

Chapter XI

CONSIDERATION OF THE PROVISIONS OF CHAPTER VII OF THE CHARTER

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INTRODUCTORY NOTE

The present *Supplement* presents the decisions of the Security Council that either constitute explicit applications or might be considered as implicit applications of the provisions of Chapter VII of the Charter.¹

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

¹Up to *Supplement 1964-1965*, chapter XI dealt with instances in which proposals placed before the Council evoked discussion regarding the application of Chapter VII of the Charter. The change was introduced in the *Supplement 1966-1968*.

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 39-42 OF THE CHARTER

NOTE

Due to the frequently interconnected nature of the proceedings of the Council involving, especially, Articles 39 and 41, Articles 39-42 are again considered together, rather than separately.

During the period under review, the Council has taken one decision in which Article 39 was explicitly invoked together with Article 41.² Twice, Article 39 was explicitly referred to in draft resolutions that failed to be adopted: in one case the article was invoked together with Articles 40 to 46;³ in the second instance Articles 39 and 41 were referred to.⁴

The Council has also taken a number of decisions containing implicit references to Article 39 or employing the language of that article. In connection with the situation in Southern Rhodesia, the Council reiterated⁵ in four resolutions⁶ its finding that the situation constituted a threat to international peace and security and

invoked Chapter VII⁷ in affirming and expanding the sanctions imposed on Southern Rhodesia.

When the Council considered the complaint by the Government of Botswana against the illegal régime in Southern Rhodesia concerning violations of its territorial sovereignty, it recalled in its resolutions 403 (1977) and 406 (1977)⁸ the determination under resolution 232 (1966) that the situation in Southern Rhodesia constituted a threat to international peace and security. The same finding was also reiterated in resolution 411 (1977)⁹ regarding the complaint by Mozambique and in resolutions 424 (1978)¹⁰ and 455 (1979)¹¹ with regard to complaints by Zambia.

In 1977, after a prolonged examination of the question of South Africa, the Council adopted resolution 418 (1977) of 4 November 1977 in which it determined that the acquisition by South Africa of arms and related matériel constituted a threat to the maintenance of international peace and security and imposed a mandatory arms embargo.¹² This determination under Article 39 was recalled in resolution 421 (1977) of 9 December 1977

²Case 1 below.

³S/12310, para. 5, *OR*, 32nd yr., *Suppl. for Jan.-March 1977*. See also part IV for further details.

⁴S/13735. See case 1 below.

⁵Resolution 232 (1966) of 16 December 1966 contained the original reference to Articles 39 and 41 and the finding that the situation constituted a serious threat to international peace and security. Resolution 253 (1968) of 29 May 1968 reaffirmed the determination under Article 39 and contained an explicit invocation of Chapter VII.

⁶Resolution 388 (1976) of 6 April 1976, fourth and fifth preambular paras.; resolution 409 (1977) of 27 May 1977, fourth and fifth preambular paras.; resolution 423 (1978) of 14 March 1978, second preambular para.; and resolution 445 (1979), seventh preambular para.

⁷Resolutions 388 (1976) and 409 (1977) contained explicit references to Chapter VII, whereas resolutions 423 (1978) and 445 (1979) invoked it only implicitly.

⁸Resolution 403 (1977) of 14 January 1977, fourth preambular para.; and resolution 406 (1977) of 25 May 1977, third preambular para.

⁹Resolution 411 (1977) of 30 June 1977, seventh preambular para.

¹⁰Resolution 424 (1978) of 17 March 1978, eighth preambular para.

¹¹Resolution 455 (1979) of 23 November 1979, eighth preambular para. The third to sixth preambular paras. contained formulations that were similar to the language of Article 39.

¹²Resolution 418 (1977), para. 1. See below for the sanctions under Article 41 and for the explicit invocation of Chapter VII in this decision.

when the Council took additional measures to implement the arms embargo.¹³

During its consideration of the complaint by Angola against South Africa, the Council adopted resolution 447 (1979) of 28 March 1979, in which it condemned South Africa for premeditated, persistent and sustained armed invasions of Angola which constituted a flagrant violation of the sovereignty and territorial integrity of that country as well as a serious threat to international peace and security.¹⁴ This condemnation was reiterated in resolution 475 (1980) of 27 June 1980.¹⁵

In 1980, when the Council resumed consideration of the question of South Africa, it adopted resolution 473 (1980) of 13 June 1980, in which it reaffirmed that the policy of *apartheid* was a crime against the conscience of and dignity of mankind and was incompatible with the rights and dignity of man, the Charter of the United Nations and the Universal Declaration of Human Rights, and seriously disturbed international peace and security.¹⁶

There were a number of instances in which resolutions adopted by the Council contained provisions that might be considered to be similar to the language of Article 39. These are briefly listed as follows:

(a) Resolution 387 (1976) of 31 March 1976, sixth preambular paragraph:¹⁷

Gravely concerned at the acts of aggression committed by South Africa against the People's Republic of Angola and the violation of its sovereignty and territorial integrity,

(b) Resolution 405 (1977) of 14 April 1977, paragraph 2:¹⁸

2. *Strongly condemns* the act of armed aggression perpetrated against the People's Republic of Benin on 10 January 1977;

(c) Resolution 454 (1979) of 2 November 1979, fourth preambular paragraph and paragraph 1:¹⁹

Gravely concerned at the premeditated, persistent and sustained armed invasions committed by South Africa in violation of the sovereignty, air space and territorial integrity of the People's Republic of Angola,

1. *Strongly condemns* South Africa's aggression against the People's Republic of Angola;

(d) Resolution 466 (1980) of 11 April 1980, third to sixth preambular paragraphs:²⁰

Gravely concerned at the escalation of hostile and unprovoked acts by the racist régime of South Africa, violating the sovereignty, air space and territorial integrity of the Republic of Zambia,

Recalling its resolution 455 (1979) in which, *inter alia*, it strongly condemned the collusion by racist South Africa with the then illegal régime in Southern Rhodesia in acts of aggression against the Republic of Zambia,

Grieved at the tragic loss in human life and concerned about the damage and destruction of property resulting from the escalated acts and armed incursions by the racist régime of South Africa against the Republic of Zambia,

¹³Resolution 421 (1977), first preambular para. For the sanctions and the establishment of a committee to oversee the implementation of the embargo see below under Article 41.

¹⁴Resolution 447 (1979), para. 1. For the explicit reference to Chapter VII see further below in part IV.

¹⁵Resolution 475 (1980), para. 1. See also part IV below for the explicit invocation of Chapter VII.

¹⁶Resolution 473 (1980), para. 3. The resolution also deals with the strengthening of the embargo against South Africa under resolution 418 (1977).

¹⁷In connection with the complaint by Kenya on behalf of the African Group of States at the United Nations, concerning acts of aggression committed by South Africa against the People's Republic of Angola.

¹⁸In connection with the complaint by Benin.

¹⁹In connection with the complaint by Angola against South Africa.

²⁰In connection with the complaint by Zambia against South Africa.

Deeply concerned that the wanton acts by the racist régime of South Africa are aimed at the destabilization of the Republic of Zambia,

The Council considered a number of draft resolutions containing implicit references to Article 39, which, however, were either not voted upon or failed to be adopted. These drafts read as follows:

(a) S/11713, paragraph 9:

Acting under Chapter VII of the United Nations Charter:

(a) *Determines* that the illegal occupation of the Territory of Namibia by South Africa constitutes a threat to international peace and security,²¹

(b) S/12211, paragraph 11:

Acting under Chapter VII of the Charter of the United Nations:

(a) *Determines* that the illegal occupation of Namibia and the war being waged there by South Africa constitute a threat to international peace and security,²²

(c) S/12310, second preambular paragraph and paragraph 2:

Reaffirming that the imposition of *apartheid* in South Africa and the massive violence and repression by the racist régime of South Africa against the great majority of the population is seriously disturbing international peace and security,

2. *Further declares* that the policies and actions of the South African racist régime have seriously disturbed peace in the region and constitute a grave threat to international peace and security;²³

(d) S/12311, sixth preambular paragraph:

Recognizing that the military build-up and persistent acts of aggression by the South African racist régime against the neighbouring States pose a grave threat to the security and sovereignty of independent African States and to the security of the great majority of the people of South Africa,²⁴

(e) S/12433, fourth preambular paragraph and paragraph 1:

Considering that the policies and acts of the South African Government are fraught with danger to international peace and security,

1. *Determines*, having regard to the policies and acts of the South African Government, that the acquisition by South Africa of arms and related material constitutes a threat to the maintenance of international peace and security;²⁵

(f) S/12547, seventh preambular paragraph:

Considering that the policies and actions of the South African racist régime have further aggravated the situation in South Africa and that

²¹S/11713, OR, 30th yr., Suppl. for April-June 1975: draft resolution submitted by Guyana, Iraq, Mauritania, the United Republic of Cameroon and the United Republic of Tanzania in connection with the situation in Namibia, failed to be adopted owing to the negative votes of three permanent members.

