



*Repertoire of the Practice of the Security Council*

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Security Council Practices and Charter Research Branch

## **Part III**

# **Purposes and principles of the Charter of the United Nations**

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## **Introductory note**

Part III covers the consideration by the Security Council of Articles contained in Chapter I of the Charter of the United Nations relating to the purposes and principles of the United Nations, namely Articles 1 (2), 2 (4), 2 (5) and 2 (7). Part III consists of four sections. Section I features material relating to the principle of self-determination of peoples under Article 1 (2) of the Charter. Section II covers material relevant to the prohibition of the use of force or the threat of the use of force as enshrined in Article 2 (4). Section III deals with the obligation of States to refrain from assisting a target of the Council's enforcement action as stipulated in Article 2 (5). Section IV highlights the Council's consideration of the principle of non-intervention by the United Nations in the internal affairs of States, as regulated by Article 2 (7).

In 2020, Council members and other participants in the Council's discussions deliberated on the principle of self-determination, in both thematic and country-specific contexts. Of a thematic nature were the discussions at a meeting on the importance of respecting the Charter of the United Nations, and at an open videoconference in relation to strengthening the cooperation between the Council and the International Court of Justice. Council members also discussed the principle of self-determination in relation to the Israeli-Palestinian conflict. Council members also addressed the application and interpretation of Article 2 (4) concerning the prohibition of the use or threat of use of force in the context of the above referenced discussions, as well as in relation to the situation in the Bolivarian Republic of Venezuela. Council members discussed the necessity for States to refrain from giving assistance to any state or non-state actor against which the United Nations was taking preventive or enforcement action pursuant to Article 2 (5) in connection with the situations in Libya and Yemen. Furthermore, Council members reflected upon the principles enshrined in Article 2 (7) during their consideration of the situation in the Middle East, as well as during their discussions on peacebuilding and sustaining peace.

During the period under review, the Council did not adopt any decisions containing explicit references to Articles 1 (2), 2 (4), 2 (5), and 2 (7). Nonetheless, this part includes Council decisions featuring language relating to the principles enshrined in these Articles. Additionally, the part includes implicit invocations of Article 1 (2) and explicit invocations of Articles 2 (4) and 2 (7) found in the correspondence of the Council during the period under review.

## **I. Principle of equal rights and self-determination of peoples under Article 1, paragraph 2**

### *Article 1, paragraph 2*

*[The Purposes of the United Nations are:]*

*To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.*

### **Note**

Section I concerns the practice of the Security Council regarding the principle of equal rights and self-determination of peoples as enshrined in Article 1 (2) of the Charter of the United Nations. Subsection A features decisions relevant to the principle enshrined in Article 1 (2). Subsection B describes the references made to the principle of self-determination in Council discussions during the reporting period. Subsection C sets out instances in which the principle of self-determination was invoked in communications addressed to the Council.

### **A. Decisions relating to Article 1 (2)**

During the period under review, the Security Council did not explicitly invoke Article 1 (2) in its decisions. However, language found in one of the Council's decisions, adopted in connection with the envisaged referendum in Western Sahara is of relevance for the interpretation and application of Article 1 (2) (table 1).

Table 1  
**Decisions containing implicit references to Article 1 (2)**

Decision and date	Provision
<b>The situation in Western Sahara</b>	
Resolution <a href="#">2548 (2020)</a> 30 October 2020	Reaffirming its commitment to assist the parties to achieve a just, lasting, and mutually acceptable political solution, based on compromise, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in this respect (seventh preambular paragraph)  Calls upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in this respect (para. 4)

## **B. Discussion relating to Article 1 (2)**

During the period under review, Article 1 (2) was not explicitly invoked in the discussions during meetings of the Council nor in open videoconferences. Nevertheless, the principle of self-determination was addressed by Council members in the context of both country-specific and thematic discussions, as elaborated below.

Council members and other entities discussed the principle of self-determination during an open debate on the importance of upholding the Charter of the United Nations, held under the item entitled “Maintenance of international peace and security” (case 1), and the right to self-determination of the Palestinian people at several meetings and videoconferences held in 2020 in connection with the item entitled “The situation in the Middle East, including the Palestinian question” (case 2).

Additionally, Council members referred to the principle of self-determination in connection with the situation concerning Western Sahara and the adoption of resolution [2548 \(2020\)](#) on 30 October 2020.<sup>1</sup> During a videoconference held on 18 December 2020, in connection with item entitled “The promotion and strengthening of the rule of law in the

<sup>1</sup> See [S/2020/1075](#), Russian Federation, South Africa and Viet Nam.

maintenance of international peace and security” focused on strengthening the cooperation between the Council and the International Court of Justice, the President of the Court underscored that the 1971 Advisory Opinion on Namibia had clarified the applicability of the right to self-determination to the people of Namibia, which together with the identification of the legal consequences that attached to resolution [276 \(1970\)](#), had paved the way for concrete actions that later facilitated the access of Namibia to its independence.<sup>2</sup> The representative of Tunisia recalled the relevance of the Court against the backdrop of the wide-ranging spectrum of subjects over which it had exercised jurisdiction and developed ground-breaking international jurisprudence, especially on the principles of the self-determination of peoples and equal rights.<sup>3</sup>

### Case 1

#### **Maintenance of international peace and security**

On 9 January 2020, at the initiative of Viet Nam which held the Presidency for the month,<sup>4</sup> the Council convened its 8699<sup>th</sup> meeting under this item to discuss the importance of upholding the Charter of the United Nations. The meeting, which marked the 75<sup>th</sup> anniversary of the Charter of the United Nations, extended over a period of three days, namely, 9, 10 and 13 January 2020.<sup>5</sup> The Secretary-General, in his briefing to the Council, referred to the principles of non-intervention, self-determination and sovereign equality of Member States, and said that these were not favours or concessions, but the foundation of international relations and core to peace and international law.<sup>6</sup>

Following the briefing, the representative of Tunisia said that the principles of the Charter, including the right to self-determination and sovereign equality of States, continued to constitute the cornerstones governing international relations.<sup>7</sup>

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<sup>2</sup> See [S/2020/1286](#).

<sup>3</sup> Ibid.

<sup>4</sup> A concept note was circulated by a letter dated 31 December 2019 ([S/2020/1](#)).

<sup>5</sup> [S/PV.8699](#), [S/PV.8699 \(Resumption 1\)](#), and [S/PV.8699 \(Resumption 2\)](#). Due to the financial difficulties faced by the United Nations, the meetings of the Council were restricted to take place only from 10 am to 1 pm and from 3 pm to 6 pm resulting in meetings extending over several days.

<sup>6</sup> See [S/PV.8699](#).

<sup>7</sup> Ibid.

At the meeting, the Minister for Foreign Affairs and Worship of Haiti stated that to reach the objective of saving succeeding generations from the scourge of war, the founding fathers of the Organization had defined a range of purposes and principles in Articles 1 and 2 of the Charter, which constituted a true legal basis for the multilateral system.<sup>8</sup> The representative of Ethiopia said that the grand principles laid down by the founders of the United Nations remained pertinent and immutable, and its primary purposes, as defined in Article 1 of the Charter, also remained as relevant as they had been in 1945.<sup>9</sup> Echoing the same view, the representative of Djibouti underscored that reviewing the Preamble of the Charter of the United Nations, as well as its purposes and principles as set out in Articles 1 and 2, one could not help but be struck by how the concerns that had motivated the Charter's adoption still remained salient.<sup>10</sup>

In addition, speakers discussed the application of the principle of self-determination to specific conflicts and situations. The representative of South Africa stated that the Charter provisions of the equality of nations, mutual respect and adherence to international law must be upheld to resolve disputes and prevent conflicts, and warned against allowing competing political interests undermine respect for international law and self-determination in cases such as Western Sahara and the occupied Palestinian territories.<sup>11</sup> The representative of Pakistan similarly voiced concern regarding the events which had amplified the multiple and complex threats to peace and security in the Middle East, including the denial of self-determination to the Palestinian people. He also requested the Council and the Secretary-General to act decisively to prevent a disastrous war between Pakistan and India, to call for an end to the grave human rights violations in occupied Jammu and Kashmir, and to enable the Kashmiri people to exercise the right to self-determination promised to them in the resolutions of the Council.<sup>12</sup>

Also in relation to the Israeli-Palestinian conflict, the representative of Senegal recalled the words of his country's President, His Excellency Mr. Macky Sall, concerning the right of peoples to self-determination, renewing the call for reconciliation between the Palestinian and Israeli peoples and for the realization of the right of the Palestinian people to a viable State.<sup>13</sup>

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>11</sup> See [S/PV.8699](#).

<sup>12</sup> Ibid.

<sup>13</sup> See [S/PV.8699 \(Resumption 2\)](#).

The representative of the Observer State of Palestine underscored that despite being unjustly denied full membership in the United Nations and deprived of one of the most fundamental principles of the Charter, namely that of equal rights and self-determination of peoples, the State of Palestine had pledged to respect the Charter and to act in accordance with its purposes and principles. He stressed the firm conviction of the people of the State of Palestine in the inevitability of the realization of their right to self-determination, in spite of the profound scope and scale of that injustice. The representative also expressed firmness in the conviction that upholding the Charter was vital for the fulfilment of that right and of all the inalienable rights for the achievement of a just and peaceful solution. Furthermore, he stressed that when the right to self-determination was violated, when force was unlawfully used, when threats of annexation were routinely declared, and when all such actions had no consequences to hold the perpetrators accountable for their crimes, the international community had failed in its obligation to uphold the Charter.<sup>14</sup>

The representative of Armenia recalled that the Charter rested upon the objective of developing friendly relations among nations, based on respect for the principles of equal rights and the self-determination of peoples. He further noted that the right to self-determination was a fundamental principle which had led to a significant increase in the membership of the United Nations since its foundation. Additionally, the representative stressed that the right of people to freely determine their future was anchored in the purposes and principles of the Charter and that in that context, the inalienable right of Nagorno Karabakh to self-determination through the legally binding free expression of their will represented a fundamental principle and basic premise for the peaceful resolution of the conflict. He added that violations of human rights and fundamental freedoms, including the right to self-determination, often represented the root causes of conflicts.<sup>15</sup> In reference to the statement by the representative of Armenia, the representative of Azerbaijan said that speculations and claims with regard to the right of self-determination had nothing in common with the related principle as it was set forth in the Charter of the United Nations.<sup>16</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> See [S/PV.8699](#).

<sup>16</sup> See [S/PV.8699 \(Resumption 1\)](#).



Participants at the meetings also addressed the principle of self-determination in guiding international relations and the multilateral system as a whole, including the Council. The representative of Kenya, on the issue of non-self-governing territories, noted that it would take political will, trust, courage, the embrace of differences and a change of mindset to ensure respect for the principles of international law, equal rights and self-determination of peoples.<sup>17</sup>

The representative of Slovenia underscored that the rights and obligations arising from the Charter were equal for all Members and all States benefited from them. She added that all States were obliged to ensure respect for the Charter, and Articles 1 and 2 must be the basis for their behaviour in the international arena.<sup>18</sup>

The representative of Cuba emphasized that in carrying out its functions according to the powers conferred upon it by the Charter, the Council must do so in accordance with justice and principles. He added that the Council must exhaust all avenues to prevent attempts to violate the right of peoples to self-determination.<sup>19</sup> The representative of Uruguay stressed the need not to lose sight of the principles of non-intervention and self-determination when dealing with internal conflicts.<sup>20</sup> The representative of Azerbaijan, speaking on behalf of the Movement of the Non-Aligned Countries, highlighted the Movement's commitment to supporting and promoting the purposes and principles of the Charter, which extended to the right to self-determination of peoples under foreign occupation and colonial or alien domination.<sup>21</sup>

The representative of the Bolivarian Republic of Venezuela stressed the need to abide by the Charter in its entirety, and noted that there was consensus regarding the principles, including the right to self-determination of peoples, which were essential for the maintenance of international peace and security.<sup>22</sup>

## Case 2

### The situation in the Middle East, including the Palestinian question

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<sup>17</sup> See [S/PV.8699](#).

<sup>18</sup> See [S/PV.8699 \(Resumption 1\)](#).

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

At its 8706th meeting, held on 21 and 22 January 2020, the Council held its quarterly open debate under this item. During the meeting, several speakers expressed support for the right of the Palestinian people to self-determination.<sup>23</sup> The representative of the Observer State of Palestine underscored that despite the adversity and setbacks, the Palestinian people were steadfast in the pursuit of their rights, including to self-determination.<sup>24</sup>

The representative of the Niger urged the international community to continue its quest for a solution to the Israeli-Palestinian conflict that would take into account Israel's security aspiration and the legitimate inalienable rights of the Palestinians, including their right to self-determination.<sup>25</sup> The representative of Tunisia stressed that Israel should be committed to ending its occupation and enabling the Palestinian people to exercise their legitimate rights, among them their right to self-determination and the establishment of their independent State.<sup>26</sup> The representative of Bangladesh assured that his country would continue to firmly stand with its Palestinian brothers and sisters in their just and rightful struggle for self-determination, until the State of Palestine was established, whereas the representative of Cuba reaffirmed his country's unreserved support for a comprehensive, just and lasting solution to the Israeli-Palestinian conflict that enabled the Palestinian people to exercise their right to self-determination and to have an independent and sovereign State within the pre-1967 borders.<sup>27</sup> In his capacity as Chair of the Group of Arab States, the representative of the Sudan said that the States of the Arab Group hoped to see, during 2020, tangible progress towards realizing the legitimate national goals and aspirations of the Palestinian people to enjoy their fair rights, especially the right to self-determination, freedom and an independent sovereign Palestinian State, with East Jerusalem as its capital.<sup>28</sup> The representative of the Dominican Republic emphasized that any participation by the Council must be framed by recognition and respect for mutual rights, including self-determination and independence, non-interference and by the legacy of understandings reflected in previous agreements.<sup>29</sup>

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<sup>23</sup> See [S/PV.8706](#), Viet Nam; and [S/PV.8706 \(Resumption 1\)](#), Azerbaijan, on behalf of the Non-Aligned Movement, Malaysia, Nigeria, Sri Lanka and Sudan, on behalf of the Arab Group.

<sup>24</sup> [S/PV.8706](#).

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> See [S/PV.8706 \(Resumption 1\)](#), Bangladesh and Cuba.

<sup>28</sup> Ibid.

<sup>29</sup> See [S/PV.8706](#).

