

ARTICLE 39

CONTENTS

	<i>Paragraphs</i>
Text of Article 39	
Introductory note	1-4
Summary of practice	5-26

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. During the period under review, there were numerous instances in which the Security Council adopted decisions which either explicitly referred to Article 39 or used the language of the Article. Moreover, such references were also contained in draft resolutions which failed of adoption.
2. Also treated in the present study are Security Council proceedings as well as communications explicitly invoking Article 39 or employing the language of the Article as a basis for the submission of a question for the consideration of the Council.
3. During the period under review, the General Assembly also adopted a number of resolutions invoking Article 39 or calling for the application of measures under Chapter VII of the Charter. During the accompanying deliberations, however, objections were raised that actions proposed under General Assembly resolutions were within the exclusive competence of the Security Council under Article 39.
4. None of the above-mentioned references gave rise to constitutional discussions requiring detailed treatment under an analytical summary of practice. Consequently, this study consists only of a summary of practice.

SUMMARY OF PRACTICE

5. In connection with the detention of United States Embassy personnel in Iran,¹ the Security Council, at its 2184th meeting on 31 December 1979, adopted resolution 461 (1979), by which it recalled and reaffirmed in all its aspects its resolution 457 (1979)² on the subject; expressed its grave concern at the mounting tension between the Islamic Republic of Iran and the United States, "which could have grave consequences for international peace and security"; repeated its urgent call on the Government of Iran to release immediately all persons of United States nationality being held hostage in Iran, to provide them with protection and to allow them to leave the country; and decided to meet on 7 January 1980 in order to review the situation and, in

¹ The agenda item was entitled "Letter dated 22 December 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/13705)".

² In S C resolution 457 (1979) of 4 December 1979, the Council had expressed its deep concern at the dangerous level of tension between Iran and the United States, which "could have grave consequences for international peace and security"; urgently called upon the Government of Iran to release immediately the personnel of the Embassy of the United States being held in Tehran, to provide them protection and allow them to leave the country; called upon the Governments of Iran and the United States to take steps to resolve peacefully the remaining issues between them in accordance with the purposes and principles of the United Nations, and to exercise the utmost restraint in the prevailing situation; and decided that the Council would remain actively seized of the matter.

the event of Iran's non-compliance with the resolution, to "adopt effective measures under Articles 39 and 41 of the Charter of the United Nations."³

6. In connection with the situation in Southern Rhodesia, at its 2122nd meeting, on 8 March 1979, the Council adopted resolution 445 (1979), by which it recalled resolution 253 (1968);⁴ expressed its concern at the extension of Southern Rhodesia's premeditated and provocative acts of aggression "not only against neighbouring independent countries but also against non-contiguous States"; reaffirmed that the "existence of the illegal racist minority regime in Southern Rhodesia and the continuance of its acts of aggression against neighbouring independent States constitute[d] a threat to international peace and security"; and

³ S C resolution 461 (1979), preamb. para. 4 and paras. 1 and 6. For the Council's review of the situation, see para. 11 below.

⁴ In its resolution 253 (1968) the Council had reaffirmed its resolution 232 (1966), by which it had explicitly invoked Articles 39 and 41 of the Charter to determine that the situation in Southern Rhodesia constituted a threat to international peace and security and adopted a wide range of measures. In resolution 253 (1968), the Council had reaffirmed its determination that the situation in Southern Rhodesia constituted a threat to international peace and security and, acting under Chapter VII, adopted further measures, requested all Member States "to take all possible further action under Article 41 of the Charter ... not excluding any of the measures provided in that Article" and established a committee to monitor the implementation of the resolution.

condemned the armed invasions perpetrated by Southern Rhodesia against Angola, Mozambique and Zambia.⁵

7. In connection with the complaint by Zambia, at its 2171st meeting, on 23 November 1979, the Council adopted resolution 455 (1979), by which it recalled resolution 424 (1978);⁶ expressed its grave concern at the numerous hostile and unprovoked acts of aggression committed by Southern Rhodesia that violated the sovereignty, airspace and territorial integrity of Zambia; reaffirmed that the "existence of the minority racist regime in Southern Rhodesia and the continuance of its acts of aggression against Zambia and other neighbouring States constitute[d] a threat to international peace and security"; condemned Southern Rhodesia's intensified and unprovoked acts of aggression against Zambia as well as South Africa's collusion in those acts of aggression; and called upon the Government of the United Kingdom of Great Britain and Northern Ireland, as the administering Power, "to take prompt and effective measures" to ensure that Southern Rhodesia desisted from committing repeated acts of aggression against Zambia.⁷

8. In connection with the question concerning the situation in the region of the Falkland Islands (Islas Malvinas), at its 2350th meeting, on 3 April 1982, the Council adopted resolution 502 (1982), by which it determined "that there exists a breach of the peace in the region of the Falkland Islands (Islas Malvinas)",⁸ and demanded an immediate cessation of hostilities and an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas). During the Council's consideration of the item, one representative, in pointing out that the language of the draft resolution under consideration referred to an "invasion" by armed forces, opined that the actions of Argentina were not an armed invasion since the Falkland Islands (Islas Malvinas) were within Argentine territory. Further, the same representative questioned the use of the term "breach of the peace" in the draft, since, in its delegation's view, Argentina was exercising its sovereign rights over its own territory.⁹

9. In connection with the complaint by Angola against South Africa, at its 2139th meeting, on 28 March 1979, the

⁵ S C resolution 445 (1979), preamb. paras. 6 and 8 and para. 1.

