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## **Part III**

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

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## Introductory note

Part III of the present Supplement 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 2016 and 2017, the Council continued to deliberate on the principle of self-determination regarding the situation in the Middle East, including the Palestinian question, and the situation concerning Western Sahara. It also discussed the application of Articles 2 (4) and 2 (7) extensively during an open debate held under the item entitled "Maintenance of international peace and security". The Council also reflected upon the principles enshrined in Article 2 (4) of the Charter during an open debate on conflicts in Europe; and upon the application of Article 2 (5) of the Charter during discussions on non-proliferation as well as on issues of compliance with sanctions measures. No Council decisions adopted during the reporting period contained explicit references to any of these Articles. This fact notwithstanding, this part includes Council decisions featuring language relating to the principles enshrined in Articles 1 (2), 2 (4), 2 (5) and 2 (7). This part also includes implicit and explicit invocations of Articles 1 (2), 2 (4), 2 (5) and 2 (7) found in the correspondence addressed to the Council during the period under review.

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## 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 with regard to 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 Article 1 (2) and 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, several implicit references found in its decisions are of relevance for the interpretation and application of Article 1 (2). Those implicit references were made in connection with the decision by the Ngok Dinka to conduct a “unilateral” referendum in Abyei and with the envisaged referendum in Western Sahara (see table 1).

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

<i>Decision and date</i>	<i>Provision</i>
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2287 (2016)</a> 12 May 2016	Urging all parties to refrain from any unilateral action that could aggravate intercommunal relations within the Abyei Area, expressing concern over the continued implications of what the Peace and Security Council described in its press statement of 6 November 2013 as “the decision by the Ngok Dinka to conduct a unilateral referendum”, and also in this context taking note that the Government of the Sudan proceeded with its April 2015 national elections in Abyei (twentieth preambular paragraph)  <i>See also resolution <a href="#">2318 (2016)</a>, twentieth preambular paragraph; resolution <a href="#">2352 (2017)</a>, twenty-first preambular paragraph; and resolution <a href="#">2386 (2017)</a>, twenty-second preambular paragraph.</i>
<b>The situation in Western Sahara</b>	
Resolution <a href="#">2285 (2016)</a> 29 April 2016	Reaffirming its commitment to assist the parties to achieve 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 (third preambular paragraph)  <i>See also resolution <a href="#">2351 (2017)</a>, third preambular paragraph.</i>  Calls upon the parties to continue 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 notes the role and responsibilities of the parties in this respect (para. 9)  <i>See also resolution <a href="#">2351 (2017)</a>, para. 8.</i>

Resolution [2351 \(2017\)](#)  
28 April 2017

Affirms its full support for the commitment of the Secretary-General and his Personal Envoy towards a solution to the question of Western Sahara, in this context to relaunch the negotiating process with a new dynamic and a new spirit leading to the resumption of a political process with the aim of reaching a 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 (para. 7)

Further requests the Secretary-General to update the Security Council within six months of the appointment of the new Personal Envoy on (i) ways in which the Personal Envoy, working with the parties, is progressing towards a 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 present a clear path forward, (ii) how performance measures for the United Nations Mission for the Referendum in Western Sahara (MINURSO) are being developed and implemented, (iii) how structures and staffing can be reorganized to achieve mission goals efficiently, and (iv) how new technologies are being considered to reduce risk, improve force protection, and better implement the mandate of MINURSO (para. 11)

## B. Constitutional discussion relating to Article 1 (2)

During the period under review, Article 1(2) was not explicitly invoked in the deliberations of the Security Council. Article 1 was invoked in broad terms twice, in relation to the right of self-determination of peoples. At the 7621st meeting, held on 15 February 2016 on the item entitled “Maintenance of international peace and security”, the representative of Thailand said that the maintenance of international peace and security was indeed one of the main purposes of the United Nations, as stipulated in Article 1 of its Charter, adding that it must go hand in hand with the development of friendly relations among nations based on respect for the principle of equal rights and the self-determination of peoples.<sup>1</sup> At the 7863rd meeting, on 17 January 2017, on the item entitled “The situation in the Middle East, including the Palestinian question”, the Permanent Observer of the State of Palestine, commenting on the adoption of resolution [2334 \(2016\)](#), urged participants to read the Charter of the United Nations, beginning with the purposes and principles defined in Article 1, including the maintenance of international peace and security and upholding the right of peoples to self-determination.<sup>2</sup>

At the 8072nd meeting, on 18 October 2017, also under the item entitled “The situation in the Middle East, including the Palestinian question”, several speakers rejected the unilateral referendum on

independence in Kurdistan.<sup>3</sup> The principle of self-determination was mentioned in other debates of the Council under the same item,<sup>4</sup> as well as in connection with the situation concerning Western Sahara.<sup>5</sup> Such references, however, did not amount to constitutional discussions.

<sup>3</sup> [S/PV.8072](#), p. 24 (Uruguay); p. 43 (European Union); and p. 51 (Turkey).

<sup>4</sup> See, for example, in connection with the situation in the Middle East, including the Palestinian question, [S/PV.7610](#), p. 3 (Secretary-General); p. 6 (Palestine); p. 17 (Ukraine); p. 23 (Bolivarian Republic of Venezuela); p. 35 (Kazakhstan); p. 40 (Indonesia); p. 41 (Syrian Arab Republic); p. 43 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); p. 49 (Kuwait, on behalf of the Organization of Islamic Cooperation (OIC), (Bangladesh); and p. 65 (Haiti); [S/PV.8011](#), pp. 5–8 (Palestine); p. 18 (Ethiopia); and p. 24 (Egypt); and [S/PV.8011](#) (Resumption 1), p. 5 (Islamic Republic of Iran); p. 9 (Namibia, Indonesia); p. 12 (South Africa); p. 16 (Syrian Arab Republic); p. 19 (Malaysia, Bangladesh); p. 22 (Cuba); p. 23 (Uzbekistan, on behalf of OIC); p. 26 (Bolivarian Republic of Venezuela, on behalf of the Non-Aligned Movement); and p. 29 (Viet Nam).

<sup>5</sup> See, for example, in connection with the situation concerning Western Sahara, [S/PV.7684](#), p. 2 (United States); p. 3 (New Zealand); pp. 5–6 (Bolivarian Republic of Venezuela); p. 7 (Spain, United Kingdom); p. 8 (Malaysia, Japan); p. 9 (Angola); and p. 10 (Russian Federation); and [S/PV.7933](#), p. 3 (United States); p. 4 (Uruguay); pp. 4–5 (Sweden); p. 6 (Ethiopia); p. 8 (Italy, Plurinational State of Bolivia); and p. 9 (Russian Federation).

<sup>1</sup> [S/PV.7621](#), pp. 71–72.

<sup>2</sup> [S/PV.7863](#), p. 5.

