

**Chapter XI**

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

**CONTENTS**

	<i>Page</i>
INTRODUCTORY NOTE .....	219
<b>PART I. CONSIDERATION OF THE PROVISIONS OF ARTICLES 39 THROUGH 42 OF THE CHARTER</b>	
Note .....	220
<b>PART II. CONSIDERATION OF THE PROVISIONS OF ARTICLES 43-47 OF THE CHARTER</b>	
Note .....	222
<b>PART III. CONSIDERATION OF THE PROVISIONS OF ARTICLES 48-51 OF THE CHARTER</b>	
Note .....	222
<b>PART IV. CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER IN GENERAL</b>	
Note .....	224

## INTRODUCTORY NOTE

The present *Supplement*, like the two preceding ones, presents, in chapter XI, the decisions of the Security Council which either constitute explicit applications or might be considered as implicit applications, of the provisions of Chapter VII of the Charter. 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 forces 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 measures 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 fulfilment 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 applications 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 THROUGH 42 OF THE CHARTER

## NOTE

Due to the frequently interconnected nature of the Security Council proceedings involving especially Articles 39 and 41, Articles 39 through 42 are considered together, rather than separately, in this *Supplement*.

During the period under review, the Security Council has not taken any decisions explicitly under Article 39 of the Charter. It has, however, decided in three instances<sup>1</sup> to reiterate its determination that the situation under consideration constituted a threat to international peace and security: in two of these cases the Council recalled a previous resolution<sup>2</sup> in which Article 39 had been invoked, whereas in the third case the Council reaffirmed that decision without recalling the particular resolution.<sup>3</sup> In another case<sup>4</sup> the Council implicitly referred to Article 39 by recalling and enumerating all previous relevant decisions and by adding that the Council was "acting in accordance with previous decisions on Southern Rhodesia, taken under Chapter VII of the Charter." On two other occasions, when the Council considered draft resolutions regarding the same agenda item,<sup>5</sup> these texts included a determination that the situation in Southern Rhodesia constituted a serious threat to international peace and security, and in one of these cases<sup>6</sup> the previous resolutions on that item were noted by the Council; both draft resolutions failed of adoption owing to the negative votes of permanent members.

In connexion with other agenda items the Council took decisions some provisions of which might be considered to constitute implicit references to the language of Article 39. These instances are briefly listed as follows:

<sup>1</sup> Resolutions 326 and 327 (1973) of 2 February 1973 and resolution 328 (1973) of 10 March 1973 in connexion with the complaint by Zambia. The adoption of none of these resolutions was preceded by a constitutional discussion bearing on Article 39.

<sup>2</sup> Resolution 232 (1966) of 16 December 1966 in connexion with the situation in Southern Rhodesia.

<sup>3</sup> Resolution 328 (1973) did not recall resolution 232 (1966).

<sup>4</sup> Resolution 314 (1972) of 28 February 1972 in connexion with the situation in Southern Rhodesia.

<sup>5</sup> S/10606, *OR*, 27th yr., *Suppl. for Jan.-March 1972*, pp. 82-83, and S/10928, *OR*, 28th yr., *Suppl. for April-June 1973*, p. 36. No constitutional discussion regarding Article 39 took place.

<sup>6</sup> S/10606.

Resolution 311 (1972), preambular paragraph 5:

*Gravely concerned* that the situation in South Africa seriously disturbs international peace and security in southern Africa,<sup>7</sup>

Resolution 312 (1972), paragraph 3:

*Again affirms* that the situation resulting from the policies of Portugal both in its colonies and in its constant provocations against the neighbouring States seriously disturbs international peace and security in the African continent;<sup>8</sup>

Resolution 353, preambular paragraph 5:

*Gravely concerned* about the situation which has led to a serious threat to international peace and security, ...<sup>9</sup>

Resolution 360, preambular paragraph 3:

*Gravely concerned* at the deterioration of the situation in Cyprus, resulting from the further military operations, which constituted a most serious threat to peace and security in the Eastern Mediterranean area,<sup>10</sup>

Several draft resolutions which either were not voted upon or failed of adoption contained similar language possibly referring implicitly to Article 39. Since the relevant proceedings do not permit definite classification of these instances as not falling under Article 39, they are also identified and quoted in the following:

S/10834, paragraph 2:

*Reaffirms* that the situation resulting both from the colonialist policy of Portugal in those Territories and from the constant aggressions by Portuguese military forces against independent African States adjacent to those Territories seriously disturbs international peace and security in the African continent;<sup>11</sup>

S/10839, paragraph 1:

Same as S/10834, paragraph 2;

S/10839, paragraph 3:

*Affirms* that the military and other forms of assistance that certain military allies of Portugal within the North Atlantic Treaty

<sup>7</sup> In connexion with the question of race conflict in South Africa.

