

## **Part V**

# **Functions and powers of the Security Council**

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## **Introductory note**

Part V covers the functions and powers of the Security Council, as provided for in Articles 24, 25 and 26 of the Charter of the United Nations, and is accordingly divided into three sections. Under each section, implicit and explicit references to those Articles made in communications, decisions and meetings of the Council are described. Each section also includes case studies that examine specific instances in which those Articles were discussed or which otherwise illustrate how the Council has applied Articles 24, 25 and 26.

During the period under review, the Council referred to its primary responsibility for the maintenance of international peace and security, as provided for in Article 24, in 27 decisions, including in resolutions concerning sanctions measures on Guinea-Bissau and Libya. The primary responsibility of the Council was also discussed during meetings of the Council in connection with a wide range of issues, including the role of regional actors, the International Criminal Court and the working methods of the Council.

The Council invoked Article 25 in one resolution whereby it required the Syrian Arab Republic to cooperate with the Organization for the Prohibition of Chemical Weapons in destroying its chemical weapons. Article 26 was not referred to in any decisions of the Council, but was raised during discussions in the context of cooperation between the United Nations and regional and subregional organizations in the maintenance of international peace and security.

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## I. Primary responsibility of the Security Council for the maintenance of international peace and security under Article 24

### Article 24

1. *In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.*

2. *In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.*

3. *The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.*

### Note

Section I covers Article 24 of the Charter,<sup>1</sup> and is divided into two subsections. Subsection A covers decisions adopted in 2012 and 2013 that refer to the primary responsibility of the Security Council for the maintenance of international peace and security pursuant to Article 24. Subsection B examines discussions at Council meetings at which reference was made to the Council's primary mandate.

Article 24 was explicitly referred to at seven meetings of the Council, but only implicitly mentioned in decisions of the Council. Seven communications to

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<sup>1</sup> Article 24 (3), concerning the annual reports of the Security Council to the General Assembly, is dealt with in part IV.

the Council contained explicit references to Article 24.<sup>2</sup>

The role of regional actors, as well as international organizations or other organs of the United Nations, vis-à-vis the primary responsibility of the Council was also the subject of discussion in Council meetings, as was how the primary responsibility of the Council was exercised in areas such as addressing sexual violence in conflict and dealing with illicit cross-border flows.

### A. Decisions referring to the primary responsibility of the Security Council for the maintenance of international peace and security

During 2012 and 2013, there were no explicit references to Article 24 of the Charter in decisions adopted by the Council. However, the Council made implicit references to Article 24 in 13 resolutions and 14 presidential statements by referring to its "primary responsibility for the maintenance of international peace and security", as further described below. In a few instances, the Council referred to its primary responsibility for the maintenance of international peace and security in taking action under Chapter VII of the

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<sup>2</sup> See the following letters addressed to the President of the Council: letter dated 13 April 2012 from the representative of Egypt (S/2012/223); letter dated 23 April 2012 from the Secretary-General transmitting a letter dated 9 April 2012 from the representative of Guinea-Bissau (S/2012/254); letter dated 24 April 2012 from the representative of Egypt (S/2012/257); and letter dated 25 April 2013 from the representative of Jordan (S/2013/247); the following letters addressed to the Secretary-General: letter dated 1 October 2012 from the representative of Guatemala (S/2012/731); letter dated 8 October 2012 from the representative of the Islamic Republic of Iran (on behalf of the Non-Aligned Movement) (S/2012/752); and a letter dated 15 November 2012 from the representative of the Islamic Republic of Iran (on behalf of the Non-Aligned Movement) addressed to the Secretary-General and the President of the Security Council (A/67/580-S/2012/831).

Charter in connection with countries such as Guinea-Bissau, Libya and Haiti. Those references were usually made in the preambular paragraphs of resolutions and in the initial paragraphs of presidential statements.

The Council also reaffirmed or reiterated its primary responsibility at several meetings, including those at which it considered the role of Member States or regional and subregional organizations with regard to collective security.

