

# ARTICLE 39

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## ARTICLE 39

### TEXT OF 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.

### INTRODUCTORY NOTE

1. The decisions treated in this study illustrate the practice of the Security Council in connexion with calls by members of the Council or of the United Nations for action to be taken under Article 39 or Chapter VII of the Charter.<sup>1</sup>
2. Although a few decisions of the Security Council and the General Assembly contain explicit references to Article 39 or Chapter VII, none of these justify treatment under the Analytical Summary of Practice, as they did not involve constitutional discussion or even Charter-related arguments requiring detailed analysis.
3. The Summary of Practice recalls the large number of instances in which the Security Council or the General Assembly invoked the language of Article 39 or called for the application of measures under Chapter VII of the Charter. It also deals with the occasions when draft resolutions referring to Article 39 or Chapter VII failed of adoption or were not brought to a vote, and with the numerous invocations of Article 39 or Chapter VII in the debates of the Security Council and the General Assembly.
4. During the period under review occasional objections were raised that actions proposed under General Assembly resolutions were within the exclusive competence of the Security Council under Article 39; these are dealt with in the Summary of Practice. The study of Article 11 in this *Supplement* contains a detailed examination of the questions raised by this practice of the General Assembly.

<sup>1</sup>This study covers, in addition to material relating to Article 39, important references to Chapter VII of the Charter because both the Security Council and the General Assembly in recent years have taken significant decisions under Chapter VII without invoking any particular Article. Had this material been excluded, it would not have been possible to report a considerable part of recent constitutional practice in this *Supplement*.

### SUMMARY OF PRACTICE

5. During the period under review the Security Council did not take any decisions explicitly under Article 39, but it adopted a number of resolutions which invoked Chapter VII explicitly.

6. The Security Council also took several decisions containing implicit references to Article 39 or apparently referring to the language of the Article; none of the resolutions contained an implicit reference to Chapter VII.

7. In connexion with the situation in Southern Rhodesia, the Security Council reiterated<sup>2</sup> in three resolutions<sup>3</sup> its finding that the situation constituted a threat to international peace and security and invoked Chapter VII explicitly in affirming and expanding the sanctions imposed on Southern Rhodesia. A fourth resolution<sup>4</sup> reaffirmed this determination without, however, invoking Chapter VII.

8. In its consideration of two complaints by Zambia the Council also reaffirmed that the situation in Southern Rhodesia constituted a threat to international peace and security,<sup>5</sup> and decided, in one of these resolutions,<sup>6</sup> to consider further measures under Chapter VII against the racist régime if it continued to defy the sanctions imposed by the Council.

9. In considering the complaint by the Government of Botswana against the illegal régime in Southern Rhodesia concerning violations of its territorial sovereignty and the complaint by Mozambique, the Security Council, in its resolutions 403 (1977), 406 (1977)<sup>7</sup> and 411 (1977),<sup>8</sup>

<sup>2</sup>S C resolution 232 (1966) of 16 December 1966 contained the original explicit reference to Articles 39 and 41 and the finding that the situation constituted a serious threat to international peace and security. S C resolution 253 (1968) of 29 May 1968 reaffirmed that determination and contained an explicit invocation of Chapter VII.

<sup>3</sup>S C resolution 277 (1970) of 18 March 1970, 6th and 7th preamb. paras.; S C resolution 388 (1976) of 6 April 1976, 4th and 5th preamb. paras.; and S C resolution 409 (1977) of 27 May 1977, 4th and 5th preamb. paras.

<sup>4</sup>S C resolution 423 (1978) of 14 March 1978, 2nd preamb. para.

<sup>5</sup>S C resolutions 326 and 327 (1973) of 2 February 1973 recalled in particular the determination of resolution 232 (1966), whereas S C resolution 328 (1973) of 10 March 1973 reaffirmed the Council's determination. S C resolution 424 (1978) of 17 March 1978, in its 8th preamb. para., reaffirmed that the existence of the minority racist régime in Southern Rhodesia and the continuance of the acts of oppression against Zambia and other neighbouring States constituted a threat to international peace and security.

<sup>6</sup>See S C resolution 424 (1978), para. 5, for the warning to consider further Chapter VII measures against Southern Rhodesia.

<sup>7</sup>S C resolution 403 (1977) of 14 January 1977, 4th preamb. para., and S C resolution 406 (1977) of 25 May 1977, 3rd preamb. para. in connexion with the complaint by Botswana.

<sup>8</sup>S C resolution 411 (1977) of 30 June 1977, 7th preamb. para. in connexion with the complaint by Mozambique.

again recalled the determination under resolution 232 (1966) that the situation in Southern Rhodesia constituted a threat to international peace and security.

10. In 1977, after a prolonged examination of the question of South Africa, the Security Council decided to transform the voluntary arms embargo under resolution 181 (1963) of 7 August 1963 into a mandatory arms embargo: this was accomplished by Security Council resolution 418 (1977) of 4 November 1977 through explicit invocation of Chapter VII of the Charter and the determination, "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", implicitly referring to Article 39 of the Charter.<sup>9</sup> Although the mandatory arms embargo against South Africa represented the first instance of sanctions against a Member State of the United Nations, this grave decision did not give rise to a constitutional discussion about Chapter VII or about the role of Article 39.

11. In its resolution 421 (1977) of 9 December 1977 the Security Council recalled its determination under resolution 418 (1977) regarding South Africa and decided to establish a Committee to oversee the implementation of the mandatory arms embargo by the Member States of the United Nations.<sup>10</sup>

12. During the period under review there were additional instances where the Security Council included explicit references to Chapter VII in its resolutions: this was the case in resolution 288 (1970) regarding Southern Rhodesia,<sup>11</sup> in resolution 314 (1972) in connexion with the same question,<sup>12</sup> in resolution 428 (1978) in connexion with the complaint by Angola against South Africa,<sup>13</sup> and in resolution 439 (1978) in connexion with the situation in Namibia.<sup>14</sup> In the first two of these instances, the preambular invocation of Chapter VII read as follows: "Acting in accordance with previous decisions of the Security Council on Southern Rhodesia, taken under Chapter VII of the Charter". The last two resolutions contained a warning that if South Africa did not comply with the decision of the Council, the Council would have to consider measures in accordance with Chapter VII.

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

(i) S C resolution 282 (1970) of 23 July 1970, 7th preamb. para.:

"*Convinced further* that the situation resulting from the continued application of the policies of *apartheid* and the constant build-up of the South African military and police forces . . . constitutes a potential<sup>15</sup>

threat to international peace and security."<sup>16</sup>

(ii) S C resolution 294 (1971) of 15 July 1971, 5th and 8th preamb. paras.:

"*Conscious* of its duty to take effective collective measures for the prevention and removal of threats to international peace and security and for the suppression of acts of aggression

" . . .