<sup>8</sup> In connexion with the situation in Territories under Portuguese Administration.

<sup>9</sup> In connexion with the situation in Cyprus.

<sup>10</sup> In connexion with the situation in Cyprus.

<sup>11</sup> In connexion with the situation in Territories under Portuguese Administration, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, pp. 47-48.

Organization supply to the Government of Portugal permits it to pursue its policy of colonial domination and repression against the peoples of Angola, Guinea (Bissau) and Cape Verde, and Mozambique, thus endangering the peace and international security on the African continent;<sup>12</sup>

S/11346, preambular paragraph 4:

*Gravely concerned* about the situation which carries a serious threat to international peace and security,<sup>13</sup>

S/11346/Rev.1, preambular paragraph 4:

*Gravely concerned* about the situation which may lead to a serious threat to international peace and security,<sup>14</sup>

S/11391, preambular paragraph 1:

*Having considered* the development of events in Cyprus, which creates a serious threat to international peace and security,<sup>15</sup>

On one occasion, a letter of submission requesting consideration of a question by the Council explicitly invoked Article 39 together with Articles 34 and 35.<sup>16</sup> Several other letters of submission employed language similar to that of Article 39.<sup>17</sup>

A few explicit references to Article 39 were made during the Council proceedings,<sup>18</sup> but there were numerous statements which might be interpreted as implicit references to the Article, usually in the form of an appeal to the Council to recognize a particular situation as a threat to international peace and security and to initiate the corresponding measures under the Charter.<sup>19</sup>

During the period under review, the Council took no decision explicitly under Article 40 of the Charter. The question whether there have been any resolutions or decision proposals containing implicit references to that Article, cannot be simply answered in the affirmative because the action considered by the Council and the accompanying proceedings did not contain indications as to whether the Council as a whole was in any form acting in accordance with the provision of Article 40. Furthermore there has been no constitutional discussion regarding the Article, but merely occasional references to it or an invocation of its language in order to support a specific demand relating to the question under consideration.

<sup>12</sup> In connexion with the same agenda item, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, p. 51.

<sup>13</sup> In connexion with the situation in Cyprus, *OR*, 29th yr., *Suppl. for July-Sept. 1974*, pp. 28-29.

<sup>14</sup> In connexion with the same agenda item, *ibid.*, p. 29.

<sup>15</sup> In connexion with the same agenda item, *ibid.*, p. 70.

<sup>16</sup> S/10995, *OR*, 28th yr., *Suppl. for July-Sept. 1973*, p. 31, in connexion with the complaint by Cuba.

<sup>17</sup> See the tabulation in part III of chapter X.

<sup>18</sup> In connexion with the complaint by Cuba: 1741st meeting: Chile; 1742nd meeting: President (Yugoslavia); in connexion with the Relationship between the United Nations and South Africa: 1800th meeting: Uganda; 1802nd meeting: Barbados; in connexion with the situation in Cyprus: 1810th meeting: Cyprus, and in connexion with the situation in Namibia: 1812th meeting: United Kingdom.

<sup>19</sup> These statements occurred especially in connexion with the relationship between the United Nations and South Africa, the situation in Territories under Portuguese Administration, and the situation in Namibia, but also during the consideration of the situation in the Middle East; the complaint by Cuba; consideration of questions relating to Africa; the complaint by Senegal; the consideration of measures for the maintenance and strengthening of international peace and security in Latin America; the situation in Cyprus; and the complaint by Zambia.

Those decisions and statements which might contain implicit references to Article 40, are briefly summarized below.