### Resolutions

In 2012 and 2013, 13 resolutions contained implicit references to Article 24 (1). In those resolutions, the Council reaffirmed, recalled, reiterated, bore in mind or indicated that it was mindful of its primary responsibility for the maintenance of international peace and security. Eight of those resolutions were country-specific, whereas five concerned thematic items on the agenda of the Council.

In five of the eight country-specific resolutions, the Council took action explicitly under Chapter VII of the Charter. By those resolutions, the Council modified sanctions measures concerning Libya,<sup>3</sup> imposed sanctions measures relating to Guinea-Bissau,<sup>4</sup> and twice extended the mandate of the United Nations Stabilization Mission in Haiti.<sup>5</sup> With regard to the Sudan, the Council underlined the importance of the partnership between the United Nations and the African Union, without prejudice to its primary responsibility for the maintenance of peace and security,<sup>6</sup> having determined that the situation in the Sudan constituted a threat to international peace and security. Regarding the situation in the Middle East, specifically concerning Yemen, the Council again used the formula “mindful of its primary responsibility for the maintenance of international peace and security”,

in calling upon all sides in Yemen to reject the use of violence to achieve political goals.<sup>7</sup>

In the five resolutions concerning items of a thematic nature, the Council referred to its primary responsibility for the maintenance of peace and security in relation to the particular thematic item or in support of its action in the specific context of that item.<sup>8</sup> For example, the item entitled “Children and armed conflict”, the Council reiterated its commitment to addressing the widespread impact of armed conflict on children.<sup>9</sup> In connection with “Small arms and light weapons”, the Council noted the significance of small arms and light weapons as being the most frequently used weapons in the majority of recent armed conflicts, which posed threats to international peace and security and undermined the effectiveness of the Council in discharging its primary responsibility.<sup>10</sup> With regard to the item entitled “Women and peace and security”, bearing in mind the purposes and principles of the Charter and its primary responsibility, the Council reaffirmed that the empowerment of women and girls and gender equality were critical to efforts to maintain international peace and security, and expressed its intention to increase its attention to women and peace and security issues.<sup>11</sup>

### Presidential statements

The Council made implicit references to Article 24 in 14 presidential statements, reaffirming or reiterating its primary responsibility for the maintenance of international peace and security.

The Council referred implicitly to Article 24 to, inter alia, highlight the link between its own primary responsibility and the role or responsibility of other actors, namely, Member States and regional organizations, in the maintenance of peace and security. For example, in presidential statements concerning the maintenance of international peace and security and peace consolidation in West Africa, the Council

<sup>3</sup> Resolutions 2040 (2012), penultimate preambular paragraph, and 2095 (2013), ultimate preambular paragraph.

<sup>4</sup> Resolution 2048 (2012), twentieth (ultimate) preambular paragraph.

<sup>5</sup> Resolutions 2070 (2012), thirty-third preambular paragraph, and 2119 (2013), twenty-fourth preambular paragraph.

<sup>6</sup> Resolutions 2063 (2012), ninth preambular paragraph, and 2113 (2013), ninth preambular paragraph.

<sup>7</sup> Resolution 2051 (2012), fifteenth preambular paragraph and paragraph 2.

<sup>8</sup> Resolutions 2033 (2012), 2068 (2012), 2086 (2013), 2117 (2013) and 2122 (2013).

<sup>9</sup> Resolution 2068 (2012), second preambular paragraph.

<sup>10</sup> Resolution 2117 (2013), first and fourth preambular paragraphs.

<sup>11</sup> Resolution 2122 (2013), third and fourth preambular paragraphs and para. 3.

reaffirmed its own primary responsibility for the maintenance of international peace and security while noting the primary responsibility of States in the eradication of piracy and armed robbery at sea.<sup>12</sup> In various presidential statements on the items entitled “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security”, “Peace and security in Africa” and “The situation in the Middle East” the Council reaffirmed or reiterated its primary responsibility while recognizing the importance of cooperation with regional and subregional organizations in the maintenance of international peace and security. In those statements, the Council characterized cooperation with regional and subregional organizations as an “integral part” of collective security,<sup>13</sup> an “important pillar” of collective security,<sup>14</sup> or as something that could “improve” collective security.<sup>15</sup> For further information on the Council’s activities with regard to Chapter VIII of the Charter concerning the role of regional arrangements in the maintenance of international peace and security, see part VIII.