On 11 February 2020, at the request of Indonesia and Tunisia,<sup>30</sup> the Council convened at its 8717th meeting following the release by the United States of its “Peace to Prosperity” vision for Israelis and Palestinians on 28 January 2020. In addressing the Council, President Abbas of the State of Palestine recalled the broad rejection of the Israeli-United States deal, which flagrantly violated international legitimacy and the Arab Peace Initiative and annulled the legitimacy of the Palestinians’ rights to self-determination, freedom and independence in their own State.<sup>31</sup> The representative of Tunisia pointed out that the meeting was being held as the Arab-Israeli conflict was at a critical juncture and tensions were rising in the region. He underscored that the aim was to end the occupation and restore the legitimate rights of the Palestinian people, most importantly their rights to self-determination and to establish their own independent State along the borders of 4 June 1967.<sup>32</sup> The representative of Saint Vincent and the Grenadines, while acknowledging the ongoing efforts of the United States to reinvigorate the Israeli-Palestinian peace process, reiterated the commitment of her country to the international community’s long-standing, principled support for the inalienable rights of the Palestinian people, including to self-determination, and for the two-State solution based on the pre-1967 borders. She stressed that that vision still reflected the will of the international community and ought to be the starting point.<sup>33</sup> The representative of the Dominican Republic reiterated his country’s position on the need to respect the sovereignty and self-determination of peoples and for purposes and principles of the Charter of the United Nations, and reaffirmed the full support for a two-State solution, as set out in the various United Nations resolutions.<sup>34</sup> The representative of South Africa thanked President Abbas for his statement, in which he had articulated the true aspirations and the voice of the people of occupied Palestine — a people who lived under occupation in an asymmetrical environment and, for decades, had fought for its right to self-determination and for the recognition of its basic human rights.<sup>35</sup> The representative of the United Kingdom said that Palestinians deserved self-determination and freedom from occupation

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<sup>30</sup> See [S/2020/1142](#).

<sup>31</sup> See [S/PV.8717](#).

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

and that Israelis also deserved to live free of terrorist rocket fire and in a future characterized by fruitful cooperation with their neighbours in the region.<sup>36</sup>

Subsequently, Council members, on 24 June 2020, held an open videoconference, where Council members heard briefings by the Secretary-General, the Special Coordinator for the Middle East Peace Process and the Secretary-General of the League of Arab States. Representatives of all Council members, as well the Minister for Foreign Affairs of the State of Palestine and the representative of Israel, delivered their statements during the videoconference, while the representatives of non-Council members and international organizations submitted their statements in writing.<sup>37</sup>

During his briefing, the Special Coordinator for the Middle East Peace Process underscored that those who believed in the legitimate right of both Palestinians and Israelis to self-determination, security and a brighter future had to reject the move by the Israeli Government to annex parts of the West Bank and consolidate efforts to preserve a sustainable two-state solution.<sup>38</sup> The Minister of State for the Middle East and North Africa of the United Kingdom said that the two-State solution was the only way to preserve Israel's Jewish, democratic identity and realize Palestinians' rights, including to self-determination.<sup>39</sup> The Deputy Minister for International Relations and Cooperation of South Africa recalled the violence, riots and civil disobedience campaigns, which had swept across the West Bank and the Gaza Strip as Palestinians had engaged in their struggle for their inalienable rights to freedom and self-determination. He further noted that decades later, a lasting and just peaceful resolution of the continued occupation remained as elusive as it had been in 1948, when the matter was first brought to the Council, and wondered what message [the Council] was sending to those fighting for their inalienable rights to freedom, self-determination and sovereignty, and to those who oppressed and denied those rights.<sup>40</sup> The representative of the Niger regretted that 27 years after the signing of the first peace agreement, the Palestinians were not closer to self-determination

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<sup>36</sup> Ibid.

<sup>37</sup> The following countries submitted written statements: Costa Rica, Egypt, the European Union, the Islamic Republic of Iran, Jordan, Lebanon, Saudi Arabia, the Syrian Arab Republic, Turkey and the United Arab Emirates (on behalf of the Organization of Islamic Cooperation).

<sup>38</sup> See [S/2020/596](#).

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

and the establishment of an independent State.<sup>41</sup> The Minister for Foreign Affairs of Palestine stressed that as the 75<sup>th</sup> anniversary of the Charter was being celebrated, it was necessary to honour the purposes and principles of the United Nations, namely, respect for the principle of equal rights and self-determination of peoples, respect for human rights and fundamental freedoms for all without distinction, the suppression of acts of aggression and the prohibition of the threat or use of force against the territorial integrity or political independence of any State. He said that annexation, whether partial or total, gradual or immediate, was the ultimate breach of the Charter of the United Nations and could not go unchallenged.<sup>42</sup>

Through written submissions, several Permanent Missions of non-Council members and other entities also addressed the question of self-determination of the Palestinian people. The Permanent Mission of Egypt considered inconceivable that the Middle East region could enjoy any degree of stability so long as the Palestinian people were unable to exercise their legitimate rights, particularly the right to self-determination and the establishment of an independent State. Furthermore, it warned that by annexing Palestinian territory, Israel would allow extremist voices to claim that negotiations had failed to secure even a modicum of the Palestinian people's rights, particularly its legitimate right to self-determination. The Permanent Mission also reaffirmed the long-standing position of Egypt that the Palestinian people had the right to exercise self-determination by establishing their independent State based on the borders of 4 June 1967, with East Jerusalem as its capital.<sup>43</sup> The statement submitted by the Permanent Representative of the Islamic Republic of Iran noted that while the United Nations had catalyzed the decolonization of many nations, it must fulfil its responsibilities in realizing the inherent rights of the Palestinians to self-determination and the establishment of an independent Palestinian State in all of Palestine, with Al-Quds Al-Sharif as its capital.<sup>44</sup> The Permanent Mission of the United Arab Emirates, on behalf of the Organization of Islamic Cooperation, reiterated the position of the Organization that the annexation of Palestinian land would violate international law, the Charter of the United Nations and the relevant United Nations resolutions. The Organization of Islamic Cooperation also warned that the implementation of this illegal,

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<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

unilateral plan would undermine the realization by the Palestinian people of their right to self-determination and the decades-long efforts made by the international community to achieve a two-State solution based on the 4 June 1967 borders and the prospects for realizing a just, lasting and comprehensive peace.<sup>45</sup> The Permanent Representative of the Syrian Arab Republic reiterated his country's support for the right of the Palestinian people to self-determination and the establishment of an independent State over all of its national territory and Jerusalem as its capital.<sup>46</sup>

The Permanent Representative of Israel underscored that if his country decided to extend its sovereignty, it would be doing so with respect to areas over which it had always maintained a legitimate historical and legal claim. He further pointed out that those who opposed Israel's legal claims to that territory wrongly mischaracterized any potential decision by Israel to extend its sovereignty to that territory as so-called "annexation", and explained that such objections were the result of embracing a Palestinian false narrative, rather than of an assessment of the historical and legal facts. The representative further stressed that the Palestine Liberation Organization had never been a State and had never been the sovereign in that territory.<sup>47</sup>

### **C. Invocation of the principle enshrined in Article 1 (2) in communications**

During the period under review, four explicit references to Article 1 (2) were found in a letter from the Permanent Representative of Azerbaijan addressed to the Secretary-General including in the annex entitled "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims", updating a previous report submitted in 2008. According to the report, although Article 1 (2) and the right to self-determination and the principle of equal rights and self-determination was clearly not expressed as a legal right, its inclusion in the Charter, particularly within the context of the statement of purposes of the United Nations, provided the opportunity for the subsequent interpretation of the principle. The report further provided that practice since 1945 within the

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<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

United Nations, both generally and particularly with regard to specific cases, could be seen as having ultimately established the legal standing of the right in international law.<sup>48</sup>

In 2020, the principle of self-determination was invoked in several communications addressed to or brought to the attention of the Council, including communications from Member States relating to Western Sahara,<sup>49</sup> the Middle East, including the Palestinian question,<sup>50</sup> Nagorno-Karabakh,<sup>51</sup> the India-Pakistan question,<sup>52</sup> the situation in the Bolivarian Republic of Venezuela,<sup>53</sup> and the situation in eastern Ukraine<sup>54</sup> as well as reports of the Secretary-General to the Council regarding the peaceful settlement of the question of Palestine,<sup>55</sup> the situation concerning Western Sahara,<sup>56</sup> and the implementation of the Peace Agreement on Bosnia and Herzegovina<sup>57</sup> also made reference to the principle of self-determination. References to referenda which may be of relevance for the interpretation and application of Article 1 (2) of the Charter were also found in communications addressed to the Council from Ukraine with respect to the referendum and elections on the status of Crimea and the City of Sevastopol carried out by the Russian Federation;<sup>58</sup> from Azerbaijan regarding the elections and constitutional referenda organized in the occupied territories of Azerbaijan in 2006 and 2017;<sup>59</sup> and in the report of the Peacebuilding Commission on its 13<sup>th</sup> session regarding the political status of Bougainville.<sup>60</sup> References to self-determination were also found in the Chair's summary of the open Arria-formula meeting held on 21 May 2020 on the situation in Crimea, transmitted to the President of the Council in a letter dated 9 June 2020 from the Permanent Representative of the Russian Federation.<sup>61</sup>

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<sup>48</sup> See [S/2020/729](#).

<sup>49</sup> See [S/2020/66](#), [S/2020/627](#), [S/2020/892](#), [S/2020/991](#), [S/2020/992](#), [S/2020/1048](#), [S/2020/1112](#), [S/2020/1123](#), [S/2020/1132](#) and [S/2020/1268](#).

<sup>50</sup> See [S/2020/33](#), [S/2020/102](#), [S/2020/104](#), [S/2020/126](#), [S/2020/208](#), [S/2020/271](#), [S/2020/306](#), [S/2020/584](#), [S/2020/1057](#), [S/2020/1121](#) and [S/2020/1175](#).

<sup>51</sup> See, [S/2020/169](#), [S/2020/175](#), [S/2020/279](#), [S/2020/301](#), [S/2020/404](#), [S/2020/729](#), [S/2020/947](#), [S/2020/1149](#), [S/2020/1187](#) and [S/2020/1191](#).

<sup>52</sup> See [S/2020/194](#), [S/2020/432](#), [S/2020/771](#) and [S/2020/1127](#).

<sup>53</sup> See [S/2020/337](#) and [S/2020/520](#).

<sup>54</sup> See [S/2020/530](#) and [S/2020/118](#).

<sup>55</sup> See [S/2020/555](#), [S/2020/834](#) and [S/2020/1234](#).

<sup>56</sup> See [S/2020/938](#).

<sup>57</sup> See [S/2020/345](#).

<sup>58</sup> See [S/2020/256](#) and [S/2020/426](#).

<sup>59</sup> See [S/2020/503](#).

<sup>60</sup> See [S/2020/80](#).

<sup>61</sup> See [S/2020/530](#).

## **II. Prohibition of the threat or use of force under Article 2, paragraph 4**

### *Article 2, paragraph 4*

*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*

### **Note**

Section II covers the practice of the Security Council concerning the principle of the prohibition of the threat or use of force under Article 2 (4) of the Charter of United Nations. Subsection A includes implicit references to Article 2 (4) in decisions adopted by the Council. Subsection B highlights constitutional discussions relating to the threat or use of force. Subsection C features explicit references in communications to the Council to the principle enshrined in Article 2 (4).

#### **A. Decisions relating to Article 2 (4)**

During the period under review, the Council did not adopt any decisions containing explicit references to Article 2 (4). In a number of its decisions, however, the Council underlined the principles of Article 2 (4) by (a) reaffirming the prohibition of the threat or use of force in international relations; (b) reiterating the importance of good-neighbourliness and non-interference by States in the internal affairs of others; (c) calling for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security; and (d) calling on parties to withdraw all military forces from a disputed area or occupied territories. The four themes are covered below.



*(a) Affirmation of the prohibition of the threat or use of force in international relations*

In 2020, the Council stressed the prohibition of the threat or use of force against other Member States through several decisions, in particular concerning the future status of Abyei and the situation in the Middle East (table 2).

Table 2

**Decisions affirming the prohibition of the threat or use of force in international relations**

<i>Decision and date</i>	<i>Provision</i>
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2550 (2020)</a> 12 November 2020	Reiterating that the territorial boundaries of States shall not be altered by force, and that any territorial disputes shall be settled exclusively by peaceful means, affirming the priority it attaches to the full and urgent implementation of all outstanding issues from the Comprehensive Peace Agreement (CPA), and underscoring that the future status of Abyei shall be resolved by negotiations between the parties in a manner consistent with the CPA and not by the unilateral actions of either party (third preambular paragraph)
<b>The situation in the Middle East</b>	
Resolution <a href="#">2530 (2020)</a> 29 June 2020	Stressing that both parties must abide by the terms of the 1974 Disengagement of Forces Agreement between Israel and the Syrian Arab Republic and scrupulously observe the ceasefire (third preambular paragraph)
	<i>See also resolution <a href="#">2555 (2020)</a>, third preambular paragraph</i>
	Stresses the obligation on both parties to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement, calls on the parties to exercise maximum restraint and prevent any breaches of the ceasefire and the area of separation, encourages the parties to take full advantage of UNDOF's liaison function regularly to address issues of mutual concern, as appropriate, and to maintain their liaison with UNDOF to prevent any escalation of the situation across the ceasefire line, and underscores that there should be no military activity of any kind in the area of separation, including military operations by the Syrian Arab Armed Forces (para. 2)
	<i>See also resolution <a href="#">2555 (2020)</a>, para. 2.</i>

*(b) Reiteration of the principles of good neighbourliness, non-interference and regional cooperation among States*

During the period under review, the Council reiterated in several of its decisions the principles enshrined in Article 2 (4) of good-neighbourliness, non-interference and regional cooperation with regard to the situations in the Democratic Republic of the Congo, Libya, the Sudan and South Sudan (table 3). Furthermore, the Council consistently reaffirmed, in several

decisions concerning country-specific situations, its respect for or commitment to the sovereignty, unity, independence and territorial integrity of States.

