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Part III

Purposes and principles of the Charter of the United Nations

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Introductory note

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

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

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

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

A. Decisions relating to Article 1 (2)

During the period under review, the Security Council did not explicitly invoke Article 1 (2) in its decisions. However, several implicit references found in its decisions are of relevance for the interpretation and application of Article 1 (2). Those implicit references were made in connection with the decision by the Ngok Dinka to conduct a “unilateral” referendum in Abyei as well as with the envisaged referendum in Western Sahara, as featured in table 1 below.

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

<i>Decision and date</i>	<i>Relevant provision</i>
Reports of the Secretary-General on the Sudan and South Sudan	
Resolution 2287 (2016) 12 May 2016	<p><i>Urging</i> all parties to refrain from any unilateral action that could aggravate intercommunal relations within the Abyei Area, expressing concern over the continued implications of what the AUPSC described in their 6 November 2013 press statement as the decision by the Ngok Dinka to conduct a unilateral referendum” and also in this context, taking note that the Government of Sudan proceeded with its April 2015 national elections in Abyei (twentieth preambular paragraph)</p> <p><i>See also resolution 2318 (2016), twentieth preambular paragraph; resolution 2352 (2017), twenty-first preambular paragraph; and resolution 2386 (2017), twenty-second preambular paragraph.</i></p>
The situation in Western Sahara	
Resolution 2285 (2016) 29 April 2016	<p><i>Reaffirming</i> 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)</p> <p><i>See also resolution 2351 (2017), third preambular paragraph.</i></p> <p><i>Calls upon</i> 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. 9)</p> <p><i>See also resolution 2351 (2017), para. 8.</i></p>
Resolution 2351 (2017) 28 April 2017	<p><i>Affirms</i> its full support for the commitment of the Secretary-General and his Personal Envoy towards a solution to the question of Western Sahara in this context to relaunch the negotiating process with a new dynamic and a new spirit leading to the resumption of a political process with the aim of reaching a mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations (para. 7)</p> <p><i>Further requests</i> the Secretary-General to update the Security Council within six months of the appointment of the new Personal Envoy on (i) ways in which the Personal Envoy, working with the parties, is progressing towards a mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and present a clear path forward; (ii) how MINURSO’s performance measures are being developed and implemented (iii) how structures and staffing can be reorganized to achieve mission goals efficiently, and (iv) how new technologies are being considered to reduce risk, improve force protection, and better implement the mandate of MINURSO (para. 11)</p>

B. Constitutional discussion relating to Article 1 (2)

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

Furthermore, at the 8072nd meeting on 18 October 2017 also under the item entitled “The situation in the Middle East, including the Palestinian question”, several speakers rejected the unilateral referendum of independence in Kurdistan.³ Moreover, the principle of self-determination was mentioned in other debates of the Council under the same item⁴ as well as under the item in connection with the situation concerning Western Sahara.⁵ Such references, however, did not amount to constitutional discussions.

¹ [S/PV.7621](#), pp. 71-72.

² [S/PV.7863](#), p. 5.

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

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

⁵ See for example, in connection with the situation concerning Western Sahara, [S/PV. 7684](#), p. 2 (United States); p. 3 (New Zealand); pp. 5-6 (Bolivarian Republic of Venezuela); p. 7 (Spain); p. 7 (United Kingdom); p. 8 (Malaysia); p. 8

C. Invocation of the principle enshrined in Article 1 (2) in other instances

During the period under review, one explicit reference was made to Article 1 (2) in the communications of the Council, in an annex to a letter from the Permanent Representative of Azerbaijan addressed to the Secretary-General, transmitting a legal opinion on “third party obligations with respect to illegal economic and other activities in the occupied territories of Azerbaijan”. In that context, the opinion, prepared at the request of the Government of Azerbaijan, quoted Article 1 (2) of the Charter of the United Nations in its entirety.⁶ In addition, Article 1 was broadly referred to twice with an emphasis on the principles enshrined in Article 1 (2) of the Charter. The first instance was in the annex to a letter dated 8 April 2016 from the Permanent Representative of Ukraine addressed to the Secretary-General, transmitting an unofficial translation of the appeal of the Verkhovna Rada (Parliament) of Ukraine to the United Nations and other international organizations and parties, by which the Verkhovna Rada, “guided by the principles enshrined in Article 1 of the Charter” in regard to the preservation of the identity of the Crimean Tatar people and all other national minorities of Ukraine, called for the condemnation of the violation of human rights and freedoms of Crimean Tatars.⁷ The second instance was in the annex to a letter dated 25 April 2017 from the Permanent Representative of Ecuador addressed to the Secretary-General, transmitting a resolution of the National Assembly of Ecuador which called for the implementation of Security Council resolution [690 \(1991\)](#) concerning the organization of a referendum to allow the people of Western Sahara to exercise their right to self-determination.⁸ The principle of self-determination was invoked in many communications addressed to or brought to the attention of the Security Council, including communications from Member States relating to Western Sahara,⁹ the Middle East, including the Palestinian question,¹⁰ the Ukraine¹¹,

(Japan); p. 9 (Angola); and p. 10 (Russian Federation); and [S/PV. 7933](#), p. 3 (United States); p. 4 (Uruguay); pp. 4-5 (Sweden); p. 6 (Ethiopia); p. 8 (Italy); p. 8 (Plurinational State of Bolivia); and p. 9 (Russian Federation).

⁶ [S/2017/316](#), annex.

⁷ [S/2016/338](#), annex.

⁸ [S/2017/353](#), annex.

⁹ See, for example [S/2016/373](#), annex; [S/2016/269](#), annex; [S/2017/405](#), annex and enclosure; [S/2017/462](#); and [S/2017/609](#), annex.

¹⁰ See, for example, [S/2016/402](#), p. 6; [S/2016/450](#), p. 1; [S/2016/516](#), p. 1; [S/2016/544](#), p. 4; [S/2016/961](#), p. 1; [S/2017/1029](#), p. 3; [S/2017/1046](#), annex; [S/2017/1085](#), annex; and [S/2017/1121](#), annex.

¹¹ See, for example [S/2016/338](#), annex; and [S/2016/439](#), annex.

and the India-Pakistan question.¹² Additional references were also made to the right of self-determination in the reports of the Secretary-General on the situation concerning Western Sahara.¹³

¹² See, for example, [S/2016/613](#), annex; [S/2016/688](#); [S/2016/707](#), annex; [S/2016/877](#), annex; and [S/2017/499](#), annex.

¹³ [S/2016/355](#) and [S/2017/307](#).