In a presidential statement concerning peace and security in Africa, the Council reaffirmed its primary responsibility and, recalling Articles 33 and 34 of the Charter, also reaffirmed its commitment to the settlement of disputes by peaceful means and to promoting necessary preventive action in response to disputes or situations likely to endanger the maintenance of international of international peace and security.<sup>16</sup> For a discussion of those articles and Chapter VI of the Charter on the pacific settlement of disputes, see part VI.

## **B. Discussions relating to the primary responsibility of the Security Council for the maintenance of international peace and security**

During the period under review, Article 24 was explicitly and implicitly referred to at numerous

<sup>12</sup> [S/PRST/2012/24](#), first paragraph, and [S/PRST/2013/13](#), first paragraph.

<sup>13</sup> [S/PRST/2013/12](#), second and third paragraphs.

<sup>14</sup> [S/PRST/2012/26](#), first paragraph.

<sup>15</sup> [S/PRST/2013/12](#), second and third paragraphs, and [S/PRST/2012/20](#), first and second paragraphs.

<sup>16</sup> [S/PRST/2013/4](#), first paragraph.

meetings of the Council. Explicit references to Article 24 during Council meetings covered issues such as the delineations of the Council’s role in the maintenance of international peace and security vis-à-vis other organs of the United Nations and other international organizations, and the interaction between Article 24 and other Articles of the Charter.<sup>17</sup>

The following case studies illustrate the broad range of issues discussed in 2012 and 2013 in connection with the application or interpretation of the primary responsibility of the Council under Article 24, namely, the role of regional arrangements vis-à-vis the primary responsibility of the Council in maintaining international peace and security (case 1); the promotion of the rule of law in maintaining international peace and security, including the relationship between the Council and the International Criminal Court (case 2); the role of the Council in addressing cross-border trafficking as a threat to international peace and security (case 3); improvements to the working methods of the Council (case 4); and the role of the Council in addressing sexual violence in conflict as part of its primary responsibility for the maintenance of international peace and security (case 5).

### **Case 1 Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security**

In 2012 and 2013, the Council held four meetings concerning its cooperation with regional and subregional organizations in the maintenance of international peace and security.<sup>18</sup> At the 6702nd meeting, on 12 January 2012, several speakers called

<sup>17</sup> Explicit references to Article 24 were made at the following meetings of the Council: [S/PV.6705](#), p. 17 (Pakistan); [S/PV.6706 \(Resumption 1\)](#), p. 10 (Jordan); [S/PV.6760](#), p. 16 (South Africa); p. 17 (Pakistan); p. 29 (Cuba); [S/PV.6760 \(Resumption 1\)](#), p. 2 (Islamic Republic of Iran); [S/PV.6849 \(Resumption 1\)](#), p. 24 (Spain); [S/PV.6870](#), p. 29 (Egypt); p. 31 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); [S/PV.6870 \(Resumption 1\)](#), p. 12 (Cuba); [S/PV.7052](#), pp. 27-28 (Egypt); and [S/PV.7052 \(Resumption 1\)](#), p. 6 (Costa Rica); p. 13 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); and p. 20 (Maldives).

<sup>18</sup> [S/PV.6702](#), [S/PV.6919](#), [S/PV.7015](#) and [S/PV.7050](#).

for greater cooperation between the Council and regional organizations in responding to threats to peace and security,<sup>19</sup> in particular in Africa, supporting the idea of a “shared responsibility” in the maintenance of international peace and security, notwithstanding the primary responsibility of the Council in that regard.<sup>20</sup> In reference to paragraph 6 of resolution 2033 (2012), adopted at that meeting, the representative of the United Kingdom clarified that coordination between the Council and the Peace and Security Council of the African Union could occur “only in the context of the primacy of the Security Council regarding the maintenance of international peace and security”.<sup>21</sup>

