



*Repertoire of the Practice of the Security Council*

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**Part V**

**Functions and powers of the Security Council**

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## Introductory note

Part V of the *Repertoire* covers the functions and powers of the Security Council, as provided for in Articles 24, 25 and 26 of the Charter of the United Nations, and is accordingly divided into three sections. Under each section, explicit and implicit references to those Articles in decisions, communications and meetings of the Council during 2016 and 2017 are listed. Each section also includes case studies that examine specific instances in which those Articles were discussed or which otherwise illustrate how the Council has applied Articles 24, 25 and 26.

During the period under review, as covered in section I below, the Council referred implicitly to its primary responsibility for the maintenance of international peace and security according to Article 24 of the Charter in 28 of its decisions in connection with a variety of country or region-specific items, as well as thematic ones including, inter alia, the situation in Libya, the question concerning Haiti, maintenance of international peace and security, threats to international peace and security caused by terrorist acts and United Nations peacekeeping operations. In its thematic decisions, the Council addressed issues such as human trafficking, the protection of medical personnel in conflict zones, the protection of cultural heritage in the context of armed conflict, terrorism, peacekeeping and the cooperation with regional and sub-regional organizations in matters of international peace and security which, it reiterated, could improve collective security. The primary responsibility of the Council for the maintenance of international peace and security was also the subject of discussions at several meetings of the Council on a wide range of items, including the cooperation between the United Nations and regional and subregional organizations, non-proliferation of weapons of mass destruction and the implementation of the note by the President concerning Council procedures ([S/2010/507](#))”.

Throughout 2016 and 2017, as featured in section II, the Council referred to Article 25 in two resolutions, recalling that members of the United Nations had agreed to accept and carry the decisions of the Security Council in accordance with the Charter. During deliberations, speakers made explicit reference to Article 25 on eight occasions in relation to a variety of items, namely, general issues relating to sanctions, implementation of the note by the President concerning Council procedures ([S/2010/507](#)), the situation in the Middle East, including the Palestinian question non-proliferation, and reports of the Secretary-General on the Sudan and South Sudan”. In this connection, speakers discussed the implementation of

key resolutions related to these items such as resolutions [2231 \(2015\)](#), [2286 \(2016\)](#) or [2334 \(2016\)](#).

With regard to Article 26, as described in section III and consistent with past periods, in 2016 and 2017 the Council made no reference in its decisions to its responsibility for formulating plans for the establishment of a system for the regulation of armaments. This notwithstanding, Article 26 was explicitly invoked during deliberations of the Council on three occasions in relation to non-proliferation of weapons of mass destruction and maintenance of international peace and security.

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

### *Article 24*

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

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

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

### **Note**

Section I covers the practice of the Security Council concerning its primary responsibility for the maintenance of international peace and security under Article 24 of the Charter,<sup>1</sup> and is divided into two subsections. Subsection A deals with decisions adopted in 2016 and 2017 that refer to the primary responsibility of the Security Council for the maintenance of international peace and security. Subsection B examines references to the Council's primary responsibility pursuant to Article 24 made in discussions held during Council meetings.

During the period under review, none of the decisions adopted by the Security Council contained explicit references to Article 24 of the Charter. However, one explicit reference to Article 24 was found in one communication from Senegal transmitting a concept paper for an information meeting on the topic "Strengthening of strategic partnership in combating extremist ideology". The concept paper recalled the Council's primary responsibility for the maintenance of international peace and security, acting on behalf of Member States under Article 24 as well as the encouragement contained in Chapter VIII to

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<sup>1</sup> Article 24 (3), requiring the Council to submit annual and special reports to the General Assembly, is dealt with in part IV.

cooperate with regional arrangements. In this connection, the enhancement of cooperation between the United Nations and regional organizations was deemed “imperative” in order to address the variety of existing threats and challenges to international peace and security.<sup>2</sup> Article 24 was also explicitly referred to on several occasions during meetings of the Council.<sup>3</sup>

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

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

#### *1. Resolutions*

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

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<sup>2</sup> Annex to the letter dated 11 November 2016 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council ([S/2016/965](#), p. 2).

