

# ARTICLE 41

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## 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. During the period under review the Security Council adopted one resolution explicitly invoking Article 41. It also adopted, acting under Chapter VII of the Charter, a resolution imposing a mandatory arms embargo without referring explicitly to the Article.
2. Three draft resolutions which invoked Article 41 explicitly were not adopted by the Security Council.
3. The Security Council adopted a number of resolutions containing implicit references to Article 41.
4. It also considered several draft resolutions with implicit references to Article 41; these drafts were either not put to the vote or failed of adoption in the Security Council.
5. All these texts are dealt with in the Summary of Practice. None of them involved what might be considered

a thorough constitutional discussion concerning the interpretation or application of Article 41 in the Council.

6. The Summary of Practice also includes explicit references to Article 41 contained in letters from Member States to the Secretary-General as well as in statements made in the Security Council.

7. The General Assembly also adopted a number of resolutions with explicit or implicit references to Article 41. These decisions, as well as relevant statements made in the Assembly, are included in the Summary of Practice.

8. In view of the interrelationship between Article 41 and Articles 39 and 42, the studies on these two Articles should also be consulted.

### SUMMARY OF PRACTICE

9. During the period under review, Article 41 was explicitly invoked in one resolution of the Security Council, which was adopted in connexion with the situation in Southern Rhodesia. Security Council resolution 277 (1970) reaffirmed the previous resolutions adopted by the Council regarding that question and called, in its paragraph 9, in accordance with Article 41 of the Charter, for the immediate severance of all diplomatic, consular, trade, military and other relations with the illegal régime in Southern Rhodesia and for the immediate interruption of any existing means of transportation to and from Southern Rhodesia. In paragraph 11, the Council requested Member States to take all possible further action under Article 41 to deal with the situation, not excluding any of the measures provided in that Article.<sup>1</sup>

10. The adoption of resolution 277 (1970) was the outcome of an extended debate<sup>2</sup> in the Council regarding the effectiveness of the sanctions imposed in resolution 253 (1968) on Southern Rhodesia, but the discussion did not involve in any detail a consideration in constitutional terms of the application of Article 41. The debate brought forth on the one hand the call for the termination of all relations with the illegal régime and, on the other, the suggestion to concentrate on denying recogni-

tion to the régime which sought to benefit from its proclamation of republican status.<sup>3</sup>

11. The divergent positions taken in the debate resulting in the adoption of resolution 277 (1970) were also reflected in two additional draft resolutions before the Council: one text,<sup>4</sup> invoking Article 41 explicitly, was submitted by the United Kingdom; the other,<sup>5</sup> invoking Chapter VII and referring implicitly to Article 41, was sponsored by Burundi, Nepal, Sierra Leone, Syria and Zambia. The United Kingdom draft resolution failed to secure the required majority, and the five-Power draft was not adopted, owing to the negative votes of two permanent members.<sup>6</sup>

12. The Security Council adopted additional resolutions during the period under review in connexion with the situation in Southern Rhodesia without, however, including an explicit reference to Article 41. The resolutions in question were Security Council resolutions 288 (1970), 314 (1972), 318 (1972), 320 (1972), 333 (1973), 388 (1976),

<sup>1</sup> S C resolution 277 (1970) of 18 March 1970, paras. 9 and 11. The resolution was adopted at the 1535th meeting of the Council by 14 votes to none, with 1 abstention. The Finnish draft resolution (S/9709) was considerably revised to accommodate on the one hand the concerns of the United Kingdom and, on the other, those of the supporters of more drastic action against the illegal régime. The revised draft (S/9709/Rev.1) deleted an explicit reference to Article 41 from paragraph 2 and added it in the reformulated paragraphs 9 and 11.

<sup>2</sup> The debate took place during the 1530th to 1535th meetings, from 6 to 18 March 1970.

<sup>3</sup> For texts of relevant statements see: S C (25), 1530th mtg.: United Kingdom, paras. 15-18; 1531st mtg.: Algeria, paras. 67 and 68, 70, 73; Sierra Leone, paras. 37-41; Zambia, paras. 7, 23 and 24, 27; 1532nd mtg.: Nepal, para. 41; Syria, paras. 71, 79 and 80; USSR, paras. 30 and 31; 1533rd mtg.: Finland, paras. 51-55; Pakistan, paras. 7-10; United States, paras. 19-24; 1534th mtg.: Spain, para. 44; United Kingdom, paras. 15, 26; 1535th mtg.: Finland, paras. 7-14.

