
Part III

Purposes and principles of the Charter of the United Nations

Contents

| | <i>Page</i> |
|--|-------------|
| Introductory note | 331 |
| I. The principle of equal rights and self-determination of peoples under Article 1, paragraph 2 . . . | 332 |
| Note | 332 |
| A. Decisions relating to Article 1 (2) | 332 |
| B. Communications relating to Article 1 (2) | 333 |
| C. Discussions relating to Article 1 (2) | 333 |
| II. Prohibition of the threat or use of force under Article 2, paragraph 4 | 336 |
| Note | 336 |
| A. Decisions relating to Article 2 (4) | 336 |
| B. Communications relating to Article 2 (4) | 343 |
| C. Discussions relating to Article 2 (4) | 343 |
| III. Obligation to refrain from assisting the target of enforcement action under Article 2, paragraph 5 | 347 |
| IV. Non-intervention in the internal affairs of States by the United Nations under Article 2, paragraph 7 | 348 |

Introductory note

Part III covers the consideration by the Security Council of Articles contained in Chapter I of the Charter of the United Nations pertaining to the purposes and principles of the United Nations, namely Articles 1 (2), 2 (4), 2 (5) and 2 (7), and is accordingly divided into four sections. In section I, material is considered relating to the self-determination of peoples according to Article 1 (2); section II covers material pertaining to the non-threat or non-use of force as enshrined in Article 2 (4); section III looks at the obligation to refrain from assisting a target of the Council's enforcement action as stipulated in Article 2 (5); section IV deals with the Council's consideration of the principle of non-intervention by the United Nations as regulated in Article 2 (7).

Each section is introduced with a note which gives a general explanation of the arrangement of the material contained in the section in relation to the practice of the Council. The note also gives a brief overview of the main aspects of Council practice and noteworthy developments during the two-year period under review and draws attention to the case studies, if any, in the section. Following the note, material selected to illustrate how the provisions of the relevant Articles were interpreted and applied in decisions and deliberations of the Council is presented.

During the two-year period 2008 to 2009, the Security Council deliberated the unilateral declaration of independence by the Kosovo Assembly, which had a bearing on the interpretation of the purpose enshrined in Article 1 (2) (case 1) as well as on the principle contained in Article 2 (4) (case 5), the latter in relation to respect for territorial integrity. In connection with Article 2 (4), the use of force by one State against another was extensively discussed under two items, namely, "Peace and security in Africa" in relation to the border dispute between Djibouti and Eritrea (case 3) and "The situation in Georgia" (case 4).

With regard to Article 2 (7), the principle of non-intervention by the United Nations in the internal affairs of States was discussed equally in the context of country-specific situations, particularly, under "Peace and security in Africa", in relation to the situation in Zimbabwe (case 6), and in the context of thematic issues, prominently under "Protection of civilians in armed conflict" (case 7).

I. The 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

This section 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. It is structured in three subsections. Subsection A highlights the references in the Council's decisions to the right of self-determination, which were made mainly in support of the holding of elections and referendums, and subsection B gives a brief overview of communications in which reference was made to the right of self-determination. Subsection C covers discussions in which Member States invoked the right of self-determination and contains two case studies.

A. Decisions relating to Article 1 (2)

Explicit references to Article 1 (2)

During the period under review, the Security Council made an explicit reference to Article 1 (2) of

the Charter in a decision on protection of civilians in armed conflict, in which it reaffirmed "its commitment also to the purposes of the Charter of the United Nations as set out in Article 1, paragraphs 1 to 4, and to the principles of the Charter as set out in Article 2, paragraphs 1 to 7, including its commitment to the principles of the political independence, sovereign equality and territorial integrity of all States, and respect for the sovereignty of all States".¹

Implicit references to Article 1 (2)

The Council also made several references that could be understood as having an implicit bearing on Article 1 (2) and that are reflected in table 1. These references were made notably in decisions relating to the holding of elections or referendums in Afghanistan, Myanmar and Western Sahara. In connection with the situation concerning Western Sahara, the Council stressed that a just, lasting, and mutually acceptable political solution would provide for the "self-determination of the people of Western Sahara".

¹ Resolution 1894 (2009) of 11 November 2009, second preambular paragraph.

Table 1

Decisions containing implicit reference to Article 1 (2)

| Decision | Provisions |
|--|--|
| The situation in Afghanistan | |
| S/PRST/2009/21 15 July 2009 | The Security Council welcomes the Afghan-led preparations for the upcoming presidential and provincial council elections and stresses the importance that the elections be free, fair, transparent, credible, secure and inclusive. The Council also calls upon the people of Afghanistan to exercise their vote in this historic opportunity for all Afghans to make their voices heard (first paragraph) |

The situation in Myanmar

[S/PRST/2008/13](#)
2 May 2008

The Council takes note of the announcement by the Government of Myanmar of a referendum on a draft constitution in May 2008 and elections in 2010. It further notes the commitment by the Government to ensure that the referendum process will be free and fair (second paragraph)

The Council affirms its commitment to the sovereignty and territorial integrity of Myanmar and, in that context, reiterates that the future of Myanmar lies in the hands of all of its people (fifth paragraph)

The situation concerning Western Sahara

Resolution [1813](#)
(2008)
30 April 2008

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)

Resolution [1871](#)
(2009)
30 April 2009

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 noting the role and responsibilities of the parties in this respect (para. 4)

B. Communications relating to Article 1 (2)

During the period under review, explicit references to Article 1 (2) were made in a letter from the representative of Azerbaijan, transmitting a national report in the context of the situation relating to Nagorny-Karabakh and relations between Armenia and Azerbaijan.² In several other communications, the principle of self-determination was invoked. While such references were too numerous to cite here, the majority of those implicit references to the principle of self-determination were made in connection with the situation relating to Nagorny-Karabakh and relations between Armenia and Azerbaijan and the situation in the Middle East, including the Palestinian question.³

² S/2008/823, annex, paras. 99, 129 and 130. The report was entitled "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims".

³ See, for example, note verbale dated 7 April 2008 from the Permanent Mission of the Syrian Arab Republic to the President of the Security Council (S/2008/232,

C. Discussions relating to Article 1 (2)

In the deliberations of the Council, the principle of self-determination was often invoked without giving rise to a constitutional discussion. Numerous references to the principle of self-determination were made, in particular, in discussions relating to the situation in the Middle East, including the Palestinian question⁴ and the

pp. 2-3); and letters dated 22 May 2009 (S/2009/269, p. 2) and 13 August 2009 (S/2009/420, pp. 4-5) from the Permanent Observer of Palestine to the Secretary-General and the President of the Security Council.

⁴ See, for example, S/PV.6061, p. 5 (Palestine); pp. 33-34 (Qatar); S/PV.6061 (Resumption 1), p. 5 (Cuba, on behalf of the Non-Aligned Movement); p. 11 (Pakistan); S/PV.6100 (Resumption 1), p. 12 (Bangladesh); p. 18 (Mauritania); p. 19 (South Africa); p. 24 (Nicaragua); p. 30 (Bolivarian Republic of Venezuela); and S/PV.6201 (Resumption 1), p. 11 (Sudan); p. 14 (South Africa); p. 22 (Bangladesh); p. 25 (Islamic Republic of Iran); and p. 30 (Maldives).

situation concerning Western Sahara.⁵ In 2009, Council members, in connection with the situation in Myanmar, emphasized the importance of the holding of free and fair general elections in 2010 that were inclusive and assuring full participation of the people.⁶ Similarly, in connection with the reports of the Secretary-General on the Sudan, the Council was informed through briefings about the impact of the self-determination referendum in southern Sudan scheduled in January 2011.⁷

The two cases set out below reflect instances in which the Council discussed extensively questions relating to the principle enshrined in Article 1 (2) in connection with the unilateral declaration of independence by the Kosovo Assembly (case 1); and the first elections held under full Iraqi ownership after the transfer of power from the Coalition Provisional Authority to the Government of Iraq (case 2).

