

ARTICLE 23

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ARTICLE 23

TEXT OF ARTICLE 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

INTRODUCTORY NOTE

1. Article 23 (1) specifies which five Members of the United Nations are to be permanent members of the Security Council and sets out the criteria for the election of ten non-permanent members.

2. The representation of one of the permanent members of the Security Council specified in paragraph 1 of the Article was changed during the period covered in the present *Supplement* as indicated in the Summary of Practice.

3. In each year of the period under review, candidates were regularly elected as non-permanent members of the Security Council for appropriate terms at sessions of the General Assembly pursuant to Article 23 and the relevant rules of procedure without occasioning any constitutional discussion. The role played in this process by the regional groups of States became increasingly evident toward the end of the period.

4. The question of the special responsibility of the Security Council for the maintenance of international peace and security was referred to in a number of resolutions adopted by the Security Council and the General Assembly during the period under review. Article 23 was also cited incidentally in the General Assembly on a number of occasions in connexion with the discussion of the question of a review of the Charter and the consideration of measures for the strengthening of international security. The proceedings in connexion with these proposals are treated in the Summary of Practice.

SUMMARY OF PRACTICE

5. During the period under review the composition of the Security Council was challenged on the basis of the terms of Article 23 of the Charter.

A. Representation of a permanent member

6. At a Security Council meeting on 9 February 1971, the representative of Somalia, speaking on a point of order, placed on record his Government's strong objections "to acceptance of the credentials of the representative who, since December 1962, has been occupying the seat reserved for the true representative of the Government of the State of China" and said that those credentials had been issued by a régime that had lost its authority 21 years previously. In his view, the refusal to allow the representative of the People's Republic of China to occupy the seat of China was tantamount to nullifying China's membership in the United Nations, since China could not exercise its membership unless it was properly represented.

7. A number of representatives agreed that only the representative of the People's Republic of China was entitled to the Chinese seat in the United Nations.

8. The representative of the United States, however, pointed out that the credentials of the representative of China had been reported to the Council on 18 December 1962 and, like those of all other representatives at the Council table, had been considered approved in the absence of objection and thus fully satisfied the provisions of the pertinent rule of procedure of the Security Council.¹ With regard to the broad question of Chinese representation in the United Nations, he considered that the Security Council was manifestly the wrong organ in which to deal with such a question, which concerned every single Member of the United Nations; by resolution 396 (V) adopted on 14 December 1950, the General Assembly had noted that the Assembly itself was the organ in which consideration could best be given to the

¹See this *Supplement* under Article 30, para. 18.

views of all Member States on matters affecting the functioning of the Organization as a whole and had recommended that, when any such question arose, it should be considered by that organ.²

9. At its twenty-fifth session, as during previous sessions,³ the General Assembly considered an agenda item entitled "Restoration of the lawful rights of the People's Republic in the United Nations", included in the agenda at the request of 15 Member States, who stated, in their explanatory memorandum,⁴ that refusal to restore the seat in the United Nations to the People's Republic of China was a denial of justice and inconsistent with the principle of the universality of the Organization, that restoration of that right would strengthen the authority and prestige of the United Nations, and that recognition of the representatives of the Government of the People's Republic of China would imply the "immediate expulsion of the representatives of the Chiang Kai-shek clique" from the seat which they were occupying in the Organization. The proposers of the item were among the 18 sponsors of a draft resolution⁵ which set out that position and which received 51 votes in favour, 49 against, with 25 abstentions, but was not adopted having failed to obtain the required two-thirds majority.⁶ In its place, the General Assembly, on 20 November 1970, adopted the following text as resolution 2642 (XXV) on the representation of China in the United Nations:

"The General Assembly,

"Recalling the recommendation contained in its resolution 396 (V) of 14 December 1950 that, whenever more than one authority claims to be the Government entitled to represent a Member State in the United Nations and this question becomes the subject of controversy in the United Nations, the question should be considered in the light of the purposes and principles of the Charter of the United Nations and the circumstances of each case,

"Recalling further its decision in resolution 1668 (XVI) of 15 December 1961, in accordance with Article 18 of the Charter, that any proposal to change the representation of China is an important question, which, in General Assembly resolutions 2025 (XX) of 17 November 1965, 2159 (XXI) of 29 November 1966, 2271 (XXII) of 28 November 1967, 2389 (XXIII) of 19 November 1968 and 2500 (XXIV) of 11 November 1969, was affirmed as remaining valid,

"Affirms again that this decision remains valid."

