ARTICLE 35

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TEXT OF ARTICLE 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

INTRODUCTORY NOTE

1. The General Survey of the present study records the initial communications by which disputes and situations were submitted to the Security Council during the period covered by this Supplement. The tabulation in the annex includes all the questions submitted to the Council which had not previously been under consideration by the Council. The General Survey also refers to questions brought to the attention of the Council, consideration of which was not requested.

2. During the period under review, Article 35 was not mentioned by any State when it submitted a question to the General Assembly, but it was cited in the course of the debates in the General Assembly. 1/ In accordance with previous practice, such references are not covered in this study of Article 35. 2/

3. As in the earlier Repertory studies, the Analytical Summary of Practice does not cover the procedure of the General Assembly in relation to questions submitted under Article 35, since this practice does not differ from the procedure of the General Assembly in respect of other kinds of question considered by it.

4. No questions were submitted to the Security Council or the General Assembly by non-member States under the provisions of Article 35 (2).

5. The authority granted the Interim Committee of the General Assembly to consider and report on any dispute or situation submitted to the General Assembly under Article 35 was not utilized during the period covered by the present Supplement.

I. GENERAL SURVEY

6. During the period under review, the Security Council placed on its agenda thirteen questions submitted by Member States for consideration under its responsibility for the

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1/ In connexion with the question of West Irian (West New Guinea): G A (XI), 1st Com., 861st mtg., para. 47. In connexion with the question of Algeria: G A (XI), 1st Com., 837th mtg., para. 29; 839th mtg., para. 52. In connexion with the complaint of Syria: G A (XII), Plen., 710th mtg., para. 150. In connexion with the question of Cyprus: G A (XII), Gen. Com., 111th mtg., para. 32.

2/ See the study under Article 10 in this Supplement.

maintenance of international peace and security. In none of these instances was Article 35 specifically cited in the original letters of submission, although in six of them the language was more or less the same as that of Articles 34 and 35 of the Charter. 3/

7. In one instance, although the original communication submitting a question to the Council had not cited Article 35, one of the Member States which had submitted it stated during the discussion that reference of the matter to the Security Council had been made in accordance with Article 35 (1) of the Charter. 4/

8. One question submitted by eleven Members under Article 35 (see paragraphs 20 to 23 below), and described as "armed aggression", was not included as an item in the agenda. 5/ In another instance, a question submitted by a Member State in terms not related to Article 35 was not included in the agenda of the Security Council. 6/

9. On one occasion, after the Security Council had failed to include a question in its agenda, the eleven Member States which had submitted it to the Council under Article 35 addressed a further letter 7/ to the President of the Council, again drawing attention to the question under Article 35 (1) of the Charter. The Council was not asked to consider the question, which was therefore not placed on the provisional agenda.

10. On three occasions, Member States, without citing Article 35 specifically, brought to the attention of the Security Council situations which they considered likely to endanger the maintenance of international peace and security. They did not ask for Council consideration of the situation, 8/ and the questions were not placed on the provisional agenda.

11. Two questions that were included in the agenda of the Security Council had been brought to its attention by Member States at an earlier stage, without a request for consideration. In each case, the Members concerned, when requesting consideration by the Council, made reference to their previous communications elucidating the facts of the situation. 9/

12. In addition to the questions referred to, the Security Council considered the sub-items of a composite agenda item already under consideration. None of the letters of submission 10/ made reference to Article 35 (1). The sub-items were brought to the