⁶ In S C resolution 424 (1978), the Council had decided that in the event of further acts of violation of the sovereignty and territorial integrity of Zambia by Southern Rhodesia, it would meet to consider adopting more effective measures in accordance with the Charter, including Chapter VII.

⁷ S C resolution 455 (1979), preamb. paras. 8 and 9, and paras. 1, 2 and 4. In preamb. para. 10, the Council also expressed its consciousness of the need to take immediate and effective steps for the prevention and removal of all threats to international peace and security. The United Kingdom, following the adoption of resolution 455 (1979), stressed that this particular language of the resolution did not imply that the Council had made a fresh determination under Article 39 of the existence of a threat to international peace and security. S C (34), 2171st mtg., para. 104.

⁸ S C resolution 502 (1982), preamb. para. 4.

⁹ S C (37), 2350th mtg.: Panama, paras. 123 and 124.

Security Council adopted resolution 447 (1979), by which it condemned South Africa's premeditated, persistent and sustained armed invasions of Angola, which were being launched from the illegally occupied Territory of Namibia and "which constitute[d] ... a serious threat to international peace and security".¹⁰ In the deliberations prior to the adoption of the resolution, one representative recalled resolution 428 (1978), by which the Security Council had warned South Africa that if such acts of aggression continued, the Council would consider adopting measures under Chapter VII.¹¹ However, following the adoption of resolution 447 (1979), one delegation emphasized that its Government did not interpret "paragraphs 1, 6 or 7"¹² as constituting determinations under the Charter ... [nor did] it read or accept those paragraphs as constituting any commitment to the future action of the Council on this matter."¹³ Another representative held the view that, in the light of the Council's repeated warnings to South Africa of the "possible consequences of its policy", the Council "should by now have considered the question of application against the Pretoria regime of concrete sanctions under Chapter VII", and expressed its delegation's regret that the question of adopting effective and decisive measures against South Africa would again be postponed.¹⁴

10. Also in connection with the complaint by Angola against South Africa, at its 2240th meeting, on 27 June 1980, the Security Council adopted resolution 475 (1980), by which it recalled its resolutions 387 (1976), 428 (1978), 447 (1979) and 454 (1979)¹⁵ on the subject; once again strongly condemned South Africa's premeditated and sustained armed invasions against Angola which constituted "a serious threat to international peace and security"; and de-

¹⁰ S C resolution 447 (1979), preamb. paras. 6 and 9 and paras. 1 and 7. In the same resolution, the Council also recalled its resolution 428 (1978), by which it had decided to meet again in the event of further acts of violation of the sovereignty and territorial integrity of Angola by the South African racist regime to consider adopting more effective measures in accordance with the Charter, including Chapter VII.

¹¹ S C (34), 2138th mtg.: Zambia, paras. 6 and 7.

¹² Paragraphs 1, 6 and 7 of resolution 447 (1979), whereby the Council determined that the situation constituted a serious threat to international peace and security and requested the Secretary-General to obtain, and submit to the Council, information on the casualties and damage resulting from the repeated acts of aggression in order to assist the Council in determining the most effective sanctions in accordance with the Charter.

¹³ S C (34), 2139th mtg.: United Kingdom, paras. 34, 37 and 38.

¹⁴ *Ibid.*, USSR, para. 56.

¹⁵ In S C resolution 454 (1979) the Council, being gravely concerned at South Africa's premeditated, persistent and sustained armed invasions of Angola, strongly condemned South Africa's aggression against Angola and, being convinced that "the intensity and timing" of the continuous armed invasions were "intended to frustrate efforts at negotiated settlements in southern Africa", called upon South Africa to cease immediately all acts of aggression against Angola and to desist from utilizing the Territory of Namibia to launch such acts of aggression.

cided, in the event of further acts of violation of the sovereignty and territorial integrity of Angola, to meet again to “consider the adoption of more effective measures in accordance with the appropriate provisions of the Charter of the United Nations, including Chapter VII”.¹⁶ During the accompanying deliberations, while a number of speakers were of the view that the situation constituted a threat to international peace and security and urged that the Council consider the adoption of effective enforcement measures under Chapter VII,¹⁷ one representative argued that the provisions of the resolution did not “amount to a determination in the technical sense of Chapter VII of the Charter.”¹⁸