The Council issued several urgent appeals for an immediate cease-fire following the outbreak of overt military hostilities in the Middle East and in Cyprus.<sup>20</sup> It called also for the observance of an arms embargo against South Africa together with some other measures designed to ease the dangerous situation in southern Africa<sup>21</sup> and called upon Portugal to cease the colonial wars against the peoples of Angola, Mozambique and Guinea (Bissau) and to refrain from further impeding their liberation and independence.<sup>22</sup>

During the consideration of the relationship between the United Nations and South Africa, two representatives invoked Article 40 explicitly, contending that the arms embargo against South Africa had been initiated in 1963 under that Article.<sup>23</sup>

During the period under review, the Council has not taken any new decision explicitly under Article 41 of the Charter. It did, however, recall or reaffirm two previous resolutions<sup>24</sup> which included explicit invocation of the Article.<sup>25</sup> One resolution<sup>26</sup> contained the phrase "Acting in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter." In the case of another resolution<sup>27</sup> the Council reaffirmed a previous resolution that listed the full range of economic sanctions imposed by the Council against Southern Rhodesia.<sup>28</sup> These decisions thus contained at least implicit references to Article 41.

<sup>20</sup> Resolutions 338, 339 and 340 (1973) in connexion with the Middle East, and resolutions 353, 354, 357, 358 and 360 (1974) in connexion with the situation in Cyprus. See here also the draft resolutions S/11346, S/11346/Rev.1, S/11391, and S/11450, *OR*, 29th yr., *Suppl. for July-Sept. 1974*, pp. 28-29, 70, 105-106, regarding Cyprus. Resolution 313 (1972) regarding a complaint by Lebanon against Israel might be interpreted as an implicit reference to Article 40, especially since the representatives of Yugoslavia and Lebanon called the Council decision an interim resolution and a provisional measure respectively (1644th meeting, paras. 249, 259).

<sup>21</sup> See resolution 311 (1972), especially paras. 4-6, in connexion with the question of race conflict in South Africa.

<sup>22</sup> See resolutions 312 (1972), paras. 4-6 and 322 (1972), paras. 2 and 3, also the draft resolutions S/10834, paras. 4, 6-10, and S/10839, paras. 4-6, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, pp. 47-48, 51, regarding the situation in the Territories under Portuguese Administration.

<sup>23</sup> 1801st meeting: Madagascar; 1802nd meeting: Barbados, in connexion with the relationship between the United Nations and South Africa. For statements which might contain implicit references to Article 40 see 1672nd meeting: Ethiopia; 1673rd meeting: Somalia; Madagascar; 1674th meeting: USSR; 1676th meeting: Yugoslavia; China; 1677th meeting: India, in connexion with the situation in Territories under Portuguese Administration. See also the reference to the 1644th meeting in note 20 above.

<sup>24</sup> Resolutions 232 (1966) and 277 (1970).

<sup>25</sup> Resolution 232 (1966) was recalled in resolution 314 (1972), 326, 327 and 333 (1973); resolution 277 (1970) was recalled in resolutions 314 and 318 (1972), and resolutions 326, 327, 328, 329 and 333 (1973).

<sup>26</sup> Resolution 314 (1972), preambular paragraph 5.

<sup>27</sup> Resolution 320 (1972).

<sup>28</sup> Resolution 253 (1968).

Those draft resolutions that failed of adoption,<sup>29</sup> referred to Article 41 only implicitly. In the case of two draft resolutions<sup>30</sup> which were revised and adopted, the revisions amounted to the deletion of two similar expressions invoking Chapter VII and urging the Council Committee established in pursuance of resolution 253 (1968) to report on the question of further action under that Chapter against Southern Rhodesia and of initiating such action against South Africa and Portugal.<sup>31</sup>

None of these decisions engendered a constitutional discussion concerning Article 41, but merely the re-statement of previously stated positions. The repeated demand by some Member States for an expansion of the sanctions against Southern Rhodesia by application of all the measures under Article 41 including a communications ban and the rejection of this proposal by others on practical political grounds should, however, be mentioned here.<sup>32</sup>

During the Council proceedings there were numerous explicit references to Article 41.<sup>33</sup> Implicit references,

<sup>29</sup> S/10606, recalling resolution 232 (1966), *OR*, 27th yr., *Suppl. for Jan.-March 1972*, pp. 82-83; S/10805, also recalling resolution 232 (1966), *ibid.*, *Suppl. for July-Sept. 1972*, pp. 108-110; S/10928, *OR*, 28th yr., *Suppl. for April-June 1973*, p. 36.