At the 6919th meeting, held on 13 February 2013 with a focus on the European Union, the representative of the Russian Federation opined that it was “out of the question” to change the “unshakeable” leading role of the Security Council on issues of the maintenance of international peace and security, notwithstanding a growing need for an effective mechanism for the division of labour between the United Nations and regional organizations, including the European Union.<sup>22</sup>

At the 7015th meeting, on 6 August 2013, the representative of Argentina, while emphasizing the primacy of the Security Council in maintaining international peace and security, characterized as “fundamental” the role played in recent years by new subregional arrangements and organizations in conflict prevention and in the promotion and maintenance of international peace and security.<sup>23</sup> Several other speakers emphasized the particular value of regional arrangements in the maintenance of peace and security, notwithstanding the Council’s primary responsibility. The representative of Botswana recognized that managing and maintaining peace often depended upon regional dynamics that could be better addressed by local institutions.<sup>24</sup> The representative of Honduras stated that participation of regional partners in times of

crisis provided greater legitimacy.<sup>25</sup> The representative of Rwanda highlighted “geographic proximity, expediency and burden-sharing” as reasons for partnership with regional and subregional organizations.<sup>26</sup> Similarly, the representative of Japan noted that regional and subregional organizations could rapidly respond to settle disputes before they escalated.<sup>27</sup>

While recognizing the growing role of regional organizations in response to both the principle of subsidiarity and encouragement of regional stakeholders to assume responsibility and ownership, the representative of France cautioned against the danger of a fragmentation of collective security. He stressed that the Security Council remained the body with the primary responsibility for the maintenance of peace and security, acting on behalf of the members of the United Nations as a whole to that end.<sup>28</sup>

## Case 2

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

At its 6705th meeting, held on 19 January 2012 in connection with the promotion and strengthening of the rule of law, the representative of South Africa encouraged the Council to seek advisory opinions from the International Court of Justice when faced with complex legal questions, so as to demonstrate that it operated within the framework of international law, notwithstanding its primary role in the maintenance of international peace and security.<sup>29</sup> In the same vein, the representative of Pakistan urged the Council to “lead by example” in upholding and promoting the rule of law, adding that the determination of the existence of a threat to the peace by the Council must be made in accordance with Article 24 (2).<sup>30</sup> The representative of Argentina stated that the Council should be guided by the values of legitimacy, democracy and justice in conflict and post-conflict situations.<sup>31</sup>

<sup>19</sup> S/PV.6702, p. 3 (South Africa); p. 8 (Kenya); and p. 24 (United Kingdom); S/PV.6702 (Resumption 1), p. 3 (India); p. 7 (Ethiopia); p. 8 (Nigeria); and pp. 9-10 (United Kingdom).

<sup>20</sup> S/PV.6702, p. 22 (Togo).

<sup>21</sup> S/PV.6702 (Resumption 1), p. 10.

<sup>22</sup> S/PV.6919, p. 16.

<sup>23</sup> S/PV.7015, p. 2.

<sup>24</sup> Ibid., p. 16 (Rwanda); S/PV.7015 (Resumption 1), pp. 30-31 (Japan); and pp. 44-45 (Botswana).

<sup>25</sup> S/PV.7015 (Resumption 1), p. 24.

<sup>26</sup> S/PV.7015, p. 16.

<sup>27</sup> S/PV.7015 (Resumption 1), p. 30.

<sup>28</sup> S/PV.7015, p. 27.

<sup>29</sup> S/PV.6705, p. 20.

<sup>30</sup> Ibid., p. 17.

<sup>31</sup> S/PV.6705 (Resumption 1), p. 19.

In his remarks at the 6849th meeting, on 17 October 2012, the representative of the Office of the Prosecutor of the International Criminal Court stated that the respective mandates of the Council and the Court, rather than being a source of tension, linked the two bodies together in their common fight against impunity, which was an essential contribution to the quest for world peace and security.<sup>32</sup> Many speakers underlined the complementary and cooperative nature of the relationship between the Council and the Court, characterizing the fight against impunity for serious crimes as being a part of the primary responsibility of the Council for the maintenance of international peace and security.<sup>33</sup>