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

Article 2, paragraph 4

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

Note

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

A. Decisions relating to Article 2 (4)

During the period under review, the Security Council adopted no decision containing explicit references to Article 2 (4). In a number of its decisions, however, the Council underlined the principles of Article 2 (4) by (1) reaffirming the prohibition of the threat or use of force in international relations; (2) reiterating the importance of good-neighbourliness and non-interference by States in the internal affairs of others; (3) calling for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security; and (4) calling on parties to withdraw all military forces from a disputed area or occupied territories. The four themes are covered under the headings 1 to 4 below.

1. Affirmation of the prohibition of the threat or use of force in international relations

During 2016 and 2017, the Council stressed, as in previous periods, the importance of the prohibition of the threat or use of force against other Member States through many of its decisions, in particular concerning the future status of Abyei and the situation in the Middle East, including the Palestinian question (see table 2).

Table 2
Decisions affirming the prohibition of the threat or use of force in international relations

<i>Decision and date</i>	<i>Relevant provision</i>
The situation in the Middle East	
Resolution 2294 (2016) 29 June 2016	<p><i>Stressing</i> that both parties must abide by the terms of the 1974 Disengagement of Forces Agreement between Israel and the Syrian Arab Republic and scrupulously observe the ceasefire (third preambular paragraph)</p> <p><i>Also see resolution 2330 (2016), third preambular paragraph; resolution 2361 (2017), third preambular paragraph; and resolution 2394 (2017), third preambular paragraph.</i></p> <p><i>Stresses</i> the obligation on both parties to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement, <i>calls on</i> the parties to exercise maximum restraint and prevent any breaches of the ceasefire and the area of separation, <i>encourages</i> the parties to take advantage of UNDOF’s liaison function regularly to address issues of mutual concern, as appropriate, and <i>underscores</i> that there should be no military activity of any kind in the area of separation, including military operations by the Syrian Arab Armed Forces (para. 2)</p> <p><i>Also see resolution 2330 (2016), para. 2; resolution 2361 (2017), para. 2; and resolution 2394 (2017), para. 2.</i></p>
The situation in the Middle East, including the Palestinian question	
Resolution 2334 (2016) 23 December 2016	<p><i>Guided</i> by the purposes and principles of the Charter of the United Nations, and reaffirming, inter alia, the inadmissibility of the acquisition of territory by force (second preambular paragraph)</p> <p><i>Reiterates</i> its demand that Israel immediately and completely cease all settlement activities in the occupied Palestinian territory, including East Jerusalem, and that it fully respects all of its legal obligations in this regard (para. 2)</p>
Reports of the Secretary-General on the Sudan and South Sudan	
Resolution 2287 (2016) 12 May 2016	<p><i>Reiterating</i> that the territorial boundaries of States shall not be altered by force, and that any territorial disputes shall be settled exclusively by peaceful means, affirming the priority it attaches to the full and urgent implementation of all outstanding issues from the Comprehensive Peace Agreement (CPA), and underscoring that the future status of Abyei shall be resolved by negotiations between the parties in a manner consistent with the CPA and not by the unilateral actions of either party (third preambular paragraph)</p> <p><i>Also see resolution 2318 (2016), third preambular paragraph; resolution 2352 (2017), third preambular paragraph; and resolution 2386 (2017), third preambular paragraph.</i></p>

2. Reiteration of the principles of good neighbourliness, non-interference and regional cooperation among States

During the period under review, the Council reiterated in several of its decisions the principles enshrined in Article 2 (4) of good-neighbourliness, non-interference and regional cooperation, in particular with regard to the situations in the Democratic Republic of the Congo, Burundi, the Great Lakes region, Libya and the Middle East. Furthermore, in many country-specific situations, the Council consistently reaffirmed its respect for or commitment to the sovereignty, unity, independence and territorial integrity of States.

Table 3

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

<i>Decision and date</i>	<i>Relevant provision</i>
The situation in Burundi	
Resolution 2279 (2016) 1 April 2016	<i>Calls</i> on States in the region to contribute to a solution to the crisis in Burundi, and to refrain from supporting the activities of armed movements in any way, and <i>recalls</i> in this regard commitments of the States in the region under the Framework Agreement on the Peace, Security and Cooperation for the DRC and the region and the 1951 Convention relating to the status of refugees (para. 8) <i>Also see resolution 2303 (2016), para. 9.</i>
The situation concerning the Democratic Republic of the Congo	
Resolution 2277 (2016) 30 March 2016	<i>Reaffirming</i> its strong commitment to the sovereignty, independence, unity and territorial integrity of the DRC as well as all States in the region and <i>emphasizing</i> the need to respect fully the principles of non-interference, good-neighbourliness and regional cooperation (third preambular paragraph) <i>Also see resolution 2293 (2016), second preambular paragraph; resolution 2348 (2017), third preambular paragraph; and resolution 2360 (2017), second preambular paragraph.</i> <i>Recalling</i> the commitments under the PSC Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups (fifth preambular paragraph) <i>Also see resolution 2293 (2016), sixth preambular paragraph; and resolution 2360 (2017), eighth preambular paragraph.</i>
Resolution 2348 (2017) 31 March 2017	<i>Reiterates</i> its call to the Government of the DRC and all signatory States under the PSC Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals (para. 18)
The situation in the Great Lakes region	

Resolution 2389 (2017) 8 December 2017	<p><i>Recalling</i> the commitments under the PSC Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups, and <i>reiterating</i> its strong condemnation of any and all internal or external support to armed groups active in the region, including through financial, logistical or military support, and not to harbour war criminals (twelfth preambular paragraph)</p> <p><i>Reiterates</i> its call to all signatory States under the PSC Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals, and <i>calls on</i> the Government of the DRC, which has the primary responsibility for safeguarding the DRC's sovereignty and territorial integrity, to make further progress in implementing its commitments under the PSC Framework, in particular as regards security sector reform, consolidation of State authority, reconciliation, tolerance and democratization (para. 6)</p>
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The situation in Libya

S/PRST/2017/26 14 December 2017	The Security Council recalls paragraph 5 of resolution 2259 (2015) and reaffirms that any attempt, including by Libyan parties, to undermine the Libyan-led, UN-facilitated political process is unacceptable. The Council underscores that Libyans should decide their own future without foreign interference (tenth paragraph)
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The situation in the Middle East

S/PRST/2016/10 22 July 2016	The Security Council underscores its previous calls on all Lebanese parties to recommit to Lebanon's policy of dissociation and to cease any involvement in the Syrian crisis, consistent with their commitment in the ministerial declaration of the current Government and in the Baabda Declaration of 12 June 2012 (tenth paragraph)
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Also see [S/PRST/2016/15](#), fourth paragraph.

