

# ARTICLE 34

## Table of Contents

	<u>Paragraphs</u>
Text of Article 34	
Introductory Note . . . . .	1 - 3
I. General Survey . . . . .	4 - 6
II. Analytical Summary of Practice . . . . .	7 - 15
A. The question of the Security Council being seized of disputes and situations under Article 34	
Decisions of 28 October and 3 November 1956 in connexion with the situation in Hungary . . . . .	7 - 15
** 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 peaceful 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	

### 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, Article 34 was invoked on several occasions as a basis for the submission of a question to the Security Council. It was a subject of discussion in several of the proceedings of the Council.
2. The Security Council did not institute any investigation during this time for the purpose of determining whether the continuance of a dispute or a situation was likely to endanger the maintenance of international peace and security. The proceedings on one occasion, when the Security Council was convoked in urgent meeting to deal with a situation pursuant to the provisions of Article 34, are reviewed in the Analytical Summary of Practice, under the heading "The question of the Security Council being seized of disputes and situations under Article 34". 1/
3. In one instance, the Security Council established an observation group in the course of proceedings in which reference was made to the scope of investigation under Article 34. Reference to the Council's powers of investigation was also made in several other proceedings. All these are treated in the General Survey.

## I. GENERAL SURVEY

4. Reference was made to Article 34 in connexion with the submission to the Security Council of a request 2/ for an urgent meeting to consider the situation created by the action of foreign military forces in Hungary. The proceedings of the Council bearing on the interpretation and application of Article 34 in this connexion are treated in section A of the Analytical Summary of Practice.
5. The complaint by Lebanon 3/ of an intervention in its internal affairs asserted in the words of Article 34 that continuance of such intervention was "likely to endanger the maintenance of international peace and security". This complaint gave rise to discussion in the Council of the difference between observation and

---

1/ See paras. 7-15 below.

2/ S C, 11th yr., Suppl. for Oct.-Dec., p. 100, S/3690.

3/ S C, 13th yr., Suppl. for Apr.-June, p. 33, S/4007.

investigation as alternative procedures which might be followed by the Council in dealing with the matter. 4/

4/ In his letter to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Council to consider the "Complaint by Lebanon in respect of a situation arising from the intervention of the United Arab Republic in the internal affairs of Lebanon, the continuance of which is likely to endanger the maintenance of international peace and security". At the 823rd meeting of the Security Council on 6 June 1958, the representative of Lebanon requested the Council to act in order to remove "the threat to international peace and security inherent in this situation". At the 824th meeting, on 10 June 1958, the representative of Sweden stated that a Member State had alleged that another Member had brought about a situation whose continuance was likely to endanger the maintenance of international peace and security. Under the Charter, the Council might investigate such a situation, provided that the parties presented to the Council the evidence which formed the basis of the allegation, and its refutation. Should this information be considered inadequate, the Council might decide to establish a commission for investigation or observation. Strong and precise allegations had been made by the Government of Lebanon to show that foreign interference had in fact taken place. These allegations had been repudiated by the Government of the United Arab Republic. The statements of the parties should be given serious consideration by the Council, and a close watch should be kept on the situation. Foreign interference might aggravate internal antagonisms in Lebanon, and make a settlement difficult. In these circumstances, there might be justification for considering some arrangement for investigation or observation by the Council itself with a view to clarifying the situation. Thereafter, he submitted a draft resolution "to dispatch urgently an observation group to proceed to Lebanon so as to ensure that there is no illegal infiltration of personnel or supply of arms or other matériel across the Lebanese borders" (S C, 13th yr., 824th mtg., para. 111). At the 825th meeting, on 11 June 1958, the representative of Panama expressed the view that the proposed observation group" would not have the authority to undertake an inquiry into causes and past incidents to find out whether such infiltration had already taken place". This was, in his opinion, the essential distinction between an observation and an investigation committee. An observation committee was concerned with the observation of future events, while, on the other hand, an investigation committee was concerned with discovering the truth about what had happened. He further remarked that in this instance the Security Council would not be carrying out an investigation under Article 34 of the Charter, which appeared to be the only provision under which the Council, on its own account or by the creation of a subsidiary instrument, could investigate any dispute or situation in order to determine whether its continuance was likely to endanger the maintenance of international peace and security. The purpose of the Swedish draft resolution would therefore be to help improve relations between Lebanon and the United Arab Republic through the presence of an observation group which would observe conditions and report on the situation, and would thus have a moderating influence on the actions of both parties. In supporting the Swedish draft resolution, the representative of Canada also stressed its primary aim of providing machinery for observation of a situation which might threaten international peace and security. He remarked that under the Charter, Member States had to seek peaceful solutions of their differences; the fact that the Security Council had been seized of the dispute did not change the responsibility. (For texts of relevant statements, see S C, 13th yr., 823rd mtg.: Lebanon, paras. 66, 67 and 182; 824th mtg.: France, para. 251; Sweden, paras. 97 and 100; 825th mtg.: Canada, paras. 19, 25 and 27; Panama, paras. 9-13 and 16.) The Swedish draft resolution was adopted (S C, 13th yr., 825th mtg., para. 82).

