

**Chapter XI**

**CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER**

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## INTRODUCTORY NOTE

The present *Supplement*, like the immediately preceding volume of the *Repertoire*, presents, in chapter XI, the decisions of the Security Council which either constitute explicit applications of the provisions of Chapter VII of the Charter or might be considered as instances of implicit applications thereof. Thus, like its predecessor it also departs from the practice of earlier volumes of the *Repertoire* which, in chapter XI, dealt with instances in which proposals placed before the Security Council evoked discussion regarding the application of Chapter VII of the Charter.

### CHAPTER VII OF THE CHARTER: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

#### "Article 39

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

#### "Article 40

"In order to prevent any aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures."

#### "Article 41

"The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

#### "Article 42

"Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations."

#### "Article 43

"1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in

accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

"2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

"3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes."

#### "Article 44

"When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces."

#### "Article 45

"In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee."

#### "Article 46

"Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee."

#### "Article 47

"1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

"2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

"3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

"4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees."

"Article 48

"1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine."

"2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members."

"Article 49

"The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council."

"Article 50

"If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems."

"Article 51

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

## Part I

### CONSIDERATION OF THE PROVISIONS OF ARTICLES 39 AND 40 OF THE CHARTER

#### NOTE

During the period under review, the Security Council has not taken any decisions explicitly under Article 39 of the Charter. It has, however, taken two decisions<sup>1</sup> which reaffirmed a previous Security Council resolution<sup>2</sup> in which an explicit reference to Article 39 had been made. One of the decisions<sup>3</sup> also contained an explicit reference to Chapter VII of the Charter and an implicit reference to Article 39, while the other<sup>4</sup> contained the phrase: "Acting in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter". The same previous Security Council resolution which had referred explicitly to Article 39 was also recalled and reaffirmed in four draft resolutions, two of which were not adopted<sup>5</sup> having failed to obtain the required majority, and two others failed of adoption owing to the negative vote of a permanent member.<sup>6</sup> In one instance, a draft resolution containing an implicit reference to Article 39 was adopted<sup>7</sup> in a revised form with the implicit reference to Article 39 deleted, by re-

placing the phrase "serious threat to international peace and security" with the words "potential threat to international peace and security".<sup>8</sup>

On various occasions, letters of submission requesting Security Council consideration of a question contained language derived from that of Article 39, but none contained an explicit reference to that Article.<sup>9</sup>

During the period under review, there was no decision of the Security Council taken explicitly under Article 40 of the Charter. On two occasions, however, when the situation was similar, the Security Council adopted almost identical resolutions,<sup>10</sup> in connexion with which views were expressed in the proceedings of the Council that they were provisional measures taken under Article 40.

A few incidental references to Article 39<sup>11</sup> and

<sup>1</sup> Resolution 277 (1970) of 18 March 1970 and resolution 288 (1970) of 17 November 1970; the adoption of neither of these resolutions was preceded by a constitutional discussion bearing on Article 39.

<sup>2</sup> Resolution 232 (1966) of 16 December 1966.

<sup>3</sup> Resolution 277 (1970) of 18 March 1970.

<sup>4</sup> Resolution 288 (1970) of 17 November 1970.

<sup>5</sup> S/9270/Rev.1, OR, 24th yr., Suppl. for April-June 1969, p. 338; and S/9676/Rev.1, 1530th meeting, para. 9.

<sup>6</sup> S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161; and S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37; none of the four draft resolutions evoked a constitutional discussion bearing on Article 39.

<sup>7</sup> Resolution 282 (1970) of 23 July 1970; see Case 2.

<sup>8</sup> In addition, a resolution adopted by the Security Council contained the paragraph, "Having discussed the grave situation in the sub-continent, which remains a threat to international peace and security", which might be considered to have bearing on Article 39; the adoption of this resolution, however, was not preceded by a constitutional discussion bearing on that Article; see resolution 307 (1971) of 21 December 1971.

<sup>9</sup> See the tabulation in part III of chapter X.

<sup>10</sup> Resolution 279 (1970) of 12 May 1970; see Case 1; and resolution 285 (1970) of 5 September 1970; see Case 3.

<sup>11</sup> 1546th meeting, para. 93, in connexion with the question of race conflict in South Africa; 1559th meeting, paras. 102, 112; 1560th meeting, para. 73; 1563rd meeting, para. 143, in connexion with the complaint by Guinea; 1585th meeting, para. 48; 1588th meeting, para. 18; 1594th meeting, paras. 19, 36, 41, 42, in connexion with the situation in Namibia; 1606th meeting, para. 263, in connexion with the situation in the India/Pakistan subcontinent.

Article 40<sup>12</sup> were made in the course of consideration of various items in the Security Council.

CASE 1.<sup>13</sup> SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution submitted by Spain (S/9800) and with the amendment thereto submitted by the United States and sub-amendment submitted by the USSR; the amendment and sub-amendment not adopted on 12 May 1970; the draft resolution adopted on the same day [Resolution 279 (1970)]

[Note: It was maintained that the draft resolution constituted a provisional measure. Following its adoption, it was also maintained that the draft resolution had been adopted implicitly under Article 40 of the Charter.]

At the 1537th meeting on 12 May 1970, the representative of Spain submitted<sup>14</sup> a draft resolution<sup>15</sup> in which it was provided:

*"The Security Council*

*"Demands the immediate withdrawal of all Israeli armed forces from Lebanese territory."*

In supporting the draft resolution, the representative of Zambia said that it was an interim draft resolution which did not in any way prejudice the position of any delegation with regard to the substance of the item on the agenda.

The USSR proposal, which was supported by Syria, that the Council proceed immediately to vote on the Spanish draft resolution was not adopted,<sup>16</sup> the result of the vote being 7 in favour, 2 against, with 6 abstentions.

At the same meeting, the representative of Spain stated that the draft resolution was purely an interim measure submitted in view of the urgency of the situation without prejudice to whatever further action the Security Council might decide to take. The fact of the military invasion of Lebanon by Israeli forces had not been contested, and his delegation was prompted by the seriousness of the situation created by the action taken by Israel in contravention of Article 2, paragraph 4, of the Charter to submit the draft resolution as a provisional measure to put an end to the invasion.

The representative of Israel\* said that the representative of Spain had referred to Israel's action as a violation of the Charter without, however, referring to the warfare which was being waged against Israel in flagrant breach of the Charter. No contribution to peace in the Middle East could be made by the adoption of one-sided resolutions. Moreover, as his delegation had already informed the Council, Israeli forces were already in the process of being withdrawn.

At the same meeting, the representative of the United States orally submitted<sup>17</sup> an amendment to the Spanish draft resolution which would add to it the

phrase: "and an immediate cessation of all military operations in the area".

The representative of Spain reiterated that his delegation had been prompted by the urgency of the situation to propose a provisional measure to put an end to the invasion, and expressed concern that attempts to add amendments embodying concepts which had not been duly considered by the Council would defeat the purpose which his delegation had in mind while submitting its draft resolution.