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

During the period under review, one explicit reference was made to Article 1 (2) in the communications addressed to the Council, in a letter dated 10 April 2017 from the Permanent Representative of Azerbaijan to the Secretary-General, transmitting a legal opinion on “third party obligations with respect to illegal economic and other activities in the occupied territories of Azerbaijan”. The opinion, prepared at the request of the Government of Azerbaijan, quoted Article 1 (2) of the Charter in its entirety.<sup>6</sup> On two occasions, Article 1 was broadly referred to with an emphasis on the principles enshrined in Article 1 (2). The first instance was in a letter dated 8 April 2016 from the Permanent Representative of Ukraine to the Secretary-General, transmitting the appeal of the Verkhovna Rada (Parliament) of Ukraine to the United Nations and other international organizations and parties, by which the Verkhovna Rada, “guided by the principles enshrined in ... Article 1 of the Charter” in regard to the preservation of the identity of the Crimean Tatar people and all other national minorities of Ukraine, called for the condemnation of the violation of human rights and freedoms of Crimean Tatars.<sup>7</sup> The second

instance was in a letter dated 25 April 2017 from the Permanent Representative of Ecuador to the Secretary-General, transmitting a resolution of the National Assembly of Ecuador in which the Assembly called for the implementation of Security Council resolution 690 (1991) concerning the organization of a referendum to allow the people of Western Sahara to exercise their right to self-determination.<sup>8</sup> The principle of self-determination was invoked in many communications addressed to or brought to the attention of the Security Council, including communications from Member States relating to Western Sahara,<sup>9</sup> the Middle East, including the Palestinian question,<sup>10</sup> Ukraine<sup>11</sup> and the India-Pakistan question.<sup>12</sup> References were also made to the right of self-determination in communications from and reports of the Secretary-General on the situation concerning Western Sahara.<sup>13</sup>

<sup>8</sup> See S/2017/353, annex.

<sup>9</sup> See, for example S/2016/269, annex; S/2016/373, annex; S/2017/405, annex and enclosure; and S/2017/609, annex.

<sup>10</sup> See, for example, S/2016/402; S/2016/450; S/2016/516; S/2016/544; S/2016/961; S/2017/1029; S/2017/1046, annex; S/2017/1085, annex; and S/2017/1121, annex.

<sup>11</sup> See, for example S/2016/338, annex; and S/2016/439, annex.

<sup>12</sup> See, for example, S/2016/613, annex; S/2016/688; S/2016/707, annex; S/2016/877, annex; and S/2017/499, annex.

<sup>13</sup> S/2016/355, S/2017/307 and S/2017/462.

<sup>6</sup> See S/2017/316, annex.

<sup>7</sup> See S/2016/338, annex.

## 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. 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 Security Council adopted no decision 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.

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

During 2016 and 2017, the Council stressed, as in previous periods, the importance of the prohibition of the threat or use of force against other Member States through many of its decisions, in particular concerning the future status of Abyei and the situation in the Middle East, including the Palestinian question (see 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>The situation in the Middle East</b>	
Resolution <a href="#">2294 (2016)</a> 29 June 2016	<p>Stressing that both parties must abide by the terms of the disengagement of forces agreement of 31 May 1974 between Israel and the Syrian Arab Republic and scrupulously observe the ceasefire (third preambular paragraph)</p> <p><i>See also resolution <a href="#">2330 (2016)</a>, third preambular paragraph; resolution <a href="#">2361 (2017)</a>, third preambular paragraph; and resolution <a href="#">2394 (2017)</a>, third preambular paragraph.</i></p> <p>Stresses the obligation on both parties to scrupulously and fully respect the terms of the disengagement of forces agreement of 31 May 1974, calls upon the parties to exercise maximum restraint and prevent any breaches of the ceasefire and the area of separation, encourages the parties to take advantage of the liaison function of the United Nations Disengagement Observer Force regularly to address issues of mutual concern, as appropriate, 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)</p> <p><i>See also resolution <a href="#">2330 (2016)</a>, para. 2; resolution <a href="#">2361 (2017)</a>, para. 2; and resolution <a href="#">2394 (2017)</a>, para. 2.</i></p>
<b>The situation in the Middle East, including the Palestinian question</b>	
Resolution <a href="#">2334 (2016)</a> 23 December 2016	<p>Guided by the purposes and principles of the Charter of the United Nations, and reaffirming, inter alia, the inadmissibility of the acquisition of territory by force (second preambular paragraph)</p> <p>Reiterates its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respect all of its legal obligations in this regard (para. 2)</p>
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2287 (2016)</a> 12 May 2016	<p>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 of 9 January 2005, and underscoring that the future status of Abyei shall be resolved by negotiations between the parties in a manner consistent with the Agreement and not by the unilateral actions of either party (third preambular paragraph)</p> <p><i>See also resolution <a href="#">2318 (2016)</a>, third preambular paragraph; resolution <a href="#">2352 (2017)</a>, third preambular paragraph; and resolution <a href="#">2386 (2017)</a>, third preambular paragraph.</i></p>

**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, in particular

with regard to the situations in Burundi, the Democratic Republic of the Congo, the Great Lakes region, Libya and the Middle East. Furthermore, in many country-specific situations, the Council consistently reaffirmed 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 Burundi</b>	
Resolution <a href="#">2279 (2016)</a> 1 April 2016	<p>Calls upon States in the region to contribute to a solution to the crisis in Burundi and to refrain from supporting the activities of armed movements in any way, and recalls in this regard commitments by the States in the region under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region and the 1951 Convention relating to the Status of Refugees (para. 8)</p> <p><i>See also resolution <a href="#">2303 (2016)</a>, para. 9.</i></p>
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2277 (2016)</a> 30 March 2016	<p>Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the Democratic Republic of the Congo 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 (third preambular paragraph)</p> <p><i>See also resolution <a href="#">2293 (2016)</a>, second preambular paragraph; resolution <a href="#">2348 (2017)</a>, third preambular paragraph; and resolution <a href="#">2360 (2017)</a>, second preambular paragraph.</i></p> <p>Recalling also the commitments under the Peace, Security and Cooperation Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups (fifth preambular paragraph)</p> <p><i>See also resolution <a href="#">2293 (2016)</a>, sixth preambular paragraph; and resolution <a href="#">2360 (2017)</a>, eighth preambular paragraph.</i></p>
Resolution <a href="#">2348 (2017)</a> 31 March 2017	<p>Reiterates its call to the Government of the Democratic Republic of the Congo and all signatory States under the Peace, Security and Cooperation Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals (para. 18)</p>
<b>The situation in the Great Lakes region</b>	
Resolution <a href="#">2389 (2017)</a> 8 December 2017	<p>Recalling the commitments under the Peace, Security and Cooperation Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups, and reiterating its strong condemnation of any and all internal or external support to armed groups active in the region, including through financial, logistical or military support, and not to harbour war criminals (twelfth preambular paragraph)</p> <p>Reiterates its call to all signatory States under the Peace, Security and Cooperation Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of</p>



*Decision and date*

*Provision*

neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals, and calls upon the Government of the Democratic Republic of the Congo, which has the primary responsibility for safeguarding the sovereignty and territorial integrity of the Democratic Republic of the Congo, to make further progress in implementing its commitments under the Peace, Security and Cooperation Framework, in particular as regards security sector reform, consolidation of State authority, reconciliation, tolerance and democratization (para. 6)

### The situation in Libya

[S/PRST/2017/26](#)  
14 December 2017

The Council recalls paragraph 5 of resolution [2259 \(2015\)](#) and reaffirms that any attempt, including by Libyan parties, to undermine the Libyan-led, United Nations-facilitated political process is unacceptable. The Council underscores that Libyans should decide their own future without foreign interference (tenth paragraph)

### The situation in the Middle East

[S/PRST/2016/10](#)  
22 July 2016

The Council underscores its previous calls upon all Lebanese parties to recommit to Lebanon's policy of dissociation and to cease any involvement in the Syrian crisis, consistent with their commitment in the ministerial declaration of the current Government and in the Baabda Declaration of 11 June 2012 (tenth paragraph)

*See also [S/PRST/2016/15](#), fourth paragraph.*

## **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, in several decisions concerning in particular the situations in Burundi, the Democratic Republic of the Congo, the Great Lakes region and the Sudan and South Sudan, the Council called upon Governments to cease support for illegal armed groups engaged in undermining peace and stability (see table 4).