11. In connection with the detention of United States Embassy personnel in Iran,¹⁹ at its resumed 2191st meeting, on 11 and 13 January 1980, the Council considered a draft resolution²⁰ by which, bearing in mind that the detention of the hostages constituted a continuing threat to international peace and security and, acting in accordance with Articles 39 and 41, it would have urgently called once again on the Government of Iran to release immediately the United States Embassy personnel and would have imposed economic and diplomatic sanctions on Iran until such time as the hostages were released and had safely departed from the country.²¹ The draft resolution failed of adoption due to the negative vote of a permanent member of the Council. Prior to the Council’s vote on the draft, one representative stressed that since Iran had not complied with resolution 461 (1979), the time had come for the Council to adopt effective measures under Articles 39 and 41 as provided for in paragraph 6 of that resolution.²² Other representatives argued that the situation between the United States and Iran was “a bilateral dispute that [did] not fall within the purview of Chapter VII”, which made it unjustifiable to attach the question of sanctions to the dispute,²³ and that the “taking and holding of hostages” in itself did not constitute a threat to the peace under Article 39, and therefore the

¹⁶ S C resolution 475 (1980), preamb. para. 4 and paras. 1 and 7.

¹⁷ See, for example, S C (35), 2237th mtg.: German Democratic Republic, para. 47; USSR, para. 68; Jamaica, para. 82; India, paras. 133 and 141; Pakistan, para. 160; and Cuba, para. 175.

¹⁸ S C (35), 2240th mtg.: United Kingdom, para. 89.

¹⁹ See para. 5 above.

²⁰ S C (34), Suppl. for Jan.-March. 1979, S/13735. The draft resolution was sponsored by the United States.

²¹ *Ibid.*, preamb. paras. 13 and 14 and paras. 1 and 2.

²² S C (35), 2191st (resumed) mtg.: United States, paras. 28 and 29.

²³ *Ibid.*, USSR, para. 48. The USSR expressed the same view at the 2184th meeting (S C (35), 2184th mtg. para. 34), during which the Council adopted resolution 461 (1979). Czechoslovakia expressed a similar view at the 2183rd meeting (*ibid.*, 2183rd mtg. para. 13), during the Council’s deliberations leading to the adoption of resolution 461 (1979). Czechoslovakia opined that its delegation continued “to believe at the present stage that it is essential that the precepts of the unanimously adopted resolution 457 (1979) be observed, based as they are on Chapter VI of the Charter.”

draft resolution’s proposal of sanctions under Chapter VII did not “correspond to the situation” under consideration.²⁴

12. In connection with the situation in Namibia, at its 2277th meeting, on 30 April 1981 the Security Council considered four draft resolutions.²⁵ In the first draft resolution, the Council, acting under Chapter VII of the Charter, would have determined that “in the context of Article 39 of the Charter”, the persistent refusal of South Africa to comply with Security Council and General Assembly resolutions on Namibia “constitute[d] a serious threat to international peace and security”; that South Africa’s continued illegal occupation of Namibia “constitute[d] a breach of international peace and an act of aggression”; and that the repeated armed attacks by South Africa against sovereign States in southern Africa “constitute[d] grave acts of aggression”.²⁶ Further acting under Chapter VII, and specifically Article 41, the Council would have decided to impose comprehensive and mandatory sanctions against South Africa, including arms and oil embargoes.²⁷ The draft failed of adoption due to negative votes by three permanent members of the Council.

13. In the second (revised) draft resolution²⁸ the Council, acting under Chapter VII of the Charter, would have determined that South Africa’s illegal occupation of Namibia, its war of repression being waged against Namibians, its repeated acts of aggression launched from Namibian territory against independent African States, its colonialist expansion and its policy of apartheid constituted a breach of international peace and security. The Council would have then decided to call on all States to impose economic and diplomatic sanctions against South Africa as well as take all possible further action under Article 41 of the Charter, in order to put an end to the illegal occupation of Namibia and bring about genuine independence to that Territory. The draft failed of adoption due to negative votes by three permanent members of the Council.

14. In the fourth draft resolution,²⁹ voted upon at the 2277th meeting, the Security Council would have reaffirmed its resolutions 418 (1977) and 421 (1977) concerning the arms embargo against South Africa. Further, having regard to the critical situation created by South Africa in and around Namibia arising from South Africa’s continued illegal occupation of that Territory, and acting under Chapter VII of the Charter, the Council would have determined that

²⁴ *Ibid.*, Mexico, paras. 63 and 69.

²⁵ S C (36), Suppl. for Apr.-June 1981, S/14459, S/14460/Rev.1, S/14461 and S/14462.

²⁶ *Ibid.*, S/14459, preamb. para. 17 and paras. 1 and 5. The draft resolution was sponsored by Mexico, Niger, Panama, Tunisia and Uganda.

²⁷ *Ibid.*, paras. 4-6.

²⁸ *Ibid.*, S/14460/Rev.1, preamb. para. 15 and paras. 3 and 14. The revised draft resolution was sponsored by Niger, Tunisia and Uganda.