3. Calls for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security

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

Table 4

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

<i>Decision and date</i>	<i>Relevant provision</i>
The situation in Burundi	
S/PRST/2017/13 2 August 2017	<p>The Security Council also calls on States in the region to contribute to a solution to the crisis in Burundi, and to refrain from supporting the activities of armed movements in any way, and recalls in this regard commitments of the States in the region under the Framework agreement for Peace, Security and Cooperation for the Democratic Republic of the Congo and the region and the 1951 Convention relating to the status of refugees (sixteenth paragraph)</p> <p><i>Also see resolution 2279 (2016), para. 8; and resolution 2303 (2016), para. 9.</i></p>
The situation concerning the Democratic Republic of the Congo	
Resolution 2277 (2016) 30 March 2016	<p><i>Recalling</i> the commitments under the PSC Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups (fifth preambular paragraph)</p> <p><i>Also see resolution 2293 (2016), sixth preambular paragraph; and resolution 2360 (2017), eighth preambular paragraph.</i></p>
Resolution 2348 (2017) 31 March 2017	<p><i>Reiterates</i> its call to the Government of the DRC and all signatory States under the PSC Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals (para. 18)</p>
The situation in the Great Lakes region	
Resolution 2389 (2017) 8 December 2017	<p><i>Recalling</i> the commitments under the PSC Framework by all States of the region not to interfere in the internal affairs of neighbouring countries, and to neither tolerate nor provide assistance or support of any kind to armed groups, and <i>reiterating</i> its strong condemnation of any and all internal or external support to armed groups active in the region, including through financial, logistical or military support, and not to harbour war criminals (twelfth preambular paragraph)</p> <p><i>Reiterates</i> its call to all signatory States under the PSC Framework to redouble their efforts in order to fully and promptly implement their commitments in good faith, including not interfering in the internal affairs of neighbouring countries, neither tolerating nor providing assistance or support of any kind to armed groups, and not harbouring war criminals, and <i>calls on</i> the Government of the DRC, which has the primary responsibility for safeguarding the DRC's sovereignty and territorial integrity, to make further progress in implementing its commitments under the PSC Framework, in particular as regards security sector reform, consolidation of State authority, reconciliation, tolerance and democratization (para. 6)</p>
Reports of the Secretary-General on the Sudan and South Sudan	
Resolution 2340 (2017) 8 February 2017	<p><i>Expressing</i> concern about the external links, in particular military, between non-signatory armed groups in Darfur and groups outside Darfur, <i>demanding</i> that direct or indirect military support for such armed groups in Darfur ceases, and <i>condemning</i> actions by any armed group aimed at forced overthrow of the Government of Sudan, noting there is no military solution to the conflict in Sudan (seventh preambular paragraph)</p>
Maintenance of international peace and security	

<i>Decision and date</i>	<i>Relevant provision</i>
S/PRST/2016/2 31 March 2016	The Security Council recalls the regional commitment under the PSC Framework not to harbor war criminals or provide support to armed groups including recruitment and urges all countries in the Great Lakes region to implement this provision of the PSC Framework and to make concerted efforts to investigate any allegations that former M23 members have committed serious crimes under international law and to hold accountable those responsible (fifth paragraph)

4. Calls on parties to withdraw all military forces from a disputed area or occupied territories

During the review period, in connection with the agenda item “Reports of the Secretary-General on the Sudan and South Sudan”, the Council adopted one resolution calling for the permanent withdrawal of all unauthorized forces from the Abyei Area. In addition, the Council adopted two resolutions urging the Government of Israel to expedite withdrawing its army from northern Ghajar, located on the border between Lebanon and Israel.

Table 5

Decisions calling on parties to withdraw all military forces from a disputed area

<i>Decision and date</i>	<i>Relevant provision</i>
The situation in the Middle East	
Resolution 2305 (2016) 30 August 2016	<i>Urges</i> the Government of Israel to expedite the withdrawal of its army from northern Ghajar without further delay in coordination with UNIFIL, which has actively engaged Israel and Lebanon to facilitate such a withdrawal (para. 10)
	<i>Also see resolution 2373 (2017), para. 12.</i>
Reports of the Secretary-General on the Sudan and South Sudan	
Resolution 2318 (2016) 15 November 2016	<i>Taking note</i> of the 12 October 2016 Secretary-General’s report (S/2016/864), including the Secretary-General’s call on the parties to renew efforts to address the issues that have remained unresolved, implement the 20 June 2011 Abyei Agreement, and ensure full and permanent withdrawal of all unauthorized forces from the Abyei Area (twenty-sixth preambular paragraph)

B. Constitutional discussion relating to Article 2 (4)

During the period under review, Article 2 (4) of the Charter was explicitly invoked four times at three Council meetings. At a meeting held on 22 August 2016 concerning the situation in the Middle East, the representative of Syria read out loud the text of Article 2 (4) of the Charter while addressing the Council on the humanitarian

crisis in Syria.¹⁴ Cases 1 and 2 below, which cover relevant deliberations of the Council under the item “Maintenance of international peace and security”, feature the remaining three explicit invocations of Article 2 (4), as well as four broader invocations of Article 2 including language relating to paragraph 4 and several implicit references to the principles of non-use of force and non-interference. Also, Article 2 (4) was implicitly invoked in various other Council meetings during the reporting period.¹⁵ Moreover, Article 2 in general was explicitly invoked nine additional times during Council meetings, however, only three of those instances included language directly related to the principles enshrined in paragraph 4 of Article 2 of the Charter.¹⁶

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

At its 7621st meeting on 15 February 2016, at the initiative of Venezuela which held the Presidency for the month,¹⁷ the Council held an open debate under the above item and 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”. During the meeting, several speakers reaffirmed the importance of Article 2 (4) of the Charter of the United Nations in their statements and in particular, the prohibition of the threat or use of force in international relations, the principle of good neighbourliness and non-interference by States in the internal affairs of others, and the respect for the sovereignty, territorial integrity and political independence of States.¹⁸

¹⁴ [S/PV.7757](#), p. 20.

¹⁵ See for example, under the agenda item “Briefing by the Chairperson-in-Office of the Organization for Security and Cooperation in Europe” [S/PV.7635](#), p. 3 (Chairperson-in-Office of OSCE), p. 8 (Malaysia), pp. 14-16 (Ukraine), p. 18 and p. 21 (United States) and p. 20 (Russian Federation); and under the agenda item “Maintenance of international peace and security”, [S/PV.7857](#), p. 30 (Latvia), p. 48 (Ecuador), p. 57 (Cuba), pp. 65-66 (Azerbaijan) and p. 95 (Armenia); and [S/PV.8144](#), p. 7 (the Ukraine), p. 10 (Bolivia), p. 20 (Russian Federation), pp. 40-42 (Saudi Arabia), p. 49 (Mexico), and p. 59 (Armenia).