"*Gravely concerned* that incidents of this nature, by threatening the sovereignty and territorial integrity of Senegal, might endanger international peace and security."<sup>17</sup>

(iii) S C resolution 300 (1971) of 12 October 1971, 5th preamb. para.:

"*Conscious* that it has the responsibility to take efficient collective measures to prevent and eliminate threats to peace and security."<sup>18</sup>

(iv) S C resolution 302 (1971) of 24 November 1971, 4th preamb. para.:

"*Deeply concerned* at the climate of insecurity and instability, fraught with a threat to peace and security in the region."<sup>19</sup>

(v) S C resolution 307 (1971) of 21 December 1971, 1st preamb. para.:

"*Having discussed* the grave situation in the sub-continent, which remains a threat to international peace and security."<sup>20</sup>

(vi) S C resolution 311 (1972) of 4 February 1972, 5th preamb. para.:

"*Gravely concerned* that the situation in South Africa seriously disturbs international peace and security in southern Africa."<sup>21</sup>

(vii) S C resolution 312 (1972) of 4 February 1972, para. 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>22</sup>

(viii) S C resolution 353 (1974) of 20 July 1974, 5th preamb. para.:

"*Gravely concerned* about the situation which has led to a serious threat to international peace and security."<sup>23</sup>

(ix) S C resolution 360 (1974) of 16 August 1974, 3rd preamb. para.:

"*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>24</sup>

(x) S C resolution 387 (1976) of 31 March 1976, 6th preamb. para.:

"*Gravely concerned* at the acts of aggression committed by South Africa against the People's Republic

<sup>9</sup>See S C resolution 418 (1978), 10th preamb. para. for the explicit reference to Chapter VII and para. 1 for the determination, as stipulated under Article 39. There are numerous other phrases in that resolution that might be regarded as references to both Article 39 and Chapter VII, in particular the 2nd, 7th and 8th preamb. paras., as well as the operative part detailing the measures to be taken under Chapter VII.

<sup>10</sup>S C resolution 421 (1977), 1st preamb. para. and para. 1.

<sup>11</sup>S C resolution 288 (1970) of 17 November 1970, 6th preamb. para.

<sup>12</sup>S C resolution 314 (1972) of 28 February 1972, 5th preamb. para.

<sup>13</sup>S C resolution 428 (1978) of 6 May 1978, para. 8.

<sup>14</sup>S C resolution 439 (1978) of 13 November 1978, para. 6.

<sup>15</sup>The original draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia (S C (25), Suppl. for July-Sept. 1970, S/9882) at the 1548th mtg. on 22 July 1970 read "a *serious* threat", clearly invoking the language of Article 39, but due to various statements expressing unwillingness to act under Chapter VII in this case, the draft was revised and the word "serious" was replaced by "potential". For relevant statements, see S C (25), 1545th mtg.: Mauritius, paras. 19-

23, 30; Somalia, paras. 45, 60 and 61; 1546th mtg.: Nepal, paras. 136 and 137; United Kingdom, paras. 19-22; 1547th mtg.: France, paras. 47-49.

<sup>16</sup>In connexion with the question of race conflict in South Africa.

<sup>17</sup>In connexion with a complaint by Senegal.

<sup>18</sup>In connexion with a complaint by Zambia.

<sup>19</sup>In connexion with a complaint by Senegal.

<sup>20</sup>In connexion with the situation in the India/Pakistan subcontinent.

<sup>21</sup>In connexion with the question of race conflict in South Africa.

<sup>22</sup>In connexion with the situation in Territories under Portuguese Administration.

<sup>23</sup>In connexion with the situation in Cyprus.

<sup>24</sup>In connexion with the situation in Cyprus.

of Angola and the violation of its sovereignty and territorial integrity.”<sup>25</sup>

(xi) S C resolution 405 (1977) of 14 April 1977, para. 2:

“*Strongly condemns* the act of armed aggression perpetrated against the People’s Republic of Benin on 10 January 1977.”<sup>26</sup>

None of these provisions led to a constitutional discussion regarding Article 39 or Chapter VII of the Charter. 14. The Security Council considered a large number of draft resolutions containing explicit and implicit references to Article 39 and Chapter VII, which, however, either were not voted upon or failed of adoption. The texts of these proposals are given as follows:

(i) S/9696, 2nd and 9th preamb. paras.:

“*Reaffirming* in particular its resolution 232 (1966), in which it determined that the situation in Southern Rhodesia constitutes a threat to international peace and security.

“ . . .

“*Acting* under Chapter VII of the Charter of the United Nations.”<sup>27</sup>

(ii) S/9882, 7th preamb. para.:

“*Convinced further* that the situation resulting from the continued application of the policies of *apartheid* . . . constitutes a serious threat to international peace and security.”<sup>28</sup>

(iii) S/9976, 4th preamb. para.:

“*Acting* under Chapter VII of the United Nations Charter,”<sup>29</sup>

(iv) S/10365, 3rd preamb. para.:

“*Mindful* that violations of the sovereignty and territorial integrity of a State constitute a threat to international peace and security,”<sup>30</sup>

(v) S/10416, 2nd preamb. para.:

“*Convinced* that hostilities along the Indo-Pakistan border constitute an immediate threat to international peace and security,”<sup>31</sup>

(vi) S/10421, 2nd preamb. para.:

“*Noting in particular* that India has launched large-scale attacks on Pakistan, thus gravely undermining the peace in the Indo-Pakistan subcontinent.”<sup>32</sup>

(vii) S/10446, 4th preamb. para.:

“*Gravely concerned* that hostilities continue between India and Pakistan which constitute an immediate threat to international peace and security.”<sup>33</sup>

(viii) S/10453, 1st preamb. para.:

“*Gravely concerned* over the military conflict on the Indian subcontinent, which constitutes an immediate threat to international peace and security.”<sup>34</sup>

(ix) S/10455, 1st preamb. para.:

“*Gravely concerned* at the situation in South Asia, which constitutes a threat to international peace and security.”<sup>35</sup>

(x) S/10456, 1st preamb. para.:

“*Gravely concerned* with the situation in the India-Pakistan subcontinent, which constitutes an immediate threat to peace.”<sup>36</sup>

(xi) S/10457, 1st preamb. para.:

“*Gravely concerned* by the conflict in the India-Pakistan subcontinent which constitutes an immediate threat to international peace and security.”<sup>37</sup>

(xii) S/10459, 1st preamb. para. and operative para. 2:

“*Gravely concerned* with the situation in the India-Pakistan subcontinent, which constitutes an immediate threat to international peace and security,”

“ . . .

“2. *Calls upon* all Member States to refrain from any action which may aggravate the situation in the subcontinent or endanger international peace.”<sup>38</sup>

(xiii) S/10606, para. 1:

“1. *Reaffirms* that the present situation in Southern Rhodesia constitutes a threat to international peace and security.”<sup>39</sup>

(xiv) S/10804, para. 4:

“4. *Requests* the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia to undertake, as a matter of urgency, consideration of the type of action including action under Chapter VII of the

<sup>25</sup> In connexion with the complaint by Kenya, on behalf of the African Group of States at the United Nations, concerning the acts of aggression committed by South Africa against the People’s Republic of Angola.