<sup>4</sup> S C (25), Suppl. for Jan.-March, 1970, S/9676/Rev.1.  
<sup>5</sup> *Ibid.*, S/9696.

<sup>6</sup> The two drafts were voted upon at the 1534th mtg., on 17 March 1970 S/9676/Rev.1 received 5 votes in favour, none against, with 10 abstentions. S/9696, para. 9, was voted upon separately and was not adopted, the vote being 7 to none, with 8 abstentions. The draft resolution as a whole, as modified, received 9 votes in favour, 2 against, with 4 abstentions, the negative votes being those of permanent members.

409 (1977) and 437 (1978).<sup>7</sup> All these resolutions were geared to reaffirming and reinforcing the sanctions imposed on Southern Rhodesia. They did not give rise to a constitutional discussion regarding Article 41.

13. In its consideration of a complaint by Zambia in 1973, the Security Council referred implicitly to Article 41 in three resolutions<sup>8</sup> in connexion with the sanctions against Southern Rhodesia.<sup>9</sup> When the Council took up a complaint by Zambia in 1978, it also made an implicit reference to Article 41 in its resolution 424 (1978) warning that it would consider further measures under Chapter VII if the racist régime of Southern Rhodesia continued to defy the sanctions imposed by the Council.<sup>10</sup>

14. Security Council resolution 411 (1977), adopted in connexion with a complaint by Mozambique, dealt in detail with the problem of implementing the sanctions against Southern Rhodesia and thereby referred implicitly to Article 41.<sup>11</sup>

15. In 1977, after extensive deliberations about the question of South Africa,<sup>12</sup> the Security Council agreed, under its resolution 418 (1977),<sup>13</sup> to transform the voluntary arms embargo imposed under resolution 181 (1963) into a mandatory arms embargo: acting under Chapter VII of the Charter, the Council decided that all States should cease forthwith any provision to South Africa of arms and related *matériel* of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for the aforementioned, and should cease as well the provision of all types of equipment and supplies and grants of licensing arrangements for the manufacture or maintenance of the aforementioned. It also adopted steps to facilitate the implementation of the mandatory arms embargo against South Africa.<sup>14</sup>

16. At a subsequent meeting,<sup>15</sup> the Council adopted resolution 421 (1977) setting up a committee to oversee the implementation of resolution 418 (1977).<sup>16</sup>

17. Although the deliberations of the Council prior to the imposition of the mandatory arms embargo contained

urgent calls for forceful sanctions against South Africa and a number of explicit references to Article 41 as well as to Chapter VII of the Charter, no constitutional discussion developed regarding the application of these provisions.<sup>17</sup>

18. The mandatory arms embargo against South Africa represented the first instance of sanctions against a Member State of the United Nations.

19. During the period under review the Security Council considered a number of draft resolutions, other than those discussed above in paragraph 11, referring, with one exception,<sup>18</sup> only implicitly to Article 41. These draft resolutions were either not put to the vote or were not adopted by the Council.

20. Several of these draft resolutions were submitted in connexion with the situation in Southern Rhodesia. Draft resolution S/9976,<sup>19</sup> which invoked Chapter VII explicitly and Article 41 implicitly, failed of adoption, having received 12 votes to 1, with 2 abstentions, the negative vote being that of a permanent member.<sup>20</sup> Draft resolution S/10489,<sup>21</sup> also referring implicitly to Article 41 and calling for the continuation of the full programme of sanctions, received 9 votes in favour, 1 against, with 5 abstentions, and failed of adoption owing to the negative vote by a permanent member.<sup>22</sup> A similar vote prevented the adoption of draft resolution S/10606 which had been submitted regarding the situation in Southern Rhodesia during the Council meetings in Addis Ababa.<sup>23</sup> Draft resolution S/10805 calling for a constitutional conference under the auspices of the Government of the United Kingdom and asking for a strict implementation of the full range of sanctions imposed against Southern Rhodesia failed of adoption owing to the negative vote of a permanent member.<sup>24</sup> An effort to tighten the sanctions policy in draft resolution S/10928<sup>25</sup> failed of adoption owing to the negative votes of two permanent members.<sup>26</sup>