Case 1
Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

At the 5839th meeting, held on 18 February 2008 following the unilateral declaration of independence of Kosovo on 17 February 2008, the discussion in the Security Council revealed strong differences between supporters of an independent Kosovo, some of whom made reference to the “will of the people”,⁸ and opponents who criticized either the unilateral nature of the decision, or its very legitimacy, or both.⁹ Some speakers, while regretting that the declaration came about as a “fait accompli”, expressed support for the independence of Kosovo.¹⁰

The representative of Serbia denounced the declaration of independence as illegal. He maintained that the argument that Kosovo’s independence was legitimized by the wish of a large majority of its

population was logically and legally flawed. He maintained that, should such a principle be acknowledged as valid, stability and peace would be at risk worldwide due to secessionist regions claiming their right to independence.¹¹

The representative of the Russian Federation argued that the unilateral declaration of independence and its recognition by other States were contrary to the provisions of the Helsinki Final Act, which allowed changes to State frontiers only in accordance with international law and by peaceful means and agreement.¹² The representative of South Africa regretted that the declaration of independence had been proclaimed outside of the legal and political process envisaged by resolution 1244 (1999).¹³

The representative of Belgium argued, on the other hand, that, despite the lack of a negotiated solution, Belgium would recognize Kosovo as an independent State since the declaration of independence reflected the will of a broad majority of the population, and sought to promote a democratic society respectful of the rights of all its minorities. He added that Kosovo’s independence needed to be understood in the context of the disintegration of Yugoslavia, which had given rise to many independent States, and that the declaration of independence, therefore, could not be considered as setting a precedent. Recalling that independence was not only a privilege but first and foremost a responsibility, he argued that an independent Kosovo was a necessary condition for lasting peace and stability in the region.¹⁴ Supporting Kosovo’s independence, the representative of the United Kingdom reminded the Council that resolution 1244 (1999) had recognized that the human rights of the people of Kosovo and the stability of the region could be secured only if Serbia did not govern Kosovo. He added that United Nations Interim Administration Mission in Kosovo was mandated to help Kosovo to establish its own institutions of self-government and to facilitate a process to determine Kosovo’s future status, based on the “will of its people”. The representative of the United Kingdom emphasized that the international community could not support a settlement opposed by more than 90 per cent of Kosovo’s population.¹⁵ Similarly, the representative of the United States stated that the people of Kosovo had

⁵ See, for example, S/PV.5884, p. 3 (Costa Rica); pp. 4-5 (South Africa); p. 5 (France); and S/PV.6117, p. 3 (France); p. 4 (United Kingdom); and p. 6 (Mexico).

⁶ See S/PV.6161, p. 6 (United Kingdom); p. 7 (Mexico); p. 9 (Japan); p. 10 (United States); p. 12 (Viet Nam); p. 14 (Croatia); p. 16 (Turkey); p. 17 (Libyan Arab Jamahiriya); p. 17 (Costa Rica); and pp. 18-19 (Uganda).

⁷ See S/PV.5840, p. 3; and S/PV.6251, p. 8.

⁸ S/PV.5839, p. 8 (Belgium); and p. 17 (Costa Rica).

⁹ Ibid., pp. 4-6 (Serbia); p. 7 (Russian Federation); p. 8 (China); p. 11 (Indonesia); p. 14 (Viet Nam); p. 15 (Burkina Faso); and p. 16 (South Africa).

¹⁰ Ibid., p. 17 (Costa Rica); and pp. 20-21 (Panama).

¹¹ Ibid., pp. 4-5 and p. 22.

¹² Ibid., pp. 6-7.

¹³ Ibid., p. 16.

¹⁴ Ibid., pp. 8-9.

¹⁵ Ibid., p. 13.

put an end to the interim status quo in a mature, non-violent and responsible manner. Kosovo's declaration of independence was a logical, legitimate and legal response to the situation and his country would support the commitments that Kosovo had freely undertaken to achieve a multi-ethnic democracy and ensure regional peace and stability.¹⁶

The representative of the Libyan Arab Jamahiriya stressed that Kosovo's declaration of independence found its origin in the lack of respect for the legitimate rights of minorities and basic freedom of the population. Nevertheless, he insisted that the Council should confirm its adherence to the principle of respect for the territorial integrity of States, and that the events in Kosovo should not be used in the future as "a term of reference or as an excuse".¹⁷ The representative of Costa Rica, while deploring the failure to reach a negotiated solution, declared that his country would recognize Kosovo, taking into account the will of the people of Kosovo, a people who found it impossible to live together with the Serb majority in the same country after the 1998 campaign of ethnic cleansing.¹⁸

On 26 November 2008, at the 6025th meeting, several speakers affirmed that the independence of Kosovo was "irreversible",¹⁹ while others welcomed the referral of the issue to the International Court of Justice following the request of Serbia.²⁰ Insisting that the new status of Kosovo as an independent State was "settled and irreversible", Mr. Skender Hyseni, representing Kosovo, deplored the fact that the question had been referred to the International Court of Justice but remained hopeful that the Court would reconfirm Kosovo's independence.²¹

Case 2

The situation concerning Iraq

In his report of 20 February 2009 pursuant to paragraph 6 of resolution 1830 (2008), the Secretary-General commended the successful holding of provincial elections in Iraq on 30 January 2009. He observed that Iraq had come a long way in taking its own affairs in hand.²² At the 6087th meeting, on 26 February 2009,

the Special Representative of the Secretary-General for Iraq pointed out that Iraq had "emerged sovereign" by conducting the "first fully Iraqi-led and owned elections". He further highlighted the fact that voters had bridged the sectarian divide which had caused large constituencies to boycott the previous elections in 2005. He stressed that with more sovereignty came more responsibility and that, therefore, all communities in Iraq had to build on the encouraging, optimistic outcome of the elections and move ahead with a common vision.²³

The representative of Iraq conveyed to Council members the pride of his Government and people over the elections, which had been held in a democratic and stable security situation. He stated that the elections had given Iraqi citizens the freedom to select those they considered most suitable to manage their provinces. He also stressed that the elections had marked a turning point in Iraq's pursuit of democracy thanks to the active participation of those voters who had boycotted the provincial elections in 2005. He added that the people of Iraq, by making the elections a success, had expressed their firm ambition to build a responsible democracy through the exercise of their rights within the context of public administration, as set forth in their constitution. He welcomed the positive feedback on the ability and potential demonstrated by the people of Iraq in their handling and protection of the electoral process.²⁴

During the debate, most Council members congratulated the people of Iraq for the successful outcome of the elections and commended both the good security conditions in which the elections were held and the broad participation in the polls.²⁵

The representative of Mexico acknowledged the success of the elections as a triumph for the people of Iraq and for democracy as a whole and as a step towards national reconciliation.²⁶ The representative of France concurred with this view and commended the people of Iraq for assuming full ownership of the democratic process and increasingly reassuming full responsibility for their country's affairs.²⁷ Similarly, the representative of Burkina Faso noted that the overall absence of incident throughout the electoral process was a clear

¹⁶ Ibid., p. 19.

¹⁷ Ibid., p. 15.

¹⁸ Ibid., p. 17.