<sup>30</sup> S/10804, *OR*, 27th yr., *Suppl. for July-Sept. 1972*, p. 108, and S/10898, *OR*, 28th yr., *Suppl. for Jan.-March 1973*, pp. 54-55.

<sup>31</sup> In S/10804, para. 4, the words "including action under Chapter VII of the Charter" were deleted, and in S/10898, para. 6, the phrase "and the desirability of the application of Chapter VII of the United Nations Charter" was deleted.

<sup>32</sup> For relevant statements see in connexion with the situation in Southern Rhodesia: 1663rd meeting: Senegal; 1664th meeting: USSR; 1665th meeting: France; 1714th meeting: Kenya; USSR. In connexion with the complaint by Zambia: 1687th meeting: Ghana; Tanzania; United Kingdom; 1689th meeting: Somalia; United States; 1693rd meeting: USSR.

<sup>33</sup> In connexion with the Consideration of questions relating to Africa: 1629th meeting: Chairman, Special Comm. of Twenty-Four;

usually in the form of remarks about sanctions and other mandatory measures, also occurred very frequently. These implicit references were made most often in connexion with southern African issues, but also quite frequently during the consideration of the situation in the Middle East and in Cyprus.

Article 42 of the Charter was not invoked in any decision of the Council. Participants in the Council proceedings did refer to the Article both explicitly<sup>34</sup> and implicitly<sup>35</sup> in debating the question whether the Council should decide to use force under Chapter VII of the Charter.

1630th meeting: Yugoslavia. In connexion with the situation in Southern Rhodesia: 1664th meeting: USSR; 1714th meeting: Kenya; USSR. In connexion with the situation in the Middle East: 1643rd meeting: Saudi Arabia. In connexion with the complaint by Zambia: 1687th meeting: Ghana; Tanzania; 1693rd meeting: USSR; 1694th meeting: Kenya. In connexion with the situation in Cyprus: 1781st meeting: Costa Rica; 1810th meeting: Cyprus. In connexion with the Relationship between the United Nations and South Africa: 1801st meeting: Madagascar; 1802nd meeting: Barbados; 1804th meeting: Congo; 1806th meeting: Kenya; Peru.

<sup>34</sup> Article 42 was explicitly invoked in connexion with the Consideration of questions relating to Africa: 1630th meeting: Yugoslavia; also in connexion with the complaint by Zambia: 1687th meeting: Ghana; 1694th meeting: Kenya; in connexion with the situation in Cyprus: 1781st meeting: Costa Rica; 1810th meeting: Cyprus; and in connexion with the Relationship between the United Nations and South Africa: 1800th meeting: Uganda; 1801st meeting: Madagascar; 1802nd meeting: Barbados; 1804th meeting: Congo; 1806th meeting: Kenya.

<sup>35</sup> Implicit references to Article 42 were made in connexion with the Consideration of questions relating to Africa: 1633rd meeting: Mr. Mucshihange; Mr. Nzo; Mr. Telli; 1635th meeting: United States; also in connexion with the situation in Southern Rhodesia: 1664th meeting: Guinea; further in connexion with the situation in Namibia: 1679th meeting: Zambia.

## Part II

### CONSIDERATION OF THE PROVISIONS OF ARTICLES 43-47 OF THE CHARTER

#### NOTE

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

## Part III

### 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 relating to Articles 49 and 50 of the Charter. Responding to the complaint by Zambia against acts of aggression by the illegal régime of Southern Rhodesia, the Council decided in

the first resolution<sup>36</sup> to dispatch a mission to assess the economic needs of Zambia arising from its full implementation of sanctions against the régime, and in the second resolution<sup>37</sup> to appeal to all States for immediate assistance

<sup>36</sup> Resolution 327 (1973). See case 1.

<sup>37</sup> Resolution 328 (1973). See case 1.

to Zambia and to request the Secretary-General as well as the United Nations and its specialized agencies to organize all forms of assistance to enable Zambia to continue its policy of economic independence from the Southern Rhodesian régime.

