### Part V

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

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### **Introductory note**

Part V of the present Supplement 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, explicit and implicit references to those Articles in decisions, communications and meetings of the Council during 2016 and 2017 are listed. 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, as covered in section I below, the Council referred implicitly to its primary responsibility for the maintenance of international peace and security according to Article 24 of the Charter in 28 decisions concerning various country- or region-specific and thematic items, including the question concerning Haiti, the situation in Libya, maintenance of international peace and security, threats to international peace and security caused by terrorist acts and United Nations peacekeeping operations. In its thematic decisions, the Council addressed such issues as trafficking in persons, the protection of medical personnel in conflict zones, the protection of cultural heritage in the context of armed conflict, terrorism, peacekeeping, and cooperation with regional and subregional organizations in matters of international peace and security; the latter, it recognized, could improve collective security. The primary responsibility of the Council for the maintenance of international peace and security was also the subject of discussions at several Council meetings on a wide range of items, including cooperation between the United Nations and regional and subregional organizations, non-proliferation of weapons of mass destruction and the implementation of the note by the President concerning Council procedures.

In 2016 and 2017, as featured in section II, the Council referred to Article 25 in two resolutions, in which it recalled that members of the United Nations had agreed to accept and carry out the decisions of the Security Council in accordance with the Charter. During deliberations, speakers made explicit reference to Article 25 on eight occasions in relation to several items, namely, "General issues relating to sanctions", "Implementation of the note by the President of the Security Council (S/2010/507)", "The situation in the Middle East, including the Palestinian question" and "Reports of the Secretary-General on the Sudan and South Sudan". Speakers discussed the implementation of key resolutions relating to these items, such as resolutions 2231 (2015), 2286 (2016) or 2334 (2016).

With regard to Article 26, as described in section III and consistent with past practice, the Council made no reference in its decisions to its responsibility for formulating plans for the establishment of a system for the regulation of armaments. Nevertheless, Article 26 was explicitly invoked during deliberations of the Council on three occasions in relation to the non-proliferation of weapons of mass destruction and the maintenance of international peace and security.

# 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 the practice of the Security Council concerning its primary responsibility for the maintenance of international peace and security under Article 24 of the Charter, and is divided into two subsections. Subsection A deals with decisions adopted in 2016 and 2017 that refer to the primary responsibility of the Security Council for the maintenance of international peace and security. Subsection B examines references to the Council's primary responsibility pursuant to Article 24 made in discussions during Council meetings.

During the period under review, none of the decisions adopted by the Security Council contained explicit references to Article 24 of the Charter. A concept paper for an information meeting on the topic "Enhancing the strategic partnership in the area of countering extremist ideology", transmitted in a communication from Senegal, contained one explicit reference to the Article. The Council's primary responsibility for the maintenance of international peace and security, acting on behalf of Member States, was recalled, as was the encouragement contained in Chapter VIII to cooperate with regional arrangements; and the enhancement of cooperation between the United Nations and regional organizations was deemed

imperative in order to address the variety of existing threats and challenges to international peace and security.<sup>2</sup> Explicit references to Article 24 were also made on several occasions during meetings of the Council.<sup>3</sup>

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

During the period under review, there were no explicit references to Article 24 of the Charter in decisions adopted by the Council. However, implicit reference was made to the Article in 24 resolutions and four presidential statements. The Council referred to its primary responsibility for the maintenance of international peace and security on numerous occasions while taking a multiplicity of actions, as further described below. Moreover, in a few instances, Council made reference to its responsibility for the maintenance of international peace and security in resolutions adopted under Chapter VII of the Charter, by which it imposed measures under Article 41 and/or authorized the use of general, references to the primary force. In responsibility of the Council for the maintenance of international peace and security were included in preambular paragraphs of resolutions and in the initial paragraphs of presidential statements.

<sup>&</sup>lt;sup>1</sup> Article 24 (3), under which the Council is required to submit annual and special reports to the General Assembly, is covered in part IV, sect. I.F.

<sup>&</sup>lt;sup>2</sup> Letter dated 11 November 2016 from the representative of Senegal to the Secretary-General (S/2016/965, annex).

<sup>&</sup>lt;sup>3</sup> In connection with the situation in Afghanistan, see S/PV.7645, p. 5 (Afghanistan). In connection with the situation concerning Western Sahara, see S/PV.7684, p. 5 (Bolivarian Republic of Venezuela). In connection with the implementation of the note by the President of the Security Council (S/2010/507), see S/PV.7740, p. 3 (Egypt); p. 5 (France); pp. 20–21 (Islamic Republic of Iran); p. 25 (Australia); and p. 38 (Cuba). In connection with the maintenance of international peace and security, see S/PV.7857, p. 107 (Morocco); and S/PV.8144, p. 54 (Botswana). In connection with the situation in the Middle East, see S/PV.7919, p. 3 (Plurinational State of Bolivia). In connection with non-proliferation/Democratic People's Republic of Korea, see S/PV.8118, p. 15 (Plurinational State of Bolivia).

#### Resolutions

In 2016 and 2017, 24 resolutions contained implicit references to Article 24 of the Charter. In those resolutions the Council reaffirmed, recalled, reiterated, underlined or indicated that it was mindful of its primary responsibility for the maintenance of international peace and security.<sup>4</sup>

Of the 24 resolutions containing implicit references to Article 24, 10 were adopted under country- or region-specific items on the agenda of the Council,<sup>5</sup> while 14 resolutions concerned thematic items.<sup>6</sup>

In 6 of the 10 country- or region-specific resolutions, the Council acted explicitly under Chapter VII of the Charter, in connection with the

<sup>4</sup> Resolutions 2272 (2016), first preambular paragraph; 2282 (2016), fifth preambular paragraph; 2284 (2016), penultimate preambular paragraph; 2286 (2016), first preambular paragraph; 2292 (2016), fifteenth preambular paragraph; 2296 (2016), twenty-fourth preambular paragraph; 2312 (2016), thirteenth preambular paragraph; 2313 (2016), penultimate preambular paragraph; 2320 (2016), first preambular paragraph; 2331 (2016), third preambular paragraph; 2333 (2016), penultimate preambular paragraph; 2341 (2017), second preambular paragraph; 2347 (2017), third preambular paragraph; 2350 (2017), penultimate preambular paragraph; 2354 (2017), second preambular paragraph; 2357 (2017), third preambular paragraph; 2359 (2017), second preambular paragraph; 2363 (2017), sixth preambular paragraph; 2370 (2017), second and seventh preambular paragraphs; 2378 (2017), first and fourth preambular paragraphs; 2380 (2017), thirteenth preambular paragraph; 2382 (2017), first preambular paragraph; 2388 (2017), third preambular paragraph; and 2391 (2017), second preambular paragraph.