21. During the consideration of the situation in Namibia at the 1954th and 1956th to 1963rd meetings of the Security Council on 31 August and 28 September to 19 October 1976, a draft resolution<sup>27</sup> was submitted calling for

<sup>7</sup>S C resolution 288 (1970) adopted unanimously at the 1557th mtg. Resolution 314 (1972) adopted at the 1645th mtg. by 13 votes to none, with 2 abstentions. Resolution 318 (1972) adopted at the 1655th mtg. by 14 votes to none, with 1 abstention. Resolution 320 (1972) adopted at the 1666th mtg. by 13 votes to none, with 2 abstentions. Resolution 333 (1973) adopted at the 1716th mtg. by 12 votes to none, with 3 abstentions. Resolution 388 (1976) adopted unanimously at the 1907th mtg. Resolution 409 (1977) adopted unanimously, without a vote, at the 2011th mtg. Resolution 437 (1978) adopted at the 2090th mtg. by 11 votes to none, with 4 abstentions.

<sup>8</sup>S C resolutions 326 (1973) and 327 (1973) of 2 February 1973 and 328 (1973) of 10 March 1973. At the 1691st mtg., resolution 326 was adopted by 13 votes to none, with 2 abstentions, and resolution 327 by 14 votes to none, with 1 abstention. Resolution 328 was adopted at the 1694th mtg. by 13 votes to none, with 2 abstentions.

<sup>9</sup>The following paragraphs were addressed to the sanctions against Southern Rhodesia: in resolution 326 (1973), 6th preamb. para., paras. 4 and 8; in resolution 327 (1973), 3rd-5th preamb. paras., paras. 1 and 2; in resolution 328 (1973), paras. 6 and 7.

<sup>10</sup>S C resolution 424 (1978) of 17 March 1978, adopted unanimously at the 2070th mtg. The warning was given in paragraph 5.

<sup>11</sup>S C resolution 411 (1977) of 30 June 1977, adopted unanimously at the 2019th mtg. The following paragraphs focused on the sanctions against Southern Rhodesia: 9th-11th and 13th preamb. paras., paras. 6 and 12.

<sup>12</sup>The Security Council met in 1977 twice for extended periods to consider the question of South Africa. The first period comprised the 1988th to 1992nd, 1994th, 1996th, 1998th and 1999th mtgs., between 21 and 31 March 1977; the second period comprised the 2036th to 2040th and 2042nd to 2046th mtgs., from 24 October to 4 November 1977.

<sup>13</sup>S C resolution 418 (1977) of 4 November 1977 was adopted unanimously at the 2046th mtg.

<sup>14</sup>S C resolution 418 (1977), 10th preamb. para., paras. 2-5.

<sup>15</sup>S C (32), 2052nd mtg.

<sup>16</sup>S C resolution 421 (1977) of 9 December 1977, adopted unanimously. See its paras. 1-3 for the establishment of the Committee.

<sup>17</sup>See para. 29 below for the listing of the explicit references to Article 41 in connexion with the question of South Africa.

<sup>18</sup>The one exception containing an explicit reference to Article 41 was draft resolution S/12310 (and its revision S/12310/Rev.1) (S C (32), Suppl. for Jan.-March, 1977, p. 49). The reference to Article 41 remained unchanged in the revised text concerning the question of South Africa.

<sup>19</sup>S C (25), Suppl. for Oct.-Dec., 1970, S/9976, submitted by Burundi, Nepal, Sierra Leone, Syria and Zambia.

<sup>20</sup>S/9976 was voted upon and failed of adoption at the 1556th mtg. France questioned the right of the Security Council, under Article 41, to decide that Member States should refrain from recognizing as a State a political entity whose status was in dispute (S C (25), 1556th mtg., para. 167).

<sup>21</sup>S C (26), Suppl. for Oct.-Dec., 1971, S/10489, submitted by Burundi, Sierra Leone, Somalia and the Syrian Arab Republic.

<sup>22</sup>The Council voted on draft resolution S/10489 at the 1623rd mtg.

<sup>23</sup>S C (27), Suppl. for Jan.-March, 1972, S/10606, submitted by Guinea, Somalia and Sudan. The draft resolution was voted on at the 1639th mtg. and received 9 votes in favour, 1 against, with 5 abstentions. It failed of adoption owing to the negative vote of a permanent member of the Council.

