

# ARTICLE 42

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## ARTICLE 42

### TEXT OF ARTICLE 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

### INTRODUCTORY NOTE

1. During the period under review, the Security Council took no decision invoking Article 42.
2. Since there was also no constitutional discussion bearing on the interpretation or application of Article 42 in the Security Council related to the adoption of a decision of the Council, this study is limited to a Summary of Practice.
3. The Summary of Practice includes two draft resolutions referring to Article 42 which were not adopted by the Security Council.
4. The Summary also refers to the Definition of Aggression adopted by the General Assembly which contains an explicit reference to Article 42.
5. Explicit references to the Article as they occurred in the Council, in the General Assembly and its committees are also included in the Summary.

### SUMMARY OF PRACTICE

6. During the period under review, Article 42, together with Articles 39-41 and 43-46, was explicitly invoked in a Security Council draft resolution<sup>1</sup> in connexion with the consideration of the question of South Africa. This draft resolution was not put to the vote, but a few months later was resubmitted in revised form.<sup>2</sup> It was then put to the vote and received 10 votes in favour and 5 against and was not adopted, owing to the negative votes of three permanent members of the Council.<sup>3</sup> No constitutional discussion took place regarding the draft resolution or its invocation of Chapter VII and Article 42.

7. In another instance, the Security Council considered a draft resolution<sup>4</sup> in connexion with the situation in Southern Rhodesia; it provided *inter alia* that the Council would condemn the refusal of the administering Power to use force against the illegal racist régime. No constitutional discussion ensued. The draft resolution was voted upon and failed of adoption, owing to the

negative votes of two permanent members of the Council.<sup>5</sup>

8. Article 42, together with Articles 41 and 39 of the Charter, was explicitly referred to in the second preambular paragraph of the Definition of Aggression adopted by the General Assembly in its resolution 3314 (XXIX).<sup>6</sup> In this paragraph the Assembly cited the basic provisions of those three Articles and recalled the rights of the Security Council thereunder. It was repeatedly invoked in the Sixth Committee during the consideration of the question of defining aggression at the 25th through 29th sessions,<sup>7</sup> but there was no constitutional argument regarding this Article in particular.

9. During the period under review, several other questions gave rise to explicit references to Article 42 in the Security Council, usually linked with calls for the use of force under that Article: such was the case in con-

<sup>1</sup> S C (32), Suppl. for Jan.-March, 1977, S/12310, para. 5. The paragraph read as follows:

"5. *Decides* that, in case of non-compliance with paragraph 3 of the present resolution, the Security Council shall consider appropriate action under all the provisions of the Charter, including Articles 39-46."

The President called attention to the draft resolution, which had been submitted by Benin, Libyan Arab Republic and Mauritius, at the 1998th mtg. on 30 March 1977.

<sup>2</sup> S C (32), Suppl. for Oct.-Dec., 1977, S/12310/Rev.1. Paragraph 5 was unchanged.

<sup>3</sup> For the vote see S C (32), 2045th mtg., para. 53. Senegal invoked Article 42 in quoting the draft resolution (2039th mtg., para. 36). Madagascar also called explicitly for measures under Article 42 (1991st mtg., para. 84).

<sup>4</sup> S C (25), Suppl. for Jan.-March, 1970, S/9696, submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia at the 1532nd mtg. of the Council on 12 March 1970.

<sup>5</sup> For the vote see S C (25), 1534th mtg., paras. 205-207. At the 1531st mtg., paras. 40-41, Sierra Leone invoked Article 42 together with Article 41 and asked that sanctions against Southern Rhodesia be extended to include South Africa and Portugal. In reply, the United Kingdom stated that it could not undertake to start using force against Southern Rhodesia, which had been self-governing for half a century (*ibid.*, 1534th mtg., paras. 10-19).

<sup>6</sup> G A resolution 3314 (XXIX) was adopted at the 2319th plenary meeting on 14 December 1974.

