

Pleading and Procedure

Imperium Anglorum

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This document is meant to be an up-to-date guide (check the date) as to the standards for sustaining an action under the General Assembly proposal rules.

Bringing actions

Actions are brought in accordance with the GA Secretariat rules § 1. The description there should be updated, however. The specific format of the action is no longer relevant; though it is best to be brief and clear.

The actions are each separate. They do not combine.

Writing briefs

Briefs should *not* be written by reading the proposal and then writing a challenge with a line-by-line or by inventing standards for evaluation. Each rule is a separate form of action with its own standard for a valid claim.

Write your argument only on the matter of how the facts fit a specific rule's standard. This should be separated into two paragraphs in this order: one stating the rule with accompanying standard and one analysing how the facts fit that standard.

Using this document

This document contains information only on the standards for the various actions. It is no use to argue, for example, that a resolution violates house of cards by merely mentioning a previous resolution: that is an invalid claim.

A claim is only valid if it uses a valid standard (this document is not exhaustive) with facts that meet that standard. You will not get away with inventing novel standards, but some actions do not have firmly established standards; they will require some creativity.

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1 Proposals

1.1 Duplication

The duplication rule applies to proposals. It is analysed on the basis of the resolution as a whole. There are two standards for duplication: the accepted one is here called traditional; mine is discussed shortly below.

In a traditional duplication claim, the proposal must be mostly duplicatory elements. Look at all the elements (policies enacted) by the proposal. Those elements are weighed by their effect on member nations (ie not necessarily in terms of counting clauses). If a majority or more of the effect is already enacted, the proposal is illegal.

When bringing an action, shortly enumerate the proposal's whole legislative effect by theme. Weigh those effects in a clearly convincing manner. Show how a majority of the effects are already law. There are two difficulties: you must fully enumerate the legislative effect and provide a clearly convincing weighing. If alternative weighings would find the proposal legal are plausible, the action fails.

Under the minority standard for duplication, a challenge is sustained only if every operative clause of the proposal duplicates extant law.

For case law, see *Protection of Nuclear Armaments* [2017] GAS 1; *International Drug Education* (2010) 1 IAM 6; *Universal Suffrage Act* (2014) 1 IAM 27 (relating to GA 35 "Charter of Civil Rights").

1.2 Contradiction

The contradiction rule applies to clauses. The clearest way to illustrate contradiction is by way of example or by pointing out a direct logical contradiction. To bring a successful action, you must find a clause in the acquis which is logically inconsistent with a clause in the proposal.

Both clauses must be clearly identified. You must show how the logical inconsistency arises. Facts may be assumed to give rise to a hypothetical scenario in which the inconsistency emerges. The assumed facts must be plausible.

The contradiction rule does not consider statistical effects and cannot be called upon if the proposal includes a general exceptions clause (eg "subject to prior WA resolutions") provided the previous resolution does not vitiate such a general exception clause.

1.3 Committees

There are two forms of committee actions: substantive and procedural. When bringing a substantive committee action, you must show three things:

1. The proposal uses a committee.
2. All actions in the proposal are brought through the committee.
3. The actions in the proposal are little more than filing paperwork.

No action will be sustained if you allege that the committee is reused or attempt to allege house of cards with a committee.

Procedural committee actions are poor actions to bring because they almost certainly will have been previously brought. Such an action requires only showing the presence somewhere in the proposal of an impermissible activity. There are three and they all relate to the minutiae of the committee's staffing: "who can [or] cannot staff the committee, how members are chosen, and term lengths".

1.4 House of Cards

House of cards violations relate only to a proposal clause's substantive reliance on a previous resolution. This is generally read to mean things such as "Member nations shall prohibit actions illegal under GA 300" or something of that sort.

To show a house of cards violation, you must allege two things.

First, that a proposal clause relies on a specific other resolution. You must identify the relied-upon resolution. Such reliance must be only on that other resolution and cannot be otherwise substituted with a future resolution. Second, you must show that the proposal clause would be rendered inoperative if that previous resolution were repealed.

No house of cards action will be sustained on the basis of using a previously-established committee.

Quotation, citation, or reference in a preamble is never a house of cards violation. See generally *Safeguarding Nuclear Materials* [2017] GAS 12.

1.5 Real world reference

The real world reference rule applies to proposal wording. Because it is easy for the Secretariat to spot in the queue, it is not a common action.

It is sustained if the challenger can show use of non-generic terminology that can *only* be interpreted as referring to proper nouns in the real world.

Exceptions apply for religions that are widespread enough that they would exist in the game, months, and days of the week. *Repeal "For the Detained and Convicted"* (2009) 2 IAM 2 (religions); *Novel Writers Appreciation Month* (2010) 1 IAM 7 (months and days of the week).

2 Repeals

2.1 Amendment

An amendment violation is sustained if and only if a proposal attempts to change the resolution text of a previous proposal. *Protection of Nuclear Armaments* [2017] GAS 1, ¶ 3.