<sup>24</sup>S C (27), Suppl. for July-Sept., 1972, S/10805, submitted by Guinea, Somalia and Sudan. The draft resolution was slightly revised and voted on at the 1666th mtg.: it received 10 votes in favour, 1 against, with 4 abstentions.

<sup>25</sup>S C (28), Suppl. for April-June, 1973, S/10928, submitted by Guinea, Kenya and Sudan. The draft provided *inter alia* for a complete blockade of the port of Beira.

<sup>26</sup>The draft was voted on at the 1716th mtg. and received 11 votes in favour, 2 against, with 2 abstentions.

<sup>27</sup>S C (31), Suppl. for Oct.-Dec., 1976, S/12211, submitted by Benin, Guyana, Libyan Arab Republic, Pakistan, Panama, Romania and United Republic of Tanzania. The draft called *inter alia* for a complete ban on military collaboration with South Africa and for an end to arms licensing and information.

the Council to act under Chapter VII of the Charter and to impose on South Africa a comprehensive mandatory arms embargo. This proposal was voted upon at the 1963rd meeting and failed of adoption owing to the negative votes of three permanent members of the Council.<sup>28</sup> No constitutional discussion arose regarding the application of Article 41 or the Charter relevance of the suggested arms embargo.

22. During the subsequent consideration of the question of South Africa leading to the adoption of the mandatory arms embargo under Security Council resolution 418 (1977), the Council was faced with a number of draft resolutions referring explicitly or implicitly to Article 41.

23. At the 1988th meeting of the Security Council, following a lengthy debate on the question of South Africa at the 1988th to 1992nd, 1994th and 1996th meetings, the President called attention to four draft resolutions<sup>29</sup> before the Council; three of these contained references to Article 41.<sup>30</sup> The Council continued its debate until the 1999th meeting but the draft resolutions were not put to the vote.

24. The Council resumed its discussion of the question of South Africa and considered the issue from the 2036th to 2040th and 2042nd to 2046th meetings, between 24 October and 4 November 1977. The four above-mentioned draft resolutions were discussed in detail and underwent some revisions not affecting the invocation of Article 41 and Chapter VII.<sup>31</sup>

25. At the 2045th meeting, on 31 October 1977, the four three-Power draft resolutions were voted on: S/12309/Rev.1 was unanimously adopted as Security Council resolution 417 (1977). S/12310/Rev.1, invoking explicitly Chapter VII and Articles 39 to 46, S/12311/Rev.1, invoking explicitly Chapter VII and calling for a mandatory arms embargo against South Africa, and S/12312/Rev.1, calling for the cessation of foreign investment in South Africa and for measures to discourage economic co-operation with South Africa, each received 10 votes in favour and 5 against and failed of adoption, owing to the negative votes of three permanent members.

26. Following the defeat of the three draft resolutions, another draft resolution<sup>32</sup> was submitted calling for the imposition of a mandatory arms embargo under the provisions of Chapter VII of the Charter. At the 2046th meeting, on 4 November 1981, the President announced that this draft resolution had been withdrawn by its sponsors; he then drew attention to a new text (S/12436) which had been prepared in the course of intensive consultations. This last draft resolution was voted on at the 2046th meeting and adopted unanimously as resolution 418 (1977).<sup>33</sup>

<sup>28</sup> The draft resolution received 10 votes in favour, 3 against, with 2 abstentions.

<sup>29</sup> S C (32), Suppl. for Jan.-March, 1977, S/12309, S/12310, S/12311, and S/12312. All four draft resolutions were submitted by Benin, Libyan Arab Republic and Mauritius. S/12309 contained a strongly worded demand that South Africa end its *apartheid* policy in all its facets. S/12310 called upon South Africa to abide by the resolutions of the Security Council; S/12311 sought a mandatory arms embargo; S/12312 called for an economic embargo against South Africa.

<sup>30</sup> S/12310 invoked explicitly Article 41 and Chapter VII; S/12311 referred explicitly to Chapter VII and implicitly to Article 41; S/12312 contained implicit references to Article 41.

<sup>31</sup> The revised draft resolutions were circulated as S/12309/Rev.1; S/12310/Rev.1; S/12311/Rev.1; and S/12312/Rev.1.