²²S/12211, OR, 31st yr., Suppl. for Oct.-Dec. 1976: draft resolution submitted by Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania in connection with the situation in Namibia, failed to be adopted owing to the negative votes of three permanent members.

²³S/12310, OR, 32nd yr., Suppl. for Jan.-March 1977: draft resolution submitted by Benin, Libyan Arab Republic and Mauritius in connection with the question of South Africa, revised, failed to be adopted owing to the negative votes of three permanent members. For further details see part IV below.

²⁴S/12311, OR, 32nd yr., Suppl. for Jan.-March 1977: draft resolution submitted by Benin, Libyan Arab Republic and Mauritius in connection with the question of South Africa, revised, failed to be adopted owing to the negative votes of three permanent members.

²⁵S/12433, OR, 32nd yr., Suppl. for Oct.-Dec. 1977: draft resolution submitted by Canada and the Federal Republic of Germany in connection with the question of South Africa; the draft resolution was withdrawn.

the continuation of the situation constitutes a serious threat to international peace and security.²⁶

(g) S/13022, fifth preambular paragraph:

Convinced that Viet Nam's aggression against Democratic Kampuchea constitutes a threat to international peace and security,²⁷

(h) S/13117, third preambular paragraph:

Convinced that this aggression constitutes a threat to international peace and security,²⁸

(i) S/13119, second preambular paragraph:

Convinced that the Vietnamese authorities' continued military invasion and occupation of Democratic Kampuchea in disregard of the just demand of the thirteen States members of the Security Council for the withdrawal of Vietnamese forces constitute a serious threat to international peace and security,²⁹

(j) S/14106, paragraph 4:

4. *Affirms also* that this action constitutes a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East, and constitutes a threat to international peace and security;³⁰

During the period under review, Article 39 was not explicitly invoked in any letter of submission to the Council, but in a number of cases letters requesting a meeting of the Council employed language similar to that of Article 39.³¹

There were a number of explicit references to Article 39 during the consideration of several agenda items in the Security Council.³² Furthermore, many statements contained what 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 weigh the adoption of appropriate measures under the Charter.³³

²⁶S/12547, *OR*, 33rd yr., *Suppl. for Jan.-March 1978*: draft resolution submitted by Gabon, Mauritius and Nigeria in connection with the question of South Africa; not put to the vote.

²⁷S/13022, *OR*, 34th yr., *Suppl. for Jan.-March 1979*: draft resolution submitted by China in connection with the telegram dated 3 January 1979 from the Deputy Prime-Minister in charge of Foreign Affairs of Democratic Kampuchea; not put to the vote.

²⁸S/13117, *OR*, 34th yr., *Suppl. for Jan.-March 1979*: draft resolution submitted by Czechoslovakia and the USSR in connection with the situation in South-East Asia and its implications for international peace and security; not put to the vote.

²⁹S/13119, *OR*, 34th yr., *Suppl. for Jan.-March 1979*: draft resolution submitted by China in connection with the same agenda item; not put to the vote.

³⁰S/14106, *OR*, 35th yr., *Suppl. for July-Sept. 1980*: draft resolution submitted by 35 Member States in connection with the situation in the Middle East; not put to the vote.

³¹For the relevant details, see the tabulation of requests under Article 35 in chapter X of the present *Supplement*.

³²In connection with the situation in Namibia, 1823rd mtg.: Burundi, para. 60; 1828th mtg.: Sweden, para. 100; and 1884th mtg.: Sweden, para. 118; in connection with the situation in Timor, 1864th mtg.: Portugal, para. 56; in connection with the situation in the Comoros, 1888th mtg.: France, para. 272; in connection with the situation in the occupied Arab territories, 1966th mtg.: Syria, para. 160; in connection with the complaint by Benin, 1986th mtg.: Madagascar, para. 68; in connection with the question of South Africa, 2039th mtg.: Senegal, para. 36; and 2046th mtg.: United Kingdom, para. 42; in connection with the situation in Cyprus, 2055th mtg.: Cyprus, para. 144; Panama, paras. 121 and 122; in connection with the complaint by Zambia, 2171st mtg.: United Kingdom, para. 104; and in connection with the letter dated 22 December 1979 from the Permanent Representative of the United States, 2184th mtg.: Bangladesh, para. 17; Zambia, para. 56; and 2191st mtg. and Add.1: Jamaica, para. 85; Mexico, para. 63; President (France), para. 133; and United States, paras. 26 and 157.

³³Such statements occurred especially in connection with questions involving developments in southern Africa, but also in discussions about the situation in the Middle East, other African issues, the detention of American hostages in Iran, the situation in South-East Asia involving Democratic Kampuchea, Viet Nam and China, the letter dated 3 January 1980 from 52 Member States regarding Afghanistan and the situation between Iran and Iraq.

During the period under review, the Council took no decision explicitly under Article 40 of the Charter. The question whether there were any resolutions or other decisions containing implicit references to that Article cannot be answered in the affirmative because the action considered by the Council and the accompanying proceedings did not make clear whether the Council was actually considering basing its decision on the provisions of Article 40. Moreover, there was 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.

Those decisions and statements that might be interpreted as implicit references to Article 40 are briefly summarized below. Special attention is given to those decisions that might be considered to be of the nature of provisional measures to prevent the aggravation of a situation. Such provisional measures included (a) calls for the withdrawal of armed forces;³⁴ (b) calls upon parties to refrain from further military action and acts of violence;³⁵ (c) calls for a cease-fire, including cessation of all hostilities;³⁶ (d) demands for the immediate cessation of an armed invasion;³⁷ (e) demands that the independence, sovereignty and territorial integrity of a country be respected;³⁸ (f) declarations that elections were null and void;³⁹ (g) demands for the release of detained personnel of an embassy;⁴⁰ (h) demands that the illegal expulsion of elected officials be rescinded and their return to their functions be facilitated;⁴¹ (i) calls for payment of full and adequate compensation for the effects of acts of aggression;⁴² (j) calls upon a party to rescind certain measures in an occupied territory;⁴³ and (k) calls upon Member States to co-operate with the United Nations.⁴⁴

³⁴Resolution 380 (1975), para. 2, in connection with the situation concerning Western Sahara; resolution 384 (1975), para. 2, and resolution 389 (1976), para. 2, in connection with the situation in Timor; resolution 425 (1978), para. 2, in connection with the situation in the Middle East; resolution 428 (1978), para. 3, resolution 454 (1979), para. 2, and resolution 475 (1980), para. 3, in connection with the complaint by Angola against South Africa; and resolution 466 (1980), para. 2, in connection with the complaint by Zambia against South Africa.

³⁵Resolution 392 (1976), para. 5, in connection with the situation in South Africa; resolution 393 (1976), para. 3, in connection with the complaint by Zambia against South Africa; resolution 425 (1978), para. 2, and resolution 436 (1978), para. 1, in connection with the situation in the Middle East; and resolution 473 (1980), para. 9, in connection with the question of South Africa.

³⁶Resolution 403 (1977), para. 4, in connection with the complaint by Botswana; resolution 436 (1978), para. 1, in connection with the situation in the Middle East; and statement of the President (S/14190) of 23 September 1980, last paragraph, in connection with the situation between Iran and Iraq.

³⁷Resolution 447 (1979), para. 3, and resolution 454 (1979), para. 2, in connection with the complaint by Angola against South Africa.

³⁸Resolution 450 (1979), fifth preambular para. and para. 2, in connection with the situation in the Middle East; resolution 454 (1979), para. 3, and resolution 475 (1980), para. 3, in connection with the complaint by Angola against South Africa; and resolution 466 (1980), para. 2, in connection with the complaint by Zambia against South Africa.