<sup>26</sup> In connexion with the complaint by Benin.

<sup>27</sup> S C (25), Suppl. for Jan.-March, 1970, S/9696: draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia in connexion with the situation in Southern Rhodesia; failed of adoption owing to the negative votes of two permanent members.

<sup>28</sup> S C (25), Suppl. for July-Sept., 1970, S/9882: draft resolution in connexion with the question of conflict in South Africa subsequently revised and adopted as S C resolution 282 (1970). See note 15 above for details.

<sup>29</sup> S C (25), Suppl. for Oct.-Dec., 1970, S/9976: draft resolution submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia in connexion with the situation in Southern Rhodesia; failed of adoption owing to the negative vote of a permanent member.

<sup>30</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10365: draft resolution submitted by Burundi, Sierra Leone, Somalia and Syrian Arab Republic in connexion with the complaint by Zambia; the draft resolution and in particular this preambular paragraph were substantially revised before it was adopted as resolution 300 (1971).

<sup>31</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10416: draft resolution submitted by the United States in connexion with the situation in the India/Pakistan subcontinent; failed of adoption owing to the negative vote of a permanent member. In connexion with the same agenda item see: *ibid.*, S/10417 (draft resolution submitted by Belgium, Italy and Japan, superseded by S/10423), S/10419 (draft resolution submitted by Argentina, Burundi, Nicaragua, Sierra Leone and Somalia; failed of adoption owing to the negative vote of a permanent member), S/10423 (draft resolution submitted by Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Sierra Leone and Somalia, failed of adoption owing to the negative vote of a permanent member), S/10425 (draft resolution submitted by Belgium, Italy, Japan, Nicaragua, Sierra Leone and Tunisia; subsequently withdrawn), S/10428 (draft resolution submitted by the USSR, but not pressed to the vote) for identical language in the preambular paragraphs.

<sup>32</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10421: draft resolution in connexion with the situation in the India/Pakistan subcontinent submitted by China, but not pressed to the vote.

<sup>33</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10446: draft resolution in connexion with the situation in the India/Pakistan subcontinent submitted by the United States, slightly revised, failed of adoption owing to the negative vote of a permanent member. See for the same language, *ibid.*, S/10451 (draft resolution submitted by Italy and Japan, subsequently not pressed for consideration by the Council).

<sup>34</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10453: draft resolution (in connexion with the situation in the India/Pakistan subcontinent) submitted by Poland, revised and subsequently superseded by S/10465).

<sup>35</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10455 (draft resolution submitted by France and United Kingdom in connexion with the situation in the India/Pakistan subcontinent, superseded by S/10465).

<sup>36</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10456 (draft resolution submitted by the USSR in connexion with the situation in the India/Pakistan subcontinent, superseded by S/10465).

<sup>37</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10457: draft resolution submitted by the USSR in connexion with the situation in the India/Pakistan subcontinent, superseded by S/10465).

<sup>38</sup> S C (26), Suppl. for Oct.-Dec., 1971, S/10459: draft resolution submitted by Japan and the United States in connexion with the situation in the India/Pakistan subcontinent, revised and superseded by S/10465).

<sup>39</sup> S C (27), Suppl. for Jan.-March, 1972, S/10606: draft resolution submitted in Addis Ababa in connexion with the situation in Southern Rhodesia, failed of adoption owing to the negative vote of a permanent member.

Charter which could be taken in view of the open and persistent refusal of South Africa and Portugal to implement sanctions against the illegal régime in Southern Rhodesia.”<sup>40</sup>

(xv) S/10834, para. 2:

“2. *Reaffirms* that the situation resulting both from the colonialist policy of Portugal in those Territories and from the constant aggressions by the Portuguese military forces against independent African States adjacent to those Territories seriously disturbs international peace and security in the African continent.”<sup>41</sup>

(xvi) S/10839, paras. 1 and 3:

1. [Same as S/10834, para. 2; above],

“3. *Affirms* that the military and other forms of assistance that certain military allies of Portugal within the North Atlantic Treaty 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>42</sup>

(xvii) S/10898, para. 6:

“6. *Urges* the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia to expedite the preparation of its report undertaken under Security Council resolution 320 (1972) of 29 September 1972, taking into consideration the need to widen the scope of sanctions against the illegal régime, and the desirability of the application of Chapter VII of the United Nations Charter.”<sup>43</sup>

(xviii) S/10928, 4th preamb. para.:

“*Deeply disturbed* at the deteriorating situation in Southern Rhodesia, which constitutes a serious threat to international peace and security.”<sup>44</sup>

(xix) S/11346, 4th preamb. para.:

“*Gravely concerned* about the situation which carries a serious threat to international peace and security.”<sup>45</sup>

(xx) S/11391, 1st preamb. para.:

“*Having considered* the development of events in Cyprus, which creates a serious threat to international peace and security.”<sup>46</sup>

<sup>40</sup>S C (27), Suppl. for July-Sept., 1972, S/10804: draft resolution submitted by Guinea, Somalia and Sudan in connexion with the situation in Southern Rhodesia; the reference to Chapter VII was deleted from the revised draft that the Council adopted as resolution 320 (1972).

<sup>41</sup>S C (27), Suppl. for Oct.-Dec., 1972, S/10834: draft resolution submitted by Guinea, Somalia and Sudan in connexion with the situation in Portuguese territories; withdrawn, replaced by S/10839.

<sup>42</sup>S C (27), Suppl. for Oct.-Dec., 1972, S/10839: draft resolution submitted by Guinea, Somalia and Sudan in connexion with the situation in Portuguese territories: not pressed to the vote.

<sup>43</sup>S C (28), Suppl. for Jan.-March, 1973, S/10898: draft resolution submitted by Guinea, India, Kenya, Sudan and Yugoslavia in connexion with the complaint by Zambia; the reference to Chapter VII was deleted from the revised draft adopted by the Council as resolution 328 (1973).

<sup>44</sup>S C (28), Suppl. for April-June, 1973, S/10928: draft resolution submitted by Guinea, Kenya, Sudan in connexion with the situation in Southern Rhodesia, failed of adoption owing to the negative votes of 2 permanent members.

<sup>45</sup>S C (29), Suppl. for July-Sept., 1974, S/11346: draft resolution arrived at through consultations in the Council in connexion with the situation in Cyprus. As revised (S/11346/Rev.1), the 4th preamb. para. read as follows: “Gravely concerned about the situation which may lead to a serious threat to international peace and security”, and then superseded by S/11350 which the Council adopted as resolution 353 (1974).

<sup>46</sup>*Ibid.*, S/11391: draft resolution submitted by the USSR in connexion with the situation in Cyprus, not pressed to the vote.

