

## REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS

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### ARTICLES 43 to 47

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### 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.

#### **TEXT OF ARTICLE 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### **TEXT OF ARTICLE 45**

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### **TEXT OF ARTICLE 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### **TEXT OF ARTICLE 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

### **INTRODUCTORY NOTE**

1. Articles 43 to 47 of the Charter provide for arrangements that are intended to govern the relationship between the Security Council and Member States that contribute troops for the purpose of the maintenance of international peace and security.

2. The implementation of Articles 44, 45, 46 and 47 of the Charter by the Security Council for the purpose of the maintenance of international peace and security presupposes the conclusion of special agreements pursuant to Article 43. Since no such agreements were operative during the period under review, the Security Council did not explicitly invoke Articles 43 to 47.

3. As elaborated upon below, the Council did, however, adopt decisions and hold deliberations related to the command, control and composition of United Nations operations which are of potential relevance to the interpretation and application of Articles 43 to 47 of the Charter.

4. As part of its consideration of the system of international peace and security envisaged by the Charter, as well as other related agenda items, the General Assembly and its Committees also referred to Articles 43 to 47 on multiple occasions during the period under review.

5. Finally, the Summary of Practice also describes relevant excerpts of four reports prepared by the Secretary-General during the same period that are of potential relevance to Articles 43 to 47.

### **SUMMARY OF PRACTICE**

#### **I. SECURITY COUNCIL**

##### **A. Special Agreements under Article 43**

6. During the period under review, the Security Council remained seized of the matter of special agreements under Article 43 of the Charter and the organization of the armed forces to be made available to the Security Council. The Council did not, however, discuss the matter at a formal meeting during the same period, and no agreements between the Security Council and Member States were concluded.<sup>1</sup> In 1997, the relevant agenda item was deleted from the list of matters of which the Council was seized.<sup>2</sup>

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<sup>1</sup> S/19420, para. 4(1); S/18570, para. 5(1); S/17725, para. 5(1); S/16880, para. 4(1); A/45/501, para. 3(1); A/46/479, para. 3(1); A/47/436, para. 3(1); A/48/411, para. 3(1); A/49/390, para. 3(1); and A/50/442, para. 3(1).

<sup>2</sup> S/1997/40, para. 13; and A/51/521, para. 5.

## B. Decisions

7. During the period under review, the Security Council did not explicitly refer to Articles 43 to 47 in its decisions.<sup>3</sup> Since the operation of the collective security system through the use of armed force as envisaged by Chapter VII presupposes the conclusion of special agreements under Article 43, and since no such agreements were operative during the period under review, the Security Council took no action to maintain international peace and security that explicitly invoked Articles 43 to 47 of the Charter.
8. During the same period, the Security Council did, however, adopt one resolution which referred to a potential role for the Military Staff Committee established by Article 47 of the Charter.<sup>4</sup> Without explicitly invoking any Article of the Charter, Security Council resolution 665 (1990), adopted in connection with the situation between Iraq and Kuwait, requested that Member States cooperating with the Government of Kuwait and deploying maritime forces to the area to enforce economic sanctions use, as appropriate, mechanisms of the Military Staff Committee.<sup>5</sup> However, the Military Staff Committee was not later referred to when the Security Council authorized the use of force in connection with the situation between Iraq and Kuwait under resolution 678 (1990).<sup>6</sup>
9. On another occasion, the Security Council adopted a decision that might be of relevance to Article 44 of the Charter. By a statement of the President of the Council, dated 28 March 1996<sup>7</sup>, the Council acknowledged the views expressed at a meeting held to consider the 1992 report by the Secretary-General entitled “*An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping*” (“*An Agenda for Peace*”)<sup>8</sup>, and indicated that it would hold regular meetings with the representatives of troop-contributing countries and the Secretariat, and convene ad hoc meetings with those same parties, in the event of unforeseen developments in particular peacekeeping operations that could necessitate Council action.<sup>9</sup>