³⁹Resolution 445 (1979), para. 6, and resolution 448 (1979), para. 2, in connection with the situation in Southern Rhodesia.

⁴⁰Statement of the President (S/13616) of 9 November 1979; resolution 457 (1979), para. 1, and resolution 461 (1979), para. 3, in connection with the letter dated 25 November 1979 from the Secretary-General and the letter dated 22 December 1979 from the representative of the United States.

⁴¹Resolution 468 (1980), para. 1; resolution 469 (1980), para. 2, and resolution 484 (1980), para. 3, in connection with the situation in the occupied Arab territories.

⁴²Resolution 455 (1979), para. 5, in connection with the complaint by Zambia; and resolution 475 (1980), para. 6, in connection with the complaint by Angola against South Africa.

⁴³Statement of the President (S/12233) of 11 November 1976, para. 4, in connection with the situation in the occupied Arab territories.

⁴⁴Resolution 435 (1978), para. 5, and resolution 439 (1978), para. 5, in connection with the situation in Namibia.

The Council also called upon certain Member States to take a number of specific measures. Thus, South Africa was called upon to end its bantustan policy, to withdraw from Namibia, to release all Namibian political prisoners, to abolish the race laws and to grant unconditionally the right to all Namibians in exile for political reasons to return to Namibia;⁴⁵ to respect the independence of Angola, to stop using Namibia for attacks on Angola and other African States and to compensate Angola for the damages;⁴⁶ to reopen the border posts;⁴⁷ to end violence and repression against the black people; to release all persons arbitrarily imprisoned and detained; to cease the violence against demonstrators against *apartheid*, the murders in detention and the torture of political prisoners; to abrogate the bans on organizations and news media opposed to *apartheid*; and to abolish the system of racial discrimination and the policy of bantustanization;⁴⁸ to end the occupation of Namibia;⁴⁹ and to cancel the elections planned in Namibia.⁵⁰

In 1979, the United Kingdom, as the administering Power, was requested to prevent further illegal executions in Southern Rhodesia.⁵¹ Israel was called upon to cease the assistance it continued to lend to irresponsible armed groups in Lebanon; and all parties were called upon to refrain from activities inconsistent with the objectives of UNIFIL and to co-operate for the fulfilment of those objectives.⁵² Israel was called upon to cease, on an urgent basis, the establishment, construction and planning of settlements in the Arab territories occupied since 1967, including Jerusalem.⁵³ The Council condemned the proclamation of the so-called "independence" of Venda, declared it totally invalid and called upon all Governments to deny any form of recognition to the so-called "independent" bantustans, to refrain from any dealings with them and to reject travel documents issued by them, and urged Governments of Member States to take effective measures to prohibit all individuals, corporations and other institutions under their jurisdiction from having any dealings with the so-called "independent" bantustans.⁵⁴ The Council again demanded that South Africa desist from utilizing Namibia for launching acts of aggression against Angola and other neighbouring African States.⁵⁵ With regard to Southern Rhodesia, the Council called for strict adherence to the agreements reached and for their full implementation by the administering Power and all the parties concerned and called upon the administering Power to ensure that no South African or other external forces, regular or mercenary, would remain in or enter Southern Rhodesia, except

those forces provided for under the Lancaster House agreement.⁵⁶

During 1980, the Council called upon the Government of the United Kingdom to ensure the withdrawal of any remaining South African forces from Southern Rhodesia, to take all necessary steps to ensure that eligible Zimbabwe nationals would freely participate in the upcoming electoral process, including the return of exiles and refugees, the release of all political prisoners, the rescinding of all emergency measures and regulations inconsistent with the conduct of free and fair elections, to create conditions in Southern Rhodesia which would ensure free and fair elections and thereby avert the danger of the collapse of the Lancaster House agreement, and to release any South African political prisoners, including captured freedom fighters, in Southern Rhodesia and to ensure their safe passage to any country of their choice.⁵⁷ The Council further condemned the assassination attempts against three Palestinian mayors, called for the immediate apprehension and prosecution of the perpetrators of these crimes, and called upon the Government of Israel to provide the victims with adequate compensation.⁵⁸ The Government of South Africa was called upon urgently to end violence against the African people and to take urgent measures to eliminate *apartheid*, to take measures immediately to eliminate the policy of *apartheid* and to grant to all South African citizens equal rights, including equal political rights, and a full and free voice in the determination of their destiny, and to release all political prisoners, including Nelson Mandela and other black leaders.⁵⁹ Regarding Jerusalem, the Council reconfirmed that all legislative and administrative measures and actions taken by Israel, the occupying Power, which purported to alter the character and status of Jerusalem, had no legal validity and constituted a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and also constituted a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East; the Council reiterated that all such measures that had altered the character and status of Jerusalem were null and void and must be rescinded in compliance with the relevant resolutions of the Council, and urgently called upon Israel to desist forthwith from persisting in the policy and measures affecting the character and status of Jerusalem.⁶⁰ The Council censured in the strongest terms the enactment by Israel of a "basic law" on Jerusalem and the refusal to comply with relevant Council resolutions, determined that all legislative and administrative measures and action taken by Israel regarding Jerusalem were null and void and must be rescinded forthwith, affirmed that that action constituted a serious obstruction to achieving peace in the Middle East, decided not to recognize the "basic law" and other actions by Israel with regard to Jerusalem and called upon those States that had established diplomatic missions at Jerusalem to withdraw such missions from the Holy City.⁶¹ When two Palestinian mayors were expelled, Israel was called upon to adhere to the

⁴⁵ Resolution 385 (1976), paras. 4, 10 and 11, in connection with the situation in Namibia.

⁴⁶ Resolution 387 (1976), paras. 2, 3 and 5, in connection with the complaint by Kenya concerning aggression by South Africa against Angola.

⁴⁷ Resolution 402 (1976), para. 4, in connection with the complaint by Lesotho against South Africa.

⁴⁸ Resolution 417 (1977), para. 3, in connection with the question of South Africa.

⁴⁹ Resolution 428 (1978), para. 7, in connection with the complaint by Angola against South Africa.

⁵⁰ Resolution 439 (1978), para. 4, in connection with the situation in Namibia.

⁵¹ Resolution 445 (1979), para. 4, in connection with the situation in Southern Rhodesia.

⁵² Resolution 450 (1979), paras. 2 and 3, in connection with the situation in the Middle East.

⁵³ Resolution 452 (1979), para. 3, in connection with the situation in the Middle East.

⁵⁴ Statement of the President (S/13549) of 21 September 1979, paras. 3 and 4, in connection with the question of South Africa.

⁵⁵ Resolution 454 (1979), para. 4, in connection with the complaint by Angola against South Africa.

⁵⁶ Resolution 460 (1979), paras. 6 and 7, in connection with the situation in Southern Rhodesia.

⁵⁷ Resolution 463 (1980), paras. 4-7, in connection with the situation in Southern Rhodesia.

⁵⁸ Resolution 471 (1980), paras. 1 and 3, in connection with the situation in the Middle East.

⁵⁹ Resolution 473 (1980), paras. 5, 7 and 8, in connection with the question of South Africa.

⁶⁰ Resolution 476 (1980), paras. 3-5, in connection with the situation in the Middle East.

⁶¹ Resolution 478 (1980), paras. 1, 3, 4 and 5, in connection with the situation in the Middle East.

provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.⁶²

A number of Council resolutions contained warnings that, in the event of failure to comply with the terms of those resolutions, the Council would meet again and consider further steps. These warnings, which might be considered as falling under the last provision of Article 40, were expressed in various ways. Frequently, the Council warned that it would consider taking adequate and effective measures if its calls were not heeded;⁶³ in several instances, the Council announced that Chapter VII measures would have to be considered.⁶⁴

In one instance, Article 40, together with Articles 39 and 41-46, was explicitly invoked in a draft resolution⁶⁵ in connection with the consideration by the Council of the question of South Africa. The draft was not put to the vote, but subsequently it was submitted again in revised form and put to the vote: it received 10 votes in favour and 5 against and was not adopted owing to the negative votes of three permanent members.⁶⁶

During the period under review, the Council adopted two resolutions that contained explicit references to Article 41.⁶⁷ Regarding the situation in Southern Rhodesia, the Council had invoked Article 41 in two resolutions adopted in 1966 and 1970,⁶⁸ and referred in subsequent resolutions that were devoted to the establishment and strengthening of the economic sanctions imposed against the rebellious white minority régime⁶⁹ to Chapter VII in general and to the provisions of Article 41 in particular, but only in resolution 409 (1977) was the Article explicitly invoked.⁷⁰ Whereas resolutions 388 (1976), 409 (1977), 437 (1978) and 445 (1979) were geared to reaffirming and reinforcing the sanctions against Southern Rhodesia, resolution 460 (1979) brought the termination of the programme of sanctions and the dissolution of the Committee established in pursuance of resolution 253 (1968).