After the representative of the United States reaffirmed his delegation's intention to submit its amendment, the representative of the USSR orally proposed<sup>18</sup> a sub-amendment which would add to the end of the United States amendment the words: "and stopping of Israeli aggression against Lebanon".

At the same meeting, the sub-amendment submitted by the USSR was not adopted.<sup>19</sup> It received 3 votes in favour, none against, with 12 abstentions. The United States amendment was also not adopted,<sup>20</sup> the result of the vote being 2 in favour, none against, with 13 abstentions. The draft resolution submitted by Spain was adopted<sup>21</sup> unanimously as resolution 279 (1970).

After the vote, the representative of Syria stated that his delegation had voted in favour of the Spanish draft resolution in accordance with Article 40 of the Charter, which he then quoted.

At the 1538th meeting on 12 May 1970, the representative of Syria again referred to Article 40 which provided, *inter alia*, that the Security Council would duly take account of failure to comply with provisional measures, and stated that the Council had unanimously adopted a provisional measure with which the Government of Israel had refused to comply.

At the 1540th meeting on 14 May 1970, the representative of Poland stated that he had supported the draft resolution submitted by Spain and adopted by the Council as a provisional measure in view of the urgency of the situation.

At the 1541st meeting on 15 May 1970, the representative of Colombia also expressed the view that the draft resolution in question had been a provisional measure and stated that its very provisional nature required that the Council proceed to consider stable solutions, since Article 40 of the Charter, on which provisional measures rested, implied that those measures must be extended to all parties concerned, not only to one of them. A judgement of responsibilities regarding the situation must be made within the framework of Council resolution 242 (1967) and of the United Nations Charter in general.

CASE 2. QUESTION OF RACE CONFLICT IN SOUTH AFRICA: In connexion with the draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9882); subsequently revised (S/9882/

<sup>12</sup> 1606th meeting, para. 263; 1614th meeting, para. 93, in connexion with the situation in the India/Pakistan sub-continent.

<sup>13</sup> For texts of relevant statements, see: 1537th meeting: Israel,\* paras. 79-81; Spain, paras. 44, 45, 83-86, 115, 116; Syria, para. 133; Zambia, para. 49; 1538th meeting: Syria, paras. 120, 121; 1540th meeting: Poland, para. 13; 1541st meeting: Colombia, paras. 7-9.

<sup>14</sup> 1537th meeting, para. 46.

<sup>15</sup> S/9800; same text as resolution 279 (1970).

<sup>16</sup> 1537th meeting, paras. 66, 76, 77.

<sup>17</sup> 1537th meeting, para. 91.

<sup>18</sup> 1537th meeting, para. 128.

<sup>19</sup> 1537th meeting, para. 129.

<sup>20</sup> *Ibid.*, para. 130.

<sup>21</sup> *Ibid.*, para. 131.

<sup>22</sup> For texts of relevant statements, see: 1545th meeting: Mauritius,\* paras. 19-23, 30; Somalia,\* paras. 45, 60, 61; 1546th meeting: Nepal, paras. 136, 137; United Kingdom paras. 19-22; 1547th meeting: France, paras. 47-49.

Rev.2), voted upon and adopted on 23 July 1970.  
[Resolution 282 (1970)]

[*Note:* In the course of the discussion, it was maintained that the continued arms build-up of South Africa in spite of the arms embargo previously imposed by the Security Council, and the use of these arms in the joint action of the Governments of South Africa and Southern Rhodesia against liberation movements and their threats to independent African States constituted a serious threat to international peace and security. It was maintained, on the other hand, that the situation in South Africa, however regrettable, could not be considered a threat to international peace within the meaning of Chapter VII of the Charter. In this connexion, it was also maintained that limited arms deliveries to South Africa were strictly for the purpose of external self-defence, and not for internal repression.]

At the 1545th meeting on 17 July 1970, the representative of Mauritius\* said that, in spite of the arms embargo imposed by the Security Council, South Africa had continued to receive arms and military equipment from a number of Member States. Their argument that these arms and equipment were not covered by the embargo since they were for external defence and not to be used for internal repression or for imposing *apartheid* was no longer valid, in view of the fact that there existed in southern Africa an armed conflict between the liberation movements and armed forces of their oppressors. South Africa had committed itself not only to a policy of repression of the opponents of *apartheid*, but also to a policy of military and economic support of white minority régimes elsewhere in southern Africa and had repeatedly threatened the independent States of southern Africa for their support of opponents of *apartheid*. The military build-up of South Africa thus constituted a serious threat to international peace and security in the region.

At the same meeting, the representative of Somalia\* recalled that the Security Council, when it considered the situation in 1963 and 1964, had described it as "seriously disturbing international peace and security". Subsequent developments had made the situation a clear threat to international peace and security, as evidenced by the intensification and extension of the *apartheid* laws, the illegal presence of the South African Government in Namibia—itsself an act of aggression—and the military collaboration of South Africa with the régimes in Southern Rhodesia and in Portuguese colonial territories. This in turn had prompted mounting resistance on the part of liberation movements. In view of this situation, the Security Council must examine how the South African Government had been able to acquire the military and economic power to carry out its internal and external aggressions despite the arms embargo and take measures to strengthen the embargo.

At the 1546th meeting on 20 July 1970, the representative of the United Kingdom said that some of the fears expressed by members of the Council regarding the status of the embargo did not correspond to the real situation, since the United Kingdom had no intention of lifting the arms embargo and was merely taking under study the question of deliveries of certain limited categories of arms for use in defence of sea-lanes, that is, a particular type of external defence.

The United Kingdom Government was determined that no arms would be sold for the enforcement of *apartheid* or internal repression.

At the same meeting, the representative of Nepal recalled that, as early as 1 April 1960, the Security Council had recognized that the situation in South Africa was one which had led to international friction and which, if continued, might endanger international peace and security (resolution 134 (1960)). He added that, ten years later, the situation had not only continued but greatly deteriorated and clearly represented a threat to the maintenance of international peace and security. In those circumstances, the least the Security Council could do was to take measures to strengthen the arms embargo against the Government of South Africa.

At the 1547th meeting on 21 July 1970, the representative of France maintained that there had been some signs of moderation in South Africa, to which the considerable moral pressure exerted on Pretoria, through the intervention of the United Nations, had undoubtedly contributed. However, if the Organization were to adopt in addition enforcement measures and interfere directly in the internal affairs of a Member State, it would be exceeding its authority as recognized by the Charter. No matter how regrettable the situation in South Africa might be, it could not be considered a threat to international peace within the meaning of Chapter VII of the Charter. In responding to the arms embargo, a number of States had made reservations in view of the right of self-defence recognized by Article 51 of the Charter, and had drawn a distinction between arms designed to serve the needs of external defence and those likely to be used in the implementation of *apartheid*. Such a distinction had been introduced in resolution 181 (1963), whose fifth preambular paragraph read:

"*Noting with concern* the recent arms build-up by the Government of South Africa, some of which arms are being used in furtherance of that Government's racial policies".