During the Council proceedings explicit references were made to Article 48,<sup>38</sup> Article 49,<sup>39</sup> Article 50,<sup>40</sup> and Article 51.<sup>41</sup>

Case 1. *Complaint by Zambia*: In connexion with a draft resolution submitted by Guinea, Kenya, Sudan and Yugoslavia (S/10876), replaced by (S/10876/Rev.1), voted upon and adopted on 2 February 1973 as resolution 327 (1973), and a second draft resolution submitted by Guinea, India, Kenya, Sudan and Yugoslavia (S/10899), subsequently revised and sponsored in addition by Indonesia, Panama and Peru (S/10899/Rev.1), voted upon and adopted as resolution 329 (1973).

During the consideration of the complaint by Zambia a large number of speakers expressed their strong appreciation of the selfless manner with which Zambia had been implementing the economic sanctions against Southern Rhodesia, regardless of the severe hardships for its own economy, and unanimously considered its request for international aid in accordance with Articles 49 and 50 as fully justified under the Charter of the United Nations and the previous decisions of the Security Council. The only issue that caused some disagreement was whether the Council should appoint a mission or a team of experts to assess the needs of Zambia.<sup>42</sup>

<sup>38</sup> In connexion with the complaint by Zambia: 1694th meeting: Kenya. In connexion with the relationship between the United Nations and South Africa: 1806th meeting: Kenya.

<sup>39</sup> In connexion with the complaint by Zambia: 1687th meeting: Ghana; Yugoslavia; 1688th meeting: Kenya; 1689th meeting: Somalia; Austria; 1690th meeting: Sudan. In connexion with the relationship between the United Nations and South Africa: 1806th meeting: Kenya.

<sup>40</sup> In connexion with the complaint by Zambia: 1687th meeting: Ghana; Yugoslavia; 1688th meeting: Kenya; 1689th meeting: Austria; 1690th meeting: Sudan; 1693rd meeting: Guinea; 1694th meeting: United Kingdom.

<sup>41</sup> In connexion with the situation in the Middle East: 1644th meeting: Argentina; 1650th meeting: Belgium; 1709th meeting: Panama; President (Peru); 1725th meeting: Israel; President (USSR); 1733rd meeting: Israel; 1739th meeting: Peru; 1745th meeting: USSR; 1767th meeting: Israel; 1768th meeting: President (Iraq); 1769th meeting: Costa Rica. In connexion with the complaint by Cuba: 1742nd meeting: Chile. Although none of the decisions had any bearing on Article 51 or the right of self-defence, various issues in the discussions concerning the Middle East led to noteworthy arguments relating to the interpretation of the principle of self-defence. During the 1644th meeting Argentina pointed out that the permissibility of acts of "self-defence" must be established in terms of need and proportionality, a standard which Israel's reprisals against Lebanon did not fulfil. At the 1650th meeting France also emphasized the criterion of proportionality for legitimate self-defence, whereas Belgium stressed that self-defence could not be invoked continually, but only for a single case of aggression at a time. Panama (1709th meeting) held that a punitive action could not be called self-defence under Article 51. At the 1768th meeting the President (Iraq) quoted Lauterpacht according to whom the legality of acts of "self-defence" was to be determined by an organ like the Security Council or an international judicial body.

<sup>42</sup> For relevant statements see 1687th meeting: Ghana; Tanzania; Morocco; Yugoslavia; 1688th meeting: Chile; Kenya; India; 1689th meeting: Somalia; Australia; Austria; Sudan; 1690th

At the 1690th meeting two draft resolutions (S/10875<sup>43</sup> and S/10876<sup>44</sup>) sponsored by Guinea, Kenya, Sudan and Yugoslavia, were introduced. At the 1691st meeting they were replaced by revised texts (S/10875/Rev.1 and S/10876/Rev.1) which were sponsored in addition by India and Indonesia and adopted by the Council as resolutions 326 and 327 (1973). Whereas resolution 326 (1973) concerned political aspects of the complaint by Zambia, resolution 327 (1973) addressed the issue of economic assistance to Zambia. Resolution 327 (1973) provided *inter alia* as follows:

*The Security Council,*

...