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3/ Items 1, 2, 3, 8, 10 and 12 of the tabulation in the annex.
4/ S C, 11th yr., 735th mtg., para. 103.
5/ S C, 12th yr., 784th mtg., para. 87.
6/ S C, 11th yr., 755th mtg., para. 27.
7/ S C, 12th yr., Suppl. for Oct.-Dec., p. 18, S/3915.
8/ S C, 11th yr., Suppl. for July-Sept., p. 30, S/3648; S C, 13th yr., Suppl. for April-June, p. 53, S/4025; ibid., Suppl. for Oct.-Dec., p. 18, S/4121.
9/ In connexion with the complaint of France and the United Kingdom relating to unilateral action by Egypt affecting the Suez Canal: S C, 11th yr., Suppl. for July-Sept., p. 28, S/3645; ibid., p. 47, S/3654. In connexion with the Egyptian counter-complaint of actions against Egypt by France and the United Kingdom: S C, 11th yr., Suppl. for July-Sept., p. 38, S/3650; ibid., p. 48, S/3656.
10/ In connexion with the Palestine question: S C, 11th yr., Suppl. for Oct.-Dec., p. 53, S/3678; ibid., p. 60, S/3682; S C, 12th yr., Suppl. for April-June, p. 19, S/3827; ibid., Suppl. for July-Sept., p. 33, S/3878; ibid., p. 35, S/3883; S C, 13th yr., Suppl. for Oct.-Dec., p. 22, S/4123; S C, 14th yr., Suppl. for Jan.-June, p. 3, S/4151.

attention of the Council by members of the Council, but the original agenda item had been brought before the Council by the General Assembly. For this reason, the sub-items are not included in the tabulation in the annex to the present study. Discussion relating to Article 35 which took place in connexion with the last of the sub-items is dealt with in section A 1 d of the Analytical Summary of Practice (paragraphs 24 to 28).

13. In no instance during the period under review did a non-member submit a dispute or a situation to the Security Council, whether in terms of Article 35 or otherwise.

II. ANALYTICAL SUMMARY OF PRACTICE

A. In the Security Council

1. The question of the procedure of the Security Council giving effect to the provision that any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Council

14. The attitude of the Security Council regarding the relationship between submission of a dispute or situation under Article 35 and its inclusion in the agenda must be discerned from the proceedings in each case as it arose. During the period under review, when the Council considered whether or not to include a matter in the agenda, it heard contentions, on the one hand, that Article 2 (7) of the Charter barred examination of a matter and, on the other, that the question was of the nature referred to in Article 34 or in Chapter VII of the Charter. It also heard contentions in favour of and against the view that it was required to include in the agenda a matter relating to an item of which it was already seized in order to give effect to the right of submission conferred on Members of the United Nations by Article 35. In this connexion, the Council considered the relation of the right of submission under Article 35 to the obligation of Member States to resort to the machinery of settlement they had established.

a. DECISION OF 26 SEPTEMBER 1956 IN CONNEXION WITH THE COMPLAINT OF FRANCE AND THE UNITED KINGDOM WITH REGARD TO THE UNILATERAL ACTION OF EGYPT RELATING TO THE SUEZ CANAL

15. At the 734th meeting, on 26 September 1956, the Security Council had before it a letter 11/ dated 23 September from the representatives of France and the United Kingdom, requesting that the Council consider an item concerning the "Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888".

16. Objection was raised to inclusion of this item in the agenda on the ground that the action of the Government of Egypt in nationalizing a private Egyptian company was a matter exclusively within the domestic jurisdiction of the State concerned and was not a subject for consideration by the United Nations. In opposition to this view, it was stated that the Security Council was being asked to consider a crisis caused by an illegal action, and it should be given the opportunity to assert the rule of law and

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11/ S C, 11th yr., Suppl. for July-Sept., p. 47, S/3654.

to help towards a peaceful solution of a situation which affected the vital interests of many nations. 12/

Decision

The Security Council decided unanimously to include the item in the agenda. 13/

b. DECISION OF 28 OCTOBER 1956 IN CONNEXION WITH THE SITUATION IN HUNGARY

17. At its 746th meeting, on 28 October 1956, the Security Council had before it a letter 14/ dated 27 October from the representatives of France, the United Kingdom and the United States, concerning "the situation created by the action of foreign military forces in Hungary in violently repressing the rights of the Hungarian people", and requesting inclusion in the agenda, pursuant to the provisions of Article 34, of an item entitled, "The situation in Hungary".