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

<sup>4</sup> Resolutions [2272 \(2016\)](#), first preambular paragraph; [2282 \(2016\)](#), fifth and seventh preambular paragraphs; [2284 \(2016\)](#), twenty-first preambular paragraph; [2286 \(2016\)](#), first preambular paragraph; [2292 \(2016\)](#), fifteenth

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

In six of the ten country or region-specific resolutions, the Council acted explicitly under Chapter VII of the Charter, in connection with the situations in Côte d'Ivoire, Libya, Liberia and the question concerning Haiti. By those resolutions, the Council extended the mandates of the United Nations Operation in Côte d'Ivoire (UNOCI), the United Nations Mission in Liberia (UNMIL) and the United Nations Stabilization Mission in Haiti (MINUSTAH),<sup>7</sup> established an initial mandate for the United Nations Mission for Justice Support in Haiti<sup>8</sup> and modified (and extended) sanctions measures concerning Libya.<sup>9</sup>

In connection with the item entitled "Reports of the Secretary-General on the Sudan and South Sudan", the Council underlined, as it had done in the previous biennium, the importance of the partnership between the United Nations and the African Union, consistent with Chapter VIII of the Charter, "without prejudice" to the Security Council's primary responsibility for the maintenance of international peace and security.<sup>10</sup> In connection with the item entitled "Peace and security in Africa", the Council recalled its primary

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preambular paragraph; [2296 \(2016\)](#), twenty-fourth preambular paragraph; [2312 \(2016\)](#), thirteenth preambular paragraph; [2313 \(2016\)](#), thirty-six preambular paragraph; [2320 \(2016\)](#), first preambular paragraph; [2331 \(2016\)](#), third preambular paragraph; [2333 \(2016\)](#), eighteenth preambular paragraph; [2341 \(2017\)](#), second preambular paragraph; [2347 \(2017\)](#), third preambular paragraph; [2350 \(2017\)](#), fourteenth preambular paragraph; [2354 \(2017\)](#), second preambular paragraph; [2357 \(2017\)](#), third preambular paragraph; [2359 \(2017\)](#), second preambular paragraph; [2363 \(2017\)](#), sixth preambular paragraph; [2370 \(2017\)](#), second and seventh preambular paragraphs; [2378 \(2017\)](#), first, fourth preambular paragraphs; [2380 \(2017\)](#), thirteenth preambular paragraph; [2382 \(2017\)](#), first preambular paragraph; [2388 \(2017\)](#), third preambular paragraph; [2391 \(2017\)](#), second preambular paragraph.

<sup>5</sup> Resolutions [2284 \(2016\)](#), twenty-first preambular paragraph; [2292 \(2016\)](#), fifteenth preambular paragraph; [2296 \(2016\)](#), twenty-fourth preambular paragraph; [2313 \(2016\)](#), thirty-six preambular paragraph; [2333 \(2016\)](#), eighteenth preambular paragraph; [2350 \(2017\)](#), fourteenth preambular paragraph; [2357 \(2017\)](#), third preambular paragraph; [2359 \(2017\)](#), second preambular paragraph; [2363 \(2017\)](#), sixth preambular paragraph; [2391 \(2017\)](#), second preambular paragraph.

<sup>6</sup> Resolutions [2272 \(2016\)](#), first preambular paragraph; [2282 \(2016\)](#), fifth and seventh preambular paragraphs; [2286 \(2016\)](#), first preambular paragraph; [2312 \(2016\)](#), thirteenth preambular paragraph; [2320 \(2016\)](#), first preambular paragraph; [2331 \(2016\)](#), third preambular paragraph; [2341 \(2017\)](#), second preambular paragraph; [2347 \(2017\)](#), third preambular paragraph; [2354 \(2017\)](#), second preambular paragraph; [2370 \(2017\)](#), second and seventh preambular paragraphs; [2378 \(2017\)](#), first, fourth preambular paragraphs; [2380 \(2017\)](#), thirteenth preambular paragraph; [2382 \(2017\)](#), first preambular paragraph; [2388 \(2017\)](#), third preambular paragraph.

<sup>7</sup> Resolutions [2284 \(2016\)](#), twenty-first preambular paragraph; [2333 \(2016\)](#), eighteenth preambular paragraph and [2313 \(2016\)](#), thirty-six preambular paragraph and [2350 \(2017\)](#), fourteenth preambular paragraph. For more information on UNOCI, UNMIL and MINUSTAH and on the peacekeeping and political missions in general, see part X.

<sup>8</sup> Resolution [2350 \(2017\)](#), para. 5.

<sup>9</sup> Resolutions [2292 \(2016\)](#), fifteenth preambular paragraph and [2357 \(2017\)](#), third preambular paragraph. For more information on sanctions measures, see part VII.