The representatives of China and the Sudan, however, cautioned of possible antagonistic aspects in the relationship between the Council and the Court. The representative of China expressed the hope that the Court would exercise caution in carrying out its functions and avoid seeking political settlements to international conflicts, impeding the Council's primary responsibility for the maintenance of international peace and security.<sup>34</sup> The representative of the Sudan distinguished between the respective mandates of the Council and the Court and warned against using the promotion of the rule of law within the framework of the maintenance of international peace and security "as a pretext to politicize international justice", in a way that contravened the mandate of the Council.<sup>35</sup>

In defining the Council's responsibility for the maintenance of international peace and security, the representative of South Africa opined that the Council should defer an investigation only if the deferral would contribute to the maintenance or restoration of peace.<sup>36</sup> The representative of Peru said that the referral of a situation to the Court did not relieve the Council of its primary responsibility for the maintenance of international peace and security.<sup>37</sup>

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<sup>32</sup> S/PV.6849, pp. 6-7.

<sup>33</sup> Ibid., p. 19 (Russian Federation); and p. 25 (Guatemala); S/PV.6849 (Resumption 1), pp. 6-7 (Australia); p. 22 (Tunisia); and p. 24 (Spain).

<sup>34</sup> S/PV.6849, p. 12.

<sup>35</sup> S/PV.6849 (Resumption 1), p. 30.

<sup>36</sup> S/PV.6849, p. 16.

<sup>37</sup> Ibid., p. 29.

### Case 3

#### Threats to international peace and security

At the 6760th meeting, held on 25 April 2012 in connection with threats to international peace and security, the representative of Pakistan noted that the Charter created a clear division of work among the organs of the United Nations, with the functions and powers of the Security Council "confined strictly to Article 24". In his view, that required the Council to fully observe all provisions of the Charter, as well as all General Assembly resolutions that clarified the relationship of the Council with the General Assembly and all other principal organs.<sup>38</sup> This position was echoed by the representative of the Islamic Republic of Iran.<sup>39</sup>

In relation to cross-border trafficking, the representative of Pakistan added that only a sovereign State could decide how to secure its borders and ensure that movement of goods and people across its borders did not pose a threat to it or to other States. In his view, border security should become a concern of the Council only in those specific situations that posed a threat to international peace and security.<sup>40</sup> That view was shared by the representatives of China and Brazil.<sup>41</sup> The representative of South Africa suggested that the Council could take up relevant issues of cross-border trafficking that fall within its mandate.<sup>42</sup>

The representative of Cuba opined that securing borders against illicit flows was beyond the functions and powers of the Council under Article 24, given that all or most Member States were participating in the counter-trafficking efforts of the General Assembly and other United Nations organs and agencies.<sup>43</sup> However, the representative of the United Kingdom argued that the Council's work in the maintenance of international peace and security included the need to address illicit flows across borders, through country-specific measures such as sanctions and wider thematic measures to address global threats such as terrorism or weapons of mass destruction.<sup>44</sup>

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<sup>38</sup> S/PV.6760, p. 17.

<sup>39</sup> S/PV.6760 (Resumption 1), p. 2.

<sup>40</sup> S/PV.6760, p. 17.

<sup>41</sup> Ibid., p. 11 (China); and p. 22 (Brazil).

<sup>42</sup> Ibid., pp. 15-16.

<sup>43</sup> Ibid., pp. 28-29.

<sup>44</sup> Ibid., p. 16.



**Case 4**  
**Implementation of the note by the President of**  
**the Security Council (S/2010/507)**

At the 6870th and 7052nd meetings, held on 26 November 2012 and 29 October 2013, respectively, on the Council's working methods, a number of speakers emphasized the need to improve the effectiveness, efficiency or transparency of the Council's functioning to better enable it to discharge its primary responsibility.<sup>45</sup> The representative of Egypt stressed that the Council's working methods were the collective responsibility of the general membership, given that Article 24 provided that the Council acted on behalf the entire membership of the United Nations.<sup>46</sup> Similarly, the representative of Costa Rica stated that Article 24 should function as a "two-way street", whereby Member States must recognize that the Council acted on their behalf, and the Council, in particular its five permanent members, must also demonstrate that it acted on behalf of the Member States.<sup>47</sup> The representative of the Russian Federation, however, cautioned that no innovation to improve the transparency of the work of the Security Council should harm its effectiveness, decrease its efficiency or interfere with the "frank, substantive discussions" of Council members.<sup>48</sup>