Table 3

**Decisions affirming the principle of good-neighbourliness, non-interference and regional cooperation among States**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in the Central African Republic</b>	
Resolution <a href="#">2552 (2020)</a> 12 November 2020	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the CAR, and recalling the importance of the principles of non-interference, good-neighbourliness and regional cooperation (second preambular paragraph)
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2528 (2020)</a> 25 June 2020	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the DRC as well as all States in the region and emphasizing the need to respect fully the principles of non-interference, good-neighbourliness and regional cooperation (second preambular paragraph)
	<i>See also resolution <a href="#">2556 (2020)</a>, third preambular paragraph</i>
<b>The situation in Libya</b>	
Resolution <a href="#">2509 (2020)</a> 11 February 2020	Calls for full compliance by all Member States with the arms embargo, and further calls on all Member States not to intervene in the conflict or take measures that exacerbate the conflict and reiterates that individuals and entities determined by the Committee to have violated the provisions of resolution <a href="#">1970 (2011)</a> , including the arms embargo, or assisted others in doing so, are subject to designation (para. 6)
Resolution <a href="#">2510 (2020)</a> 12 February 2020	Recalling the commitment of the participants at the Berlin Conference to refrain from interference in the armed conflict or in the internal affairs of Libya and their call on all international actors to do the same (fifth preambular paragraph)
	<i>See also resolution <a href="#">2542 (2020)</a>, twenty-sixth preambular paragraph</i>
Resolution <a href="#">2542 (2020)</a> 15 September 2020	Calling for full compliance with the arms embargo by all Member States, in line with resolution <a href="#">2441 (2018)</a> and all of its subsequent and previous resolutions on the embargo, and further calling on all Member States not to intervene in the conflict or take measures that exacerbate the conflict (twenty-eighth preambular paragraph)
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2514 (2020)</a> 15 March 2020	Reaffirming its strong commitment to the sovereignty, independence, territorial integrity, and national unity of the Republic of South Sudan, and recalling the importance of the principles of non-interference, good-neighbourliness, and regional cooperation (second preambular paragraph)

Resolution <a href="#">2550 (2020)</a> 12 November 2020	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of Sudan and South Sudan, and to the purposes and the principles of the Charter of the United Nations, and recalling the importance of the principles of good neighbourliness, non-interference and regional cooperation (second preambular paragraph)
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*(c) Calls for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security*

During the period under review, the Council adopted decisions calling upon States to refrain from or prevent the provision of any form of support or assistance to armed groups, including through the financing of their activities, in relation to the situations in Libya<sup>62</sup> and the Democratic Republic of the Congo.<sup>63</sup>

*(d) Calls upon parties to withdraw all military forces from a disputed area or occupied territories*

During the period under review and consistent with past practice, the Council urged the Government of Israel to expedite the withdrawal of its army from northern Ghajar, located on the border between Lebanon and Israel.<sup>64</sup>

## **B. Discussion relating to Article 2 (4)**

During the period under review, Article 2 (4) of the Charter was explicitly invoked five times during four Council meetings.<sup>65</sup> In addition, Article 2 was also explicitly referred to seven times during one Council meeting held under the item entitled “Maintenance of international peace and security”, focusing on the importance of upholding the Charter of the United Nations. The focus of these references concerned the principles enshrined in Article 2 (4) for Member States to refrain from the threat or use of force against the territorial integrity or political independence of any State (case 3).<sup>66</sup>

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<sup>62</sup> Resolutions [2509 \(2020\)](#), seventh and ninth preambular paragraph and para. 5; [2510 \(2020\)](#), para. 10; and [2542 \(2020\)](#), ninth preambular paragraph and para. 7.

<sup>63</sup> Resolution [2556 \(2020\)](#), para. 14.

<sup>64</sup> Resolution [2539 \(2020\)](#), para. 18.

<sup>65</sup> See [S/PV.8699](#), Secretary-General; [S/PV.8699 \(Resumption 2\)](#), Austria; [S/PV.8726](#), Estonia; [S/PV.8731](#), Somalia; and [S/PV.8735](#), Somalia.

<sup>66</sup> See [S/PV.8699](#), United Kingdom and Philippines; [S/PV.8699 \(Resumption 1\)](#), Slovenia and Greece; and [S/PV.8699 \(Resumption 2\)](#), Djibouti, Lebanon, and Eritrea.

In several other Council meetings, reference was made to language that may be considered of relevance for the application and/or interpretation of Article 2 (4).<sup>67</sup>

Article 2 (4) was explicitly invoked once,<sup>68</sup> and Article 2 was referred to once<sup>69</sup> during open videoconferences held in relation to the Palestinian question. Throughout several open videoconferences, Council members and other delegations and entities discussed issues relevant to the interpretation and application of Article 2 (4) in relation to the Palestinian question (case 4) and the situation in Venezuela (case 5), as well as concerning the cooperation between the Council and the International Court of Justice (case 6).

In addition to the cases mentioned above and featured in more detail below, language that may be considered of relevance for the application and/or interpretation of Article 2 (4) was used in open videoconferences in connection with the situations in Bosnia and Herzegovina, Iraq, Libya and Syria, regarding the respect of their sovereignty and territorial integrity and non-interference in their internal affairs.<sup>70</sup> Concerning thematic discussions, during an open videoconference in connection with the item entitled “Threats to international peace and security caused by terrorist acts” focused on the linkages between terrorism and organized crime, some Council members and other Member States advocated in favour of measures adopted against terrorism and organized crime, as well as their linkages, to be taken in conformity with the Charter of the United Nations, international law and respect for the sovereignty, independence and territorial integrity of the countries concerned.<sup>71</sup> In ministerial-level open videoconferences held in connection with the items entitled “Maintenance of international peace and security”, focused on comprehensive review of the situation in the Persian Gulf region<sup>72</sup>, and

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<sup>67</sup> See, for example, under the item entitled “The situation in Libya”, [S/PV.8710](#); under the item entitled “Briefing by the Chairperson-in-Office of the Organization for Security and Cooperation in Europe”, [S/PV.8714](#); under the item “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security”, [S/PV.8711](#); under the item entitled “Letter dated 13 April 2014 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council ([S/2014/264](#))”, [S/PV.8726](#); under the item entitled “The situation concerning Iraq”, [S/PV.8739](#); under the item entitled “The situation in the Middle East”, [S/PV.8706](#), [S/PV.8708](#), [S/PV.8715](#), and [S/PV.8727](#).

<sup>68</sup> See [S/2020/430](#), South Africa.

<sup>69</sup> See [S/2020/736](#), Argentina.

<sup>70</sup> See, in connection with the situation in Bosnia and Herzegovina, [S/2020/379](#) and [S/2020/1103](#); in connection with the situation concerning Iraq, [S/2020/397](#), [S/2020/845](#), and [S/2020/1144](#); in connection with the situation in Libya, [S/2020/371](#), [S/2020/421](#), [S/2020/686](#), and [S/2020/879](#); in connection with the situation in the Middle East (Syria), [S/2020/353](#), [S/2020/420](#), [S/2020/551](#), [S/2020/743](#), [S/2020/823](#), [S/2020/936](#), [S/2020/1147](#) and [S/2020/1257](#).

<sup>71</sup> See [S/2020/791](#).

<sup>72</sup> See [S/2020/1037](#).

“Peacebuilding and sustaining peace” focusing on contemporary drivers of conflict and insecurity,<sup>73</sup> participants often referred to the principles of respect for the sovereignty, territorial integrity and independence of States, non-interference in States’ internal affairs and the prohibition of the use of threat of force.

### Case 3

#### **Maintenance of international peace and security**

At its 8699<sup>th</sup> meeting, convened over the course of three days on 9, 10 and 13 January 2020 at the initiative of Viet Nam,<sup>74</sup> which held the Presidency for the month, the Council addressed the subitem entitled “Upholding the United Nations Charter”. The Secretary-General, in his briefing to the Council, underscored that non-intervention, the sovereign equality of States and clear rules governing the use of force, as set out in Article 2, paragraph 4, were not favours or concessions, but rather the foundation of international relations and core to peace and international law.<sup>75</sup> The Chair of The Elders, who briefed the Council after the Secretary-General, also stressed that cooperation by means of internationally agreed mechanisms was less costly and more reliable than unilateral force.<sup>76</sup>

Following the briefings, several speakers emphasized the importance and impact of the principles enshrined in Article 2 (4) and the limits thereof.<sup>77</sup> The Deputy Prime Minister and Minister for Foreign Affairs of Viet Nam noted that power politics, the use or threat of use of force, coercion, interference or aggressive actions against sovereignty and territorial integrity of other States were escalating tensions in many regions, and that recent events in the Middle East underscored the utmost importance of upholding the Charter and adhering to international law, especially the principles of non-use of force, respect for sovereignty and territorial integrity of States and peaceful settlement of disputes. Additionally, he emphasized that the principles of

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<sup>73</sup> See [S/2020/1090](#).

<sup>74</sup> See [S/2020/1](#).

<sup>75</sup> See [S/PV.8699](#).

<sup>76</sup> Ibid.

<sup>77</sup> Ibid., China, Tunisia, Russian Federation, Ethiopia and Egypt; [S/PV.8699 \(Resumption 1\)](#), Kuwait, Sri Lanka, Azerbaijan, on behalf of the Movement of Non-Aligned Countries, Cambodia, Bolivarian Republic of Venezuela, Oman, Greece, Myanmar and Iraq; and [S/PV.8699 \(Resumption 2\)](#), State of Bolivia, Lao’s People’s Democratic Republic, Bahrain and Angola.

sovereign equality, respect for the political independence and territorial integrity of all States, restraint from the threat or the use of force and non-interference in the internal affairs of other States, and the settlement of disputes by peaceful means. had become the foundation of contemporary international law, guiding friendly relations and cooperation among nations.<sup>78</sup> The Prime Minister of Saint Vincent and the Grenadines said that it was unacceptable for one State or a group of like-minded States to “drive a horse and chariot” through the bedrock principles of sovereignty, independence, the equality of States, non-interference, non-intervention and the peaceful settlement of disputes.<sup>79</sup> The representative of Egypt stressed that States should cooperate in accordance with the principles of the Charter pertaining to good neighbourliness, the peaceful settlement of disputes, mediation with sincere intentions and mediation encouraged by the international community in various disputes.<sup>80</sup> The representative of Oman said that the Charter was the foundation of international relations, which must be based on mutual respect, non-interference in the internal affairs of States, good-neighbourliness and cooperation towards common interests, as well as the mutual sharing of benefits among countries. The representative of Oman further cautioned that disregarding these principles or their non-implementation or selective implementation would lead to chaos and instability and would threaten international peace and security.<sup>81</sup> The representative of Lebanon said that his country, as all small States did, saw the United Nations as the guarantee of its sovereignty and independence, and viewed it as an embodiment of a rules-based system in which all enjoyed equal rights and the principle of sovereign equality, as Article 2 of the Charter promised.<sup>82</sup> With regard to State sovereignty, the representative of the United Kingdom noted that it could not be used as an excuse for failing to address conflicts or violations of human rights and international humanitarian law, adding that violence and conflict, and not attempts to help Member States prevent them, was what threatened State sovereignty, drawing attention to Article 2 of the Charter, which made clear that nothing should upset the fundamental rights that the Charter set out.<sup>83</sup>

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<sup>78</sup> See [S/PV.8699](#)

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>82</sup> *Ibid.*

<sup>83</sup> See [S/PV.8699](#), p. 19.

The representative of the Russian Federation stressed that his country believed that any action that sought to interfere in the domestic affairs of States for the purpose of overthrowing their legitimate Governments was unacceptable. He added that the Russian Federation opposed the use of unilateral coercive measures in absence of the corresponding Council resolutions or in addition to measures taken by the Council, which undermined the role of the Council in the maintenance of international peace and security, and was incompatible with the Charter and the universally recognized principles of international law, including the peaceful settlement of disputes, the sovereign equality of States and non-interference in their internal affairs.<sup>84</sup> The representative of Eritrea said that despite the fact that Article 2 of the Charter called on countries to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, wars were being waged in total disregard for the Charter and its principles, and the sovereign rights of States enshrined in the Charter were willfully ignored.<sup>85</sup>

Several speakers also highlighted the need to refrain from the threat or the use of force in international relations as articulated in Article 2 (4) and to instead settle disputes by peaceful means.<sup>86</sup> The Minister of State in the Federal Office of Germany recalled that the Charter represented new hope for the peoples of the world and that threats to peace and security were to be resolved thereafter through the force of the law rather than the law of force.<sup>87</sup> The Minister for Foreign Affairs of Timor-Leste emphasized that his country believed in the settlement of disputes through peaceful means, based on international laws and norms, and that unilateral coercive measures against any State undermined the spirit of the Charter and did not contribute to solutions.<sup>88</sup> The representative of Peru underscored that one of the cornerstones of the international order was the prohibition of the use of force in any way that was inconsistent with the Charter, and expressed concern that some countries were posing arguments and interpretations that were ultimately alien to international law and undermined the collective

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<sup>84</sup> Ibid.

<sup>85</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>86</sup> See [S/PV.8699](#), Malaysia, Switzerland, Mongolia and Philippines, on behalf of the Association of Southeast Asian Nations; [S/PV.8699 \(Resumption 1\)](#), Uruguay, Azerbaijan, on behalf of the Movement of Non-Aligned Countries, Jordan, Oman, Myanmar and Iraq; [S/PV.8699 \(Resumption 2\)](#), Brunei Darussalam and Senegal.

<sup>87</sup> See [S/PV.8699](#).

<sup>88</sup> Ibid.

security architecture.<sup>89</sup> The representative of Lebanon regretted that force, not the rule of law, was the guiding principle instead of the last resort.<sup>90</sup> The representative of Greece stated that his country's historical experience had made the Greek people staunch supporters of the peremptory rule of the Charter that prohibited the use or the threat of use of force and acts of aggression in international relations - a rule that underpinned the collective security system embedded in the Charter. He also underlined the fundamental significance of respect for the rule of law and the public order of the oceans as reflected in the United Nations Convention on the Law of the Sea, which contributed to the strengthening of peace and security, cooperation and good-neighbourly relations, further stressing the need to abide by its provisions and refrain from actions that were in violation of Article 2 of the Charter, which prohibited the threat or use of force.<sup>91</sup> The representative of the Plurinational State of Bolivia emphasized that the use of force should never be considered as an alternative and that all countries should exhaust all peaceful means of resolving disputes before employing the use of force as a last resort. He also underscored that the effectiveness of the efforts of the United Nations to safeguard and maintain international peace and security depended specifically on the Member States' respect for and compliance with the purposes and principles of the Charter, as well as the actions implemented through the Council, which must at all time promote dialogue and peaceful settlement of disputes over the use or threat of use of force.<sup>92</sup> The representative of Nicaragua affirmed that no State could resort to the use or the threat of use of force in international relations and that such exceptionalist policies in violation of international law did not help resolve conflicts peacefully, but aggravated and subjected the international situation to further stress. He further said that the vocation of peace and respect for the sovereign equality of States and non-aggression necessitated the resolving of inter-State disputes through the provisions of the Charter and international law.<sup>93</sup>

In connection with Article 2 (4), several speakers discussed the principles enshrined in the Charter concerning the authorization of the use of force and the principle of the non-use of force except in self-defense. In that regard, the representative of South Africa noted that since its inception, the Charter had played a significant role in regulating relations between Member

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<sup>89</sup> See [S/PV.8699 \(Resumption 1\)](#).