6. Article 34 was also invoked either in the letters of submission or in the course of the discussion in the Security Council in connexion with the following questions:

- (a) Complaint by France concerning military assistance rendered by the Egyptian Government to the rebels in Algeria; 5/
- (b) Complaint of armed intervention by the United Kingdom in Oman. 6/

## II. ANALYTICAL SUMMARY OF PRACTICE

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

#### *Decisions of 28 October and 3 November 1956 in connexion with the situation in Hungary*

7. At the 746th meeting, on 28 October 1956, the Security Council had before it a letter 7/ dated 27 October 1956 from the representatives of France, the United Kingdom and the United States requesting the Council, pursuant to the provisions of Article 34

---

5/ At the 747th meeting, on 29 October 1956, in his statement before the Council on the complaint concerning military assistance rendered by the Egyptian Government to the rebels in Algeria, the representative of France requested the Council to consider the matter immediately in order to put an end to a situation which, if it continued, was likely to threaten the maintenance of international peace and security (S C, 11th yr., 747th mtg., para. 9). No reference to either Article 34 or Article 35 had been made in his letter of submission to the Council (S C, 11th yr., Suppl. for Oct.-Dec., p. 98, S/3689).

6/ At the 783rd and 784th meetings, on 20 August 1957, a procedural discussion took place in the Security Council during consideration of the provisional agenda, which included a complaint by eleven Member States of "armed aggression" by the United Kingdom against the independence, sovereignty and territorial integrity of the Imamate of Oman. In the letter of submission to the Council (S C, 12th yr., Suppl. for July-Sept., p. 16, S/3865 and Add.1), reference was made only to Article 35. In his initial statement favouring the inclusion of the item in the agenda, the representative of Iraq contended that the Council was called upon to investigate the matter under Articles 34 and 35 of the Charter. In his view there was no doubt that the question deserved consideration by the Council and that events which had taken place in Oman had created a situation which might endanger the maintenance of international peace and security. In opposing the adoption of the agenda, the representative of the United Kingdom objected to the improper use of the word "aggression" in the complaint, and stated that the matter was within the domestic jurisdiction of the State of Muscat and Oman. The representative of the Philippines, after referring to the gravity of the charges and to the power of investigation of the Council under Article 34, emphasized that the inclusion of the item in the agenda would facilitate the study on their own merits of the issues that had been raised, and would not prejudice the position of any member of the Council on the substance of the question. (For texts of relevant statements, see S C, 12th yr., 783rd mtg.: Iraq, paras. 18-19 and 24; United Kingdom, para. 31; Philippines, paras. 63 and 69.) At the 784th meeting, the Council rejected the provisional agenda by 5 votes against to 4 in favour, with 1 abstention (S C, 12th yr., 784th mtg., para. 87).

7/ S C, 11th yr., Suppl. for Oct.-Dec., p. 100, S/3690.

of the Charter, to include an item in the agenda entitled "The situation in Hungary" and to convene an urgent meeting of the Council to consider it.

8. In opposition to inclusion of the item, it was contended that Article 34 empowered the Security Council to investigate only disputes or situations of an international character, namely, those arising in relationships between States. Accordingly, any situation arising inside a country and not affecting its relations with other States, as in the present instance, did not fall under Article 34. Article 2 (7) of the Charter forbade United Nations interference in situations of this nature.

9. In support of the inclusion of the item in the agenda it was stated that the Security Council was asked to consider the situation created by foreign troops fighting in Hungary, obviously a matter of international concern; and the Security Council was beyond doubt competent. The gravity of the situation made it the Council's duty to consider the item.

#### Decision

The agenda item was adopted 8/ by 9 votes in favour and 1 against, with 1 abstention.