²⁹ *Ibid.*, S/14462, preamb. paras. 11 and 15, and paras. 1, 2 and 12. The draft resolution was sponsored by Niger, Tunisia and Uganda.

the repeated acts of aggression carried out by the racist regime of South Africa against neighbouring African States and the supply to South Africa, and the collaboration in the manufacture of arms and related materiel with that country, constituted a breach of international peace and security. The Council would have then decided that all States should desist from providing South Africa with arms and related materiel as well as called on all States to take all possible further action under Article 41 of the Charter in order to put an end to the illegal occupation of Namibia. The draft failed of adoption due to negative votes by three permanent members of the Council.

15. In connection with the complaint by Angola against South Africa, at its 2300th meeting, on 31 August 1981, the Council voted upon a revised draft resolution³⁰ by which it would have recalled its resolutions 387 (1976), 428 (1978), 447 (1979), 454 (1979) and 475 (1980) on the subject; condemned South Africa's unprovoked and persistent armed invasions against Angola from the Territory of Namibia and declared that such armed invasions of Angola "constitute[d] a threat to international peace and security". The revised draft failed of adoption owing to the negative vote of a permanent member of the Council.

16. In connection with the situation in the occupied Arab territories, the Security Council, at its 2329th meeting, on 20 January 1982, considered a revised draft resolution³¹ by which it would have recalled its resolution 497 (1981);³² strongly condemned Israel for the decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights; and determined that Israel's decision constituted "an act of aggression under the provisions of Article 39 of the Charter".³³ The revised draft resolution failed of adoption due to the negative vote of a permanent member of the Council.

17. In the course of the 2329th meeting, the view was held by one delegation that while the Council, in resolution 497 (1981), had not "state[d] specifically" that Israel's actions constituted annexation or "an act of aggression", the Council in that resolution had nevertheless drawn on the provisions of Article 39 of the Charter to declare the Israeli

³⁰ *Ibid.*, Suppl. for July-Sept. 1981, S/14664/Rev.2, preamb. para. 7 and paras. 1-3. The draft resolution was sponsored by Mexico, the Niger, Panama, the Philippines, Tunisia and Uganda.

³¹ S C (37), Suppl. for Jan.-March 1982, S/14832/Rev.1. The draft resolution was sponsored by Jordan.

³² By its resolution 497 (1981), the Council had demanded that Israel rescind the decision to impose its laws, jurisdiction and administration in the Golan Heights and decided, in the event of Israeli non-compliance, to meet not later than 5 January 1982 to consider appropriate measures in accordance with the Charter.

³³ S C (37), Suppl. for Jan.-March 1982, S/14832/Rev.1, preamb. para. 8 and para. 2. In preamb. para. 7 of the draft resolution, the Council would have also determined "that the continued occupation of the Syrian Golan Heights since June 1967 and its annexation by Israel on 14 December 1981 constitute[d] a continuing threat to international peace and security".

measures to be null and void and, in keeping with Article 40 of the Charter, had called upon Israel to immediately rescind its decision.³⁴ The view was also expressed that "the illegal military occupation of the Golan Heights as a result of the use of armed force in violation of the Charter, coupled with the extension of the laws, jurisdiction and administration of Israel to the occupied Syrian Golan Heights", had all of the characteristics of an act of aggression and constituted a threat to international peace and security in the region. Therefore the calling for sanctions against Israel as a result of "a threat to peace, breach of the peace or act of aggression" under Article 39 was a legitimate response to the provisions of resolution 497 (1981), which had provided for the adoption, in the event of Israeli non-compliance, of "appropriate measures in accordance with the Charter of the United Nations",³⁵ including possible sanctions.

18. Another representative expressed reservations with respect to the Council making a determination that the Israeli measures constituted an act of aggression, "the most serious and far-reaching of all those determinations which the Council is empowered to make". Even at the time of the Korean war, where hundreds of thousands of lives had been lost, the Council had not gone beyond determining that the "events in question constituted a breach of the peace".³⁶ In a similar vein, another representative expressed the view that, while the "purported Israeli annexation measures" were indeed a threat to international peace and security, those measures, rather than being of a military character, were administrative in nature. In the light of the "complexities of the concept of aggression", that delegation had reservations with regard to the formulation of the draft wherein the Council would have determined that the Israeli measures constituted aggression.³⁷

19. During the Security Council's deliberations in connection with the complaint by Zambia at its 2211th meeting, on 11 April 1980, one delegation expressed the view that South Africa's sustained acts of aggression against Zambia constituted "a threat to the peace, a breach of the peace and an act of aggression within the construction of Article 39 of the Charter". Therefore, in that delegation's view, the Council should strongly condemn South Africa for its aggression, call for the immediate withdrawal of South African troops from Zambian soil and adopt effective measures

³⁴ S C (36), 2329th mtg.: Zaire, para. 35. At the 2319th meeting, during which resolution 497 (1981) was adopted, Indonesia held that Israel's unilateral act of annexing the territory of a neighbouring State was a violation of the prohibition of the acquisition of territory by force and opined that Israel's actions "constitute[d] a threat to international peace and security of the highest magnitude". S C (36), 2319th mtg., para. 6.