Throughout the period under review, the Council Committee administering the economic sanctions carried out its mandate of monitoring the application of the measures under Article 41 by Member States and by States not members of the Organization. There were several occasions when the Committee dealt extensively with Article 41 and its application with a view to strengthening and expanding the sanctions against the illegal régime. When the Committee considered these constitutional issues, it issued special reports⁷¹ about its deliberations with numerous references to Article 41.

Following agreement at the conference held at Lancaster House in London about the Constitution for a free and independent Zimbabwe providing for genuine majority rule, the Council once more took up the situation in Southern Rhodesia and decided to call upon Member States to terminate the measures taken against Southern Rhodesia under Chapter VII of the Charter and to dissolve the Committee established in pursuance of resolution 253 (1968) in accordance with rule 28 of the provisional rules of procedure of the Council.⁷²

In 1977, the Council acted under Article 41, when it imposed a mandatory arms embargo against South Africa. This decision represented the first instance of sanctions against a Member State of the United Nations.⁷³ Resolution 418 (1977) of 4 November 1977, which was unanimously adopted after extensive consideration of the question of South Africa,⁷⁴ transformed the voluntary arms embargo imposed under resolution 181 (1963) into a mandatory measure in accordance with the provisions of Article 41. Acting under Chapter VII of the Charter, the Council decided that all States should cease forthwith any provision to South Africa of arms and related *matériel* of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for the aforementioned, and should cease as well the provision of all types of equipment and supplies and grants of licensing arrangements for the manufacture or maintenance of the aforementioned, and adopted steps to facilitate the implementation of the mandatory arms embargo against South Africa.⁷⁵

Although the deliberations of the Council prior to the imposition of the mandatory arms embargo contained urgent calls for forceful sanctions against South Africa and a number of explicit references to Article 41,⁷⁶ no constitutional discussion developed regarding the application of these provisions.

On 9 December 1977, the Council adopted resolution 421 (1977) setting up a committee to oversee the

⁶² Resolution 484 (1980), para. 2, in connection with the same item.
⁶³ Resolution 379 (1975), para. 2, in connection with the situation concerning Western Sahara; resolution 385 (1976), para. 12, in connection with the situation in Namibia; and resolution 393 (1976), para. 6, in connection with the complaint by Zambia against South Africa.

⁶⁴ Resolution 428 (1978), para. 8, and resolution 475 (1980), para. 7, in connection with the complaint by Angola against South Africa; resolution 439 (1978), para. 6, in connection with the situation in Namibia; resolution 461 (1979), para. 6, in connection with the letter dated 22 December 1979 from the representative of the United States; and resolution 466 (1980), para. 3, in connection with the complaint by Zambia against South Africa.

⁶⁵ S/12310, para. 5, *OR*, 32nd yr., *Suppl. for Jan.-March 1977*. The draft resolution was sponsored by Benin, Libyan Arab Republic and Mauritius. The President drew the attention of the members to the draft resolution at the 1998th meeting, on 30 March 1977. Its paragraph 5 reads as follows: "5. *Decides* that, in case of non-compliance with paragraph 3 of the present resolution, the Security Council will consider appropriate action under all the provisions of the Charter, including Articles 39 to 46 of Chapter VII."

⁶⁶ For the vote on the revised draft resolution (S/12310/Rev.1, *OR*, 32nd yr., *Suppl. for Oct.-Dec. 1977*), whose paragraph 5 remained unchanged, see 2045th meeting held on 31 October 1977, para. 53.

⁶⁷ Resolution 409 (1977), para. 3, in connection with the situation in Southern Rhodesia. For resolution 461 (1979), para. 6, see case I below.

⁶⁸ Resolutions 232 (1966) and 277 (1970). Resolution 253 (1968), which set up the policy of sanctions, did not invoke Article 41 explicitly.

⁶⁹ The resolutions in question were resolutions 388 (1976), 409 (1977), 437 (1978), 445 (1979) and 460 (1979).

⁷⁰ Resolution 409 (1977) of 27 May 1977 was adopted unanimously without vote, at the 2011th meeting. Its para. 3 reads as follows: "*Decides* to meet not later than 11 November 1977 to consider the application of further measures under Article 41 of the Charter, and meanwhile requests the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia to examine, in addition to its other functions, the application of further measures under Article 41 and to report to the Council thereon as soon as possible."

⁷¹ During the period under review, the Committee submitted five special reports: S/11913, *OR*, 30th yr., *Suppl. for Oct.-Dec. 1975*; S/12296, *ibid.*, 32nd yr., *Suppl. for Jan.-March 1977*; S/12450, *ibid.*, *Suppl. for Oct.-Dec. 1977*; S/13191, *ibid.*, 34th yr., *Suppl. for Jan.-March 1979*; and S/13296, *ibid.*, *Suppl. for April-June 1979*. Since its establishment in 1968, the Committee also submitted 11 regular reports covering its work for the period of one year each.

⁷² See resolution 460 (1979), paras. 2 and 3. The resolution was adopted at the 2181st meeting, on 21 December 1979, by 13 votes to none, with 2 abstentions. For the dissolution of the Committee, see also chapter V in the present *Supplement*.

⁷³ In the case of Southern Rhodesia, the economic sanctions were applied against a dependent territory in rebellion.

⁷⁴ In 1977, the Council met twice for extended periods to consider the question of South Africa. The first period comprised the 1988th to 1992nd, 1994th, 1996th, 1998th and 1999th meetings between 21 and 31 March 1977; the second period comprised the 2036th to 2040th and 2042nd to 2046th meetings from 24 October to 4 November 1977.

⁷⁵ Resolution 418 (1977), tenth preambular para., paras. 2-5.

⁷⁶ For explicit references to Article 41, see 1989th mtg.: Liberia, para. 33; 1991st mtg.: Madagascar, para. 84; and 2039th mtg.: Senegal, para. 36. Since the deliberations focused on the question of whether and how sanctions should be applied, the discussion as a whole related to Article 41.

implementation of resolution 418 (1977). The Committee was instructed to see to it that the provisions of resolution 418 (1977) be effectively implemented and to study ways and means by which the mandatory arms embargo could be made more effective.⁷⁷

At its 2231st meeting, on 13 June 1980, the Council adopted resolution 473 (1980) in connection with the question of South Africa; under that resolution, the Council issued a request to the Committee established by resolution 421 (1977) "to redouble its efforts to secure full implementation of the arms embargo against South Africa by recommending by 15 September 1980 measures to close all loop-holes in the arms embargo, reinforce and make it more comprehensive".⁷⁸

During the period under review, the Council adopted several resolutions that contained implicit references to Article 41, concerning related developments in South Africa. Resolution 411 (1977) was adopted in connection with a complaint by Mozambique about Southern Rhodesian attacks and dealt with the problem of implementing the sanctions against the illegal minority régime.⁷⁹ Similarly, the Council adopted resolution 424 (1978) in response to a complaint by Zambia against a series of Southern Rhodesian acts of aggression and issued the warning that it would consider further measures under Chapter VII if the racist régime of Southern Rhodesia continued to defy the sanctions imposed by the Council.⁸⁰

In connection with the complaint by Angola against South Africa, the Council took also decisions that had a bearing on Article 41: resolution 447 (1979) of 28 March 1979 condemned the invasion of Angolan territory and, referring explicitly to Chapter VII of the Charter, requested the Secretary-General to submit further information in order to enable the Council to determine the most effective sanctions in accordance with the Charter to bring about an end to South African aggression against Angola and other front-line States.⁸¹ In 1980, the Council was seized with the same issue and adopted resolution 475 (1980) of 27 June 1980 in which it was decided to consider effective measures under Chapter VII of the Charter if South Africa violated Angola's sovereignty and territorial integrity once more.⁸² When the Council considered similar violations of Zambia's territorial integrity and sovereignty by the South African régime, it adopted resolution 466 (1980) of 11 April 1980 in which it warned South Africa that, in the event of any further armed incursions against the Republic of Zambia, it would meet to consider further appropriate action under the provisions of the Charter, including Chapter VII thereof.⁸³

During the period under review, the Council considered a number of draft resolutions referring to Article 41; three of them contained explicit invocations of the Article.⁸⁴

⁷⁷ Resolution 421 (1977) was adopted at the 2052nd meeting. Paragraphs 1-3 deal with the establishment and mandate of the committee.