The representatives of Pakistan and India suggested that, in order to improve its efficiency and effectiveness, the Council should focus on issues concerning its primary responsibility for international peace and security and refrain from encroaching on the mandates of other bodies.<sup>49</sup> In the same vein, the representative of the Islamic Republic of Iran opined that Article 24 did not necessarily permit the Council to address issues within the functions and powers of

the General Assembly and the Economic and Social Council.<sup>50</sup>

The representative of Egypt was of the view that discussions in the Council on situations that did not constitute a threat to international peace and security were contrary to Article 24.<sup>51</sup> The representative of Luxembourg, however, lauded initiatives in recent years to better prepare the Council to anticipate threats to international peace and security, including the practice of the Department of Political Affairs of bringing relevant issues to the Council's attention.<sup>52</sup> The representative of Brazil called for the Council to increase its efforts in preventive diplomacy as part of exercising its primary responsibility.<sup>53</sup>

**Case 5**  
**Women and peace and security**

At the 6984th meeting, held on 24 June 2013 in connection with women and peace and security, the Special Envoy of the United Nations High Commissioner for Refugees said that addressing sexual violence in war zones was the duty of Governments and countries. In her opinion, in the absence of Governments able to take on that responsibility, the Council had to "step in and provide leadership and assistance" pursuant to its primary responsibility for the maintenance of international peace and security.<sup>54</sup>

The representative of China, while recognizing that the Council had an active role to play in fighting sexual violence in armed conflict,<sup>55</sup> argued against its encroachment on the responsibilities of the Human Rights Council and the Commission on the Status of Women in that regard. For that reason, he called upon the Council to implement its primary responsibility for the maintenance of international peace and security by focusing its efforts on conflict prevention, peacekeeping and post-conflict reconstruction.<sup>56</sup>

<sup>45</sup> S/PV.6870, p. 4 (Colombia); p. 5 (Russian Federation); p. 9 (China); p. 13 (Morocco); and p. 19 (United States); S/PV.7052, p. 4 (Luxembourg, United States); p. 22 (India); p. 29 (Estonia); and p. 32 (Slovenia); S/PV.7052 (Resumption 1), p. 20 (Maldives).

<sup>46</sup> S/PV.7052, pp. 27-28.

<sup>47</sup> S/PV.7052 (Resumption 1), p. 6.

<sup>48</sup> S/PV.6870, p. 6; S/PV.7052, p. 13.

<sup>49</sup> S/PV.6870, p. 12 (Pakistan); and pp. 20-21 (India); S/PV.7052, p. 23 (India).

<sup>50</sup> S/PV.6870, p. 31.

<sup>51</sup> S/PV.6870, p. 29; S/PV.7052, p. 28.

<sup>52</sup> S/PV.6870, p. 26.

<sup>53</sup> S/PV.7052, p. 24.

<sup>54</sup> S/PV.6984, p. 6.

<sup>55</sup> Ibid., p. 21.

<sup>56</sup> Ibid.

## II. Obligation of Member States to accept and carry out decisions of the Security Council under Article 25

### Article 25

*The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.*

### Note

Section II covers the practice of the Security Council in relation to Article 25 during the period under review. There was one explicit reference to Article 25 in a resolution (see subsection A), but there were no implicit references to this provision in decisions. Article 25 was explicitly referred to on five occasions during meetings of the Council (see subsection B).

In addition, Article 25 was referred to explicitly in attachments to three notes by the President of the Security Council circulating periodic reports of the Director General of the International Atomic Energy Agency concerning the application of non-proliferation safeguards in the Islamic Republic of Iran pursuant to resolution 1929 (2010). In paragraph 3 of each report, it was recalled that all Member States had agreed to accept and carry out the decisions of the Security Council, citing Article 25 of the Charter.<sup>57</sup>

### A. Decisions referring to Article 25

Article 25 was explicitly referred to in one decision of the Council adopted during the period under review. In resolution 2118 (2013) concerning the situation in the Middle East, the Council underscored that Member States were “obligated under Article 25 of the Charter of the United Nations to accept and carry out the Council’s decisions”.<sup>58</sup> The resolution was adopted in connection with the use of chemical weapons in an attack in the Syrian Arab Republic on 21 August 2013. The Council condemned the attack and required the Syrian Arab Republic to, inter alia, comply with “all aspects” of the decision of the

<sup>57</sup> See S/2012/114, S/2012/364 and S/2012/677.