<sup>10</sup> Resolutions [2296 \(2016\)](#), twenty-fourth preambular paragraph; and [2363 \(2017\)](#), sixth preambular paragraph.

responsibility for the maintenance of international peace and security and welcomed the deployment of the Force Conjointe du G5 Sahel — FC-G5S throughout the territories of its contributing countries.<sup>11</sup>

Of the 14 resolutions adopted under thematic items, two were adopted under Chapter VII of the Charter. In resolutions [2312 \(2016\)](#) and [2380 \(2017\)](#), both adopted under the item entitled “Maintenance of international peace and security”, the Council, mindful of its primary responsibility for the maintenance of international peace and security, reaffirmed the necessity to put an end to the proliferation of the smuggling of migrants and trafficking of persons in the Mediterranean Sea off the coast of Libya in accordance with the Charter, and renewed the authorizations granted to that end under paragraphs 7, 8, 9 and 10 of resolution [2240 \(2015\)](#) to intercept vessels on the high seas.<sup>12</sup> Similarly, recalling its primary responsibility for the maintenance of international peace and security, in resolutions [2331 \(2016\)](#) and [2388 \(2017\)](#), the Council condemned all instances of trafficking in persons in areas affected by armed conflict and called upon Member States to take a series of measures to address human trafficking including in the context of armed conflict.<sup>13</sup>

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

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<sup>11</sup> Resolution [2359 \(2017\)](#), second preambular paragraph.

<sup>12</sup> Resolutions [2312 \(2016\)](#), thirteenth preambular paragraph, paras. 7 and 8; and [2380 \(2017\)](#), thirteenth preambular paragraph, paras. 7 and 8.

<sup>13</sup> Resolutions [2331 \(2016\)](#), third preambular paragraph and para. 1; and [2388 \(2017\)](#), third preambular paragraph and para. 1.

<sup>14</sup> Resolution [2286 \(2016\)](#), first preambular paragraph and para. 2.

<sup>15</sup> Resolution [2347 \(2017\)](#), third preambular paragraph and para. 4.

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

In three resolutions concerning threats to international peace and security caused by terrorist acts, the Council reaffirmed its primary responsibility for the maintenance of international peace and security. By resolution [2341 \(2017\)](#), the Council encouraged Member States to make concerted and coordinated efforts to improve preparedness for terrorist attacks against critical infrastructure.<sup>19</sup> By resolution [2354 \(2017\)](#), the Council welcomed the Comprehensive International Framework to Counter Terrorist Narratives developed by its Counter-Terrorism Committee, stressing the need for its implementation by Member States and all relevant United Nations entities in accordance with a set of prescribed guidelines.<sup>20</sup> Lastly, by resolution [2370 \(2017\)](#), the Council again reaffirmed its primary responsibility for the maintenance of international peace and security, while also expressing grave concern that the Council’s effectiveness in discharging such responsibility continued to be undermined by the illicit transfer of small arms and light weapons. In this resolution, the Council reaffirmed its decision in resolution [1373 \(2001\)](#) that all States should refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts and stressed the importance of full and effective implementation of the relevant resolutions.<sup>21</sup>

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<sup>16</sup> Resolution [2320 \(2016\)](#), first and third preambular paragraphs and para. 1.

<sup>17</sup> For more information, see part I, sect. 38, “Cooperation with regional and subregional organizations in maintaining international peace and security”.

<sup>18</sup> Resolution [2282 \(2016\)](#), fifth and seventh preambular paragraph and para. 2.

<sup>19</sup> Resolution [2341 \(2017\)](#), second preambular paragraph and para. 1.

<sup>20</sup> Resolution [2354 \(2017\)](#), second preambular paragraph, and paras. 1 and 2. See letter dated 26 April 2017 from the Chair of the Security Council Committee established pursuant to resolution [1373 \(2001\)](#) concerning counter-terrorism addressed to the President of the Council ([S/2017/375](#)).

<sup>21</sup> Resolution [2370 \(2017\)](#), second and seventh preambular paragraphs and para. 1.

Further, in three resolutions in connection with the item entitled “United Nations peacekeeping operations”, the Council made reference to its primary responsibility under the Charter for the maintenance of international peace and security.<sup>22</sup> By resolution [2272 \(2016\)](#), the Council requested the Secretary-General to give immediate and ongoing effect to the decision to repatriate peacekeeping personnel in the event of credible widespread or systemic sexual exploitation and abuse.<sup>23</sup> By resolution [2378 \(2017\)](#), the Council underscored the importance of peacekeeping as a tool in the maintenance of international peace and security, recognized that cooperation with regional and subregional organizations could improve collective security, and stressed the primacy of politics as a hallmark of the approach of the United Nations to the resolution of conflict.<sup>24</sup> Similarly, by resolution [2382 \(2017\)](#), the Council stressed the primacy of politics in resolving conflicts and resolved to include, on a case by case basis, policing as an integral part of the mandates and decision-making structures of United Nations peacekeeping operations.<sup>25</sup>

