

ARTICLE 41

TEXT OF ARTICLE 41

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

INTRODUCTORY NOTE

1. The present study consists only of a summary of practice, which records the explicit and implicit references to Article 41 of the Charter in the decisions of the Security Council and, in less detail, those in the resolutions of the General Assembly.
2. During the period under review, the Security Council adopted one resolution explicitly invoking Article 41. Six draft resolutions which also contained explicit references to Article 41 either failed of adoption or were not put to the vote.
3. The Council also adopted a number of resolutions containing implicit references to Article 41, including a resolution that terminated the existing sanctions against Southern Rhodesia.
4. The General Assembly adopted one resolution explicitly invoking Article 41, as well as a number of resolutions containing implicit references to the Article.
5. None of the above references involved a constitutional discussion concerning the application and interpretation of Article 41.
6. In view of the interrelationship between Article 41 and Articles 39 and 42, the studies on those two Articles should also be consulted.

SUMMARY OF PRACTICE

7. During the period under review, Article 41 was explicitly invoked in one resolution of the Security Council, which was adopted in connection with the detention of United States Embassy personnel in Iran.¹ At its 2184th meeting, on 31 December 1979, the Council adopted resolution 461 (1979), in which it reaffirmed its resolution 457 (1979) on the subject, and reiterated its urgent call on the Government of the Islamic Republic of Iran to release immediately all persons of United States nationality being held as hostages in Iran, to provide them with protection and to allow them to leave the country. In the same resolution, the Council decided to meet on 7 January 1980 in order to review the situation and, in the event of non-compliance with the resolution, to "adopt effective measures under Articles 39 and 41 of the Charter of the United Nations".²

8. Article 41 was explicitly invoked in six draft resolutions considered by the Security Council, one of which dealt with the above item, while the others related to the situation in the Middle East and Namibia, respectively

9. At its 2191st meeting, following Iran's failure to comply with resolution 461 (1979) and free the hostages, the

¹ The 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 S C resolution 461 (1979), para. 6.

Council voted upon a draft resolution³ by which, acting in accordance with Articles 39 and 41 of the Charter, it would have imposed economic and diplomatic sanctions on Iran until such time as the hostages were released and had safely departed from the country.⁴ The draft resolution failed of adoption due to the negative vote of a permanent member of the Council.

10. At its 2245th meeting, the Council resumed consideration of the situation in the Middle East following the enactment by Israel of a "basic law" on Jerusalem and the adoption, at a prior meeting, of resolution 476 (1980) calling, inter alia, on Israel to desist from its policy and measures affecting the character and status of Jerusalem. The President drew the attention of the members to a draft resolution⁵ by which, reaffirming its determination to ex-

³ S C (34), Suppl. for Jan.-March. 1979, S/13735, preamb. para. 13 and para. 2. The draft resolution was sponsored by the United States.

⁴ For details on the proposed mandatory measures against Iran, see *ibid.*, para. 2.

⁵ S C (35), Suppl. for July-Sept. 1980, S/14106, preamb. para. 6 and para. 6. The draft resolution was sponsored by Algeria, Bahrain, Bangladesh, Chad, Democratic Yemen, Djibouti, the Gambia, Guinea, Guinea-Bissau, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Morocco, the Niger, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Somalia, the Sudan, the Syrian Arab Republic, Tunisia, Turkey, the United Arab Emirates, Upper Volta and Yemen.

amine practical ways and means, in accordance with the relevant provisions of the Charter, to secure full implementation of its resolution 476 (1980), in the event of non-compliance by Israel, the Council would have, inter alia, called upon all Member States to apply measures against Israel as provided in Article 41 of the Charter, including the interruption of economic and military relations with that country. The draft resolution was not put to the vote. Another text was adopted at the same meeting as resolution 478 (1980), but it contained neither explicit nor implicit references to Article 41.

