance with the Charter and to devote attention to specific questions relating to the practical implementation of peacekeeping operations, remained deadlocked during the period under review.¹³ On occasion, during the deliberations of the Special Political Committee, Article 43 was referred to both explicitly and implicitly.¹⁴

10. In accordance with the mandate given to it by the General Assembly,¹⁵ the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization examined various proposals on the question of the maintenance of international peace and security, some of which contained explicit references to Article 43 or touched upon its provisions. The relevant proposals aimed at, *inter alia*, requesting the Security Council to give early consideration to the provisions of Article 43 regarding special agreements and, as a first step, to proceed with the early negotiation of those agreements,¹⁶ examining, in particular, measures that would facilitate the effective application of Articles 43, 45, 46 and 47,¹⁷ and recommending that the Secretary-General prepare a report on ways and means which would allow Member States to

¹² G A resolutions 34/53, para. 4; 35/121, para. 4; 36/37, para. 4; 37/93, para. 1; 38/81, para. 5; 39/97, para. 1.

¹³ For the reports of the Special Committee on Peacekeeping Operations, see A/34/592; A/35/532; A/36/469; and A/38/381. No reports were issued during the thirty-seventh and thirty-ninth sessions, respectively, of the General Assembly, as the Assembly, by its resolution 36/37, had requested the Special Committee to report to it at the thirty-eighth session and, by its resolution 38/81, had requested the Special Committee to submit a status report without recommending a specific time frame for submission.

¹⁴ G A (34), Spec. Pol. Comm., 22nd mtg.: USSR, para. 11; *ibid.*, 23rd mtg.: German Democratic Republic, para. 3 and Czechoslovakia, para. 11; *ibid.*, 24th mtg.: Indonesia, para. 6; G A (35), Spec. Pol. Comm., 23rd mtg.: Czechoslovakia, para. 4 and German Democratic Republic, para. 28; G A (36), Spec. Pol. Comm., 30th mtg.: German Democratic Republic, para. 21 and USSR, para. 26; *ibid.*, 31st mtg.: Czechoslovakia, para. 9; G A (38), Spec. Pol. Comm., 48th mtg.: Algeria, para. 12. See also the twelfth report of the Working Group of the Special Committee on Peacekeeping Operations, A/34/592, annex, para. 5(b).

¹⁵ G A resolutions 33/94, para. 3(b); 34/147, para. 3(a); 35/164, para. 3(a); 36/122, para. 4(a); 37/114, para. 5(a); and 38/141, para. 3(a). G A resolution 39/88 A, para. 3(a), contained similar provisions and, in accordance with that resolution, the Special Committee on the Charter continued its work on the question in 1985.

¹⁶ G A (34), Suppl. No. 33, para. 18 (subparas. 74-75), working paper (A/AC.182/WG/20) submitted by Cyprus; *ibid.*, para. 18 (subpara. 76), working paper (A/AC.182/WG/36, sect. III) submitted by El Salvador and Romania; G A (35), Suppl. No. 33, para. 152 (sect. V); G A (36), Suppl. No. 33, paras. 237-238; G A (37), Suppl. No. 33, paras. 48-53.

¹⁷ G A (34), Suppl. No. 33, para. 18 (subpara. 76), working paper (A/AC.182/WG/36, sect. III) submitted by El Salvador and Romania.

comply with the obligations under Articles 43 and 45;¹⁸ However, no agreement was reached in the Special Committee on such proposals.¹⁹ In the course of the consideration of the reports of the Special Committee by the Sixth Committee of the General Assembly, frequent explicit references to Article 43 were made.²⁰

11. By a letter²¹ dated 30 August 1982 addressed to the Secretary-General, the representative of Sierra Leone requested the inclusion of an additional item in the provisional agenda of the thirty-seventh session of the General Assembly, to be entitled "Implementation of the collective security provisions of the Charter of the United Nations for

¹⁸ G A (34), Suppl. No. 33, para. 18 (subpara. 76), working paper (A/AC.182/WG/36, sect. III) submitted by El Salvador and Romania; G A (35), Suppl. No. 33, para. 152 (sect. V); G A (36), Suppl. No. 33, paras. 235-236; G A (37), Suppl. No. 33, paras. 45-47.

¹⁹ For other explicit, mostly incidental, references to Article 43 in the reports of the Special Committee on the Charter, see G A (34), Suppl. No. 33, para. 18 (subparas. 7, 11, 18 and 55); G A (35), Suppl. No. 33, paras. 43-44 and 142; G A (37), Suppl. No. 33, paras. 33-36, 38, 67, 69, 108, 111 and 133.

²⁰ See G A (34), 6th Comm., 30th mtg.: Finland, para. 59; *ibid.*, 31st mtg.: Bangladesh, para. 22; *ibid.*, 33rd mtg.: Mali, para. 66; *ibid.*, 36th mtg.: Cyprus, para. 16; *ibid.*, 37th mtg.: Tunisia, para. 60; G A (35), 6th Comm., 38th mtg.: Mexico, para. 70; G A (36), 6th Comm., 32nd mtg.: Bahrain, para. 57; *ibid.*, 38th mtg.: Sierra Leone, para. 32; G A (37), 6th Comm., 25th mtg.: Kenya, para. 5; G A (39), 6th Comm., 30th mtg.: Libyan Arab Jamahiriya, paras. 4 and 6.

²¹ G A (37), Annexes, a.i. 137, A/37/241.

the maintenance of international peace and security". In his letter, the representative stated that "the urgency and relevance of the matter ... [arose] from the fact that, in the present circumstances, the effectiveness of the Organization as the main instrument for the maintenance of international peace and security ha[d] been seriously undermined and its capacity for peacekeeping ha[d] been called into question in the light of recent events". Therefore, it was "of the utmost importance that the General Assembly give full consideration to the matter, with a view to recommending ways and means to implement fully the collective security provisions of the Charter and, in particular, Article 43".

12. The General Assembly included the item in its agenda and considered it at the thirty-seventh to thirty-ninth sessions. In the course of the discussions in the First Committee, some representatives, including the representative of Sierra Leone, echoed the contents of the above-mentioned letter, underlining the need to implement, in particular, Article 43.²² None of the resolutions²³ adopted on the subject contained a reference to the Article.

²² *Ibid.*, 1st Comm., 46th mtg.: Sierra Leone, pp. 52-60; *ibid.*, 54th mtg.: Jamaica, pp. 2-6; *ibid.*, 56th mtg.: Liberia, pp. 18-22; G A (38), 1st Comm., 47th mtg.: Sierra Leone, pp. 9-17. See also the note by the Secretary-General, pursuant to G A resolution 38/191, containing the replies of Member States on this matter: A/39/144, annex (replies from Ghana and Sudan).

²³ G A resolutions 37/119, 38/191 and 39/158.