18. The Government of the Hungarian People's Republic objected to consideration of the question by the Security Council, on the grounds that the events which had taken place in Hungary were exclusively within the domestic jurisdiction of the Hungarian People's Republic, and that the internal events of the preceding days in Hungary did not endanger the maintenance of international peace and security, which they did not affect. 15/

19. In the Security Council, objection was made to consideration of the question on the ground that, under Article 2 (7), the United Nations was not entitled to interfere in the domestic affairs of the Hungarian People's Republic. Article 34 empowered the Council to investigate only disputes or situations of an international character, such as those arising in relationships between States, whereas the proposal to place the item on the agenda was in no way inspired by a desire to uphold the purposes of the Charter; it was, rather, a provocative step intended, not to maintain international peace and security, but to exacerbate the international situation. In reply to these views, it was held that the letter before the Council clearly referred to "the situation created by the action of foreign military forces in Hungary". This was obviously a matter of international concern, and it seemed clear beyond any doubt that the Security Council was competent, and indeed had the duty, to consider the situation. 16/

Decision

The Security Council decided 17/ to include the item in the agenda by 9 votes to 1, with 1 abstention.

12/ For texts of relevant statements, see S C, 11th yr., 734th mtg.: Australia, para. 92; Cuba, para. 119; France, para. 30; Peru, para. 69; USSR, paras. 59 and 60; United Kingdom, paras. 13-16; 735th mtg.: France, paras. 102, 103 and 124; United Kingdom, paras. 82, 83 and 90.

13/ S C, 11th yr., 734th mtg., para. 122.

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

15/ Ibid., S/3691.

16/ For texts of relevant statements, see S C, 11th yr., 746th mtg.: USSR, paras. 12-14, 20, 24 and 25; United Kingdom, para. 30; Yugoslavia, paras. 33 and 34.

17/ Ibid., para. 35.

C. DECISION OF 20 AUGUST 1957 IN CONNEXION WITH THE REQUEST FOR CONSIDERATION OF THE SITUATION IN OMAN

20. At its 783rd and 784th meetings, on 20 August 1957, the Security Council had before it a letter 18/ dated 13 August from the representatives of Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and Yemen, requesting consideration by the Council, under Article 35 of the Charter, of an item entitled, "The armed aggression by the United Kingdom of Great Britain and Northern Ireland against the independence, sovereignty and the territorial integrity of the Imamate of Oman".

21. A telegram 19/ was addressed to the President of the Security Council on 17 August 1957 by the Sultan of Muscat and Oman, protesting against the request for a Security Council meeting as interference in the internal affairs of his country, and drawing attention to the fact that the matters to which the Arab representatives' letter related fell exclusively within the internal jurisdiction of his country and were no concern of the United Nations.

22. Objection was raised in the Security Council to the inclusion of the question in the agenda. It was pointed out that, on the one hand, the letter accused the United Kingdom of armed aggression, and, on the other hand, it invoked Article 35, rather than Chapter VII, which dealt with aggression. For the Council to accept the letter as a basis for discussion and action, it would be necessary to assume that such a State as the Imamate of Oman in fact existed, whereas the district of Oman was a part of the dominions of the Sultan of Muscat and Oman, whose very existence was ignored in the letter of 13 August.

23. In reply to these objections, it was stated that Article 35 of the Charter made it the right and duty of any Member of the United Nations to bring to the attention of the Council any dispute or situation of the nature referred to in Article 34. The signatories of the letter to the Council, in invoking Article 35, were merely defining their capacity and requesting the Council to consider the question of Oman. They had thought it appropriate to reserve their positions on what measure or action the Council might take and whether it should act under Chapter VI or Chapter VII. By including the question in its agenda, the Council would demonstrate its liberal attitude and would show to the people in under-developed areas that it had their interests and security at heart and that it acted positively for the creation of conditions favouring their development and progress. A debate would reveal to the world that, however small a State might be, the events which affected it had a great impact on world peace and security. 20/

Decision

At the 784th meeting, on 20 August 1957, the Security Council failed to adopt the agenda which contained the letter concerning Oman. There were 4 votes in favour, 5 against, with 1 abstention and one member present and not voting. 21/