1. *Commends* the Government of Zambia for its decision to sever all remaining economic and trade relations with Southern Rhodesia in compliance with the decisions of the Security Council;

2. *Takes cognizance* of the special economic hardships confronting Zambia as a result of its decision to carry out the decisions of the Security Council;

3. *Decides* to entrust the Special Mission, consisting of four members of the Security Council, referred to in paragraph 9 of resolution 326 (1973), assisted by a team of six United Nations experts, to assess the needs of Zambia, in maintaining alternative systems of road, rail, air and sea communications for the normal flow of traffic;

4. *Further requests* the neighbouring States to accord the Special Mission every co-operation in the discharge of its task;

5. *Requests* the Special Mission to report to the Security Council not later than 1 March 1973.

Under the mandate of resolution 326 (1973) the Security Council Special Mission consisting of representatives of Austria, Indonesia, Peru and the Sudan, submitted its report including the report of the team of United Nations experts designated in accordance with resolution 327 (1973),<sup>45</sup> on 5 March 1973 to the Council. The report clearly demonstrated the economic needs of Zambia and contained detailed proposals for international assistance.

During the following Council meetings devoted to the complaint by Zambia, Guinea, India, Kenya, Sudan and Yugoslavia submitted another two draft resolutions (S/10898 and S/10899)<sup>46</sup> of which the latter dealt with the aspect of economic assistance. Both drafts were revised with Indonesia, Panama and Peru as additional sponsors, and at the 1694th meeting adopted as resolutions 328 and 329 (1973). Resolution 329 (1973) read *inter alia* as follows:

meeting: Guyana; Sudan; 1691st meeting: USSR; 1692nd meeting: Indonesia; Zambia; 1693rd meeting: Guinea; Kenya; 1694th meeting: India; United Kingdom.

<sup>43</sup> S/10875, *OR, 28th yr., Suppl. for Jan.-March 1973*, pp. 40-41, subsequently revised and adopted as resolution 326 (1973).

<sup>44</sup> S/10876, slightly revised and adopted without substantive change as resolution 327 (1973).

<sup>45</sup> S/10896/Rev.1, Report of the Security Council Special Mission established under resolution 326 (1973), *OR, 28th yr., Special Supplement No. 2*.

<sup>46</sup> S/10898, *OR, 28th yr., Suppl. for Jan.-March 1973*, pp. 54-55, revised (S/10898/Rev.1) and adopted as resolution 328 (1973); S/10899, *ibid.*, p. 55, revised (S/10899/Rev.1) and adopted as resolution 329 (1973). For the detailed procedural history of this case see chapter VIII, part II, under the same title.

*The Security Council,*

1. *Commends* the Government of Zambia for deciding to abandon the use of the southern route for its trade until the rebellion is quelled and majority rule is established in Southern Rhodesia;

2. *Takes note* of the urgent economic needs of Zambia as indicated in the report of the Special Mission and the annexes thereto;

3. *Appeals* to all States for immediate technical, financial and material assistance to Zambia in accordance with resolutions 253 (1968) and 277 (1970) and the recommendations of the Special Mission, so that Zambia can maintain its normal flow of traffic and enhance its capacity to implement fully the mandatory sanctions policy;

4. *Requests* the United Nations and the organizations and programmes concerned, in particular the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization and the United Nations Development Pro-

gramme, as well as the specialized agencies, in particular the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the International Civil Aviation Organization, the Universal Postal Union, the International Telecommunication Union, the World Meteorological Organization and the Inter-Governmental Maritime Consultative Organization, to assist Zambia in the fields identified in the report of the Special Mission and the annexes thereto;

5. *Requests* the Secretary-General in collaboration with the appropriate organizations of the United Nations system, to organize with immediate effect all forms of financial, technical and material assistance to Zambia to enable it to carry out its policy of economic independence from the racist régime of Southern Rhodesia;

6. *Requests* the Economic and Social Council to consider periodically the question of economic assistance to Zambia as envisaged in the present resolution.