## 2. *Presidential statements*

During the period under review, the Council made implicit references to Article 24 in four presidential statements, reaffirming or reiterating its primary responsibility for the maintenance of international peace and security in accordance with the Charter.<sup>26</sup>

The Council referred implicitly to Article 24 to, inter alia, highlight the link between its own primary responsibility and the role or responsibility of other actors, namely, Member States and regional organizations, in the maintenance of international peace and security. For example, in a presidential statement concerning peace consolidation in West Africa, the Council reaffirmed its own primary responsibility for the maintenance of international peace and security while noting the primary responsibility of States in the eradication of piracy and armed robbery at sea.<sup>27</sup> Furthermore, the Council reiterated that cooperation with regional and subregional organizations in matters relating to the maintenance of international peace

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<sup>22</sup> Resolutions [2272 \(2016\)](#), first preambular paragraph; [2378 \(2017\)](#), first and fourth preambular paragraphs; and [2382 \(2017\)](#), first preambular paragraph. For more information, see part I, sect. 27, “United Nations peacekeeping operations”.

<sup>23</sup> Resolution [2272 \(2016\)](#), first preambular paragraph and para. 1.

<sup>24</sup> Resolution [2378 \(2017\)](#), first and fourth preambular paragraphs and para. 1.

<sup>25</sup> Resolution [2382 \(2017\)](#), first preambular paragraph and para. 1.

<sup>26</sup> [S/PRST/2016/4](#), first paragraph; [S/PRST/2016/6](#), first paragraph; [S/PRST/2016/8](#), second paragraph; [S/PRST/2017/21](#), third paragraph.

<sup>27</sup> [S/PRST/2016/4](#), first paragraph.

and security, and, consistent with Chapter VIII of the Charter, could improve collective security. For example, the Council stressed the importance of further cooperation with the African Union in order to assist in building its capacity in conflict prevention, crisis management and resolution, as well as post-conflict peacebuilding.<sup>28</sup>

In a presidential statement under the item entitled “Threats to international peace and security caused by terrorist acts”, the Council recalled that, consistent with its primary responsibility for the maintenance of international peace and security, countering violent extremism, which could be conducive to terrorism, including preventing radicalization, recruitment, and mobilization of individuals into terrorist groups and becoming foreign terrorist fighters, was an essential element of addressing the threat to international peace and security posed by foreign terrorist fighters.<sup>29</sup> Lastly, in a presidential statement issued under the item entitled “Children and armed conflict”, the Council reiterated its primary responsibility for the maintenance of international peace and security and, in that connection, its commitment to address the widespread impact of armed conflict on children.<sup>30</sup>

## **B. Discussion relating to the primary responsibility of the Security Council**

During the period under review, Article 24 was explicitly and implicitly referred to at numerous meetings of the Council. Explicit references to Article 24 were made in the context of meetings held under the items entitled “The situation in Afghanistan”,<sup>31</sup> “The situation concerning Western Sahara”,<sup>32</sup> “Implementation of the note by the President of the Security Council ([S/2010/507](#))”,<sup>33</sup> “Non-proliferation/Democratic People’s Republic of Korea”<sup>34</sup>, “Maintenance of international peace and security”<sup>35</sup> and “The situation in the Middle East”.<sup>36</sup>

The following case studies illustrate the broad range of issues discussed during the period under review with respect to the Council’s primary responsibility pursuant to Article 24. The discussions were held in connection with the implementation of the note by the

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<sup>28</sup> [S/PRST/2016/8](#), first, second and fifteenth paragraphs. For more information, see part I, sect. 41, “Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security”. For more information on the role of regional arrangements in the maintenance of international peace and security, see part VIII.

<sup>29</sup> [S/PRST/2016/6](#), first and ninth paragraphs.

<sup>30</sup> [S/PRST/2017/21](#), third paragraph.

<sup>31</sup> [S/PV.7645](#), p. 5 (Afghanistan).

<sup>32</sup> [S/PV.7684](#), p. 5 (Venezuela (Bolivarian Republic of)).

<sup>33</sup> [S/PV.7740](#), p. 3 (Egypt); p. 5 (France); pp. 20-21 (Iran (Islamic Republic of)); p. 25 (Australia); p. 38 (Cuba).

<sup>34</sup> [S/PV.8118](#), p. 15 (Venezuela (Bolivarian Republic of)).

<sup>35</sup> [S/PV.7857](#), p. 107 (Morocco); [S/PV.8144](#), p. 54 (Botswana).

<sup>36</sup> [S/PV.7919](#), p. 3 (Bolivia (Plurinational State of)).