<sup>58</sup> Resolution 2118 (2013), fourteenth preambular paragraph.

Organization for the Prohibition of Chemical Weapons, contained in annex I to the resolution, concerning the destruction of the chemical weapons programme of the Syrian Arab Republic.<sup>59</sup>

### B. Discussions relating to Article 25

In 2012 and 2013, Article 25 was explicitly referred to at five meetings of the Council<sup>60</sup> and implicitly referred to in Council discussions in which speakers recalled the binding nature of Security Council decisions or emphasized the obligation of Member States to abide by them.

The case studies below examine the most salient constitutional discussions relating to the interpretation or application of Article 25 in connection with women and peace and security (case 6); the International Criminal Court (case 7); the situation in the Middle East (case 8); and the working methods of the Security Council (case 9).

#### Case 6 Women and peace and security

At the 6722nd meeting, held on 23 February 2012 in connection with women and peace and security, the representative of Pakistan criticized the inclusion of situations outside of armed conflict or threats to international peace and security in the report of the Secretary-General on conflict-related sexual violence,<sup>61</sup> noting that those situations went beyond the mandate of the Council and ran counter to relevant Council resolutions. He expressed concern that some Council members, while arguing for the binding nature of Council resolutions, condoned deviations from mandates authorized by those very resolutions.<sup>62</sup> The representative of the United Kingdom emphasized that Council resolutions were binding on all Member

<sup>59</sup> Ibid., paragraphs 2 and 6.

<sup>60</sup> S/PV.6760, p. 17 (Pakistan); S/PV.6849 (Resumption 1), p. 2 (Liechtenstein); S/PV.6870, p. 26 (Japan); S/PV.7038, p. 13 (Argentina); and S/PV.7052 (Resumption 1), p. 18 (Japan).

<sup>61</sup> S/2012/33.

<sup>62</sup> S/PV.6722, p. 22.

States, whether or not they were present on the Council.<sup>63</sup> At the 6877th meeting, on 30 November 2012, the representative of Sweden, speaking on behalf of the Nordic countries, expressed concern about the lack of implementation of Council resolutions on women and peace and security, which he stated were “binding and relevant” to all Member States.<sup>64</sup>

**Case 7**

**Promotion and strengthening of the rule of law in the maintenance of international peace and security**

At the 6849th meeting, held on 17 October 2012 in connection with the role of the International Criminal Court, the representative of Liechtenstein referred to Article 25 in the context of enforcing cooperation by a Member State whose situation had been referred to the Court pursuant to Chapter VII of the Charter. According to him, a lack of cooperation by a referred State with the Court was a violation of the obligation of that State under Article 25. In those circumstances, he urged the Council to provide backing to the Court by taking steps to enforce cooperation by the Member State concerned.<sup>65</sup>

**Case 8**

**Situation in the Middle East**

At the 7038th meeting, held on 27 September 2013 on the situation in the Middle East, the representative of Argentina stated that the Council’s decisions were binding on all Member States pursuant to Article 25. He made this remark in the context of resolution 2118 (2013) concerning the use of chemical weapons in the Syrian Arab Republic (see section II.A above). While trusting that the various actors in the Syrian conflict would cooperate to effectively implement the resolution, he pointed out that, in the case of non-compliance, it was within the exclusive power of the Council to take measures that it deemed appropriate under Chapter VII of the Charter.<sup>66</sup> Several other speakers emphasized that the obligations

imposed by resolution 2118 (2013) on the Syrian Arab Republic, namely, to secure and destroy its chemical weapons through unconditional cooperation with the Organization for the Prohibition of Chemical Weapons, were “legally binding”.<sup>67</sup> The representative of France stressed his country’s determination to implement the resolution along with other Council members, including through imposing measures under Chapter VII, if necessary.<sup>68</sup> At the 6841st meeting, held on 26 September 2012 under the same item, the Secretary-General of the League of Arab States had called for binding resolutions of the Council to be “implemented in a binding manner”, in the context of the situation in the Syrian Arab Republic.<sup>69</sup>