At the 1548th meeting on 22 July 1970, the representative of Zambia introduced<sup>23</sup> a draft resolution<sup>24</sup> jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, in which it was provided:

"*The Security Council,*

". . .

"*Gravely concerned* by the persistent refusal of the Government of South Africa to abandon its racist policies and to abide by the resolutions of the Security Council and the General Assembly on this question and others relating to southern Africa,

"*Gravely concerned* by the situation arising from violations of the arms embargo called for in its resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963 and 191 (1964) of 18 June 1964,

"*Convinced* of the need to strengthen the arms embargo called for in the above resolutions,

"*Convinced further* that the situation resulting from the continued application of the policies of *apartheid* and the constant build-up of the South

<sup>23</sup> 1548th meeting, para. 30.

<sup>24</sup> S/9882, OR, 25th yr., Suppl. for July-Sept. 1970, pp. 113-114.

African military and police forces made possible by the continued acquisition of arms, military vehicles and other equipment and of spare parts for military equipment from a number of Member States and by local manufacture of arms and ammunition under licenses granted by some Member States constitutes a serious threat to international peace and security, [preamble, para. 7]

“ . . . ”

At the 1549th meeting on 23 July 1970, the President (Nicaragua) drew the attention<sup>25</sup> of the Council to a revised text of the five-Power draft resolution.<sup>26</sup> The revisions included, *inter alia*, the seventh preambular paragraph, in which the phrase “a serious threat to international peace and security” had been replaced by the words “a potential threat to international peace and security”.

At the same meeting, the revised five-Power draft resolution was put to the vote and was adopted<sup>27</sup> by 12 votes to none, with 3 abstentions as resolution 282 (1970).

CASE 3.<sup>28</sup> SITUATION IN THE MIDDLE EAST: In connexion with the draft resolution submitted by Spain (S/9928): voted upon and adopted on 5 September 1970. [Resolution 285 (1970)]

[Note: In the course of the discussion, it was maintained that the draft resolution was an interim measure without prejudice to whatever further action the Security Council might decide to take.]

At the 1551st meeting on 5 September 1970, the representative of Spain submitted<sup>29</sup> a draft resolution<sup>30</sup> which read:

<sup>25</sup> 1549th meeting, para. 4.

<sup>26</sup> S/9882/Rev.2; same text as resolution 282 (1970).

<sup>27</sup> 1549th meeting, para. 29.

<sup>28</sup> For texts of relevant statements, see: 1551st meeting: President (Sierra Leone), para. 109; Israel,\* paras. 73-74; Spain, paras. 59-64.

<sup>29</sup> 1551st meeting, para. 62.

<sup>30</sup> S/9928; same text as resolution 285 (1970).

“The Security Council,

“Demands the complete and immediate withdrawal of all Israeli armed forces from Lebanese territory.”

In introducing the draft resolution, the representative of Spain recalled that the situation was a repetition of actions which had occurred previously in May of that year and, recalling also the draft resolution submitted by his delegation and adopted by the Council (resolution 279 (1970)) on that occasion, stated that, in view of the fact that the armed forces of a Member State of the United Nations had penetrated the territory of another Member State, the Security Council should take urgent action and call for withdrawal, without prejudice to the fact that the Council might in further meetings consider the situation in detail and take further appropriate decisions. He then requested that the Council proceed urgently to vote on the draft resolution.

The representative of Israel\* said that the representative of Spain had referred to Israel's action as invasion without, however, referring to the warfare which was being waged against Israel from Lebanese territory in flagrant breach of the Charter. The adoption of a one-sided resolution could not contribute to peace in the Middle East. Furthermore, he had informed the Council that Israel's action had been completed and that Israel forces had evacuated Lebanese territory.

At the same meeting, the draft resolution was put to the vote and was adopted<sup>31</sup> by 14 votes to none, with 1 abstention, as resolution 285 (1970).

After the vote, the President (Sierra Leone) stated that the Council had devoted the meeting to the discussion of an interim measure, without prejudice to any further meetings which would be held to discuss the matter further.

<sup>31</sup> 1551st meeting, para. 93.

## Part II

### CONSIDERATION OF THE PROVISIONS OF ARTICLE 41 OF THE CHARTER

#### NOTE

During the period under review, the Security Council, acting explicitly under Chapter VII and Article 41 of the Charter, adopted a resolution<sup>32</sup> whereby the Council reaffirmed the sanctions established under earlier resolutions and expanded the scope of those sanctions. Another resolution<sup>33</sup> was adopted by the Security Council which reaffirmed the existing sanctions under Chapter VII. Five other draft resolutions contained provisions reaffirming or expanding existing sanctions or providing for related measures under Chapter VII; of these, two<sup>34</sup> were not adopted, and

three others<sup>35</sup> failed of adoption. One of the former<sup>36</sup> also contained an explicit reference to Article 41. The constitutional issues which arose in connexion with the draft resolutions which are dealt with below were concerned with the question of the type, scope and modalities of the sanctions and related measures under Chapter VII.

CASE 4.<sup>37</sup> SITUATION IN SOUTHERN RHODESIA: In con-

<sup>35</sup> S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161; see Case 5; S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37; see Case 6; and S/10489, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 129-130; the consideration of this draft resolution did not evoke any constitutional discussion bearing on Article 41.

<sup>36</sup> S/9676/Rev.1.

<sup>37</sup> For texts of relevant statements, see: 1479th meeting: Algeria, paras. 12-16; United Kingdom, paras. 35-39; 1480th meeting: Finland, paras. 6-9; 1481st meeting: USSR, paras. 25-26.

<sup>32</sup> Resolution 277 (1970); see Case 5.

<sup>33</sup> Resolution 288 (1970); see Case 6.

<sup>34</sup> S/9270/Rev.1, OR, 24th yr., Suppl. for April-June 1969, p. 338; see Case 4; and S/9676/Rev.1, 1530th meeting, para. 9; see Case 5.

nexion with the draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia (S/9270/Rev.1); voted upon and not adopted on 24 June 1969.

[*Note:* It was maintained on the one hand that, since the economic sanctions against Southern Rhodesia previously adopted by the Security Council had not achieved their desired ends, the Council should adopt comprehensive sanctions, mandatory for all States, severing all relations with Southern Rhodesia and extend the economic sanctions to South Africa and to the Portuguese colony of Mozambique. It was contended, on the other hand, that the situation did not justify a full campaign of sanctions which would have to be backed by a naval blockade of all southern Africa.]