President of the Security Council ([S/2010/507](#)), which concerns the Council's working methods (case 1), the maintenance of international peace and security (case 2), the situation in the Democratic People's Republic of Korea (case 3), the cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security (case 4) and non-proliferation of weapons of mass destruction (case 5).

## Case 1

### Implementation of the note by the President of the Security Council ([S/2010/507](#))

On 19 July 2016, at the 7740<sup>th</sup> meeting of the Council, several speakers made explicit references to Article 24 of the Charter. The representative of the Arab Republic of Egypt underlined the genuine interest of all the Member States in enhancing the transparency of the work of the Council to ensure that it acted on behalf of the entire membership, in accordance with Article 24 of the Charter.<sup>37</sup> The representative of France affirmed the need for the Council to monitor and promote accountability for its actions before all Member States, in the spirit of Article 24 of the Charter.<sup>38</sup> Additionally, the representative of Australia highlighted that Article 24 of the Charter enshrined the responsibility of the Council to act on behalf of the United Nations membership as a whole and Council members should engage regularly with the broader membership through briefings with regional groups and outreach to affected countries.<sup>39</sup>

Speaking on behalf of the Non-Aligned Movement, the representative of the Islamic Republic of Iran, put forward nine specific measures with a view to improving the working methods of the Council and enhancing its efficiency in fulfilling its "primary responsibility". Moreover, he reiterated the need for non-selectivity, impartiality and accountability in the work of the Council. He noted that a decision to initiate formal or informal discussions on the situation in any Member State or on any issue that did not constitute a threat to international peace and security would be contrary to Article 24 of the Charter and urged the Council to remain strictly within the powers and functions accorded to it by Member States under the Charter.<sup>40</sup> The representative of Romania underscored that the working methods of the

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<sup>37</sup> [S/PV.7740](#), p. 3.

<sup>38</sup> *Ibid.*, p. 5.

<sup>39</sup> *Ibid.*, p. 25.

<sup>40</sup> *Ibid.*, pp. 20-21.

Council concerned the entire United Nations membership in view of the fact that the Council was given the primary responsibility for preserving international peace and security and acted on behalf of the Members States.<sup>41</sup> The representative of Cuba stated that, in accordance with Article 24 of the Charter, Member States recognized that the Council, in carrying out its functions, acted on their behalf and that its work was therefore the collective responsibility of all Member States. In this regard, he affirmed that Member States should be guaranteed genuine participation in the Council's work and decision-making process.<sup>42</sup>

## Case 2

### Maintenance of international peace and security

At its 7621<sup>st</sup> meeting on 15 February 2016, the Council held an open debate under the sub-item entitled "Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security", in which 69 Member States, observers and international organizations participated.<sup>43</sup>

In his opening remarks, the Secretary-General noted that the disrespect for fundamental principles of international human rights and humanitarian law challenged the Council in fulfilling its duties under the Charter.<sup>44</sup> The Secretary-General observed that human rights abuses were the most effective early-warning signs of the instability that often escalated into "atrocities crimes".<sup>45</sup> In this regard, many speakers stressed that the respect for human rights was linked to the maintenance of international peace and should therefore be given due weight on the agenda of the Council.<sup>46</sup>

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

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<sup>41</sup> Ibid., p. 26.

<sup>42</sup> Ibid., pp. 38-39.

<sup>43</sup> The meeting took place further to the concept note circulated by the letter dated 1 February 2016 from the Permanent Representative of the Bolivarian Republic of Venezuela addressed to the Secretary-General ([S/2016/103](#)).

<sup>44</sup> [S/PV.7621](#), p. 2.

<sup>45</sup> Ibid., p. 3.

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

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

The representative of the United Kingdom stated that, while there were new threats that the founders of the United Nations had not foreseen, the Council's primary responsibility to maintain peace and security remained and put the body "at the centre of the rules-based international system", by empowering it to take a range of measures, including the use of force.<sup>48</sup> Similarly, the representative of New Zealand stressed that the international community faced more concurrent crises than at any time since the creation of the United Nations and, that the Council's mandate to maintain international peace and security was therefore, more relevant and necessary than ever. In this connection, he affirmed that the Council needed to continue developing and evolving its approach in order to be effective in fulfilling its mandate.<sup>49</sup> Several speakers underlined that the Council should enhance its cooperation with regional and subregional organizations.<sup>50</sup> In this context, the representative of Viet Nam said that the Council, as the body with the primary responsibility for maintenance of international peace and security, should prioritize the peaceful means and deepen its relationships with regional and subregional organizations.<sup>51</sup> Furthermore, the representative of Hungary expressed the view that, given its primary responsibility for the maintenance of international peace and security, the Council has a special responsibility for prioritising early warning, prevention and conflict resolution as opposed to "being stuck in a perpetual crisis-management mode". In this connection, he opined that the Council should use "all the elements in its toolbox" including means related to the peaceful settlement of disputes, cooperation with regional organizations, the adoption of smart targeted sanctions and the referral of situations to the International Criminal Court.<sup>52</sup>

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<sup>47</sup> Ibid., p. 6.