**Case 9**

**Implementation of the note by the President of the Security Council (S/2010/507)**

At the 7052nd meeting, held on 29 October 2013 in connection with the working methods of the Council and the implementation of the note by the President of the Security Council (S/2010/507), the representative of Switzerland observed that the Council acted on behalf of all Member States and that all Member States agreed to accept and carry out the Council’s decisions. Therefore, all Member States had a fundamental interest in the Council’s decisions and the process leading to them.<sup>70</sup> The representative of Saudi Arabia emphasized the need for all States to abide by Council resolutions “equally and without selectivity”.<sup>71</sup> The representative of Japan recognized that Member States had agreed to accept Council decisions as binding under Article 25, but that this was not necessarily a reflection on the legitimacy of those decisions. He called for enhancing the legitimacy of Council decisions through improving the working methods of the Council and the reform of the Council itself.<sup>72</sup> The representative of Japan had expressed similar views at the 6870th meeting, held on 26 November 2012 under

<sup>63</sup> Ibid., p. 17.

<sup>64</sup> S/PV.6877, p. 50.

<sup>65</sup> S/PV.6849 (Resumption 1), p. 2 (Liechtenstein, also on behalf of Jordan and Costa Rica, the two other former Presidents of the Assembly of States Parties to the Rome Statute of the International Criminal Court).

<sup>66</sup> S/PV.7038, p. 13.

<sup>67</sup> Ibid., p. 5 (United States); p. 6 (United Kingdom); p. 6 (Luxembourg); p. 8 (Azerbaijan); p. 9 (Republic of Korea); and p. 15 (Australia).

<sup>68</sup> Ibid., pp. 6-8.

<sup>69</sup> S/PV.6841, p. 5.

<sup>70</sup> S/PV.7052, p. 19. Switzerland spoke on behalf of the 22-member Accountability, Coherence and Transparency group.

<sup>71</sup> Ibid., p. 25.

<sup>72</sup> S/PV.7052 (Resumption 1), p. 18.

the same item.<sup>73</sup> At that meeting, the representative of Singapore had criticized the observation that Member

<sup>73</sup> S/PV.6870, p. 26.

States were expected to comply with Council decisions but had no way of influencing those decisions.<sup>74</sup>

<sup>74</sup> Ibid., p. 27.

### III. Responsibility of the Security Council to formulate plans to regulate armaments under Article 26

#### Article 26

*In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.*

#### Note

Section III covers the practice of the Security Council concerning its responsibility for formulating plans for the establishment of a system for the regulation of armaments, pursuant to Article 26 of the Charter.

During the period under review, the Council did not adopt any decision explicitly invoking Article 26. Article 26 was mentioned explicitly, however, during one Council meeting, as described in the following case study.

#### Case 10 Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security

At the 7015th meeting, held on 6 August 2013 in connection with cooperation between the United

Nations and regional and subregional organizations in maintaining international peace and security, the representative of Costa Rica recommended that cooperation for peace and security between the Security Council and regional bodies should not be limited to Articles 52 and 54 of the Charter,<sup>75</sup> but should also extend to Article 26, which he described as equally important.<sup>76</sup> Quoting from Article 26, he noted that this provision gave the Council the mandate to develop plans for the regulation of armaments, in order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources.<sup>77</sup> He stressed the need for the Council to give “real expression” to Article 26 by channelling its cooperation with regional organizations more towards arms control, the regulation of military spending and the prevention of an arms race, which he characterized as “obvious obstacles to peace and development”.<sup>78</sup>

<sup>75</sup> See part VIII for a discussion of Articles 52 and 54 of the Charter.

<sup>76</sup> S/PV.7015 (Resumption 1), p. 34.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.