

ARTICLE 34

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TEXT OF ARTICLE 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

INTRODUCTORY NOTE

1. During the period under review, the Security Council has not instituted any investigation for the purpose of determining whether the continuance of a dispute or situation was likely to endanger the maintenance of international peace and security.

2. The General Survey includes a decision of the Council which bears upon Article 34. Brief reference is made to two instances in which Article 34 was invoked, in the course of the proceedings of the Council, as a basis for the submission of a question to the Council. 1/

3. No material has been found requiring treatment under the original headings II,A to II,E of the Analytical Summary of Practice. During the discussion of a draft resolution submitted to the Council which contained a determination of the nature envisaged in Article 34, the question arose whether such a determination could be made by the Council prior to an act of investigation. This question is dealt with under a new heading (II,F) in the Analytical Summary of Practice.

I. GENERAL SURVEY

4. Only one decision relevant to Article 34 was taken by the Security Council in the period under review. In its resolution of 4 April 1956 2/ concerning the agenda item "The Palestine question: status of compliance given to the General Armistice Agreements and the resolutions of the Security Council adopted during the past year", the Council, having found that the situation then prevailing between the parties "is such that its continuance is likely to endanger the maintenance of international peace and security", requested the Secretary-General to undertake a survey of the various aspects of enforcement of and compliance with the General Armistice Agreements and the Council's resolutions of 30 March 1955, 8 September 1955 and 17 January 1956. 3/ (See also paragraphs 6-11 below.)

5. In connexion with the following questions, Article 34 has been cited together with Article 35, in the course of the proceedings of the Security Council, as a basis for submission to the Council:

1/ At the 680th meeting on 10 September 1954, during the consideration of an alleged incident of attack on a United States Navy aircraft, the use of the investigative power of the Council under Article 34 was suggested as a possible means of solution. In reply, it was contended that Article 34 had no bearing on the question before the Council since the incident could not cause international complications likely to endanger the maintenance of international peace and security (S C, 9th yr., 680th mtg., paras. 63-66 and 74-78). Before the proceedings on this question were closed, no proposal had been submitted and no decision had been taken other than the adoption of the agenda.

2/ S C, 11th yr., Suppl. for April, May and June 1956, p. 1, S/3575.

3/ For the discussion of the obligation of the parties concerned in relation to this decision, see in this Supplement, under Article 25; for the bearing of this decision on Article 36, see in this Supplement, under Article 36; for the scope of the function entrusted to the Secretary-General under this decision and the implementation thereof by the Secretary-General, see in this Supplement, under Article 98.

- (a) The Palestine question; 4/
- (b) The Algerian question. 5/

II. ANALYTICAL SUMMARY OF PRACTICE

****A. The question of the Security Council being seized of disputes and situations under Article 34**

****B. The question of the nature of the act of investigation under Article 34**

****C. The question whether invitations to participate are incumbent on the Security Council in the preliminary investigation of questions**

****D. The question of the duty of Members of the United Nations, and of States which have accepted the obligations of pacific settlement provided in the Charter, in connexion with decisions of the Security Council to investigate under Article 34**

****E. The question of the power to continue investigation after a determination under Article 34**

F. The question whether a determination under Article 34 could result from an appraisal of the Council prior to the act of investigation

6. In connexion with the Palestine question during a discussion on a proposal that the Security Council request the Secretary-General to undertake an investigation of the status of enforcement of and compliance with the four General Armistice Agreements, as well as with certain resolutions of the Council designed to reduce growing tensions in

4/ At the 697th meeting on 6 April 1955, in his initial statement before the Council on a complaint by Israel concerning repeated attacks by Egypt, with special reference to the Pattish and Nahal Oz incidents, the representative of Israel stated that he was making his submission in accordance with Articles 34 and 35 (S C, 10th yr., 697th mtg., para. 5). No reference to those two Articles had been made in his letters of submission to the Council (S C, 10th yr., Suppl. for Jan., Feb. and March 1955, p. 94, S/3376; Suppl. for April, May and June 1955, p. 1, S/3385).