(xxi) S/11713, para. 9:

“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.”<sup>47</sup>

(xxii) S/12211, para. 11:

“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.”<sup>48</sup>

(xxiii) S/12310, 2nd and 7th preamb. paras. and operative paras. 2 and 5:

“*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,

“... ”

“*Recognizing* that the South African racist régime has continued to assist the illegal racist minority régime of Southern Rhodesia in defiance of resolutions adopted by the Security Council under Chapter VII of the Charter of the United Nations and in contravention of the provisions of Article 25 of the Charter,

“... ”

“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;

“... ”

“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.”<sup>49</sup>

(xxiv) S/12311, 5th and 6th preamb. paras.:

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

“*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.”<sup>50</sup>

(xxv) S/12433, 4th and 7th preamb. paras. and operative para. 1:

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

“... ”

<sup>47</sup>S C (30), Suppl. for April-June, 1975, S/11713: draft resolution submitted by Guyana, Iraq, Mauritania, the United Republic of Cameroon and the United Republic of Tanzania in connexion with the situation in Namibia, failed of adoption owing to the negative votes of 3 permanent members.

<sup>48</sup>S C (31), Suppl. for Oct.-Dec., 1976, S/12211: draft resolution submitted by Benin, Guyana, Libyan Arab Republic, Pakistan, Panama, Rumania and United Republic of Tanzania in connexion with the situation in Namibia, failed of adoption owing to the negative votes of 3 permanent members.

<sup>49</sup>S C (32), Suppl. for Jan.-March, 1977, S/12310: draft resolution submitted by Benin, Libyan Arab Republic and Mauritius in connexion with the question of South Africa, revised, failed of adoption owing to the negative votes of 3 permanent members.

<sup>50</sup>*Ibid.*, S/12311: draft resolution submitted by Benin, Libyan Arab Republic and Mauritius in connexion with the question of South Africa, revised, failed of adoption owing to the negative votes of 3 permanent members.

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

"...

"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."<sup>51</sup>

(xxvi) S/12547, 7th preamb. para.:

"Considering that the policies and actions of the South African racist régime have further aggravated the situation in South Africa and that the continuation of the situation constitutes a serious threat to international peace and security."<sup>52</sup>

(xxvii) S/12548, 6th preamb. para.:

"Acting under Chapter VII of the Charter of the United Nations."<sup>53</sup>

None of these provisions from draft resolutions engendered a constitutional discussion or was supported by a constitutional argument. Occasionally they were accompanied by invocations of Article 39 or Chapter VII or by statements employing the language of the Charter.

15. On one occasion, a letter of submission by Cuba requesting consideration of its complaint against Chile<sup>54</sup> by the Council explicitly invoked Article 39 together with Articles 34 and 35. Language similar to that of Article 39 was employed in a number of other letters of submission to the Council.

16. A few incidental references to Article 39 were made during the consideration of various agenda items in the Security Council.<sup>55</sup>

17. Throughout the period under review there were numerous explicit references to Chapter VII of the Charter, mostly together with calls for the application or expansion of sanctions in certain situations or occasionally in connexion with arguments against the use of such measures. In 1970, Chapter VII was invoked during the

consideration of the situation in Namibia,<sup>56</sup> the situation in Southern Rhodesia,<sup>57</sup> the situation in the Middle East,<sup>58</sup> the question of race conflict in South Africa,<sup>59</sup> and the complaint by Guinea.<sup>60</sup> In 1971 explicit references to Chapter VII were made in connexion with the situation in the Middle East,<sup>61</sup> the situation in Namibia,<sup>62</sup> the complaint by Senegal,<sup>63</sup> the complaint by Zambia,<sup>64</sup> the situation in Southern Rhodesia,<sup>65</sup> and the situation in the India/Pakistan subcontinent.<sup>66</sup> In 1972, Chapter VII was invoked during the consideration of questions relating to Africa,<sup>67</sup> the situation in Southern Rhodesia,<sup>68</sup> the situation in the Middle East,<sup>69</sup> the situation in Namibia,<sup>70</sup> the complaint by Senegal,<sup>71</sup> and the situation in Territories under Portuguese administration.<sup>72</sup> In 1973 Chapter VII was referred to in connexion with the complaint by Zambia,<sup>73</sup> the consideration of measures for the maintenance and strengthening of international peace and security in Latin America,<sup>74</sup> the situation in Southern Rhodesia,<sup>75</sup> the situation in the Middle East,<sup>76</sup> the situation in Cyprus,<sup>77</sup> and the situation in Namibia.<sup>78</sup> In 1974, Chapter VII was referred to during the discussion of the situation in Cyprus,<sup>79</sup> the relationship between the United Nations and South Africa,<sup>80</sup> and the situation in Namibia.<sup>81</sup> In 1975, Chapter VII was invoked in connexion with the Middle East in the Middle East<sup>82</sup> and very often during the consideration of the situation in Namibia.<sup>83</sup> In 1976, Chapter VII was involved in connexion with the Middle East problem including the Palestinian question,<sup>84</sup> the situation in Namibia,<sup>85</sup> the situation in the Comoros,<sup>86</sup> the request of Mozambique under Article 50 of the Charter of the United Nations in relation to the situation which has arisen as a result of its decision to impose sanctions against Southern Rhodesia in full implementation of the relevant decisions of the Security Council,<sup>87</sup> the complaint by Kenya, on behalf of the African Group of States at the United Nations, concerning the act of aggression committed by South Africa against the People's Republic of Angola,<sup>88</sup> the situation in Southern Rhodesia,<sup>89</sup> the question of the exercise by the Palestinian people of its

<sup>51</sup>S C (32), Suppl. for Oct.-Dec., 1977, S/12433: draft resolution submitted by Canada and the Federal Republic of Germany in connexion with the question of South Africa; withdrawn.

<sup>52</sup>S C (33), Suppl. for Jan.-March, 1978, S/12547: draft resolution submitted by Gabon, Mauritius and Nigeria in connexion with the question of South Africa; not put to the vote.

<sup>53</sup>*Ibid.*, S/12548: draft resolution submitted by Gabon, Mauritius and Nigeria in connexion with the question of South Africa; not pressed to the vote.

<sup>54</sup>S C (28), Suppl. for July-Sept., 1973, S/10995, in connexion with the complaint by Cuba.