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

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

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

The representative of Venezuela indicated that the purposes and principles of the Charter of the United Nations were “the essential ingredients of world peace”.¹⁹ She also alerted against the “growing intrusion into the internal affairs of States by Governments in violation of the principle of non-interference” and stressed that such attempts constituted “an obstacle to peaceful coexistence among nations, and thus to international peace and security”.²⁰ The representative of France said that collective standards such as the rule of law and international law were “recalled in Article 2 of the Charter” and that they sought to “restrict the use of force within the boundaries of collective responsibility.”²¹ The representative of Cuba underlined that the rule of law in international relations was incompatible “with any effort aimed at interfering in a country’s internal affairs”.²² The representative of Brazil stressed that “the role of the United Nations as a platform for dialogue and diplomacy [had] been debilitated by attempts to resolve controversies through unilateral coercive measures, including unauthorized resort to military action”.²³ The representative of the Holy See recalled the address made by the Secretary of Relations with States of the Holy See to the General Assembly in 2015, by which the Archbishop had highlighted that “a genuine and transparent application of Article 2 of the Charter of the United Nations, which established the principle of non-intervention, excluding all unilateral force against another Member of the United Nations and demanding full respect for lawfully constituted and recognized Governments” was necessary.²⁴

During the meeting, some speakers focused on the application of Article 2 (4) in country-specific situations. For example, the representative of Ukraine described the activities of the Russian Federation in Crimea and eastern Ukraine as an “illegal occupation” and “aggression”, and further stated that “under Article 2 of the Charter of the United Nations, the use of force against the territorial integrity of another State [was] illegal; thus, no territorial acquisition [could] be recognized as lawful or retrospectively

¹⁹ Ibid., p. 4.

²⁰ Ibid., p. 5.

²¹ Ibid., p. 12.

²² Ibid., p. 50.

²³ Ibid., p. 34.

²⁴ Ibid., p. 64.

legitimized”.²⁵ The representatives of the United Kingdom and the United States demanded the “return of the Crimea to its rightful place as part of Ukraine” and called upon the Russian Federation to end its “illegal occupation of Crimea and cease support for separatists”, respectively.²⁶ The representative of the European Union quoted paragraph 4 of article 2 in its entirety and stressed that there was “no place in the twenty-first century for the use of force and coercion to change internationally recognized borders in Europe or elsewhere”, while also expressing the European Union’s strong commitment “to upholding the sovereignty, independence, unity and territorial integrity of Ukraine”.²⁷ The representative of Georgia also accused the Russian Federation of “ongoing aggression” against its territory and of redrawing European borders, including in the case of Ukraine, “by using aggression, occupation and annexation.”²⁸ In contrast, the representative of the Russian Federation argued that “blatant interference in the internal affairs of Ukraine took place through support from the outside aimed at undertaking an anti-constitutional coup d’état in 2014” and asserted that what happened in Crimea was “the right to exercise self-determination”.²⁹

Several speakers also discussed the situation in Syria with reference to Article 2 (4). The representative of Turkey criticized both the Syrian and the Russian Governments for the alleged use of force in the region.³⁰ The representative of Syria, on the other hand, accused the Turkish state of supporting rebel forces in the conflict. He further stressed that “attempts by some Member States to justify their military intervention in Syria, on the pretext of combating Da’esh and complying with Article 51, [constituted] a surreal manipulation of international law that [undermined] Syrian sovereignty, thus prolonging the life of terrorism and sheltering its sponsors.”³¹

In regard to the question of Palestine, the representative of Venezuela stated that Palestine had “the right to an immediate cessation of the criminal acts of aggression on the part of Israel against its people” and to “finally legitimately recover its territories”.³²

²⁵ Ibid., p. 16.

²⁶ Ibid., p. 20 (United Kingdom) and p. 26 (United States).

²⁷ Ibid., p. 44.

²⁸ Ibid., pp. 59-60.

²⁹ Ibid., p. 29.

³⁰ Ibid., p. 83.

³¹ Ibid., pp. 40-41.

³² Ibid., p. 4.

In a similar vein, the representatives of Kuwait (speaking on behalf of the Organization of Islamic Cooperation) and the United Arab Emirates called for termination of the occupation of the Palestinian territories by Israel and urged States to implement the Security Council resolutions calling for the withdrawal of Israeli forces from the region, respectively.³³

On the situation in Nagorno-Karabakh, the representative of Armenia alleged aggression by Azerbaijan against the people of the region.³⁴ In response, the representative of Azerbaijan accused Armenia of “using force to undermine the sovereignty and territorial integrity of Azerbaijan”, of occupying “around one-fifth of the territory of Azerbaijan” and of carrying out ethnic cleansing.³⁵ She further stressed that the conflict between the two countries could be resolved “only on the basis of full respect for the sovereignty and territorial integrity of Azerbaijan” and called Armenia to “withdraw its armed forces from the Nagorno-Karabakh and other occupied territories of Azerbaijan”.³⁶

Furthermore, the representative of the United Arab Emirates denounced the “rise in the rampant use of force against the territorial integrity, sovereignty and political independence of States” in the Middle East region, and accused Iran, in particular, of violating Article 2 of the Charter through continued occupation of three islands in the Arabian Gulf and of attempts at destabilization across the region.³⁷ The representative of Eritrea made similar remarks in reference to activities of Ethiopia, calling them an “illegal occupation” of Eritrea’s sovereign territory.³⁸ Furthermore, the representative of Cyprus stated that his country had suffered from numerous violations of the Charter and its principle of non-use of force through “foreign occupation by Turkey” of its territory.³⁹ Moreover, in reference to the Nansha islands, the representative of China stated that construction on them was “within China’s sovereignty” and stressed that “the so-called

³³ Ibid., pp. 55 (Kuwait on behalf of OIC) and p. 70 (United Arab Emirates).

³⁴ Ibid., p. 79.

³⁵ Ibid., p. 87.

³⁶ Ibid., p. 88.

³⁷ Ibid., pp. 69-70.

³⁸ Ibid., p. 54.