⁷⁸ Resolution 473 (1980), para. 11.

⁷⁹ Resolution 411 (1977) of 30 June 1977, adopted unanimously at the 2019th meeting. The ninth, tenth, eleventh and thirteenth preambular paras. and paras. 6 and 12 focused on the sanctions against Southern Rhodesia.

⁸⁰ Resolution 424 (1978) of 17 March 1978, adopted unanimously at the 2070th meeting. The warning was issued in its para. 5.

⁸¹ Resolution 447 (1979) of 28 March 1979, adopted at the 2139th meeting by 12 votes to none, with three abstentions. See especially the fifth preambular para. and para. 7 for implicit references to Article 41.

⁸² Resolution 475 (1980) of 27 June 1980, adopted at the 2240th meeting, by 12 votes to none, with 3 abstentions. See paras. 4 and especially 7 for the relevant passages.

⁸³ Resolution 466 (1980) of 11 April 1980, adopted unanimously at the 2211th meeting. See especially para. 3 for the implicit reference to Article 41.

⁸⁴ One draft resolution with an explicit reference to Article 41 is dealt with in case 1 below.

These draft resolutions either were not put to a vote or failed to be adopted.

When the Council resumed consideration of the situation in Namibia at its 1954th and 1956th to 1963rd meetings on 31 August and 28 September to 19 October 1976, a draft resolution⁸⁵ was submitted calling for the Council to act under Chapter VII of the Charter and to impose on South Africa a comprehensive mandatory arms embargo. This proposal was voted upon at the 1963rd meeting and failed to be adopted owing to the negative votes of three permanent members of the Council.⁸⁶

During the subsequent examination of the question of South Africa, the Council was faced with several draft resolutions referring explicitly or implicitly to Article 41. At the 1998th meeting, following extensive debate of the issue at the 1988th to 1992nd, 1994th and 1996th meetings, the President called attention to four draft resolutions,⁸⁷ three of which contained references to Article 41: one⁸⁸ invoked Chapter VII and Articles 39 and 46 and called upon South Africa to abide by the resolutions of the Council; the second⁸⁹ sought a mandatory arms embargo; the third⁹⁰ called for an economic embargo against South Africa. The Council concluded its debate at the 1999th meeting, without putting the four draft resolutions to the vote.

The Council resumed its discussion of the question of South Africa at its 2036th to 2040th and 2042nd to 2046th meetings, between 24 October and 4 November 1977. The four above-mentioned draft resolutions, which had undergone some revisions not affecting the invocation of, or reference to, Article 41, were discussed in some detail and then voted on; S/12310/Rev.1, S/12311/Rev.1 and S/12312/Rev.1 each received 10 votes to 5 and failed to be adopted, owing to the negative votes of three permanent members.⁹¹

Following the defeat of the three draft resolutions, another draft resolution⁹² was submitted calling for the imposition of a mandatory arms embargo under the provisions of Chapter VII of the Charter. At the 2046th meeting, on 4 November 1977, the President announced that the draft had been withdrawn by its sponsors and drew attention to a new text,⁹³ which had been prepared in the course of intensive consultations and was adopted unanimously at the same meeting as resolution 418 (1977).⁹⁴

When the Council was convened in August 1980 to consider the situation in the Middle East, especially recent developments with regard to the status of Jerusalem, the President drew the attention of the members to a draft

⁸⁵ S/12211, OR, 31st yr., Suppl. for Oct.-Dec. 1976. The draft was sponsored by Benin, Guyana, Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania and called, *inter alia*, for a complete ban on military collaboration with South Africa and for an end to arms licensing and information.

⁸⁶ The draft resolution received 10 votes to 3, with 2 abstentions.

⁸⁷ S/12309, S/12310, S/12311 and S/12312, OR, 32nd yr., Suppl. for Jan.-March 1977. All four draft resolutions were submitted by Benin, Libyan Arab Republic and Mauritius.

⁸⁸ S/12310, para. 5, OR, 32nd yr., Suppl. for Jan.-March 1977.

⁸⁹ S/12311, *ibid.* See especially the fifth preambular para. for the invocation of Chapter VII of the Charter, and paras. 1 and 2 for the detailed decisions on the arms embargo.

⁹⁰ S/12312, OR, 32nd yr., Suppl. for Jan.-March 1977. See especially para. 1 for the scope of economic sanctions proposed.

⁹¹ For the vote see 2045th meeting, on 31 October 1977. S/12309/Rev.1 was unanimously adopted as resolution 417 (1977).

⁹² S/12433, OR, 32nd yr., Suppl. for Oct.-Dec. 1977. The draft resolution was sponsored by Canada and the Federal Republic of Germany.

⁹³ S/12436, adopted without change as resolution 418 (1977).

⁹⁴ See footnotes 74 and 75 above.

resolution⁹⁵ sponsored by 35 Member States; the text provided for a condemnation of Israel's attempt to change the status of Jerusalem and, in paragraph 6, included a call upon all Member States to apply measures against Israel, as provided in Article 41 of the Charter, including the interruption of economic and military relations with Israel.⁹⁶ The draft resolution was not put to the vote, but another draft resolution prepared in the course of consultations among members of the Council was adopted by 14 votes to none, with 1 abstention, as resolution 478 (1980).⁹⁷ That text contained neither explicit nor implicit references to Article 41.

During the period under review, Article 41 was explicitly referred to in the Council in connection with the situation in Namibia,⁹⁸ the request by Mozambique under Article 50 of the Charter,⁹⁹ the situation in Southern Rhodesia,¹⁰⁰ the complaint by Zambia against South Africa,¹⁰¹ the situation in the occupied Arab territories,¹⁰² the complaint by Botswana,¹⁰³ the question of South Africa,¹⁰⁴ the complaint by Mozambique,¹⁰⁵ the situation in Cyprus¹⁰⁶ and the complaint by Zambia.¹⁰⁷ In connection with these and other issues representatives made frequent implicit references to Article 41 suggesting economic sanctions and other mandatory measures.

Article 42 was not invoked in any decision of the Council. However, in connection with the question of South Africa, a draft resolution was submitted to the Council that referred explicitly to Article 42, together with Articles 39-41 and 43-46.¹⁰⁸ The first draft was not put to the vote, and when it was resubmitted in revised form, it failed to be adopted owing to the negative votes of three members of the Council.¹⁰⁹ There was no constitutional discussion about this particular submission. But

on several occasions Article 42 was invoked explicitly¹¹⁰ and implicitly with suggestions for the use of force by the Organization.

CASE I

Letter dated 22 December 1979 from the Permanent Representative of the United States

(In connection with a draft resolution (S/13711/Rev.1) sponsored by the United States, voted upon and adopted as resolution 461 (1979); and another draft resolution (S/13735) sponsored by the United States, voted upon and not adopted, owing to the negative vote of a permanent member of the Council)

Following extensive efforts by the Council and the Secretary-General to assist the United States in obtaining the release of its diplomatic personnel from detention in the Iranian capital through peaceful means in accordance with Chapter VI of the Charter of the United Nations, together with the pursuit of judicial settlement through the International Court of Justice, the Government of the United States sought to invoke punitive measures under Chapter VII of the Charter, especially Articles 39 and 41. The initial step to issue a warning that measures under Chapter VII would be considered if Iran did not heed the urgent call for the unconditional release of the detainees found support in a resolution of the Council, but when the representative of the United States moved for the imposition of sanctions against Iran, the discussion in the Council showed a deep gap between those who thought the time had come to press for a solution through the application of various sanctions under Article 41, and those who felt that the issue should and could only be solved through peaceful means as stipulated under Article 33. Those who were not willing to approve of mandatory measures, as sought by the United States, were concerned that the international response should be commensurate with the gravity of the Iranian violation and that it should not become an impediment to an eventual resolution of the conflict.¹¹¹

When the Council resumed consideration of the detention of United States diplomatic personnel in Teheran, at the 2182nd meeting, the request by the United States for the meeting mentioned measures that should be taken to induce Iran to comply with its international obligations. At the 2184th meeting, on 31 December 1979, the President drew attention to a draft resolution¹¹²

⁹⁵S/14106, *OR*, 35th yr., *Suppl. for July-Sept. 1980*. The sponsors were Algeria, Bahrain, Bangladesh, Chad, Democratic Yemen, Djibouti, Gambia, Guinea, Guinea-Bissau, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Morocco, Niger, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Somalia, Sudan, Syrian Arab Republic, Tunisia, Turkey, United Arab Emirates, Upper Volta and Yemen.