At the 1479th meeting on 19 June 1969, the representative of Algeria introduced<sup>38</sup> a draft resolution<sup>39</sup> jointly submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, in which it was provided:

*"The Security Council,*

*"Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,*

*" . . .*

*"Gravely concerned that the measures so far taken have failed to resolve the situation in Southern Rhodesia,*

*"Gravely concerned further that the measures taken by the Security Council have not been fully complied with by all States,*

*"Noting that the Governments of the Republic of South Africa and Portugal, in particular, in contravention of their obligation under Article 25 of the Charter of the United Nations, have not only carried on trade with the illegal racist minority régime of Southern Rhodesia contrary to the terms of Security Council resolution 232 (1966) and 253 (1968) but have, in fact, given active assistance to that régime, enabling it to counter the effects of measures decided upon by the Security Council,*

*" . . .*

*"Acting under Chapter VII of the Charter of the United Nations,*

*" . . .*

*"3. Decides that all States shall sever immediately all economic and other relations with the illegal racist minority régime in Southern Rhodesia, including railway, maritime, air transport, postal, telephonic and wireless communications and other means of communication;*

*" . . .*

*"5. Decides that Member States and members of the specialized agencies shall carry out the measures dealing with imports and exports envisaged in Security Council resolution 253 (1968) and in the present resolution against the Republic of South Africa and the Portuguese colony of Mozambique;*

*" . . ."*

<sup>38</sup> 1479th meeting, para. 7.

<sup>39</sup> S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338.

In introducing the five-Power draft resolution, the representative of Algeria said that the measures provided for in resolution 253 (1968) had not achieved the desired results, first because certain Member States had continued to trade with the illegal régime in Southern Rhodesia and secondly because South Africa and Portugal had refused to respect the decisions of the Security Council. Consequently, the sponsors considered that the Council should impose complete and mandatory sanctions by calling on all States to sever all economic and other relations with the illegal régime in accordance with Article 41 of the Charter, and at the same time take measures against South Africa and Portugal because of their continued defiance of the decisions of the Security Council.

At the same meeting, the representative of the United Kingdom stated that, in view of the long and extensive economic ties between the United Kingdom and South Africa, his Government could not agree that a situation existed in which it could justify proceeding to the full campaign of economic sanctions against South Africa, which would have to be backed by a naval blockade of all southern Africa. The Security Council should continue instead the policy of denying recognition and maintaining, and if possible intensifying, the economic sanctions against Southern Rhodesia.

At the 1480th meeting on 23 June 1969, the representative of Finland said that the Security Council should concentrate on ensuring full implementation of its resolution 253 (1968) rather than on far-reaching new proposals that were bound to divide the Council and would therefore remain without effect.

At the 1481st meeting on 24 June 1969, the representative of the USSR stated that, while his delegation supported the five-Power draft resolution, it believed that the Security Council should adopt an even stronger resolution by extending the sanctions not only to South Africa and to the Portuguese colony of Mozambique but also to Portugal itself. He supported the provision (para. 3) of the draft resolution whereby the Council would decide that the sanctions against Southern Rhodesia should be implemented not only by States Members of the United Nations but by all States, and further expressed the view that, in general, appeals by the Security Council for the implementation of its decisions should be addressed to all States without exception.

At the same meeting, the five-Power draft resolution was not adopted,<sup>40</sup> the result of the vote being 8 in favour, none against and 7 abstentions.

CASE 5.<sup>41</sup> SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by the United Kingdom (S/9676/Rev.1); with the draft resolution jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9696); and with the draft resolution submitted by Finland (S/9709/Rev.1); the United Kingdom draft resolution voted upon and not adopted on 17 March 1970; the five-

<sup>40</sup> 1481st meeting, para. 78.

<sup>41</sup> For texts of relevant statements, see: 1530th meeting: United Kingdom, paras. 15-18; 1531st meeting: Algeria, paras. 67, 68, 70, 73; Sierra Leone, paras. 37-41; Zambia, paras. 7, 23, 24, 27; 1532nd meeting: Nepal, para. 41; Syria, paras. 71, 79, 80; USSR, paras. 30, 31; 1533rd meeting: Finland, paras. 51-55; Pakistan,\* paras. 7-10; United States, paras. 19-24; 1534th meeting: Spain, para. 44; United Kingdom, paras. 15, 26; 1535th meeting: Finland, paras. 7-14.



Power draft resolution voted upon and failed of adoption on the same day; the Finland draft resolution voted upon and adopted on 18 March 1970. [Resolution 277 (1970)]

[*Note:* It was maintained on the one hand that, in view of the deteriorating situation which had already been determined to constitute a threat to international peace and security, the Security Council must take effective measures under Chapter VII of the Charter to sever all relations with the illegal régime in Southern Rhodesia in order to bring it to an end and to extend the sanctions to South Africa and Portugal which had defied the decisions of the Council. It was contended, on the other hand, that the Security Council should concentrate on reaching a speedy and unanimous decision under Article 41 to deny recognition which the illegal régime sought by its proclamation of republican status rather than to adopt decisions which were not practicable.]

At the 1530th meeting on 6 March 1970, the President (Colombia) drew attention of the Security Council<sup>42</sup> to a draft resolution,<sup>43</sup> submitted by the United Kingdom on 3 March 1970, in which it was provided:

*"The Security Council,*

*"Recalling and reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965, 221 (1966) of 9 April 1966, 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968,*

*"...*

*"2. Decides, in accordance with Article 41 of the United Nations Charter, that all Member States of the United Nations shall refrain from recognizing the illegal régime or from rendering any assistance to it, and urges States not Members of the United Nations, having regard to the principles stated in Article 2 of the United Nations Charter, to act accordingly."*

In introducing the draft resolution, the representative of the United Kingdom said that the recent purported declaration by the illegal régime in Southern Rhodesia of a republican status was designed to achieve international recognition, without which the régime would have no future. The Security Council should therefore concentrate on reaching an urgent and unanimous decision to deny recognition to the illegal régime.

At the 1531st meeting on 11 March 1970, the representative of Zambia said that the measures proposed by the United Kingdom draft resolution were inadequate to achieve the purpose which had been professed by all members of the Security Council, namely, the removal of the illegal régime, the restoration of law and order and the granting of independence to the Territory on the basis of freedom and equality. It was time not only to deny recognition to the illegal régime but also to take effective measures to achieve the desired ends. All States must, in accordance with Chapter VII of the Charter, immediately sever all consular, economic, military or any other relations with the illegal régime, including rail, maritime and air transport as well as postal, telegraphic, radio and any other means of communication. The Security Council should also take appropriate measures under Chapter VII to

compel South Africa and Portugal to comply with its decisions.

At the same meeting, the representative of Sierra Leone said that, although his delegation had no differences with the call for non-recognition contained in the United Kingdom draft resolution, he felt that failure to take more forceful measures in the face of deteriorating situation would be tantamount to condoning the illegal régime. In view of the defiance of Security Council decisions by South Africa and Portugal, and since the Council had already determined that the situation in Southern Rhodesia constituted a threat to international peace and security, there was no alternative but to extend the sanctions to cover those two States under Articles 41 and 42 of the Charter.

The representative of Algeria stated that, in view of the failure of the economic sanctions previously adopted by the Security Council against Southern Rhodesia, the Council was duty bound to take broader and more effective measures in accordance with the Charter by extending the sanctions and barring all the doors to Southern Rhodesia, as well as South Africa and Portugal, in order to put an end to the illegal régime in Southern Rhodesia and to guarantee the security of the African continent.