18/ S C, 12th yr., Suppl. for July-Sept., p. 16, S/3865 and Add.1.
19/ Ibid., p. 17, S/3866.
20/ For texts of relevant statements, see S C, 12th yr., 783rd mtg.: Cuba, paras. 73 and 75; Iraq, paras. 3, 5 and 15-19; Philippines, paras. 62-64; USSR, paras. 90-94; United Kingdom, paras. 31-33 and 35; 784th mtg.: Australia, paras. 18-20; France, para. 30; Iraq, paras. 37 and 71; Sweden, paras. 8 and 9.
21/ S C, 12th yr., 784th mtg., para. 87.

d. PROCEEDINGS ON 30 JANUARY 1959 IN CONNEXION WITH A COMPLAINT BY ISRAEL UNDER "THE PALESTINE QUESTION"

24. At the 845th meeting, on 30 January 1959, the Security Council included in its agenda, as a sub-item under "The Palestine Question", a letter dated 26 January 1959 from the permanent representative of Israel addressed to the President of the Security Council. 22/ The letter related to an incident of 23 January 1959 and also complained of a further series of incidents which had occurred in the interval since the meetings of the Council on 8 and 15 December, 23/ at which the Council had considered an Israel complaint regarding an incident of 3 December 1958.

25. In presenting his complaint to the Council, the representative of Israel sought to refute the argument that the matter was not worthy of consideration by the Security Council, by citing the provisions of Article 34 of the Charter and noting further that Article 35 conferred upon each Member State the right to bring such matters to the Council. 24/

26. In opposition to this view, the representative of the United Arab Republic contended that though Articles 34 and 35 gave certain powers to the Security Council, when there was a body which had been created by the agreement of both parties under the auspices of the Security Council, they should first of all go to that body, particularly when faced with an incident of the kind under discussion. 25/

27. The point of view expressed by most members of the Security Council who took part in the discussion of this matter was that although it was the right of a Member under the Charter to bring a matter to the attention of the Council, recourse was not properly sought to the Council in the first instance in the case under consideration; the matter might better be dealt with primarily by the machinery established on the spot by the United Nations to supervise the working of the General Armistice Agreements. 26/

28. Following the expression of views by members of the Security Council and representatives of the parties concerned, the Council adjourned.

** 2. *The question of submission by States not Members of the United Nations*

** 3. *The question of acceptance "in advance, for the purposes of the dispute," of the obligations of pacific settlement provided in the Charter*

22/ S C, 14th yr., Suppl. for Jan.-June, p. 3, S/4151.
23/ S C, 13th yr., 841st and 844th mtgs.
24/ S C, 14th yr., 845th mtg., para. 44.
25/ Ibid., para. 52.
26/ For texts of relevant statements, see S C, 14th yr., 845th mtg.: Italy, paras. 109-114; Japan, paras. 99-103; USSR, paras. 116-120; United Kingdom, para. 89; United States, paras. 92-96.

** B. In the General Assembly

** *1. The question of the competence of the General Assembly arising from Article 35*

** *2. The question of delegation to a subsidiary organ of responsibilities of the General Assembly arising from Article 35*

ANNEX

Tabulation of questions submitted to the Security Council during the period under review

** A. Questions submitted by Members as disputes

B. Questions submitted by Members as situations

Question	Submitting Member and date	Article invoked as basis for submission	Action taken
1. Situation created by the unilateral action of the Egyptian Government in bringing to an end the system of international operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888	France and United Kingdom; 23 September 1956	35 (1)[a]	Included in the agenda; S C, 11th yr., 734th mtg., para. 122
2. Actions against Egypt by some Powers, particularly France and the United Kingdom, which constitute a danger to international peace and security and are serious violations of the Charter of the United Nations	Egypt; 24 September 1956	-	Included in the agenda; S C, 11th yr., 734th mtg., para. 123
3. Letter dated 27 October 1956 from the representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the President of the Security Council concerning the situation in Hungary	France, United Kingdom and United States; 27 October 1956	34	Included in the agenda; S C, 11th yr., 746th mtg., para. 35

a/ At the 735th meeting, the representative of France stated that the situation was referred to the Security Council in accordance with Article 35 (1) (S C, 11th yr., 735th mtg., para. 103).