Table 4

### **Decisions calling for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security**

*Decision and date*

*Provision*

#### The situation in Burundi

[S/PRST/2017/13](#)  
2 August 2017

The Council also calls upon States in the region to contribute to a solution to the crisis in Burundi, and to refrain from supporting the activities of armed movements in any way, and recalls in this regard commitments of the States in the region under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region and the 1951 Convention relating to the Status of Refugees (sixteenth paragraph)

*See also resolution [2279 \(2016\)](#), para. 8; and resolution [2303 \(2016\)](#), para. 9.*

#### The situation concerning the Democratic Republic of the Congo

Resolution [2277 \(2016\)](#)  
30 March 2016

Recalling also the commitments under the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups (fifth preambular paragraph)

Decision and date

Provision

*See also resolution 2293 (2016), sixth preambular paragraph; and resolution 2360 (2017), eighth preambular paragraph.*

Resolution 2348 (2017)  
31 March 2017

Reiterates its call to the Government of the Democratic Republic of the Congo and all signatory States under the Peace, Security and Cooperation Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals (para. 18)

### The situation in the Great Lakes region

Resolution 2389 (2017)  
8 December 2017

Recalling the commitments under the Peace, Security and Cooperation Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups, and reiterating its strong condemnation of any and all internal or external support to armed groups active in the region, including through financial, logistical or military support, and not to harbour war criminals (twelfth preambular paragraph)

Reiterates its call to all signatory States under the Peace, Security and Cooperation Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals, and calls upon the Government of the Democratic Republic of the Congo, which has the primary responsibility for safeguarding the sovereignty and territorial integrity of the Democratic Republic of the Congo, to make further progress in implementing its commitments under the Peace, Security and Cooperation Framework, in particular as regards security sector reform, consolidation of State authority, reconciliation, tolerance and democratization (para. 6)

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

Resolution 2340 (2017)  
8 February 2017

Expressing concern about the external links, in particular military, between non-signatory armed groups in Darfur and groups outside Darfur, demanding that direct or indirect military support for such armed groups in Darfur cease, and condemning actions by any armed group aimed at the forced overthrow of the Government of the Sudan, noting that there is no military solution to the conflict in the Sudan (seventh preambular paragraph)

### Maintenance of international peace and security

S/PRST/2016/2  
31 March 2016

*The Council recalls the regional commitment under the Peace, Security and Cooperation Framework not to harbour war criminals or provide support to armed groups, including recruitment, and urges all countries in the Great Lakes region to implement this provision of the Framework and to make concerted efforts to investigate any allegations that former 23 March Movement members have committed serious crimes under international law and to hold accountable those responsible (fifth paragraph)*

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

During the period under review, in connection with the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, the Council adopted one

resolution in which it called for the permanent withdrawal of all unauthorized forces from the Abyei Area. The Council also adopted two resolutions in which it urged the Government of Israel to expedite the withdrawal of its army from northern Ghajar, located on the border between Lebanon and Israel.

Table 5

**Decisions in which the Council called upon parties to withdraw all military forces from a disputed area**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in the Middle East</b>	
Resolution <a href="#">2305 (2016)</a> 30 August 2016	Urges the Government of Israel to expedite the withdrawal of its army from northern Ghajar without further delay in coordination with the United Nations Interim Force in Lebanon, which has actively engaged Israel and Lebanon to facilitate such a withdrawal (para. 10)  <i>See also resolution <a href="#">2373 (2017)</a>, para. 12.</i>
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2318 (2016)</a> 15 November 2016	Taking note of the report of the Secretary-General of 12 October 2016, <sup>a</sup> including the Secretary-General's call upon the parties to renew efforts to address the issues that have remained unresolved, implement the Abyei Agreement of 20 June 2011 and ensure full and permanent withdrawal of all unauthorized forces from the Abyei Area (twenty-sixth preambular paragraph)

<sup>a</sup> [S/2016/864](#).

**B. Constitutional discussion relating to Article 2 (4)**

During the period under review, Article 2 (4) of the Charter was explicitly invoked four times at three Council meetings. At the 7757th meeting, held on 22 August 2016 concerning the situation in the Middle East, the representative of the Syrian Arab Republic read out the text of Article 2 (4) while addressing the Council on the humanitarian crisis in that country.<sup>14</sup> Cases 1 and 2 below, which cover relevant deliberations of the Council under the item entitled “Maintenance of international peace and security”, feature the other three explicit invocations of Article 2 (4), as well as four broader invocations of Article 2 including language relating to paragraph 4 and several implicit references to the principles of non-use of force and non-interference. Article 2 (4) was implicitly invoked at various other Council meetings during the reporting period.<sup>15</sup> Article 2 in general was explicitly

invoked nine additional times during Council meetings, although in only three of those instances did the language relate directly to the principles enshrined in paragraph 4 of Article 2.<sup>16</sup>

**Case 1  
Maintenance of international peace and security**

At its 7621st meeting, held on 15 February 2016, at the initiative of the Bolivarian Republic of Venezuela, which held the presidency for the month,<sup>17</sup> the Council held an open debate under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”. Several speakers reaffirmed the importance of Article 2 (4) of the Charter in their statements, in particular, the prohibition of the threat or use of force in international relations, the principle of good-neighbourliness and non-interference by States in the internal affairs of others, and the respect for the

<sup>14</sup> [S/PV.7757](#), p. 20.

<sup>15</sup> See, for example, under the item entitled “Briefing by the Chairperson-in-Office of the Organization for Security and Cooperation in Europe”, [S/PV.7635](#), p. 3 (Chairperson-in-Office of OSCE); p. 8 (Malaysia); pp. 14–16 (Ukraine); pp. 18 and 21 (United States); and p. 20 (Russian Federation); and, under the item entitled “Maintenance of international peace and security”, [S/PV.7857](#), p. 30 (Latvia); p. 48 (Ecuador); p. 57 (Cuba); pp. 65–66 (Azerbaijan); and p. 95 (Armenia); and [S/PV.8144](#), p. 7 (Ukraine); p. 10 (Plurinational State of Bolivia); p. 20 (Russian Federation); p.42 (Saudi Arabia); p. 49 (Mexico); and p. 59 (Armenia).

<sup>16</sup> See, under the item entitled “The situation in Somalia”, [S/PV.7925](#), p. 16 (Djibouti); and, under the item entitled “The situation in the Middle East, including the Palestinian question”, [S/PV.8072](#), p. 14 (Plurinational State of Bolivia); and [S/PV.8108](#), p. 6 (Plurinational State of Bolivia).