<sup>90</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>91</sup> See [S/PV.8699 \(Resumption 1\)](#).

<sup>92</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>93</sup> See [S/PV.8699](#).



States by forbidding the threat or use of force against the territorial integrity or political independence of any State and advocating for the peaceful settlement of disputes. He further said that to uphold the original intention of the Charter, which ultimately was predicted on peace, even in the event that there was evidence of a real and credible threat, any recourse to the use of force based on self-defence should be brought to the Council for authorization.<sup>94</sup> The representative of Liechtenstein underlined the need for a clear renewed commitment on the part of the membership in upholding the purposes and principles of the Charter in the light of the ongoing erosion of its key provisions, including those governing the use of force. He recalled that in joining the United Nations, all Members States accepted that the use of force was illegal, except when authorized by the Council or carried out in self-defence.<sup>95</sup> The representative of Argentina said that the Charter provided a delicate balance in authorizing the use of force and that the members of the Council had a fundamental responsibility that the other Member States had entrusted to them by other Member States. He regretted that the actions of the organ had been frustrated on many very serious occasions.<sup>96</sup> The representative of Mexico stated that the express prohibition of the threat or use of force in international relations marked a before and an after in the history of diplomacy and international law, and added that virtually the entire potential of the United Nations to consolidate a world of development, harmony and social equality, in the exercise of all its powers and resources, depended upon respecting that fragile and imperative principle. He further reiterated Mexico's concern about the continued invoking of Article 51 of the Charter by some States to address threats to international peace and security by military means, especially against non-State actors, which ran the risk of de facto broadening the exceptions to the general prohibition on the use of force irregularly. Given the importance and seriousness of the issues addressed in the notes sent to the Council under Article 51 and the lack of transparency with which they were processed, the representative said that it was necessary for the Council to review and modify its working methods to ensure full compliance with the Charter, especially when the immanent right of self-defence was invoked.<sup>97</sup>

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<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

The representative of Austria underscored that all States must refrain from actions that were in violation of Article 2, paragraph 4 of the Charter, prohibiting the threat or use of force against the territorial integrity or political independence of any State. Noting with concern the increasing number of cases where armed force was applied unilaterally, invoking the inherent right of self-defence pursuant to Article 51 of the Charter, he said that these cases and the fact that other Member States did not publicly express their legal views on each and every case could not be interpreted as a new State practice or *opinio juris* that could lead to the erosion of Article 2, paragraph 4 of the Charter, which the International Law Commission had determined to be a peremptory norm, or *jus cogens*.<sup>98</sup>

Several speakers also expressed concern at the repeated violations of the Charter and emphasized the need to respect and commit to the principles of non-intervention in the internal and external affairs of other countries and the prohibition of the threat or use of force. In this regard, the representative of Indonesia stressed that unilateral actions in violation of the Charter must stop and instead promote dialogue and peaceful settlement of disputes.<sup>99</sup> The representative of the Islamic Republic of Iran said that in order to protect multilateralism, unilateralist regimes must never be appeased, and stressed the need for political will, as well as an instrument that would safeguard the values, principles and multilateralism enshrined in the Charter, particularly non-intervention in the internal affairs of other countries and the prohibition of the threat or use of force as well as the rejection of all coercive unilateral measures, including sanctions.<sup>100</sup> The representative of Cuba regretted that continued violations of the Charter and breaches of international law, including the use or threat of use of force against sovereign States, acts of aggression against the sovereignty of other nations and interference in the internal affairs of States continued to occur on a daily basis. He stated that Cuba rejected the prosecution of unconventional wars for purposes of hegemonic domination, attempts to reimpose a unipolar order, targeted assassinations of foreign leaders, the plundering and theft of natural resources and the imposition of unilateral coercive measures.<sup>101</sup> The representative of the United Arab Emirates noted that increasing instances of non-compliance with the provisions of the Charter over the

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<sup>98</sup> See [S/PV.8699 \(Resumption 2\)](#).

<sup>99</sup> See [S/PV.8699](#).

<sup>100</sup> *Ibid.*

<sup>101</sup> See [S/PV.8699 \(Resumption 1\)](#).

past decades had led to more instability and chaos, particularly in the light of the ongoing violations in by State and non-State actors of the principles of sovereignty and non-interference enshrined in the Charter which and stressed that it was therefore necessary for Member States to strengthen their commitment to the Charter and international law, which were the main guarantors of international peace and security, especially for small States that relied on the power of international law to protect their sovereignty and security.<sup>102</sup> The representative of Georgia expressed concern that the main principles enshrined in the Charter, namely, sovereign equality, the non-use of threat or force against the territorial integrity of States and non-interference in their internal affairs, were violated on a daily basis.<sup>103</sup>

#### **Case 4**

##### **The situation in the Middle East, including the Palestinian question**

At its 8706th meeting held on 21 and 22 January 2020, the Council held its quarterly open debate under the item entitled “The situation in the Middle East, including the Palestinian question”. In her briefing at the meeting, the Under-Secretary-General for Political and Peacebuilding Affairs noted that with the political process deadlocked, negative developments continued to undermine the prospects for a two-State solution and added that the beginning of 2020 had witnessed the continued expansion of settlement activity and the threat of annexation of parts of the West Bank. She also reported on the first meeting, in January 2020, of an inter-ministerial committee of the Israeli Government tasked with discussing annexation plans for the Jordan Valley. The Under-Secretary-General added that the annexation of some or all of Area C, if implemented, would deal a devastating blow to the potential for reviving negotiations, advancing regional peace and the essence of the two-State solution.<sup>104</sup> In his submission, the Observer of the State of Palestine denounced the fact that annexation threats had grown louder in 2019, and added that while Israeli officials had continued to brag about Israel’s illegal annexation of East Jerusalem and openly pursued measures to alter the city’s demographic composition, character and legal status unchallenged, their expansionist appetite had grown. He

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<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> See [S/PV.8706](#).

further said that all Israeli colonization in occupied Palestine, including East Jerusalem, must be condemned and that neither threats nor attempts at annexation should go unchallenged, but be immediately halted, whereas the Charter must be upheld and the prohibition of the acquisition of territory by force must stand.<sup>105</sup> The representative of Germany affirmed that annexations, which had been announced and were then part of the Israeli election campaign, were a violation of international law; also with respect to the changes to the status of Jerusalem.<sup>106</sup> The representative of Estonia stressed that annexation would constitute a serious violation of international law and would harm prospects for moving forward with the peace process.<sup>107</sup> The representative of Indonesia cautioned that if the de facto annexation was not brought to an end, it would cause profound human suffering to the Palestinians and make peace and stability impossible to attain, and added that such unlawful acts could not go unnoticed. The Council must instead seriously address the issue and find a durable solution based on the Charter and in conformity with its resolutions. He also said that the Council could not be silent in the face of continuous Israeli threats of formal annexation of the occupied territory.<sup>108</sup> The representative of France affirmed that any annexation of territory constituted a serious violation of international law, as the Secretary-General had recalled in September 2019, and could not go unanswered. In that regard, he stated that France had called on the Israeli authorities to renounce any plan that was liable to create *faits accomplis* on the ground that would undermine the two-State solution.<sup>109</sup> The representative of China underscored that the Palestinian issue could only be resolved by political means, and that countering violence with violence or the threat of force would lead nowhere. He further stated that China encouraged the relevant parties to meet each other halfway, stop military actions, cease incendiary rhetoric and refrain from taking unilateral measures that undermined trust.<sup>110</sup> The representative of Egypt urged all parties to fully comply with the purposes and principles Charter and international law, particularly by refraining from the use of force, respecting the sovereignty of States and ceasing to interfere in their internal affairs under any pretext.<sup>111</sup>

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<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> See [S/PV.8706 \(Resumption 1\)](#).

The representative of Qatar similarly said that the settlements in occupied territories must end, the blockade on Gaza Strip must be lifted and illegal practices in the occupied Palestinian territories must cease. She also stated that in order to resolve the Palestinian question, the Israeli occupation of Palestinian and Arab territories, including the occupied Syrian Golan and Lebanese territories, must be stopped.<sup>112</sup> The representative of the United Arab Emirates emphasized that the confiscation of land, attempts to desecrate holy sites in the city of Jerusalem and the ongoing unjust blockade on Gaza were illegal practices that hindered peace efforts and exacerbated the suffering of the Palestinian people.<sup>113</sup>

The representative of Cuba stated that the unilateral decisions by the United States to recognize Jerusalem as capital of Israel, as well as its decision to recognize Israel's sovereignty over the Syrian Golan, all constituted flagrant violations of the Charter, international law and relevant Council resolutions. He further stressed that it was the duty of all States, and especially members of the Council, to defend multilateralism and the purposes and principles of the Charter, in particular respect for the sovereign equality of States and their political independence, territorial unity and integrity, the peaceful resolution of disputes and refraining from the threat or use of force in international relations.<sup>114</sup>

On 20 May 2020, Council members held an open videoconference in connection with the same item, during which the risk of annexation was further discussed. During the videoconference, Council members heard a briefing by the Special Coordinator for the Middle East Peace Process. Representatives of all Council members delivered their statements during the videoconference. The Special Coordinator recalled the Secretary-General's warnings about the danger of unilateral action and stated that the continuing threat of annexation by Israel of parts of the West Bank would constitute a most serious violation of international law, deal a devastating blow to the two-State solution, close the door to a renewal of negotiations and threaten efforts to advance regional peace.<sup>115</sup>

Following the briefing, the representative of South Africa recalled the collective set of norms and values that should govern the behaviour of United Nations Members States towards

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> See [S/2020/430](https://www.un.org/securitycouncil/content/repertoire/structure).

one another, the principles of which were described in Article 2 of the Charter, including its paragraph 4. He underscored that it was the obligation of the United Nations and the Council in particular to act against those who went against these norms and values. The representative further said that it was perplexing that Israel was exploiting the situation during the unprecedented times of the global challenge of the coronavirus pandemic, to further advance its de facto annexation of Palestinian land. He also said that the dangerous prospect of Israel continuing with its unilateral actions and the annexation of large parts of the occupied West Bank and the Jordan Valley not only showed belligerence but also threatened efforts to advance regional peace. The representative emphasized South Africa's position that any steps taken towards formalizing the annexation of illegally occupied land or territory should not go unchallenged, and regretted that to date, no action had been taken to stop the building of settlements on illegally occupied land; to stop the confiscation and destruction of Palestinian land and property; to stop the illegal blockade of Gaza; or to stop the annexation of territory illegally acquired through the use of force.<sup>116</sup>

Several other speakers expressed concerns over the prospect of annexation of parts of the occupied Palestinian territories in the West Bank, following the Israeli Government coalition agreement.<sup>117</sup> The representative of France echoed the statement by his country's defence minister, Jean-Yves Le Drian, and reiterated that any annexation of any part of the West Bank, including only settlements, would represent a violation of international law, which prohibited the acquisition of territory by force.<sup>118</sup> Similarly, the representative of Belgium voiced concern that if certain provisions of the coalition agreement were put into practice, they would constitute a clear breach of international law, including the Charter and the relevant Council resolutions.<sup>119</sup> The representatives of Saint Vincent and the Grenadines and the United Kingdom expressed the view that annexation would constitute a serious and clear violation of international law.<sup>120</sup>

The representative of Indonesia stressed that Israel's illegal occupation of Palestinian land was the root cause of this protracted problem and that it was the solemn duty of the Council to act against the annexation plan, adding that the annexation constituted a flagrant violation of

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<sup>116</sup> Ibid.

<sup>117</sup> Ibid., Belgium, Estonia, France, Germany, Saint Vincent and the Grenadines, United Kingdom and Viet Nam.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

international law, including the Charter, the Fourth Geneva Convention and various United Nations resolutions.<sup>121</sup> The representative of the Niger said that occupation by force and annexation of Palestinian land, as well as Israel's continued colonization policy established as a system of administration of the Palestinian territories, was illegal.<sup>122</sup> The representative of the Russian Federation expressed his country's rejection of the annexation of Palestinian territories, as well as of the continuation of settlement activities, the demolition and confiscation of Palestinian property, and violent clashes.<sup>123</sup> The representative of Tunisia underscored that it was high time that the international community as a whole, and the Council in particular, assumed their responsibility to compel Israel, the occupying Power, to abide by its obligations under international law, put an end to its aggressive policies, cease all settlement activities and refrain from attempts to implement its long-planned illegal de facto annexation of Palestinian land. He added that in the light of the speech of the Israeli Prime Minister asserting Israeli sovereignty over the Israeli colonies in Palestinian territories, starting on 1 July and considering that the annexation of parts of those territories was a priority of his Government, the international community must react by upholding international law, including the relevant Council resolutions, especially resolution 2334 (2016), and strongly rejecting and preventing any such unilateral illegal move, which would undermine all efforts to revive the peace process.<sup>124</sup>

On 26 June 2020, Council members held a subsequent open videoconference on the question of Palestine, this time at a ministerial level. Several statements made during or submitted in connection with the videoconference rejected or expressed concern about the prospect of the annexation, or determined that the formal annexation would pose a violation of international law, including the Charter.<sup>125</sup> The representative of France said that the Israeli Government's declared threat to annex parts of the West Bank after 1 July would be a serious breach of international law, in flagrant violation of the principle of non-acquisition of territory by

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> See [S/2020/596](#), Secretary-General, Special Coordinator for the Middle East Peace Process, Minister for Foreign Affairs of Indonesia, Minister for Foreign Affairs of Tunisia, Minister of State for the Middle East and North Africa of the United Kingdom, Deputy Minister of International Relations and Cooperation of South Africa, Minister for Foreign Affairs of Viet Nam, Belgium, France, Germany, Costa Rica, European Union and United Arab Emirates, speaking on behalf of the Organization for Islamic Cooperation.