<sup>55</sup>S C (25), 1531st mtg.: Zambia, paras. 14, 15, 17, in connexion with the situation in Southern Rhodesia; 1546th mtg.: Sierra Leone, para. 93, in connexion with the question of race conflict in South Africa; 1559th mtg.: Tanzania, paras. 102 and 112; 1560th mtg.: Yugoslavia, para. 73, and 1563rd mtg.: United Kingdom, para. 143, in connexion with the complaint by Guinea; S C (26), 1585th mtg.: Liberia, para. 48; 1588th mtg.: France, para. 18; 1594th mtg.: Liberia, paras. 19, 36, 41 and 42, in connexion with the situation in Namibia; 1606th mtg.: USSR, para. 263, in connexion with the situation in the India/Pakistan subcontinent; S C (28), 1741st mtg.: Chile, para. 44; 1742nd mtg.: President (Yugoslavia), para. 103, in connexion with the complaint by Cuba; S C (29), 1800th mtg.: Uganda, paras. 19 and 26; 1802nd mtg.: Barbados, paras. 103 and 104, 107, in connexion with the relationship between the United Nations and South Africa; 1810th mtg.: Cyprus, para. 40, in connexion with the situation in Cyprus; 1812th mtg.: United Kingdom, para. 145, in connexion with the situation in Namibia; S C (30), 1823rd mtg.: Burundi, para. 60; 1828th mtg.: Sweden, para. 100, in connexion with the situation in Namibia; 1864th mtg.: Portugal, para. 56, in connexion with the situation in Timor; S C (31), 1884th mtg.: Sweden, para. 118, in connexion with the situation in Namibia; 1888th mtg.: France, para. 272, in connexion with the situation in the Comoros; 1966th mtg.: Syria, para. 160, in connexion with the situation in the occupied Arab territories; S C (32), 1986th mtg.: Madagascar, paras. 68, 74, 75, 77, in connexion with the complaint by Benin; 2039th mtg.: Senegal, para. 36; 2046th mtg.: United Kingdom, para. 42, in connexion with the question of South Africa; and 2055th mtg.: Cyprus, paras. 144-145, in connexion with the situation in Cyprus.

<sup>56</sup>S C (25), 1527th-1529th and 1550th mtgs.

<sup>57</sup>S C (25), 1531st-1533rd, 1535th, 1556th and 1557th mtgs.

<sup>58</sup>S C (25), 1537th, 1542nd, 1551st mtgs.

<sup>59</sup>S C (25), 1545th-1547th; 1549th mtgs.

<sup>60</sup>S C (25), 1560th-1563rd mtgs.

<sup>61</sup>S C (26), 1579th-1582nd mtgs.

<sup>62</sup>S C (26), 1583rd-1585th, 1587th, 1588th, 1593rd-1595th mtgs.

<sup>63</sup>S C (26), 1586th mtg.

<sup>64</sup>S C (26), 1592nd mtg.

<sup>65</sup>S C (26), 1602nd mtg.

<sup>66</sup>S C (26), 1621st mtg.

<sup>67</sup>S C (27), 1628th, 1630th, 1631st, 1633rd, 1634th and 1636th mtgs.

<sup>68</sup>S C (27), 1640th-1642nd, 1645th, 1655th, 1663rd-1666th mtgs.

<sup>69</sup>S C (27), 1643rd, 1644th, 1648th mtgs.

<sup>70</sup>S C (27), 1656th, 1657th, 1679th, 1681st mtgs.

<sup>71</sup>S C (27), 1668th mtg.

<sup>72</sup>S C (27), 1673rd, 1674th, 1677th mtgs.

<sup>73</sup>S C (28), 1687th-1689th mtgs.

<sup>74</sup>S C (28), 1703rd mtg.

<sup>75</sup>S C (28), 1714th and 1715th mtgs.

<sup>76</sup>S C (28), 1720th, 1723rd, 1734th, 1744th, 1745th, 1749th and 1750th mtgs.

<sup>77</sup>S C (28), 1728th mtg.

<sup>78</sup>S C (28), 1756th and 1757th mtgs.

<sup>79</sup>S C (29), 1793rd mtg.

<sup>80</sup>S C (29), 1796th, 1797th, 1800th, 1801st, 1803rd, 1806th and 1807th mtgs.

<sup>81</sup>S C (29), 1811th and 1812th mtgs.

<sup>82</sup>S C (29), 1821st mtg.

<sup>83</sup>S C (30), 1823rd-1829th mtgs.

<sup>84</sup>S C (31), 1874th mtg.

<sup>85</sup>S C (31), 1880th, 1881st, 1883rd, 1884th, 1954th, 1956th-1963rd mtgs.

<sup>86</sup>S C (31), 1888th mtg.

<sup>87</sup>S C (31), 1891st mtg.

<sup>88</sup>S C (31), 1901st and 1903rd mtgs.

<sup>89</sup>S C (31), 1907th mtg.

inalienable rights,<sup>90</sup> the situation in South Africa: killings and violence by the *apartheid* régime in South Africa in Soweto and other areas,<sup>91</sup> the complaint by the Prime Minister of Mauritius, as Chairman of the Organization of African Unity, of an "act of aggression" by Israel against the Republic of Uganda,<sup>92</sup> and the complaint by Zambia against South Africa.<sup>93</sup> In 1977 Chapter VII was explicitly referred to in the Security Council during the consideration of the complaint of the Government of Botswana against the illegal régime in Southern Rhodesia concerning violations of its territorial sovereignty,<sup>94</sup> the question of South Africa,<sup>95</sup> the situation in Southern Rhodesia,<sup>96</sup> the complaint by Mozambique,<sup>97</sup> and the situation in Cyprus.<sup>98</sup> In 1978 Chapter VII was invoked in connexion with the question of South Africa,<sup>99</sup> the question of Southern Rhodesia,<sup>100</sup> the complaint by Zambia,<sup>101</sup> the situation in the Middle East,<sup>102</sup> the complaint by Angola against South Africa,<sup>103</sup> the situation in Cyprus,<sup>104</sup> and the situation in Namibia.<sup>105</sup>

18. Although the determination under Article 39 and the adoption of measures under Chapter VII are exclusively the responsibility of the Security Council, the General Assembly has continued as in the past to adopt resolutions which employ language similar to that of Article 39 and contain calls for the imposition of sanctions under Chapter VII.

19. In one instance the General Assembly adopted, as resolution 3314 (XXIX),<sup>106</sup> the Definition of Aggression which in its preambular part invoked Article 39 together with Articles 41 and 42. The relevant paragraph reads as follows:

"The General Assembly,

"*Recalling* that the Security Council, in accordance with Article 39 of the Charter of the United Nations, 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 . . ."