<sup>17</sup> A concept note was circulated by a letter dated 1 February 2016 ([S/2016/103](#)).

sovereignty, territorial integrity and political independence of States.<sup>18</sup>

The representative of the Bolivarian Republic of Venezuela indicated that the purposes and principles of the Charter of the United Nations were “the essential ingredients of world peace”. She also called attention to the “growing intrusion into the internal affairs of States by Governments in violation of the principle of non-interference” and stressed that such attempts constituted an obstacle to peaceful coexistence among nations, and thus to international peace and security.<sup>19</sup> The representative of France said that collective standards such as upholding the rule of law and international law were “recalled in Article 2 of the Charter” and that they sought to “restrict the use of force within the boundaries of collective responsibility”.<sup>20</sup> The representative of Cuba underlined that the rule of law in international relations was incompatible with any effort “aimed at interfering in a country’s internal affairs”.<sup>21</sup> The representative of Brazil stressed that the role of the United Nations as a platform for dialogue and diplomacy had been debilitated “by attempts to resolve controversies through unilateral coercive measures, including unauthorized resort to military action”.<sup>22</sup> The representative of the Holy See recalled the address made to the General Assembly in 2015 by the Secretary of Relations with States of the Holy See, in which the Secretary had highlighted the need for “a genuine and transparent application of Article 2 of the Charter of the United Nations, which established the principle of non-intervention, excluding all unilateral force against another Member of the United Nations and demanding full respect for lawfully constituted and recognized Governments”.<sup>23</sup>

During the meeting, some speakers focused on the application of Article 2 (4) in country-specific

situations. For example, the representative of Ukraine described the activities of the Russian Federation in Crimea and eastern Ukraine as an “illegal occupation” and “aggression”, and stated that under Article 2 of the Charter “the use of force against the territorial integrity of another State [was] illegal; thus, no territorial acquisition [could] be recognized as lawful or retrospectively legitimized”.<sup>24</sup> The representative of the United Kingdom asserted his country’s commitment to the “return of Crimea to its rightful place as part of Ukraine”; and the representative of the United States called upon the Russian Federation to end its “illegal occupation of Crimea and cease support for separatists”.<sup>25</sup> The representative of the European Union quoted paragraph 4 of Article 2 in its entirety, and said that there was “no place in the twenty-first century for the use of force and coercion to change internationally recognized borders in Europe or elsewhere”, while also expressing the European Union’s strong commitment “to upholding the sovereignty, independence, unity and territorial integrity of Ukraine”.<sup>26</sup> The representative of Georgia also accused the Russian Federation of “ongoing aggression” against his country and of redrawing European borders, including in the case of Ukraine, “by using aggression, occupation and annexation”.<sup>27</sup> In contrast, the representative of the Russian Federation argued that “blatant interference in the internal affairs of Ukraine took place through support from the outside aimed at undertaking an anti-constitutional coup d’état in 2014” and asserted that what happened in Crimea was “the right to exercise self-determination”.<sup>28</sup>

Several speakers also discussed the situation in the Syrian Arab Republic with reference to Article 2 (4). The representative of Turkey criticized the Governments of the Syrian Arab Republic and the Russian Federation for the alleged use of force in the region.<sup>29</sup> The representative of the Syrian Arab Republic, on the other hand, accused the Turkish State of supporting rebel forces in the conflict. He also said that attempts by some Member States to justify their military intervention in the Syrian Arab Republic, on the pretext of combating Da’esh and complying with Article 51, constituted “a surreal manipulation of international law that [undermined] Syrian sovereignty,

<sup>18</sup> S/PV.7621, p. 7 (Angola); p. 10 (Egypt); p. 12 (France); p. 15 (Senegal); pp. 21-22 (Uruguay); p. 25 (China); p. 28 (Russian Federation); p. 30 (Argentina); p. 33 (Islamic Republic of Iran); p. 34 (Brazil); p. 37 (Viet Nam); p. 39 (Syrian Arab Republic); p. 44 (European Union); p. 46 (League of Arab States); p. 48 (Nicaragua, Kazakhstan); pp. 49-50 (Cuba); p. 50 (Colombia); p. 54 (Eritrea); p. 55 (Kuwait, on behalf of OIC); p. 56 (Germany); p. 59 (Pakistan); p. 60 (Bangladesh); p. 62 (Liechtenstein); p. 63 (South Africa); p. 64 (Holy See); p. 65 (Organization of American States); p. 69 (Ecuador); p. 72 (Thailand); p. 73 (Poland, Maldives); pp. 77-78 (Latvia); p. 80 (Guyana); and p. 87 (Azerbaijan).

<sup>19</sup> Ibid., pp. 4-5.

<sup>20</sup> Ibid., p. 12.

<sup>21</sup> Ibid., p. 50.

<sup>22</sup> Ibid., p. 34.

<sup>23</sup> Ibid., p. 64.

<sup>24</sup> Ibid., p. 16.

<sup>25</sup> Ibid., p. 20 (United Kingdom); and p. 26 (United States).

<sup>26</sup> Ibid., p. 44.

<sup>27</sup> Ibid., pp. 59-60.

<sup>28</sup> Ibid., p. 29.

<sup>29</sup> Ibid., p. 83.

thus prolonging the life of terrorism and sheltering its sponsors”.<sup>30</sup>

In regard to the question of Palestine, the representative of the Bolivarian Republic of Venezuela stated that Palestine had “the right to an immediate cessation of the criminal acts of aggression on the part of Israel against its people” and to “finally legitimately recover its territories”.<sup>31</sup> The representative of Kuwait, speaking on behalf of the Organization of Islamic Cooperation, called for termination of the occupation of the Palestinian territories by Israel; and the representative of the United Arab Emirates urged States to implement the Security Council resolutions calling for the withdrawal of Israeli forces from the occupied territories.<sup>32</sup>

On the situation in Nagorno-Karabakh, the representative of Armenia alleged aggression by Azerbaijan against the people of the region.<sup>33</sup> In response, the representative of Azerbaijan accused Armenia of “using force to undermine the sovereignty and territorial integrity of Azerbaijan”, of occupying “around one fifth of the territory of Azerbaijan” and of carrying out ethnic cleansing. She further stated that the conflict between the two countries could be resolved “only on the basis of full respect for the sovereignty and territorial integrity of Azerbaijan” and called upon Armenia to “withdraw its armed forces from Nagorno-Karabakh and other occupied territories of Azerbaijan”.<sup>34</sup>

The representative of the United Arab Emirates denounced the “rise in the rampant use of force against the territorial integrity, sovereignty and political independence of States” in the Middle East region, and accused the Islamic Republic of Iran, in particular, of violating Article 2 of the Charter through continued occupation of three islands in the Arabian Gulf and of attempts at destabilization across the region.<sup>35</sup> The representative of Eritrea made similar remarks in reference to activities of Ethiopia, calling them an “illegal occupation” of the sovereign territory of Eritrea.<sup>36</sup> The representative of Cyprus stated that his country had suffered from numerous violations of the Charter and its principle of non-use of force through “foreign occupation by Turkey” of its territory.<sup>37</sup> In reference to the Nansha (Spratly) Islands, the

representative of China stated that construction in them was “within China’s sovereignty” and that “the so-called status created by other countries illegally occupying China’s Nansha Islands [was] in violation of China’s legitimate rights and interests”.<sup>38</sup>