³⁵ *Ibid.*, Zaire, para. 38, referring to para. 4 of resolution 497 (1981).

³⁶ *Ibid.*, United Kingdom, para. 172.

³⁷ *Ibid.*, Ireland, paras. 139 and 144.

to prevent a recurrence of such other acts of aggression.³⁸ The Council adopted resolution 466 (1980) on the item, by which it recalled its resolution 455 (1979)³⁹ and solemnly warned that, in the event of any further armed incursions against Zambia by South Africa, the Council would meet to “consider further appropriate action under the provisions of the Charter of the United Nations, including Chapter VII thereof”.⁴⁰

20. In connection with the question concerning the situation in Southern Rhodesia and following the Lancaster House agreement,⁴¹ at its 2181st meeting, on 21 December 1979, the Security Council adopted resolution 460 (1979), by which it recalled resolutions 232 (1966) and 253 (1968);⁴² called 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”; and decided to dissolve the Committee established pursuant to resolution 253 (1968).⁴³ Following the adoption of the resolution, the view was expressed that the end of the rebellion in Southern Rhodesia (which had led to the Council’s adoption of resolution 460 (1979) and the lifting of sanctions against Southern Rhodesia previously imposed under Chapter VII) had not actually resulted in the removal of all the threats to international peace and security referred to in resolutions 232 (1966) and 253 (1968). The measures that had been previously imposed on Southern Rhodesia “arose from the fact that the circumstances and events leading to the rebellion constituted a threat to international peace and security”, a threat which remained and which continued to be evidenced “in the recent raids against the front-line States of Botswana, Mozambique and Zambia”,⁴⁴ as well as the continued presence in Southern Rhodesia of South African forces and mercenaries.⁴⁵

³⁸ S C (35), 2211th mtg.: Nigeria, para. 93.

³⁹ In recalling resolution 455 (1979) in resolution 466 (1980), the Council reiterated language contained in the former resolution which strongly condemned South Africa for its collusion with Southern Rhodesia in the latter’s acts of aggression against Zambia. Resolution 455 (1979), in connection with the complaint by Zambia, is reviewed in para. 7 above.

⁴⁰ S C resolution 466 (1980), para. 3.

⁴¹ The Lancaster House Conference (10 September-15 December 1979) had reached agreement on the Summary of the Independence Constitution for Southern Rhodesia, arrangements for the pre-independence period and a ceasefire agreement between the parties.

⁴² See footnote 4 above.

⁴³ S C resolution 460 (1979), preamb. para. 2 and paras. 2 and 3. In preamb. para. 7, the Council confirmed its consciousness of the need to take immediate and effective steps for the prevention and removal of all threats to international peace and security. The United Kingdom, following the adoption of resolution 460 (1979), once more stressed that this particular language did not imply that the Council had made a fresh determination under Article 39 that there existed a threat to international peace and security. S C (34), 2181st mtg., para. 17.

⁴⁴ S C (34), 2181st mtg.: Nigeria, para. 50.

⁴⁵ *Ibid.*, Madagascar, paras. 215-220.

21. In connection with the complaint by Iraq, at its 2288th meeting, on 19 June 1981, the Security Council continued its consideration of the Israeli military air strike on the Iraqi nuclear installations that had taken place on 7 June 1981 and adopted resolution 487 (1981), by which it expressed its deep concern about “the danger to international peace and security” created by Israel’s premeditated attack, which could “at any time explode the situation in the area”.⁴⁶ In the course of the Council’s deliberations following the adoption of the resolution, one representative was of the view that under the circumstances, the Council should have “acted decisively in accordance with the punitive provisions of the Charter”, and expressed disappointment that the provisions of Chapter VII of the Charter had not been invoked in the resolution and that there was no “expression of the fact, overwhelmingly expressed in the debate, that Israel’s act was indeed an act of aggression for which there [was] no justification whatsoever”.⁴⁷

22. In connection with the letter dated 19 March 1982⁴⁸ from the Permanent Representative of Nicaragua to the United Nations, at the 2347th meeting of the Security Council, on 2 April 1982, one representative expressed the view that the United States had been responsible for massive interference in the internal affairs of Nicaragua, and that a “large-scale intervention in and aggression against that country [was] being prepared [by the United States] through subversive activities”. Such “dangerous” policies, continued the delegation, “not only threaten[ed] the security of the peoples and States of Latin America but also pose[d] a threat to international peace and security.”⁴⁹ At the same meeting the Council voted upon a draft resolution⁵⁰ by which it would have considered that the “present crisis in the region of Central America and the Caribbean affects international peace and security and that all Member States have an interest in the solution of the crisis by peaceful means”. The draft resolution failed of adoption due to the negative vote of a permanent member of the Council.

23. During the period under review, Article 39 was explicitly invoked in four letters of submission received by the United Nations from, respectively, Cuba,⁵¹ Panama⁵²

⁴⁶ S C resolution 487 (1981), preamb. para. 9.