<sup>48</sup> Ibid., p. 20.

<sup>49</sup> Ibid., p. 18.

<sup>50</sup> Ibid., p. 15 (Senegal); p. 36 (Chile); p. 37 (Viet Nam); p. 39 (Sweden); pp. 40-41 (Hungary); p. 53 (Italy); p. 56 (Kuwait); pp. 57-58 (Algeria); p. 70 (United Arab Emirates); p. 72 (Thailand).

<sup>51</sup> Ibid., p.37.

<sup>52</sup> Ibid., pp. 41-42.

### Case 3

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

At the 7830<sup>th</sup> meeting on 29 November 2017, prior to the vote on the adoption of the agenda under the above referenced item focusing on the human rights situation in the Democratic People's Republic of Korea, statements were made by the representatives of the People's Republic of China, the United States, the Republic of Angola and Japan. The representative of China argued that the Council was not a forum for discussing human rights issues, noting the Charter's stipulation that its primary responsibility was the maintenance of international peace and security. Moreover, he argued that the discussion was contrary and detrimental to the goal of stabilizing the Korean Peninsula.<sup>53</sup> China's position was fully supported by the representative of Angola.<sup>54</sup> By contrast, the United States argued that the item belonged to the Council's agenda and stated that suggesting that the "brutal governance" practiced by the Democratic People's Republic of Korea regime was neutral on international peace and security "stretch[ed] credulity".<sup>55</sup> The representative of Japan explained that the reasons for the Council to hold a meeting persisted given the destabilizing impact on the region, and the maintenance of international peace and security of the human rights situation in Democratic People's Republic of Korea.<sup>56</sup> Further to the adoption of the agenda, the Deputy Secretary-General and Assistant Secretary-General for Human Rights briefed the Council, providing both a detailed account of the human rights and humanitarian situation in the Democratic People's Republic of Korea, as well as outlining the main actions undertaken by the Organization, including by the Office of the High Commissioner for Human Rights, in this regard.<sup>57</sup>

Many Council members expressed support for the maintenance of the item on the Council's agenda focused on the human rights violations in the Democratic People's Republic of Korea.<sup>58</sup> The representative of the United Kingdom maintained that human rights violations warned the Council of threats to international peace and security.<sup>59</sup> The

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<sup>53</sup> [S/PV.7830](#), p. 2.

<sup>54</sup> *Ibid.*, p. 3.

<sup>55</sup> *Ibid.*, p. 2.

<sup>56</sup> *Ibid.*, p. 3.

<sup>57</sup> *Ibid.*, pp. 5-6 (Deputy Secretary-General), and pp. 6-8 (Assistant Secretary-General for Human Rights).

<sup>58</sup> *Ibid.*, p. 2 (United States); p. 3 (Japan); p. 9 (United Kingdom); pp. 10-11 (Ukraine); pp. 11-12 (France); p. 16 (Uruguay); p. 17 (New Zealand); p. 18 (Malaysia) and p. 19 (Spain).

<sup>59</sup> *Ibid.*, p. 9.

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

By contrast, other Council members expressed reservations. The representative of the Russian Federation said that human rights issues did not fall within the Council's purview and should be considered in specialized bodies such as the Human Rights Council.<sup>62</sup> Similarly, the representatives of the Bolivarian Republic of Venezuela and the Arab Republic of Egypt cautioned against the Council's interference in issues outside of its specific competency with respect to the maintenance of international peace and security set forth in the Charter.<sup>63</sup>

Subsequently, on 11 December 2017, at the 8130<sup>th</sup> meeting held under the same item, the provisional agenda was again put to a vote. Further to the adoption of the agenda,<sup>64</sup> the representative of the Plurinational State of Bolivia underlined that the primary responsibility of the Council was the maintenance of international peace and security and was, thence not the forum to address issues pertaining to human rights.<sup>65</sup> The representative of Italy, by contrast, highlighted the link between human rights violations and the repercussions for the maintenance of international peace and security and noted that the discussion on human rights was within the scope and the mandate of the Council.<sup>66</sup> Likewise, the representative of Ukraine held the view that human rights violations posed a credible threat to international peace and security, the maintenance of which was the responsibility of the Security Council.<sup>67</sup>

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<sup>60</sup> Ibid., p. 16.