situations in Côte d'Ivoire and Liberia, the question concerning Haiti, and the situation in Libya. By those resolutions,<sup>7</sup> the Council extended the mandates of the United Nations Operation in Côte d'Ivoire, the United Nations Mission in Liberia and the United Nations Stabilization Mission in Haiti, established an initial mandate for the United Nations Mission for Justice Support in Haiti,<sup>8</sup> and modified and extended the sanctions measures concerning Libya.<sup>9</sup>

In connection with the item entitled "Reports of the Secretary-General on the Sudan and South Sudan", the Council underlined, as it had done in the previous two-year period, the importance of the partnership between the United Nations and the African Union, consistent with Chapter VIII of the Charter, without prejudice to the Security Council's primary responsibility for the maintenance of international peace and security.10 In connection with the item entitled "Peace and security in Africa", the Council recalled its primary responsibility for the maintenance of international peace and security and welcomed the deployment of the Joint Force of the Group of Five for the Sahel throughout the territories of its contributing countries.11

Of the 14 resolutions adopted under thematic items, two were adopted under Chapter VII of the Charter. In resolutions 2312 (2016) and 2380 (2017), both adopted under the item entitled "Maintenance of international peace and security", the Council, mindful of its primary responsibility for the maintenance of international peace and security, reaffirmed the necessity of putting an end to the proliferation of the smuggling of migrants and trafficking of persons in the Mediterranean Sea off the coast of Libya in accordance with the Charter, and renewed the authorizations granted to that end under paragraphs 7, 8, 9 and 10 of resolution 2240 (2015) to intercept vessels on the high seas.<sup>12</sup> Similarly, recalling its primary responsibility for the maintenance of international peace and security in resolutions 2331 (2016) and 2388 (2017), the

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Sesolutions 2284 (2016), penultimate preambular paragraph; 2292 (2016), fifteenth preambular paragraph; 2296 (2016), twenty-fourth preambular paragraph; 2313 (2016), penultimate preambular paragraph; 2333 (2016), penultimate preambular paragraph; 2350 (2017), penultimate preambular paragraph; 2357 (2017), third preambular paragraph; 2359 (2017), second preambular paragraph; 2363 (2017),sixth preambular paragraph; and 2391 (2017), second preambular paragraph.

<sup>&</sup>lt;sup>6</sup> Resolutions 2272 (2016), first preambular paragraph; 2282 (2016), fifth preambular paragraph; 2286 (2016), first preambular paragraph; 2312 (2016) thirteenth preambular paragraph; 2320 (2016), first preambular paragraph; 2331 (2016), third preambular paragraph; 2341 (2017), second preambular paragraph; 2347 (2017), third preambular paragraph; 2354 (2017), second preambular paragraph; 2370 (2017), second and seventh preambular paragraphs; 2378 (2017), first and fourth preambular paragraph; 2382 (2017), thirteenth preambular paragraph; 2388 (2017), third preambular paragraph.

Resolutions 2284 (2016) (Côte d'Ivoire); 2333 (2016)
 (Liberia); 2313 (2016) and 2350 (2017) (Haiti); and 2292
 (2016) and 2357 (2017) (Libya).

<sup>8</sup> For more information on peacekeeping operations, see part X, sect. I.

<sup>&</sup>lt;sup>9</sup> For more information on sanctions measures, see part VII, sect. III, "Measures not involving the use of armed force in accordance with Article 41 of the Charter".

<sup>&</sup>lt;sup>10</sup> Resolutions 2296 (2016), twenty-fourth preambular paragraph; and 2363 (2017), sixth preambular paragraph.

<sup>&</sup>lt;sup>11</sup> Resolution 2359 (2017), second preambular paragraph and para. 1.

Resolutions 2312 (2016) and 2380 (2017), thirteenth and final preambular paragraphs and paras. 7 and 8.

Council condemned all instances of trafficking in persons in areas affected by armed conflict and called upon Member States to take a series of measures to address human trafficking including in the context of armed conflict.<sup>13</sup>

In connection with the item entitled "Protection of civilians in armed conflict", in resolution 2286 (2016), the Council reiterated its primary responsibility for the maintenance of international peace and security and the need to promote and ensure respect for the principles and rules of international law, and demanded that all parties to armed conflicts fully comply with their obligations under international law to ensure the respect and protection of all medical personnel, their means of transport and equipment, as well as hospitals and other medical facilities. 14 By resolution 2347 (2017), adopted under the item entitled "Maintenance of international peace and security", the Council, while reaffirming its primary responsibility maintenance of international peace and security, affirmed that directing unlawful attacks against sites and buildings dedicated to religion, education, art, science or charitable purposes, or against historic monuments, could constitute, under certain circumstances and pursuant to international law, a war crime and that perpetrators should be brought to justice.15

With regard to the item entitled "Cooperation with regional and subregional organizations maintaining international peace and security", the Council, in resolution 2320 (2016), recalled its primary responsibility for the maintenance of international peace and security and reaffirmed its determination to take effective steps to further enhance the relationship between the United Nations and regional organizations, recognizing that cooperation with regional and subregional organizations could improve collective security. 16 By resolution 2282 (2016), adopted under the item entitled "Peacebuilding and sustaining peace",17 the Council reaffirmed its primary responsibility for the maintenance of international peace and security, emphasizing that sustaining peace required coherence, sustained engagement and coordination between the General Assembly, the Security Council and the Economic and Social Council.<sup>18</sup>

In three resolutions concerning threats to international peace and security caused by terrorist acts, the Council reaffirmed its primary responsibility for the maintenance of international peace and security.<sup>19</sup> By resolution 2341 (2017), the Council encouraged Member States to make concerted and coordinated efforts to improve preparedness for terrorist attacks against critical infrastructure.<sup>20</sup> By resolution 2354 (2017), the Council welcomed the comprehensive international framework to counter terrorist narratives developed by its Committee established pursuant to resolution 1373 concerning counter-terrorism, stressing the need for Member States and all relevant United Nations entities to implement the framework in accordance with a set of prescribed guidelines.<sup>21</sup> By resolution 2370 (2017), the Council expressed grave concern that its effectiveness in discharging its primary responsibility for the maintenance of international peace and security continued to be undermined by the illicit transfer of small arms and light weapons and reaffirmed its decision in resolution 1373 (2001) that all States should refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, stressing the importance of the full and effective implementation of the relevant resolutions.<sup>22</sup>

In three resolutions concerning the item entitled "United Nations peacekeeping operations", the Council also made reference to its primary responsibility under the Charter for the maintenance of international peace

<sup>&</sup>lt;sup>13</sup> Resolutions 2331 (2016), third preambular paragraph and paras. 1, 2, 5 and 6; and 2388 (2017), third preambular paragraph and paras. 1, 3–7, 13 and 30.