11. At its 2277th meeting, the Council examined the situation in Namibia and voted upon four draft resolutions on the subject. In the first draft resolution,⁶ the Council, inter alia, would have decided, under Chapter VII of the Charter, to impose comprehensive and mandatory sanctions against South Africa; decided therefore, to that end, and as an urgent measure, under Article 41 of the Charter, to adopt effective measures, including economic and political sanctions, an oil embargo and an arms embargo; called upon all Member States, in conformity with Article 25 of the Charter, to assist effectively in the implementation of the measures called for by the draft resolution and as elaborated, respectively, in the three subsequent draft resolutions. In those three drafts⁷ the Council, acting under Chapter VII of the Charter, inter alia, would have decided that all States should take the measures, which it elaborated in the first draft resolution; and called for 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 its genuine independence, in accordance with the relevant resolutions of the Security Council. Each of the four draft resolutions failed of adoption due to the negative votes of three permanent members of the Council.⁸

12. During the period under review, Article 41 was implicitly invoked in a number of resolutions of the Security Council. Those resolutions were adopted in connection with the situation in Southern Rhodesia and the question of South Africa, respectively, and dealt with existing mandatory measures taken by the Council.⁹

⁶ S C (36), Suppl. for Apr.-June 1981, S/14459, preamb. para. 16 and paras 4-6. The draft resolution was sponsored by Mexico, the Niger, Panama, Tunisia and Uganda.

⁷ Ibid.: S/14460/Rev.1, preamb. para. 14 and paras 4-14; S/14461, preamb. para. 11 and paras. 1-3; and S/14662, preamb. para. 14 and paras. 2-12. The three draft resolutions were sponsored by the Niger, Tunisia and Uganda.

⁸ A fifth draft resolution (ibid., S/14463, sponsored by the Niger, Tunisia and Uganda), which would have created a committee of the Security Council to seek from any State information relevant to the implementation of the previous four draft resolutions, had they been adopted, and examine such reports on their implementation as might be submitted by the Secretary-General, was not considered by the Council.

⁹ With respect to the measures taken against South Africa, the Council also adopted two resolutions in connection with the item

13. At its 2122nd meeting, on 8 March 1979, the Council adopted resolution 445 (1979), by which, inter alia, it requested the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia to meet immediately to "consider measures for strengthening and widening the sanctions against Southern Rhodesia and to submit its proposals not later than 23 March 1979".¹⁰ The Committee addressed the Council's request for such proposals in two interim reports.¹¹

14. At its 2143rd meeting on 30 April 1979, the Council adopted resolution 448 (1979), by which, inter alia, it reiterated its call to all States to "observe strictly the mandatory sanctions against Southern Rhodesia".¹²

15. At its 2181st meeting, on 21 December 1979, following the Lancaster House agreement, the Council adopted resolution 460 (1979), by which, inter alia, it decided to call upon Member States to "terminate the measures taken against Southern Rhodesia under Chapter VII of the Charter pursuant to resolutions 232, (1966), 253 (1968) and subsequent related resolutions on the situation in Southern Rhodesia" and further decided to dissolve the Committee established in pursuance of resolution 253 (1968).¹³

16. At its 2231st meeting, on 13 June 1980, the Council considered the question of South Africa and adopted resolution 473 (1980), by which, inter alia, it requested the Security Council Committee established by resolution 421 (1977) to "redouble its efforts to secure full implementation of the arms embargo against South Africa by recommending by 15 September 1980 measures to close all loopholes in the arms embargo, reinforce and make it more compre-

entitled "Complaint by Angola against South Africa", whereby it called upon all States to implement fully the arms embargo. See para. 19 below.

¹⁰ S C resolution 445 (1979), para. 8.

¹¹ S C (34), Suppl. for Jan.-March, 1979, S/13191, *ibid.*, Suppl. for April-June 1979, S/13296. In its first report, the Committee made a specific recommendation on the question of any potential unilateral repeal of the mandatory sanctions against Southern Rhodesia, namely, that the Council should remind States of their obligation to comply strictly with its decisions in accordance with Article 25 of the Charter. The Committee also listed a range of areas from which it hoped to extract other specific proposals for submission to the Council in its next report. In its second report, the Committee recommended a new set of measures and new appeals by the Council aimed at ensuring more effective implementation of the current sanctions, closing the existing loopholes and expanding the current range of sanctions under Chapter VII of the Charter. To that end, it submitted to the Council a number of general and specific recommendations on which it had achieved consensus, and others on which it had not.

¹² S C resolution 448 (1979), para. 3.

