

# ARTICLE 99

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## TEXT OF ARTICLE 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

### INTRODUCTORY NOTE

1. Various Articles of the Charter describe the responsibilities of the Secretary-General and assign duties to him. For example, Article 97 provides that he shall be the "chief administrative officer of the Organization". Article 98 refers to his functions in relation to the principal organs and requires him to make an annual report to the General Assembly on the work of the Organization. Article 99 specifically assigns a sphere of political action to the Secretary-General.
2. A number of studies in this Repertory concerning other Articles of the Charter, and more particularly the study relating to Article 98, refer to various functions of the Secretary-General in the political field. The material which follows relates essentially to the manner in which account has been taken in the provisional rules of procedure of the Security Council of the responsibilities of the Secretary-General under Article 99 of the Charter, to the precedent set by the intervention of the Secretary-General in the Security Council in connexion with the Korean question and to the power of investigation of the Secretary-General of any matter which could be brought to the attention of the Security Council. 1/
3. The nature of the powers conferred upon the Secretary-General under Article 99 has been described by the Preparatory Commission in its report 2/ to the General Assembly in the following terms:

"Under Article 99 of the Charter, moreover, he has been given a quite special right which goes beyond any power previously accorded to the head of an international organization, viz: to bring to the attention of the Security Council any matter (not merely any dispute or situation 3/) which, in his opinion, may threaten the maintenance of international peace and security. It is

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- 1/ It may be noted that the Secretary-General may bring to the attention of the General Assembly matters affecting the maintenance of peace and security in his annual report to the Assembly on the work of the Organization. The Assembly has provided in rule 13 (g) of its rules of procedure that "All items which the Secretary-General deems it necessary to put before the General Assembly" shall be included in the provisional agenda of a regular session (United Nations Publication, Sales No.: 1954.I.17). For the practice in respect of these matters, see in this Repertory under Article 98.
  - 2/ Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. VIII, section 2, para. 16.
  - 3/ There is, however, no indication regarding the precise significance attached to this consideration by the Preparatory Commission.

impossible to foresee how this Article will be applied; but the responsibility it confers upon the Secretary-General will require the exercise of the highest qualities of political judgment, tact and integrity."

#### ANALYTICAL SUMMARY OF PRACTICE

4. Under the terms of rule 3 of its provisional rules of procedure, <sup>4/</sup> the Security Council makes provision for the invocation of the power of the Secretary-General under Article 99 to bring to its attention any matter which, in his opinion, may threaten the maintenance of international peace and security. Under this rule, the President of the Security Council is under the obligation to call a meeting of the Council if the Secretary-General brings to the attention of the Council any matter under Article 99.

5. The Secretary-General regarded his intervention in the circumstances set forth below as the first invocation of the powers conferred upon him under Article 99 of the Charter.

6. By letter <sup>5/</sup> dated 25 June 1950, the deputy representative of the United States to the United Nations informed the Secretary-General that North Korean forces had invaded the territory of the Republic of Korea at several points in the early morning hours of 25 June 1950. The letter contended that such an attack constituted a breach of the peace and an act of aggression and requested that the Secretary-General call an immediate meeting of the Security Council to deal with the situation.

7. The Secretary-General also received a cablegram, <sup>6/</sup> dated 25 June 1950, from the United Nations Commission on Korea, wherein it was stated that attacks had been launched in strength by the North Korean forces all along the 38th parallel. The Commission drew the attention of the Secretary-General to the serious situation, the development of which was assuming the character of a full-scale war, endangering the maintenance of international peace and security. In its cablegram, the Commission also suggested that the Secretary-General should consider the "possibility of bringing matter to notice of Security Council".

8. A meeting was called by the President of the Security Council to consider the matter. The provisional agenda for the meeting read as follows:

"1. Adoption of the agenda.

"2. Aggression upon the Republic of Korea:

"(a) Letter dated 25 June 1950 from the representative of the United States of America addressed to the Secretary-General transmitting a communication to the President of the Security Council concerning an act of aggression upon the Republic of Korea (S/1495)."

Upon the proposal of the President, the Council adopted the agenda with an amendment to the formulation of the item for discussion to read "Complaint of aggression upon

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<sup>4/</sup> United Nations Publications, Sales No.: 1952.I.18.

<sup>5/</sup> S C, 5th yr., No. 15, 473rd mtg., S/1495, in footnote 1 to p.1.

<sup>6/</sup> Ibid., S/1496, in footnote 2 to p. 2.

the Republic of Korea" and with the addition to the reference to the letter from the representative of the United States of a reference to:

"(b) Cablegram dated 25 June 1950 from the United Nations Commission on Korea addressed to the Secretary-General concerning aggression upon the Republic of Korea (S/1496)."

9. The President of the Council recognized the Secretary-General as the first speaker. The Secretary-General stated: 7/

"The present situation is a serious one and is a threat to international peace. The Security Council is, in my opinion, the competent organ to deal with it. I consider it the clear duty of the Security Council to take steps necessary to re-establish peace in that area."

10. In addressing the General Assembly at its fifth session, in plenary meeting, at the close of the general debate, the Secretary-General said: 8/ "I refer ... to my statement to the Security Council on 25 June last concerning the Korean conflict, when for the first time I invoked Article 99 of the Charter."

11. There was no further reference to the action of the Secretary-General in connexion with bringing the Korean question to the attention of the Security Council under Article 99.

12. An implicit reference to the application of Article 99 was made when the question of the determination by the Secretary-General whether he should consider bringing any aspect of a given situation to the attention of the Security Council under the provisions of the Charter was raised in the course of the discussion of the Greek question (I). In connexion with the complaint submitted by the Ukrainian SSR, the representative of the United States submitted a draft resolution 9/ under which the Security Council would have established a commission to investigate the facts relating to the situation.

13. Before the draft resolution was put to the vote, the Secretary-General made the following statement: 10/

"Should the proposal of the United States representative not be carried, I hope that the Council will understand that the Secretary-General must reserve his right to make such enquiries or investigations as he may think necessary in order to determine whether or not he should consider bringing any aspect of this matter to the attention of the Council under the provisions of the Charter."

14. The only comment in connexion with the statement of the Secretary-General was made by one representative who said: 11/

"I think that Mr. Lie was right in raising the question of his rights. It seems to me that in this case, as in all other cases, the Secretary-General must act. I have no doubt that he will do so in accordance with the rights and powers of the Secretary-General as defined in the Charter of the United Nations."

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7/ Ibid., p. 3.

8/ G A (V), Plen., vol. I, 289th mtg., para. 40.

9/ S C, 1st yr., 2nd Series, No. 16, 70th mtg., p. 396.

10/ Ibid., p. 404.

11/ Ibid., p. 404.