³⁹ Ibid., p. 76.

status created by other countries illegally occupying China’s Nansha islands [was] in violation of China’s legitimate rights and interests”.⁴⁰

Case 2 **Maintenance of international peace and security**

At a meeting held on 21 February 2017 under the item “Maintenance of international peace and security”, discussions centered on conflicts in Europe, the sub-item for the meeting, and particularly on the territorial integrity of concerned States in the region, including Azerbaijan, Georgia, Moldova and the Ukraine. The meeting was held at the initiative of Ukraine, which held the Presidency of the Council for the month.⁴¹

During the debate, several Member States referred to the principles enshrined in Article 2 (4) of the Charter of the United Nations. The representative of Sweden underlined that when one State decided to use military force to invade and annex a part of another State and threaten its sovereignty, such action constituted a threat to all States.⁴² The representative of Japan also expressed his concern, stating that threats to the territorial integrity of one country could not be ignored, because they would undermine the fundamental principles upon which the entire international legal order was based.⁴³ In a similar vein, the representative of Moldova said that Security Council members were expected “to act promptly and impartially whenever peace and security [were] threatened and when the principles of international law, in particular the sovereignty and territorial integrity of Member States, [were] disregarded”.⁴⁴ The representative of Australia, echoed by Italy, noted that the international community faced a period of instability, “where core principles of international law—the primacy of State sovereignty and territorial integrity—[were] under threat”.⁴⁵ Similarly, the representative of Bulgaria noted that in recent years the international consensus on the principle of territorial integrity had begun to erode, posing “a great danger to stability and security in Europe”.⁴⁶

⁴⁰ Ibid., p. 92.

⁴¹ A concept note was circulated by letter dated 3 February 2017 ([S/2017/108](#)).

⁴² [S/PV.7886](#), p. 16.

⁴³ Ibid., p. 30.

⁴⁴ Ibid., p. 36.

⁴⁵ Ibid., p. 56 (Australia) and p. 27 (Italy).

⁴⁶ Ibid., p. 67.

The representative of Bolivia noted, however, that if internal conflicts within States did not constitute a threat to or breach of international peace and security, “the Security Council should strictly apply what was established in Article 2, paragraphs 4 and 7 of the United Nations Charter on the principle of non-interference.”⁴⁷

In regard to the situation in Ukraine specifically, the representative of Ukraine said that his country was enduring “direct military aggression” by the Russian Federation, “as illustrated by the illegal partial occupation of Crimea and part of the Donbas”.⁴⁸ In contrast, the representative of the Russian Federation indicated that there had been attempts to resolve the situation through “military misadventures” and called on Ukraine to implement the Minsk agreements, which he deemed a requirement for a political solution.⁴⁹ Many speakers condemned Russia’s violations to the territory of Ukraine and expressed support for the sovereignty, territorial integrity and independence of the country.⁵⁰ Furthermore, the representative of France stated that “the annexation of Crimea and the conflict in the Donbas [illustrated] the fact that the violation of the territorial integrity of a European State [was] still possible”.⁵¹ Echoed by the representative of Germany, the representative of Latvia stressed that “all States Members of the United Nations [had] committed to renouncing the illegal threat or use of force, and all had agreed to settle their disputes by peaceful means”, adding that “Russia’s actions in Ukraine [were] a blatant violation of international law and a serious challenge to the principles of the United Nations Charter”.⁵² Similarly, the representative of Malaysia stated that the conflicts in eastern Ukraine and Crimea, in particular, constituted a direct challenge to the very purposes and principles of the Charter of the United Nations and added that it was difficult to imagine that, in that day and age, “one could blatantly disregard the fundamental principles of sovereignty, territorial integrity and the independence of States and gain territory by the illegal use of force with little

⁴⁷ Ibid., p. 22.

⁴⁸ Ibid., p. 13.

⁴⁹ Ibid., pp. 23-24.

⁵⁰ Ibid., p. 11 (European Union), p. 14 (United States), p. 16 (Sweden), p. 19 (France), p. 27 (Italy), p. 28 (Egypt), p. 29 (United Kingdom), p. 30 (Japan), p. 32 (Lithuania), p. 35 (Georgia), p. 37 (Latvia), p. 39 (Germany), p. 40 (Switzerland), p. 43 (Estonia), p. 44 (Holy See), p. 45 (Poland), p. 48 (Turkey), p. 49 (Norway), p. 51 (Liechtenstein), p. 54 (Romania), p. 56 (Australia) p. 57 (Canada) p. 59 (New Zealand), p. 64 (Netherlands) and p. 67 (Bulgaria).

⁵¹ Ibid., p. 19.

⁵² Ibid., p. 37 (Latvia), p. 39 (Germany).

consequence.”⁵³ Many speakers, in addressing other protracted conflicts in Europe, also reaffirmed the sovereignty and territorial integrity of Georgia⁵⁴ and Moldova⁵⁵ and called for a peaceful solution to the situation in Nagorno-Karabakh.⁵⁶

At the same meeting, the representative of Azerbaijan, speaking in the context of the situation in Nagorno-Karabakh, recalled that previous Security Council resolutions had acknowledged that acts of military force were committed against Azerbaijan; that such acts were “unlawful and incompatible with the prohibition of the use of armed force in international relations in contradiction with the Charter of the United Nations and its purposes”; and that they constituted “an obvious violation of the sovereignty and territorial integrity of Azerbaijan, specifically as pertained to Article 2 (4) of the Charter.”⁵⁷ He further stressed that “Armenia must realize that the military occupation of a territory by another State Member of the United Nations [did] not represent a solution.”⁵⁸ In response, the representative of Armenia said that the conflict had been a “struggle of the people of Nagorno-Karabakh for freedom and self-determination” and “against the claim of sovereignty over them by a despotic regime”.⁵⁹ The representative of Uzbekistan, speaking on behalf of the Organization of Islamic Cooperation (OIC), recalled the final communiqué of the thirteenth Islamic Summit and the special resolution adopted by the OIC Council of Foreign Ministers by which the OIC States had urged “the immediate, complete and unconditional withdrawal of the armed forces of Armenia from the Nagorno-Karabakh region and other occupied territories of Azerbaijan, and called for the resolution of the conflict on the basis of the sovereignty, territorial integrity and inviolability of the internationally recognized borders of Azerbaijan”.⁶⁰

⁵³ Ibid., p. 60.

⁵⁴ Ibid., p. 15 (United States), p. 19 (France), p. 28 (Italy), p. 38 (Organization for Democracy and Economic Development-GUAM), p. 40 (Germany), p. 43 (Estonia), p. 45 (Poland), p. 49 (Turkey), p. 50 (Norway), p. 51 (Liechtenstein), p. 56 (Australia), p. 57 (Canada), 59. (New Zealand), p. 64 (Netherlands), and p. 67 (Bulgaria).