<sup>61</sup> Ibid., p. 19.

<sup>62</sup> Ibid, p. 3.

<sup>63</sup> Ibid., p. 4 (Venezuela (Bolivarian Republic of)) and p. 13 (Egypt).

<sup>64</sup> For more information on the agenda of the Council and its adoption, see part II.

<sup>65</sup> [S/PV.8130](#), p. 4.

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

<sup>67</sup> Ibid., p. 14.

#### Case 4

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

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

In a subsequent meeting held under the sub-item entitled “Collective Security Treaty Organization, Shanghai Cooperation Organization and Commonwealth of Independent States”, the representative of the People’s Republic of China said that as the core of the international collective security mechanism, the Security Council bore the primary responsibility for the maintenance of international security.<sup>73</sup> Likewise, the representative of

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<sup>68</sup> The meeting took place further to the concept note circulated by the letter dated 9 May 2016 from the Permanent Representative of Egypt addressed to the Secretary-General ([S/2016/428](#)).

<sup>69</sup> [S/PV.7694](#), p. 19.

<sup>70</sup> *Ibid.*, p. 25.

<sup>71</sup> *Ibid.*, p. 27.

<sup>72</sup> *Ibid.*, p. 51.

<sup>73</sup> [S/PV.7796](#), p. 9.

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

## Case 5

### Non-proliferation of weapons of mass destruction

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

During the meeting, speakers cited the threat posed by weapons of mass destruction falling into the hands of non-State actors and terrorist groups. The representatives of Malaysia and Nigeria underlined the important role of the Secretariat in facilitating,

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<sup>74</sup> Ibid., p. 17.

<sup>75</sup> Ibid., p. 18.

<sup>76</sup> Ibid., p. 33.

<sup>77</sup> The meeting took place further to the concept note circulated by the letter dated 15 August 2016 from the Permanent Representative of Malaysia addressed to the Secretary-General ([S/2016/712](#)).

<sup>78</sup> [S/PV.6191](#).

<sup>79</sup> [S/PV.7758](#), pp. 2-3.

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

At the 8053<sup>rd</sup> meeting of the Council, on 21 September 2017, the representative of Ukraine stressed that it was the responsibility of the Council to achieve the overarching goal of restoring respect for international law and finding lasting solutions to the most urgent threats to global peace and security. He added that the Council had to remain determined and precise in preventing the redrawing of the world map by newly emerged nuclear-weapon actors.<sup>84</sup> Additionally, the representative of Japan highlighted that it was critical for the Council to resolutely and concretely address the serious issues that were affecting the very foundation of the non-proliferation regime.<sup>85</sup>

The representative of the Russian Federation warned that the Council's primary role in the maintenance of international peace and security was being undermined by "the introduction of illegitimate, unilateral measures" and non-proliferation sanctions would merely freeze the current issues without helping to resolve them for good. Therefore, he stressed, the key to an effective non-proliferation regime was to renounce interference in the internal affairs of States and to establish a unified and indivisible security system for all countries, without exception.<sup>86</sup>

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

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

<sup>82</sup> Ibid., pp. 12-13.

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

<sup>84</sup> [S/PV.8053](#), p. 11.

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

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

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

### *Article 25*

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

### **Note**

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

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

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

### **A. Decisions referring to Article 25**

During the period under review, two resolutions concerning the conflict in the Syrian Arab Republic contained explicit references to Article 25. By those resolutions, the Council underscored that Member States were obligated under Article 25 of the Charter to accept and carry out the Council's decisions<sup>89</sup> and demanded that all parties, in particular the Syrian

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<sup>87</sup> Letter dated 25 July 2016 from the Security Council Facilitator for the implementation of resolution [2231 \(2015\)](#) ([S/2016/649](#), annex) and Letter dated 22 September 2016 from the Chair of the Security Council Committee established pursuant to resolution [1591 \(2005\)](#) concerning the Sudan addressed to the President of the Security Council ([S/2016/805](#), annex).

<sup>88</sup> [S/2016/847](#), [S/2016/846](#) and [S/2016/1026](#).

<sup>89</sup> Resolutions [2332 \(2016\)](#), twenty-seventh preambular paragraph and [2393 \(2017\)](#), twenty-eighth preambular paragraph.

authorities, immediately comply with their obligations under international law, including international humanitarian law and international human rights law. The Council further demanded the “full and immediate implementation of all the provisions” of the relevant Security Council resolutions.<sup>90</sup>

Furthermore, during the period under review, three draft resolutions on the situation in the Middle East containing explicit reference to Article 25 were not adopted.<sup>91</sup> In those draft resolutions, the Council recalled that Member States were obligated under Article 25 of the Charter to accept and carry out the Council’s decisions.