<sup>32</sup> S C (32), Suppl. for Oct.-Dec., 1977, S/12433. The draft resolution was sponsored by Canada and the Federal Republic of Germany and introduced in the Council by the representative of the Federal Republic of Germany.

<sup>33</sup> See para. 15 above for the adoption of resolution 418 (1977).

27. During the extensive debate on the question of South Africa the Council did not engage in constitutional arguments regarding the application of Article 41 or of the sanctions available under Chapter VII.

28. There were a number of instances during the period under review when the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia dealt with Article 41 and its application extensively, as it had been charged with examining the strengthening and expansion of the sanctions against the illegal régime. On the occasions when the Committee specifically considered these constitutional issues, it issued special reports<sup>34</sup> showing the depth and direction of its discussions and containing numerous references to Article 41.

29. During the period under review, Article 41 was explicitly referred to in the Security Council in connexion with the situation in Namibia,<sup>35</sup> the situation in Southern Rhodesia,<sup>36</sup> the question of race conflict in South Africa,<sup>37</sup> the complaint by Guinea,<sup>38</sup> the situation in the Middle East,<sup>39</sup> the consideration of questions relating to Africa,<sup>40</sup> the complaint by Zambia,<sup>41</sup> the situation in Cyprus,<sup>42</sup> the relationship between the United Nations and South Africa,<sup>43</sup> the request by Mozambique under Article 50 of the Charter,<sup>44</sup> the complaint by Zambia against South Africa,<sup>45</sup> the situation in the occupied Arab territories,<sup>46</sup> the complaint of the Government of Botswana against the illegal régime in Southern Rhodesia,<sup>47</sup> the question of South Africa,<sup>48</sup> the

<sup>34</sup> The Committee submitted the following special reports: S C (27), Suppl. for April-June, 1972, S/10632; S C (28), Suppl. for April-June, 1973, S/10920; S C (30), Suppl. for Oct.-Dec., 1975, S/11913; S C (32), Suppl. for Jan.-March, 1977, S/12296; S C (32), Suppl. for Oct.-Dec., 1977, S/12450 (Interim report).

<sup>35</sup> S C (25), 1528th mtg.: Syria, para. 43; USSR, para. 119; 1529th mtg.: Poland, para. 11; USSR, para. 188; S C (26), 1585th mtg.: Liberia, para. 48; 1588th mtg.: Mr. Nujoma, para. 94; S C (30), 1824th mtg.: India, para. 80; S C (33), 2082nd mtg.: USSR, para. 182; 2092nd mtg.: Burundi, paras. 92, 96; 2094th mtg.: Ghana, para. 38.

<sup>36</sup> S C (25), 1530th mtg.: United Kingdom, para. 9; 1531st mtg.: Sierra Leone, para. 41; Zambia, paras. 7, 17; 1532nd mtg.: USSR, para. 7; 1533rd mtg.: Finland, para. 52; 1534th mtg.: Finland, para. 217; 1556th mtg.: France, para. 167; Poland, para. 177; United Kingdom, para. 140; S C (27), 1664th mtg.: USSR, para. 178; S C (28), 1714th mtg.: Kenya, para. 25; USSR, paras. 54, 65; S C (31), 1907th mtg.: Benin, para. 113; Guyana, para. 65; Japan, para. 96; Romania, para. 65; USSR, para. 43; United Republic of Tanzania, para. 7; S C (32), 2011th mtg.: Benin, para. 100; Libyan Arab Jamahiriya, para. 29; Mauritius, paras. 6, 12; Pakistan, paras. 19-20, 23; Panama, para. 87; Romania, paras. 45-47; USSR, paras. 36-38; United Kingdom, para. 63; United States, para. 71.

<sup>37</sup> S C (25), 1546th mtg.: Sierra Leone, para. 92.

<sup>38</sup> S C (25), 1559th mtg.: United Republic of Tanzania, para. 112; 1560th mtg.: President (USSR), para. 139; Southern Yemen, paras. 9, 13; Yugoslavia, para. 74; 1563rd mtg.: Burundi, para. 110, President (USSR), paras. 180 and 181.

<sup>39</sup> S C (26), 1582nd mtg.: Syria, para. 150; S C (27), 1643rd mtg.: Saudi Arabia, paras. 100 and 101.

<sup>40</sup> S C (27), 1629th mtg.: Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, para. 81; 1630th mtg.: Yugoslavia, para. 125.