Resolution 2286 (2016), first preambular paragraph and para. 2.

<sup>15</sup> Resolution 2347 (2017), third preambular paragraph and

<sup>&</sup>lt;sup>16</sup> Resolution 2320 (2016), first and third preambular paragraphs and para. 1.

As set out in the note by the President of the Security Council dated 21 June 2016, following consultations among Council members, the Council agreed that, as from 22 June 2016, issues pertaining to peacebuilding and post-conflict peacebuilding would be considered

under the item entitled "Peacebuilding and sustaining peace". The earlier consideration by the Council of those issues under the item entitled "Post-conflict peacebuilding" would be subsumed under the new item. For more information, see part I, sect. 38.

<sup>&</sup>lt;sup>18</sup> Resolution 2282 (2016), fifth preambular paragraph and para. 2.

<sup>&</sup>lt;sup>19</sup> Resolutions 2341 (2017), 2354 (2017) and 2370 (2017), second preambular paragraph.

<sup>&</sup>lt;sup>20</sup> Resolution 2341 (2017), para. 1.

<sup>&</sup>lt;sup>21</sup> Resolution 2354 (2017), paras. 1 and 2. See also letter dated 26 April 2017 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Council (S/2017/375).

<sup>&</sup>lt;sup>22</sup> Resolution 2370 (2017), seventh preambular paragraph and para. 1.

and security.<sup>23</sup> By resolution 2272 (2016), the Council requested the Secretary-General to give immediate and ongoing effect to the decision to repatriate peacekeeping personnel when there is credible evidence of widespread or systemic sexual exploitation and abuse.<sup>24</sup> By resolution 2378 (2017), the Council underscored the importance of peacekeeping as a tool in the maintenance of international peace and security, recognized that cooperation with regional subregional organizations could improve collective security, and stressed the primacy of politics as a hallmark of the approach of the United Nations to the resolution of conflict.<sup>25</sup> Similarly, by resolution 2382 (2017), the Council stressed the primacy of political solutions in resolving conflicts and resolved to include, on a case-by-case basis, policing as an integral part of the mandates and decision-making structures of United Nations peacekeeping operations.<sup>26</sup>

#### **Presidential statements**

During the period under review, the Council made implicit references to Article 24 in four presidential statements, reaffirming or reiterating its primary responsibility for the maintenance of international peace and security in accordance with the Charter.<sup>27</sup>

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 Member States namely, and organizations, in the maintenance of international peace and security. For example, in a presidential statement concerning peace consolidation in West Africa, the Council reaffirmed its own primary responsibility for the maintenance of international peace and security while recognizing the primary responsibility of States in the eradication of piracy and armed robbery at sea.<sup>28</sup> In a presidential statement concerning cooperation between the United Nations and regional and subregional organizations maintaining international peace and security, the Council reiterated that, consistent with Chapter VIII of the Charter, such cooperation could improve collective security, and stressed the importance of further strengthening cooperation with the African Union in order to assist in building its capacity in conflict prevention, crisis management and resolution, as well as post-conflict peacebuilding.<sup>29</sup>

In a presidential statement under the item entitled "Threats to international peace and security caused by terrorist acts", the Council recalled that, consistent with its primary responsibility for the maintenance of international peace and security, countering violent extremism, which could be conducive to terrorism, including preventing the radicalization of individuals and their recruitment and mobilization into terrorist groups and into becoming foreign terrorist fighters, was an essential element in addressing the threat to international peace and security posed by foreign terrorist fighters.<sup>30</sup> In a presidential statement issued under the item entitled "Children and armed conflict", the Council reiterated its primary responsibility for the maintenance of international peace and security and, in that connection, its commitment to address widespread impact of armed conflict on children.<sup>31</sup>

# B. Discussion 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 meetings of the Council. Explicit references to Article 24 were made at meetings held under the items entitled "The situation in Afghanistan", 32 "The situation concerning Western "Implementation of the note by the President of the Security Council (S/2010/507)",34 "Non-proliferation/ Korea",35 People's Republic of Democratic "Maintenance of international peace and security"36 and "The situation in the Middle East".37

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<sup>&</sup>lt;sup>23</sup> Resolutions 2272 (2016), 2378 (2017) and 2382 (2017), first preambular paragraph.

<sup>&</sup>lt;sup>24</sup> Resolution 2272 (2016), para. 1.

<sup>&</sup>lt;sup>25</sup> Resolution 2378 (2017), fourth and tenth preambular paragraphs and para. 1.

<sup>&</sup>lt;sup>26</sup> Resolution 2382 (2017), para. 1.

<sup>&</sup>lt;sup>27</sup> S/PRST/2016/4 and S/PRST/2016/6, first paragraph; S/PRST/2016/8, second paragraph; and S/PRST/2017/21, third paragraph.

<sup>&</sup>lt;sup>28</sup> S/PRST/2016/4, first paragraph.

<sup>29</sup> S/PRST/2016/8, second and fifteenth paragraphs. For more information on the role of regional arrangements in the maintenance of international peace and security, see part VIII.

<sup>&</sup>lt;sup>30</sup> S/PRST/2016/6, ninth paragraph.

<sup>&</sup>lt;sup>31</sup> S/PRST/2017/21, third paragraph.

<sup>&</sup>lt;sup>32</sup> S/PV.7645, p. 5 (Afghanistan).

<sup>&</sup>lt;sup>33</sup> S/PV.7684, p. 5 (Bolivarian Republic of Venezuela).

<sup>&</sup>lt;sup>34</sup> S/PV.7740, p. 3 (Egypt); p. 5 (France); pp. 20–21 (Islamic Republic of Iran); p. 25 (Australia); and pp. 38-39 (Cuba).

<sup>&</sup>lt;sup>35</sup> S/PV.8118, p. 15 (Plurinational State of Bolivia).

<sup>&</sup>lt;sup>36</sup> S/PV.7857, p. 107 (Morocco); S/PV.8144, p. 54 (Botswana).