¹⁹ S/PV.6025, p. 8 (Mr. Skender Hyseni on behalf of Kosovo); p. 10 (United States); and p. 18 (United Kingdom).

²⁰ Ibid., p. 12 (South Africa); and pp. 4-7 (Serbia).

²¹ Ibid., pp. 8-9.

²² S/2009/102, para. 60.

²³ S/PV.6087, pp. 2-6.

²⁴ Ibid., pp. 6-8.

²⁵ Ibid., p. 10 (Burkina Faso); p. 11 (Mexico); p. 14 (Austria); p. 17 (France); p. 20 (Croatia); p. 21 (China); p. 24 (Costa Rica); pp. 24-25 (United States); and p. 26 (Japan).

²⁶ Ibid., p. 11.

²⁷ Ibid., p. 17.

indication that Iraqis had gradually reasserted control over their country and their future.²⁸ The representative of Turkey expressed the support of his country for the democratic transformation under way in Iraq, which was in the hands of the people of Iraq themselves.²⁹

With regard to the level of participation in the elections, the representative of Croatia welcomed the “first Iraqi-led and Iraqi-owned” electoral process as well as the participation of citizens from all communities. He stressed that the hope and confidence expressed by the people of Iraq through casting their votes should be collectively translated into concrete action.³⁰ The representative of the Libyan Arab Jamahiriya welcomed the high turnout at the polls, in particular from the factions that had boycotted the 2005 elections.³¹ Similarly, the representative of Uganda noted with appreciation the greater participation of voters as well as the inclusion of a larger number of political sectors.³² The representative of China added that the successful outcome of the elections marked a “significant step toward having Iraqis govern Iraq”.³³

²⁸ Ibid., p. 10.

²⁹ Ibid., p. 20.

³⁰ Ibid.

³¹ Ibid., p. 13.

³² Ibid., p. 18.

³³ Ibid., p. 21.

On the other hand, the representative of the Russian Federation, while acknowledging the holding of competitive elections as a positive development, underlined that in Baghdad the voter turnout had in fact reached barely 40 per cent, which meant that half of the population had not yet taken civic ownership of the key issues in the life of the country. He also stressed that important segments of the population such as refugees and displaced persons had not been able to participate and remained outside the electoral campaign. Recalling that a significant segment of Iraqi society rejected the presence of foreign forces in the country, he further held that the popular referendum on the security agreement scheduled by July 2009 should “formalize the attitude of the Iraqis to such agreements once and for all”.³⁴

The representative of the United States expressed strong support for the democratic process in Iraq and stressed that the ongoing cooperation and partnership between Iraq and his country benefited both their free and sovereign peoples and the region. She emphasized that the recently held provincial elections, in which the voters chose new councils in 14 out of 18 provinces, were a free and peaceful vote with widely respected legitimacy and thus a “heartening moment in the evolution of Iraqi democracy”.³⁵

³⁴ Ibid., p. 23.

³⁵ Ibid., pp. 24-25.

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

This section deals with the practice of the Security Council concerning the principle of the prohibition of the threat or use of force in accordance with Article 2 (4) of the Charter. It is structured in three subsections. Subsection A highlights the references made by the Council in its decisions to the principle of the non-threat or non-use of force. Subsection B illustrates

communications which contained explicit references to Article 2 (4). Subsection C covers instances when Member States discussed the principle of the non-threat or non-use of force and contains four case studies reflecting the debates most relevant to the content of Article 2 (4) in the period under review.

A. Decisions relating to Article 2 (4)

During the period under review, the Security Council adopted three resolutions containing an explicit reference to Article 2 (4): two decisions were adopted in connection with the border dispute between Djibouti and Eritrea under the item “Peace and security in Africa”, while the other was adopted in connection with protection of civilians in armed conflict (see table 2).

Table 2
Decisions explicitly referring to Article 2 (4)

| <i>Decision</i> | <i>Provisions</i> |
|--|---|
| Peace and security in Africa | |
| Resolution 1862 (2009) 14 January 2009 | Demands that Eritrea ... abide by its international obligations as a Member of the United Nations, respect the principles mentioned in Article 2, paragraphs 3, 4 and 5, and Article 33 of the Charter of the United Nations ... (para. 5 (iii)) |
| Resolution 1907 (2009) 23 December 2009 | Reiterates its demand that Eritrea ... abide by its international obligations as a Member of the United Nations, respect the principles mentioned in Article 2, paragraphs 3, 4 and 5, and Article 33 of the Charter of the United Nations ... (para. 3 (iii)) |
| Protection of civilians in armed conflict | |
| Resolution 1894 (2009) 11 November 2009 | Reaffirming its commitment also to the purposes of the Charter of the United Nations as set out in Article 1, paragraphs 1 to 4, and to the principles of the Charter as set out in Article 2, paragraphs 1 to 7, including its commitment to the principles of the political independence, sovereign equality and territorial integrity of all States, and respect for the sovereignty of all States (second preambular paragraph) |

Affirmation of the principle of the non-threat or non-use of force with respect to the territorial integrity of any State

The Council, by its decisions, reaffirmed the principle of the non-threat or non-use of force with

respect to the territorial integrity of any State in considering the situation between Eritrea and Ethiopia and the border dispute between Djibouti and Eritrea (see table 3).

Table 3
Decisions affirming the principle of the non-threat or non-use of force with respect to the territorial integrity of any State

| <i>Decision</i> | <i>Provisions</i> |
|---|--|
| The situation between Eritrea and Ethiopia | |
| Resolution 1798 (2008) 30 January 2008 | Reiterates its call for the parties to show maximum restraint and refrain from any threat or use of force against each other, avoid provocative military activities and put an end to the exchange of hostile statements (para. 2) |
| S/PRST/2008/12 30 April 2008 | The Council urges both sides to show maximum restraint and to refrain from any threat or use of force against each other (fifth paragraph) |
| Resolution 1827 (2008) 30 April 2008 | Demands that Ethiopia and Eritrea ... show maximum restraint and refrain from any threat or use of force against each other, and avoid provocative military activities (para. 2) |
| Peace and security in Africa | |
| S/PRST/2008/20 12 June 2008 | The Security Council expresses its strong concern about the serious incidents that occurred on 10 June 2008 along the frontier between Djibouti and Eritrea, which led to several deaths and dozens of wounded (first paragraph) |

The Council condemns Eritrea's military action against Djibouti in Ras Doumeira and Doumeira Island (second paragraph)

The Council calls upon the parties to commit to a ceasefire and urges both parties, in particular Eritrea, to show maximum restraint and withdraw forces to the status quo ante (third paragraph)

Resolution 1862 (2009)
14 January 2009

Expressing its deep concern that, as mentioned in the report of the fact-finding mission ..., Eritrea has not withdrawn its forces to the status quo ante, as called for by the Council in the statement by its President of 12 June 2008 ([S/PRST/2008/20](#)) (fourth preambular paragraph)

Noting that Djibouti has withdrawn its forces to the status quo ante and has cooperated fully with the fact-finding mission ..., as well as with other missions sent by subregional and regional organizations (sixth preambular paragraph)

Welcomes the fact that Djibouti has withdrawn its forces to the status quo ante, as called for by the Security Council in the statement by its President of 12 June 2008 ([S/PRST/2008/20](#)) and as established by the fact-finding mission, and condemns the refusal of Eritrea to do so (para. 4)