## C. Constitutional Discussion

10. During the period under review, the Council did not hold any constitutional discussion related to the application or interpretation of Articles 45, 46 or 47 of the Charter.<sup>10</sup> Throughout the period under review, however, the Council held discussions regarding the command, control and composition of multinational forces authorized pursuant to

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<sup>3</sup> *Repertoire of the Practice of the Security Council, 1985-1988*, Chapter XI, Part II, p. 425, *1989-1992*, Chapter XI, Part V, p. 920, *1993-1995*, Chapter XI, Part V, pp. 1133 – 1134 and *1996-1999*, Chapter XI, Part V, p. 1154.

<sup>4</sup> See S C resolution 665 (1990), para. 4.

<sup>5</sup> *Ibid.*

<sup>6</sup> S C resolution 678 (1990).

<sup>7</sup> S/1995/1 and A/50/60.

<sup>8</sup> S/24111 and A/47/277.

<sup>9</sup> For a fuller discussion of the decision, see *Repertoire of the Practice of the Security Council*, Chapter XI, Part V, *1996-1999*, p. 1159.

<sup>10</sup> *Repertoire of the Practice of the Security Council, 1996-1999*, Chapter XI, Part IV, pp. 1154-55.

Chapter VII of the Charter which have a potential bearing on the interpretation of Articles 43 and 44.<sup>11</sup>

11. Council deliberations of potential relevance to the interpretation of Article 43 were held with regard to (1) the situation in Iraq and Kuwait<sup>12</sup>; (2) the situation in Bosnia and Herzegovina<sup>13</sup>; (3) the situation in Somalia<sup>14</sup>; (4) the question concerning Haiti<sup>15</sup>; (5) the situation concerning Rwanda<sup>16</sup>; (6) the situation in the Central African Republic<sup>17</sup>; (7) the situation in East Timor<sup>18</sup>; (8) the situation in Kosovo, Federal Republic of Yugoslavia<sup>19</sup>; and (9) the situation in the Great Lakes region.<sup>20</sup> For example, in connection with the situation in Bosnia and Herzegovina, the Council held deliberations regarding the political control by the Security

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<sup>11</sup> For a discussion of such Council deliberations during the period under review, see *Repertoire of the Practice of the Security Council, 1989-1992*, Chapter XI, Part V, pp. 920-925, *1993-1995*, Chapter XI, Part V, *1996-1999*, pp. 1155-1159.

<sup>12</sup> See deliberations relating to the adoption of resolution 678 (1990), S/PV.2963, pp. 19-21, as well as resolution 665 (1990), S/PV.2938, pp. 29-30 and S/PV.2934, p. 12. For a discussion of relevant deliberations held in connection with the situation in Iraq and Kuwait, see the *Repertoire of the Practice of the Security Council, 1989-1992*, Chapter XI, Part V, pp. 921-923.

<sup>13</sup> See deliberations relating to the adoption of resolution 770 (1992), S/PV.3106, pp. 11-12, 16-17, 35, 40, 45 and 47, as well as resolution 787 (1992), S/PV.3137, p. 6. For a discussion of relevant deliberations held in connection with the adoption of resolutions 770 (1992) and 787 (1992) on the situation in Bosnia and Herzegovina, see the *Repertoire of the Practice of the Security Council, 1989-1992*, Chapter XI, Part V, pp. 923-924. See also the deliberations relating to the adoption of resolution 816 (1993), S/PV.3191, pp. 4, 8, 19-20 and 23. For an examination of Council deliberations relating to the adoption of resolution 816 (1993), see the *Repertoire of the Practice of the Security Council, 1993-1995*, Chapter XI, Part V.B, pp. 1137-1138.