<sup>&</sup>lt;sup>37</sup> S/PV.7919, p. 3 (Plurinational State of Bolivia).

The following case studies illustrate the broad range of issues discussed during the period under review with respect to the Council's responsibility pursuant to Article 24. The discussions were held in connection with the implementation of the note by the President of the Security Council, which concerns the Council's working methods (case 1), the maintenance of international peace and security (case 2), the situation in the Democratic People's Republic of Korea (case 3), cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security (case 4) and the non-proliferation of weapons of mass destruction (case 5).

## Case 1 Implementation of the note by the President of the Security Council (\$/2010/507)

On 19 July 2016, at the 7740th meeting of the Council, several speakers made explicit and implicit references to Article 24 of the Charter. representative of Egypt underlined the genuine interest of all Member States in enhancing the transparency of the work of the Council to ensure that it acted on behalf of the entire membership, in accordance with Article 24.38 The representative of France emphasized the need for the Council to monitor and promote accountability for its actions before all Member States, in the spirit of Article 24.39 The representative of Australia, further, affirmed that the responsibility of the Council to act on behalf of the United Nations membership as a whole was enshrined in Article 24 and that Council members should engage regularly with the broader membership through briefings with regional groups and through outreach to affected countries.40

Speaking on behalf of the Movement of Non-Aligned Countries, the representative of the Islamic Republic of Iran made explicit reference to the Article in putting forward nine specific measures aimed at improving the working methods of the Council and enhancing its efficiency in fulfilling its primary responsibility. He reiterated the need for non-selectivity, impartiality and accountability in the work of the Council. He noted that a decision by the Council to initiate formal or informal discussions on the situation in any Member State or on any issue that did not constitute a threat to international peace and security would be contrary to Article 24 of the Charter and urged the Council to remain strictly within the

powers and functions accorded to it by Member States under the Charter. The representative of Romania stressed that the working methods of the Council concerned the entire United Nations membership in view of the fact that the Council was given the primary responsibility for preserving international peace and security and acted on behalf of the Member States. The representative of Cuba stated that, in accordance with Article 24 of the Charter, Member States recognized that the Council, in carrying out its functions, acted on their behalf and that its work was therefore the collective responsibility of all Member States; he affirmed that Member States should be guaranteed genuine participation in the Council's work and decision-making process.

## Case 2 Maintenance of international peace and security

At its 7621st meeting, on 15 February 2016, the Council held an open debate under 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", in which 68 Member States, observers and international organizations participated.<sup>44</sup>

In his opening remarks, the Secretary-General noted that the disrespect for fundamental principles of international human rights and humanitarian law challenged the Council in fulfilling its duties under the Charter and observed that human rights abuses were the most effective early-warning signs of the instability that often escalated into atrocity crimes. 45 Many speakers stressed that the respect for human rights was linked to the maintenance of international peace and should therefore be given due weight in the agenda of the Council. 46

During the meeting, Member States reaffirmed the primary responsibility of the Council to maintain international peace and security, in accordance with the Charter. Several speakers underlined the changing

<sup>&</sup>lt;sup>38</sup> S/PV.7740, p. 3.

<sup>&</sup>lt;sup>39</sup> Ibid., p. 5.

<sup>&</sup>lt;sup>40</sup> Ibid., p. 25.

<sup>&</sup>lt;sup>41</sup> Ibid., pp. 20–21.

<sup>&</sup>lt;sup>42</sup> Ibid., p. 26.

<sup>43</sup> Ibid., pp. 38-39.

<sup>&</sup>lt;sup>44</sup> The Council had before it a concept note annexed to a letter dated 1 February 2016 from the representative of the Bolivarian Republic of Venezuela to the Secretary-General (S/2016/103).

<sup>&</sup>lt;sup>45</sup> S/PV.7621, pp. 2–3.

<sup>&</sup>lt;sup>46</sup> Ibid., p. 8 (Spain); pp. 11–12 (France); pp. 20–21 (United Kingdom); pp. 22–23 (Uruguay); pp. 26–27 (United States); p. 31 (Argentina); p. 38 (Sweden); p. 66 (Morocco); p. 68 (Panama); p. 78 (Latvia); and p. 89 (Netherlands).

nature of the threats facing international peace and security, ranging from terrorist acts to pandemic diseases, extreme violence, climate change and unprecedented migration flows. The representative of Angola stated that, through the Charter, Member States entrusted the Council with special powers on matters pertaining to international peace and security and that the United Nations membership provided tangible political and material support to the Council to permit the discharge of its mandate.<sup>47</sup>

The representative of the United Kingdom of Great Britain and Northern Ireland stated that, while there were new threats that the founders of the United Nations had not foreseen, the Council's primary responsibility to maintain peace and security remained and empowered it to take a range of measures, including the use of force.<sup>48</sup> The representative of New Zealand stressed that the international community faced more concurrent crises than at any time since the creation of the United Nations and that the Council's mandate to maintain international peace and security was therefore more relevant and necessary than ever. He further affirmed that the Charter placed the Council "at the centre of a rules-based international order". 49 Several speakers said that the Council should enhance cooperation with regional and subregional organizations.<sup>50</sup> The representative of Viet Nam said that the Council, as the body with the primary responsibility for the maintenance of international peace and security, should prioritize peaceful means for the settling of disputes and deepen its relationships with regional and subregional organizations.<sup>51</sup> The representative of Hungary expressed the view that, given its primary responsibility for the maintenance of international peace and security, the Council had a special responsibility for prioritizing the use of earlywarning systems, prevention and conflict resolution over "being stuck in a perpetual crisis-management mode". The Council should use "all the elements in its toolbox", including means related to the peaceful settlement of disputes, cooperation with regional organizations, the adoption of smart, targeted sanctions and the referral of situations to the International Criminal Court.52