2.2 National sovereignty

These actions are rare and are, frankly, unlikely to succeed. This action can be sustained if a repeal consists *solely* of arguments which fall into the following classes:

1. a facial appeal to national, cultural, or religious sovereignty,^{*} and
2. statement that something is not defined or is otherwise vague.[†]

If any clause in the repeal can be reasonably interpreted *not* to fall into these classes, the action fails. Accordingly, you must show that the only reasonable interpretation of all clauses fall into those classes.

2.3 New legislation

This action is uncommon in drafted proposals. It is sustained only if *mandatory* language is used in a proposal which binds member nations or persons under WA jurisdiction to take some action.

An action on the basis, for example, that a repeal encourages future legislation will be rejected.

2.4 Honest mistake

There are two kinds of honest mistake violations: relevance and veracity. The former comes from the language in the rule “Repeals should address the contents of the resolution it’s targeting, and not just state the reverse of the arguments given in the resolution”. Veracity, however, is more difficult.

^{*} See also *Repeal "Freedom of Marriage Act"* (2012) 2 IAM 12.

[†] *Repeal "Chemical Weapons Protocol"* (2013) 1 IAM 23.

2.4.1 Relevance

This action is obsolete and is never sustained.

2.4.2 Veracity

This action is heavily fact-based. It applies to repeal claims. There are two bases on which it can be sustained. The claim must either:

1. make an uncolourable interpretation of a past resolution^{*} or
2. assert hypothetical facts which violate reasonable nation theory.[†]

The word “uncolourable” above is difficult. It refers to interpretations of resolutions which violate generally-accepted interpretive principles. Those principles are largely customary: it can be strategic to look through a book describing the general “canons of construction”. Eg Scalia and Garner, *Reading law: the interpretation of legal texts* (2012).

However, not all canons from the real world apply. This is mainly because we are somewhat more loose with repeal claims because there are many interpreters (member nations). There is, therefore, no need to create a single “authoritative” interpretation of the proposal. The most relevant canons therefore are those which relate to semantics, syntax, and context. See appendix B.

Reasonable nation theory is a doctrine with two separate elements. First, member nations will not choose to interpret a resolution in a way that is to their own self-detriment. Second, member nations are sufficiently alike to real life human nations that it is possible to make predictions and inferences of their actions based on human nations.

^{*} Repeal “Ban on the Sterilisation of Minors etc” [2019] GAS 2

[†] Repeal “Pesticide Regulations” [2017] GAS 7.

3 Mechanics

3.1 Meta-gaming

Nobody is entirely sure how to sustain a meta-gaming action.

However, one way to sustain a meta-gaming action is to show that the proposal refers to something in NationStates qua game. *Repeal "Nuclear Arms Possession Act"* [2016] GAS 1, ¶ 1. Pursuant to that judgement, mentioning the Security Council is per se meta-gaming.

3.2 Game mechanics

Game mechanics challenges can be sustained under two conditions.

First, a proposal clause must interact in some way with the game. This includes nation statistics (such as the budget), the operation of the site, how WA membership is gained or lost, and the repeal mechanism.*

Second, that clause must attempt to *change* that mechanic from the current status quo. Clauses may enact something which reflects the current status quo. There is no analysis of administration's future game changes.

* Re the repeal mechanism, *Protections During Territorial Transitions* [2021] GAS 4.

4 Category

4.1 Category and strength

The two rules on category and strength are evaluated with the same standard set in *Standards on Police Accountability* [2020] GAS 2:

We ... adopt an “any suitable category” test, which asks only if the category is reasonable. A selection is reasonable if there is a plausible argument that any of the resolution’s significant effects fit within the category. For the the purposes of this test, an effect is significant when it is not trivial or speculative.

To sustain such a challenge, you must show that the proposal’s category or strength choices violate this test: ie that *all* the significant effects of the proposal *do not* fit in the chosen category.

The strength of a proposal is evaluated alone, as if the *acquis* did not exist. A proposal which duplicates existing legislation is evaluated as if the duplication were not present. The strength and effect of a proposal also does not change and is viewed only in the short term.*

4.2 Optionality

This action is rare. It is sustained only if there is *explicit language* which grants member nations an opt-out or otherwise permits them to engage in non-compliance.†

No action brought on the basis that a proposal clause is only hortatory will be sustained.

* Cf *Promoting Research on Life in Foetuses and Embryos* [2018] GAS 3 (largely overruled).

† See *Dignified End-of-Life Choices* (2009) 1 IAM 1; *Abortion Ethics Act* (2011) 1 IAM 15.

5 Format

5.1 Operative clause

This action is sustained only if there is no mandatory or permissive clause in the proposal.

5.2 Language

This action is never brought, as it is de facto applied only in the queue by the Secretariat and determinations there are de facto conclusive. If it were brought, one would have to show that the proposal is not in English. The difficulty of the prose has no bearing on whether it is or is not in English.