<sup>14</sup> See deliberations relating to the adoption of resolution 794 (1992), S/PV.3145, pp. 7, 13-14, 17, 24, 29, 48 and 50-51. See also deliberations regarding the adoption of resolution 814 (1993), S/PV.3188, pp. 11, 17-18, 22-26, 36 and 40-41. For a discussion of relevant deliberations held in connection with the situation in Somalia, see the *Repertoire of the Practice of the Security Council, 1989-1992*, Chapter XI, Part V, pp. 924-925.

<sup>15</sup> See deliberations held in connection with adoption of resolution 875 (1993), S/PV.3293, pp. 12, 16, 18 and 24. See also the deliberations held in connection with the adoption of resolution 940 (1994), S/PV.3413, pp. 5-6, 11-13 and 19-22. For an examination of relevant deliberations on the question concerning Haiti, see the *Repertoire of the Practice of the Security Council, 1993-1995*, Chapter XI, Part V.B, pp. 1136 - 1137.

<sup>16</sup> See deliberations held in connection with the adoption of resolution 929 (1994), S/PV.3392, pp. 2 and 6-10. For an examination of relevant deliberations on the situation concerning Rwanda, see the *Repertoire of the Practice of the Security Council, 1993-1995*, Chapter XI, Part V.B, pp. 1136 - 1137.

<sup>17</sup> See deliberations held in connection with the adoption of resolution 1080 (1996) on the situation in the Central African Republic, S/PV.3713 and Corr. 1, pp. 8-11, 16, 19, 21-22 and 25. For an examination of relevant deliberations, see the *Repertoire of the Practice of the Security Council, 1996-1999*, Chapter XI, Part V.B, p. 1157.

<sup>18</sup> See deliberations held in connection with the adoption of resolution 1264 (1999) on the situation in East Timor, S/PV.4045, pp. 2-8. For a discussion of relevant deliberations, see the *Repertoire of the Practice of the Security Council, 1996-1999*, Chapter XI, Part V.B, pp. 1157-58.

<sup>19</sup> See deliberations held in connection with the adoption of resolution 1244 (1999) on the situation in Kosovo, Federal Republic of Yugoslavia, see S/PV.4011. For an examination of relevant deliberations, see the *Repertoire of the Practice of the Security Council, 1996-1999*, Chapter XI, pp. 1158-59.

<sup>20</sup> See deliberations held in connection with the adoption of resolution 1080 (1996) on the situation in the Great Lakes Region, S/PV.3713 and Corr. 1, pp. 8-11, 16, 19, 21-22 and 25. For an examination of relevant deliberations, see the *Repertoire of the Practice of the Security Council, 1996-1999*, Chapter XI, Part V.B, p. 1156.

Council over the multinational operation led by the North Atlantic Treaty Organization.<sup>21</sup>

12. On another occasion, as part of deliberations held in connection with the situation in Liberia, the Czech Republic stated that its interests were “specially affected” by the situation in Liberia and that Article 44 of the Charter provided the Czech Republic with grounds to participate in the Council discussion, inasmuch as the employment of contingents of the Czech armed forces was involved.<sup>22</sup>
13. During the same period, as part of consideration by the Security Council of the report by the Secretary-General entitled *Supplement to an Agenda for Peace: Position paper of the Secretary-General on the occasion of the fiftieth anniversary of the United Nations* (“*Supplement to an Agenda for Peace*”), the representative of the Russian Federation commented that the proposal by the Secretary-General to create rapid reaction forces for peacekeeping involved a number of fundamental issues which would require very thorough consideration, both conceptually and practically. The representative of the Russian Federation suggested that such consideration would require the Council to take into account the provisions of Article 43 of the Charter.<sup>23</sup>

## II. GENERAL ASSEMBLY

14. During the period under review, the General Assembly adopted resolutions that broadly refer to the collective security system envisaged by the Charter, and which are therefore of potential relevance to Articles 43 to 47. In addition, explicit and implicit references to Articles 43 to 47 were made in plenary meetings of the General Assembly, as well as in the proceedings of the Sixth Committee of the General Assembly, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (“Special Committee on the Charter”) and the Special Committee on Peacekeeping Operations (“Special Committee on Peacekeeping”).