10. At its twenty-sixth session, in 1971, the General Assembly again considered the question during twelve plenary meetings⁷ and, on 25 October, by a vote of 76 to 35, with 17 abstentions, adopted resolution 2758 (XXVI), which read as follows:

"The General Assembly,

"Recalling the principles of the Charter of the United Nations,

"Considering that the restoration of the lawful rights of the People's Republic of China is essential both for

the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter,

"Recognizing that the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council,

"Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it."

11. In the course of the consideration of the issue prior to the voting, the General Assembly, by a vote of 59 to 55, with 15 abstentions, rejected a twenty-two-Power draft resolution under which it would have decided that any proposal which would result in depriving the Republic of China of representation in the United Nations was an important question under Article 18 of the Charter. Following the adoption of resolution 2758 (XXVI), the General Assembly considered a further draft resolution, which was not voted upon, containing the following provisions:⁸

"The General Assembly,

"Noting that since the founding of the United Nations fundamental changes have occurred in China,

"Having regard for the existing factual situation,

"Noting that the Republic of China has been continuously represented as a Member of the United Nations since 1945,

"Believing that the People's Republic of China should be represented in the United Nations,

"Recalling that Article 1, paragraph 4, of the Charter of the United Nations establishes the United Nations as a centre for harmonizing the actions of nations,

"Believing that an equitable resolution of this problem should be sought in the light of the above-mentioned considerations and without prejudice to the eventual settlement of the conflicting claims involved,

"1. Hereby affirms the right of representation of the People's Republic of China and recommends that it be seated as one of the five permanent members of the Security Council;

"2. Affirms the continued right of representation of the Republic of China;

"3. Recommends that all United Nations bodies and the specialized agencies take into account the provisions of this resolution in deciding the question of Chinese representation."

12. The first meeting of the Security Council to be held following the adoption by the General Assembly of resolution 2758 (XXVI) on 25 October 1971 was the 1599th meeting, on 23 November 1971. At the opening of that meeting, the President of the Security Council and the representatives of 13 other members of the Council took note of, and welcomed, the presence of the representative of the People's Republic of China, who responded to their remarks.⁹

²For texts of relevant statements in connexion with the point of order raised by the representative of Somalia, see: S C (26), 1565th mtg.: China, paras. 93-98; France, para. 88; Italy, para. 90; Poland, para. 89; Somalia, paras. 56 and 57, 74; Syria, para. 79; USSR, paras. 83 and 84; United States, paras. 100 and 101.

³See the treatment of this subject in previous *Supplements* of the *Repertory*, especially *Supplement No. 4*, under Article 9.

⁴G A (25), Annexes, a.i. 97, A/8043.

⁵*Ibid.*, A/L.605.

⁶G A (25), Plen., 1913th mtg., para. 74.

⁷G A (26), Plen., 1966th to 1977th mtgs. See also this *Supplement* under Article 9 regarding consideration in the General Assembly of representation and credentials.

⁸G A (26), Annexes, a.i. 93, A/L.633.

⁹For texts of relevant statements, see S C (26), 1599th mtg.: President, paras. 1-3; Argentina, paras. 17-20; Belgium, paras. 65-70; Burundi, paras. 53-61; France, paras. 88-89; Italy, paras. 24-26; Japan, paras. 32-33; Nicaragua, paras. 45-46; Sierra Leone, paras. 81-85; Somalia, paras. 6-13; Syrian Arab Republic, paras. 75-76; USSR, paras. 37-41; United Kingdom, para. 74; United States, paras. 48-49.

B. Election of non-permanent members

13. During the period under review, the General Assembly, at each regular session, elected five non-permanent members to the Security Council to replace those members whose terms of office were to expire on 31 December of the respective year. The details of these elections are set out in the annex to this study.

14. At six of the nine sessions covered in this *Supplement*, the incoming non-permanent members of the Security Council were elected in the course of one plenary meeting. At the thirtieth session, in 1975, four plenary meetings were devoted to the elections, four countries having been elected on the first ballot and five inconclusive ballots having been held without either India or Pakistan having obtained the required two-thirds majority. The Chairman of the Asian Group proposed that the balloting be postponed for 48 hours for consultation and, when consideration of the election was resumed, the representative of India indicated that his delegation had decided not to press its candidature any longer, whereupon Pakistan was elected a non-permanent member of the Council for 1976 and 1977.¹⁰ At the following session India was elected on the first ballot to be a non-permanent member of the Security Council for 1977-1978.