force, as enshrined in the Charter.<sup>126</sup> The representative of the Niger emphasized that the occupation by force and seizure of Palestinian land, which were contrary to international law, should end. He further regretted that the Gaza Strip, the only territory spared, was under a blockade that had made it an uninhabitable place, and added that Israel's assertion of sovereignty over the whole of Jerusalem was also a violation of international law.<sup>127</sup> The Deputy Minister for Foreign Affairs of Viet Nam called on the parties concerned to refrain from any unilateral action that could complicate the situation or escalate ongoing tensions and to refrain from the use of force or any incitement to violence.<sup>128</sup>

The Deputy Prime Minister and Minister for Foreign Affairs, International Trade and Regional Integration of Saint Vincent and the Grenadines regretted that the core principles upon which the United Nations was founded were gradually eroding, adding that the political independence and territorial integrity of all States must be safeguarded in the light of the urgent challenges of the coronavirus disease and the ever-growing climate crisis.<sup>129</sup>

The Minister for Foreign Affairs of the State of Palestine pointed out that annexation, whether partial or total, gradual or immediate, was the ultimate breach of the Charter which could not go unchallenged.<sup>130</sup> In contrast, the representative of Israel underscored that should Israel decide to extend its sovereignty, it would be doing so with respect to areas over which it had always maintained a legitimate historical and legal claim. He added that those who opposed Israel's legal claims to that territory wrongly mischaracterized any potential decision by Israel to extend its sovereignty to that territory as so-called "annexation" and stressed that the Palestine Liberation Organization had never been a State and had never been the sovereign in that territory.<sup>131</sup>

In the statement submitted for the videoconference, the Vice-President of the European Commission recalled that a core legal provision of international law, including the Charter, was that the acquisition of territory by force was prohibited.<sup>132</sup> Similarly, the representative of the Islamic Republic of Iran submitted that the occupation and acquisition of territory by force were

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<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Ibid.



prohibited and inadmissible under international law, and added that this was a peremptory norm of international law, from which no derogation was permitted. He further stated that the annexation of parts of the occupied Palestinian territory would be a gross violation of the basic principles of international law and the Charter.<sup>133</sup>

A further discussion took place in similar terms in the context of an open videoconference held on 21 July 2020 on the Palestinian question against the backdrop of the potential annexation by Israel of the Occupied Palestinian Territory. In his briefing, the Special Coordinator for the Middle East Peace Process recalled that the region and the broader international community had continued to express their firm rejection of annexation in the preceding weeks, reiterating the Secretary-General's call on the Israeli Government to abandon plans to annex parts of the occupied West Bank.<sup>134</sup>

Following the briefings, multiple delegations of Council members, who delivered statements, and Members States and other entities, who submitted written statements, voiced their opposition to the Israeli plan to annex parts of occupied Palestinian territories, and considered it a violation of international law, including the Charter of the United Nations.<sup>135</sup> In addition, the representative of France stated that it would be a flagrant violation of the international order, starting with the Charter, which enunciated the principle of refraining from the acquisition of territory by force.<sup>136</sup> Similarly, the representative of Belgium emphasized that a unilateral decision formalizing an annexation, regardless of its size, would constitute a flagrant violation of international law, including the Charter, which strictly prohibited the acquisition of territory by force. He added that such an act would be considered null and void and could not change the status of the West Bank, which would remain occupied territory, nor would it change Israel's obligations as an occupying Power under international humanitarian law.<sup>137</sup> The representative of Tunisia recalled that guided by the purposes and principles of the Charter, the Council had reaffirmed, in its resolutions [242 \(1967\)](#), [476 \(1980\)](#) and [478 \(1980\)](#), the

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<sup>133</sup> Ibid.

<sup>134</sup> See [S/2020/736](#).

<sup>135</sup> Ibid., China, Indonesia, Saint Vincent and the Grenadines, Tunisia, United Kingdom, Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, European Union, Malaysia, Viet Nam, Azerbaijan, on behalf of the Movement of the Non-Aligned Countries, Bangladesh, Cuba, Ecuador, Egypt, Ireland, Jordan, League of Arab States, Malaysia, Namibia, Norway, Peru, Qatar, Turkey and United Arab Emirates, on behalf of the Organization of Islamic Cooperation.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

inadmissibility of the acquisition of territory by force.<sup>138</sup> In the statement submitted for the videoconference, the delegation of Argentina urged the authorities of Israel to be guided by the general commitment of all Member States to act in accordance with Article 2 of the Charter of the United Nations. The delegation further proclaimed that the Israeli settlements, as well as any pretense of annexing Palestinian territories occupied since 1967, had no legal validity and constituted a flagrant violation of international law. Furthermore, the statement noted that guided by the purposes and principles of the Charter, international law, human rights law and international humanitarian law as fundamental pillars of a rules-based international order, Argentina questioned any decision that deviated from fundamental principles, such as the inadmissibility of the acquisition of territory by force, as recalled in advisory opinions of the International Court of Justice.<sup>139</sup> The representative of Cuba underlined the duty of all States, and particularly of members of the Council, to defend multilateralism and the purposes and principles enshrined in the Charter, including respect for the sovereign equality of States and their political independence, territorial unity and integrity, and the peaceful resolution of conflicts and abstention from the use or threat of use of force in international relations.<sup>140</sup> In the statement submitted for the videoconference, the representative of the Islamic Republic of Iran said that as a peremptory norm of international law, the occupation and acquisition of territory by force was prohibited and inadmissible, therefore the annexation of even the smallest part of the occupied Palestinian territory would be a gross violation of the basic principles of international law and the Charter.<sup>141</sup> The representative of Malaysia in the submitted statements expressed concern that Israel had continued to openly declare its intention to annex significant parts of the occupied Palestinian territory in the West Bank, and iterated Malaysia's position that annexation was unlawful, violated the Charter, the Geneva Conventions and the relevant resolutions of the General Assembly and the Council, by which the acquisition of territory by war or force was inadmissible.<sup>142</sup>

In his written statement, the Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People underscored that the prohibition on the acquisition of territory

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<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

by force was absolute in the Charter, and any annexation, regardless of its scope, would constitute a grave breach of international law.<sup>143</sup> The Head of the delegation of the European Union recalled the letter from the High Representative for Foreign Affairs and Security Policy of the European Union addressed to the members of the Council on 23 June 2020, in which it was submitted that the acquisition of territory by force, as a core legal provision of international law, including the Charter, was prohibited.<sup>144</sup>

## Case 5

### **The situation in the Bolivarian Republic of Venezuela**

On 20 May 2021, Council members held an open videoconference on the situation in the Bolivarian Republic of Venezuela. During the videoconference, Council members heard a briefing by the Under-Secretary-General for Political and Peacebuilding Affairs. Representatives of all Council members,<sup>145</sup> as well as the representatives of Colombia and the Bolivarian Republic of Venezuela, delivered their statements during the videoconference. The Under-Secretary-General for Political and Peacebuilding Affairs recalled the letter from the Permanent Representative of the Bolivarian Republic of Venezuela addressed to the President of the Council, in which the Government of the Bolivarian Republic of Venezuela had stated that on 3 and 4 May 2020, armed groups of mercenaries and terrorists, organized, trained, financed and protected by the Governments of Colombia and the United States, had illegally entered Venezuelan territory. She added that according to the letter, the declared purpose was to perpetrate criminal acts against the Venezuelan people and carry out selective assassinations against high officials of the Government, including President Nicolás Maduro. In addition, the Under-Secretary-General said that the Governments of Colombia and the United States had rejected allegations by the Venezuelan Government regarding their involvement.<sup>146</sup>

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<sup>143</sup> Ibid.

<sup>144</sup> Ibid.

<sup>145</sup> Written statements of the representatives of China and Niger were not included in the compilation of statements.

<sup>146</sup> See [S/2020/435](#). See also [S/2020/399](#) for the letter s dated 13 May 2020 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the Secretary-General and the President of the Security Council, and subsection C below.

While noting that the incident described in the letter from the Permanent Representative of the Bolivian Republic of Venezuela raised many questions, the representative of Belgium also condemned the use or threat of use of force and stressed the importance of respecting each country's sovereignty.<sup>147</sup> The representative of France reaffirmed that the solution to the crisis in the Venezuelan crisis could be found only in full compliance with international law and the Venezuelan Constitution. He added that the use of force must be strongly condemned, without exception.<sup>148</sup> The representative of the Dominican Republic clarified his country's position not only in the particular case of Venezuela, but with respect to any other matter involving accusations of that magnitude; that his country rejected any use of force or threat thereof against the sovereignty, territorial integrity and independence of any country.<sup>149</sup> While expressing deep concern over reports of armed incursions into Venezuela, the representative of Viet Nam affirmed his country's strong opposition to the use of force or threat of use of force against the sovereignty and independence of any State or interference of any form in its internal affairs, which violated the Charter of the United Nations and ran counter to international law. He called on the parties related to the situation in Venezuela to exercise self-restraint and refrain from the threat or use of force or actions that could escalate tension and destabilize the situation in the country and emphasized the Council's responsibility to uphold the fundamental principles of the Charter of the United Nations and international law.<sup>150</sup>

The representative of Saint Vincent and the Grenadines pointed out that the attempted armed incursion into Venezuela had only been the latest in a long series of unwarranted aggressions meted out against this sovereign nation over the past two decades and reiterated her country's position that that the internal political dispute within the country did not constitute a threat to international peace and security. The representative also noted that the situation in Venezuela did not threaten the national security, territorial integrity or political independence of any external State party and that all acts of aggression, including unilateral economic coercion, carried out under these guises were unjustifiable and illegal. She also underscored that these

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<sup>147</sup> See [S/2020/435](#), Belgium.

<sup>148</sup> Ibid.

<sup>149</sup> Ibid.

<sup>150</sup> Ibid.

flagrant violations of international law undermined the internal political processes within the country.<sup>151</sup>

The representative of the United States recalled that President Trump and Secretary Pompeo had made clear that the United States had not been involved in Operation Gideon and reiterated that the United States had not entered Venezuela, categorically rejecting any claims to the contrary, including the alleged armed incursion of 3 and 4 May. She added that the only nations that appeared to be violating Venezuela's sovereignty were Russia and Cuba, which, without approval from the National Assembly, routinely sent military officers and mercenaries into the country.<sup>152</sup> By contrast, the representative of the Russian Federation indicated that the situation that was being faced was unfolding around Venezuela, and not inside the country, and stressed that the recent incidents of breach of Venezuela's sovereignty by foreign agents posed a direct threat to the country's peace, as well as to regional security and stability, adding that the situation was a clear violation of the Charter. He told Council members that in the first days of May an armed group of at least 60 people had entered the sovereign land of Venezuela from the territory of neighbouring Colombia on two vessels. Forty-seven of them had been arrested, among them two citizens of the United States, who had confessed that their mission had been to train forces in neighbouring Colombia for military operations in Venezuela and to take control of an airport in order to secure the transportation of President Nicolás Maduro to the United States. He called it an act of aggression and appealed to all participants in the discussion to unequivocally condemn the invasion attempt on Venezuelan sovereign territory, recalling that the delegation had prepared a draft Council press statement, in which Council members, *inter alia*, had rejected the use or threat of use of force, as stipulated in the Charter and called for the current situation in country to be resolved through a dialogue by Venezuelans, without interference, through peaceful and political means in line with Chapter VI of the United Nations Charter, within the framework of its national Constitution and in full respect of the sovereignty and territorial integrity of Venezuela.<sup>153</sup>

The representative of the United Kingdom communicated his country's rejection of the notion peddled by the Russian Federation that the incident was a United States and Colombia-

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<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid.*

supported attempt to assassinate Maduro and impose a substitute Government, as alleged in the letter to the Council. He underscored that the discussion did however give the Council a useful precedent for scrutinizing such adventurism by others into sovereign territory in the future. The representative also stressed that the opposition to any form of military intervention in Venezuela was a principle with which the United Kingdom firmly agreed.<sup>154</sup>

The representative of Colombia rejected the false accusations purporting to implicate the Colombian authorities in the use of force contrary to international law. He also stressed that Colombia had never been an aggressor country.<sup>155</sup>

The representative of the Bolivarian Republic of Venezuela underscored that the acts of armed aggression against Venezuela, the planning, training and financing of which had been proved to have been facilitated by the Governments of the United States and Colombia were a manifest violation of the Charter, international law and multiple resolutions of the Council, which were legally binding on all Member States. He added that his country urged the Council to fulfil the duties and responsibilities entrusted to it by the Charter in relation to the maintenance of international peace and security, and requested the Council to determine the threat that the warmongering policies of the Governments of Colombia and the United States presented to the peace of Venezuela and the region, and to recognize the acts of aggression that had been committed against Venezuela, and further demanded that the perpetrators immediately bring to an end their criminal practices, including the use or threat of use of force.<sup>156</sup>

## Case 6

### **The promotion and strengthening of the rule of law in the maintenance of international peace and security**

On 18 December 2020, at the initiative of South Africa which held the Presidency for the month,<sup>157</sup> Council members held an open videoconference in connection with the item and focused on strengthening the cooperation between the Security Council and the International

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<sup>154</sup> Ibid.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid.

<sup>157</sup> A concept note was circulated by a letter dated 11 December 2020 ([S/2020/1194](https://www.un.org/securitycouncil/content/repertoire/structure)).

Court of Justice. During the videoconference, Council members heard a briefing by the President of the International Court of Justice. Representatives of all Council members delivered their statements during the videoconference, while the delegations of 11 non-Council members submitted their statements in writing.<sup>158</sup> During his briefing at the videoconference, the President of the Court focused on ways to strengthen the partnership between the Council and the Court to uphold the rule of law at the international level. In that regard, he recalled that while the Council had only once exercised its powers under Article 36, paragraph 3, of the Charter of the United Nations to recommend that disputing parties settle their dispute through the Court and had also only once requested an advisory opinion from the Court under Article 96 of the Charter, the vitality of the relationship between the two institutions could not be evaluated by the quantity, but rather by the quality, of their collaboration. Focusing on the Corfu Channel case, the President of the Court pointed out that it had helped avoid a dispute that could have degenerated into a full-blown war involving several protagonists. At the international level, the Corfu Channel case had also contributed to the rule of law, as it had provided the opportunity for the Court to reaffirm that the “policy of force” had no place whatsoever in the Charter era. The judgement by the Court’s on the Corfu Channel case had also clarified the scope of some of the most fundamental principles of the contemporary legal order, including reaffirming that between independent States, respect for territorial sovereignty was an essential foundation of international relations.<sup>159</sup>

Following the briefing, Council members expressed support for the principles of peaceful settlement of disputes and the non-use of force or the threat of force in international relations.<sup>160</sup> In that regard, the representative of China stated that it was imperative to defend the purposes and principles of the Charter and firmly safeguard the central role of the United Nations in international affairs, uphold the cardinal principles of international law and the basic norms governing international relations, such as sovereign equality, non-interference in internal affairs, the peaceful settlement of disputes and non-use of force.<sup>161</sup> The representative of Germany

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<sup>158</sup> The following countries submitted written statements: Austria, Bangladesh, Brazil, Denmark, Japan, Liechtenstein, Mexico, Morocco, Myanmar, Peru and Portugal.