At the 1532nd meeting on 12 March 1970, the President (Colombia) drew the attention of the Security Council<sup>44</sup> to a draft resolution<sup>45</sup> jointly submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia, in which it was provided:

*"The Security Council,*

*"...*

*"Deeply concerned that the situation in Southern Rhodesia has deteriorated further as a result of the proclamation of a so-called republic and that the measures so far taken have proved inadequate to resolve the situation in Southern Rhodesia,*

*"Gravely concerned further that the decisions taken by the Security Council have not been fully complied with by all States,*

*"Noting that the Governments of the Republic of South Africa and Portugal, in particular, in contravention of their obligation under Article 25 of the Charter of the United Nations, have not only continued to trade with the illegal racist minority régime of Southern Rhodesia, contrary to the terms of Security Council resolutions 232 (1966) and 253 (1968), but have in fact given assistance to that régime, enabling it to counter the effects of measures decided upon by the Security Council,*

*"...*

*"Acting under Chapter VII of the Charter of the United Nations,*

*"...*

*"2. Decides that all States Members of the United Nations shall refrain from recognizing the illegal régime and urges States not members of the Organization, having regard to the principles set out in Article 2 of the Charter of the United Nations, to act accordingly;*

<sup>42</sup> 1530th meeting, para. 4.

<sup>43</sup> S/9676/Rev.1, 1530th meeting, para. 9.

<sup>44</sup> 1532nd meeting, para. 3.

<sup>45</sup> S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161.

"3. *Calls upon* all States to take measures as appropriate, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in Southern Rhodesia or by persons and organizations purporting to act for it or in its behalf shall not be accorded any official recognition, including judicial notice, by the competent organs of their State;

". . .

"6. *Decides* that all States shall immediately sever all diplomatic, consular, economic, military and other relations with the illegal racist minority régime in Southern Rhodesia, including railway, maritime, air transport, postal, telegraphic and wireless communications and other means of communication;

". . .

"9. *Decides* that Member States and members of specialized agencies shall apply against the Republic of South Africa and Portugal the measures set out in resolution 253 (1968) and in the present resolution;

". . .".

At the same meeting, the representative of the USSR said that the five-Power draft resolution, whose purpose was to isolate the illegal régime in Salisbury politically, economically and in every other way, provided the necessary basis for finally turning the development of events in Southern Rhodesia in the direction of liberating the Zimbabwe people and eliminating the threat to peace in Africa.

The representative of Nepal stated that it was time that the nature and scope of the sanctions were extended also to the Governments which had defied them.

In introducing the five-Power draft resolution, the representative of Syria declared that a decision by the Security Council to bar recognition to the illegal régime and its so-called republican status was quite pertinent and was therefore embodied in that draft resolution. This was, however, only one aspect of the question. The Security Council must adopt effective measures to ensure the end of the illegal régime and to grant all the people of Zimbabwe their right to independence based on equality. Accordingly, the sponsors proposed that all States sever all relations with the illegal minority régime and apply the sanctions also to South Africa and Portugal.

At the 1533rd meeting on 13 March 1970, the representative of Pakistan\* contended that, since the Security Council had already determined the situation in Southern Rhodesia as constituting a threat to international peace and security and had initiated certain coercive measures under Chapter VII of the Charter, any further action to be taken by the Council must be judged solely by the criterion of effectiveness in forcing a reversal of the course adopted by the Salisbury régime. In this respect, another reaffirmation of the illegality of the régime would be totally ineffective. It was imperative that all States sever all relations with the illegal régime and that the sanctions be extended to South Africa and Portugal.

The representative of the United States called for a speedy and unanimous decision to deny recognition to the so-called republic of Southern Rhodesia. He ex-

pressed the view that, while the failure of South Africa and Portugal to adhere to the sanctions programme was regrettable, the application of sanctions to those two States would not be sufficiently supported by the international community, especially States most directly concerned, and would merely demonstrate the limitations of the United Nations and further entrench the Smith régime. His delegation was also opposed to imposing a communication ban, not only because of the traditional attachment of the United States to freedom of movement and speech, but also because it believed that cutting off communication and free flow of information would not contribute to a solution of the problem, but rather tend to harden further the attitude of the white minority.

The representative of Finland stated that in order to increase the international pressure against the illegal régime in Southern Rhodesia, the Security Council should decide, in accordance with Article 41 of the Charter, that all Member States should immediately sever all diplomatic, consular, trade, military and other relations with the Salisbury régime and also cut off all means of transportation to and from Southern Rhodesia. Steps should be taken to exclude Southern Rhodesia from participation in any specialized agencies and regional and other international organizations. The Council should also call upon Member States to make a greater effort to carry out more effectively the economic sanctions provided for in resolution 253 (1968).

At the 1534th meeting on 17 March 1970, the representative of the United Kingdom reiterated his Government's view that it was not possible and would be beyond the capacity of the Organization to initiate a major economic and strategic blockade of southern Africa, which would be required in order to extend sanctions against South Africa. He pointed out that his delegation's proposal was not mere reaffirmation of the condemnation of the illegal régime, but called for action on the question of recognition and of representation of the illegal régime, on which there was unanimous agreement in the Council.

The representative of Spain expressed the view that the policy of sanctions should be understood, within the context of the Charter, as a continuing and intensifying process directed toward the goal of putting an end to a situation which, under the terms of the Charter, had been determined to constitute a threat to international peace and security. In this respect, his delegation considered the proposal contained in the United Kingdom draft resolution to be inadequate, and called for a resolution which focused on the direct responsibility of the United Kingdom as the administering Power for Southern Rhodesia.

At the same meeting, the draft resolution submitted by the United Kingdom (S/9676/Rev.1) was voted upon and not adopted,<sup>46</sup> having failed to receive the affirmative vote of nine members, the result of the vote being 5 in favour, none against, with 10 abstentions.

The Security Council then proceeded to vote on the five-Power draft resolution (S/9696). Paragraph 9 was voted upon separately and was not adopted,<sup>47</sup> having received 7 votes in favour, none against, with 8 abstentions. The draft resolution as a whole, as modi-

<sup>46</sup> 1534th meeting, para. 185.

<sup>47</sup> *Ibid.*, para. 206.

fied, failed of adoption.<sup>48</sup> It received 9 votes in favour, 2 against, with 4 abstentions, negative votes being those of permanent members.