15. At the thirty-second session, in 1977, four countries were elected on the first ballot. After neither Niger nor Nigeria received the required majority on two unrestricted ballots, the representatives of the two candidates expressed opposing views on the decision with regard to their candidacy by the Organization of African Unity. The representative of Niger said he did not insist that the elections continue and, after one more inconclusive ballot, Nigeria was elected to the 1978-1979 term on the Council.¹¹

16. At the thirty-third session, in 1978, before proceeding to the election of five non-permanent members of the Security Council, the General Assembly heard statements by the Chairman of the Group of Western European and other States to the effect that Malta, Norway and Portugal were candidates for the two vacancies to be filled from that Group, and by the Chairman of the Group of Latin American States, who announced that the single candidate endorsed by that Group was Jamaica. On the first ballot, three countries were elected and the second ballot was inconclusive. At the following meeting, Japan announced withdrawal of its candidacy and Bangladesh was elected on the next ballot, leaving one seat to be filled. On the second subsequent ballot, Portugal was elected to a term on the Security Council for 1979-1980.¹²

C. Special responsibility of the permanent members

17. The special responsibility of the permanent members of the Security Council for the maintenance of international peace and security was referred to in a resolution adopted by the Security Council in connexion with the question concerning the situation in Southern Rhodesia. In its resolution 277 (1970), adopted on 18 March 1970, the Security Council called for a number of measures under Chapter VII of the Charter with a view to bringing the rebellion in Southern Rhodesia to an end and called upon States Members of the United Nations, and "in particular those with primary responsibility under the Charter for the maintenance of international peace and security", to assist effectively in the implementation of

those measures. The adoption of that resolution was not preceded by a constitutional discussion relevant to the issue.

18. In connexion with its consideration of the financing of the United Nations Emergency Force (UNEF), the General Assembly, on 11 December 1973, adopted resolution 3101 (XXVIII) in which, bearing in mind the special responsibilities of the States permanent members of the Security Council in the financing of peace-keeping operations, it decided, as an *ad hoc* arrangement without prejudice to the positions taken by Member States on arrangements for financing such operations, to apportion a share of \$18,945,000 among the permanent members in the proportions determined by the scale of assessments, out of a total appropriation of \$30 million for UNEF operations for six months.

19. The issue was implicitly raised in the General Assembly on 25 September 1973 by the Minister for Foreign Affairs of the USSR who proposed the inclusion in the agenda of the twenty-eighth session of an item entitled "Reduction of the military budgets of States permanent members of the Security Council by 10 per cent and utilization of part of the funds thus saved to provide assistance to developing countries". He pointed out that such a measure, which would require the participation of all States permanent members of the Security Council without exception, would represent a concrete step towards disarmament and would yield immediate benefits to the developing countries.¹³ An explanatory memorandum¹⁴ and a draft resolution on the question¹⁵ were submitted to the General Assembly by the USSR. The operative paragraphs of the draft resolution read, *inter alia*, as follows:

"The General Assembly,

"1. *Recommends* that all States permanent members of the Security Council should reduce military budgets by 10 per cent from the 1973 level during next financial year;

"2. *Appeals* to the aforementioned States to allot 10 per cent of the funds released as a result of the reduction in military budgets for the provision of assistance to developing countries so as to permit the execution in those countries of the most urgent economic and social progress;

"3. *Expresses* the desire that other States, particularly those with major economic and military potential, should also take steps to reduce their military budgets and allot part of the funds thus released for the provision of assistance to developing countries."

20. At its 2194th plenary meeting, on 7 December 1973, the General Assembly adopted the USSR draft resolution by a recorded vote of 83 to 2, with 38 abstentions, as resolution 3093A (XVIII).

21. Meanwhile, on 5 December 1973, Mexico had submitted a draft resolution¹⁶ which read, *inter alia*, as follows:

"The General Assembly,

"*Convinced* of the urgent necessity that the States permanent members of the Security Council agree to carry out the reduction of their military budgets, and of the desirability that the other States with a major economic and military potential act accordingly;

" . . .

¹³For text of the relevant statement, see G A (28), Plen., 2126th mtg., para. 131.

¹⁴*Ibid.*, Annexes, a.i. 102, A/9191.

¹⁵*Ibid.*, A/L.701 and Rev.1.

¹⁶*Ibid.*, A/L.715.

¹⁰G A (30), Plen., 2384th to 2387th mtgs.

¹¹G A (32), Plen., 43rd mtg.

¹²G A (33), Plen., 50th and 51st mtgs.

“Requests the Secretary-General to prepare, with the assistance of qualified consultant experts appointed by him, a report on the reduction of the military budgets of States permanent members of the Security Council, which should also cover other States with a major economic and military potential, and on the utilization of a part of the funds thus saved to provide international assistance to developing countries;”

22. At its 2194th plenary meeting, on 7 December 1973, the General Assembly also adopted the Mexican draft resolution by a recorded vote of 93 to 2, with 26 abstentions, as resolution 3093B (XXVIII). The adoption of neither resolution was preceded by a constitutional discussion.

