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VOLUME III

**ARTICLE 39**

**TEXT OF ARTICLE 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

**NOTE**

1. During the period under review, the Council did not explicitly invoke Article 39 in any of its decisions.

2. However, a number of decisions of the Council included provisions which contained language related to Article 39. In decisions relating to several items on its agenda, the Council determined the existence of a “threat to international peace and security,” “threat to international peace and security in the region” or “threat to international peace and security and to stability in the region”.<sup>1</sup> In all those instances, the Council adopted measures under Chapter VII of the Charter.

3. In addition, while considering thematic issues, the Council recognized and expressed concern on a wide range of non-traditional threats that might constitute a threat to

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<sup>1</sup> See for instance, S/RES/1298 (2000), S/RES/1333 (2000), S/RES/1441 (2002), S/RES/1474 (2003), S/RES/1529 (2004), S/RES/1556 (2004), S/RES/1636 (2005), S/RES/1778 (2007), and S/RES/1907 (2009).

international peace and security, such as the deliberate targeting of civilian populations in armed conflict,<sup>2</sup> including children;<sup>3</sup> the HIV/AIDS pandemic;<sup>4</sup> and sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as part of a widespread or systematic attack against civilian populations.<sup>5</sup> The Council also determined that the illicit trade in, and excessive and destabilizing accumulation of, small arms and light weapons in areas of conflict,<sup>6</sup> the proliferation of weapons of mass destruction,<sup>7</sup> as well as drug trafficking and organized crime<sup>8</sup> constituted threats to international peace and security. Finally, the Council determined that terrorism in all its forms and manifestations constituted “one of the most serious threats” to international peace and security.<sup>9</sup>

4. The Council also considered draft resolutions containing implicit references to Article 39 which failed to be adopted.<sup>10</sup>

5. In addition, Article 39 was explicitly invoked in several letters by Member States addressed to the Security Council.<sup>11</sup> Other communications contained implicit references to the Article, including cases where a threat to the peace was alleged to exist by Member States,<sup>12</sup> and conversely where Member States objected to the existence of a threat to international peace and security in a particular situation.<sup>13</sup>

6. For detailed information regarding the Council’s practice on the determination of a threat to the peace, breach of the peace, or act of aggression in accordance with Article 39, as referred to in paragraphs 1 to 6 above, see chapter XI of the fourteenth and fifteenth

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<sup>2</sup> S/RES/1296 (2000).

<sup>3</sup> S/RES/1314 (2000).

<sup>4</sup> S/RES/1308 (2000).

<sup>5</sup> S/RES/1820 (2008).

<sup>6</sup> S/RES/1366 (2001).

<sup>7</sup> S/RES/1540 (2004) and S/RES/1673 (2006).

<sup>8</sup> S/PRST/2009/32.

<sup>9</sup> S/RES/1377 (2001).

<sup>10</sup> See, for instance, S/2007/14 and S/2008/447.

<sup>11</sup> See, for instance, S/2002/1294, S/2008/203, and S/2008/812.

<sup>12</sup> See, for instance, S/2000/687, S/2000/791, S/2002/1067, S/2003/296, S/2003/319, and S/2003/335.

<sup>13</sup> See, for instance, S/2006/781 and S/2006/969.

supplements and part VII of the sixteenth supplement to the *Repertoire of the Practice of the Security Council*:

[http://www.un.org/en/sc/repertoire/2000-2003/00-03\\_11.pdf#page=5](http://www.un.org/en/sc/repertoire/2000-2003/00-03_11.pdf#page=5) (during 2000-2003);

[http://www.un.org/en/sc/repertoire/2004-2007/04-07\\_11.pdf#page=6](http://www.un.org/en/sc/repertoire/2004-2007/04-07_11.pdf#page=6) (during 2004-2007);

and

[http://www.un.org/en/sc/repertoire/2008-2009/Part VII/08-09\\_Part VII.pdf#page=7](http://www.un.org/en/sc/repertoire/2008-2009/Part VII/08-09_Part VII.pdf#page=7) (during 2008-2009).