⁹⁶See S/14106, paras. 1-6, especially para. 6, with the explicit reference to Article 41.

⁹⁷S/14113, adopted without change as resolution 478 (1980). The draft was put to the vote after the discussion at the 2245th meeting, on 20 August 1980.

⁹⁸1824th mtg.: India, para. 80; 2082nd mtg.: USSR, para. 182; 2092nd mtg.: Burundi, paras. 92 and 96; 2094th mtg.: Ghana, para. 38.

⁹⁹1890th mtg.: Jamaica, paras. 42 and 45.

¹⁰⁰1907th mtg.: Benin, para. 113; Guyana, para. 51; Japan, para. 96; Romania, para. 65; USSR, para. 43; United Republic of Tanzania, para. 7; 2011th mtg.: Benin, para. 100; Libyan Arab Jamahiriya, para. 29; Mauritius, paras. 6 and 12; Pakistan, paras. 19, 20 and 23; Panama, para. 87; Romania, paras. 45-47; USSR, paras. 36-38; United Kingdom, para. 63; United States, para. 71; 2121st mtg.: Sri Lanka, para. 32; and Yugoslavia, para. 17. When the Council terminated the sanctions during the 2181st meeting, the discussion contained many implicit references to Article 41.

¹⁰¹1945th mtg.: Madagascar, para. 166.

¹⁰²1966th mtg.: Syrian Arab Republic, paras. 160-161.

¹⁰³1984th mtg.: United Republic of Tanzania, para. 103.

¹⁰⁴1989th mtg.: Liberia, para. 33; 1991st mtg.: Madagascar, para. 84; and 2039th mtg.: Senegal, para. 36.

¹⁰⁵2014th mtg.: United Republic of Tanzania, para. 85; 2015th mtg.: Benin, para. 59; 2017th mtg.: USSR, paras. 38 and 39; 2018th mtg.: Botswana, para. 31; and Pakistan, para. 71; and 2019th mtg.: Benin, para. 88.

¹⁰⁶2055th mtg.: Cyprus, paras. 144 and 145; Panama, para. 121; 2081st mtg.: Cyprus, paras. 25 and 240; 2099th mtg.: Cyprus, paras. 13 and 14; and 2100th mtg.: Cyprus, para. 99.

¹⁰⁷2068th mtg.: United Republic of Tanzania, para. 75; 2069th mtg.: Kuwait, para. 113; and 2171st mtg.: Nigeria, para. 40.

¹⁰⁸S/12310. See footnote 88 above for details.

¹⁰⁹For details, see footnote 91 above.

¹¹⁰In connection with the situation in Namibia, 1824th mtg.: India, para. 80; 2094th mtg.: Ghana, para. 38; and 2098th mtg.: Saudi Arabia, para. 31; in connection with the situation in the occupied Arab territories, 1966th mtg.: Syrian Arab Republic, paras. 160 and 161; in connection with the question of South Africa, 1991st mtg.: Madagascar, para. 84; and 2039th mtg.: Senegal, para. 36; in connection with the complaint by Mozambique, 2018th mtg.: Pakistan, para. 71; and in connection with the situation in Cyprus, 2055th mtg.: Cyprus, paras. 144 and 145; Panama, para. 121; and 2081st mtg.: Cyprus, paras. 25 and 240.

¹¹¹For the relevant statements, see 2182nd mtg.: Australia, para. 94; France, para. 60; Federal Republic of Germany, para. 70; Norway, paras. 43 and 44; Portugal, para. 54; United States, paras. 18-20; 2183rd mtg.: Bolivia, paras. 36 and 39; Czechoslovakia, para. 13; Jamaica, paras. 33 and 34; Nigeria, para. 8; and Zambia, paras. 22 and 24; 2184th mtg.: Bangladesh, para. 17; Gabon, para. 5; Kuwait, paras. 41-43; USSR, paras. 34 and 35; and Zambia, para. 56; and 2191st mtg. and Add.1: German Democratic Republic, paras. 79 and 80; Jamaica, para. 85; Mexico, para. 63; Niger, paras. 100 and 101; President (France), para. 133; USSR, paras. 48 and 52; United States, paras. 5, 27, 28, 157 and 160; Zambia, paras. 114-116. Most of these statements involved explicit references to Articles 39 and 41, Chapter VII and occasional mention of Chapter VI, especially Article 33, and Articles 2 (4) and 24.

¹¹²S/13711/Rev.1, adopted without change at the same meeting as resolution 461 (1979).

sponsored by the United States. The text was put to the vote at the same meeting and adopted by 11 votes to none, with 4 abstentions, as resolution 461 (1979).¹¹³ It reads, *inter alia*, as follows:

The Security Council,

...
Recalling also the letter dated 25 November 1979 (S/13646) stating that, in his opinion, the present crisis between the Islamic Republic of Iran and the United States of America poses a serious threat to international peace and security,

- ...
 1. *Reaffirms its resolution 457 (1979) in all its aspects;*
 2. *Deplores* the continued detention of the hostages contrary to its resolution 457 (1979) and the Order of the International Court of Justice of 15 December 1979;
 3. *Urgently calls once again* on the Government of the Islamic Republic of Iran to release immediately all persons of United States nationality being held as hostages in Iran, to provide them with protection and to allow them to leave the country;
 ...
 6. *Decides* to meet on 7 January 1980 in order to review the situation and, in the event of non-compliance with the present resolution, to adopt effective measures under Articles 39 and 41 of the Charter of the United Nations.

At the first part of the 2191st meeting, on 11 January 1980, when the Council resumed its deliberations on the issue, the President drew attention to a draft resolution¹¹⁴ submitted by the United States, which provided for the Council, bearing in mind that the continued detention of the hostages constituted a continuing threat

¹¹³For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

¹¹⁴S/13735, OR, 35th yr., Suppl. for Jan.-March 1980.

to international peace and security, to act in accordance with Articles 39 and 41 of the Charter and to ask, until the release of the hostages, that all Member States prevent the sale or supply of all items, commodities, or products, except food, medicine and medical supplies, to Iran, prevent the shipment of such goods to Iran, deny to Iran any new credits or loans or other financial services, prevent shipment of embargoed goods on Iranian vessels or aircraft, reduce to a minimum the personnel of Iranian diplomatic missions accredited to them, prevent their nationals or firms located in their territories from engaging in new service contracts in support of industrial projects in Iran, other than those concerned with medical care, and prevent their nationals or any person or body in their territories from engaging in any activity evading the decisions set out in this draft. Under the draft resolution, the Council would further decide that all Members should give immediate effect to the decisions of the Council and carry them out in accordance with Article 25 of the Charter, and urge, under Article 2, paragraph 6, States not members of the United Nations to join in implementing these decisions of the Council.¹¹⁵

Following a suspension of the meeting, the Council, at the resumed 2191st meeting, on 13 January 1980, voted on the draft resolution, which received 10 votes to 2, with 2 abstentions, and was not adopted owing to the negative vote of a permanent member; one member did not participate in the voting.¹¹⁶

¹¹⁵See especially the twelfth and thirteenth preambular paras. and para. 2 (a)-(g) and 3 to 6 of the draft resolution for the provisions falling under Articles 39 and 41 of the Charter.

¹¹⁶For the detailed procedural history, see chapter VIII, part II, under the same title.