Demands that Eritrea: withdraw its forces and all their equipment to the positions of the status quo ante, and ensure that no military presence or activity is being pursued in the area where the conflict occurred in Ras Doumeira and Doumeira Island in June 2008; ... abide by its international obligations as a Member of the United Nations, respect the principles mentioned in Article 2, paragraphs 3, 4 and 5, and Article 33 of the Charter of the United Nations ... (para. 5 (i) and (iii))

Resolution 1907 (2009)
23 December 2009

Expressing its deep concern that Eritrea has not withdrawn its forces to the status quo ante, as called for by the Council in its resolution 1862 (2009) and the statement by its President of 12 June 2008 ([S/PRST/2008/20](#)) (thirteenth preambular paragraph)

Noting that Djibouti has withdrawn its forces to the status quo ante and cooperated fully with all concerned, including the United Nations fact-finding mission and the good offices of the Secretary-General (sixteenth preambular paragraph)

Reiterates its demand that Eritrea immediately comply with resolution 1862 (2009) and withdraw its forces and all their equipment to the positions of the status quo ante, and ensure that no military presence or activity is being pursued in the area where the conflict occurred in Ras Doumeira and Doumeira Island in June 2008; ... abide by its international obligations as a Member of the United Nations, respect the principles mentioned in Article 2, paragraphs 3, 4, and 5, and Article 33 of the Charter ... (para. 3 (i) and (iii))

Reiteration of the principle of non-interference by States in the internal affairs of others

The Council also reiterated the principle of non-interference by States in the internal affairs of others, mainly by recalling the principles of good-neighbourliness, non-interference and regional cooperation in a number of country-specific situations.

Notably, when considering the question of piracy in connection with the situation in Somalia, the Council reaffirmed its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, "including Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law" (see table 4).

Table 4

Decisions reiterating the principle of non-interference by States in the internal affairs of others

| <i>Decision</i> | <i>Provisions</i> |
|--|---|
| The situation in Côte d'Ivoire | |
| Resolution 1795 (2008) 15 January 2008 | Reaffirming its strong commitment to respect for the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, and recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation (second preambular paragraph) <i>Same provision in resolutions 1826 (2008), second preambular paragraph; 1842 (2008), second preambular paragraph; 1865 (2009), third preambular paragraph; 1880 (2009), second preambular paragraph; and 1893 (2009), second preambular paragraph</i> |
| The situation concerning Iraq | |
| Resolution 1859 (2008) 22 December 2008 | Reaffirming the independence, sovereignty, unity, and territorial integrity of Iraq, and reaffirming further the importance of the principle of non-interference in the internal affairs of Iraq (third preambular paragraph) |
| Peace and security in Africa | |
| Resolution 1862 (2009) 14 January 2009 | Affirming its strong commitment to the sovereignty, independence, territorial integrity and unity of both Djibouti and Eritrea, and recalling the importance of the principles of good-neighbourliness, non-interference and regional cooperation (first preambular paragraph) |
| The situation in Somalia | |
| Resolution 1851 (2008) 16 December 2008 | Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, including Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law (third preambular paragraph) <i>Same provision in resolution 1897 (2009), third preambular paragraph</i> |
| Reports of the Secretary-General on the Sudan | |
| Resolution 1841 (2008) 15 October 2008 | Reaffirming its commitment to the sovereignty, unity, independence and territorial integrity of the Sudan, and recalling the importance of the principles of good-neighbourliness, non-interference and cooperation in the relations among States in the region (second preambular paragraph) <i>Same provision in resolution 1891 (2009), second preambular paragraph</i> |

Calls for respect for the sovereignty, territorial integrity and political independence of States

There was one instance in the period under review in which the Council, in connection with the situation in Chad, the Central African Republic and the subregion, supported a call by the African Union on all the countries of the region to respect the unity and territorial integrity of the member States of the African

Union.³⁶ During the period under review, the Council did not explicitly call upon any State to respect the sovereignty, territorial integrity and political independence of another State. However, it consistently reaffirmed, in numerous resolutions concerning country-specific situations, its respect for or commitment to the

³⁶ S/PRST/2008/3, second paragraph.

sovereignty, unity, independence, territorial integrity or political independence of States.³⁷

Condemnation of hostile action and movements of armed groups across the border of a State

There were a number of instances in which the Council condemned hostile acts across the border of a

³⁷ For example, in connection with the situation in Afghanistan, the Council reaffirmed “its strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan” (see resolution 1806 (2008), second preambular paragraph).

State and the support by States of foreign armed groups, including through use of their territory. In particular, the Council repeatedly encouraged the respective Governments of the Sudan, Chad and the Central African Republic to ensure that their territories were not used to undermine the sovereignty of others and to cooperate with a view to putting an end to the activities of armed groups in the region and their attempts to seize power by force. In connection with the situation concerning the Democratic Republic of the Congo, the Council called upon the Governments in the region to cease all support to the armed groups in the eastern region of the country (see table 5).

Table 5

Decisions condemning hostile action and movements of armed groups across the border of a State

| <i>Decision</i> | <i>Provisions</i> |
|--|--|
| The situation in Chad, the Central African Republic and the subregion | |
| <p>S/PRST/2008/3 4 February 2008</p> | <p>The Council supports the decision of the African Union of 2 February 2008 strongly condemning the attacks perpetrated by armed groups against the Government of Chad, demanding to put an immediate end to the violence and calling upon all the countries of the region to respect the unity and territorial integrity of the member States of the African Union (second paragraph)</p> <p>The Council strongly condemns these attacks and all attempts at destabilization by force, and recalls its commitment to the sovereignty, unity, territorial integrity and political independence of Chad (fourth paragraph)</p> <p>The Council calls upon the States of the region to deepen their cooperation with a view to putting an end to the activities of armed groups and their attempt to seize power by force (sixth paragraph)</p> |
| <p>S/PRST/2008/22 16 June 2008</p> | <p>The Council calls upon States in the region to implement their commitments under the Dakar Agreement of 13 March 2008 and prior agreements, and to cooperate with a view to putting an end to the activities of armed groups in the region and their attempts to seize power by force (third paragraph)</p> |
| <p>Resolution 1834 (2008) 24 September 2008</p> | <p>Deeply concerned at the activities of armed groups and other attacks in eastern Chad, the north-eastern Central African Republic and western Sudan, which threaten the security of the civilian population, the conduct of humanitarian operations in those areas and the stability of those countries, and which result in serious violations of human rights and international humanitarian law (fourth preambular paragraph)</p> <p>Encourages the respective Governments of the Sudan, Chad and the Central African Republic to ensure that their territories are not used to undermine the sovereignty of others, to cooperate actively with a view to implementing the Dakar Agreement of 13 March 2008 and previous agreements, and to cooperate with a view to putting an end to the activities of armed groups in the region and their attempts to seize power by force ... (para. 11)</p> |

Decision

Provisions

Resolution 1861 (2009)
14 January 2009

Deeply concerned at armed activities and banditry in eastern Chad, the north-eastern Central African Republic and western Sudan, which threaten the security of the civilian population, the conduct of humanitarian operations in those areas and the stability of those countries, and which result in serious violations of human rights and international humanitarian law (fourth preambular paragraph)

Encourages the respective Governments of the Sudan, Chad and the Central African Republic to ensure that their territories are not used to undermine the sovereignty of others ... and to cooperate with a view to putting an end to the activities of armed groups in the region and their attempts to seize power by force ... (para. 19)

S/PRST/2009/13
8 May 2009

The Security Council condemns the renewed military incursions in eastern Chad of Chadian armed groups coming from outside (first paragraph)

The Council calls upon the Sudan and Chad to ... cooperate to put an end to cross-border activities of armed groups ... The Council expresses its concern at the external support received by Chadian armed groups, as reported by the Secretary-General (third paragraph)