At the 1535th meeting on 18 March 1970, the representative of Finland introduced<sup>49</sup> a draft resolution,<sup>50</sup> which had been revised<sup>51</sup> as a result of consultations with the sponsors of the two earlier draft resolutions, provided that:

*"The Security Council,*

*" . . .*

*"Reaffirming that, to the extent not superseded in the present resolution, the measures provided for in resolutions 217 (1965), 232 (1966) and 253 (1968), as well as those initiated by Member States in implementation of those resolutions, shall continue in effect,*

*" . . .*

*"Acting under Chapter VII of the Charter,*

*" . . .*

*"2. Decides that Member States shall refrain from recognizing this illegal régime or from rendering any assistance to it;*

*"3. Calls upon Member States to take appropriate measures, at the national level, to ensure that any act performed by officials and institutions of the illegal régime in Southern Rhodesia shall not be accorded any recognition, official or otherwise, including judicial notice, by the competent organs of their State;*

*"8. Calls upon Member States to take more stringent measures in order to prevent any circumvention by their nationals, organizations, companies and other institutions of their nationality, of the decisions taken by the Security Council in resolutions 232 (1966) and 253 (1968), all provisions of which shall fully remain in force;*

*"9. Decides, in accordance with Article 41 of the Charter and in furthering the objective of ending the rebellion, that Member States shall:*

*"(a) Immediately sever all diplomatic, consular, trade, military and other relations that they may have with the illegal régime in Southern Rhodesia, and terminate any representation that they may maintain in the Territory;*

*"(b) Immediately interrupt any existing means of transportation to and from Southern Rhodesia;*

*"10. Requests the Government of the United Kingdom, as the administering Power, to rescind or withdraw any existing agreements on the basis of which foreign consular, trade and other representation may at present be maintained in or with Southern Rhodesia;*

*"11. Requests Member States to take all possible further action under Article 41 of the Charter to deal with the situation in Southern Rhodesia, not excluding any of the measures provided in that Article;*

*" . . ."*

In introducing the revised draft resolution, the repre-

<sup>48</sup> 1534th meeting, para. 207.

<sup>49</sup> 1535th meeting, paras. 4-16.

<sup>50</sup> S/9709, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 165-166.

<sup>51</sup> S/9709/Rev.1. Same text as resolution 277 (1970).

sentative of Finland drew attention to the revisions, which, *inter alia*, deleted the words "in accordance with Article 41 of the United Nations Charter" from operative paragraph 2, added the phrase "[resolutions 232 1966 and 253 (1968)], all provisions of which shall fully remain in force" at the end of operative paragraph 8, and added a new operative paragraph 10.

At the same meeting, the revised draft resolution (S/9709/Rev.1) submitted by Finland was voted upon and adopted<sup>52</sup> by 14 votes in favour, none against, with 1 abstention, as resolution 277 (1970).

CASE 6.<sup>53</sup> SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9976); and with the draft resolution submitted by the members of the Security Council (S/9980); the five-Power draft resolution voted upon and failed of adoption on 10 November 1970; the latter voted upon and adopted unanimously on 17 November 1970 [Resolution 288 (1970)]

[Note: In the course of the discussion, it was maintained that the Security Council must reaffirm its policy of sanctions against Southern Rhodesia and put it in proper perspective by affirming the goal of full application of the principle of self-determination and calling upon the administering Power not to grant independence without the fulfilment of majority rule. It was contended, on the other hand, that such a step would go beyond the powers of the Security Council.]

At the 1556th meeting on 10 November 1970, the President (Syria) drew the attention of the Security Council<sup>54</sup> to a draft resolution,<sup>55</sup> which had been submitted jointly on 6 November by Burundi, Nepal, Sierra Leone, Syria and Zambia, and in which it was provided:

*"The Security Council,*

*" . . .*

*"Gravely concerned that certain States have not complied with the provisions of resolution 232 (1966), 253 (1968) and 277 (1970), contrary to their obligations under Article 25 of the Charter of the United Nations,*

*"Reaffirming the primary responsibility of the Government of the United Kingdom to enable the people of Southern Rhodesia to achieve self-determination and independence, and in particular their responsibility of bringing the illegal declaration of independence to an end,*

*"Acting under Chapter VII of the United Nations Charter,*

*"1. Calls upon the United Kingdom as the administering Power not to grant independence to Southern Rhodesia without the fulfilment of majority rule;*

*"2. Decides that the present sanctions against Southern Rhodesia shall remain in force;*

*" . . .*

<sup>52</sup> 1535th meeting, para. 85.

<sup>53</sup> For texts of relevant statements, see: 1556th meeting: France, para. 167; Nepal, paras. 71-80; United Kingdom, paras. 134-136; United States, para. 222.

<sup>54</sup> 1556th meeting, para. 68.

<sup>55</sup> S/9976, OR, 25th yr., Suppl. for Oct.-Dec. 1970, pp. 36-37.

"4. *Further urges* all States in furtherance of the objectives of the Security Council not to grant any form of recognition to the illegal régime in Southern Rhodesia;

". . .".

In introducing the five-Power draft resolution, the representative of Nepal said that the third report of the Security Council Committee on Sanctions<sup>58</sup> and the Secretary-General's introduction to his annual report<sup>57</sup> gave incontrovertible evidence that the policies of sanctions had failed and that the situation in Southern Rhodesia, over which the Security Council had a particular and continuing responsibility, continued to be grave. Accordingly, the sponsors of the draft resolution called for the continuation of the present policies of sanctions and for their full implementation by all States. The Security Council should further urge all States not to grant any form of recognition to the illegal régime. Operative paragraph 1 of the draft resolution sought to clarify the central issue involved, namely, the existence of a racist minority régime which had denied the majority their inalienable right to self-determination. The responsibility of the United Nations and that of the administering Power did not end with the overthrow of the illegal régime; the goal was to bring about the effective and full application of the principle of self-determination. Accordingly, the draft resolution called upon the administering Power not to grant independence to Southern Rhodesia without the fulfilment of majority rule.

The representative of the United Kingdom reaffirmed that the first of the five principles adhered to by his Government concerning Southern Rhodesia was that "the principle and intention [of] unimpeded progress to majority rule would have to be maintained and guaranteed". The United Kingdom Government was committed to seeing that any settlement was acceptable to the Rhodesian people as a whole. It could not, however, accept any fresh commitment in the Security Council which would restrict it in any way in reaching such a settlement if that proved practicable.

<sup>58</sup> S/9844/Rev.1, OR, 25th yr., Special Supplement Nos. 3 and 3A.

<sup>57</sup> GAOR, 25th Sess., Supplement No. 1A.

The representative of France, recalling the letter<sup>58</sup> addressed by his delegation to the President of the Security Council on 31 March 1970, reaffirmed his Government's position that it had difficulty agreeing that Article 41 of the Charter empowered the Security Council to decide that Member States should refrain from recognizing as a State any particular political entity whose status was in dispute. Paragraph 1 of the draft resolution, therefore, seemed to be legally questionable, as its language seemed to go beyond the powers of the Council.

At the same meeting, the five-Power draft resolution (S/9976) was voted upon and failed of adoption.<sup>59</sup> It received 12 votes in favour, 1 against, with 2 abstentions, the negative vote being that of a permanent member.