⁴⁷ S C (36), 2288th mtg.: Mexico, para. 143.

⁴⁸ S C (37), Suppl. for Jan.-March 1982, S/14913.

⁴⁹ *Ibid.*, 2347th mtg.: German Democratic Republic, paras. 84, 85 and 89. See also *ibid.*, paras. 95-122, in which Nicaragua outlined actions taken by the United States which the former considered to be “unquestionable proof that [the United States] was preparing to implement the political decision to overthrow the Sandinist Government”.

⁵⁰ *Ibid.*, Suppl. for Apr.-June, 1982, S/14941, preamb. para. 5. The draft resolution was sponsored by Guyana and Panama.

⁵¹ S C (37), Suppl. for Jan.-March 1982, S/14829. (S/14829 also explicitly invoked Article 41 and Chapter VII of the Charter.)

⁵² *Ibid.*, Suppl. for April-June 1982, S/14978. (S/14978 also explicitly invoked Articles 41 and 42 of the Charter.)

and Iran,⁵³ and language of the Article was employed in a number of other letters of submission requesting the Security Council to convene to consider a variety of issues.⁵⁴ In addition, a number of incidental explicit references to Article 39⁵⁵ and Chapter VII⁵⁶ were made during the Council's deliberations on various items on its agenda.

⁵³ *Ibid.*, Suppl. for July-Sept. 1982, S/15292, and Suppl. for Oct.-Dec. 1982, S/15448. (S/15448 also explicitly invoked Chapter VII of the Charter.)

⁵⁴ S C (34), Suppl. for Jan.-March 1979, S/13085, S/13096, S/13176 and S/13204; *ibid.*, Suppl. for April-June 1979, S/13394 and S/13397; *ibid.*, Suppl. for Oct.-Dec. 1979, S/13595 and S/13636; S C (35), Suppl. for April-June 1980, S/13878, S/13885 and S/14022; S C (36), Suppl. for Jan.-March 1981, S/14391; *ibid.*, Suppl. for April-June 1981, S/14509; *ibid.*, Suppl. for July-Sept. 1981, S/14654; *ibid.*, Suppl. for Oct.-Dec. 1981, S/14783; S C (37), Suppl. for Jan.-March 1982, S/14913; *ibid.*, Suppl. for April-June 1982, S/14942; *ibid.*, Suppl. for Oct.-Dec. 1982, S/15443 and S/15515; S C (38), Suppl. for Jan.-March 1983, S/15651; *ibid.*, Suppl. for April-June 1983, S/15746; *ibid.*, Suppl. for July-Sept. 1983, S/15914 and S/15975; *ibid.*, Suppl. for Oct.-Dec. 1983, S/16067 and S/16216; S C (39), Suppl. for Jan.-March 1984, S/16244, S/16306, S/16420, S/16431 and S/16449; *ibid.*, Suppl. for April-June 1984, S/16569; *ibid.*, Suppl. for July-Sept. 1984, S/16731 and S/16825.

⁵⁵ In connection with the complaint by Zambia, 2171st mtg.: United Kingdom, para. 104; 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 Resumption: Mexico, para. 63; the President (France), para. 133; and United States, paras. 26 and 157; in connection with the complaint by Zambia against South Africa, 2211th mtg.: Nigeria, para. 93; in connection with the complaint by Iraq, 2280th mtg.: Algeria, para. 171; 2282nd mtg.: Uganda, para. 21; 2283rd mtg.: Sierra Leone, para. 150; and 2285th mtg.: Morocco, para. 19; in connection with the complaint by Angola against South Africa, 2299th mtg.: Uganda, para. 48; 2300th mtg.: United Kingdom, para. 43; and Uganda, para. 63; and 2511th mtg.: United Kingdom, para. 63; in connection with the situation in the occupied Arab territories, 2322nd mtg.: Syrian Arab Republic, para. 59; 2324th mtg.: PLO, para. 54; 2325th mtg.: Viet Nam, para. 111; 2326th mtg.: Afghanistan, para. 77; 2327th mtg.: Oman, para. 38; 2328th mtg.: Jordan, para. 17; and 2329th mtg.: Zaire, paras. 38 and 77 and the United States, para. 157; in connection with the question concerning the Falkland Islands (Islas Malvinas), 2362nd mtg.: United Kingdom, para. 266; in connection with the situation in Namibia, 2267th mtg.: Uganda, paras. 89 and 90; Sierra Leone, para. 100 and Jamaica, para. 239; 2270th mtg.: President of the Council for Namibia, para. 64; 2276th mtg.: Uganda, para. 9 and Tunisia, para. 35; in connection with the complaint by Lesotho against South Africa, 2408th mtg.: Sierra Leone, para. 78.