The Assembly called the attention of the Security Council to this definition and recommended that the Council take it into account as guidance in determining the existence of an act of aggression.<sup>107</sup> In general, the Definition of Aggression provided that the first use of armed force by a State in contravention of the Charter be considered *prima facie* evidence of an act of aggression.<sup>108</sup> The discussions in the Sixth Committee of the Assembly during the years 1970-1974 reflected clearly the common conviction that the definition of an act of aggression was not meant to restrict, but to strengthen and widen the mandate of the Security Council under Article 39.<sup>109</sup>

20. During the twenty-fifth through the thirty-third sessions, the General Assembly adopted a number of resolutions with what might be considered to be implicit references to Article 39:

- <sup>90</sup>S C (31), 1928th mtg.  
<sup>91</sup>S C (31), 1929th and 1930th mtgs.  
<sup>92</sup>S C (31), 1940th mtg  
<sup>93</sup>S C (31), 1945th, 1946th and 1948th mtgs.  
<sup>94</sup>S C (32), 1985th mtg.  
<sup>95</sup>S C (32), 1988th-1990th, 1992nd, 1994th, 1996th, 1998th and 1999th, 2036th-2040th, 2042nd-2046th, 2052nd and 2053rd mtgs.  
<sup>96</sup>S C (32), 2011th mtg.  
<sup>97</sup>S C (32), 2015th-2017th mtgs.  
<sup>98</sup>S C (32), 2055th mtg.  
<sup>99</sup>S C (33), 2057th-2059th mtgs.  
<sup>100</sup>S C (33), 2061st, 2090th mtgs.  
<sup>101</sup>S C (33), 2068th, 2069th mtgs.  
<sup>102</sup>S C (33), 2076th, 2106th mtgs.  
<sup>103</sup>S C (33), 2077th, 2078th mtgs.  
<sup>104</sup>S C (33), 2081st, 2099th, 2100th and 2107th mtgs.  
<sup>105</sup>S C (33), 2087th, 2092nd, 2094th-2098th, 2103rd mtgs.

<sup>106</sup>G A resolution 3314 (XXIX) adopted at the 2319th plen. mtg. on 14 December 1974. See also in *Repertory, Supplement No. 4*, under Article 2 (4), paras. 37-42, on the efforts prior to 1970 to arrive at a definition of aggression.

<sup>107</sup>See 2nd preamb. para. of the Definition for the explicit invocation of Article 39 and G A resolution 3314 (XXIX), para. 4 for the appeal to the Security Council.

<sup>108</sup>This basic conception of an act of aggression is found in Article 2 of the Definition. For details concerning the constitutional significance of the Definition of Aggression, see this *Supplement* under Article 2 (4) and Article 13 (1)(a).

<sup>109</sup>See the discussion in the Sixth Committee during the 25th to 29th sessions of the General Assembly for this theme: G A (25), 6th Com., 1202nd, 1209th, 1212th meetings; G A (26), 6th Com., 1270th-1276th mtgs.; G A (27), 6th Com., 1348th-1352nd mtgs.; G A (28), 6th Com., 1440th-1444th mtgs.; G A (29), 6th Com., 1472nd-1480th mtgs.

Number of resolution	Title of resolution
<i>Twenty-fifth session of the General Assembly</i>	
2628 (XXV), 1st preamb. para. ....	Situation in the Middle East
2646 (XXV), 5th preamb. para. ....	Elimination of all forms of racial discrimination
2652 (XXV), 8th preamb. para. ....	Question of Southern Rhodesia
2671 (XXV), F, 5th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa
2678 (XXV), 4th preamb. para. ....	Question of Namibia
2707 (XXV), para. 12 ....	Question of Territories under Portuguese administration
2708 (XXV), 5th preamb. para. ....	Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples
2734 (XXV), para. 8 ....	Declaration on the Strengthening of International Security
<i>Twenty-sixth session of the General Assembly</i>	
2793 (XXVI), 2nd preamb. para. ....	Question considered by the Security Council at its 1606th, 1607th and 1608th meetings on 4, 5 and 6 December 1971 <sup>110</sup>
2796 (XXVI), 8th preamb. para. ....	Question of Southern Rhodesia
2799 (XXVI), 1st preamb. para. ....	Situation in the Middle East
<i>Twenty-seventh session of the General Assembly</i>	
2923 (XXVII), E, 4th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa <sup>111</sup>
2946 (XXVII), 2nd preamb. para. ....	Question of Southern Rhodesia

Number of resolution	Title of resolution
<i>Twenty-eighth session of the General Assembly</i>	
3115 (XXVIII), 7th preamb. para. ....	Question of Southern Rhodesia
3116 (XXVIII), 1st preamb. para. ....	Question of Southern Rhodesia
3151 (XXVIII), G, 6th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Twenty-ninth session of the General Assembly</i>	
3295 (XXIX), 10th preamb. para. ....	Question of Namibia
3298 (XXIX), 1st preamb. para. ....	Question of Southern Rhodesia
3324 (XXIX), E, 3rd preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Thirtieth session of the General Assembly</i>	
3389 (XXX), para. 4 .....	Implementation of the Declaration on the Strengthening of International Security
3396 (XXX), 6th preamb. para. ....	Question of Southern Rhodesia
3399 (XXX), 12th preamb. para. ....	Question of Namibia
3411 (XXX), G, 5th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa
3414 (XXX), 6th preamb. para. ....	Situation in the Middle East
<i>Thirty-first session of the General Assembly</i>	
31/6 I, 6th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa
31/154 A, 6th preamb. para. ....	Question of Southern Rhodesia
<i>Thirty-second session of the General Assembly</i>	
32/9 D, 12th preamb. para. ....	Question of Namibia
32/116 A, 7th preamb. para. ....	Question of Southern Rhodesia
<i>Thirty-third session of the General Assembly</i>	
33/38 A, 8th preamb. para. ....	Question of Southern Rhodesia
33/71 A, para. 1 .....	Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session <sup>112</sup>
33/75, 5th and 6th preamb. paras. ....	Implementation of the Declaration on the Strengthening of International Security
33/183 G, 5th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa <sup>113</sup>

<sup>110</sup> This question was the conflict between India and Pakistan at the end of 1971.

<sup>111</sup> G A resolution 2923 E carries the subheading: Situation in South Africa resulting from the policies of *apartheid*.

<sup>112</sup> G A resolution 33/71 A has the sub-title: Military and nuclear collaboration with Israel.

<sup>113</sup> G A resolution 33/183 G is entitled "Nuclear collaboration with South Africa", whereas L deals with the "situation in South Africa".

21. During the twenty-fifth through thirty-third sessions, the General Assembly also adopted many resolutions explicitly invoking Chapter VII in the preambular or operative parts:

Number of resolution	Title of resolution
<i>Twenty-fifth session of the General Assembly</i>	
2652 (XXV), para. 13 .....	Question of Southern Rhodesia
2671 (XXV), F, 9th preamb. para.; para. 6	Policies of <i>apartheid</i> of the Government of South Africa
2678 (XXV), para. 7 .....	Question of Namibia
2734 (XXV), para. 9 .....	Declaration on the Strengthening of International Security
<i>Twenty-sixth session of the General Assembly</i>	
2775 (XXVI), F, para. 13 .....	Policies of <i>apartheid</i> of the Government of South Africa
2880 (XXVI), 7th preamb. para. ....	Implementation of the Declaration on the Strengthening of International Security
<i>Twenty-seventh session of the General Assembly</i>	
2923 (XXVII), E, paras. 7 and 8 .....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Twenty-eighth session of the General Assembly</i>	
3151 (XXVIII), G, para. 6 .....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Twenty-ninth session of the General Assembly</i>	
3324 (XXIX), B, 6th preamb. para.; operative paragraph .....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Thirtieth session of the General Assembly</i>	
3411 (XXX), G, 8th preamb. para. ....	Policies of <i>apartheid</i> of the Government of South Africa