The situation concerning the Democratic Republic of the Congo

S/PRST/2008/2
30 January 2008

The Council reiterates the importance of the commitments undertaken by the Government of the Democratic Republic of the Congo and the Government of the Republic of Rwanda in their joint communiqué on a common approach to end the threat posed by illegal armed groups in the eastern part of the Democratic Republic of the Congo to peace and stability in both countries and the Great Lakes region ... It calls upon the two Governments to ... [take] appropriate measures to induce the Forces démocratiques de libération du Rwanda (FDLR) and other foreign armed groups to lay down their arms without preconditions and return to their home countries (sixth paragraph)

S/PRST/2008/38
21 October 2008

The Council urges the Government of the Democratic Republic of the Congo to take effective steps to ensure that there is no cooperation between elements of the Armed Forces of the Democratic Republic of the Congo and FDLR. The Council also calls upon the Governments in the region to cease all support to the armed groups in the eastern region of the Democratic Republic of the Congo (seventh paragraph)

S/PRST/2008/40
29 October 2008

The Council urges the Government of the Democratic Republic of the Congo to take effective steps to ensure that there is no cooperation between elements of the Armed Forces of the Democratic Republic of the Congo and FDLR. The Council also calls upon the Governments of the region to cease all support to the armed groups in the eastern region of the Democratic Republic of the Congo. The Council expresses its concern at the reports of heavy weapons fire across the Democratic Republic of the Congo-Rwanda border ... (third paragraph)

Resolution [1856 \(2008\)](#)
22 December 2008

Underlining that a major obstacle to lasting peace in the Kivus is the presence and activities of illegal armed groups on Congolese territory, including FDLR, as acknowledged in its resolution [1804 \(2008\)](#), which represent one of the primary causes for the conflict in the region (fifth preambular paragraph)

Urges all Governments in the region, in particular those of Burundi, the Democratic Republic of the Congo, Rwanda and Uganda, to resolve in a constructive manner their shared security and border problems, to prevent the use of their respective territories in support of violations of the arms embargo reaffirmed by resolution [1807 \(2008\)](#) or in support of activities of armed groups present in the region, and to abide by their commitments to establish bilateral diplomatic relations made at the meeting of the Tripartite Plus Joint Commission of September 2007 (para. 20)

Resolution [1896 \(2009\)](#)
30 November 2009

Expressing its concern about the support received by armed groups operating in the eastern part of the Democratic Republic of the Congo from regional and international networks (sixth preambular paragraph)

Welcoming the commitments of the Democratic Republic of the Congo and the countries of the Great Lakes region to jointly promote peace and stability in the region, and reiterating the importance of the Government of the Democratic Republic of the Congo and all Governments, particularly those in the region, taking effective steps to ensure that there is no support, in and from their territories, for the armed groups in the eastern part of the Democratic Republic of the Congo (seventh preambular paragraph)

The situation in Somalia

[S/PRST/2009/19](#)
9 July 2009

The Council condemns the recent attacks on the Transitional Federal Government and the civilian population by armed groups and foreign fighters who undermine peace and stability in Somalia. The Council reaffirms its demand of 15 May 2009 that violent opposition groups immediately end their offensive, put down their arms, renounce violence and join reconciliation efforts. The Council condemns the flow of foreign fighters into Somalia (third paragraph)

Reports of the Secretary-General on the Sudan

[S/PRST/2008/15](#)
13 May 2008

The Council reiterates the urgent need for all parties to engage fully and constructively in the political process. The Council calls upon the States of the region to implement their commitments under the Dakar Agreement, and to cooperate with a view to putting an end to the activities of armed groups and their attempts to seize power by force (third paragraph)

The Council strongly condemns all attempts at destabilization by force, and reaffirms its commitment to the sovereignty, unity, independence and territorial integrity of the Sudan (fourth paragraph)

Resolution [1881 \(2009\)](#)
30 July 2009

Calls upon the Sudan and Chad to abide by their obligations under the Doha Agreement of 3 May 2009, the Dakar Agreement of 13 March 2008 and previous bilateral agreements; and reaffirms the need for both countries to engage constructively with the Dakar Contact Group with a view to normalizing relations, ceasing support for armed groups ... (para. 9)

B. Communications relating to Article 2 (4)

A number of communications during the period under review contained explicit references to Article 2 (4), many of them in connection with the situation relating to Nagorny Karabakh and relations between Armenia and Azerbaijan, the situation between Eritrea and Ethiopia and the situation in Georgia.³⁸

C. Discussions relating to Article 2 (4)

The four case studies below reflect the debates of the Security Council most relevant to the principles enshrined in Article 2 (4) during the period under review, including two instances in which Article 2 (4) was explicitly referred to.³⁹ The first case study relates to discussions concerning the situation on the border between Djibouti and Eritrea (case 3). The second case

³⁸ For communications concerning the situation relating to Nagorny Karabakh and relations between Armenia and Azerbaijan, see letters dated 22 December 2008 (S/2008/812, pp. 3-6), 26 December 2008 (S/2008/823, pp. 7 and 19) and 23 January 2009 (S/2009/51, p. 3) from the representative of Azerbaijan to the Secretary-General. For communications relating to the situation between Eritrea and Ethiopia, see letter dated 24 July 2008 (S/2008/487, p. 1) from the representative of Eritrea to the Secretary-General; letters dated 1 February 2008 (S/2008/68, p. 3) and 10 November 2008 (S/2008/700, p. 2) from the representative of Eritrea to the President of the Security Council; and letter dated 18 April 2008 (S/2008/262, p. 1) from the representative of Ethiopia to the President of the Security Council. For communications concerning the situation in Georgia, see letters dated 27 May 2008 (S/2008/345, p. 2) and 10 July 2008 (S/2008/464, p. 3) from the representative of Georgia to the Secretary-General and the President of the Security Council. For communications concerning relations between Cambodia and Thailand, see letter dated 16 October 2008 (S/2008/657, p. 1) from the representative of Thailand to the President of the Security Council. For communications concerning relations between Colombia and Venezuela (Bolivarian Republic of), see letter dated 3 December 2009 (S/2009/608, p. 7) from the representative of the Bolivarian Republic of Venezuela to the President of the Security Council. For communications relating to peace and security in Africa (Djibouti and Eritrea), see letter dated 30 March 2009 (S/2009/163, p. 1) from the Secretary-General to the President of the Security Council.

³⁹ S/PV.5953, p. 6 (United States); and S/PV.6100, p. 32 (Lebanon).

concerns discussions around the principles of non-use of force and respect for territorial integrity in connection with the situation in Georgia (case 4). The third case reflects references to the principles enshrined in Article 2 (4) in connection with the situation in Lebanon (case 5). The last case revolves around references made to respect for territorial integrity in connection with the unilateral declaration of independence by the Kosovo Assembly (case 6).

Case 3 Peace and security in Africa

Following the adoption on 12 June 2008 of a presidential statement concerning the border dispute between Djibouti and Eritrea, by which the Security Council called upon the parties to commit to a ceasefire and urged both parties, particularly Eritrea, to show maximum restraint and withdraw forces to the status quo ante,⁴⁰ the Council, at its 5924th meeting on 24 June 2008, discussed the border issue between Djibouti and Eritrea with both countries participating.