<sup>7</sup> G A (25), 6th Com., 1202nd mtg.: Iraq, para. 22; 1203rd mtg.: Iran, para. 45; 1206th mtg.: Bulgaria, para. 26, in connexion with a.i. 87; G A (26), 6th Com., 1276th mtg.: Zambia, para. 24, in connexion with a.i. 89; G A (27), 6th Com., 1349th mtg.: Romania, para. 50; 1350th mtg.: Byelorussian SSR, para. 24, in connexion with a.i. 88; G A (28), 6th Com., 1440th mtg.: Ukrainian SSR, para. 45, in connexion with a.i. 95; G A (29), 6th Com., 1472nd mtg.: Bulgaria, para. 42; 1479th mtg.: Cyprus, paras. 11, 12, in connexion with a.i. 86. Since Article 42 was explicitly invoked in the Definition of Aggression, it was usually cited in the annual reports of the Sixth Committee and of the Special Committee on the Question of Defining Aggression. See in this *Supplement* the study of Article 2 (4) for a more detailed analysis of the deliberations regarding aggression and the use of force.

nexion with the situation in Namibia,<sup>8</sup> the situation in Southern Rhodesia,<sup>9</sup> the complaint by Guinea,<sup>10</sup> the consideration of questions relating to Africa,<sup>11</sup> the complaint by Zambia,<sup>12</sup> the situation in Cyprus,<sup>13</sup> the relationship between the United Nations and South Africa,<sup>14</sup> the situation in the occupied Arab territories,<sup>15</sup> and the complaint by Mozambique.<sup>16</sup>

10. Article 42 was explicitly referred to in the General Assembly and in its committees not only in connexion with the question of defining aggression, but also regarding a number of other agenda items, namely:<sup>17</sup> the general debate,<sup>18</sup> the consideration of measures for strengthening international security, the implementation of the Declaration on the Strengthening of International Security,<sup>19</sup> the policies of *apartheid* of the Government of South Africa,<sup>20</sup> the comprehensive review of the whole question of peace-keeping opera-

tions in all their aspects,<sup>21</sup> the respect for human rights in armed conflicts,<sup>22</sup> and the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.<sup>23</sup> The Article was also invoked in connexion with the situation in the Middle East,<sup>24</sup> the question of Southern Rhodesia,<sup>25</sup> the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,<sup>26</sup> the question of Korea,<sup>27</sup> the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security,<sup>28</sup> the question of Namibia,<sup>29</sup> the need to consider suggestions regarding the review of the Charter of the United Nations,<sup>30</sup> the question of Cyprus,<sup>31</sup> the conclusion of a world treaty on the non-use of force in international relations,<sup>32</sup> and the deepening and consolidation of international détente and prevention of the danger of nuclear war.<sup>33</sup> Article 42 was also cited at the special meeting to observe the International Anti-*Apartheid* Year<sup>34</sup> and during the tenth special session, devoted to disarmament.<sup>35</sup>

<sup>8</sup>S C (25), 1528th mtg.: Syria, para. 43; 1529th mtg.: Poland, para. 11; S C (30), 1824th mtg.: India, para. 80; S C (33), 2094th mtg.: Ghana, para. 38; 2098th mtg.: Saudi Arabia, para. 31.

<sup>9</sup>S C (25), 1531st mtg.: Sierra Leone, para. 41.

<sup>10</sup>S C (25), 1560th mtg.: President (USSR), para. 139; Southern Yemen, para. 9; Yugoslavia, para. 74; 1563rd mtg.: Burundi, para. 110; President (USSR), para. 182.

<sup>11</sup>S C (27), 1630th mtg.: Yugoslavia, para. 125.

<sup>12</sup>S C (28), 1687th mtg.: Ghana, para. 60; 1694th mtg.: Kenya, para. 108.

<sup>13</sup>S C (29), 1781st mtg.: Costa Rica, para. 110; 1810th mtg.: Cyprus, para. 40; S C (32), 2055th mtg.: Cyprus, para. 145; S C (33), 2081st mtg.: Cyprus, para. 25.

<sup>14</sup>S C (29), 1800th mtg.: Uganda, paras. 19 and 26; 1801st mtg.: Madagascar, paras. 7 and 21; 1802nd mtg.: Barbados, para. 102; 1804th mtg.: Congo, para. 56; 1806th mtg.: Kenya, para. 29.

<sup>15</sup>S C (31), 1966th mtg.: Syria, paras. 160 and 161.

<sup>16</sup>S C (32), 2018th mtg.: Pakistan, para. 71.

<sup>17</sup>Most of these references were incidental and gave no rise to constitutional arguments.