<sup>159</sup> See [S/2020/1286](#).

<sup>160</sup> For further information on the Council’s decisions and discussion in relation to the peaceful settlement of disputes in 2020, see part VI.

<sup>161</sup> See [S/2020/1286](#).

reiterated the words of the President of the Court of Justice that the policy of force had no place in the United Nations order. He also shared Germany's view that the application of the Charter needed to evolve over time to ensure continued authority and legitimacy, and stated that the purposes and principles enshrined in the Charter, such as the call to maintain international peace and security and the prohibition of the use of force in international relations, were the timeless and enduring core of international law, but their application was subject to contemporary challenges.<sup>162</sup> The representative of the Russian Federation highlighted the principle of the commitment to the peaceful settlement of disputes, stressing that a key element of that principle was each State's freedom to choose its own peaceful means of settlement, including those set out in the Charter. He further pointed out that the peaceful settlement of disputes was a prerequisite for the inviolability of another profound maxim of the Charter of the United Nations — the principle of the non-use of force.<sup>163</sup> The representative of South Africa recalled that since the establishment of the Permanent Court of Arbitration in The Hague in 1899, which had provided for dispute settlement by arbitration, the settlement of disputes by peaceful means, rather than by resorting to the use of force, had been one of the cornerstones of international law and diplomacy.<sup>164</sup> The representative of Saint Vincent and the Grenadines underscored that the use of force, provocative rhetoric and other escalatory actions, such as unilateral coercive measures, should always be rejected in favour of rational and principled settlements of disputes, and called on parties to disputes to pursue dialogue and mediation, including through suitable regional mechanisms and without prejudice to their rights to seek a judicial settlement.<sup>165</sup> The representative of Viet Nam said it was his country's consistent policy to support the peaceful settlement of disputes and the non-use of force or the threat of force, enhancing the role of international legal bodies in the promotion of friendly relations among nations and the maintenance of international peace and security.<sup>166</sup>

Participants at the videoconference similarly emphasized the preeminence of the prohibition of the use of force in international relations as reflected in the Charter. In a statement

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<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.



submitted on behalf of the Group of Friends of the Rule of Law<sup>167</sup> by Austria, the delegation reaffirmed their commitment to the purposes and principles enshrined in the Charter, which had set out the three pillars on which the United Nations was built, namely, peace and security, development and human rights. The statement further stated the Charter gave the same importance to the universal respect for human rights and fundamental freedoms as it did to such fundamental principles of international law as the prohibition of the threat or use of force, the territorial integrity of States and the peaceful settlement of disputes.<sup>168</sup> The representative of Liechtenstein cautioned that the authority of the Council as a whole was undermined significantly when its permanent members committed flagrant violations of international law, in particular the most serious forms of the illegal use of force against another State. He further noted that Liechtenstein was particularly concerned about recent trends regarding the application of international law with respect to the use of force, including Article 51 of the Charter. The representative also noted that the Council had the option to refer situations of manifest violations of the prohibition of the illegal use of force for investigation by the International Criminal Court, an additional tool for the Council to ensure the relevant parts of the Charter.<sup>169</sup>

The delegation of Morocco underscored the Charter conferred on the Council the primary responsibility for the maintenance of international peace and security. To that end, the Council must ensure respect for the territorial integrity of States, the prohibition of the threat or use of force and the promotion of the peaceful settlement of disputes.<sup>170</sup> The representative of Myanmar highlighted the strengthening of the rule of law as one of the leading objectives of the United Nations since its inception. In this regard, he emphasized his country's view that the promotion of the rule of law should be in accordance with such universally established principles and norms such as the respect for sovereign equality and territorial integrity, the non-interference in the internal affairs of other States, prohibition of the use or threat of use of force and the peaceful settlement of disputes.<sup>171</sup>

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<sup>167</sup> Argentina, Austria, Belgium, Cabo Verde, Canada, Croatia, the Czech Republic, Denmark, Finland, Guatemala, Italy, Japan, Latvia, Liechtenstein, Mexico, the Philippines, the Republic of Moldova, Romania, Slovenia, Sweden, Switzerland and the European Union.

<sup>168</sup> Ibid.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

### C. Invocation of the principle enshrined in Article 2 (4) in communications

During 2020, eight communications from Members States addressed to the Council included explicit references to Article 2 (4) of the Charter (table 4). In addition, three communications from Member States addressed to the Secretary-General and circulated as official documents of the Council contained explicit references to Article 2 (4).<sup>172</sup>

Table 4

#### Letters containing explicit references to Article 2(4) of the Charter

<i>Symbol</i>	<i>Title</i>	<i>Relevant extract</i>
<a href="#">S/2020/16</a>	Letter dated 7 January 2020 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council	Such unbridled threats by the President of the United States indisputably constitute a gross violation of the peremptory norms of international law as well as the very fundamental principles enshrined in the Charter of the United Nations, particularly its Article 2(4) that clearly prohibits the threat or use of force. Given the confrontational nature of these inflammatory statements and threats, as well as the broad and adverse ramifications of the military adventurism of the United States on regional and international peace and security, it is crystal clear that this country bears the full responsibility for all consequences.
<a href="#">S/2020/128</a>	Identical letters dated 19 February 2020 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council	In full disregard for international law and in violation of Article 2(4) of the UN Charter, which states that “all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations”, the Russian Federation as the power exercising effective control over the occupied Abkhazia and Tskhinvali regions of Georgia, has intensified steps towards their factual annexation, seeking full incorporation of these territories into its military, political and economic systems. As the occupying power, the Russian Federation bears full responsibility for violations of human rights and fundamental freedoms in the occupied Abkhazia and Tskhinvali regions of Georgia.
<a href="#">S/2020/130</a>	Letter dated 19 February 2020 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the President of the Security Council	The systematic threat of the use of force on various grounds by the Governments of both the United States and Colombia proves the willingness of these Governments to put the peace of the Venezuelan nation at risk, as well as the infringement of their international obligations, in particular, those related to Article 2.4 of the Charter, which establishes that: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

<sup>172</sup> See [S/2020/413](#), [S/2020/503](#), and [S/2020/729](#).

- [S/2020/194](#) Letter dated 10 March 2020 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council
- No less than the Prime Minister, Narendra Modi, himself asserted, on 20 January 2020, that “our [Indian] armed forces will not take more than 7 to 10 days to make Pakistan bite the dust”. This threat violates Article 2 (4) of the Charter of the United Nations, which prohibits “the threat or use of force”.
- [S/2020/277](#) Letter dated 3 April 2020 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the President of the Security Council
- The announcement of these operations on 1 April came one day after the Department of State of the United States of America published a “democratic transition framework for Venezuela”, 9 with which it seeks to supplant our national Constitution, 10 presenting the document as an order that must be accepted by the Venezuelan people and institutions in order to prevent the use of military force by the United States. This is a violation of Article 2, paragraph 4, of the Charter of the United Nations, which provides as follows: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
- [S/2020/399](#) Identical letters dated 13 May 2020 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the Secretary-General and the President of the Security Council
- The use of mercenaries and non-State actors allows the Government of the United States to avoid its responsibility under Article 2 (4) of the Charter of the United Nations, as well as under the Geneva Conventions and the norms of international humanitarian law and human rights. Any armed action by one State against another must be authorized by the Security Council or comply with the provisions of Article 51 of the Charter, which refers to the inherent right of States to self-defence. Denying its responsibility, as it does in the case of Venezuela, the United States wrongly believes that it can continue to deceive the world with violent covert operations.
- [S/2020/905](#) Letter dated 15 September 2020 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council
- I am writing to inform you that, on 14 September 2020, the President of the United States of America, referring to “press reports”, made a baseless allegation against the Islamic Republic of Iran and threatened to use force against my country. Hours later, he repeated the same threat. Such a provocative statement constitutes a gross violation of the very fundamental principles enshrined in the Charter of the United Nations, particularly its Article 2 (4), which clearly prohibits the threat or use of force.
- [S/2020/989](#) Letter dated 8 October 2020 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council
- On 29 September 2020, the Prime Minister and Defence Minister of the Israeli regime threatened Iran with a “pre-emptive strike” and stated that “we are not ruling out a preliminary strike”. The aforesaid provocative statement is “inconsistent with the purposes of the United Nations” and a blatant violation of Article 2 (4) of the Charter of the United Nations, which prohibits the threat or use of force.
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### **III. Obligation under Article 2, paragraph 5, to refrain from assisting the target of enforcement action**

#### *Article 2, paragraph 5*

*All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.*

#### **Note**

Section III covers the practice of the Security Council with regard to the principle enshrined in Article 2 (5) of the Charter of the United Nations, in particular, the obligation of Member States to refrain from providing assistance to a State against which the United Nations has taken preventive or enforcement action.<sup>173</sup> Subsection A highlights implicit references made to Article 2 (5) in the decisions of the Council and Subsection B features discussions held by the Council which may be considered relevant to the interpretation of Article 2 (5). The correspondence addressed to the Council in 2020 did not contain any material of relevance to Article 2 (5).

#### **A. Decisions relating to Article 2 (5)**

During the period under review, the Council did not explicitly invoke Article 2 (5) in its decisions. The Council, however, included language which may be considered of relevance to the interpretation of Article 2 (5) in decisions concerning the situations in the Central African Republic,<sup>174</sup> Libya,<sup>175</sup> and Somalia<sup>176</sup> as well as in connection with countering terrorism and extremism in Africa.<sup>177</sup>

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<sup>173</sup> For the practice of the Security Council relating to assistance by Member States to United Nations enforcement action in accordance with the Charter, see part V, sect. II (Article 25) and part VII sect. V and VI (Articles 43, 45 and 48).

<sup>174</sup> Resolution [2507 \(2020\)](#), para. 1.

<sup>175</sup> Resolutions [2509 \(2020\)](#), ninth preambular paragraph and para. 6; [2510 \(2020\)](#), para. 10; and [2542 \(2020\)](#), sixteenth preambular paragraph.

<sup>176</sup> Resolution [2551 \(2020\)](#), paras. 2 and 6.

<sup>177</sup> [S/PRST/2020/5](#), fifteenth paragraph.

## **B. Discussion relating to Article 2 (5)**

During 2020, Article 2 (5) was not explicitly invoked in discussions of the Council. However, implicit references which may be considered of relevance to the interpretation of Article 2 (5) were made in several meetings and open videoconferences held by the Council during the review period. As discussed below, during meetings and open videoconferences held in connection with the item entitled “The situation in Libya”, Council members addressed the importance of non-interference by external actors in the Libyan conflict, including refraining from providing support to the armed groups parties to the conflict (case 7).

In addition, under the item entitled “The situation in the Middle East”, at the 8725<sup>th</sup> meeting on 18 February 2020, several speakers expressed concern at the circumvention of the Council’s sanctions on Yemen by the Islamic Republic of Iran. In this regard, the representative of the United Kingdom expressed her country’s concern with the findings of the final report of the Panel of Experts regarding weapons of Iranian origin in Yemen.<sup>178</sup> The representative of the United States denounced the violation by the Islamic Republic of Iran of the Council’s arms embargo by continuing to send advanced weapons to the Houthis.<sup>179</sup> The representative of Yemen noted that the Iranian weapons seized by the United States Navy on Sunday, 9 February 2020, which were bound for the Houthi militias constituted a flagrant violation of Council resolutions and provided irrefutable evidence of the close relationship between the mullah regime in Tehran and the Houthi militias.<sup>180</sup> In subsequent meetings and open videoconferences, several speakers denounced that countries continued providing weapons in the region and fueling the war.<sup>181</sup>

### **Case 7**

#### **The situation in Libya**

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<sup>178</sup> See [S/PV.8725](#).

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> See [S/2020/411](#), United Kingdom and United States; [S/PV.8753](#), General Coordinator in Yemen of Médecins du Monde and United States; and [S/2020/1109](#), United States and Yemen.

On 30 January 2020, during the Council’s 8710th meeting held under the item entitled “The situation in Libya”, the Special Representative of the Secretary-General for Libya and Head of the United Nations Support Mission in Libya took note of the agreement reached at the Berlin Conference on 19 January 2020 by the representatives of various countries concerned and regional organizations, some of which had directly or indirectly fueled the conflict, to refrain from interference in the conflict in Libya and its internal affairs and to abide by the United Nations arms embargo. He said that he was deeply worried about the military reinforcements received by both sides, raising the specter of a broader conflict engulfing the wider region. He added that the warring parties had continued to receive a sizeable amount of advanced equipment, in addition to fighters and advisers from foreign sponsors, in brazen violation of the arms embargo and the pledges made by representatives of those countries in Berlin. The Special Representative further recalled a notable increase in heavy cargo flights, several per day, to Benina airport and Al-Khadim air base in eastern Libya delivering military equipment to the Libyan National Army, and also noted that three boats had been the day before the meeting in Tripoli and Misrata delivering new weapons in the west, while two cargo planes had landed at Al-Khadim air base in the east.<sup>182</sup>

The representative of the United States noted the blatant violations of the United Nations arms embargo, including the deployment of foreign fighters and mercenaries and the delivery of weapons, ammunition and advanced systems to the parties from Member States, several of which had participated in the Berlin conference. She also said that the United States joined the United Nations in calling on countries to live up to their Berlin commitments and demanded Member States to comply with their obligations to implement the United Nations arms embargo, which entailed an immediate and permanent halt of all deployments of personnel, fighters and military equipment to Libya.<sup>183</sup> The representative of Belgium expressed her country’s hope that the Council’s repeated calls for non-interference by external actors, for intra-Libyan dialogue and for respect for the arms embargo would finally be put into practice, and also emphasized that it was the responsibility of each State to ensure that its arms exports were not diverted to illicit destinations.<sup>184</sup> The representative of South Africa expressed her country’s support for the call of

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<sup>182</sup> See [S/PV.8710](#).