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

⁵⁶ Ibid., p. 15 (United States), p. 18 (Kazakhstan), p. 19 (France), pp. 24-25 (Russian Federation), p. 28 (Italy), p. 28 (Egypt), p. 29 (United Kingdom), p. 40 (Germany), pp. 44 (Estonia), p. 48 (Turkey), p. 55 (Slovenia), p. 59 (New Zealand), and p. 67 (Bulgaria).

⁵⁷ Ibid., pp. 46-47.

⁵⁸ Ibid., p. 48.

⁵⁹ Ibid., p. 53.

⁶⁰ Ibid., p. 66.

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

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

In a letter dated 14 March 2016 addressed to the Secretary-General, the Permanent Representative of the United Arab Emirates rejected Iran’s sovereignty claims over the islands of Lesser Tunb, Greater Tunb and Abu Musa, adding that the occupation by Iranian armed forces of Greater Tunb and Lesser Tunb was “in contravention of the United Nations Charter, Article 2, paragraph 4”.⁶¹

The Permanent Representative of Iran, in identical letters dated 23 March 2016 to the Secretary-General and the President of the Security Council, said that “for decades, the Islamic Republic of Iran had been under threat of use of force by the United States and the Israeli regime in flagrant violation of Article 2 (4) of the Charter of the United Nations.”⁶²

On 31 March 2016, the Permanent Representative of Djibouti addressed a letter to the Secretary-General by which it urged Eritrea to “permanently cease and desist” from “its support for armed bands seeking to overthrow and destabilize the Government of Djibouti, in violation of its obligations under Article 2 of the Charter of the United Nations”.⁶³

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

⁶¹ [S/2016/245](#), p. 1.

⁶² [S/2016/279](#), p. 2.

⁶³ [S/2016/300](#), p. 2.

States, non-use of force in international relations, territorial integrity, inviolability of state borders and non-interference in domestic affairs”.⁶⁴

In a letter dated 19 January 2017 addressed to the Secretary-General, the Permanent Representative of Azerbaijan indicated, in the context of the situation in Nagorno-Karabakh, that “the only way to achieve a durable and lasting solution [was] to ensure the immediate, complete and unconditional withdrawal of the Armenian armed forces from the region and from other occupied territories of Azerbaijan”. He added that “the implementation of that peremptory obligation, which [emanated] in accordance with Article 2 (4) of the Charter from the principle of non-use of force against the territorial integrity and political independence of any State, [could] in no way be conditioned, introduced as a compromise or used as a bargaining chip in the conflict settlement process”.⁶⁵

On 16 March 2017, the Permanent Representative of Lebanon addressed identical letters to the Secretary-General and the President of the Security Council in regard to threats made by Israel against Lebanon. The letters stated that those threats were “a flagrant violation of Article 2, paragraph 4 of the Charter of the United Nations, which [provided] that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State”.⁶⁶

On 7 April 2017, the Permanent Representative of the Democratic People’s Republic of Korea addressed a letter to the Secretary-General transmitting a memorandum released by his Ministry of Foreign Affairs the previous day quoting in its entirety Article 2 (4) of the Charter when condemning the “level of political, military and economic pressure and aggressive schemes of the United States against the Democratic People’s Republic of Korea”.⁶⁷

The Permanent Representative of Azerbaijan, in a letter dated 10 April 2017 addressed to the Secretary-General, transmitted a legal opinion on third party obligations with respect to illegal economic and other activities in the occupied territories of

⁶⁴ [S/2016/857](#), annex.

⁶⁵ [S/2017/57](#), p. 2.

⁶⁶ [S/2017/228](#), p. 2.

⁶⁷ [S/2017/303](#), annex, p. 5.

Azerbaijan, prepared at the request of the Government of Azerbaijan. The annex to the letter contained four explicit references to Article 2 (4).⁶⁸

In a letter dated 4 May 2017 addressed to the President of the Security Council, the Permanent Representative of Iran, in responding to a statement of 2 May by Saudi Deputy Crown Prince and Defence Minister of Saudi Arabia Mohammed bin Salman, underlined that “his statement [reflected] an unveiled threat against the Islamic Republic of Iran, in violation of Article 2 (4) of the Charter of the United Nations, as well as a clear admission of the long-known complicity of the Saudi regime in acts of terror and violence inside Iran”.⁶⁹

On 6 November 2017, the Permanent Representative of Iran addressed a letter to the Secretary-General and the President of the Security Council in which he stated that Israel’s “recurring threats to act militarily against Iran’s peaceful nuclear programme [was] a flagrant violation of the fundamental principles of international law and Article 2(4) of the Charter of the United Nations”.⁷⁰

In a letter dated 7 November 2017 addressed to the Secretary-General and the President of the Security Council, the Permanent Representative of Iran, in reaction to accusations by authorities of Saudi Arabia that Iran was supplying missiles to Yemen for the purpose of attacking Saudi Arabia, “categorically rejected such baseless and unfounded accusations and considered them destructive, provocative and a threat to use of force against a United Nations Member States in clear defiance of Article 2 (4) of the Charter of the United Nations”.⁷¹

⁶⁸ [S/2017/316](#), annex, pp. 10, 13, 14 and 15.

⁶⁹ [S/2017/393](#), p. 1.

⁷⁰ [S/2017/934](#), p. 1.

⁷¹ [S/2017/936](#), p. 1.

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

Article 2, paragraph 5

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

Note

This section covers the practice of the Security Council with regard to the principle enshrined in Article 2 (5) of the Charter, in particular, the obligation of Member States to refrain from providing assistance to a State against which the United Nations has taken preventive or enforcement action.⁷² Subsection A features decisions containing implicit references to Article 2 (5). Subsection B highlights explicit and implicit references made to Article 2 (5) in the deliberations of the Council. The official correspondence of the Council did not contain any material relating to Article 2 (5).

A. Decisions relating to Article 2 (5)

During the period under review, Article 2 (5) was not explicitly invoked in decisions of the Council. The Council, however, included language of relevance to the interpretation of Article 2 (5) in several of its decisions by which it called on Member States to refrain from providing assistance or support in violation of preventive or enforcement action by the Council.⁷³

⁷² For practice of the Security Council relating to assistance by Member States to United Nations action in accordance with the Charter, please refer to part V (Article 25) and part VII (Articles 43 and 49) of this Supplement.