<sup>18</sup>G A (25), Plen., 1855th mtg.: Cambodia, para. 23; G A (27), Plen., 2059th mtg.: Yemen, para. 30; G A (32), Plen., 32nd mtg.: Ghana, para. 97; G A (33), Plen., 25th mtg.: Ivory Coast, para. 104; a.i. 9 for all years.

<sup>19</sup>G A (25), 1st Com., 1733rd mtg.: Cambodia, para. 55: a.i. 32; G A (26), 1st Com., 1815th mtg.: Sri Lanka, para. 40: a.i. 34; G A (27), 1st Com., 1917th mtg.: Oman, para. 66: a.i. 35; G A (29), 1st Com., 2042nd mtg.: Cyprus, pp. 23-25: a.i. 36; G A (30), 1st Com., 2059th mtg.: Cyprus, pp. 83-85: a.i. 49; G A (31), 1st Com., 55th mtg.: Ghana, p. 22; 57th mtg.: Cyprus, pp. 57-60: a.i. 33; G A (32), 1st Com., 53rd mtg.: Nepal, p. 38: a.i. 50.

<sup>20</sup>G A (26), Spec. Pol. Com., 779th mtg.: El Salvador, para. 28: a.i. 37 and 12; G A (30), Spec. Pol. Com., 955th mtg.: Cameroon, para. 18: a.i. 53; G A (33), Plen., 56th mtg.: Jamaica, para. 330: a.i. 32.

<sup>21</sup>G A (25), Spec. Pol. Com., 715th mtg.: Mexico, para. 52; 721st mtg.: Lebanon, para. 16: a.i. 36; G A (27), Spec. Pol. Com., 846th mtg.: France, para. 7: a.i. 41.

<sup>22</sup>G A (25), 3rd Com., 1785th mtg.: Iraq, para. 7: a.i. 47.

<sup>23</sup>G A (25), 6th Com., 1182nd mtg.: Portugal, para. 3: a.i. 85.

<sup>24</sup>G A (27), Plen., 2092nd mtg.: Egypt, para. 46: a.i. 21.

<sup>25</sup>G A (27), 4th Com., 1996th mtg.: Ghana, para. 41: a.i. 66; G A (29), 4th Com., 2099th mtg.: Madagascar, para. 15: a.i. 67.

<sup>26</sup>G A (28), Plen., 2176th mtg.: Mali, para. 147: a.i. 23.

<sup>27</sup>G A (28), 1st Com., 1967th mtg.: Barbados, para. 80: a.i. 41.

<sup>28</sup>G A (29), Plen., 2314th mtg.: Cyprus, para. 264: a.i. 20.

<sup>29</sup>G A (29), 4th Com., 2109th mtg.: Uganda, para. 18: a.i. 65; G A (30), 4th Com., 2153rd mtg.: Kuwait, para. 74: a.i. 87; G A (33), Plen., 80th mtg.: Ivory Coast, para. 134; 99th mtg.: Burundi, para. 103; 100th mtg.: Madagascar, para. 134; 104th mtg.: Guinea, para. 192; 107th mtg.: Jamaica, para. 104: a.i. 27.

<sup>30</sup>G A (29), 6th Com., 1515th mtg.: German Democratic Republic, para. 22; 1520th mtg.: Cyprus, para. 24: a.i. 95; G A (31), 6th Com., 44th mtg.: German Democratic Republic, para. 4; 48th mtg.: United Republic of Tanzania, para. 76; 49th mtg.: Cyprus, para. 84: a.i. 110.

<sup>31</sup>G A (31), Plen., 65th mtg.: Greece, para. 21-23: a.i. 118.

<sup>32</sup>G A (31), 1st Com., 11th mtg.: Cyprus, pp. 51, 52, 53; 6th Com., 51st mtg.: Cuba, para. 40; 53rd mtg.: France, para. 32; 54th mtg.: Tunisia, para. 10: a.i. 124; G A (32), 1st Com., 53rd mtg.: Nepal, p. 38: a.i. 37; G A (33), 6th Com., 56th mtg.: Togo, para. 61: a.i. 121.

<sup>33</sup>G A (32), 1st Com., 53rd mtg.: Nepal, p. 38: a.i. 127.

<sup>34</sup>G A (33), Plen., 30th mtg.: Jamaica, para. 51.

<sup>35</sup>G A (S-10), Plen., 20th mtg.: Nepal, para. 20; 27th mtg.: Cyprus, para. 368.