## Case 3 The situation in the Democratic People's Republic of Korea

the 7830th meeting, convened Αt 29 November 2017 under the item entitled "The situation in the Democratic People's Republic of Korea", which focused on the human rights situation in that country, statements were made prior to the voting on the adoption of the agenda by the representatives of China, the United States of America, Angola and Japan.<sup>53</sup> The representative of China argued that the Council was not a forum for discussing human rights issues, noting the stipulation in the Charter that the Council's primary responsibility was the maintenance of international peace and security. He argued that such discussion was contrary and detrimental to the goal of stabilizing the Korean peninsula.<sup>54</sup> China's position was supported by the representative of Angola.<sup>55</sup> By contrast, the representative of the United States argued that the item did belong on the Council's agenda and stated that suggesting that the "brutal governance" practised by the Democratic People's Republic of Korea regime was neutral on international peace and security stretched credulity.<sup>56</sup> The representative of Japan explained that the reasons for the Council to hold a meeting persisted, given the destabilizing impact of the human rights situation in the Democratic People's Republic of Korea on the region and on the maintenance of international peace and security.<sup>57</sup> After the adoption of the agenda, the Deputy Secretary-General and the Assistant Secretary-General for Human Rights briefed the Council, providing a detailed account of the human rights and humanitarian situation in the Democratic People's Republic of Korea and outlining the main actions taken by the Organization, including the Office of the United Nations High Commissioner for Human Rights, in that regard.58

Many Council members expressed support for keeping the item on the Council's agenda.<sup>59</sup> The representative of the United Kingdom maintained that human rights violations warned the Council of threats

<sup>&</sup>lt;sup>47</sup> Ibid., p. 6.

<sup>&</sup>lt;sup>48</sup> Ibid., p. 20.

<sup>&</sup>lt;sup>49</sup> Ibid., pp. 18–19.

<sup>&</sup>lt;sup>50</sup> Ibid., p. 15 (Senegal); p. 36 (Chile); p. 37 (Viet Nam); p. 39 (Sweden); pp. 41–42 (Hungary); p. 53 (Italy); p. 56 (Kuwait); pp. 57–58 (Algeria); p. 70 (United Arab Emirates); and p. 72 (Thailand).

<sup>&</sup>lt;sup>51</sup> Ibid., p. 37.

<sup>&</sup>lt;sup>52</sup> Ibid., pp. 41–42.

<sup>53</sup> For more information on the agenda of the Council and its adoption, see part II.

<sup>&</sup>lt;sup>54</sup> S/PV.7830, p. 2.

<sup>&</sup>lt;sup>55</sup> Ibid., p. 3.

<sup>&</sup>lt;sup>56</sup> Ibid., p. 2.

<sup>&</sup>lt;sup>57</sup> Ibid., p. 3.

<sup>&</sup>lt;sup>58</sup> Ibid., pp. 5-6 (Deputy Secretary-General); and pp. 6-8 (Assistant Secretary-General for Human Rights).

<sup>59</sup> Ibid., p. 2 (United States); p. 3 (Japan); p. 9 (United Kingdom); pp. 10-11 (Ukraine); pp. 11-12 (France); p. 16 (Uruguay); p. 17 (New Zealand); pp. 17-18 (Malaysia); and p. 19 (Spain).

to international peace and security.<sup>60</sup> The representative of Uruguay stressed that there were no limitations as to where human rights should be discussed, given that the protection of human rights was one of the pillars of the United Nations, and noted that there was a link between human rights violations and the rise of conflict and how those conflicts posed threats to international peace and security.<sup>61</sup> The representative of Spain, similarly, stated that any gross and systemic violation of human rights presented a threat to international peace and security.<sup>62</sup>

Other Council members expressed reservations. The representative of the Russian Federation said that human rights issues did not fall within the Council's purview and should be considered in specialized bodies Council.<sup>63</sup> as the Human Rights of the Bolivarian Republic representatives Venezuela and Egypt cautioned against the Council's interference in issues outside of its competency with respect to the maintenance of international peace and security as set forth in the Charter.64

On 11 December 2017, at the 8130th meeting, held under the same item, the provisional agenda was again put to a vote. After the adoption of the agenda, the representative of the Plurinational State of Bolivia underlined that the primary responsibility of the Council was the maintenance of international peace and security and the Council was therefore not the forum in which to address issues pertaining to human rights.<sup>65</sup> The representative of Italy, by contrast, highlighted the link between human rights violations and the repercussions for the maintenance international peace and security and noted that the discussion on human rights was within the scope and Likewise, the mandate of the Council.66 representative of Ukraine held the view that human rights violations were a clear indication of a credible threat to international peace and security, the maintenance of which was the primary responsibility of the Security Council.<sup>67</sup>

# Case 4 Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security

At the 7694th meeting, held on 24 May 2016 under the sub-item entitled "United Nations-African Union peace and security cooperation: Chapter VIII application and the future of the African Peace and Security Architecture",68 the representative of the Russian Federation affirmed that the recognition of the primary responsibility of the Council for the maintenance of international peace and security and the complementarity of the efforts of the United Nations and regional organizations, leveraging the comparative advantages of each, lay at the basis of the partnership between the Security Council and the African Union Peace and Security Council.<sup>69</sup> The representative of China stated that the United Nations was the core of the international collective security mechanism and that the Council had the primary responsibility for maintaining international peace and security.<sup>70</sup> The representative of Senegal agreed that, while it was up to the Council to respond to crises, given its primary responsibility in maintaining international peace and security, it was necessary, in accordance with Chapter VIII of the Charter of the United Nations, to strengthen cooperation with regional organizations and to encourage the development of regional responses.<sup>71</sup> Similarly, the representative of Nigeria stated that, while the primary responsibility for the maintenance of international peace and security resided with the Council, regional organizations lightened the burden of the Council and provided an added layer of legitimacy to multilateralism.<sup>72</sup>

At the 7796th meeting, held on 28 October 2016 under the sub-item entitled "Collective Security Treaty Organization, Shanghai Cooperation Organization and Commonwealth of Independent States", the representative of China said that, as the core of the international collective security mechanism, the Security Council bore the primary responsibility for the maintenance of international security. The representative of the Bolivarian Republic of Venezuela said that, while the primary responsibility for the maintenance of international peace and security rested

<sup>&</sup>lt;sup>60</sup> Ibid., p. 9.

<sup>&</sup>lt;sup>61</sup> Ibid., p. 16.

<sup>62</sup> Ibid., p. 19.

<sup>63</sup> Ibid, p. 3.

<sup>&</sup>lt;sup>64</sup> Ibid., p. 4 (Bolivarian Republic of Venezuela); and p. 13 (Egypt).

<sup>&</sup>lt;sup>65</sup> S/PV.8130, p. 4.

<sup>66</sup> Ibid., p. 16.

<sup>&</sup>lt;sup>67</sup> Ibid., p. 14.

<sup>&</sup>lt;sup>68</sup> The Council had before it a concept note annexed to a letter dated 9 May 2016 from the representative of Egypt to the Secretary-General (\$/2016/428).