The representative of Djibouti declared that Eritrea had acted in violation of the Charter since both the use of force and the violation of the territory of Djibouti were a “reality”. While the regional policy of Djibouti was based on respect for good-neighbourly relations and non-interference in the internal affairs of the countries in the region, he announced that his country would “if necessary”, act in self-defence in accordance with the Charter in order to secure “in every way possible” its political and territorial integrity. The representative welcomed the unequivocal condemnation of Eritrea’s military attack expressed in statements by the President of the Council as well as regional and subregional organizations, which he interpreted as a confirmation that the use of force could not, in any way, be an alternative to dialogue or diplomacy.⁴¹

In response, the representative of Eritrea denied all the allegations of incursion in the territory of Djibouti and stated that his country had no “territorial ambitions” in the region. Rather, he argued that Djibouti itself had launched an unprovoked attack and that his Government had used “restraint and patience” against what could be described as “unwarranted hostile anti-Eritrean campaigns”.⁴²

⁴⁰ S/PRST/2008/20, third paragraph.

⁴¹ S/PV.5924, p. 5.

⁴² Ibid., pp. 6-7.

Various speakers highlighted the obligation under the Charter of the United Nations to refrain from the use or threat of use of force.⁴³ A large number of speakers also emphasized the need to respect the sovereignty and territorial integrity of States, in particular their borders.⁴⁴ Speakers specifically renewed the call contained in the presidential statement of 12 June 2008 for the parties to exercise restraint and withdraw forces,⁴⁵ the representative of Costa Rica pointing out that the Horn of Africa region could not “afford to resort to violence to settle yet another conflict”.⁴⁶

The representative of Viet Nam asserted that the principle of respect for national sovereignty and territorial integrity was fundamental to resolving situations such as the frontier situation between Eritrea and Djibouti and should be applied in a manner consistent with international law and with the Charter.⁴⁷ The representative of Panama reminded all Member States that they were called upon to respect the sovereignty and territorial integrity of States, which included respecting international borders.⁴⁸ The representative of the Libyan Arab Jamahiriya declared that any attempt to undermine the principle of respect for the sovereignty and territorial integrity of States constituted “a threat to peace and security”.⁴⁹ The representative of the United States strongly urged both parties to withdraw their forces from their common border and to engage in negotiations. He encouraged the Security Council to consider “appropriate actions or measures” should Eritrea fail to comply with these calls.⁵⁰

⁴³ Ibid., p. 5 (Djibouti); p. 8 (France); p. 9 (Indonesia); p. 10 (Burkina Faso, Russian Federation); p. 11 (China, South Africa); p. 12 (Viet Nam, Libyan Arab Jamahiriya); p. 15 (Croatia); p. 17 (African Union); and pp. 17-18 (League of Arab States).

⁴⁴ Ibid., p. 4 (Djibouti); p. 10 (Burkina Faso); p. 12 (Viet Nam, Libyan Arab Jamahiriya); p. 13 (Panama); p. 15 (Croatia); p. 17 (African Union); and pp. 17-18 (League of Arab States).

⁴⁵ Ibid., p. 8 (France); p. 13 (Panama, United Kingdom); p. 14 (Italy); and p. 15 (Croatia, United States).

⁴⁶ Ibid., p. 4.

⁴⁷ Ibid., p. 12.

⁴⁸ Ibid., p. 13.

⁴⁹ Ibid., p. 12.

⁵⁰ Ibid., p. 15.

Case 4 **The situation in Georgia**

By the letter dated 7 August 2008 addressed to the President of the Security Council, the representative of the Russian Federation requested that an emergency meeting be held to consider the aggressive actions of Georgia against “South Ossetia, an internationally recognized party to the conflict”.⁵¹ In response to that letter the Council held its 5951st meeting on 8 August 2008. During the meeting, the representative of the Russian Federation pointed out that Georgia was intending to resolve a long-standing conflict in South Ossetia by military means which explained Georgia’s persistent refusal to reach an agreement with South Ossetia and Abkhazia on the non-use of force in the past. He argued that, had Georgia accepted an agreement on the non-use of force, it would have protected Georgia from “any attempt to use force by anyone at all”.⁵² He further recalled that the non-use of force had been the main element of several Council resolutions, and urged the Council to call for an end to the hostilities and a rejection of the use of force.⁵³

In response, the representative of Georgia held that South Ossetian separatist authorities and armed forces were under the control and direction of the Russian Federation. That was a clear violation of the obligation of the Russian Federation to remain neutral; in fact it had become a party to the conflict. He further maintained that his Government’s military action was taken in self-defence, following repeated armed provocations, and in order to protect its civilians. He demanded that the international community condemn the continuing infringements of Georgia’s sovereignty and territorial integrity by the Russian Federation.⁵⁴

The representative of France called on all parties to respect the territorial integrity and sovereignty of Georgia.²³⁵⁵ The representative of the United States specifically called on the Russian Federation to withdraw its troops and to refrain from sending its forces to Georgia, so as not to inflame the situation.⁵⁶ The representative of Croatia asked all parties to

⁵¹ S/2008/533.

⁵² S/PV.5951, p. 8.

⁵³ Ibid., pp. 3 and 8.

⁵⁴ Ibid., p. 5.

⁵⁵ Ibid., p. 6.

⁵⁶ Ibid.

refrain from any further acts of provocation and called for an immediate ceasefire and for the resumption of negotiations. He reiterated his country's support for the sovereignty, independence and territorial integrity of Georgia, which had also been reaffirmed in various resolutions, including resolution 1808 (2008).⁵⁷

At the 5952nd meeting, held also on 8 August 2008 in response to a request by the representative of Georgia,⁵⁸ the representative of the Russian Federation declared that the aggression by Georgia against South Ossetia had been carried out in violation of the fundamental principle of the Charter concerning the non-use of force. He emphasized that the Russian Federation was present and continued to be present on the territory of Georgia on an absolutely legal basis, pursuant to its peacekeeping mission in accordance with international agreements.⁵⁹

The representative of Georgia, describing the "premeditated military intervention from the Russian Federation", stated that the world was witnessing a direct and open violation of universally recognized norms and principles of international law and demanded that the Russian Federation immediately terminate the aerial bombardments, immediately pull out the occupying forces and, together with the relevant international actors, negotiate a ceasefire and mechanisms to ensure lasting peace and stability in that part of Georgia.⁶⁰

The representative of the United States considered that the military attacks against Georgia and the deployment of additional troops by the Russian Federation into the Georgian territory represented a "dangerous downturn". It raised serious concerns about the commitment of the Russian Federation to respect Georgia's sovereignty and territorial integrity, as well as questions about ultimate Russian intentions and objectives. He specifically called on the Russian Federation to respect Georgia's territorial integrity, end its air and missile attacks and withdraw its troops from Georgia.⁶¹

At the 5953rd meeting, on 10 August 2008, the representative of the United States urged the Council to condemn the military assault against the sovereign

State of Georgia carried out by the Russian Federation and the violation of Georgia's sovereignty and territorial integrity. He stated that the Russian Federation must affirm that its aim was not to change the democratically elected Government of Georgia and that it accepted the territorial integrity and sovereignty of Georgia.⁶² He also emphasized that the Council must ensure adherence to the provisions of the Charter and take actions to address this threat to international peace and security. This meant respect for Article 2 (4), which called for all Member States to refrain from the threat or use of force against the territorial integrity or political independence of any State.⁶³

At the 5961st meeting, held on 19 August 2008, following the signature of a ceasefire by the Russian Federation and Georgia, under a European Union-sponsored six-point agreement which included the commitment of all parties to renounce the use of force, the definitive and immediate cessation of hostilities as well as the withdrawal of both Georgian and Russian forces to their lines of prior deployment, several Council members reaffirmed their commitment to Georgia's sovereignty and territorial integrity, and voiced grave concern over the failure of the Russian Federation to withdraw its forces despite its formal commitment to implement the provisions of the ceasefire agreement.⁶⁴

The representative of Georgia declared that the Russian Federation continued to occupy parts of the Georgian territory with the aim of "destroying Georgia as a sovereign independent State" and in contravention of the commitments undertaken by the Russian Federation to stop the violence and withdraw. He demanded that the Russian Federation withdraw its forces to the pre-conflict locations and fully respect the territorial integrity and sovereignty of Georgia within its internationally recognized borders.⁶⁵

A number of speakers emphasized the importance of the principle of respect for the sovereignty and territorial integrity of Georgia and expressed their support for a draft resolution circulated by France.⁶⁶

⁵⁷ *Ibid.*, p. 7.