## Case 2 Maintenance of international peace and security

At the 7886th meeting, held on 21 February 2017 under the item entitled “Maintenance of international peace and security”, discussions centred on conflicts in Europe, the sub-item for the meeting, and particularly on the territorial integrity of certain States in the region, including Azerbaijan, Georgia, Moldova and Ukraine. The meeting was held at the initiative of Ukraine, which held the presidency of the Council for the month.<sup>39</sup>

During the debate, several Member States referred to the principles enshrined in Article 2 (4) of the Charter of the United Nations. The representative of Sweden underlined that, when one State decided to use military force to invade and annex a part of another State and threaten its sovereignty, such action constituted a threat to all States.<sup>40</sup> The representative of Japan also expressed concern, stating that threats to the territorial integrity of one country could not be ignored, because they would undermine the fundamental principles upon which the entire international legal order was based.<sup>41</sup> In a similar vein, the representative of Moldova said that Security Council members were expected “to act promptly and impartially” whenever peace and security were threatened and when the principles of international law, in particular the sovereignty and territorial integrity of Member States, were disregarded.<sup>42</sup> The representative of Australia noted that the international community faced a period of instability, “where core principles of international law – the primacy of State sovereignty and territorial integrity – [were] under threat”; and the representative of Italy expressed similar sentiments.<sup>43</sup> The representative of Bulgaria noted that in recent years the international consensus on the principle of territorial integrity had begun to erode, posing “a great danger to stability and security in Europe”.<sup>44</sup> The representative of Bolivia said, however, that if internal

<sup>30</sup> Ibid., pp. 40–41.

<sup>31</sup> Ibid., p. 4.

<sup>32</sup> Ibid., pp. 55 (Kuwait); and p. 70 (United Arab Emirates).

<sup>33</sup> Ibid., p. 79.

<sup>34</sup> Ibid., pp. 87–88.

<sup>35</sup> Ibid., pp. 69–70.

<sup>36</sup> Ibid., p. 54.

<sup>37</sup> Ibid., p. 76.

<sup>38</sup> Ibid., p. 92.

<sup>39</sup> A concept note was circulated by a letter dated 3 February 2017 (S/2017/108).

<sup>40</sup> S/PV.7886, p. 16.

<sup>41</sup> Ibid., p. 30.

<sup>42</sup> Ibid., p. 36.

<sup>43</sup> Ibid., p. 56 (Australia); and p. 27 (Italy).

<sup>44</sup> Ibid., p. 67.

conflicts within States did not constitute a threat to or a breach of international peace and security, the Security Council should strictly apply what was established in Article 2, paragraphs 4 and 7, of the Charter on the principle of non-interference.<sup>45</sup>

In regard to the situation in Ukraine specifically, the representative of Ukraine said that his country was enduring “direct military aggression” by the Russian Federation, “as illustrated by the illegal partial occupation of Crimea and part of the Donbas”.<sup>46</sup> The representative of the Russian Federation said, on the other hand, that there had been attempts to resolve the situation through “military misadventures” and called on Ukraine to implement the Minsk agreements, which he deemed a requirement for a political solution.<sup>47</sup> Many speakers condemned the violations of the territory of Ukraine by the Russian Federation and expressed support for the sovereignty, territorial integrity and independence of Ukraine.<sup>48</sup> The representative of France stated that the annexation of Crimea and the conflict in the Donbas illustrated the fact that the violation of the territorial integrity of a European State was still possible.<sup>49</sup> Echoed by the representative of Germany, the representative of Latvia stressed that all States Members of the United Nations had committed to renouncing the illegal threat or use of force, and all had agreed to settle their disputes by peaceful means, adding that the actions of the Russian Federation in Ukraine were “a blatant violation of international law and a serious challenge to the principles of the Charter”.<sup>50</sup> Similarly, the representative of Malaysia stated that the conflicts in eastern Ukraine and Crimea, in particular, constituted a direct challenge to the very purposes and principles of the Charter of the United Nations and added that it was difficult to imagine that, in this day and age, “one could blatantly disregard the fundamental principles of sovereignty, territorial integrity and the independence of States and gain territory by the illegal use of force with little consequence”.<sup>51</sup> Many speakers, in

addressing other protracted conflicts in Europe, also reaffirmed the sovereignty and territorial integrity of Georgia<sup>52</sup> and Moldova<sup>53</sup> and called for a peaceful solution to the situation in Nagorno-Karabakh.<sup>54</sup>

The representative of Azerbaijan, speaking in the context of the situation in Nagorno-Karabakh, recalled that in previous resolutions the Council had acknowledged that acts of military force had been committed against Azerbaijan; that such acts were “unlawful and incompatible with the prohibition of the use of armed force in international relations in contradiction with the Charter of the United Nations and its purposes”; and that they constituted “an obvious violation of the sovereignty and territorial integrity of Azerbaijan, specifically as pertained to Article 2, paragraph 4, of the Charter”. He further stated that “Armenia must realize that the military occupation of a territory by another State Member of the United Nations” did not represent a solution.<sup>55</sup> In response, the representative of Armenia said that the conflict had been a “struggle of the people of Nagorno-Karabakh for freedom and self-determination” and “against the claim of sovereignty over them by a despotic regime”.<sup>56</sup> The representative of Uzbekistan, speaking on behalf of the Organization of Islamic Cooperation (OIC), recalled the final communiqué of the thirteenth session of the Islamic Summit Conference and the special resolution adopted by the OIC Council of Foreign Ministers by which the OIC States had urged the immediate, complete and unconditional withdrawal of the armed forces of Armenia from the Nagorno-Karabakh region and other occupied territories of Azerbaijan, and called for the resolution of the conflict on the basis of the sovereignty, territorial integrity and inviolability of the internationally recognized borders of Azerbaijan.<sup>57</sup>

<sup>45</sup> Ibid., p. 22.

<sup>46</sup> Ibid., p. 13.

<sup>47</sup> Ibid., pp. 23–24.

<sup>48</sup> Ibid., p. 11 (European Union); p. 14 (United States); p. 16 (Sweden); p. 19 (France); p. 27 (Italy); p. 28 (Egypt); p. 29 (United Kingdom); p. 30 (Japan); p. 32 (Lithuania); p. 35 (Georgia); p. 37 (Latvia); p. 39 (Germany); p. 40 (Switzerland); p. 43 (Estonia); p. 44 (Holy See); p. 45 (Poland); p. 48 (Turkey); p. 49 (Norway); p. 51 (Liechtenstein); p. 54 (Romania); p. 56 (Australia); p. 57 (Canada); p. 59 (New Zealand); p. 64 (Netherlands); and p. 67 (Bulgaria).

<sup>49</sup> Ibid., p. 19.

<sup>50</sup> Ibid., p. 37 (Latvia); and p. 39 (Germany).

<sup>51</sup> Ibid., p. 60.