5/ This question was submitted to the Council by thirteen Member States including Iran. Article 34 was not referred to in the letter of submission. During the discussion on the inclusion in the agenda of the item concerning the situation in Algeria, the representative of Iran stated that the thirteen delegations had asked the Council to examine the situation because they felt that it was "of a nature to give rise to a dispute between nations, and that its continuance is likely to endanger the maintenance of international peace and security". The situation was, therefore, of the kind envisaged in Articles 34 and 35. Moreover, in his view, this situation had already "led to international friction, within the meaning of Article 34" in the sense that thirteen Member States had expressed their serious concern about it. Objections raised to the inclusion of this question on the agenda were based on Article 2 (7) as well as Article 34. It was contended that affairs in Algeria were a matter essentially within the domestic jurisdiction of France and did not relate to international peace and security; the matter was therefore not within the purview of the Security Council (for texts of relevant statements, see S C, 11th yr., 729th mtg.: France, paras. 97 and 102-105; Iran, paras. 30, 51-53 and 55). The Council decided not to include the matter in the agenda (S C, 11th yr., 730th mtg., para. 85).

the Near East area, the question arose whether or not the Council could establish that the situation was such that its continuance was likely to endanger the maintenance of international peace and security, before the Secretary-General had carried out his inquiry on the spot.

Proceedings in connexion with the Palestine question

7. At the 720th meeting on 3 April 1956, during the consideration by the Council of the item "The Palestine question: status of compliance given to the General Armistice Agreements and the resolutions of the Security Council adopted during the past year", the Council had before it a draft resolution 6/ submitted by the United States. After recalling in the preamble that the Security Council resolutions of 30 March 1955, 8 September 1955, and 19 January 1956, designed to ensure the reduction of tensions along the Armistice lines, had not been complied with, the draft resolution included the two following operative paragraphs:

"1. Considers that the situation now prevailing between the parties concerning the enforcement of the Armistice Agreements and the compliance given to the above-mentioned resolutions of the Council is such that its continuance is likely to endanger the maintenance of international peace and security,

"2. Requests the Secretary-General to undertake, as a matter of urgent concern, a survey of the various aspects of enforcement of and compliance with the four General Armistice Agreements and the Council's resolutions under reference;"

8. The representative of the USSR introduced an amendment 7/ to replace in the first operative paragraph the words "such that its continuance is likely to endanger the maintenance of international peace and security" by the word "unsatisfactory". In support of this amendment, the representative of the USSR observed that the Council should first hear the report of the Secretary-General on his return from his visit to the countries in the Near East and the report of the Chief of Staff of the Truce Supervision Organization before determining whether or not the situation with regard to the compliance with the Armistice Agreements and the resolutions of the Security Council was such that it was likely to endanger the maintenance of international peace and security.

9. In opposing this amendment, the representative of the United States considered that the Council should establish that the situation was likely to endanger peace. Such a situation resulted from the non-compliance by the parties concerned with three unanimous resolutions of the Security Council.

10. At the 721st meeting on 4 April 1956, the representative of the USSR further stated that the wording of the first operative paragraph of the United States draft resolution was a quotation from the Charter which implied a decision of the Council. As a consequence of such a decision, the Council would be obliged to adopt measures of some sort to ease and improve the situation. The Council, however, was not contemplating the adoption, at the time, of any measure except that of asking the Secretary-General to survey the situation.

11. At the 722nd meeting on 4 April 1956, in the course of the discussion on the USSR amendment, the following views were expressed:

6/ S C, 11th yr., Suppl. for Jan., Feb. and March 1956, p. 21, S/3562.

7/ S C, 11th yr., 722nd mtg., para. 44 (S/3574).

(a) The wording of the paragraph as proposed in the United States draft resolution was taken from Article 33, and served as the preliminary, 'as it were, to the mission of investigation and conciliation which the draft resolution requested the Secretary-General to undertake. It was important that the Council should record the view that continuance of the situation in the Near East area was likely to endanger the maintenance of international peace and security, and that the parties concerned should take due note of this view;

(b) On the other hand, it was said, the wording of the USSR amendment would appear to bring the paragraph in question more into conformity with the spirit of Chapter VI, and particularly with Article 34 of the Charter. Moreover, the amendment had the advantage of dispelling any possible impression that the appraisal of the situation was being prejudged pending the mission of the Secretary-General in the area. 8/

Decision

At the 722nd meeting on 4 April, the USSR amendment was rejected. 9/ There were 2 votes in favour, 3 against, and 6 abstentions.

The draft resolution submitted by the United States was then adopted unanimously. 10/

8/ For texts of relevant statements, see S C, 11th yr.:
720th mtg., provisional record, United States (President), p. 17; USSR, p. 9;
721st mtg., provisional record, Peru, paras. 54-71; USSR, paras. 42-49;
722nd mtg., provisional record, Australia, pp. 11 and 12; Yugoslavia, p. 13.
9/ S C, 11th yr., 722nd mtg., provisional record, p. 22.
10/ Ibid., pp. 23-25.