### A. Resolutions

15. During the period under review, the General Assembly adopted resolutions on the implementation of the Declaration on the Strengthening of International Security that are of potential relevance to Articles 43 to 47.<sup>24</sup> For example, resolution 41/90 called upon States to take immediate steps aimed at promoting and using effectively the system of collective security as envisaged in the Charter. The resolution further stressed that there is an urgent need to enhance the effectiveness of the Security Council in discharging its principal role of maintaining international peace and

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<sup>21</sup> See deliberations held in connection with the adoption of resolution 1031 (1995) on the situation in Bosnia and Herzegovina, S/PV.3607, pp. 13-15, 21 and 25.

<sup>22</sup> S/PV.3621, p. 29.

<sup>23</sup> S/PV.3492, p. 18.

<sup>24</sup> A/RES/40/158, A/RES/41/90, A/RES/42/92 and A/RES/43/88.

security and to enhance the authority and enforcement capacity of the Council in accordance with the Charter.<sup>25</sup>

16. The General Assembly also continued its consideration of the agenda item entitled “Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations”.<sup>26</sup> By resolution 42/22, the General Assembly indicated that States should strive to enhance the effectiveness of the collective security system through the effective implementation of the provisions of the Charter, particularly those relating to the special responsibilities of the Security Council in this regard.<sup>27</sup>

### **B. Constitutional Discussion in Plenary, Main Committee and Working Group Meetings**

17. On multiple occasions during the period under review, delegations reaffirmed their support for Article 43 in plenary meetings. For example, at the Assembly’s 10<sup>th</sup> Plenary Meeting of its fifty-first session, the representative of Italy stated that the United Nations must be ready to deal with conflicts where and when they break out, and to this end, it must be able to count on readily available military forces, as provided for by Article 43 of the Charter.<sup>28</sup> Similarly, at its 33<sup>rd</sup> Plenary Meeting of its fifty-fourth session, the representative of Cyprus expressed its support for the implementation of all Charter provisions, including those in Article 43 on the establishment of a permanent international security system.<sup>29</sup>
18. Upon consideration of a report of the Special Committee on the Charter in the Sixth Committee of the General Assembly (A/41/33), the representative of Tanzania suggested that it was time to reactivate Article 43 of the Charter in the context of serious and meaningful discussions concerning the maintenance of international peace and security.<sup>30</sup> On another occasion, the representative of the Sudan suggested that the maintenance of international peace and security, in particular Article 43, exemplified the manner in which the Special Committee on the Charter had been entrusted with the formulation of proposals to strengthen the role of the Organization, yet had not been empowered to submit proposals which tackled the factors preventing the Organization from fulfilling its objectives.<sup>31</sup>
19. As part of consideration by the Open-Ended Working Group of the General Assembly of the agenda item entitled “Question of Equitable Representation On and Increase in the Membership of the Security Council and Related Matters”, Singapore proposed that all permanent members of the Council should be prepared to give effect to Article 43 of the Charter and be ready to place their military forces at the disposal of the United Nations.<sup>32</sup>

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<sup>25</sup> A/RES/41/90.

<sup>26</sup> A/RES/40/70, A/RES/41/76, and A/RES/42/22.

<sup>27</sup> A/RES/42/22.

<sup>28</sup> A/51/PV.10: Italy, p. 6.

<sup>29</sup> A/54/PV.33: Cyprus, p. 11.

<sup>30</sup> A/C.6/41/SR.17, para. 33.

<sup>31</sup> A/C.6/41/SR.20, para. 52.

<sup>32</sup> A/49/965, p. 108.

