

Repertory of Practice of United Nations Organs
Supplement Nos. 7-9 (1985-1999)¹

(Advance version, to be issued in volume III of *Supplement Nos. 7-9* (forthcoming)
of the *Repertory of Practice of United Nations Organs*)

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 adopted two resolutions that explicitly invoked Article 39 of the Charter. In the first resolution,² adopted in connection with the situation between the Islamic Republic of Iran and Iraq, the Council determined that the situation constituted “a breach of the peace”, and acting under Article 39, demanded that the parties agree to a ceasefire, discontinue any military action and withdraw their forces to the internationally recognized boundaries. In the second resolution,³ adopted in connection with the situation between Iraq and Kuwait, the Council determined that there existed a “breach of international peace and security as regards the Iraqi invasion of Kuwait”. Acting under Article 39, the Council condemned the Iraqi invasion and demanded that Iraq withdraw its forces immediately and unconditionally.

¹ At the bilateral meeting between the Codification Division of the Office of Legal Affairs and the Security Council Affairs Division of the Department of Political Affairs, on 11 March 2011, it was agreed that in order to expedite the elimination of the backlog in volume III, studies on *Supplements 7, 8 and 9* of the volume would be merged.

² S/RES/598 (1987).

³ S/RES/660 (1990).

2. In addition, a number of decisions of the Council included provisions which contained language related to Article 39. In that regard, when determining the existence of a “threat to the peace”, the Council often made a distinction between threats to “international peace and security”,⁴ “international peace and security in the region,”⁵ “international peace and security, particularly in West Africa as a whole”⁶ and “peace, security and stability in the region”.⁷ In connection with its consideration of thematic and country-related issues, the Council also expanded the definition of threats to international peace and security to include the proliferation of weapons of mass destruction,⁸ nonmilitary sources of instability in the economic, social, humanitarian and ecological fields,⁹ the failure by a State to renounce its terrorist activities,¹⁰ and the consequences of a military coup d’état.¹¹

3. The continuance of threats to peace and security was determined in connection with situations relating to the former Yugoslavia, the Libyan Arab Jamahiriya, Liberia, Somalia, Angola and between Iraq and Kuwait. In all those cases, the Council adopted measures under Chapter VII of the Charter.¹²

4. The Council also considered a number of draft resolutions containing implicit references to Article 39 which were either not voted upon or failed to be adopted.¹³

5. In addition, Article 39 was explicitly invoked in several letters by Member States addressed to the Secretary-General or to the President of the Council.¹⁴ Other communications contained indirect references to the Article, including cases where a threat

⁴ S/RES/713 (1991).

⁵ S/RES/688 (1991).

⁶ S/RES/788 (1992).

⁷ S/20554.

⁸ S/23500, p. 4.

⁹ Ibid., p. 3.

¹⁰ S/RES/748 (1992).

¹¹ S/RES/1132 (1997).

¹² See for instance, S/RES/827 (1993), S/RES/883 (1993), S/RES/1137 (1997), S/RES/1176 (1998).

¹³ See for instance, S/17633, S/17769/Rev.1, S/17984 and S/18087/Rev.1.

¹⁴ See for instance, S/17849, S/19031, S/1994/586 and S/19167.

to the peace was alleged to exist by a Member State.¹⁵ However, no corresponding determination was made by the Council in those cases.

6. The Security Council's practice in connection with Article 39, including explicit and implicit references in the deliberations of the Council and communications from Member States or other entities, is dealt with in the *Repertoire of the Practice of the Security Council*.

7. For detailed information regarding the Council's practice on Article 39 (referred to in paragraphs 1 - 6 above), see Chapter XI of the *Repertoire of the Practice of the Security Council*:

http://www.un.org/en/sc/repertoire/85-88/85-88_11.pdf (during 1985-1988);

http://www.un.org/en/sc/repertoire/89-92/89-92_11.pdf#page=5 (during 1989-1992);

http://www.un.org/en/sc/repertoire/93-95/93-95_11.pdf#page=4 (during 1993-1995); and

http://www.un.org/en/sc/repertoire/96-99/96-99_11.pdf#page=5 (during 1996-1999).

¹⁵ See for instance, S/1994/1398, S/26100, S/1995/1014, S/26659, S/1995/544.