⁷³ See for example, in connection with the situation concerning the Democratic Republic of the Congo, resolution [2348 \(2017\)](#), para. 18; and in connection with The situation in Libya, resolution [2323 \(2016\)](#), eleventh preambular paragraph; and in connection with the situation in Somalia, resolutions [2317 \(2016\)](#) and [2385 \(2017\)](#), fourth preambular paragraph. .

B. Constitutional discussion relating to Article 2 (5)

During the period 2016 to 2017, Article 2 (5) of the Charter was explicitly invoked once at a meeting held on 3 August 2017 on “General issues relating to sanctions”, where the representative of Ukraine, in discussing challenges for making United Nations sanctions more efficient, recalled that “paragraph 5 of Article 2 of the Charter of the United Nations [stated], among other things, that Member States shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action”. He added that the Council should explore ways to strengthen the roles of sanctions committees in identifying cases of non-compliance and determining how to address them.⁷⁴ At the same meeting, the representative of the United States said that “when States Members of the United Nations [did] not comply with the sanctions levelled against an aggressor, the Council’s threats [became] hollow”.⁷⁵

Furthermore, in a meeting held under the agenda item “Non-proliferation”, the principle of refraining from giving assistance to any state against which the United Nations was taking preventive or enforcement action was discussed, as described in case 3 below.

Case 3 Non-proliferation

At a meeting held on 18 January 2017 on “Non-proliferation” which dealt, in particular with the implementation of resolution [2231 \(2015\)](#), the representative of the United States said that every Member State needed to enforce the travel restrictions that remained in effect under resolution [2231 \(2015\)](#), and indicated that the travel by Major General Qasem Soleimani and Brigadier General Mohammad Reza Naqdi to Iraq and Syria conveyed in Secretary-General’s report [S/2016/1136](#) would be unacceptable. She further indicated that “the strength of resolution [2231 \(2015\)](#) [came] from the commitment of Member States to enforcing it”.⁷⁶ At the same meeting, the representative

⁷⁴ [S/PV.8018](#), p. 9.

⁷⁵ *Ibid.*, p. 14.

⁷⁶ [S/PV.7865](#), p. 8.

of the United Kingdom echoed the call by the Secretary-General for “all Member States to take the necessary measures to prevent entry or transit of Iranians subject to travel bans”. He further urged Member States to “consider whether exporting arms to Iran [was] in the best interest of the region” and to “continue to enforce the sanctions regime on ballistic missile technology and to act on and report all suspected violations”.⁷⁷

Moreover, the representative of Sweden, addressing reported violations of the travel ban, underlined that “only the Security Council [could] determine when such travel [was] justified”, and urged countries to “meet their obligations to prevent entry and transit through their territories of individuals on the list maintained pursuant to resolution [2231 \(2015\)](#).”⁷⁸

⁷⁷ Ibid., p. 10.

⁷⁸ Ibid., p. 20.

IV. Non-intervention in 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

This section concerns the practice of the Security Council in relation to the principle of non-intervention by the United Nations in internal affairs of States enshrined in Article 2 (7) of the Charter. Subsection A features implicit references to that Article in the decisions of the Council. Subsection B features the deliberations of the Council touching upon the principle enshrined in Article 2 (7). Finally, Subsection C provides a brief summary of explicit references to Article 2 (7) in the correspondence of the Council.

A. Decisions relating to Article 2 (7)

From 2016 to 2017, Article 2 (7) was not explicitly referred to in decisions of the Council. Nonetheless, there were two implicit references to Article 2 (7) in the decisions of the Council during the period under review. In a resolution adopted under the item entitled “Threats to international peace and security caused by terrorist acts”, the Council, when welcoming the “Comprehensive International Framework to Counter Terrorist Narratives”, stressed that United Nations action in the field of countering terrorist narratives should be based on the United Nations Charter, including the principles of

sovereignty, territorial integrity and political independence of all States.⁷⁹ Furthermore, in a resolution adopted under the item entitled “Threats to international peace and security”, the Council underscored that the newly established Investigative Team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da’esh) accountable by collecting, preserving, and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da’esh) in Iraq, shall operate with full respect for the sovereignty of Iraq and its jurisdiction over crimes committed in its territory.⁸⁰

B. Constitutional discussion relating to Article 2 (7)

From 2016 to 2017, Article 2 (7) was explicitly invoked four times in the Council’s deliberations. At a meeting under the agenda item entitled “Maintenance of international peace and security” held on 21 February 2017, the representative of Bolivia stated that “with respect to internal conflicts within States, if they did not constitute a threat to or a breach of international peace and security, the Security Council should strictly apply what [was] established in Article 2, paragraphs 4 and 7, of the United Nations Charter on the principle of non-interference”.⁸¹ In another meeting under the same agenda item held on 18 April 2017, the representative of Senegal noted that “the provisions of Article 2, paragraph 7, of the Charter were not violated when the United Nations High Commissioner for Human Rights was invited to participate in the Council’s deliberations” in 1991 and that, since then, “the Council had hosted 15 such briefings”.⁸² The other two explicit references were made during a meeting held under the agenda item “Maintenance of international peace and security”, where the principle of non-interference in the internal affairs of State was considered in conjunction with the concept of the responsibility to protect, as described in case 4 below. In addition, there was one explicit reference to Article 2 in general which touched upon the principles enshrined in paragraph 7 at a meeting on the item entitled “The situation in the Democratic People’s Republic of Korea” held on 9 December 2016, where the representative of Egypt rejected

⁷⁹ Resolution [2354 \(2017\)](#), paras. 1 and 2(a). See also [S/2017/375](#).

⁸⁰ Resolution [2379 \(2017\)](#), paras. 2 and 5.

⁸¹ [S/PV.7886](#), p. 22.

⁸² [S/PV.7926](#), p. 17.

“any consideration of the situation of human rights by the Security Council” adding that “human rights issues should not be used as a means to interfere selectively in the internal affairs of States, in line with Article 2 of the Charter of the United Nations”.⁸³

Furthermore, from 2016 to 2017, Member States made numerous statements of relevance to the interpretation and application of Article 2 (7) of the Charter. However, these did not lead to constitutional discussions.⁸⁴

Case 4 **Maintenance of international peace and security**

At its 7621st meeting on 15 February 2016, the Council held an open debate under the above item and the following sub-item “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”. During the meeting, the interpretation of Article 2 (7) of the Charter was discussed, in particular the restriction of United Nations intervention in the internal affairs of States, with the exception for the application of enforcement measures under Chapter VII of the Charter. In his briefing to the Council, the Secretary-General stressed that the Organization’s engagement on early warning with Member States “[continued] to be based on cooperation, transparency and respect for sovereignty” while acknowledging that “at times Member States [felt] that such efforts [were] a form of interference that [undermined] national sovereignty”. He emphasized, however, that it was violence and conflict which threatened sovereignty and that “in its engagements, the United Nations [sought] to reinforce sovereignty, not challenge or undermine it”.⁸⁵

The representative of Venezuela advised Member States against “bringing to the Council issues that rightly [belonged] to the jurisdiction of States, in accordance with

⁸³ [S/PV.7830](#), p. 13.