Part II

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

NOTE

During the period under review, the Council did not adopt any resolutions referring to Articles 43-47 of the Charter. On one occasion, however, when the Council considered the question of South Africa, in March 1977, the representatives of Benin, the Libyan Arab Republic and Mauritius submitted four draft resolutions, one of which¹¹⁷ invoked in its paragraph 5 Articles 43-46, together with Articles 39-42 and Chapter VII. This draft was not put to the vote. When the Council resumed consideration of the item, in October 1977, the draft resolution, in revised form,¹¹⁸ but with the invocation of the Articles unchanged, was put to the vote and failed to be adopted, owing to the negative votes of three permanent members of the Council.¹¹⁹

¹¹⁷S/12310, OR, 32nd yr., Suppl. for Jan.-March 1977.

¹¹⁸S/12310/Rev.1, *ibid.*

¹¹⁹Article 43 was referred to explicitly by Senegal (2039th mtg.: para. 36). For procedural details of the case see chapter VIII, part II, under the title "Question of South Africa".

Part III

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

NOTE

During the period under review, the Council adopted one resolution with explicit references to Articles 49 and 50. This resolution was adopted in connection with the request by Mozambique under Article 50 of the

Charter¹²⁰ in relation to a situation that had arisen as a result of its decision to impose sanctions against Southern

¹²⁰The telegram from the Minister of Foreign Affairs of Mozambique requesting the President of the Council to convene an urgent meeting to consider the question contained an explicit reference to Article 50 (S/12009, OR, 31st yr., Suppl. for Jan.-March 1976).

Rhodesia in accordance with the relevant decisions of the Council. Under resolution 386 (1976) of 17 March 1976, which was unanimously adopted at the 1892nd meeting,¹²¹ the Council, "recognizing that the action of the Government of Mozambique is in accordance with resolution 353 (1968)" and "bearing in mind the provisions of Articles 49 and 50 of the Charter of the United Nations",¹²² commended the Government of Mozambique for its efforts to implement the sanctions against the illegal régime of Southern Rhodesia and provided for an international assistance programme to enable Mozambique to overcome the economic difficulties arising from its application of these sanctions.¹²³

The deliberations in the Council with regard to the request by Mozambique showed unanimous support for an appropriate programme of international assistance in conformity with the provisions of Articles 49 and 50.¹²⁴

The Council adopted a number of other resolutions that contained implicit references to Articles 49 and 50; these resolutions involved the question of assistance to Angola,¹²⁵ Lesotho,¹²⁶ Mozambique¹²⁷ and Zambia,¹²⁸ member States that had suffered losses and damages as a result of their adherence to Security Council and General Assembly decisions against Southern Rhodesia¹²⁹ or South Africa.

None of these decisions was preceded by any in-depth consideration of the application of Articles 49 and 50, but several incidental explicit references to these Articles occurred during the Council proceedings.¹³⁰

During the period under review none of the resolutions adopted by the Council contained an explicit reference to Article 51. Resolution 403 (1977) of 14 January 1977, which was adopted in connection with the complaint by

Botswana, contained a provision that might be considered as an implicit reference to Article 51.¹³¹

In the course of deliberations in the Council, various issues occasioned pertinent arguments relating to the interpretation of the principle of self-defence, which, however, did not culminate in constitutional arguments. In connection with the complaint by the Prime Minister of Mauritius,¹³² the point was emphasized that self-defence could not be invoked to justify a premeditated act of aggression violating the sovereignty and territorial integrity of a Member State. The argument that the so-called principle of pre-emptive self-defence negated the provisions of Article 51 was made in connection with the complaint by Mozambique.¹³³ In connection with the question of South Africa,¹³⁴ specifically with regard to the institution of the mandatory arms embargo, it was argued that while in strictly legal terms no country could be denied the right of self-defence in accordance with Article 51, the intention in imposing the arms embargo was to protest against the stockpiling of weapons for purposes of internal repression. The consideration of the situation in the Middle East¹³⁵ brought forth new exchanges regarding the interpretation of the principle of self-defence as stipulated by Article 51. Israel claimed that its duty to take all the measures necessary to protect the lives and safety of its citizens extended to incursions of armed bands and other acts of terrorism from the territory of another State; the right under Article 51 applied to all those situations. Various Arab representatives denied the validity of such a broad definition and emphasized that self-defence was permitted only against armed attacks; moreover, the exercise of self-defence was subject to certain limitations affecting the measure and degree of the use of force.

When the Council considered the letters dated 13 and 15 June 1979 from the representative of Morocco,¹³⁶ the representatives of Algeria and Madagascar rejected Morocco's interpretation of the right to self-defence as justification of its measures against the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO) and argued that the issue should be viewed as a question of self-determination and that the use of force, including so-called "hot pursuit", was incompatible with the provisions of Article 51. In connection with the letter dated 3 January 1980 from 52 Member States,¹³⁷ it was maintained on the one hand

¹²¹ The draft resolution (S/12013) was sponsored by Benin, Guyana, Italy, Japan, the Libyan Arab Republic, Pakistan, Panama, Romania, Sweden, the United Kingdom and the United Republic of Tanzania.

¹²² Resolution 386 (1976), ninth and tenth preambular paras.

¹²³ Resolution 386 (1976), paras. 1-6.

¹²⁴ For the relevant statements, including explicit references to Articles 50 and 49, see 1890th mtg.: Egypt, paras. 121, 125 and 132; Jamaica, paras. 35, 40, 46 and 48; United Kingdom, para. 110; and United Republic of Tanzania, paras. 94, 101 and 102; 1891st mtg.: Guyana, para. 8; and Sweden, para. 33; 1892nd mtg.: Japan, para. 35; United States, paras. 45-47; and Secretary-General, para. 85.

¹²⁵ See resolution 447 (1979) of 28 March 1979, adopted at the 2139th meeting by 12 votes to none, with 3 abstentions, especially para. 5; resolution 454 (1979) of 2 November 1979, adopted at the 2170th meeting by 12 votes to none, with 3 abstentions, especially para. 5; and resolution 475 (1980) of 27 June 1980, adopted at the 2240th meeting by 12 votes to none, with 3 abstentions, especially para. 5.

¹²⁶ See resolution 402 (1976) of 22 December 1976, adopted at the 1982nd meeting by consensus, especially paras. 5-7; and resolution 407 (1977) of 25 May 1977, adopted unanimously without a vote at the 2009th meeting, especially paras. 5-7.

¹²⁷ Resolution 411 (1977) of 30 June 1977, adopted unanimously at the 2019th meeting in response to a complaint by Mozambique; see especially paras. 9-11.

¹²⁸ Resolution 455 (1979) of 23 November 1979, adopted at the 2171st meeting by consensus, especially para. 6.

¹²⁹ Two resolutions adopted in connection with the situation in Southern Rhodesia also contained what might be interpreted as implicit references to Articles 49 and 50 in calling for assistance to the front-line States to strengthen their defence capability and to allow them to reconstruct their economies and to repatriate refugees. See resolutions 445 (1979) of 8 March 1979, para. 5, and 460 (1979) of 21 December 1979, para. 5.

¹³⁰ For explicit references see 1981st mtg.: Madagascar, para. 47; 1982nd mtg.: Guyana, para. 108, in connection with the complaint by Lesotho against South Africa; also 2017th mtg.: Mauritius, para. 72, in connection with the complaint by Mozambique. During the deliberations leading to the adoption of the resolutions listed above, Articles 49 and 50 were frequently referred to implicitly

¹³¹ In resolution 403 (1977), para. 5, the Council took cognizance of the special economic hardship confronting Botswana as a result of the imperative need to divert funds from ongoing and planned development projects to hitherto unplanned and unbudgeted security measures necessitated by the urgent need effectively to defend itself against attacks and threats by the illegal régime in Southern Rhodesia.

¹³² For references to Article 51 in connection with the "act of aggression" by Israel against the Republic of Uganda, see 1941st mtg.: United Republic of Tanzania, para. 105; 1942nd mtg.: India, para. 145; Panama, paras. 22-31; and Romania, paras. 39-44; and 1943rd mtg.: Uganda, para. 112.

¹³³ 2015th mtg.: Lesotho, para. 39; 2017th mtg.: Mauritius, paras. 70 and 71; and 2018th mtg.: India, para. 78.

¹³⁴ 2044th mtg.: France, para. 39.