⁵⁶ In connection with the question concerning the situation in Southern Rhodesia, 2120th mtg.: Ghana, para. 133; and Benin, para. 162; in connection with the complaint by Angola against South Africa, 2139th mtg.: Czechoslovakia, paras. 32 and 33; USSR, paras. 52 and 56; and Angola, para. 68; 2240th mtg.: Tunisia, para. 13; Benin, paras. 27 and 34; Nigeria, para. 49; Guinea, para. 61; United Kingdom, para. 89; and Turkey (Acting President, UN Council for Namibia), para. 104; 2296th mtg.: Angola, para. 22; German Democratic Republic, paras. 53, 54 and 55; USSR, para. 80; Brazil, para. 99; and Cuba, para. 130; 2297th mtg.: Mexico, para. 17; Niger, para. 23; Libyan Arab Jamahiriya, para. 64; Yugoslavia, paras. 74 and 76; and India, para. 84; 2299th mtg.: Uganda, para. 48; 2300th mtg.: United Kingdom, para. 43;

24. During the period under review, the General Assembly adopted a number of resolutions in which it explicitly referred to Article 39 or utilized the language of the Article, containing, in most cases, calls for the imposition or strengthening of sanctions under Chapter VII.

25. Such resolutions were adopted in connection with the following agenda items: "The situation in the Middle East";⁵⁷ "Question of Southern Rhodesia";⁵⁸ "Armed Is-

and Uganda, paras. 65 and 66; and 2508th mtg.: United Kingdom, para. 45; in connection with the situation in the Middle East, 2147th mtg.: Kuwait, para. 57; Jordan, para. 79; and Syrian Arab Republic, para. 110; 2245th mtg.: Pakistan, paras. 27 and 29; United States, para. 110; and USSR, para. 132; in connection with the complaint by Zambia, 2171st mtg.: Nigeria, para. 51; USSR, paras. 65 and 66; and Libyan Arab Jamahiriya, para. 92; 2181st mtg.: Secretary-General, para. 7; Zambia, paras. 30 and 36; Nigeria, para. 50; United States, para. 75; Mozambique, para. 156; and Liberia, para. 232; 2211th mtg.: Niger, para. 27; USSR, para. 42; Philippines, para. 72; India, para. 83; and Zambia, para. 155; in connection with the letter dated 22 December 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/13705), 2182nd mtg.: United States, para. 19; Norway, para. 43; Portugal, para. 54; France, para. 60; and Australia, para. 94; 2183rd mtg.: Bolivia, para. 39; 2184th mtg.: USSR, para. 34; and Kuwait, paras. 41, 42 and 43; in connection with the complaint by Iraq, 2287th mtg.: Nicaragua, para. 12; Indonesia, para. 27; Malaysia, para. 35; and Sri Lanka, para. 46; 2288th mtg.: Uganda, para. 143; German Democratic Republic, para. 149; USSR, para. 167; and Iraq, para. 183; in connection with the situation in the occupied Arab territories, 2322nd mtg.: Syrian Arab Republic, para. 70; and Lao People's Democratic Republic, para. 148; 2323rd mtg.: Sri Lanka, para. 25; and Cuba, para. 78; 2324th mtg.: Yemen, para. 15; Algeria, para. 78; India, para. 90; Yugoslavia, para. 117; Libyan Arab Jamahiriya, para. 132; Pakistan, para. 148; and Ukrainian Soviet Socialist Republic, paras. 154 and 159; 2325th mtg.: German Democratic Republic, para. 14; Saudi Arabia, paras. 22 and 25; Iraq, para. 39; Nicaragua, para. 88; Vietnam, paras. 107, 111 and 116; Morocco, para. 135; and Qatar, para. 61; 2326th mtg.: Bulgaria, para. 39; Mongolia, para. 60; and Afghanistan, para. 85; 2327th mtg.: Czechoslovakia, para. 24; Oman, para. 37; Indonesia, paras. 47 and 49; Mauritania, para. 61; and Uganda, para. 86; 2328th mtg.: Jordan, paras. 6 and 10; Poland, para. 40; Togo, para. 53; Burundi, para. 73; China, para. 81; and United Arab Emirates, para. 89; 2329th mtg.: Grenada, para. 16; USSR, para. 114; Ireland, para. 146; United States, para. 157; United Kingdom, para. 173; and Syrian Arab Republic, para. 202; in connection with the question concerning the situation in the region of the Falkland Islands (Islas Malvinas), 2350th mtg.: Panama, para. 189; Spain, paras. 200 and 201; and the President (Zaire), para. 202; in connection with the complaint by Lesotho against South Africa, 2407th mtg.: Libyan Arab Jamahiriya, para. 13; China, para. 131; and USSR, paras. 160 and 161; 2408th mtg.: Algeria, para. 53; Sierra Leone, para. 82; Kenya, para. 45; Nicaragua, para. 74; and Yemen, para. 110.

⁵⁷ G A resolutions 36/226 A (preamb. para. 9) and B (para. 6); 37/123 A (paras. 2, 7 and 8); 38/180 A (paras. 2, 7 and 8); and 39/146 B (paras. 2, 7 and 8). In each of the latter three resolutions, the Assembly declared that "Israel's continued occupation of the Golan Heights and its decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights constitute an act of aggression under the provisions of Article 39 of the Charter".