<sup>52</sup> Ibid., p. 15 (United States); p. 19 (France); p. 28 (Italy); p. 38 (Organization for Democracy and Economic Development-GUAM); p. 40 (Germany); p. 43 (Estonia); p. 45 (Poland); p. 49 (Turkey); p. 50 (Norway); p. 51 (Liechtenstein); p. 56 (Australia); p. 57 (Canada); p. 59 (New Zealand); p. 64 (Netherlands); and p. 67 (Bulgaria).

<sup>53</sup> Ibid., p. 11 (European Union); p. 15 (United States); p. 19 (France); p. 27 (Italy); p. 29 (United Kingdom); p. 38 (Organization for Democracy and Economic Development-GUAM); and pp. 54–55 (Romania).

<sup>54</sup> Ibid., p. 15 (United States); p. 18 (Kazakhstan); p. 19 (France); pp. 24–25 (Russian Federation); p. 28 (Italy, Egypt); p. 29 (United Kingdom); p. 40 (Germany); p. 44 (Estonia); p. 48 (Turkey); p. 55 (Slovenia); p. 59 (New Zealand); and p. 67 (Bulgaria).

<sup>55</sup> Ibid., pp. 46–48.

<sup>56</sup> Ibid., p. 53.

<sup>57</sup> Ibid., p. 66.

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

The correspondence addressed to the Security Council in 2016 and 2017 included 12 explicit references to Article 2 (4) of the Charter and two implicit references in which Article 2 was broadly invoked with language relating to the principles enshrined in paragraph 4.

In a letter dated 14 March 2016 addressed to the Secretary-General, the Permanent Representative of the United Arab Emirates rejected the sovereignty claims of the Islamic Republic of Iran over the islands of Lesser Tunb, Greater Tunb and Abu Musa, adding that the occupation by Iranian armed forces of Greater Tunb and Lesser Tunb was “in contravention of the Charter of the United Nations, Article 2, paragraph 4”.<sup>58</sup>

The Permanent Representative of the Islamic Republic of Iran, in identical letters dated 23 March 2016 to the Secretary-General and the President of the Security Council, said that for decades, the Islamic Republic of Iran had been “under threat of use of force by the United States and the Israeli regime in flagrant violation of Article 2 (4) of the Charter of the United Nations”.<sup>59</sup>

On 31 March 2016, the Permanent Representative of Djibouti addressed a letter to the Secretary-General, in which Djibouti urged Eritrea to “permanently cease and desist” from “its support for armed bands seeking to overthrow and destabilize the Government of Djibouti, in violation of its obligations under Article 2 of the Charter of the United Nations”.<sup>60</sup>

In a letter dated 10 October 2016 addressed to the Secretary-General, the Permanent Representative of Ukraine transmitted a statement of the Parliament of Ukraine on non-recognition by Ukraine of the legitimacy of the elections to the State Duma of the Federal Assembly of the Russian Federation held on 18 September 2016 in the territory of the Autonomous Republic of Crimea and the city of Sevastopol. The statement included the words: “According to the basic principles of international law, as well as the principles of the United Nations enshrined in particular in Article 2 of the Charter of the United Nations, States shall respect principles such as the sovereign equality of all States, non-use of force in international relations,

territorial integrity, inviolability of state borders and non-interference in domestic affairs”.<sup>61</sup>

In a letter dated 19 January 2017 addressed to the Secretary-General, the Permanent Representative of Azerbaijan stated, in the context of the situation in Nagorno-Karabakh, that “the only way to achieve a durable and lasting solution [was] to ensure the immediate, complete and unconditional withdrawal of the Armenian armed forces from the Nagorno-Karabakh region and from other occupied territories of Azerbaijan”. He added that the implementation of that “peremptory obligation”, which emanated in accordance with Article 2 (4) of the Charter from the principle of non-use of force against the territorial integrity and political independence of any State, could “in no way be conditioned, introduced as a compromise or used as a bargaining chip in the conflict settlement process”.<sup>62</sup>

On 16 March 2017, the Permanent Representative of Lebanon addressed identical letters to the Secretary-General and the President of the Security Council in regard to threats made by Israel against Lebanon. He stated that those threats were “a flagrant violation of Article 2, paragraph 4, of the Charter of the United Nations”, which provides that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State.<sup>63</sup>

On 7 April 2017, the Permanent Representative of the Democratic People’s Republic of Korea addressed a letter to the Secretary-General, transmitting a memorandum released the previous day by the Ministry of Foreign Affairs of his country with regard to the “level of political, military and economic pressure and aggressive schemes of the United States against the Democratic People’s Republic of Korea”, in which Article 2 (4) of the Charter was quoted in its entirety.<sup>64</sup>

The Permanent Representative of Azerbaijan, in a letter dated 10 April 2017 addressed to the Secretary-General, transmitted a legal opinion on third-party obligations with respect to illegal economic and other activities in the occupied territories of Azerbaijan, prepared at the request of the Government of Azerbaijan. The legal opinion contained four explicit references to Article 2 (4).<sup>65</sup>

<sup>58</sup> S/2016/245.

<sup>59</sup> S/2016/279.

<sup>60</sup> S/2016/300.

<sup>61</sup> S/2016/857, annex.

<sup>62</sup> S/2017/57.

<sup>63</sup> S/2017/228.

<sup>64</sup> S/2017/303, annex.

<sup>65</sup> S/2017/316, annex.

In a letter dated 4 May 2017 addressed to the President of the Security Council, the Permanent Representative of the Islamic Republic of Iran, responding to a statement of 2 May by the Deputy Crown Prince and Defence Minister of Saudi Arabia, Mohammed bin Salman, underlined that his statement reflected “an unveiled threat against the Islamic Republic of Iran, in violation of Article 2 (4) of the Charter of the United Nations, as well as a clear admission of the long-known complicity of the Saudi regime in acts of terror and violence” inside the Islamic Republic of Iran.<sup>66</sup>

On 6 November 2017, the Permanent Representative of the Islamic Republic of Iran addressed a letter to the Secretary-General and the President of the Security Council in which he stated that Israel’s “recurring threats to act militarily” against his country’s peaceful nuclear programme was “a flagrant

violation of the fundamental principles of international law and Article 2 (4) of the Charter of the United Nations”.<sup>67</sup>

In a letter dated 7 November 2017 addressed to the Secretary-General and the President of the Security Council, the Permanent Representative of the Islamic Republic of Iran, in reaction to accusations by the authorities of Saudi Arabia that the Islamic Republic of Iran was supplying missiles to Yemen for the purpose of attacking Saudi Arabia, categorically rejected “such baseless and unfounded accusations” and considered them “destructive, provocative and a threat to use of force against a United Nations Member State in clear defiance of Article 2 (4) of the Charter of the United Nations”.<sup>68</sup>

<sup>67</sup> S/2017/934.

<sup>68</sup> S/2017/936.

<sup>66</sup> S/2017/393.

### 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, 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>69</sup> Subsection A features decisions containing implicit references to Article 2 (5). Subsection B highlights explicit and implicit references made to Article 2 (5) in the deliberations of the Council. The correspondence addressed to the Council in 2016 and 2017 did not contain any material relating to Article 2 (5).

<sup>69</sup> For the practice of the Security Council relating to assistance by Member States to United Nations action in accordance with the Charter, see part V (Article 25) and part VII (Articles 43 and 49) of the present Supplement.