10. In the discussion which followed the adoption of the agenda, it was asserted that the use of the armed forces of one country to restrain the peoples of another country in their domestic struggle for political freedom created a situation fraught with danger to the community of nations, of which the Council clearly should take cognizance under Article 34. It was also stated that there could be no doubt from the legal point of view that the situation in Hungary was serious and that it endangered international peace and security. It therefore fell within the scope of Article 34.

11. At the 752nd meeting, on 2 November 1956, the Security Council had before it a telegram 9/ from the Government of Hungary to the Secretary-General reporting that the Government of the Union of Soviet Socialist Republics had been requested to withdraw its armed forces immediately, and formally calling for action by the United Nations. This, it was asserted, proved that foreign intervention in Hungary was a fact and was occurring against the will of the Hungarian Government. So long as it continued the Security Council was under obligation to take action to stop it. Another representative added that the Council should include in any resolution it adopted provision for the establishment of a commission to observe events on the spot and report to the United Nations. In opposition to these views, it was contended that there was no warrant for calling an emergency meeting of the Security Council. No facts had been offered to substantiate the charges of foreign military intervention in Hungary, and there were therefore no grounds for consideration of the situation in Hungary by the Council.

12. At the 753rd and 754th meetings, on 3 and 4 November 1956, the Security Council continued to discuss the situation in Hungary on the basis of information received from its members and from the Government of Hungary.

13. At these two meetings, the Security Council had before it a draft resolution 10/ submitted by the representative of the United States. As revised, it called upon the Government of the Soviet Union to desist from armed intervention in the internal affairs of Hungary; requested the Soviet Union to withdraw its armed forces without

---

8/ S C, 11th yr., 746th mtg., para. 35.

9/ G A (ES-II), Annexes, a.1. 5, A/3251.

10/ S C, 11th yr., Suppl. for Oct.-Dec., p. 125, S/3730 and Rev.1.

delay from Hungarian territory; affirmed the right of the Hungarian people to a government of its own choice; requested the Secretary-General, in consultation with the specialized agencies, to study the needs of the Hungarian people for food and medical supplies, and invited all Members of the United Nations and international humanitarian organizations to make available the supplies required by the Hungarian people.

14. Discussion of the United States draft resolution centred on the question whether "the situation created by the action of foreign military forces in Hungary" was a matter of international concern. The representatives who supported the draft resolution expressed the view that the use of foreign troops to suppress the rights of the people of a country in their domestic fight for political freedom created a situation fraught with danger to the maintenance of international peace and security. The Council had no alternative but to ventilate and investigate the situation in Hungary. The Council, it was further contended, should be kept fully informed of the course of the bilateral negotiations concerning the withdrawal of Soviet troops from Hungarian territory. At a later stage of the discussion, when the negotiations were said to have come to an abrupt end, the Council was urged to adopt the United States draft resolution and, in case its permanent members did not reach a unanimous vote, to convoke an emergency special session calling for action by the General Assembly. 11/ The competence of the Council to consider the situation was again questioned, mainly as constituting an act of intervention in domestic affairs. The same objection was made to the proposal to refer the question to the General Assembly. 12/

15. At the 754th meeting, on 3 November 1956, the United States draft resolution failed of adoption. 13/ There were 9 votes in favour, 1 against (that of a permanent member) and 1 abstention.

- \*\*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

11/ After the United States draft resolution failed of adoption, the Council decided to convoke an emergency special session of the General Assembly to deal with the situation in Hungary (S C, 11th yr., 754th mtg., paras. 70 and 75).

12/ For texts of relevant statements, see S C, 11th yr., 746th mtg.: President (France), paras. 86 and 87; USSR, para. 24; United Kingdom, paras. 30, 71 and 77; 752nd mtg.: China, para. 131; Cuba, para. 68; France, paras. 109-115; USSR, paras. 136, 142 and 143; United States, paras. 59-61; 753rd mtg.: Australia, paras. 71 and 74; Belgium, paras. 48-53; France, paras. 83 and 84; Peru, paras. 94 and 95; USSR, para. 132; United Kingdom, paras. 39 and 40; United States, paras. 19-21; Yugoslavia, paras. 32-35, 64 and 96; 754th mtg.: Belgium, paras. 34 and 35; Peru, para. 29; USSR, paras. 53, 54 and 71; United Kingdom, para. 60; United States, paras. 10 and 70.

13/ S C, 11th yr., 754th mtg., para. 68; 755th mtg., para. 84.