It is not tested whether this applies to titles.

5.3 Branding

This applies to the text itself. You must show that the proposal is not written from the WA's perspective or that it uses acronyms, pronouns, or other language to refer to a nation, region, or NationStates organisation. Cf *Pandemic Waste Awareness Act* [2021] GAS 6.

The classic examples are attempts to spell “Unibot” with the first letters of clauses or the use of submitting nations such as “REGION WA Office”. *Repeal "Rights and Duties of WA States"* (2014) 1 IAM 26.

5.4 Blockers

There are two kinds of blockers. To sustain this action, you must show one of the following:

1. either the proposal wholly blocks off a category or area of effect or
2. the proposal attempts to prevent or otherwise impose restrictions on repeal of a resolution, including itself.

Following reform to the blocker rule – *Public consultation; Announcement* – prior precedents largely do not apply.

5.5 Jokes

To sustain this action, a proposal must be *only* a joke. It cannot have any serious provisions at all. *Ban on Secret Treaties* [2017] GAS 10. The joke does not need to be funny.

6 Fact questions

Fact questions are much harder to evaluate. Views on many fact questions differ (eg “Will reducing income tax stimulate the economy? If so, by how much?”). The Secretariat does not want to be the arbiters of truth.

To that end, fact claims about the world at large are generally accepted, provided those claims are not clearly erroneous. *Agricultural Invasive Species Act* [2018] GAS 4.

Those kinds of fact claims (about how the world works) differ from fact claims about how member nations behave, which are evaluated under reasonable nation theory: ie claimed behaviour cannot be self-detrimental or otherwise illogical.*

* Eg *Repeal "Rights of the Quarantined"* [2017] GAS 9 (“Such an interpretation fails [RNT], as no sensible and fair-minded nation exercising good faith in implementing WA law would violate existing law to follow a new law where there is ample opportunity to comply with both”).

A Further links

- [Passed GA resolutions](#)
- [GA rules](#)
- [GenSec rules](#)
- [GenSec rulings catalogue](#)

B Canons

The following canons are taken from the table of contents of Scalia and Garner, *Reading law: the interpretation of legal texts* (2012). Further information, elaboration, explanation, etc can be found in that book.

Some irrelevant or misleading canons were omitted from this list.

B.1 Semantic canons

1. Ordinary meaning. Words take their ordinary meaning for the lay person.
2. Fixed meaning. Words are given the meaning when the text as adopted.
3. Omitted case. Matters not covered are so treated.
4. General terms. General terms are given general meaning.
5. Negative implication. Expressing one thing implies exclusion of others.
6. Mandatory-permissive. Mandatory and permissive words imply duties and discretion, respectively.
7. Subordinating-superordinating. Subordinating or superordinating language show which provisions take effect if there is a clash; it does not signal that a clash is present.
8. Gender-number. The masculine includes the feminine, the singular includes the plural, and vice versa for both.
9. Presumption on nonexclusive “includes”. The word “includes” introduces non-exhaustive examples.
10. Unintelligibility. Unintelligible text has no effect.

B.2 Syntactic canons

1. Grammar. Words are read in terms of proper grammar.
2. Last antecedent. A pronoun or demonstrative refers to the nearest reasonable antecedent.
3. Series qualifier. A prepositive or postpositive modifier applies to a whole parallel series.
4. Nearest reasonable referent. In a non-parallel series, a prepositive or postpositive modifier applies only to the nearest reasonable referent.

5. Scope of subparts. Material within a subpart (marked by indentation or otherwise) applies only to that subpart.
6. Punctuation. Punctuation can indicate meaning.

B.3 Contextual canons

1. Whole text. The text is read as a whole.
2. Presumption of consistent usage. The meaning of words does not change in the text.
3. Surplusage. Reject readings which make other sections of the same text inoperative.
4. Harmonious reading. Reject readings which make other sections of the same text contradictory.
5. General-specific. In one text, if there is a conflict between a general and a specific provision, the specific one prevails.
6. Irreconcilability. If two provisions are irreconcilable at the same level of generality, both have no effect.
7. Predicate act. Authorising an act authorises all necessary predicate acts.
8. Associated words. Associated words bear on each others' meaning.
9. *Ejusdem generis*. When general words follow specific ones in a list of examples, the general words are read in the specific words' context.
10. Distributive phrasing. The word "respectively" is assumed if context supports it.
11. Prefatory materials. Prefatory material can indicate meaning.
12. Title and headings. Titles and headings can indicate meaning.

B.4 Miscellaneous canons

1. Extraterritoriality. Without contrary indication, the word "all" refers to "all X within WA jurisdiction" (and like words).
2. Artificial person. "Person" includes artificial persons (corporations) and member nations.
3. Penalty-illegality. Something penalised is illegal.

4. Prior construction. Definitions (unless indicated otherwise) and authoritative interpretations for words and phrases carry over to future resolutions.