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

During the period under review, Article 2 (5) was not explicitly invoked in decisions of the Council. The Council, however, included language of relevance to the interpretation of Article 2 (5) in several decisions by which it called on Member States to refrain from providing assistance or support in violation of preventive or enforcement action by the Council.<sup>70</sup>

#### B. Constitutional discussion relating to Article 2 (5)

During the years 2016 and 2017, Article 2 (5) of the Charter was explicitly invoked once, at the 8018th meeting, held on 3 August 2017 on “General issues relating to sanctions”, at which the representative of Ukraine, in discussing challenges to making United Nations sanctions more efficient, recalled that paragraph 5 of Article 2 of the Charter states, among other things, that Member States shall refrain from

<sup>70</sup> See for example, in connection with the situation concerning the Democratic Republic of the Congo, resolution 2348 (2017), para. 18; in connection with the situation in Libya, resolution 2323 (2016), eleventh preambular paragraph; and, in connection with the situation in Somalia, resolutions 2317 (2016) and 2385 (2017), fourth preambular paragraph.



giving assistance to any State against which the United Nations is taking preventive or enforcement action. He added that the Council should explore ways to strengthen the roles of sanctions committees in identifying cases of non-compliance and determining how to address them.<sup>71</sup> At the same meeting, the representative of the United States said that when States Members of the United Nations did not comply with the sanctions levelled against an aggressor, “the Council’s threats [became] hollow”.<sup>72</sup>

At the 7865th meeting, held under the item entitled “Non-proliferation”, the principle of refraining from giving assistance to any State against which the United Nations was taking preventive or enforcement action was discussed (see case 3).

### Case 3 Non-proliferation

At the 7865th meeting, held on 18 January 2017 on the item entitled “Non-proliferation” with a particular focus on the implementation of resolution 2231 (2015), the representative of the United States said that every Member State needed to enforce the travel restrictions that remained in effect under that

<sup>71</sup> S/PV.8018, p. 9.

<sup>72</sup> Ibid., p. 14.

resolution, and that the travel by Major General Qasem Soleimani and Brigadier General Mohammad Reza Naqdi to Iraq and the Syrian Arab Republic noted in the Secretary-General’s report<sup>73</sup> should be unacceptable. She further stated that the strength of resolution 2231 (2015) came from “the commitment of Member States to enforcing it”.<sup>74</sup> The representative of the United Kingdom echoed the call by the Secretary-General for “all Member States to take the necessary measures to prevent entry or transit of Iranians subject to travel bans”. He urged Member States to consider whether exporting arms to the Islamic Republic of Iran was in the best interests of the region and to “continue to enforce the sanctions regime on ballistic missile technology and to act on and report all suspected violations”.<sup>75</sup> The representative of Sweden, addressing reported violations of the travel ban, underlined that only the Security Council could determine when such travel was justified, and urged countries to “meet their obligations to prevent entry and transit through their territories of individuals on the list maintained pursuant to resolution 2231 (2015)”.<sup>76</sup>

<sup>73</sup> S/2016/1136.

<sup>74</sup> S/PV.7865, p. 8.

<sup>75</sup> Ibid., p. 10.

<sup>76</sup> Ibid., p. 20.

## 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. Subsection A features implicit references to that Article in the decisions of the Council. Subsection B features the deliberations of the Council touching upon the principle enshrined in Article 2 (7). Subsection C provides a brief summary of explicit references to

Article 2 (7) in the correspondence addressed to the Council.

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

In 2016 and 2017, Article 2 (7) was not explicitly referred to in decisions of the Council. There were however two implicit references to Article 2 (7) in the decisions of the Council during the period. In a resolution adopted under the item entitled “Threats to international peace and security caused by terrorist acts”, the Council, welcoming the comprehensive international framework to counter terrorist narratives, stressed that United Nations action in the field of countering terrorist narratives should be based on the Charter, including the principles of sovereignty, territorial integrity and political independence of all States. In a resolution adopted under the item entitled “Threats to international peace and security”, the Council underscored that the newly established Investigative Team, headed by a Special Adviser, to

support domestic efforts to hold Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL in Iraq, should operate with full respect for the sovereignty of Iraq and its jurisdiction over crimes committed in its territory.<sup>78</sup>

## B. Constitutional discussion relating to Article 2 (7)

During the period under review, Article 2 (7) was explicitly invoked four times in the Council's deliberations. At the 7886th meeting, held on 21 February 2017 under the item entitled "Maintenance of international peace and security", the representative of Bolivia stated, with respect to internal conflicts within States, that, if they did not constitute a threat to or a breach of international peace and security, the Security Council should strictly apply what was established in Article 2, paragraphs 4 and 7, of the Charter on the principle of non-interference.<sup>79</sup> At the 7926th meeting, held on 18 April 2017 under the same item, the representative of Senegal noted that the provisions of Article 2, paragraph 7, of the Charter were not violated when the United Nations High Commissioner for Human Rights was invited to participate in the Council's deliberations in 1991 and that, since then, the Council had hosted 15 such briefings.<sup>80</sup> The other two explicit references were made at the 7621st meeting, when the principle of non-interference in the internal affairs of States was considered in conjunction with the concept of the responsibility to protect (see case 4). In addition, one explicit reference to Article 2 in general, which touched upon the principles enshrined in paragraph 7, was made at the 7830th meeting, held on 9 December 2016 on the item entitled "The situation in the Democratic People's Republic of Korea", when the representative of Egypt rejected "any consideration of the situation of human rights by the Security Council" adding that human rights issues "should not be used as a means to interfere selectively in the internal affairs of States, in line with Article 2 of the Charter of the United Nations".<sup>81</sup>

During the period under review, Member States made numerous statements of relevance to the interpretation and application of Article 2 (7) of the

Charter but these did not lead to constitutional discussions.<sup>82</sup>

### Case 4 Maintenance of international peace and security

At its 7621st meeting, on 15 February 2016, the Council held an open debate under the item entitled "Maintenance of international peace and security" and the sub-item "Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security". During the meeting, the interpretation of Article 2 (7) of the Charter was discussed, in particular the restriction on United Nations intervention in the internal affairs of States, with an exception for the application of enforcement measures under Chapter VII of the Charter. In his briefing to the Council, the Secretary-General said that the Organization's engagement on early warning with Member States would continue to be based on "cooperation, transparency and respect for sovereignty", while acknowledging that at times Member States felt that such efforts were "a form of interference" that undermined national sovereignty. He emphasized, however, that it was violence and conflict which threatened sovereignty and that, in its engagements, the United Nations sought "to reinforce sovereignty, not challenge or undermine it".<sup>83</sup>

<sup>78</sup> See, for example, in relation to cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, [S/PV.7694](#), p. 23 (Bolivarian Republic of Venezuela); and p. 33 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); and [S/PV.7816](#), p. 14 (Bolivarian Republic of Venezuela); in relation to the maintenance of international peace and security, [S/PV.7653](#), p. 19 (New Zealand); [S/PV.7857](#), p. 26 (Plurinational State of Bolivia); and p. 83 (Morocco); [S/PV.7926](#), p. 9 (Egypt); and [S/PV.8106](#), p. 17 (Kazakhstan); in relation to non-proliferation of weapons of mass destruction, [S/PV.7837](#), p. 12 (New Zealand); in relation to the protection of civilians in armed conflict, [S/PV.7606](#), p. 41 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); in relation to the situation in the Middle East, [S/PV.8142](#), pp. 11–12 (Syrian Arab Republic); in relation to threats to international peace and security, [S/PV.8052](#), p. 12 (Ethiopia); and pp. 12–13 (Iraq); in relation to threats to international peace and security caused by terrorist acts, [S/PV.7690](#), p. 78 (Cambodia); and in relation to United Nations peacekeeping operations, [S/PV.8033](#), p. 33 (Bolivarian Republic of Venezuela); p. 54 (Azerbaijan); and p. 61 (Viet Nam); and [S/PV.8051](#), p. 20 (China); and p. 29 (Plurinational State of Bolivia).