After the vote, the representative of the United States said that his delegation had abstained in the voting on the five-Power draft resolution because of its serious reservations regarding operative paragraph 1. Although his Government consistently supported the right of the people of Southern Rhodesia to self-determination and majority rule, it seemed inconsistent to reiterate in the fourth preambular paragraph the primary responsibility of the United Kingdom for the achievement of self-determination in Southern Rhodesia, and immediately thereafter in operative paragraph 1 to prescribe in advance under Chapter VII of the Charter how and when that goal was to be achieved.

At the 1557th meeting on 17 November 1970, the President (Syria) announced<sup>60</sup> that, during consultations held since the previous meeting, a draft resolution<sup>61</sup> on the question had been prepared that appeared to have the support of all the members of the Council. He added that the French delegation repeated the reservations which it had expressed on 10 November, but it had nevertheless associated itself with the consensus in favour of the adoption of the draft resolution.

The draft resolution was immediately voted upon and was adopted unanimously<sup>62</sup> as resolution 288 (1970).

<sup>58</sup> S/9732, OR, 25th yr., Suppl. for April-June 1970, p. 140.

<sup>59</sup> 1556th meeting, para. 212.

<sup>60</sup> 1557th meeting, paras. 1-2.

<sup>61</sup> S/9980, same text as resolution 288 (1970).

<sup>62</sup> 1557th meeting, para. 3.

### Part III

## CONSIDERATION OF THE PROVISIONS OF ARTICLES 42-47 OF THE CHARTER

### NOTE

No decision was taken by the Security Council during the period under review concerning the use of force or the application of Article 42 of the Charter. In one instance,<sup>63</sup> a draft resolution calling upon the administering Power of a Non-Self-Governing Territory to take all necessary measures, including the use of force, under Chapter VII of the Charter in a situation which had been determined to constitute a threat to international peace and security was not adopted.

The constitutional issues dealt with during the con-

sideration of that draft resolution concerned the circumstances in which the Security Council could call for the use of force and the need to consult the State which was being requested to use it.<sup>64</sup>

No questions arose in the Security Council during the period under review concerning the application and interpretation of Articles 43-47 of the Charter.

<sup>64</sup> A draft resolution which, *inter alia*, condemned the administering Power for refusing to use force failed of adoption without, however, any constitutional discussion concerning Article 42; see S/9696, OR, 25th yr., Suppl. for Jan.-March 1970, pp. 160-161.

<sup>63</sup> Case 7 below.

CASE 7.<sup>65</sup> SITUATION IN SOUTHERN RHODESIA: In connexion with the draft resolution submitted by Algeria, Nepal, Pakistan, Senegal and Zambia (S/9270/Rev.1); voted upon and not adopted on 24 June 1969

[*Note:* In the course of the discussion, it was maintained that, in view of the failure of the economic sanctions previously imposed against Southern Rhodesia to achieve their ends, the Security Council should apply effective measures including the use of force under Article 42. It was contended, on the other hand, that every possible alternative should be explored before the use of force, and that the Security Council could decide upon the use of force only in consultation with the State which was being requested to implement it.]

At the 1479th meeting on 19 June 1969, the representative of Algeria introduced<sup>66</sup> a draft resolution<sup>67</sup> jointly submitted by Algeria, Nepal, Pakistan, Senegal and Zambia, in which it was provided:

*"The Security Council,*

*" . . .*

*"Gravely concerned that the measures so far taken have failed to resolve the situation in Southern Rhodesia,*

*" . . .*

*"Affirming the primary responsibility of the Government of the United Kingdom to enable the people of Zimbabwe (Southern Rhodesia) to exercise their right of self-determination and independence,*

*" . . .*

*"Acting under Chapter VII of the Charter of the United Nations,*

*" . . .*

*"2. Urges the United Kingdom, as the administering Power, to take urgently all necessary measures, including the use of force, to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe (Southern Rhodesia) to exercise*

<sup>65</sup> For texts of relevant statements, see: 1475th meeting: Senegal, paras. 49, 63; Zambia, paras. 32-43; 1476th meeting: Nepal, para. 21; 1477th meeting: Somalia,\* para. 88; Tanzania, paras. 42-48; 1478th meeting: India,\* paras. 11-18; Sudan,\* para. 32; 1479th meeting: Algeria paras. 13, 17; United Kingdom, paras. 30-33; 1480th meeting: Burundi, paras. 29-34; 1481st meeting: Colombia, para. 109.

<sup>66</sup> 1479th meeting, para. 7.

<sup>67</sup> S/9270/Rev.1, *OR*, 24th yr., *Suppl. for April-June 1969*, p. 338.

their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV);

*" . . ."*

In the course of the discussion, a number of representatives stated that the economic sanctions imposed against Southern Rhodesia by previous resolutions<sup>68</sup> of the Security Council had failed to achieve their objective of putting an end to the illegal minority régime and achieving the effective application of the principle of self-determination, and that, therefore, the Security Council must apply further effective measures under Articles 41 and 42 of the Charter and call upon the administering Power to take all necessary measures including the use of force to end the rebellion in Southern Rhodesia and enable the people of Zimbabwe to exercise their right to self-determination and independence.

At the 1479th meeting on 19 June 1969, the representative of the United Kingdom referred to the calls for his Government to use force against Southern Rhodesia and said that, since Rhodesia was first formed as a self-governing colony in 1923, there had never been any British army there, and thus it was not a question of merely taking local action in order to maintain order but was a question of an invasion and of starting a war. Once force was used, escalation could easily ensue and its consequences were incalculable. In view of that, the United Kingdom was opposed to starting a war and believed that, rather than the use of force, every possible alternative should be explored. He added that since the demand was that his country should undertake the military expedition, his Government had a right to be consulted.

At the 1481st meeting on 24 June 1969, the five-Power draft resolution was voted upon and not adopted,<sup>69</sup> having received 8 votes in favour, none against, with 7 abstentions.

After the vote, the representative of Colombia observed that the use of force was a step of such extreme gravity and such unpredictable consequences that force could be used only after every alternative had been exhausted.

<sup>68</sup> Resolutions 232 (1966) of 16 December 1966 and 253 (1968) of 29 May 1968.

<sup>69</sup> 1481st meeting, para. 78.

## Part IV

### CONSIDERATION OF THE PROVISIONS OF ARTICLES 48-51 OF THE CHARTER

#### NOTE

Two resolutions adopted by the Security Council during the period under review contained provisions which might be considered to have some bearing on Article 49 of the Charter. In one instance,<sup>70</sup> the Security Council invited all States to exert their influence in order to obtain compliance by a Government with the provisions of that resolution; in the other,<sup>71</sup> the Security Council called upon Member States, in par-

ticular those with primary responsibility under the Charter for the maintenance of international peace and security, to assist effectively in the implementation of the measures called for by that resolution.

A provision in a resolution<sup>72</sup> adopted by the Security Council might be deemed to have been implicitly under Article 50 of the Charter. In it, the Security Council requested Member States, the United Nations, the specialized agencies and other international organizations in the United Nations system to make an urgent effort to increase their assistance to a State as a mat-

<sup>70</sup> Resolution 264 (1969), para. 7; see in chapter VIII, p. 100.