20. On another occasion, upon consideration of the same agenda item by the Assembly during the 64<sup>th</sup> Plenary Meeting of its forty-eighth session, the representative of Tunisia welcomed the willingness of the permanent members of the Council to inform interested States and listen to their comments, and suggested that it would be useful to formalize such consultations in frequent meetings whenever an important question before the Council affects more than one Member State or has broader repercussions on the international scene. Given the increasing number of peacekeeping operations, the representative of Tunisia also noted that consultations between members of the Council and the countries contributing troops, *matériel* and finance would contribute to decisions on the timing and the resources needed in order to guarantee United Nations operations every chance of success. The contribution of troop-contributing countries, it was suggested, is particularly relevant in the light of paragraph 2 of Article 47 of the Charter.<sup>33</sup>
21. Similarly, upon continued consideration of the same agenda item during the forty-ninth session of the General Assembly, the representative of Tunisia indicated that it deemed very useful the idea of organizing consultations between the Council and interested States before a decision is taken on the timeliness, goals or duration of peacekeeping operations, as well as on the resources for implementing them, in order to give them every chance of success. The representative of Tunisia suggested that such consultations were not an innovation, but rather a matter of activating provisions of the Charter, in particular Article 47, paragraph 2.<sup>34</sup>
22. Upon consideration of an annual report of the Security Council during the forty-ninth session of the General Assembly, the representative of Australia called attention to the work of the Military Staff Committee. The representative expressed concern regarding the explanation of activities of the Military Staff Committee contained in Part III of the Security Council report<sup>35</sup>, which, it was suggested, repeated precisely the same statement contained in the Security Council report of the previous year. The representative of Australia continued by stating that Member States cannot be chastised for being too demanding when they ask how to improve the functioning of the Military Staff Committee and its relationship to the Council and to the wider purposes of the Charter, and suggested that the General Assembly continue to address ongoing improvements to the working methods of the Council.<sup>36</sup>
23. During the same period, as part of consideration by the Fourth Committee of the General Assembly of the agenda item entitled “Comprehensive Review of the Whole Question of Peacekeeping Operations in all their Aspects”, the representative of Tunisia welcomed the decision by the Security Council to hold regular discussions among

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<sup>33</sup> A/48/PV.64, p. 26.

<sup>34</sup> A/49/PV.30, p. 10.

<sup>35</sup> A/48/2, p. 421. Part III of the Security Council report contained the following explanation: “The Military Staff Committee, established pursuant to Article 47 of the Charter of the United Nations, functioned continually under its draft rules of procedure during the period under review. It held a total of 26 meetings and remained prepared to carry out the functions assigned to it under the terms of Article 47.” Ibid.

<sup>36</sup> A/49/PV.49, p. 16.



members of the Council, troop-contributing countries and the Secretariat. The representative of Tunisia also recalled that Article 47 of the Charter provided for the participation of all Member States in the work of the Military Staff Committee.<sup>37</sup>

### C. Special Committee on the Charter

24. During the period under review, and in accordance with the mandate conferred on it by the General Assembly, the Special Committee on the Charter examined various proposals related to the question of the maintenance of international peace and security. Consideration of such proposals included explicit and implicit references to Articles 43 to 47.
25. On several occasions, the Special Committee on the Charter held a general debate regarding proposed amendments to the Charter. In connection with that debate, one representative suggested that, rather than amendments, consideration should be given to a study of the potential components of a new preventive diplomacy structures. The new machinery, it was suggested, should take into account Article 43 of the Charter on the agreements to make armed forces available to the Security Council, the role of the Military Staff Committee, as well as the potential creation of regional sub-committees.<sup>38</sup>
26. Similarly, upon consideration of a working paper entitled “New issues for consideration in the Special Committee”, the Russian Federation (the sponsor of the working paper) suggested that a wide range of measures should be considered in the case of a breach of the peace or a failure by a State to comply with the decisions of the Security Council. Among the measures proposed was the implementation of Article 43 of the Charter, as well as use of the Military Staff Committee and the creation of regional sub-committees thereof.<sup>39</sup>
27. The implementation of Article 43 of the Charter was also raised in a general debate held in the Special Committee of the Charter during the period under review. It was observed that the collective security system provided for under Chapter VII of the Charter should be fully implemented, and specific reference was made to the implementation of Article 43 of the Charter, together with Article 42.<sup>40</sup>
28. During the same period, the Special Committee on the Charter also considered a working paper entitled “Draft declaration on the improvement of cooperation between the United Nations and Regional Organisations”. In connection with discussions regarding the working paper, it was observed that the Security Council had thus far not used regional arrangements for enforcement actions and that, were it to do so, the Council would face the problem of the implementation of Article 43 of the Charter.<sup>41</sup>
29. As part of proceedings regarding the “Identification of New Subjects for Consideration in the Future Work of the Special Committee”, some