<sup>79</sup> [S/PV.7886](#), p. 22.

<sup>80</sup> [S/PV.7926](#), p. 17.

<sup>81</sup> [S/PV.7830](#), p. 13.

<sup>82</sup> See, for example, in relation to cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, [S/PV.7694](#), p. 23 (Bolivarian Republic of Venezuela); and p. 33 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); and [S/PV.7816](#), p. 14 (Bolivarian Republic of Venezuela); in relation to the maintenance of international peace and security, [S/PV.7653](#), p. 19 (New Zealand); [S/PV.7857](#), p. 26 (Plurinational State of Bolivia); and p. 83 (Morocco); [S/PV.7926](#), p. 9 (Egypt); and [S/PV.8106](#), p. 17 (Kazakhstan); in relation to non-proliferation of weapons of mass destruction, [S/PV.7837](#), p. 12 (New Zealand); in relation to the protection of civilians in armed conflict, [S/PV.7606](#), p. 41 (Islamic Republic of Iran, on behalf of the Non-Aligned Movement); in relation to the situation in the Middle East, [S/PV.8142](#), pp. 11–12 (Syrian Arab Republic); in relation to threats to international peace and security, [S/PV.8052](#), p. 12 (Ethiopia); and pp. 12–13 (Iraq); in relation to threats to international peace and security caused by terrorist acts, [S/PV.7690](#), p. 78 (Cambodia); and in relation to United Nations peacekeeping operations, [S/PV.8033](#), p. 33 (Bolivarian Republic of Venezuela); p. 54 (Azerbaijan); and p. 61 (Viet Nam); and [S/PV.8051](#), p. 20 (China); and p. 29 (Plurinational State of Bolivia).

<sup>83</sup> [S/PV.7621](#), p. 3.

The representative of the Bolivarian Republic of Venezuela said that Member States should not bring to the Council issues that rightly belonged to the jurisdiction of States, “in accordance with paragraph 7, Article 2, of the Charter”.<sup>84</sup> The representative of Egypt stated that the Council should give priority to “the peaceful means of settling disputes, while respecting national sovereignty and the principle of non-interference in the internal affairs of States”.<sup>85</sup> The representative of Nicaragua, quoting President Daniel Ortega Saavedra, called upon the United Nations “to play a respectful, responsible and ethical role, devoid of any form of interference and intervention in the internal affairs of sovereign States” and criticized the Council for “granting mandates with regard to situations in the Middle East aimed at promoting regime change”. She also stressed that actions to counter terrorism should be done collectively and ensure respect for the sovereignty and territorial integrity of all Member States.<sup>86</sup> The representative of Colombia, echoed by the representative of Guatemala,<sup>87</sup> said the Council must remember that peace could not be imposed, but “must come from the players themselves”.<sup>88</sup> The representative of the Syrian Arab Republic said that statements calling for interventionist policies were a violation of the principle of sovereignty that left the door wide open to “the recurrent illegitimate military interventions against many Member States”.<sup>89</sup>

Other speakers discussed whether there were limits to the principles of sovereignty and non-intervention in the internal affairs of States by the United Nations vis-à-vis the concept of responsibility to protect.<sup>90</sup> The representative of New Zealand expressed the view that the Council remained “strangely reluctant” to use the range of tools at its disposal for preventive action, such discussions becoming “bogged down in false dichotomies between intervention and deference to sovereignty”. He added that national sovereignty should not be “used as a shield by those who brutalize their own populations and undermine regional and global security”.<sup>91</sup> The

representative of Spain asserted that sovereignty entailed “responsibilities, such as protecting civilians from the risk of becoming the victims of mass atrocities”, and said that the responsibility to protect should be promoted, while respecting the provisions of the Charter.<sup>92</sup> The representative of the United Kingdom recalled, in the context of the primary responsibility of the Council to maintain international peace and security, that paragraph 7 of Article 2 was “explicit in not prejudicing the application of enforcement measures under Chapter VII”, and said that “outdated interpretations of the Charter” should not be used to excuse inaction.<sup>93</sup> The representative of Uruguay said that “it would be a mistake to pretend that a broad interpretation of the principles of State sovereignty and non-intervention could serve as justification for any action taken by a State within its borders that violate other principles of the Charter of the United Nations”. He further stated that the concept of sovereignty implied “responsibilities as well as rights” and that “one of sovereignty’s most essential obligations is the protection of the people”.<sup>94</sup> The representative of the United States underlined that respect for political independence and sovereignty could not mean “turning a blind eye to oppression, intimidation and abuse” and added, “while we must be guided by the principle of the sovereign equality of States enshrined in the Charter, we cannot let ourselves become so afraid of encroaching on State prerogatives as to prevent us from acting to respond to the world’s real and emerging threats”.<sup>95</sup>

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

During the period under review, the principle enshrined in Article 2 (7) of the Charter was explicitly invoked four times in communications addressed to the Security Council, all of which were circulated as documents of the Council. The first instance was in a letter dated 1 February 2016 from the Permanent Representative of the Bolivarian Republic of Venezuela, transmitting a concept note for an open debate of the Council on the theme “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”,<sup>96</sup> two other instances were in communications transmitting resolutions

<sup>84</sup> Ibid., p. 6.

<sup>85</sup> Ibid., p. 10.

<sup>86</sup> Ibid., pp. 47–48.

<sup>87</sup> Ibid., p. 88.

<sup>88</sup> Ibid., p. 51.

<sup>89</sup> Ibid., p. 39.

<sup>90</sup> Ibid., pp. 30–31 (Argentina); p. 56 (Germany); p. 58 (Algeria); p. 64 (Holy See); p. 65 (Organization of American States); p. 68 (Panama); p. 78 (Peru); pp. 81–82 (Costa Rica); p. 86 (Ethiopia); and p. 89 (Netherlands).

<sup>91</sup> Ibid., p. 19.

<sup>92</sup> Ibid., p. 9.

<sup>93</sup> Ibid., p. 20.

<sup>94</sup> Ibid., p. 22.

<sup>95</sup> Ibid., pp. 26–27.

<sup>96</sup> See [S/2016/103](#), annex.

adopted by the Council of the League of Arab States,<sup>97</sup> and the last instance was in a letter transmitting the report of the fourteenth annual workshop for newly elected members of the Security Council held on 3 and 4 November 2016.<sup>98</sup>

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<sup>97</sup> See [S/2016/723](#), annex, and [S/2017/361](#), annex.

<sup>98</sup> See [S/2017/468](#), annex.