<sup>&</sup>lt;sup>69</sup> S/PV.7694, p. 19.

<sup>&</sup>lt;sup>70</sup> Ibid., p. 25.

<sup>&</sup>lt;sup>71</sup> Ibid., p. 27.

<sup>&</sup>lt;sup>72</sup> Ibid., p. 51.

<sup>&</sup>lt;sup>73</sup> S/PV.7796, p. 9.

with the Council, the many conflicts and crises around the world called for close cooperation between all United Nations bodies and regional organizations, in particular in cases where such organizations had a closer perspective of regional and local conflicts and knowledge of their underlying causes, which allowed for close and mutually beneficial cooperation.<sup>74</sup> The representative of Ukraine noted that it was very important to develop effective partnerships between the United Nations and regional organizations, in accordance with the Charter and the relevant statutes of organizations.<sup>75</sup> regional The representative Azerbaijan recalled that, in accordance with the Charter, Member States conferred upon the Council the primary responsibility for the maintenance international peace and security and agreed that, in carrying out its duties under that responsibility, the Council acted on their behalf. At the same time, the cooperation encouraged with regional arrangements in the peaceful settlement of disputes.<sup>76</sup>

### Case 5 Non-proliferation of weapons of mass destruction

At its 7758th meeting, on 23 August 2016, the Council held an open debate on the non-proliferation of weapons of mass destruction.<sup>77</sup> In his opening remarks, the Secretary-General urged all Member States to focus on eradicating weapons of mass destruction. He recalled that, by adopting resolution 1887 (2009)during historic a summit non-proliferation in 2009,78 Council members had emphasized the Council's primary responsibility to address nuclear threats and its willingness to take action.79

During the meeting, speakers cited the threat posed by weapons of mass destruction falling into the hands of non-State actors and terrorist groups. The

representatives of Malaysia and Nigeria underlined the important role of the Secretariat in facilitating, coordinating and supporting cooperation between the various United Nations entities in preventing the proliferation of weapons of mass destruction to non-State actors.<sup>80</sup> The representative of Malaysia stated that the Council, consistent with its primary responsibility for the maintenance of international peace and security and in accordance with the purposes and principles of the United Nations, had a key role to play in that regard.<sup>81</sup> The representative of Spain noted that the Council played a primary role in that process as the main guarantor of international peace and security.82 Similarly, the representative of Nigeria stated that the Council had the primary responsibility under the Charter for the maintenance of international peace and security and had to continue to play a vital role in this regard.83

At the 8053rd meeting of the Council, on 21 September 2017, the representative of Ukraine stressed that it was the responsibility of the Council to achieve the overarching goal of restoring respect for international law and finding lasting solutions to the most urgent threats to global peace and security. He added that the Council had to remain determined and precise in preventing the redrawing of the world map by newly emerged nuclear-weapons actors.84 The representative of Japan stated that it was critical for the Council to resolutely and concretely address the serious issues that were affecting the very foundation of the non-proliferation regime.85 The representative of the Russian Federation warned that the Council's primary role in the maintenance of international peace and security was being undermined by the introduction illegitimate, unilateral measures non-proliferation sanctions would merely freeze the current issues without helping to resolve them for good. Therefore, he stressed, the key to an effective non-proliferation regime was to renounce interference in the internal affairs of States and to establish a unified and indivisible security system for all countries, without exception.86

<sup>&</sup>lt;sup>74</sup> Ibid., p. 17.

<sup>&</sup>lt;sup>75</sup> Ibid., p. 18.

<sup>&</sup>lt;sup>76</sup> Ibid., p. 33.

<sup>&</sup>lt;sup>77</sup> The Council had before it a concept note annexed to a letter dated 15 August 2016 from the representative of Malaysia to the Secretary-General (S/2016/712).

<sup>&</sup>lt;sup>78</sup> See S/PV.6191.

<sup>&</sup>lt;sup>79</sup> S/PV.7758, pp. 2-3.

<sup>80</sup> Ibid., p. 9 (Malaysia); and p. 75 (Nigeria).

<sup>81</sup> Ibid., p. 9.

<sup>82</sup> Ibid., pp. 12–13.

<sup>83</sup> Ibid., p. 75.

<sup>84</sup> S/PV.8053, p. 11.

<sup>85</sup> Ibid., p. 13.

<sup>86</sup> Ibid., p. 21.

### II. The 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, which covers the practice of the Security Council in 2016 and 2017 in relation to Article 25 of the Charter, concerning the obligation of the Member States to accept and carry out the decisions of the Council, is divided into two subsections. Subsection A covers references made in decisions, while subsection B examines how Article 25 emerged in discussions held during the Council's meetings.

During the period under review, Article 25 was explicitly invoked in two resolutions, as described in subsection A below. Article 25 was also explicitly referred to during several meetings of the Council, as described in subsection B below.

Explicit references to Article 25 were contained in two communications addressed to the President of the Security Council.<sup>87</sup> Furthermore, Article 25 was explicitly invoked in three draft resolutions that were not adopted.<sup>88</sup>

### A. Decisions referring to Article 25

During the period under review, two resolutions were adopted, concerning the conflict in the Syrian Arab Republic, that contained explicit references to Article 25. By those resolutions, the Council underscored that Member States were obligated under Article 25 of the Charter to accept and carry out the Council's decisions, and demanded that all parties, in particular the Syrian authorities, immediately comply with their obligations under international law, including international humanitarian law and international human rights law. The Council further demanded the "full and immediate implementation of

all the provisions" of the relevant Security Council resolutions. 89

Also during the period under review, three draft resolutions on the situation in the Middle East that were not adopted contained explicit reference to Article 25. In those draft resolutions, the Council would have recalled that Member States were obligated under Article 25 of the Charter to accept and carry out the Council's decisions.<sup>90</sup>

### B. Discussion relating to Article 25

During the biennium, Article 25 was explicitly and implicitly referred to at numerous meetings of the Council. Explicit references to Article 25 were made during several meetings held under the items entitled "General issues relating to sanctions", "Implementation of the note by the President of the Security Council (S/2010/507)", "Reports of the Secretary-General on the Sudan and South Sudan", "Non-proliferation" and "The situation in the Middle East, including the Palestinian question". "95

The case studies below illustrate the most salient constitutional discussions relating to the interpretation or application of Article 25 during the period under review, in connection with the situation in the Middle East, including the Palestinian question (case 6), non-proliferation (case 7) and general issues relating to sanctions (case 8).