¹³ S C resolution 460 (1979), paras 2 and 3. For a constitutional discussion on whether sanctions imposed by the Security Council may only be terminated by the Security Council, see the present *Supplement*, under Article 25.

hensive".¹⁴ The Committee addressed the Council's request in a report.¹⁵

17. At the 2564th meeting of the Council, on 13 December 1984, the President drew the attention of the members of the Council to a letter¹⁶ dated 13 December 1984 from the Chairman of the Committee, containing the text of a draft resolution. At the same meeting, the Council adopted the text as resolution 558 (1984) whereby, taking note of the report¹⁷ of the Committee, *inter alia*, it "reaffirm[ed] its resolution 418 (1977) and stress[ed] the continuing need for the strict application of its provisions". Furthermore, the Council requested all States to refrain from importing arms, ammunition of all types and military vehicles produced in South Africa; and requested all States, including States not Members of the United Nations, to act strictly in accordance with the provisions of the resolution¹⁸. In the related discussion, one representative¹⁹ noted that the Council had "pursued a realistic course" by adopting a "non-mandatory resolution" directed against importers. Another representative²⁰ observed that the "idea" of prohibiting imports had "now come to fruition in the shape of a mandatory Security Council resolution". He stated that it was the first time since the adoption of resolutions 418 (1977) and 421 (1977) that the Council had taken a decision relating to the need to curb the growth of South Africa's military capability.

18. Resolutions that may have a bearing on Article 41 were adopted by the Security Council with respect to the complaints by Angola and Zambia, respectively, against South Africa, as well as the situation in the occupied Arab territories.

19. At its 2139th meeting, on 28 March 1979, the Council considered the complaint by Angola against South Africa and adopted resolution 447 (1979). In that resolution, the Council, bearing in mind its resolution 428 (1978)²¹ on the subject, requested, *inter alia*, the Secretary-General to obtain information from Angola on the casualties and damage resulting from repeated acts of aggression by South Africa and to submit such information to the Security Council "in order to enable it to determine the most effective sanctions

in accordance with the appropriate provisions of the Charter of the United Nations so as to ensure the cessation by South Africa of its acts of aggression against Angola and other front-line States".²² At its 2240th meeting, on 27 June 1980, the Council adopted resolution 475 (1980), by which, *inter alia*, it called upon all States to implement fully the arms embargo imposed against South Africa in Security Council resolution 418 (1977)²³ and decided to meet again in the event of further acts of violation of the sovereignty and territorial integrity of Angola, "in order to consider the adoption of more effective measures in accordance with the appropriate provisions of the Charter of the United Nations, including Chapter VII thereof".²⁴ At its 2511th meeting, on 6 January 1984, the Council adopted resolution 546 (1984), which contained similar provisions.²⁵

20. At its 2319th meeting, on 17 December 1981, the Security Council considered the situation in the occupied Arab territories and adopted resolution 497 (1981), by which, *inter alia*, it demanded that Israel rescind its decision to impose its laws, jurisdiction and administration in the Syrian Golan Heights; and decided that, in the event of non-compliance by Israel, the Council would meet urgently, and not later than 5 January 1982, to "consider taking appropriate measures in accordance with the Charter of the United Nations".²⁶ At its 2329th meeting, the Council resumed consideration of the situation in accordance with resolution 497 (1981) and voted upon a revised draft resolution²⁷ explicitly invoking Chapter VII of the Charter, but containing neither explicit nor implicit references to Article 41. In its original form,²⁸ however, the text did contain such references. The revised draft resolution failed of adoption due to the negative vote of a permanent member of the Council.

21. In the deliberations of the Security Council on each of the above-mentioned items, Article 41 was referred to either explicitly or implicitly. Such references were also made in statements on the items entitled "Complaint by Iraq"²⁹ and "Complaint by Lesotho against South Africa".³⁰

22. During the period under review, Article 41 was explicitly invoked in one resolution of the General Assembly,

¹⁴ S C resolution 473 (1980), para. 11.

¹⁵ S C (35), Suppl. for July-Sept. 1980, S/14179. The report contained a number of recommendations, together with reservations, for consideration by the Council. One such recommendation was that "the embargo should include imports of arms and related material of all types from South Africa".

¹⁶ S C (39), Suppl. for Oct.-Dec. 1984, S/16860.

¹⁷ See footnote 15 above.

¹⁸ S C resolution 558 (1984), paras. 1, 2 and 3.

¹⁹ S C (39), 2564th mtg.: United Kingdom, para. 23.

²⁰ *Ibid.*, Pakistan, para. 41.