⁸⁴ See for example, in relation to cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, [S/PV.7694](#), p. 23 (Venezuela) and p. 33 (Iran on behalf of NAM), and [S/PV.7816](#), p. 14 (Venezuela); in relation to the maintenance of international peace and security, [S/PV.7653](#), p. 19 (New Zealand), [S/PV.7857](#), p. 26 (Bolivia) and p. 83 (Morocco), [S/PV.7926](#), p. 9 (Egypt), and [S/PV.8106](#), p. 17 (Kazakhstan); in relation to non-proliferation of weapons of mass destruction, [S/PV.7837](#), p. 12 (New Zealand); in relation to the protection of civilians, in armed conflict, [S/PV.7606](#), p. 41 (Iran on behalf of NAM); in relation to the situation in the Middle East, [S/PV.8142](#), pp. 11-12 (Syria); in relation to threats to international peace and security, [S/PV.8052](#), p. 12 (Ethiopia) and pp. 12-13 (Iraq); in relation to threats to international peace and security caused by terrorist acts, [S/PV.7690](#), p. 78 (Cambodia), and in relation to United Nations peacekeeping operations, [S/PV.8033](#), p. 33 (Venezuela), p. 54 (Azerbaijan) and p. 61 (Viet Nam), and [S/PV.8051](#), p. 20 (China) and p. 29 (Bolivia).

⁸⁵ [S/PV.7621](#), p. 3.

paragraph 7, Article 2, of the Charter”.⁸⁶ The representative of Egypt indicated that the Security Council should “[give] priority to the peaceful means of settling disputes, while respecting national sovereignty and the principle of non-interference in the internal affairs of States”.⁸⁷ The representative of Nicaragua, quoting its President Ortega Saavedra, called upon the United Nations “to play a respectful, responsible and ethical role, devoid of any form of interference and intervention in the internal affairs of sovereign States” and criticized the Council for “granting mandates with regard to situations in the Middle East aimed at promoting regime change”.⁸⁸ She also stressed that collective actions to counter terrorism should ensure the respect for the sovereignty and territorial integrity of all Member States.⁸⁹ The representative of Colombia, echoed by the representative of Guatemala,⁹⁰ recalled that “peace [could not] be imposed, but must come from the players themselves.”⁹¹ The representative of Syria underlined that “statements calling for interventionist policies [were] a violation of the principle of sovereignty that [left] the door wide open to the recurrent illegitimate military interventions against many Member States.”⁹²

Other speakers discussed whether there were limits to the principles of sovereignty and non-intervention in the internal affairs of States by the United Nations vis-à-vis the concept of responsibility to protect.⁹³ Furthermore, the representative of New Zealand argued that the Council remained “strangely reluctant” to use the range of tools at its disposal for preventive action, with such discussions becoming “bogged down in false dichotomies between intervention and deference to sovereignty”. He added that national sovereignty should not be “used as a shield by those who [brutalized] their own populations and [undermined] regional and global security”.⁹⁴ Moreover, the representative of Spain asserted that sovereignty entailed “responsibilities, such as protecting civilians from the risk of becoming the victims of mass atrocities”, and further

⁸⁶ *Ibid.*, p. 6.

⁸⁷ *Ibid.*, p. 10.

⁸⁸ *Ibid.*, p. 47.

⁸⁹ *Ibid.*, p. 48.

⁹⁰ *Ibid.*, p. 88.

⁹¹ *Ibid.*, p. 51.

⁹² *Ibid.*, p. 39.

⁹³ *Ibid.*, pp. 30-31 (Argentina); p. 56 (Germany); p. 58 (Algeria); p. 64 (the Holy See); p. 65 (the Organization of American States); p. 68 (Panama); p. 78 (Peru); pp. 81-82 (Costa Rica); p. 86 (Ethiopia); and p. 89 (Netherlands).

⁹⁴ *Ibid.*, p. 19.

indicated that when States did not fulfil their duty to protect civilians, the Council should take action in a way consistent with the Charter.⁹⁵ Furthermore, the representative of the United Kingdom recalled that “paragraph 7, Article 2 [was] explicit in not prejudicing the application of enforcement measures under Chapter VII”, in the context of the primary responsibility of the Council to maintain international peace and security, and warned against using “outdated interpretations of the Charter” to excuse inaction.⁹⁶ The representative of Uruguay said that “it would be a mistake to pretend that a broad interpretation of the principles of State sovereignty and non-intervention could serve as justification for any action taken by a State within its borders that [violated] other principles of the Charter of the United Nations”. He further stressed that “the concept of sovereignty [implied] responsibilities as well as rights” and that “one of sovereignty’s most essential obligations [was] the protection of the people”.⁹⁷ The representative of the United States underlined that “respect for political independence and sovereignty [could not] mean turning a blind eye to oppression, intimidation and abuse” and added that “while we must be guided by the principle of the sovereign equality of States enshrined in the Charter, we cannot let ourselves become so afraid of encroaching on State prerogatives as to prevent us from acting to respond to the world’s real and emerging threats.”⁹⁸

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

During the period under review, the principle enshrined in Article 2 (7) of the Charter was explicitly invoked four times in the official correspondence of the Council, all of which were in annexes to letters circulated as official documents of the Security Council. The first instance was in the annex to a letter dated 1 February 2016 from the Permanent Representative of Venezuela, transmitting the concept note for an open debate of the Security Council on the theme “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace

⁹⁵ *Ibid.*, p. 9.

⁹⁶ *Ibid.*, p. 20.

⁹⁷ *Ibid.*, p. 22.

⁹⁸ *Ibid.*, pp. 26-27.

and security”,⁹⁹ two other instances were in annexes to two letters transmitting resolutions adopted by the Council of the League of Arab States,¹⁰⁰ and the last instance was in the annex to a letter transmitting the report of the fourteenth annual workshop for newly elected members of the Security Council held on 3–4 November 2016.¹⁰¹

⁹⁹ [S/2016/103](#), p. 3.

¹⁰⁰ See [S/2016/723](#), annex, p. 45 and [S/2017/361](#), annex, p.14.

¹⁰¹ See [S/2017/468](#), annex, p. 11.