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<sup>37</sup> A/C.4/49/SR.23, para. 58.

<sup>38</sup> A/47/33, para. 21.

<sup>39</sup> *Ibid.*, para. 97.

<sup>40</sup> A/48/33, para. 17.

<sup>41</sup> A/47/33, para. 51.

representatives expressed their support for an in-depth examination of the Charter provisions that had not yet been sufficiently applied and implemented, by further defining their specific contents and developing their interpretation. The need to clarify and specify the rights and obligations of the Security Council and Member States under Chapter VII was mentioned in this connection<sup>42</sup>, and reference was made to Article 44 of the Charter.<sup>43</sup>

30. On another occasion, a proposal submitted by Sierra Leone suggested the establishment of a Dispute Settlement Service—a permanent subsidiary unit to cope with the peaceful settlement of disputes.<sup>44</sup> The Dispute Settlement Service was envisioned as a subsidiary body under Chapter VI analogous to the existing but non-used Military Staff Committee which functions as a subsidiary body under Chapter VII.<sup>45</sup>

#### **D. Special Committee on Peacekeeping**

31. Consideration by the Special Committee on Peacekeeping of the command, control and composition of certain peacekeeping operations is also of potential relevance to Articles 43 to 47.<sup>46</sup>
32. As part of its “Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects”, the Special Committee referred to the Military Staff Committee established by Article 47. Without explicitly referring to any Article of the Charter, it was proposed that the Military Staff Committee should be used on a periodic basis as a consultative organ of military experts of Security Council members, with participation of representatives of other States, primarily troop-contributing countries, in order to discuss the nature of the military and political situation at locations where United Nations troops are stationed.<sup>47</sup>
33. In addition, amidst a general debate during the relevant period, Mr. Kofi Annan, then Under-Secretary General for Peacekeeping Operations, stated that the response of the Security Council to *Supplement to an Agenda for Peace* demonstrated an encouraging consonance of views with regard to the crucial distinction between peacekeeping and enforcement. Mr. Annan also highlighted the principle of unity of command and the importance of troop-contributing Governments articulating their views at United Nations Headquarters in discussions with members of the Security Council, other troop contributors and the Secretariat.<sup>48</sup> As part of the same debate, many delegations stressed the importance of the unity of command and control of operations.<sup>49</sup> And some delegations suggested that the tasks, as well as the duration and zones of deployment of contingents in peacekeeping operations, should be determined by agreement between troop-contributing countries and the Secretary-General. According to

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<sup>42</sup> A/51/33, para. 151.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid., p. 20.

<sup>45</sup> Ibid., p. 21.

<sup>46</sup> The Special Committee on Peacekeeping’s consideration of *Agenda for Peace* is included *infra* in Section III.A.

<sup>47</sup> A/45/330, p. 17.

<sup>48</sup> A/50/230, para. 10.