Number of resolution	Title of resolution
<i>Thirty-first session of the General Assembly</i>	
31/6 D, 8th preamb. para.; paras. 1 and 3; I, paras. 6 and 10.....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Thirty-second session of the General Assembly</i>	
32/9 D, para. 32.....	Question of Namibia
32/105 F, 6th preamb. para.; paras. 2 and 3; G, 3rd preamb. para.; J, para. 4.....	Policies of <i>apartheid</i> of the Government of South Africa
<i>Thirty-third session of the General Assembly</i>	
33/71 A, paras. 1 and 2.....	Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session
33/75, para. 2.....	Implementation of the Declaration on the Strengthening of International Security
33/131, para. 13.....	Assistance to Zambia
33/182, A, para. 13; B, paras. 7 and 8.....	Question of Namibia
33/183 E, para. 2; H, 4th preamb. para.; para. 2; M, para. 1.....	Policies of <i>apartheid</i> of the Government of South Africa
33/206, para. 12.....	Question of Namibia <sup>114</sup>

<sup>114</sup>G A resolution 33/206 regarding Namibia was adopted at the 108th plenary meeting of the Assembly on 31 May 1979.

22. Article 39 was frequently referred to in connexion with the search for a definition of aggression by the United Nations: there were numerous explicit and implicit references during the deliberations of the Sixth Committee of the General Assembly regarding this agenda item,<sup>115</sup> without, however, giving rise to a constitutional discussion regarding Article 39. In addition, there were a few other incidental references to Article 39 during the period under review: in connexion with the celebration of the twenty-fifth anniversary of the United Nations,<sup>116</sup> the consideration of measures for the strengthening of international security,<sup>117</sup> the implementation of the Declaration on the Strengthening of International Security,<sup>118</sup> the question of Southern Rhodesia,<sup>119</sup> measures to prevent international terrorism,<sup>120</sup> the report of the Special Committee on the Question of Defining Aggression,<sup>121</sup> the strengthening of the United Nations,<sup>122</sup> the question of Namibia,<sup>123</sup> the need to consider suggestions regarding the review of the Charter of the United Nations,<sup>124</sup> the conclusion of a world treaty on the non-

use of force in international relations,<sup>125</sup> the deepening and consolidation of international detente and prevention of the danger of nuclear war,<sup>126</sup> the question of Palestine,<sup>127</sup> the situation in the Middle East.<sup>128</sup> Article 39 was also explicitly invoked during the tenth special session of the General Assembly devoted to disarmament.<sup>129</sup>

23. Throughout the period under review Chapter VII was cited in the General Assembly and its Committees so often that it is impossible to include them in detail in this study. But it seems feasible and useful to indicate in connexion with which agenda items reference has been made to Chapter VII and its provision for the imposition of mandatory sanctions by the Security Council.

24. The largest number of explicit references to Chapter VII occurred in connexion with the discussion of southern African issues, namely, the policies of *apartheid* of the Government of South Africa,<sup>130</sup> the question of Namibia,<sup>131</sup> the question of Territories under Portuguese administration,<sup>132</sup> and the question of Southern Rhodesia.<sup>133</sup> Most of these invocations were linked to the demand that the Security Council consider Chapter VII measures against South Africa, Southern Rhodesia or against colonialist Portugal.

25. Chapter VII was frequently referred to and constituted a major focus for the committee deliberations

<sup>115</sup>See in connexion with the agenda item: Report of the Special Committee on the Question of Defining Aggression: G A (25), 6th Com., 1202nd-1209th and 1212th mtgs.; G A (26), 6th Com., 1270th-1272nd and 1276th mtgs.; G A (27), 6th Com., 1348th-1352nd mtgs.; G A (28), 6th Com., 1440th-1443rd mtgs.; and G A (29), 1472nd-1475th, 1477th-1482nd mtgs. See also the reports of the Special Committee and of the Sixth Committee in connexion with this agenda item during the twenty-fifth to twenty-ninth sessions of the General Assembly.

<sup>116</sup>G A (25), Plen., 1873rd mtg.: Mali, para. 199 (a.i. 21).  
<sup>117</sup>G A (25), Plen., 1932nd mtg.: India, para. 132 (a.i. 32).

<sup>118</sup>G A (26), 1st Com., 1808th mtg.: India, para. 39 (a.i. 34); G A (30), 1st Com., 2059th mtg.: Cyprus, p. 82 (a.i. 49); G A (31), 1st Com., 55th mtg.: Ghana, p. 22; 57th mtg., Cyprus, p. 56 (a.i. 33); G A (32), 1st Com., 54th mtg.: Cyprus, pp. 18-20 (a.i. 50).

<sup>119</sup>G A (27), 4th Com., 1989th mtg.: Peru, para. 14 (a.i. 66).  
<sup>120</sup>G A (27), 6th Com., 1359th mtg.: Uruguay, para. 10 (a.i. 92).

The full title of the item reads as follows: "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes".

<sup>121</sup>G A (29), Plen., 2257th mtg.: Kenya, para. 27 (a.i. 86).  
<sup>122</sup>G A (29), Plen., 2314th mtg.: Cyprus, para. 264 (a.i. 20).

<sup>123</sup>G A (29), 4th Com., 2109th mtg.: Uganda, para. 18 (a.i. 65); G A (30), 4th Com., 2166th mtg.: Sweden, para. 81 (a.i. 87); G A (33), Plen., 99th mtg.: Burundi, para. 100; 104th mtg.: Guinea, para. 192 (a.i. 27).

<sup>124</sup>G A (29), 6th Com., 1520th mtg.: Cyprus, para. 24 (a.i. 95); G A (31), 6th Com., 49th mtg.: Cyprus, para. 83 (a.i. 110); G A (32), 6th Com., 26th mtg.: Nigeria, paras. 51 and 52 (a.i. 116); G A (33), 6th Com., 24th mtg.: Ghana, para. 56 (a.i. 117).

<sup>125</sup>G A (31), 1st Com., 11th mtg.: Cyprus, pp. 51, 53; 15th mtg. (PV): Chile, a.i. 124; G A (32), 1st Com., 54th mtg.: Cyprus, pp. 18-20; 6th Com., 65th mtg.: Mexico, para. 7 (a.i. 37); G A (33), 6th Com., 54th mtg.: Syria, para. 5; 55th mtg.: Jamaica, para. 16 (a.i. 121).

<sup>126</sup>G A (32), 1st Com., 7th mtg.: Cyprus, p. 11; 54th mtg.: Cyprus, pp. 18-20 (a.i. 127).