<sup>41</sup> S C (28), 1687th mtg.: Ghana, para. 60; United Republic of Tanzania, para. 98; 1693rd mtg.: USSR, para. 65; 1694th mtg.: Kenya, para. 108.

<sup>42</sup> S C (29), 1781st mtg.: Costa Rica, para. 110; 1810th mtg.: Cyprus, para. 40; S C (32), 2055th mtg.: Cyprus, para. 145; S C (33), 2081st mtg.: Cyprus, para. 25; 2099th mtg.: Cyprus, paras. 13 and 14.

<sup>43</sup> S C (29), 1801st mtg.: Madagascar, paras. 7, 21; 1802nd mtg.: Barbados, para. 102; 1804th mtg.: Congo, para. 56; 1806th mtg.: Kenya, para. 29; Peru, para. 88.

<sup>44</sup> S C (31), 1890th mtg.: United Republic of Tanzania, para. 89 ff.

<sup>45</sup> S C (31), 1945th mtg.: Madagascar, para. 166.

<sup>46</sup> S C (31), 1966th mtg.: Syria, paras. 160 and 161.

<sup>47</sup> S C (32), 1984th mtg.: United Republic of Tanzania, para. 103.

<sup>48</sup> S C (32), 1989th mtg.: Liberia, para. 33; 1991st mtg.: Madagascar, para. 84; 2039th mtg.: Senegal, para. 36.

complaint by Mozambique,<sup>49</sup> and the complaint by Zambia.<sup>50</sup>

30. Explicit references to Article 41 were also made in the following letters from Member States: letter dated 31 March 1970 from France,<sup>51</sup> letter dated 17 November 1970 from the German Democratic Republic,<sup>52</sup> letter dated 28 September 1975 from Mexico,<sup>53</sup> and letter dated 21 March 1977 from Liberia.<sup>54</sup> None of these letters gave rise to constitutional arguments regarding Article 41.

31. The General Assembly adopted a number of resolutions in which Article 41 was explicitly referred to: resolution 2621 (XXV) (para. 3 (c)(b)(i) on the programme of action for the full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; resolutions 2652 (XXV) (para. 13), 2946 (XXVII) (para. 6), 3116 (XXVIII) (para. 7), 3298 (XXIX) (para. 6), 3397 (XXX) (para. 5), 31/154 B (para. 8), 32/116 B (para. 6) and 33/38 B (para. 9) on the question of Southern Rhodesia; resolution 3314 (XXIX) (annex, 2nd preamb. para.) on the Definition of Aggression; and resolutions 32/35 (para. 10) and 33/40 (para. 10) on 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.<sup>55</sup>

32. Several resolutions which were adopted by the General Assembly contained what might be considered implicit references to Article 41: resolutions 2646 (XXV) and 2784 (XXVI) on the elimination of all forms of racial discrimination; resolutions 2671 F (XXV), 3411 G (XXX), and 32/105 G on the policies of *apartheid* of the Government of South Africa; resolutions 2765 and 2796 (XXVI) on the question of Southern Rhodesia; and resolutions 32/9 D and 33/182 A on the question of Namibia.<sup>56</sup>

33. In the General Assembly explicit references to Article 41 were made, *inter alia*, during the consideration of the following questions: implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,<sup>57</sup> consideration of measures

for the strengthening of international security,<sup>58</sup> the policies of *apartheid* of the Government of South Africa,<sup>59</sup> the question of Namibia,<sup>60</sup> the question of Territories under Portuguese administration,<sup>61</sup> the question of Southern Rhodesia,<sup>62</sup> the report of the Special Committee on the Question of Defining Aggression,<sup>63</sup> the need to consider suggestions regarding the review of the Charter of the United Nations,<sup>64</sup> and activities of foreign economic and other interests which were 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.<sup>65</sup> Additional explicit references to Article 41 occurred in the General Assembly during the general debate,<sup>66</sup> and during the consideration of the special programme of activities in connexion with the

<sup>49</sup>G A (25), Plen., 1932nd mtg.: India, para. 132; 1st Com., 1733rd mtg.: Cambodia, para. 55; 1734th mtg.: United Arab Republic, para. 13; G A (26), 1st Com., 1808th mtg.: India, para. 39; 1815th mtg.: Sri Lanka, para. 40; G A (29), 1st Com., 2042nd mtg.: Cyprus, pp. 138-140; G A (31), 1st Com., 55th mtg.: Ghana, p. 22; 57th mtg.: Cyprus, pp. 57-60.