23. The question of the special responsibilities of the permanent members of the Council was also referred to in a number of other resolutions¹⁷ adopted by the General Assembly in subsequent years on the recommendation of the First Committee.

24. During the discussion of the issues of a review of the Charter and measures for the strengthening of international security, reference was made in the General Assembly to the provisions of Article 23. In both cases a number of speakers expressed dissatisfaction with the present criteria for electing non-permanent members of the Security Council as outdated and also opposed any

special role for permanent members of the Security Council. Others defended the special role of the permanent members and stressed the importance of electing non-permanent members on the basis of their contribution to the maintenance of international peace and security.¹⁸ 25. The provisions of the second sentence of Article 23 (1) were quoted in a letter dated 29 March 1976 from the representative of Israel to the Secretary-General.¹⁹

¹⁸For texts of relevant statements, see G A (25), Plen., 1842nd mtg.: Japan, paras. 73-75; 1st Com., 1729th mtg.: Japan, para. 73; Thailand, paras. 88-93; 1731st mtg.: Uganda, para. 22; 1734th mtg.: Kuwait, para. 269; 1735th mtg.: Morocco, paras. 132-133; 1736th mtg.: Ceylon, para. 122; Israel, para. 157; 1738th mtg.: USSR, paras. 157-159; 1797th mtg.: Brazil, para. 126; Thailand, paras. 105-109 and 111; India, para. 126 G A (25), 6th Com., 1213th mtg.: United States, para. 11; 1238th mtg.: Mexico, para. 4; Philippines, para. 8; G A (27), Plen., 2042nd mtg.: Australia, para. 127; 2048th mtg.: Nigeria, para. 118; 2050th mtg.: Mexico, para. 101; *ibid.*, 6th Com., 1379th mtg.: Mexico, para. 17; United States, para. 28; 1381st mtg.: Byelorussian SSR, para. 27; Nigeria, para. 37; G A (28), Plen., 2182nd mtg.: Ghana, para. 35; S C (28), 1684th mtg.: Australia, paras. 79-81; G A (29), 6th Com., 1517th mtg.: Ghana, para. 28; 1520th mtg.: Mexico, para. 18; G A (30), Plen., 2355th mtg.: Brazil, para. 50; *ibid.*, 6th Com., 1564th mtg.: Sierra Leone, para. 42; 1571st mtg.: Tunisia, para. 47; *ibid.*, Spéc. Pol. Com., 977 mtg.: Israel, para. 63; G A (31), 1st Com., 11th mtg.: Cyprus, p. 51; *ibid.*, 6th Com., 45th mtg.: Israel, paras. 52 and 53; 46th mtg.: Canada, para. 102; G A (32), 6th Com., 22nd mtg.: Mexico, para. 21; 26th mtg.: Nigeria, para. 51; G A (33), 6th Com., 23rd mtg.: Kuwait, para. 65; S C (31), 1899th mtg.: Israel, para. 58. See also A/8746 and Add.1-3, A/8847 and Add.1 and A/10113 and Add.1 and 2 (all mimeographed).

¹⁹S C (31), Suppl. for Jan.-March 1976, S/12028, also circulated as A/31/73. The letter referred to the requirements for membership on the Council in accordance with the Article.

¹⁷G A resolutions 3254 (XXIX); 3463 (XXX); 31/87; 32/85; and 33/67.

ANNEX

Tabulation of elections of non-permanent members of the Security Council
for the years 1970-1978

General Assembly session	Plenary meeting and date	Members elected to two year terms beginning January of the following year	General Assembly session	Plenary meeting and date	Members elected to two year terms beginning January of the following year
25th	1885th 26 October 1970	Argentina Belgium Italy Japan Somalia	30th	2384th 20 October 1975	Sweden United Republic of Tanzania Benin Libyan Arab Republic Panama Romania Pakistan
26th	1993rd 23 November 1971	Guinea India Panama The Sudan Yugoslavia	31st	2387th 23 October 1975 40th 21 October 1976	Canada Federal Republic of Germany India Mauritius Venezuela
27th	2070th 20 October 1972	Australia Austria Indonesia Kenya Peru	32nd	43rd 24 October 1977	Bolivia Czechoslovakia Gabon Kuwait Nigeria
28th	2153rd 15 October 1973	Byelorussian Soviet Socialist Republic Costa Rica Iraq Mauritania United Republic of Cameroon	33rd	50th 10 November 1978 51st 10 November 1978	Jamaica Norway Zambia Bangladesh Portugal
29th	2266th 11 October 1974	Guyana Italy Japan			