### Case 6

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

On 17 January 2017, at the 7863rd meeting of the Council, several speakers reiterated that Member States should refrain from unilateral decision-making and comply with relevant Security Council decisions. The

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Facilitator for the implementation of resolution 2231 (2015) (S/2016/649, annex); and letter dated 22 September 2016 from the Chair of the Committee established pursuant to resolution 1591 (2005) concerning the Sudan (S/2016/805, annex).

<sup>88</sup> S/2016/846, S/2016/847 and S/2016/1026.

<sup>89</sup> Resolutions 2332 (2016) and 2393 (2017), final preambular paragraph and para. 1.

<sup>&</sup>lt;sup>90</sup> S/2016/846, S/2016/847 and S/2016/1026, final preambular paragraph.

<sup>&</sup>lt;sup>91</sup> S/PV.7620, p. 12 (Japan).

<sup>&</sup>lt;sup>92</sup> S/PV.7740, p. 14 (Bolivarian Republic of Venezuela).

<sup>&</sup>lt;sup>93</sup> S/PV.7710, p. 3 (Prosecutor of the International Criminal Court).

<sup>94</sup> S/PV.7739, p. 12 (Senegal).

<sup>95</sup> S/PV.7863, p. 34 (South Africa); S/PV.7929, p. 63 (United Arab Emirates); and S/PV.8072, pp. 36–37 (Kuwait).

representative of South Africa stated that, as a Member of the United Nations, Israel was obliged under Article 25 of the Charter to comply with the decisions of the Security Council. Many delegations made reference to the need for the immediate and effective implementation of resolution 2334 (2016) and to the obligation to abide by the decisions of the Council in accordance with the Charter. Pr

On 20 April 2017, at the 7929th meeting, the representative of the United Arab Emirates noted that respect for international law was key to stability and called upon Member States to abide by Security Council decisions in accordance with Article 25 of the Charter.<sup>98</sup>

On 18 October 2017, at the 8072nd meeting, the representative of Kuwait stated that the disdain shown by the occupying Power for the Council and its resolutions was "disconcerting", as those resolutions were meant to be enforceable under Article 25 of the Charter. 99 Likewise, the representative of Maldives called on Israel to immediately stop its illegal activities and respect its international obligations, including decisions. 100 relevant Security Council representatives of Uruguay and Bangladesh regretted that little progress had been made with regard to the implementation of resolution 2334 (2016).<sup>101</sup> Several speakers emphasized the need for receiving substantive reports in a written format on the developments regarding the implementation of resolution 2334 (2016), as stipulated in the resolution.<sup>102</sup> representative of the United Arab Emirates stressed that States must respect their obligations under international law and the Charter. 103

### Case 7 Non-proliferation

On 18 July 2016, at its 7739th meeting, the Council held a briefing on the implementation of resolution 2231 (2015), by which it endorsed the Joint Comprehensive Plan of Action on the nuclear programme of the Islamic Republic of Iran. During the meeting, Council members welcomed progress made in implementing the agreement and affirmed that it was a significant step forward for international peace and security. The representative of Spain, speaking in his capacity as the Security Council Facilitator for the implementation of resolution 2231 (2015), said that all Member States, including the Islamic Republic of Iran, must act in accordance with all the provisions of the resolution.<sup>104</sup> The representative of the United States acknowledged the implementation of the historic agreement by the Islamic Republic of Iran and noted that it had produced real, tangible change. 105 The representative of Senegal commended the Facilitator, with the assistance of the Secretariat, for rendering the content of resolution 2231 (2015) more intelligible, thereby making it less difficult for the parties and the rest of the international community to monitor its implementation; and welcomed the establishment of a dedicated website that provided Member States with access to the necessary information to meet their obligations under Article 25 of the Charter with respect to accepting and carrying out the decisions of the Security Council. 106

Some speakers expressed concern about reports of non-compliance by the Islamic Republic of Iran with some provisions of resolution 2231 (2015),<sup>107</sup> as detailed in the report of the Secretary-General.<sup>108</sup> However, the representative of the Russian Federation argued that some provisions of the report had no relation to the mandate of the Secretary-General or to the terms of reference of the resolution or the Plan of Action.<sup>109</sup> The representative of the United Kingdom urged Member States to continue to enforce the binding restrictions in place under resolution 2231 (2015) and encouraged Member States to act on and report all suspected violations of those sanctions.<sup>110</sup>

The representative of Egypt stated that divergence in views with regard to technical aspects

<sup>&</sup>lt;sup>96</sup> S/PV.7863, p. 34.

<sup>&</sup>lt;sup>97</sup> Ibid., p. 19 (China); pp. 26–27 (Lebanon); p. 33 (Syrian Arab Republic); p. 36 (Costa Rica); pp. 37–38 (Indonesia); p. 39 (Bolivarian Republic of Venezuela); p. 41 (Bangladesh); p. 42 (Pakistan); and p. 48 (Uzbekistan).

<sup>&</sup>lt;sup>98</sup> S/PV.7929, p. 63.

<sup>&</sup>lt;sup>99</sup> S/PV.8072, pp. 36–37.

<sup>100</sup> Ibid., pp. 48-49.

<sup>&</sup>lt;sup>101</sup> Ibid., p. 24 (Uruguay); and p. 40 (Bangladesh).

<sup>Ibid., p. 15 (Plurinational State of Bolivia); p. 27
(Bolivarian Republic of Venezuela); p. 36 (Kuwait);
p. 37 (South Africa); p. 39 (Bangladesh); pp. 43–44
(Qatar); p. 45 (Vice-Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People); p. 49 (Maldives); p. 51 (Bahrain); and p. 53 (Malaysia).</sup> 

<sup>&</sup>lt;sup>103</sup> Ibid., p. 46.

<sup>&</sup>lt;sup>104</sup> S/PV.7739, p. 5.

<sup>&</sup>lt;sup>105</sup> Ibid., p. 6.

<sup>&</sup>lt;sup>106</sup> Ibid., p. 12.

<sup>&</sup>lt;sup>107</sup> Ibid., p. 7 (United States); p. 8 (France); p. 11 (United Kingdom); p. 15 (Ukraine); and p. 20 (Germany).

<sup>&</sup>lt;sup>08</sup> S/2016/589.

<sup>&</sup>lt;sup>109</sup> S/PV.7739, p. 9.