<sup>183</sup> *Ibid.*

<sup>184</sup> *Ibid.*

the Secretary-General for strict adherence to the arms embargo to prevent further violent escalations so as to enable all parties to agree to a ceasefire, adding that the arms embargo measure must be fully implemented without exception. She also noted that her country wished to remind the international community of its commitments to end military support to all parties to the conflict and to uphold the existing arms embargo as a foundation for political negotiations and the implementation of a ceasefire.<sup>185</sup> The representative of France emphasized that the commitments made by international actors at the Berlin Conference must be honoured and followed by action, and that the arms embargo must be respected. Further, she underscored that foreign interference and military support fueled the conflict and must stop, referring in particular to Turkey and stressing the need to eschew military force and proxy wars.<sup>186</sup> The representative of the Niger said that Libya did not need more weapons and terrorists transferred to it, but peace.<sup>187</sup>

The representative of Libya regretted that there were countries that supported the violations and crimes by the Haftar militias, stressing there was proof of this, including through the reports of the Council's Panel of Experts established pursuant to Council resolution [1973 \(2011\)](#). He added that these reports had also confirmed the involvement of the United Arab Emirates on 11 separate occasions, including by providing armoured vehicles, air defence systems, drones and laser projectiles. He also recalled information contained in the report of the Panel of Experts ([S/2018/812](#)) about the provision of equipment by Egyptian authorities and their participation in air strikes in eastern and western Libya. The representative further that armed groups were present in every city and every region of Libya in one form or another, and that there were countries that provided them with financial support and weapons.<sup>188</sup>

Council members held other open videoconferences in connection with the situation in Libya during which the continued influx of weaponry, equipment and mercenaries on both sides was discussed. In this regard, Council members and other participants called for the stop of the

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<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

flow of weapons and military support from abroad in violation of the United Nations arms embargo.<sup>189</sup>

At a high-level open videoconference held on 8 July 2020, the Secretary-General, pointed out that the conflict had entered a new phase, where foreign interference had reached unprecedented levels and included the delivery of sophisticated equipment and the number of mercenaries involved in the fighting. He expressed concern regarding the alarming military build-up around the city and the high-level of direct foreign interference in the conflict, in violation of the United Nations arms embargo, Council resolutions and the commitments made by Member States in Berlin.<sup>190</sup>

Following the briefing, the Federal Minister for Foreign Affairs of Germany stressed that foreign interference remained the main driver of the conflict in Libya and it must be brought to an end, which meant no more aeroplanes, no more tanks, no more trucks or cargo ships full of weapons and no more lies.<sup>191</sup> The Minister for Foreign Affairs, Cooperation, African Integration and Nigeriens Abroad of the Niger said that external interference in Libya was known to be accompanied by massive transfers of weapons of war and mercenaries – a flagrant violation of resolutions [1970 \(2011\)](#) and [2292 \(2016\)](#) – and called on all participants in the Berlin process to honour their commitments by refraining from interfering in Libya’s internal affairs.<sup>192</sup> The Minister for International Relations and Cooperation of South Africa recalled that at the Berlin Conference international partners had committed to respecting the arms embargo and refraining from interfering in the internal affairs of Libya, but the parties to the conflict and external players continued to violate the embargo through the influx of weapons and foreign fighters to Libya.<sup>193</sup>

The Minister of State for the Middle East and North Africa of the United Kingdom recalled the commitment made by the Berlin Conference participants to respect and implement the United Nations arms embargo, and their call on all actors to refrain from activities that could exacerbate the conflict, including the financing of military capabilities and the recruitment of

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<sup>189</sup> See [S/2020/421](#), Acting Special Representative of the Secretary-General for Libya and Head of United Nations Support Mission in Libya, Russian Federation, United Kingdom, United States and Libya; and [S/2020/879](#), Acting Special Representative of the Secretary-General for Libya and Head of United Nations Support Mission in Libya, Estonia, Russian Federation, Saint Vincent and the Grenadines, Germany, South Africa, Tunisia, United Kingdom and United States.

<sup>190</sup> See [S/2020/686](#).

<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

<sup>193</sup> Ibid.



mercenaries.<sup>194</sup> The representative of the Dominican Republic noted that the constant violations of the embargo which, together with the persistent interference of external actors, created the perfect storm for a perpetuation of the Libyan conflict. He reiterated his country's view of the need for all Member States to strictly adhere to their commitments made to ceasing all forms of foreign military intervention in Libya and desisting from any destabilizing activities that exacerbated the conflict.<sup>195</sup> The representative of Estonia said that the foreign interference in Libya was a blatant violation of the sanctions regime set up by the Council, and added that the continuous flow of arms, private military operatives, fighter jets, drones and other assets must stop.<sup>196</sup>

The representative of the United States emphasized that there was no place for foreign mercenaries or proxy forces in Libya and called on all external actors involved in the conflict to abide by the commitments that they made in Berlin and immediately suspend military operations, halt the ongoing transfer of foreign military equipment and fighters to Libya.<sup>197</sup>

The representative of Greece underscored that international legality was being violated in Libya through the provision of weapons, military means, mercenaries and ammunition.<sup>198</sup> The representative of Turkey indicated that the provision of brazen political and military support to Haftar in pursuit of subversive objectives against the legitimate Government was incompatible with international law and the relevant United Nations resolutions, and harmful to peace and stability in Libya and beyond.<sup>199</sup>

The representative of Libya communicated his country's request to the Presidency of the Council to hold a special and urgent meeting of the sanctions committee in the presence of representatives of all States mentioned in the reports of the Panel of Experts on Libya accused of violating the arms embargo in support of the aggression.<sup>200</sup>

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<sup>194</sup> Ibid.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid.

<sup>200</sup> Ibid.

## **IV. Non-intervention in the internal affairs of States by the United Nations under Article 2, paragraph 7**

### *Article 2, paragraph 7*

*Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.*

### **Note**

Section IV concerns the practice of the Security Council in relation to the principle of non-intervention by the United Nations in the internal affairs of States enshrined in Article 2 (7) of the Charter of the United Nations. Subsection A features references to that Article in the decisions of the Council. Subsection B covers the deliberations of the Council touching upon the principle enshrined in Article 2 (7). Subsection C features references to Article 2 (7) in the correspondence of the Council.

#### **A. Decisions relating to Article 2 (7)**

In 2020, the Council did not explicitly refer to Article 2 (7) in any of its decisions. This notwithstanding, language used in some Council decisions under country-specific and thematic items may be considered of relevance for the interpretation and application of Article 2 (7) (table 5).

#### **Table 5**

#### **Decisions containing implicit references to Article 2 (7)**

Decision and date	Provision
<b>The situation in Afghanistan</b>	
Resolution <a href="#">2543 (2020)</a> 15 September 2020	Decides further that UNAMA and the Special Representative of the Secretary-General, within their mandate and in a manner consistent with Afghan sovereignty, leadership and ownership, will continue to lead and coordinate the international civilian efforts, in full cooperation with the Government of Afghanistan and in accordance with the relevant international communiqués, with a particular focus on the priorities laid out below: (para. 6)
<b>The situation in Guinea-Bissau</b>	
Resolution <a href="#">2512 (2020)</a> 28 February 2020	Reaffirming its strong commitment to the sovereignty, unity and territorial integrity of Guinea-Bissau, emphasizing that the Bissau-Guinean authorities have primary responsibility for the provision of stability and security throughout the country, and underscoring the importance of national ownership of the implementation of inclusive political, peace and security-related initiatives (second preambular paragraph)  UNIOGBIS will continue to implement its transition plan for the gradual drawing down and transfer of tasks to UNCT, the United Nations Office for West Africa and the Sahel (UNOWAS) and other regional and international partners, towards mandate completion by 31 December 2020, bearing in mind the need for a flexible approach to ensure a seamless transfer of responsibilities, and cooperating closely with the Government of Guinea-Bissau to ensure national ownership of the process (para. 2 (b))
<b>The situation in Libya</b>	
Resolution <a href="#">2510 (2020)</a> 12 February 2020	Reaffirming its strong support for the ongoing efforts of the United Nations Support Mission in Libya (UNSMIL) and the Special Representative of the Secretary - General, recalling that there can be no military solution in Libya and underscoring the importance of the United Nations central role in facilitating a Libyan-led and Libyan-owned inclusive political process (third preambular paragraph)
Resolution <a href="#">2542 (2020)</a> 15 September 2020	Underscoring the importance of the United Nations' central role in facilitating a Libyan-led and Libyan-owned inclusive political process and in achieving a lasting ceasefire (fifth preambular paragraph)  Decides to extend until 15 September 2021 the mandate of UNSMIL, as an integrated special political mission, in full accordance with the principles of national ownership, to exercise mediation and through its good offices to: (para. 1)
<b>Maintenance of international peace and security</b>	
Resolution <a href="#">2553 (2020)</a> 3 December 2020	Recalling the sovereign right and the primary responsibility of the country concerned to determine the national approach and priorities of security sector reform and recognizing that it should be a nationally owned process that is rooted in the particular needs and conditions of, and at the request and in close consultation with the country in question and encouraging the involvement of all relevant stakeholders in security sector reform and the development of expertise in the field of security sector reform at the national and local level (seventh preambular paragraph)

Stressing the importance of national ownership and the role that coordination plays, as appropriate, between the different actors involved in supporting security sector reforms through bilateral and multilateral contributions and emphasizing the role United Nations peacekeeping operations and special political missions can play in enhancing this coordination with a national vision and priorities, and taking into account the need to ensure transparency, inclusivity, and accountability of support provided for security sector reform in line with national priorities (seventeenth preambular paragraph)

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**The situation in Mali**

Resolution [2541 \(2020\)](#)  
31 August 2020

Reaffirming its strong commitment to the sovereignty, unity and territorial integrity of Mali, emphasizing that the Malian authorities have primary responsibility for the provision of stability and security throughout the territory of Mali, and underscoring the importance of achieving national ownership of peace- and security-related initiatives (second preambular paragraph)

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**The situation in the Middle East**

Resolution [2504 \(2020\)](#)  
10 January 2020

Reiterates that the situation will continue to deteriorate further in the absence of a political solution to the Syrian conflict and recalls its demand for the full and immediate implementation of resolution [2254 \(2015\)](#) to facilitate a Syrian-led and Syrian-owned political transition, in accordance with the Geneva Communiqué as set forth in the ISSG Statements, in order to end the conflict in Syria and stresses again that the Syrian people will decide the future of Syria (para. 5)

Resolution [2539 \(2020\)](#)  
28 August 2020

Urges all parties to ensure that the freedom of movement of UNIFIL and UNIFIL's access to the Blue Line in all its parts is fully respected and unimpeded, in conformity with its mandate and its rules of engagement, including by avoiding any course of action which endangers United Nations personnel, condemns in the strongest terms all attempts to restrict the freedom of movement of UNIFIL's personnel and all attacks on UNIFIL personnel and equipment; calls on the Government of Lebanon to facilitate UNIFIL's prompt and full access to sites requested by UNIFIL for the purpose of swift investigation, including all relevant locations north of the Blue Line related to the discovery of tunnels crossing the Blue Line which UNIFIL reported as a violation of resolution [1701 \(2006\)](#), in line with resolution 1701, while respecting the Lebanese Sovereignty (para. 15)

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**Peace consolidation in West Africa**

[S/PRST/2020/2](#)  
11 February 2020

The Security Council recognises that responsible and credible mediation by UNOWAS requires, inter alia, national ownership, the consent of the parties to a particular dispute or conflict, respect for national sovereignty, as set out in [A/RES/70/304](#) (seventh paragraph)

*See also [S/PRST/2020/7](#), sixth paragraph*

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**Reports of the Secretary-General on the Sudan and South Sudan**

Resolution [2524 \(2020\)](#)  
3 June 2020

Further decides that UNITAMS, as part of an integrated and unified United Nations structure, shall, in full accordance with the principles of national ownership, have the following strategic objectives: (para. 2)

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**Peace and security in Africa**

[S/PRST/2020/5](#)  
11 March 2020

The Security Council reaffirms its commitment to the sovereignty, territorial integrity and political independence of all States in accordance with the Charter of the United Nations, and stresses that Member States have the primary responsibility in countering terrorist acts and violent extremism conducive to terrorism (sixth paragraph)

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## **B. Discussion relating to Article 2 (7)**

During the period under review, Article 2 (7) of the Charter of the United Nations was not explicitly invoked in the Council’s deliberations. This notwithstanding, during several in-person meetings and videoconferences, Council members discussed the principle of non-intervention in domestic matters enshrined in Article 2 (7).

At its 8700<sup>th</sup> meeting held on 10 January 2020, during which the Council adopted resolution [2504 \(2020\)](#), which extended the cross-border humanitarian assistance in Syria established by resolution [2165 \(2014\)](#),<sup>201</sup> several Council members made reference to the need to respect Syria’s sovereignty and territorial integrity in the context of providing humanitarian assistance in the country (case 8). Council members also held discussions relevant to the interpretation and application of Article 2 (7) during open videoconferences held during the period under review. In that regard, in connection with the high-level videoconferences held to consider the item entitled “Peacebuilding and sustaining peace”, Council members, other Member States and entities addressed the importance of national ownership in the context of transitional justice (case 9) and addressing contemporary drivers of conflict and insecurity (case 10). In addition, discussions held in connection with several other open videoconferences throughout the reporting period touched upon the principles enshrined in Article 2 (7).<sup>202</sup>

During an open debate held under the item entitled “Maintenance of international peace and security” on 9, 10 and 13 January 2020 at the initiative of Viet Nam, which held the Council presidency for the month,<sup>203</sup> the representative of Egypt highlighted the need to review the effectiveness of certain weak implementation tools, particularly those pertaining to sustainable development and the comprehensive concepts of peacekeeping and peacebuilding, while respecting the sovereignty of States. He stressed that in order to prevent the United Nations from serving as “a crisis baby-sitter”, it was necessary, inter alia, for States to cooperate in accordance with the principles of the Charter.<sup>204</sup> The representative of the Philippines said that the United

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<sup>201</sup> Resolution [2504 \(2020\)](#), para. 3.

<sup>202</sup> See, in connection with “Briefing by the High Commissioner for Refugees”, [S/2020/560](#), China, Saint Vincent and the Grenadines and Viet Nam; in connection with “The situation in the Middle East”, [S/2020/353](#), Saint Vincent and the Grenadines, Tunisia and Syrian Arab Republic; in connection with “The situation concerning Iraq”, [S/2020/1193](#), Russian Federation, Saint Vincent and the Grenadines, Tunisia and Iraq.