¹³⁵ 2113th mtg.: Israel, para. 249; 2146th mtg.: Israel, paras. 50 and 51; 2147th mtg.: Kuwait, para. 44; 2148th mtg.: Egypt, paras. 9 and 10; 2149th mtg.: Israel, paras. 48 and 49; and 2213th mtg.: Israel, para. 72. Other speakers referred to Article 51 implicitly and suggested that acts of reprisal were not permitted under that Article of the Charter.

¹³⁶ For explicit references, see 2151st mtg.: Morocco, para. 35; 2152nd mtg.: Algeria, paras. 27 and 28; and 2153rd mtg.: Madagascar, paras. 25-28.

¹³⁷ For explicit references to Article 51, see 2185th mtg.: Afghanistan, paras. 103 and 104; Japan, para. 121; USSR, para. 13; 2186th mtg.: Poland, para. 119; USSR, para. 19; 2187th mtg.: Liberia, paras. 120-128; United States, para. 21; 2188th mtg.: Netherlands, para. 55; Viet Nam, paras. 79 and 90; 2189th mtg.: Federal Republic of Germany, para. 66; Lao People's Democratic Republic, para. 108; and Mongolia, para. 33; and 2190th mtg.: Afghanistan, para. 89; President (France), para. 129; and USSR, para. 111.

that the military action of the USSR in support of the Government of Afghanistan was an exercise in collective self-defence in accordance with Article 51; on the other hand, that interpretation of the right to self-defence was rejected and it was demanded that the foreign troops leave Afghan territory and that the population be allowed to exercise its right to self-determination in conformity with the Charter and international law.

Explicit references to Article 51 occurred during other proceedings without giving rise to further discussion.¹³⁸

¹³⁸ See 2006th mtg.: Mauritius, para. 19, in connection with the complaint by Botswana; and 2226th mtg.: Israel, para. 146, in connection with the situation in the occupied Arab territories.

Article 51 was also invoked in communications from the United States concerning an incident in the Gulf of Siam¹³⁹ and an attempt to rescue the United States hostages held in Teheran.¹⁴⁰

During the period under review, the Council took no decision under Article 48 of the Charter, nor was the Article explicitly referred to during the Council's deliberations.

¹³⁹ Letter dated 14 May 1975 from the representative of the United States (S/11689, *OR*, 30th yr., *Suppl. for April-June 1975*).

¹⁴⁰ Letter dated 25 April 1980 from the representative of the United States (S/13908, *OR*, 35th yr., *Suppl. for April-June 1980*).

Part IV

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

NOTE

During the period under review, the Council adopted a number of resolutions with explicit references to Chapter VII. In connection with the situation in Southern Rhodesia, the Council invoked Chapter VII explicitly in three cases: in resolutions 388 (1976) of 6 April 1976 and 409 (1977) of 27 May 1977, the reference to Chapter VII was linked to a decision to affirm and expand the sanctions against the illegal régime in Southern Rhodesia;¹⁴¹ but in resolution 460 (1979), Chapter VII was explicitly invoked in lifting the mandatory sanctions against the rebellious colony at the moment when it was returned to British authority.¹⁴²

In 1977, the Council adopted resolution 418 (1977) imposing a mandatory arms embargo against South Africa. This resolution contained an explicit invocation of Chapter VII and the detailed list of measures to be taken under this Chapter.¹⁴³

There were additional instances where the Council included explicit references to Chapter VII in its resolutions: this was the case in resolution 424 (1978) regarding the complaint by Zambia against the régime in Southern Rhodesia,¹⁴⁴ in resolutions 428 (1978), 447 (1979) and 475 (1980) concerning complaints by Angola against South Africa,¹⁴⁵ in resolution 439 (1978) in connection with the situation in Namibia¹⁴⁶ and in resolution 466 (1980) regarding a complaint by Zambia against South Africa.¹⁴⁷ These references involved a warning to Southern Rhodesia, in resolution 424 (1978), and in the other cases to South Africa to consider further measures under

Chapter VII, if the decisions of the Council were not implemented.

During the period under review, the Council considered a number of draft resolutions containing explicit references to Chapter VII, which, however, either were not voted upon or failed to be adopted. Such draft resolutions were submitted in connection with the situation in Namibia,¹⁴⁸ and the question of South Africa.¹⁴⁹ None of these drafts gave rise to a constitutional discussion, but they were frequently accompanied by invocations of Chapter VII or by statements employing the language of that Chapter.

On one occasion, Chapter VII was explicitly invoked in a letter requesting the Council to convene a meeting regarding the situation in Namibia.¹⁵⁰

Throughout the period under review there were many explicit references to Chapter VII in the proceedings of the Council in connection with the following issues: the situation in Cyprus; the situation in the Middle East; the Middle East problem including the Palestinian question; the situation in the occupied Arab territories; the question of the exercise by the Palestinian people of its inalienable rights; the situation in Namibia; the situation in the Comoros; request by Mozambique under Article 50 of the Charter; complaint by Kenya concerning aggression by South Africa against Angola; the situation in Southern Rhodesia; the situation in South Africa; complaint by Mauritius, current Chairman of OAU, of the "act of

¹⁴¹ For the reference to Chapter VII see resolution 388 (1976), fifth preambular para. ("Acting under Chapter VII of the Charter of the United Nations"), and resolution 409 (1977), fifth preambular para. (same text).

¹⁴² See resolution 460 (1979), para. 2: "Decides, having regard to the agreement reached at the Lancaster House conference, to call upon Member States to terminate the measures taken against Southern Rhodesia under Chapter VII of the Charter pursuant to resolutions 232 (1966), 253 (1968) and subsequent related resolutions on the situation in Southern Rhodesia."

¹⁴³ Resolution 418 (1977) was adopted unanimously on 4 November 1977 at the 2046th meeting. See the tenth preambular para. for the explicit reference to Chapter VII ("Acting therefore under Chapter VII . . .") and paras. 2-4 for the measures to be taken by all States. For further details, see chapter VIII, part II, under the title "Question of South Africa" and part I of the present chapter.

¹⁴⁴ Resolution 424 (1978), para. 5.

¹⁴⁵ Resolution 428 (1978), para. 8; resolution 447 (1979), sixth preambular para. (recalling resolution 428 (1978)), and resolution 475 (1980), para. 7.

¹⁴⁶ Resolution 439 (1978), para. 6.

¹⁴⁷ Resolution 466 (1980), para. 3.

¹⁴⁸ S/11713, para. 9, *OR*, 30th yr., *Suppl. for April-June 1975* ("Acting under Chapter VII . . ."). The draft resolution was submitted by Guyana, Iraq, Mauritania, the United Republic of Cameroon and the United Republic of Tanzania, and failed to be adopted owing to the negative votes of three permanent members. S/12211, para. 11, *OR*, 31st yr., *Suppl. for Oct.-Dec. 1976* ("Acting under Chapter VII . . ."). The draft resolution was submitted by Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania and failed to be adopted owing to the negative votes of three permanent members.

¹⁴⁹ S/12310, seventh preambular para., operative para. 5; S/12311, fifth preambular para.; *OR*, 32nd yr., *Suppl. for Jan.-March 1977*. Both draft resolutions were submitted by Benin, Libyan Arab Republic and Mauritius, and revised, but failed to be adopted owing to the negative votes of three permanent members. S/12433, seventh preambular para., *OR*, 32nd yr., *Suppl. for Oct.-Dec. 1977* ("Acting therefore under Chapter VII . . ."). The draft resolution was submitted by Canada and the Federal Republic of Germany, and subsequently withdrawn. S/12548, sixth preambular para., *OR*, 33rd yr., *Suppl. for Jan.-March 1978*. The draft resolution was submitted by Gabon, Mauritius and Nigeria, but was not put to the vote.

¹⁵⁰ S/14133, letter dated 28 August 1980 from the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. See chapter X, part III, tabulation entry 39 for details.

aggression" by Israel against Uganda; complaint by Zambia against South Africa; complaint by Botswana; the question of South Africa; complaint by Mozambique; complaint by Zambia; complaint by Angola against South Africa; telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea; letter dated 25 November 1979 from

the Secretary-General and letter dated 22 December 1979 from the representative of the United States.¹⁵¹

¹⁵¹The listing shows the wide range of Chapter VII references, too numerous to be listed individually. There were many more implicit references to Chapter VII throughout the period under review.