⁵⁸ See S/2008/536.

⁵⁹ S/PV.5952, pp. 3 and 5.

⁶⁰ *Ibid.*, pp. 2-3.

⁶¹ *Ibid.*, p. 7.

⁶² S/PV.5953, p. 18.

⁶³ *Ibid.*, p. 6.

⁶⁴ S/PV.5961, p. 7 (France); p. 8 (Italy); p. 9 (United States); p. 10 (United Kingdom); p. 11 (Croatia); and p. 13 (Belgium).

⁶⁵ *Ibid.*, p. 5.

⁶⁶ *Ibid.* p. 8 (Italy); p. 9 (United States); p. 10 (United

Noting that another attempt had been made to portray the aggressor as the victim and calling on the Council to be guided by objective criteria, the representative of the Russian Federation recalled that his country had requested the first Council meeting on the issue, at which it had warned the Council that Georgia “had been on the verge of unleashing a military adventure”. He further stated that the withdrawal of the Russian troops would be commensurate with the effectiveness of Georgia’s implementation of its obligations under the Moscow peace plan, which stipulated first and foremost the return of Georgian troops to their places of permanent deployment.⁶⁷

Case 5
Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

At the 5839th meeting, on 18 February 2008, held following the unilateral declaration of independence of Kosovo, speakers largely encouraged all parties to the dispute to exercise restraint and refrain from acts of violence or any actions which could endanger stability and security in the region.⁶⁸ Several speakers held the view that the declaration of independence challenged the international legal order based on the principle of sovereignty and territorial integrity as enshrined in the Charter, and constituted a dangerous precedent for international peace and security.⁶⁹

The representative of Serbia declared that the “illegal” declaration of independence by Kosovo contravened the Charter principles of respect for sovereignty and territorial integrity. He added that such a declaration constituted a flagrant violation of resolution 1244 (1999), which guaranteed the sovereignty and territorial integrity of Serbia, and therefore his country would not accept the violation of its sovereignty and territorial integrity. He further

Kingdom); p. 11 (Croatia); and p. 13 (Belgium).

⁶⁷ Ibid., pp. 11-13.

⁶⁸ S/PV.5839, p. 3 (Secretary-General); p. 5 (Serbia); p. 9 (Belgium); p. 11 (Italy); p. 12 (Indonesia); p. 13 (United Kingdom); p. 14 (Viet Nam); and p. 15 (Burkina Faso).

⁶⁹ Ibid., pp. 6-7 (Russian Federation); pp. 7-8 (China); p. 12 (Indonesia); p. 14 (Viet Nam); and p. 16 (South Africa).

argued that the supporters of Kosovo’s independence recognized the illegal establishment of a State on the territory of a sovereign State and had to realize that the declaration legalized the threat of violence as a means of creating new States and promoting one’s own political agendas and interests. He warned against the strong precedent this unilateral act would set for international law. He stressed that his Government had declared the decision of the Pristina authorities null and void and would not accept the deprivation of a part of its territory, while affirming that his country would not resort to force and would opt for a peaceful and negotiated settlement of the dispute.⁷⁰

The representative of the Russian Federation expressed support for Belgrade’s “legitimate” demands to restore its territorial integrity, stressing that the Russian Federation continued to recognize Serbia within its internationally recognized borders. He further deplored the unilateral declaration of independence of Kosovo as an open violation of Serbia’s sovereignty and a blatant breach of the norms and principles of international law, including the Charter. He firmly believed that a sustainable solution to the question of Kosovo’s status could be achieved only on the basis of a decision to be worked out with the Council in compliance with the norms of international law and on the basis of agreements between Belgrade and Pristina.⁷¹

At the 5917th meeting, on 20 June 2008, Mr. Fatmir Sejdiu, speaking on behalf of Kosovo, defended the view that the independence of his country had been declared in conformity with the recommendation of the Special Envoy of the Secretary-General, and stressed that 43 Member States had already recognized Kosovo as an independent State. Recalling that Kosovo had adopted an integrative multi-ethnic policy, he noted that the promulgation by the Government of Serbia of a functional separation of ethnic Serbs from ethnic Albanians in Kosovo was perceived as a threat to the sovereignty of Kosovo.⁷²

⁷⁰ Ibid., pp. 4-6; and pp. 21-23.

⁷¹ Ibid., pp. 6-7; for more information on this statement, see part I, sect. 25.B.

⁷² S/PV.5917, pp. 6-8.

III. Obligation to refrain from assisting the target of enforcement action under Article 2, paragraph 5

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.

During the period under review, there were no explicit references to Article 2 (5) of the Charter in the communications and deliberations of the Security Council. However, the Council explicitly referred to Article 2 (5) in two decisions concerning the border dispute between Djibouti and Eritrea under the item “Peace and security in Africa”, in which the Council demanded that Eritrea “abide by its international obligations as a Member of the United Nations to respect the principles mentioned in Article 2, paragraphs 3, 4 and 5, and Article 33 of the Charter of the United Nations”.⁷³ In another decision, on protection of civilians in armed conflict, the Council reaffirmed “its commitment also to the purposes and principles of the Charter of the United Nations as set out in Article 1, paragraphs 1 to 4, and Article 2, paragraphs 1 to 7, including its commitment to the principles of the political independence, sovereign equality and territorial integrity of all States, and respect for the sovereignty of all States”.⁷⁴

The Council also adopted several resolutions which might have an implicit bearing on the principle enshrined in Article 2 (5), in particular regarding the obligation of Member States to refrain from giving assistance to a State against which the United Nations was taking preventive or enforcement action.

⁷³ Resolutions 1862 (2009), para. 5 (iii); and 1907 (2009), para. 3 (iii).

⁷⁴ Resolution 1894 (2009) of 11 November 2009, second preambular paragraph.

A few decisions touched upon the obligation of Member States in connection with the arms embargo against Somalia. In two resolutions concerning the situation in Somalia, the Council reiterated its insistence that “all States, in particular those in the region, should refrain from any action in contravention of the arms embargo”.⁷⁵ The Council also adopted a presidential statement in which it expressed its concern over reports that Eritrea had supplied arms to those opposing the Transitional Federal Government of Somalia in breach of the United Nations arms embargo.⁷⁶

In connection with the situation concerning the Democratic Republic of the Congo, the Council, emphasizing the responsibility of the Government of the Democratic Republic of the Congo and the Governments of the region to prevent the use of their respective territories in support of violations of the arms embargo reaffirmed by resolution 1807 (2008), urged all Governments in the region to do so, in particular those of Burundi, the Democratic Republic of the Congo, Rwanda and Uganda.⁷⁷

⁷⁵ Resolutions 1811(2008), eighth preambular paragraph; and 1853 (2008), ninth preambular paragraph.