<sup>203</sup> A concept note was circulated in the letter dated 31 December 2019 ([S/2020/1](#)).

<sup>204</sup> See [S/PV.8699](#).

Nations stood on the foundation of the aggregated sovereignty of its Members, and that it harnessed sovereignty not for some against others, but for the common purposes of peace and productive cooperation.<sup>205</sup> The representative of Cuba emphasized that the Council must carry out its functions in accordance with the powers conferred upon it by the Charter itself to safeguard international peace and security, but it must do so without double standards or discrimination, and always in accordance with justice and principles. He further stressed that a truly strong and participatory United Nations was required, with a transparent and duly democratized Council and a revitalized General Assembly that supported States in consolidating their sovereignty for the future which should be determined by every nation without any kind of interference.<sup>206</sup> The representative of Uruguay underlined the need not to lose sight of the principles of non-intervention and self-determination when dealing with internal conflicts.<sup>207</sup>

The representative of Oman pointed out that given the tensions and conflicts facing the world, an increasing responsibility was to be shouldered by the United Nations and it was therefore important to underline the need for a more balanced and more cooperative relationship between the Council and the General Assembly. He further stressed that in order for Council resolutions to be more credible, they needed to be in line with the provisions of the Charter, in particular the principle of respect for the national sovereignty of States.<sup>208</sup>

## **Case 8**

### **The situation in the Middle East**

In 2020, Council members, during meetings and open videoconferences in connection with the item entitled “The situation in the Middle East”, discussed the implications of the cross-border humanitarian assistance mechanism in Syria established by resolution [2165 \(2014\)](#) vis-à-vis the principles of sovereignty and territorial integrity and the primary responsibility of the Government of Syria for improving the humanitarian situation in the country.

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<sup>205</sup> Ibid.

<sup>206</sup> See [S/PV.8699 \(Resumption 1\)](#).

<sup>207</sup> Ibid.

<sup>208</sup> Ibid.

On 10 January 2020, during its 8700<sup>th</sup> meeting, the Council adopted resolution [2504 \(2020\)](#), extending the cross-border humanitarian assistance mechanism for a period of six months, until 10 July 2020.<sup>209</sup>

Following the adoption, the representative of China stressed that his country had always had reservations regarding the establishment of the cross-border assistance mechanism, and that China had consistently advocated that in taking any action, the sovereignty and territorial integrity of the country concerned and the will of its Government must be respected. He further noted that the cross-border humanitarian assistance was a special relief method adopted under specific circumstances and should be evaluated and adjusted in a timely manner in line with developments on the ground. He added that the Syrian Government bore the primary responsibility for improving the humanitarian situation in Syria and that in the prevailing circumstances, the Office for the Coordination of Humanitarian Affairs and the relevant parties should step up cooperation with the Syrian Government and prioritize the provision of humanitarian assistance from inside Syria.<sup>210</sup> Similarly, the representative of Viet Nam shared his country's position that the Syrian Government bore the primary responsibility of addressing the humanitarian situation in the country, with the assistance of the international community.<sup>211</sup>

On 29 January 2020, during the Council's 8707<sup>th</sup> meeting held to consider the item, the representative of China stressed that humanitarian relief efforts should strictly comply with international law, the Charter and General Assembly resolution [46/182](#), and emphasized that these efforts should refrain from interfering in the internal affairs of the recipient country. He reiterated that the Syrian Government bore the primary responsibility for improving the humanitarian situation in the country and that cross-border humanitarian relief was a special relief mechanism adopted in specific circumstances. He added that the United Nations should proactively propose plans to evaluate it and make adjustments in the light of developments in the country, carefully listening to the views of the Syrian Government and strengthening cooperation among all Syrian parties.<sup>212</sup> Similarly, the representative of Saint Vincent and the Grenadines emphasized the need for an inclusive and consultative process and further dialogue with the

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<sup>209</sup> Resolution [2504 \(2020\)](#), para. 3.

<sup>210</sup> See [S/PV.8700](#).

<sup>211</sup> Ibid.

<sup>212</sup> See [S/PV.8707](#).

Syrian Government on all decisions that concerned the country with respect to its sovereignty and territorial integrity.<sup>213</sup> The representative of Tunisia explained that his country believed that ending the system of cross-border humanitarian assistance would require a progressive approach, in full respect for Syria's sovereignty, unity and territorial integrity.<sup>214</sup>

The representative of the Dominican Republic recalled that just as sovereignty, independence and territorial integrity were fundamental international principles, so too was the responsibility of States to protect their populations, not to cause suffering and to safeguard their livelihoods and well-being.<sup>215</sup>

The representative of Viet Nam underscored that humanitarian assistance on the ground needed to be maintained where it was needed, and that the Syrian Government had the primary responsibility in that regard, with the continuous joint support of Member States and international organizations. He also emphasized that humanitarian work needed to be carried out in full respect for the sovereignty, independence and territorial integrity of Syria.<sup>216</sup>

## Case 9

### Peacebuilding and sustaining peace

During its 8723<sup>rd</sup> meeting held on 13 February 2020, at the initiative of Belgium which held the Presidency for the month,<sup>217</sup> the Council held a high-level open debate under the item, focusing on transitional justice in conflict and post-conflict situations.

At the meeting, Council members addressed the concepts of national ownership, non-interference in internal affairs and the role of international organizations, including the United Nations, in the context of transitional justice initiatives. In that regard, the representative of China underscored that, based on the Charter and universally recognized international law, it was imperative to respect the sovereignty and territorial integrity of every country and respect the countries concerned in their efforts to advance their transitional justice processes step by step, in a manner consistent with their own national conditions. He stressed that no models should be

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<sup>213</sup> Ibid.

<sup>214</sup> Ibid.

<sup>215</sup> Ibid.

<sup>216</sup> Ibid.

<sup>217</sup> A concept note was circulated by a letter dated 4 February 2020 ([S/2020/98](#)).



imposed from outside, nor should any interference be permitted in their internal affairs or struggles, and that only by adhering to the principle of sovereignty could transitional justice efforts be justified, thereby winning the trust of the countries concerned and promoting peace and development.<sup>218</sup> The representative of Tunisia expressed his country's support for the strengthening of international cooperation to reform legislation and legal sovereign institutions in post-conflict or post-repressive periods in affected countries. This was to ensure that such legislation was aligned with international law, the criteria of international criminal justice and international human rights law thereby providing the requirements of effective national ownership over transitional justice.<sup>219</sup> Similarly, the Minister for Foreign Affairs and Defence of Belgium defended that any transitional justice process must be subject to national ownership.<sup>220</sup> The representative of Liechtenstein said that the overall purpose of transitional justice was to help societies overcome a difficult, often painful, past, promote reconciliation and support a common way forward towards sustainable peace. He underscored that national ownership of such processes was essential, but in many cases, in particular where atrocity crimes had been committed on a large scale, international or regional assistance may be not only helpful, but indeed necessary.<sup>221</sup> The representative of Colombia said that transitional justice did not have a single mold applicable to different contexts, adding that every effort to consolidate peace, including transitional mechanisms, must start from the principle of national ownership.<sup>222</sup>

The representative of Egypt stressed his country's position on the importance of considering the specificity of every situation, emphasizing that there was no one-size-fits-all approach. He also said that the success of transitional justice endeavors and the move from a divisive past to a shared future depended on the respect of the international community for providing assistance, support to the countries concerned and the principle of national ownership and leadership of those efforts.<sup>223</sup>

The representative of Romania noted that further progress in transitional justice could be achieved if more United Nations peace operations were mandated to address it, and suggested

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<sup>218</sup> See [S/PV.8723](#).

<sup>219</sup> Ibid.

<sup>220</sup> Ibid.

<sup>221</sup> Ibid.

<sup>222</sup> See [S/PV.8723 \(Resumption 1\)](#).

<sup>223</sup> Ibid.

that an effective way for the international community to support institutional reforms, while safeguarding the principle of national ownership, was to strengthen the rule-of-law component of peace operations.<sup>224</sup> The representative of Morocco recognized that reconciliation and peacebuilding were closely linked to promoting respect for the law in order to ensure the effective implementation of international humanitarian law and international human rights law. He also emphasized that Member States should develop national policies based on good practices to establish institutional bodies to work in the area, adding that whatever mechanism was implemented, its success would depend above all on taking into account the specificities of the society in which transitional justice was to be implemented, and that national ownership was key in that regard.<sup>225</sup>

The representative of the Syrian Arab Republic pointed out that his country had not requested any technical assistance from the United Nations to establish the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. In this connection, he recalled that in his country, there were long-standing national legal and judicial bodies that were willing and able to achieve justice and provide accountability and reparations without the flagrant interference that sought to achieve distorted justice and reprisals rather than a genuine transitional justice.<sup>226</sup>

## **Case 10**

### **Peacebuilding and sustaining peace**

On 3 November 2020, at the initiative of Saint Vincent and the Grenadines which held the Presidency for the month,<sup>227</sup> Council members held an open videoconference at the ministerial level in connection with the item entitled “Peacebuilding and sustaining peace” focused on the theme of “Contemporary drivers of conflict and insecurity”. During the videoconference, Council members heard briefings by the Deputy Secretary-General, the Chief

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<sup>224</sup> Ibid.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.

<sup>227</sup> A concept note was circulated by a letter dated 30 October 2020 ([S/2020/1064](#)).

Executive Officer of the African Union Development Agency, the Vice Chancellor of the University of the West Indies, and the Permanent Representative of Pakistan to the United Nations, in his capacity as President of the Economic and Social Council. Representatives of all Council members delivered their statements during the videoconference, while the delegations of 38 non-Council members and the European Union submitted their statements in writing.<sup>228</sup> At the videoconference, the Deputy Minister for Foreign Affairs of the Russian Federation underscored that countries facing an uphill battle in transitioning from conflict to sustainable peace were especially in need of the international community's assistance, and that in granting such assistance, it was necessary to be guided by the principle that it was the primary responsibility of the countries themselves for developing and implementing peacebuilding strategies and priorities in accordance with the needs and requirements of their societies. He further emphasized that every case required a particular, unique approach without the imposition of automatic one-size-fits-all solutions and policy prescriptions.<sup>229</sup>

The Prime Minister of Saint Vincent and the Grenadines said that his country emphasized that peacekeeping, peacemaking and peacebuilding must all be pursued concurrently as part of a peace and security, development and humanitarian continuum, adding that adequate resources must therefore be made available to improve lives and livelihoods, while bolstering national ownership over political and peace processes.<sup>230</sup> The representative of Indonesia stressed the need to ensure that the United Nations missions mandated by the Council provided a strong foundation for long-term and sustained socioeconomic development. He underscored that for that to succeed, strong national ownership and the inclusive participation of all local stakeholders was needed.<sup>231</sup>

In the statements submitted for the videoconference, the representative of Brazil underlined that peacebuilding and sustaining peace were cross-pillar endeavours that could be realized only on the basis of respect for sovereignty and national ownership.<sup>232</sup> The

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<sup>228</sup> The following countries submitted written statements: Azerbaijan, Brazil, Cabo Verde, Canada, Chile, Colombia, Cuba, Denmark, Ecuador, El Salvador, Eritrea, Georgia, Guatemala, India, the Islamic Republic of Iran, Ireland, Italy, Japan, Kenya, Liechtenstein, Malta, Mexico, Morocco, Namibia, the Netherlands, Nigeria, Peru, the Philippines, Poland, Portugal, Qatar, Singapore, Slovakia, Slovenia, the Sudan, Switzerland, Ukraine and the United Arab Emirates.

<sup>229</sup> See [S/2020/1090](#).

<sup>230</sup> Ibid.

<sup>231</sup> Ibid.

<sup>232</sup> Ibid.

representative of the Islamic Republic of Iran highlighted the principled assumption that conflicts could be resolved comprehensively and permanently only when all their root causes and drivers were addressed justly, properly and in a comprehensive manner, particularly through an enhanced national ownership over related peace and political processes.<sup>233</sup>

The delegation of Chile welcomed the reflective exercise involving the Council, the Peacebuilding Commission and the Secretariat, as well as the review of the peacebuilding architecture, geared towards sustaining peace, with a view to identifying successful field-level processes, which promoted the involvement of local communities in peacebuilding and sustaining peace, strengthening the principle of national ownership.<sup>234</sup> The representative of Slovakia, while acknowledging the importance of ensuring that the needs of all segments of society were taken into account, emphasized that national ownership and leadership should continue to be at the heart of all efforts.<sup>235</sup>

### **C. Invocations of the principle enshrined in Article 2 (7) in communications**

During the period under review, there were two explicit references to Article 2 (7) of the Charter of the United Nations in communications brought to the attention of the Security Council.

In a letter dated 3 April 2020, addressed to the President of the Council, the Permanent Representative of the Bolivarian Republic of Venezuela accused the United States of having openly violated Article 2 (7) of the Charter by attempting to impose its justice system on the sovereign State of Venezuela when the Attorney General of the United States of America had accused the President of the Republic, Nicolás Maduro Moros, of being a drug trafficker and had offered a \$15 million reward for information leading to his arrest.<sup>236</sup>

In a letter dated 21 December 2020, addressed to the Secretary-General and the President of the Council, the Permanent Representative of the Islamic Republic of Iran referred to the letter from the Permanent Representative of Egypt dated 29 October 2020, which had transmitted the

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<sup>233</sup> Ibid.

<sup>234</sup> Ibid.

<sup>235</sup> Ibid.

<sup>236</sup> See [S/2020/277](https://www.un.org/securitycouncil/content/repertoire/structure).

resolutions adopted by the Council of the League of Arab States at the ministerial level meeting held on 9 September 2020.<sup>237</sup> In the letter addressed to the Secretary-General and the President of the Council, the Permanent Representative of the Islamic Republic of Iran expressed concern regarding one of the resolutions by the League of Arab States, expressing support of a unilateral claim by the United Arab Emirates over the Iranian islands of Abu Musa, the Lesser Tunb and the Greater Tunb.<sup>238</sup> The letter emphasized that supporting such a baseless claim ran counter to the peremptory norms of international law and the purposes and principles of the United Nations, in particular Article 2, paragraph 7, of the Charter of the United Nations, which prohibited interference in the internal affairs of other States.<sup>239</sup>

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<sup>237</sup> See [S/2020/1271](#). See also [S/2020/1058](#).

<sup>238</sup> See [S/2020/1271](#).

<sup>239</sup> *Ibid.*