## Part IV

## 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. One decision<sup>47</sup> taken by the Security Council contained an explicit reference to Chapter VII, but did not evoke any constitutional discussion. In the case of two draft resolutions<sup>48</sup> explicit references to Chapter VII were deleted from the revised texts which were adopted by the Council; again the deliberations leading to these decisions did not involve any constitutional discussion of the Chapter as a whole. Chapter VII was not invoked in any letter of submission, but it was explicitly referred to in connexion with the consideration of the following agenda items: the consideration of questions relating to Africa,<sup>49</sup> the situation in Southern Rhodesia,<sup>50</sup> the situation in the Middle East,<sup>51</sup>

the situation in Namibia,<sup>52</sup> the complaint by Senegal,<sup>53</sup> the situation in Territories under Portuguese administration,<sup>54</sup> the complaint by Zambia,<sup>55</sup> the consideration of measures for the maintenance and strengthening of international peace and security in Latin America,<sup>56</sup> the situation in Cyprus,<sup>57</sup> and the relationship between the United Nations and South Africa.<sup>58</sup> Beyond these explicit invocations of Chapter VII many calls for measures under that Chapter were also made during the Council's deliberations without, however, giving rise to a constitutional discussion of its provisions in general.

<sup>47</sup> Resolution 314 (1972) in relationship with the situation in Southern Rhodesia: its fifth preambular paragraph reads as follows: "Acting in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter."

<sup>48</sup> S/10804, *OR*, 27th yr., *Suppl. for July-Sept. 1972*, p. 108: Its paragraph 4 contained an urgent request that the Committee established in pursuance of resolution 253 (1968) consider the type of action, "including action under Chapter VII of the Charter," to be taken in view of the persistent defiance by Portugal and South Africa of the sanctions against Southern Rhodesia. S/10804/Rev.1 was adopted as resolution 320 (1972). S/10898, *OR*, 28th yr., *Suppl. for Jan.-March 1973*, pp. 54-55: para. 6 was to urge the same committee to expedite its report under resolution 320 (1972) regarding the widening of sanctions "and the desirability of the application of Chapter VII of the United Nations Charter..." S/10898/Rev.1 was adopted as resolution 328 (1973) in connexion with the complaint by Zambia.

<sup>49</sup> 1628th meeting: Egypt; President, Council for Namibia; 1630th meeting: Yugoslavia; 1631st meeting: USSR; Ghana; 1633rd meeting: Mr. Mueshihange; Mr. Telli; 1634th meeting: Mr. Carr; Belgium; 1636th meeting: Somalia.

<sup>50</sup> 1640th meeting: Mr. Muzorewa; 1641st meeting: Somalia; France; 1642nd meeting: USSR; 1645th meeting: Japan; 1655th

meeting: France; 1663rd meeting: Zambia; Senegal; 1664th meeting: Argentina; USSR; 1665th meeting: France; 1666th meeting: Somalia; Belgium; 1714th meeting: Kenya; 1715th meeting: Guinea.

<sup>51</sup> 1643rd meeting: Lebanon; USSR; Saudi Arabia; 1644th meeting: Somalia; 1648th meeting: Lebanon; 1720th meeting: Algeria; 1723rd meeting: President (USSR); 1734th meeting: Israel; 1744th meeting: Yugoslavia; 1745th meeting: USSR; 1749th meeting: Sudan; USSR; 1750th meeting: USSR.

<sup>52</sup> 1656th meeting: Somalia; 1657th meeting: Guinea; 1679th meeting: Somalia; Zambia; 1681st meeting: Sudan; 1756th meeting: President, Council for Namibia; Guinea; 1757th meeting: Niger; Sudan; 1811th meeting: President, Council for Namibia; Upper Volta; Somalia; 1812th meeting: Kenya.

<sup>53</sup> 1668th meeting: Mali.

<sup>54</sup> 1673rd meeting: Tanzania; Somalia; 1674th meeting: Sudan; 1677th meeting: France.

<sup>55</sup> 1687th meeting: Zambia; Tanzania; 1688th meeting: Chile; 1689th meeting: Somalia.

<sup>56</sup> 1703rd meeting: Chairman, Special Committee on *Apartheid*.

<sup>57</sup> 1728th meeting: Chad; 1793rd meeting: Secretary-General; Cyprus.

<sup>58</sup> 1796th meeting: Tunisia; 1797th meeting: Mauritius; 1800th meeting: Uganda; 1801st meeting: Madagascar; 1803rd meeting: Romania; 1806th meeting: Kenya; Morocco; 1807th meeting: Byelorussian SSR.