²¹ In resolution 428 (1978), the Security Council had, *inter alia*, solemnly warned that, in the event of further acts of violation of the sovereignty and territorial integrity of Angola, it would 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 thereof".

²² S C resolution 447 (1979), preamb. para. 5 and para. 7.

²³ For more details on developments relating to the arms embargo against South Africa, see paras. 16-17 above.

²⁴ S C resolution 475 (1980), paras. 4 and 7.

²⁵ S C resolution 546 (1984), paras. 4 and 8.

²⁶ S C resolution 497 (1981), paras. 2 and 4.

²⁷ S C (37), Suppl. for Jan.-March 1982, S/14832/Rev.1, preamb. para. 7. The draft resolution was sponsored by Jordan.

²⁸ *Ibid.*, S/14832, preamb. para. 7 and para. 3, sponsored by Jordan. The Security Council, acting in accordance with Articles 39 and 41 of the Charter, *inter alia*, would have decided that all Member States, in accordance with Article 41 of the Charter, should: (a) refrain from supplying Israel with any weapons and related military equipment and suspend any military assistance to Israel; and (b) suspend economic, financial and technological assistance to Israel.

²⁹ See S C (36), 2280th-2288th mtgs.

³⁰ See S C (37), 2406th-2409th mtgs.

which was adopted in connection with the activities of foreign economic and other interests.³¹ On 21 November 1979, the General Assembly adopted resolution 34/41, by which, *inter alia*, it “*expresse[d]* its conviction that the scope of the sanctions adopted against the illegal regime in Southern Rhodesia should be expanded to cover all the measures contemplated in Article 41 of the Charter and call[ed] upon the Security Council to consider adopting appropriate measures to this end”.³²

23. Article 41 may be considered as being implicitly invoked in a number of resolutions adopted by the General Assembly whereby, in particular, the Assembly called upon the Security Council to consider or to apply measures, which it frequently enumerated, under Chapter VII of the Charter, against Southern Rhodesia,³³ South Africa³⁴ and

³¹ The full title of the item reads as follows: “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”.

³² G A resolution 34/41, para. 11.

³³ See G A resolution 34/24, annex, on the implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination.

³⁴ See G A resolutions 33/183 E, H, M; 34/93 A, D-F; 35/206 A-D, O; 36/172 A, C-G; 37/69 A-D, J; 38/39 A, D, G, J; 39/72 A, G on the policies of apartheid of the Government of South Africa; 33/206, 34/92 G, 35/227 A, J, ES-8/2, 36/121 A, 37/233 A, 38/36 A, B, 39/50 A, B on the question of Namibia; 34/24, annex, 36/8, 37/40 on the implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination; 34/41 on the activities of foreign economic 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; 35/32, 37/39, 39/15 on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist regimes in southern Africa (amended to read, from the thirty-seventh session onwards: “... given to the racist and colonial regime of South Africa”); 35/118, annex, on the Plan of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; and 38/14, annex, on the Second Decade to Combat Racism and Racial Discrimination.

Israel,³⁵ respectively. In some of the above-mentioned resolutions³⁶ as well as in others,³⁷ the Assembly deplored or regretted lack of action by the Council, under Chapter VII of the Charter, due to the negative votes of one or more permanent members.

³⁵ See G A resolutions ES-7/2, 35/169 A on the question of Palestine. See also G A resolution 36/226 B on the situation in the Middle East, whereby the Assembly, *inter alia*, “request[ed] the Security Council, in the event of Israel’s failure to implement the present resolution, to invoke Chapter VII of the Charter of the United Nations”; G A resolution 36/27 on armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful use of nuclear energy, non-proliferation of nuclear weapons and international peace and security, in which the Assembly, *inter alia*, “reiterat[ed] its request to the Security Council to institute effective enforcement action to prevent Israel from further endangering international peace and security through its acts of aggression and continued policies of expansion, occupation and annexation”; and G A resolution 36/98 on Israeli nuclear armament, which contains similar provisions.

³⁶ See G A resolution 36/172 A on the policies of apartheid of the Government of South Africa; G A resolutions 38/36 B, 39/50 B on the question of Namibia.

³⁷ See G A resolution ES-9/1 on the situation in the occupied Arab territories; and resolutions 37/123 A, 38/180 A and 39/146 B on the situation in the Middle East.