Question	Submitting Member and date	Article invoked as basis for submission	Action taken
4. Letter dated 25 October 1956 from the representative of France to the Secretary-General, with complaint concerning "Military assistance rendered by the Egyptian Government to the rebels in Algeria"	France; 25 October 1956	-	Included in the agenda; S C, 11th yr., 747th mtg., para. 9
5. Letter dated 30 October 1956 from the representative of Egypt addressed to the President of the Security Council	Egypt; 30 October 1956	-	Included in the agenda; S C, 11th yr., 750th mtg., para. 9
6. Cablegram dated 5 November 1956 from the Minister of Foreign Affairs of the Union of Soviet Socialist Republics, addressed to the President of the Security Council, concerning "Non-compliance by the United Kingdom, France and Israel with the decision of the emergency special session of the General Assembly of 2 November 1956 and immediate steps to halt the aggression of the aforesaid States against Egypt"	USSR; 5 November 1956	-	Proposal for inclusion in agenda rejected; S C, 11th yr., 755th mtg., para. 27
7. Letter dated 13 August 1957 from the permanent representatives of Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and Yemen addressed to the President of the Security Council (concerning Oman)	Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Syria, Tunisia and Yemen; 13 August 1957	35	Proposal for inclusion in agenda rejected; S C, 12th yr., 784th mtg., para. 87
8. Letter dated 13 February 1958 from the permanent representative of Tunisia to the President of the Security Council concerning "Complaint by Tunisia in respect of an act of aggression committed against it by France on 8 February 1958 at Sakiet-Sidi-Youssef"	Tunisia; 13 February 1958	-	Included in the agenda; S C, 13th yr., 811th mtg., para. 4

Question	Submitting Member and date	Article invoked as basis for submission	Action taken
9. Letter dated 14 February 1958 from the permanent representative of France to the President of the Security Council concerning "Situation resulting from the aid furnished by Tunisia to rebels enabling them to conduct operations from Tunisian territory directed against the integrity of French territory and the safety of the persons and property of French nationals"	France; 14 February 1958	-	Included in the agenda; S C, 13th yr., 811th mtg., para. 4
10. Letter dated 20 February 1958 from the representative of the Sudan addressed to the Secretary-General	Sudan; 20 February 1958	-	Included in the agenda; S C, 13th yr., 812th mtg., para. 1
11. Complaint of the representative of the Union of Soviet Socialist Republics in a letter to the President of the Security Council dated 18 April 1958 entitled "Urgent measures to put an end to flights by United States military aircraft armed with atomic and hydrogen bombs in the direction of the frontiers of the Soviet Union"	USSR; 18 April 1958	-	Included in the agenda; S C, 13th yr., 813th mtg., para. 2
12. Letter dated 22 May 1958 from the representative of Lebanon addressed to the President of the Security Council concerning "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"	Lebanon; 22 May 1958	-	Included in the agenda; S C, 13th yr., 818th mtg., para. 6

Question	Submitting Member and date	Article invoked as basis for submission	Action taken
13. Letter dated 29 May 1958 from the representative of Tunisia to the President of the Security Council concerning "Complaint by Tunisia in respect of acts of armed aggression committed against it since 19 May 1958 by the French military forces stationed in its territory and in Algeria"	Tunisia; 29 May 1958	40	Included in the agenda; S C, 13th yr., 819th mtg., para. 2
14. Letter dated 29 May 1958 from the representative of France to the President of the Security Council concerning: (a) "The complaint brought by France against Tunisia on 14 February 1958" and (b) "The situation arising out of the disruption, by Tunisia, of the *modus vivendi* which had been established since February 1958 with regard to the stationing of French troops at certain points in Tunisian territory"	France; 29 May 1958	-	Included in the agenda; S C, 13th yr., 819th mtg., para. 2
15. Letter dated 17 July 1958 from the representative of Jordan addressed to the President of the Security Council concerning "Complaint by the Hashemite Kingdom of Jordan of interference in its domestic affairs by the United Arab Republic"	Jordan; 17 July 1958	-	Included in the agenda; S C, 13th yr., 831st mtg., para. 15