<sup>71</sup> Resolution 277 (1970), para. 17; see in chapter VIII, p. 132.

<sup>72</sup> Resolution 277 (1970), para. 16; see in chapter VIII, p. 132.

ter of priority with a view to helping it solve such special economic problems as it might be confronted with arising from the carrying out of the decisions of the Security Council.

Explicit references to Article 51 were made in connexion with the situation in the Middle East;<sup>73</sup> the

<sup>73</sup> 1470th meeting: China, para. 50.

complaint by Zambia;<sup>74</sup> the complaint by Senegal;<sup>75</sup> the complaint by Guinea;<sup>76</sup> and the question of race conflict in South Africa.<sup>77</sup>

<sup>74</sup> 1486th meeting: Portugal, para. 72; Zambia, para. 57; 1487th meeting: Hungary, para. 26.

<sup>75</sup> 1520th meeting: Portugal, para. 14; 1600th meeting: Poland, para. 59.

<sup>76</sup> 1524th meeting: Portugal, para. 81.

<sup>77</sup> 1547th meeting: France, para. 48.

## Part V

### CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER IN GENERAL

#### NOTE

During the period under review, no issue arose which concerned the application and interpretation of Chapter VII of the Charter in general. Two decisions<sup>78</sup> were taken by the Security Council which contained explicit references to Chapter VII, but without any constitutional discussion bearing on Chapter VII in general. Four letters of submission<sup>79</sup> explicitly called for consideration of an item by the Security Council under Chapter VII of the Charter, and references to Chapter VII or calls for measures under Chapter VII were made during the consideration by the Security Council of a number of items. Explicit references to Chapter VII were made in connexion with the consideration of the following items by the Security Council: the situation in Namibia;<sup>80</sup> the situation in the

Middle East;<sup>81</sup> the situation in Southern Rhodesia;<sup>82</sup> the question of race conflict in South Africa;<sup>83</sup> the complaint by Guinea;<sup>84</sup> the complaint by Senegal;<sup>85</sup> the complaint by Zambia;<sup>86</sup> and the situation in the India/Pakistan subcontinent.<sup>87</sup>

1588th meeting: France, para. 18; Sudan,\* para. 83; 1593rd meeting: Syria, paras. 69, 76, 77, 81; 1594th meeting: Belgium, para. 51; Liberia,\* paras. 19, 20, 36, 37, 39;

1595th meeting: India,\* paras. 62, 65.

<sup>81</sup> 1466th meeting: Jordan,\* para. 54;

1472nd meeting: Jordan,\* para. 62;

1537th meeting: Lebanon,\* para. 24;

1542nd meeting: Lebanon,\* para. 124; Poland, para. 105; Syria, paras. 80, 81, 82, 83, 84; USSR, para. 53;

1551st meeting: Lebanon,\* para. 25;

1579th meeting: Jordan,\* para. 86;

1580th meeting: Egypt,\* para. 105;

1581st meeting: Syria, para. 121;

1582nd meeting: Egypt,\* para. 267; Syria, para. 150; USSR, para. 31.

<sup>82</sup> 1475th meeting: Pakistan, paras. 87, 93, 94; Zambia, paras. 33, 34, 35;

1476th meeting: Finland, para. 58;

1477th meeting: Somalia,\* para. 87; Tanzania,\* para. 48;

1479th meeting: Algeria, para. 8;

1481st meeting: Zambia, paras. 90-93;

1531st meeting: Sierra Leone, para. 41; Zambia, paras. 18, 24, 27;

1532nd meeting: Syria, para. 73;

1533rd meeting: Pakistan,\* paras. 6, 7, 12;

1535th meeting: France, para. 95;

1556th meeting: Nepal, paras. 71, 78; United States, para. 222;

1557th meeting: Nepal, paras. 10, 11;

1602nd meeting: Saudi Arabia,\* para. 110.

<sup>83</sup> 1545th meeting: Somalia,\* paras. 49, 60;

1546th meeting: Pakistan,\* para. 150; Sierra Leone, para. 92;

1547th meeting: France, paras. 47, 48;

1549th meeting: United Kingdom, para. 24.

<sup>84</sup> 1560th meeting: Southern Yemen,\* para. 9; United Arab Republic,\* para. 60;

1561st meeting: Poland, paras. 69, 70; Somalia,\* para. 137; Syria, para. 50; Uganda,\* para. 88; Zambia, para. 20;

1562nd meeting: Burundi, para. 54;

1563rd meeting: Finland, para. 120; France, para. 129; Guinea,\* para. 167; Pakistan,\* para. 36; Saudi Arabia,\* para. 63; USSR, para. 179; United Kingdom, para. 145; United States, paras. 52, 54.

<sup>85</sup> 1586th meeting: Sierra Leone, para. 67; USSR, para. 80.

<sup>86</sup> 1592nd meeting: Zambia,\* para. 45.

<sup>87</sup> 1621st meeting: Pakistan,\* para. 104.

<sup>78</sup> Resolutions 277 (1970) and 288 (1970). For references to chapter VII in these resolutions, see part I of this chapter.

<sup>79</sup> S/9237 and Add. 1 and 2, *OR, 24th yr., Suppl. for April-June 1969*, p. 187, in connexion with the situation in Southern Rhodesia; S/9372 and Add. 1-3, *OR, 24th yr., Suppl. for July-Sept. 1969*, p. 147, in connexion with the situation in Namibia; S/9524 and Add. 1, *OR, 24th yr., Suppl. for Oct.-Dec. 1969*, p. 144, in connexion with the complaint by Senegal; and S/9549, *ibid.*, p. 154, in connexion with the complaint by Guinea. See also the tabulation in chapter X, part III.

<sup>80</sup> 1464th meeting: Nepal, paras. 89, 92; Pakistan, paras. 119, 123; Zambia, paras. 43, 59;

1465th meeting: United Kingdom, para. 93; United States, para. 15;

1492nd meeting: Zambia, paras. 40, 41, 44;

1493rd meeting: Algeria, para. 18; Pakistan, para. 61;

1494th meeting: Finland, para. 15; Senegal, para. 35;

1495th meeting: China, para. 33;

1496th meeting: United Kingdom, para. 10; United States, paras. 21, 22, 23, 25;

1497th meeting: Nepal, para. 17; Zambia, paras. 6, 7;

1527th meeting: Finland, paras. 35, 36, 37; Zambia, para. 56;

1528th meeting: Nepal, para. 128; Turkey,\* para. 27;

1529th meeting: India,\* para. 82; Pakistan, paras. 116, 117, 122, 123; USSR, para. 188; United Kingdom, para. 33;

1550th meeting: Nepal, paras. 79, 80; Syria, para. 91; Zambia, para. 103;

1583rd meeting: Mauritania,\* paras. 17, 19;

1584th meeting: Somalia, paras. 178, 191; South Africa,\* para. 106;

1585th meeting: Liberia,\* para. 39;

1587th meeting: Mauritius,\* para. 80; Nigeria,\* para. 63;