<sup>50</sup>G A (25), Spec. Pol. Com., 701st mtg.: Mexico, para. 37; G A (28), Spec. Pol. Com., 864th mtg.: Trinidad and Tobago, para. 26; G A (30), Spec. Pol. Com., 955th mtg.: United Republic of Cameroon, para. 18; G A (33), Plen., 56th mtg.: Jamaica, para. 329; 60th mtg.: Burundi, para. 108; also G A (33), Plen., 30th mtg.: Jamaica, paras. 49-51.

<sup>51</sup>G A (25), 4th Com., 1883rd mtg.: Sudan, para. 72; 1892nd mtg.: Yugoslavia, para. 20; G A (26), 4th Com., 1936th mtg.: Nigeria, para. 16; 1938th mtg.: Kenya, para. 12; G A (30), 4th Com., 2153rd mtg.: Kuwait, para. 74; 2155th mtg.: Costa Rica, para. 32; 2167th mtg.: Costa Rica, para. 12; G A (33), Plen., 75th mtg.: Hungary, paras. 77 and 78; 80th mtg.: Ivory Coast, para. 134; 99th mtg.: Burundi, para. 101; 100th mtg.: Madagascar, para. 134; 103rd mtg.: Hungary, para. 82; 104th mtg.: Guinea, para. 192; USSR, para. 37; also G A (S-9), Plen., 4th mtg.: Egypt, para. 126.

<sup>52</sup>G A (25), 4th Com., 1883rd mtg.: Sudan, para. 72; G A (26), 4th Com., 1936th mtg.: Nigeria, para. 16; 1938th mtg.: Kenya, para. 12.

<sup>53</sup>G A (25), 4th Com., 1879th mtg.: Sweden, para. 9; 1883rd mtg.: Sudan, para. 72; 1884th mtg.: Nepal, para. 37; 1901st mtg.: Bulgaria, para. 22; G A (26), 4th com., 1936th mtg.: Nigeria, para. 16; 1938th mtg.: Kenya, para. 12; G A (27), 4th Com., 1988th mtg.: Afghanistan, para. 2; 1989th mtg.: Peru, para. 14; 1994th mtg.: Jamaica, para. 18; 1996th mtg.: Ghana, para. 41; 1997th mtg.: Finland, para. 80; 1998th mtg.: Sweden, para. 40; 2006th mtg.: Sierra Leone, para. 37; G A (28), 4th Com., 2037th mtg.: Bulgaria, para. 5; 2044th mtg.: Sweden, para. 35; USSR, para. 57; G A (29), 4th Com., 2096th mtg.: Zambia, para. 72; 2099th mtg.: Madagascar, para. 15; 2117th mtg.: Iraq, para. 5; G A (30), Plen., 2414th mtg.: Portugal, para. 6; 4th Com., 2133rd mtg.: Sierra Leone, para. 5; 2136th mtg.: Indonesia, para. 16; 2137th mtg.: Egypt, para. 1; 2139th mtg.: Norway, para. 21; Ukrainian SSR, para. 28; 2141st mtg.: Cyprus, para. 56; 2143rd mtg.: Upper Volta, para. 44; 2144th mtg.: Sweden, para. 36; USSR, para. 44; 2155th mtg.: Costa Rica, paras. 52-53; United Kingdom, para. 81; G A (31), 4th Com., 43rd mtg.: Benin, para. 16; 48th mtg.: Ukrainian SSR, para. 11; G A (33), Plen., 81st mtg.: Rapporteur, 4th Committee, para. 63; 4th Com., 12th mtg.: Guyana, para. 59; 13th mtg.: Byelorussian SSR, para. 57; Norway, para. 26; 14th mtg.: Egypt, para. 77; Ghana, para. 46; India, para. 6; Poland, para. 30; 18th mtg.: Togo, para. 41; 19th mtg.: Algeria, para. 30.