<sup>127</sup>G A (33), Plen., 65th mtg.: Israel, para. 36 (a.i. 31).  
<sup>128</sup>G A (33), Plen., 71st mtg.: Israel, para. 87 (a.i. 30).

<sup>129</sup>G A (S-10), Plen., 27th mtg.: Cyprus, para. 368 (a.i. 9, 10, 11, 12 related to disarmament and international peace and security).

<sup>130</sup>G A (25), a.i. 34; G A (26), a.i. 37; G A (27), a.i. 38; G A (28), a.i. 42; G A (29), a.i. 37; G A (30), a.i. 53; G A (31), a.i. 52; G A (32), a.i. 27; G A (33), a.i. 32. The item was regularly discussed in the Special Political Committee, except in the 33rd session, when the Assembly considered it in plenary.

<sup>131</sup>G A (25), a.i. 62; G A (26), a.i. 66; G A (27), a.i. 64; G A (28), a.i. 70; G A (29), a.i. 65; G A (30), a.i. 87; G A (31), a.i. 85; G A (32), a.i. 91; G A (33), a.i. 27. The issue was also discussed at the ninth special session. The Assembly's Fourth Committee usually debates the issue, but recently the Plenary has held extensive debates.

<sup>132</sup>G A (25), a.i. 63; G A (26), a.i. 67; G A (27), a.i. 65; G A (28), a.i. 71. The Fourth Committee was charged with this issue.

<sup>133</sup>G A (25), a.i. 64; G A (26), a.i. 68; G A (27), a.i. 66; G A (28), a.i. 72; G A (29), a.i. 67; G A (30), a.i. 89; G A (31), a.i. 86; G A (32), a.i. 92; G A (33), a.i. 93. This item was also handled in the Fourth Committee.

regarding the agenda items concerning the report of the Special Committee on the Question of Defining Aggression,<sup>134</sup> the consideration of measures for the strengthening of international security,<sup>135</sup> the comprehensive review of the whole question of peace-keeping operations in all their aspects,<sup>136</sup> and the need to consider suggestions regarding the review of the Charter of the United Nations.<sup>137</sup>

26. During the general debate at the beginning of each regular session of the General Assembly there were quite frequently explicit references to Chapter VII in connexion with some major political controversy.<sup>138</sup> Chapter VII was also frequently cited during the deliberations about the conclusion of a world treaty on the non-use of force in international relations.<sup>139</sup> Throughout the years under review Chapter VII was occasionally invoked in connexion with items relating to the Middle East<sup>140</sup> and with the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>141</sup>

27. When the General Assembly discussed disarmament at the Tenth Special Session and when it reviewed the results of that special session at the following thirty-third

session,<sup>142</sup> some of the proceedings involved explicit references to Chapter VII.

28. There were also occasional but mostly incidental invocations of Chapter VII during the consideration of a number of other agenda items;<sup>143</sup> none of these gave rise to a constitutional argument or discussion.

29. Throughout the period under review, occasional objectives were raised to a number of General Assembly resolutions and in the course of the consideration of draft measures. It was argued that the proposed actions under Chapter VII were within the exclusive competence of the Security Council and that the General Assembly was not authorized under the Charter to infringe upon the prerogatives of the Security Council. These arguments<sup>144</sup> were put forth especially regarding calls by the Assembly for sanctions against South Africa and against Israel and in connexion with the definition of aggression. No serious effort to seek the deletion of such provisions resulted from those objections of principle.

<sup>142</sup> G A (S-10), a.i. 9, 10, 11, 12; G A (33), a.i. 125.

<sup>143</sup> G A (25), a.i. 21 in connexion with the celebration of the twenty-fifth anniversary of the United Nations; G A (25), a.i. 85 in connexion with the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations; G A (27), a.i. 24; and G A (30), a.i. 29, in connexion with the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States; G A (27), a.i. 25 in connexion with the non-use of force in international relations and permanent prohibition of the use of nuclear weapons; G A (28), a.i. 41 in connexion with the question of Korea; G A (30), a.i. 68, and G A (33), a.i. 81 in connexion with the elimination of all forms of racial discrimination; G A (31), a.i. 76, and G A (33), a.i. 82 in connexion with the importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; G A (31), a.i. 118 in connexion with the question of Cyprus; G A (32), a.i. 127 in connexion with the deepening and consolidation of international detente and prevention of the danger of nuclear war; G A (33), a.i. 94 in connexion with the question of East Timor; G A (33), a.i. 95 in connexion with the activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Southern Rhodesia and Namibia, and in all other Territories under colonial domination and efforts to eliminate colonialism, *apartheid* and racial discrimination in southern Africa; G A (33), a.i. 128 in connexion with the conclusion of an international convention on the strengthening of guarantees of the security of non-nuclear States.

<sup>144</sup> For the general treatment of the question whether and how the Security Council exercises its prerogative in matters relating to peace and security, see this *Supplement* under Articles 12 and 14.

<sup>134</sup> G A (25), a.i. 87; G A (26), a.i. 89; G A (27), a.i. 88; G A (28), a.i. 95; G A (29), a.i. 86. The item was discussed in the Sixth Committee.

<sup>135</sup> G A (25), a.i. 32; G A (26), a.i. 34; G A (27), a.i. 35; G A (28), a.i. 39; G A (29), a.i. 36; G A (30), a.i. 49; G A (31), a.i. 33; G A (32), a.i. 50; G A (33), a.i. 50. The agenda item is handled by the First Committee.

<sup>136</sup> G A (25), a.i. 36; G A (27), a.i. 41; G A (28), a.i. 44; G A (29), a.i. 39; G A (31), a.i. 54; G A (32), a.i. 56; G A (33), a.i. 56. The issue was debated in the Special Political Committee.

<sup>137</sup> G A (25), a.i. 88; G A (27), a.i. 27; G A (29), a.i. 95. The agenda item was worded differently for the 30th session: Report of the *Ad Hoc* Committee on the Charter of the United Nations (G A (30), a.i. 113). The item was again reworded for the 31st session: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (G A (31), a.i. 110; G A (32), a.i. 116; G A (33), a.i. 117). The Sixth Committee was responsible for this item.

<sup>138</sup> The general debate has always been agenda item 9.

<sup>139</sup> G A (31), a.i. 124; G A (32), a.i. 37; G A (33), a.i. 121. The item has been discussed in the First and Sixth Committees.

<sup>140</sup> For the situation in the Middle East: G A (25), a.i. 22; G A (27), a.i. 21; G A (30), a.i. 124; G A (31), a.i. 29; G A (33), a.i. 30. For the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories: G A (27), a.i. 42. For the question of Palestine: G A (30), a.i. 27; G A (33), a.i. 33. The issues were dealt with in the Plenary and in the Special Political Committee.

<sup>141</sup> G A (25), a.i. 23; G A (27), a.i. 22; G A (30), a.i. 23; G A (31), a.i. 25; G A (33), a.i. 24. This agenda item was discussed in the Fourth Committee.