<sup>&</sup>lt;sup>110</sup> Ibid., p. 11.

and the interpretation of resolution 2231 (2015) should not overly absorb the Council's attention and derail it from its mission to ensure international peace and security. Similarly, the representative of Ukraine reiterated the importance of a united Council stance when dealing with the issue and reiterated its intention to ensure the further implementation of the resolution. 112

At the 7865th meeting, on 18 January 2017, the representative of the United States affirmed that the Council needed to come together to push the Islamic Republic of Iran to effectively implement the binding provisions of resolution 2231 (2015), especially the restrictions that banned the country from exporting arms and related material and those that banned all Member States from transferring advanced weapons systems to the Islamic Republic of Iran. She noted that the Council and each of the participants in the Plan of Action needed to stand by the commitments made and work hard to make sure that all States complied with their obligations under the resolution. 113

At the 7990th meeting, on 29 June 2017, the representative of Kazakhstan expressed the view that the Security Council, as a guarantor of international peace and security, should always insist on full compliance. The representative of Uruguay, similarly, said that the Council, as a guarantor of international peace and security, must ensure full compliance with the Plan of Action and resolution 2231 (2015). The representative of France referred to the Council's endorsement of the Plan of Action through the adoption of resolution 2231 (2015), a historic achievement for the Security Council, which had a responsibility to ensure that it lasted. 116

At the 8143rd meeting, on 19 December 2017, several members stressed the historic significance of resolution 2231 (2015) and the Plan of Action. The representative of the Russian Federation expressed the hope that countries would continue respecting "the spirit of this historical agreement". The representative of Uruguay stressed the need to comply with all the provisions of the Plan of Action, in addition to those contained in resolutions 2231 (2015),

including its annexes A and B.<sup>119</sup> The representative of France held the view that, just as it would be a mistake to denounce the Plan of Action, it would also be irresponsible to selectively implement the provisions of the resolution endorsing it.<sup>120</sup>

### Case 8 General issues relating to sanctions

At the 7620th meeting of the Council, on 11 February 2016, members discussed, inter alia, a draft note by the President of the Security Council on the work of the subsidiary organs of the Council. 121 The representative of Angola expressed the hope that the provisions in the note would force States, entities and individuals to respect international law and abide by the Security Council's decisions. 122

The representative of Japan highlighted the importance of compliance with and the implementation of the decisions of the Security Council, as stipulated in Article 25 of the Charter. He added that all Member States were obliged to implement Council decisions irrespective of whether they were involved in the decision-making.<sup>123</sup> The representative of the United Kingdom also highlighted the importance of the effective implementation of Council decisions, and stated that sanctions regimes established by the Council under Chapter VII imposed legally binding obligations on all Member States and that it was crucial for all States to implement them fully. 124 With reference to the lack of implementation of sanctions measures against certain individuals, the representative of the Central African Republic raised the issue of the binding nature of Council resolutions with respect to Member States that deliberately violated the provisions and principles of the Charter. 125

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<sup>Ibid., p. 13.
Ibid., p. 15.
S/PV.7865, pp. 8–9.
S/PV.7990, p. 10.
Ibid., p. 13.
Ibid., p. 8.
S/PV.8143, p. 10 (Uruguay); p. 13 (Russian Federation); p. 15 (China); p. 17 (Kazakhstan); p. 18 (Ukraine); and p. 19 (United Kingdom).
Ibid., p. 13.</sup> 

<sup>&</sup>lt;sup>119</sup> Ibid., p. 10.

<sup>&</sup>lt;sup>120</sup> Ibid., p. 11.

<sup>121</sup> The Council had before it a concept note annexed to a letter dated 2 February 2016 from the representative of the Bolivarian Republic of Venezuela to the Secretary-General (S/2016/102). Subsequent to the meeting, the note by the President of the Security Council dated 22 February 2016 on the work of the subsidiary organs of the Council (S/2016/170) was issued. For more information on the sanctions measures discussed at the 7620th meeting, see part VII, sect. III, "Measures not involving the use of armed force in accordance with Article 41 of the Charter".

<sup>&</sup>lt;sup>122</sup> S/PV.7620, p. 8.

<sup>&</sup>lt;sup>123</sup> Ibid., p. 12.

<sup>&</sup>lt;sup>124</sup> Ibid., p. 11.

<sup>&</sup>lt;sup>125</sup> Ibid., p. 30.

### III. The 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 decisions explicitly invoking Article 26 of the Charter. No communications to the Council contained any reference to Article 26. However, Article 26 was mentioned explicitly during three meetings of the Council, as described below.

### Discussion relating to Article 26

The following case studies illustrate the constitutional discussions relating to the interpretation or application of Article 26 during the period under review in connection with the non-proliferation of weapons of mass destruction (case 9) and the maintenance of international peace and security (case 10).

### Case 9 Non-proliferation of weapons of mass destruction

On 23 August 2016, at the 7758th meeting, 126 the representative of Costa Rica observed that peace and security as a global public good could be achieved by

honouring the Charter, in particular Articles 10 and 26. Moreover, pointing out that Costa Rica had no army and possessed no weapons of mass destruction, he called for compliance with Article 26 of the Charter, because a world without weapons of mass destruction was the only way to achieve peace, security and sustainable development. 127

On 15 December 2016, at the 7837th meeting, the representative of Costa Rica continued to call for compliance with Article 26 of the Charter, in which it is stated that the Council should promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources. 128

## Case 10 Maintenance of international peace and security

At the 8144th meeting of the Council, held on 20 December 2017 under the sub-item entitled "Addressing complex contemporary challenges to international peace and security", 129 the representative of Ecuador, recalling that the United Nations was established to save future generations from the scourge of war, said that the international community had adopted proposals that interlinked disarmament and development and expressed the obvious relationship between them. She stressed that Article 26 of the Charter stated the need to maintain international peace and security with the least diversion for armaments of the world's human and economic resources. She also called for more coordinated work between the General Assembly, the Security Council, the Economic and Social Council and the Secretariat to meet the objectives and purposes of the Charter, while respecting the prerogatives of each organ and avoiding the duplication of functions. 130

<sup>126</sup> The Council had before it a concept note annexed to a letter dated 15 August 2016 from the representative of Malaysia to the Secretary-General (S/2016/712).

<sup>&</sup>lt;sup>127</sup> S/PV.7758, pp. 65–66.

<sup>&</sup>lt;sup>128</sup> S/PV.7837, p. 65.

<sup>129</sup> The Council had before it a concept note annexed to a letter dated 1 December 2017 from the representative of Japan to the Secretary-General (S/2017/1016).

<sup>&</sup>lt;sup>130</sup> S/PV.8144, p. 42.