<sup>54</sup>G A (25), 6th Com., 1202nd mtg.: Iraq, para. 22; 1206th mtg.: Japan, para. 41; 1207th mtg.: Guatemala, para. 38; G A (26), 6th Com., 1276th mtg.: Zambia, para. 24; G A (27), 6th Com., 1350th mtg.: Byelorussian SSR, para. 24; G A (28), 6th Com., 1440th mtg.: Ukrainian SSR, para. 45; G A (29), 6th Com., 1479th mtg.: Cyprus, paras. 11-12.

<sup>55</sup>G A (29), 6th Com., 1515th mtg.: German Democratic Republic, para. 22; 1520th mtg.: Cyprus, para. 24; G A (31), 6th Com., 44th mtg.: German Democratic Republic, para. 4; 49th mtg.: Cyprus, para. 84; G A (33), 6th Com., 29th mtg.: Trinidad and Tobago, para. 54.

<sup>56</sup>G A (30), Plen., 2414th mtg.: Portugal, para. 6; 4th Com., 2160th mtg.: Venezuela, para. 28; G A (31), 4th Com., 3rd mtg.: Syria, para. 7; 6th mtg.: Norway, para. 18; 8th mtg.: Sudan, para. 45; United Republic of Tanzania, para. 43; 22nd mtg.: Ireland, para. 34; 23rd mtg.: United States, para. 10.

<sup>57</sup>G A (25), Plen., 1855th mtg.: Cambodia, para. 23; 1859th mtg.: Sudan, para. 41; G A (27), Plen., 2059th mtg.: Yemen, para. 30; G A (32), Plen., 30th mtg.: Burundi, para. 116; G A (33), Plen., 25th mtg.: Ivory Coast, para. 104.

<sup>49</sup>S C (32), 2014th mtg.: United Republic of Tanzania, para. 85; 2015th mtg.: Benin, para. 59; 2017th mtg.: USSR, paras. 38 and 39; 2017th mtg.: Mauritius, para. 88; 2018th mtg.: Botswana, para. 31; Pakistan, para. 71; 2019th mtg.: Benin, para. 88.

<sup>50</sup>S C (33), 2069th mtg.: Kuwait, para. 113.

<sup>51</sup>Addressed to the President of the Security Council regarding Southern Rhodesia.

<sup>52</sup>Addressed to the President of the Security Council regarding Southern Rhodesia.

<sup>53</sup>Addressed to the Secretary-General regarding the Franco régime in Spain.

<sup>54</sup>Addressed to the President of the Security Council regarding the question of South Africa.

<sup>55</sup>None of these resolutions gave rise to a constitutional discussion regarding Article 41. With the exception of the resolution containing the Definition of Aggression, the other resolutions usually invoked Article 41 in calling upon the Security Council to strengthen the sanctions against Southern Rhodesia or to impose Chapter VII measures against other colonialist or racially discriminatory régimes in southern Africa.

<sup>56</sup>The deliberations leading to the adoption of these resolutions did not contain constitutional arguments about the application of Article 41. They focused on the political aspects of the questions relating to southern Africa.

<sup>57</sup>G A (25), Plen., 1924th mtg.: Bulgaria, para. 31; G A (28), Plen., 2176th mtg.: Mali, para. 147; G A (30), Plen., 2412th mtg.: United Republic of Tanzania, para. 50; G A (33), Plen., 82nd mtg.: Byelorussian SSR, para. 326; Mongolia, para. 279.

tenth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples,<sup>67</sup> respect for human rights in armed conflicts,<sup>68</sup> 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 role of international

law in relations between States,<sup>69</sup> conclusion of a world treaty on the non-use of force in international relations,<sup>70</sup> and measures to prevent international terrorism,<sup>71</sup> as well as during the tenth special session, devoted to disarmament.<sup>72</sup> None of these explicit references constituted or led to a constitutional discussion.

<sup>67</sup>G A (25), Plen., 1861st mtg.: India, para. 123.

<sup>68</sup>G A (25), 3rd Com., 1785th mtg.: Iraq, para. 7.

<sup>69</sup>G A (29), Plen., 2314th mtg.: Cyprus, para. 264.

<sup>70</sup>G A (31), 1st Com., 11th mtg.: Cyprus, pp. 51-53; 6th Com., 51st mtg.: Cuba, para. 40.

<sup>71</sup>G A (32), 6th Com., 57th mtg.: Cyprus, para. 33.

<sup>72</sup>G A (S-10), Plen., 27th mtg.: Cyprus, para. 368.