<sup>49</sup> Ibid., para 26.

those delegations, the question of command and control at the operational and tactical levels merited further review.<sup>50</sup>

34. The Special Committee on Peacekeeping also addressed the question of command and control as part of its continued “Comprehensive review of the whole question of peacekeeping operations in all their aspects”.<sup>51</sup> In general debate on the subject, several delegations stressed the importance of the unity of command and control of United Nations peacekeeping operations, and expressed the view that all field operations authorized by the United Nations should be led and conducted by the United Nations. Other delegations were of the view that operations authorized under Chapter VII of the Charter could be led and conducted by regional organizations or multinational coalitions rather than the United Nations.<sup>52</sup>
35. With regard to the command and control of United Nations operations, comments made in the Special Committee on Peacekeeping regarding operational distinctions between peacekeeping and enforcement tasks are also of potential relevance to the Articles discussed here. On one occasion, several delegations commented that the mandates and structure of peacekeeping operations under Chapter VI of the Charter should be clearly distinguished from those that applied to operations under Chapter VII.<sup>53</sup> On another occasion, several delegations expressed their belief that peacekeeping and enforcement tasks should not be mixed in the mandate of United Nations operations.<sup>54</sup>

### III. SECRETARIAT

#### A. An Agenda for Peace

36. During the period under review, the Secretary-General explicitly referred to Articles 43 and 47 in *An Agenda for Peace*. In connection with the examination of peacemaking in the report, the Secretary-General recommended that the Security Council initiate negotiations in accordance with Article 43.<sup>55</sup> The Secretary-General suggested that, under existing political circumstances, the long-standing obstacles to the conclusion of the special agreements foreseen in Article 43 should no longer prevail, and that, therefore, the Security Council should initiate negotiations in accordance with the Article.<sup>56</sup> It was further suggested that the ready availability of armed forces on call could serve, in itself, as a means of deterring breaches of the peace.<sup>57</sup>

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<sup>50</sup> Ibid.

<sup>51</sup> A/51/130 and Corr.1.

<sup>52</sup> Ibid., para. 17. The proposals, recommendations and conclusions contained in paragraphs 29 to 85 of the report of the Special Committee were endorsed by the General Assembly. G A (51) resolution 136, para. 2.

<sup>53</sup> A/50/230, para. 14.

<sup>54</sup> A/51/130 and Corr.1, para. 8.

<sup>55</sup> S/24111 and A/47/277, para. 43.

<sup>56</sup> Ibid., paras. 42-44.

<sup>57</sup> Ibid., para. 43.

37. The recommendation of the Secretary-General that the Security Council initiate negotiations in accordance with Article 43 also included an explicit reference to Article 47. *An Agenda for Peace* recommended that such negotiations under Article 43 be supported by the Military Staff Committee, which may be augmented if necessary by others in accordance with Article 47, paragraph 2, of the Charter. This recommendation was qualified, however, by a suggestion that the role of the Military Staff Committee should be seen in the context of Chapter VII, and not that of the planning or conduct of peacekeeping operations.<sup>58</sup>
38. The Special Committee on Peacekeeping held a special session in 1992 to consider *An Agenda for Peace*. The Special Committee endorsed the recommendation of the Secretary-General that the Security Council initiate negotiations with Member States to reach agreements under Article 43 of the Charter. It was suggested in the Special Committee that it was necessary for the Security Council to present clear and firm guidance on this recommendation.<sup>59</sup>
39. *An Agenda for Peace* also elicited discussion in the Special Committee on Peacekeeping regarding the report's proposal to establish peace enforcement units. *An Agenda for Peace* proposed that such units would be available on call, consist of troops volunteered by Member States, and would be distinct from any forces that may eventually be constituted under Article 43 of the Charter.<sup>60</sup> According to *An Agenda for Peace*, while the mission of forces under Article 43 would be to respond to outright aggression, imminent or actual, such forces would not likely be available for some time to come. Yet, the report also noted that cease-fires have often been agreed to but not complied with, and the United Nations has sometimes been called upon to send forces to restore and maintain the cease-fire. This task, it was suggested, can on occasion exceed the mission of peacekeeping forces and the expectations of peacekeeping force contributors. As a result, the Secretary-General recommended, as a provisional measure under Article 40 of the Charter, that the Council consider the utilization of peace enforcement units in clearly defined circumstances and with their terms of reference specified in advance; such units would be more heavily armed than peacekeeping forces and would need to undergo extensive preparatory training within their national forces.<sup>61</sup>
40. According to the views expressed by some delegations in the Special Committee on Peacekeeping, such peace enforcement units would fall somewhere between the traditional peacekeeping role and the use of force as envisioned under Article 43 of the Charter.<sup>62</sup> Though some delegations noted that the proposal was worthy of serious consideration, others suggested that a number of potential problems would result. Among the suggested problems were (1) the likelihood that such units would have to take sides in any dispute and thus call into question the neutral role of the original United Nations peacekeeping force; (2) the difficulty of ensuring