⁷⁶ S/PRST/2009/15, fifth paragraph. After the Monitoring Group on Somalia found that Eritrea had provided political, financial and logistical support to armed groups engaged in undermining peace and reconciliation in Somalia and regional stability (S/2008/769), the Council, by resolution 1907 (2009) of 23 December 2009, imposed an arms embargo, asset freeze and travel ban against Eritrea. For more information on the sanctions imposed against Eritrea, see part VII, sect. III.

⁷⁷ Resolution 1856 (2008), eighth preambular paragraph and para. 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

During the period under review, the Security Council explicitly referred to the principle contained in Article 2 (7) in a decision on the protection of civilians in armed conflict, reaffirming “its commitment also to the purposes of the Charter of the United Nations as set out in Article 1, paragraphs 1 to 4, and to the principles of the Charter as set out in Article 2, paragraphs 1 to 7, including its commitment to the principles of the political independence, sovereign equality and territorial integrity of all States, and respect for the sovereignty of all States”.⁷⁸ In the period under review, the Council adopted no decisions containing provisions which could be considered to have an implicit bearing on the principle of non-intervention by the United Nations in matters which are essentially within the domestic jurisdiction of any State in accordance with Article 2 (7).

Discussions relating to Article 2 (7)

Article 2 (7) was not explicitly referred to in any of the Council’s communications or deliberations. In deliberations, however, the principle enshrined in Article 2 (7) was touched upon frequently without giving rise to a constitutional discussion, notably in connection with the situation concerning Iraq,⁷⁹ the maintenance of international peace and security: role of

the Security Council in supporting security sector reform⁸⁰ and United Nations peacekeeping operations.⁸¹ The deliberations during which this principle was invoked and interpreted in detail are illustrated in two case studies: case 6 deals with the situation in Zimbabwe following the outbreak of violence in that country; case 7 covers discussions on protection of civilians in armed conflict.

Case 6 Peace and security in Africa

At its 5933rd meeting, held on 11 July 2008 under the item entitled “Peace and security in Africa”, the Security Council failed to adopt a draft resolution⁸² by which it would have imposed sanctions on Zimbabwe, owing to the negative vote of a permanent member.⁸³

The representative of Zimbabwe strongly opposed any Council action against his country, arguing that the situation in Zimbabwe represented no threat to international peace and security. He therefore emphasized that the draft resolution was a clear abuse of Chapter VII of the Charter. He held that it was not the role of the Council to certify the national elections of Member States and that Zimbabweans had a right to choose their own leaders. He further argued that trying to impose a solution from outside would be unfair to Zimbabwe and the Southern African Development Community as well as the African Union.⁸⁴

The representative of the Libyan Arab Jamahiriya noted that the draft resolution infringed on the sovereignty and internal affairs of Zimbabwe and deliberately omitted any reference to Zimbabwe’s sovereignty.⁸⁵ Similarly, the representative of Viet Nam

⁷⁸ Resolution 1894 (2009) of 11 November 2009, second preambular paragraph.

⁷⁹ See, for example, S/PV.5878, p. 8 (Libyan Arab Jamahiriya); and p. 10 (Indonesia); S/PV.5910, p. 22 (Viet Nam); and p. 25 (Russian Federation); S/PV.5949, p. 18 (Russian Federation); and p. 20 (Indonesia); and S/PV.6059, p. 6 (Indonesia).

⁸⁰ See, for example, S/PV.5889.

⁸¹ See, for example, S/PV.6075, p. 31 (Viet Nam); S/PV.6153, p. 21 (Libyan Arab Jamahiriya); p. 22 (Viet Nam); S/PV.6153 (Resumption 1), p. 5 (Morocco, on behalf of the Non-Aligned Movement); and p. 18 (Nepal); S/PV.6178, p. 15 (Viet Nam); S/PV.6178 (Resumption 1), p. 2 (Morocco, on behalf of the Non-Aligned Movement); p. 21 (Bolivarian Republic of Venezuela); and p. 22 (Nepal).

⁸² S/2008/447.

⁸³ For more information, see part I, sect. 17.

⁸⁴ S/PV.5933, pp. 2-4.

⁸⁵ *Ibid.*, p. 5.

held that the situation in Zimbabwe was not within the mandated purview of the Council and warned that subjecting Zimbabwe to sanctions under Chapter VII of the Charter would set a dangerous precedent for intervention in the internal affairs of sovereign States and ran counter to the fundamental principles of international law and the Charter.⁸⁶ The representative of the Russian Federation observed that there had been an “increasingly obvious attempt by some Council members to take the Council beyond its Charter prerogatives and beyond the maintenance of peace and security”, and argued that such practices were illegitimate and dangerous and could lead to a realignment of the entire United Nations system. Turning to the problems of Zimbabwe, he said that the imposition of sanctions under Chapter VII of the Charter was unjustified and excessive, stressing that the draft resolution represented an attempt by the Council to interfere in the internal affairs of a State, in violation of the Charter.⁸⁷

Case 7 **Protection of civilians in armed conflict**

At the 5898th meeting, on 27 May 2008, concerning the protection of civilians in armed conflict, several speakers maintained that national Governments had the primary responsibility for the protection of civilians, stressing a supportive role of the United Nations, which must respect the sovereignty and territorial integrity of States. The representative of China stressed that constructive help and support by the international community and external forces should be provided in compliance with the provisions of the Charter and in full respect for the will of the countries concerned. He emphasized that the international community should not undermine the sovereignty and territorial integrity of the countries concerned and, still less, intervene forcibly.⁸⁸ The representative of Viet Nam similarly held that the creation and application of any international mechanism for the protection of civilians should respect national sovereignty, territorial integrity, ownership and self-determination in accordance with the Charter and international law.⁸⁹

The representative of the United Arab Emirates stressed that the procedures to ensure compliance by parties with their obligations to protect civilians should include full respect for the sovereignty of States and non-interference in their internal affairs and should not prejudice the specificities of their cultures and beliefs.⁹⁰

Some speakers pointed to the role of the United Nations when national Governments were unable or unwilling to take up their responsibility to protect. The representative of the United States emphasized that, while the primary responsibility for protecting civilians lay with the parties to the armed conflict and the national Governments concerned, the efforts of the United Nations should support and reinforce that role. In situations where either the national Government or the parties to an armed conflict were unable or unwilling to protect civilians, he stressed that the international community could play an important role.⁹¹ The representative of Panama cited the concept of the responsibility to protect set out in the 2005 World Summit Outcome,⁹² which stated that, if the State did not wish to protect its population or was unable to do so, the international community was obliged to help with that task, or to assume it, through an effective and transparent response. To prevent that concept from becoming a mere footnote to history, he maintained that the Council must be clear about its definition so that it could provide a concrete mandate for those entrusted with the protection of civilians.⁹³ The representative of France, referring to General Assembly resolution 43/131, which set out, if not legal, then at least political, obligations, expressed the view that, by virtue of the principle of subsidiarity, the territorially competent State bore the primary role in organizing, carrying out and distributing assistance. If, and only if, that State was not in a position to cope with the situation, because of a lack of means or political will, the international community took over and replaced the State that was failing to assist the endangered population.⁹⁴

⁸⁶ Ibid. p. 7.

⁸⁷ Ibid., p. 9.

⁸⁸ S/PV.5898, p. 9.

⁸⁹ Ibid., p. 14.

⁹⁰ S/PV.5898 (Resumption 1), p. 17.

⁹¹ S/PV.5898, pp. 12-13.

⁹² General Assembly resolution 60/1.

⁹³ S/PV.5898, pp. 14-15.

⁹⁴ Ibid., pp. 17-19.