⁵⁸ G A resolution 34/192 (preamb. para. 8).

raeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security";⁵⁹ "Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination";⁶⁰ "Second Decade to Combat Racism and Racial Discrimination";⁶¹ "Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples";⁶² "Review of the implementation of the Declaration on the Strengthening of International Security";⁶³ "Review of the implementation of the recommendations and decisions adopted by the General Assembly at its tenth special session";⁶⁴ "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid";⁶⁵ "Question of Palestine";⁶⁶ "Question of Namibia";⁶⁷ "The situation in the occupied Arab

⁵⁹ G A resolution 36/27 (preamb. para. 3 and para. 1).

⁶⁰ G A resolutions 36/8 (preamb. para. 12 and para. 8); and 37/40 (preamb. para. 11 and para. 8).

⁶¹ G A resolution 38/14 (annex, paras. 2 and 8).

⁶² G A resolutions 37/35 (para. 2); 38/54 (para. 2); and 39/91 (para. 2).

⁶³ G A resolutions 34/100 (preamb. para. 5 and para. 2); 35/158 (preamb. paras. 5 and 6 and para. 7); 36/102 (preamb. para. 4); 37/118 (preamb. para. 4); and 38/190 (preamb. para. 6).

⁶⁴ G A resolutions 34/83 C (para. 1); 35/152 E (preamb. para. 9 and para. 1) and G (preamb. para. 2); 36/92 M (preamb. para. 8 and para. 1); 37/78 F (preamb. para. 5 and para. 1); 38/183 H (preamb. para. 4 and para. 1); and 39/148 O (preamb. para. 4 and para. 1).

⁶⁵ G A resolutions 34/27 (preamb. para. 7); 35/39 (preamb. para. 6); 36/13 (preamb. paras. 5, 7 and 8); 37/47 (preamb. paras. 4, 7 and 9); 38/19, (preamb. paras. 3, 5 and 7) and 39/19 (preamb. paras. 3, 5 and 7).

⁶⁶ G A resolutions 34/65 A (para. 1); 35/169 A (paras. 1 and 13); 36/120 E (para. 2); 37/86 E (preamb. para. 3); 38/58 E (preamb. para. 3); ES-7/2 (preamb. para. 3 and para. 13); and ES-7/4 (preamb. para. 5).

⁶⁷ G A resolutions 34/92 G (paras. 6 and 24); 35/227 A (paras. 23 and 29); 36/121 A (para. 34); 37/233 A (paras. 36 and 37); 38/36 A (paras. 57 and 58) and B (preamb. para. 7 and paras. 8 and 10); 39/50 A (paras. 15 and 68) and B (preamb. para. 7 and paras. 11 and 13) and ES-8/2 (preamb. para. 3 and para. 12).

territories";⁶⁸ and "Policies of apartheid of the Government of South Africa".⁶⁹

26. Many delegations cautioned, however, that the General Assembly should respect the division of competence between the Security Council and the General Assembly and avoid encroaching on the mandate of the Council through making a purported determination of the existence of a threat to international peace and security.⁷⁰ One representative, speaking on a draft resolution on the question of Palestine, stated that the Security Council alone had the mandate to determine what constituted a "threat to international peace and security".⁷¹ During the seventh emergency special session on the same question, the representative reiterated the position of its delegation, stating that the Assembly was not the appropriate body to make a determination regarding the existence of any threat to the peace, breach of the peace or act of aggression. Such a determination was the prerogative of the Security Council.⁷²

⁶⁸ G A resolution ES-9/1 (para. 6).

⁶⁹ G A resolutions 34/93 A (preamb. paras. 7 and 12 and paras. 8 and 14) and E (preamb. para. 8 and para. 1); 35/206 A (preamb. para. 8 and para. 6), B (preamb. paras. 8 and 12 and para. 3) and C (preamb. para. 8 and para. 1); 36/172 A (preamb. paras. 3 and 18 and paras. 6 and 7), C (preamb. para. 7 and para. 2), D (preamb. para. 4 and para. 3), E (preamb. paras. 7 and 10 and para. 6) and F (preamb. para. 5 and para. 1); 37/69 A (preamb. paras. 4 and 17 and paras. 5 and 6), C (preamb. paras. 4 and 5 and para. 4) and D (preamb. paras. 7, 10 and 11 and para. 1); 38/39 A (preamb. para. 5 and para. 13), D (preamb. para. 3 and para. 1) and G (preamb. paras. 5 and 13 and para. 1); and 39/72 A (preamb. paras. 8, 9, 21, 22 and 29 and paras. 9 and 11) and C (preamb. para. 5).

⁷⁰ For detailed treatment of the issue of the General Assembly's purported encroachment on the mandate of the Security Council, see the present *Supplement*, under Article 12.

⁷¹ G A (36), Plen., 93rd mtg.: Canada, para. 130.

⁷² G A (ES-7), 30th mtg.: Canada, pp. 54-55.