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<sup>58</sup> Ibid.

<sup>59</sup> A/47/386, para. 42.

<sup>60</sup> S/24111 and A/47/277, para. 44.

<sup>61</sup> Ibid.

<sup>62</sup> A/47/386, para. 39.

the rapid availability of such forces; (3) the reluctance on the part of Member States to hold their national forces on call; and (4) whether the Secretary-General and his staff had the capacity to command and control such peace enforcement units in the field.<sup>63</sup> Moreover, one delegation expressed concern that the discussion of Article 43 in such a context would lead to confusion among Member States between the concepts of peacemaking, peacekeeping and peace enforcement.<sup>64</sup>

## **B. Comprehensive System of International Security**

41. As part of its consideration of the agenda item entitled “Comprehensive system of international peace and security”, the General Assembly adopted resolution 42/93, which called upon international and national non-governmental organizations and political and public figures in all countries to make their positive contributions to the development of a productive and meaningful international dialogue on the ways and means of promoting comprehensive security based on the Charter. By paragraph 14 of that resolution, the General Assembly requested the Secretary-General to explore ways and means of organising an exchange of views and to report those views to the General Assembly. As part of its report to the General Assembly (A/43/732), the Secretariat included an enumeration of the various opinions expressed during the forty-second session of the General Assembly on the ways and means of approaching the subject of a comprehensive system of international peace and security. The comments during the session included a suggestion that there was the need for a wider use of the Military Staff Committee and peacekeeping forces<sup>65</sup>, a suggestion which may be of potential relevance to the interpretation of Articles 46 and 47.

## **C. Command and Control of Peacekeeping Operations**

42. During the period under review, the Secretary-General engaged in further consideration of the command and control of United Nations operations that is of potential relevance here. By resolution 48/42 of 10 December 1993, the General Assembly urged the Secretary-General to initiate a comprehensive review of the role, tasks and functions of the various units of the Secretariat with a view, *inter alia*, to assuring the unity of command and control indispensable for successful peacekeeping.<sup>66</sup> In his report entitled “Command and control of United Nations peacekeeping operations”, the Secretary-General indicated that issues of accountability and transparency are crucial when groups of Member States cooperate with the United Nations under Chapter VII of the Charter. For such cooperation to be effective, new modalities for linkage to and review by the Security Council need to be devised.<sup>67</sup>

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<sup>63</sup> Ibid., paras. 39-40.

<sup>64</sup> Ibid., para. 41.

<sup>65</sup> A/43/732, para. 7.

<sup>66</sup> A/49/681.

<sup>67</sup> A/49/681, para. 23.

43. During the same period, the Secretary-General included replies received from Member States as an addendum to his report entitled “Improving the capacity of the United Nations for peacekeeping”.<sup>68</sup> In its reply, the Russian Federation suggested that the revitalization of the Military Staff Committee merited serious study. If the Committee were able to focus on specific actions and include in its work representatives of the countries that are the principal suppliers of contingents (for example, in accordance with Article 47 of the Charter), it would then be able, under the direction of the Security Council, to assume general command of operations and develop specific proposals on cooperation between the United Nations and regional organizations in a given field.<sup>69</sup>

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<sup>68</sup> A/48/403/Add.1.

<sup>69</sup> Ibid. para. 21(a).