## **B. Discussion relating to Article 25**

During the biennium, Article 25 was explicitly and implicitly referred to in numerous meetings of the Council. Explicit references to Article 25 were made during several meetings of the Council held under the items entitled “General issues relating to sanctions”,<sup>92</sup> “Implementation of the note by the President of the Security Council ([S/2010/507](#))”,<sup>93</sup> “Reports of the Secretary-General on the Sudan and South Sudan”<sup>94</sup>, “Non-proliferation”<sup>95</sup> and “The situation in the Middle East, including the Palestinian question”.<sup>96</sup>

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

### **Case 6**

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

On 17 January 2017, the Council held its 7863<sup>rd</sup> meeting in which several speakers reiterated that Member States should refrain from unilateral decision making and comply with

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<sup>90</sup> Ibid, para. 1.

<sup>91</sup> [S/2016/847](#), [S/2016/846](#) and [S/2016/1026](#).

<sup>92</sup> [S/PV.7620](#), p. 12 (Japan).

<sup>93</sup> [S/PV.7740](#), p. 14 (Venezuela (Bolivarian Republic of)).

<sup>94</sup> [S/PV.7710](#), p. 3 (rule 39 invitee, Prosecutor of the International Criminal Court).

<sup>95</sup> [S/PV.7739](#), p. 12 (Senegal).

<sup>96</sup> [S/PV.7863](#), p. 34 (South Africa), [S/PV.7929](#), p. 63 (United Arab Emirates), [S/PV.8072](#), pp. 36-37 (Kuwait).

relevant Security Council decisions. The representative of the Republic of South Africa highlighted that as a Member State of the United Nations, Israel was obliged under Article 25 of the Charter to comply with the decisions of the Security Council.<sup>97</sup> At the meeting, many delegations made reference to the need for the immediate, and effective implementation of resolution [2334 \(2016\)](#) of 23 December 2016 as well as to the obligation to abide by the decisions of the Council in accordance with the Charter.<sup>98</sup>

On 20 April 2017, during the 7929<sup>th</sup> meeting of the Council, the representative of the United Arab Emirates noted that respect for international law was key to stability and called upon Member States to abide by Security Council decisions in accordance with Article 25 of the Charter.<sup>99</sup>

On 18 October 2017, during the 8072<sup>nd</sup> meeting of the Council, the representative of the State of Kuwait, stated that “the disdain shown by the occupying Power for the Council and its resolutions” was “disconcerting” as they were meant to be enforceable under Article 25 of the Charter.<sup>100</sup> Likewise, the representative of the Republic of Maldives called on Israel to immediately stop its illegal activities and respect its international obligations, including relevant Security Council decisions.<sup>101</sup> The representatives of Uruguay and the People’s Republic of Bangladesh regretted that little progress had been made with regard to the implementation of resolution [2334 \(2016\)](#).<sup>102</sup> In this connection, several speakers emphasized the need for receiving substantive reports in a written format on the developments regarding the implementation of resolution [2334 \(2016\)](#), as stipulated in the resolution.<sup>103</sup> Lastly, the representative of the United Arab Emirates underscored that States must respect their obligations under international law and the Charter.<sup>104</sup>

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<sup>97</sup> [S/PV.7863](#), p. 34.

<sup>98</sup> *Ibid.*, p. 19 (China); pp. 26-27 (Lebanon); p. 33 (Syrian Arab Republic); p. 36 (Costa Rica); pp. 37-38 (Indonesia); p. 39 (Venezuela (Bolivarian Republic of)); p. 41 (Bangladesh); p. 42 (Pakistan) and p. 48 (Uzbekistan).

<sup>99</sup> [S/PV.7929](#), p. 63.

<sup>100</sup> [S/PV.8072](#), pp. 36-37.

<sup>101</sup> *Ibid.*, pp. 48-49.

<sup>102</sup> *Ibid.*, p. 24 (Uruguay) and p. 40 (Bangladesh).

36 (Kuwait); pp. 43-44 (Qatar); p. 51 (Bahrain) and p. 53 (Malaysia).

<sup>103</sup> *Ibid.*, p. 15 (Bolivia, (Plurinational State of)); p. 27 ((Venezuela (Bolivarian Republic of)); p. 37 (South Africa); p. 39 (Bangladesh); p. 45 (Vice Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People) and p. 49 (Maldives).

<sup>104</sup> *Ibid.*, p. 46.

## Case 7 Non-proliferation

On 18 July 2016, at its 7739<sup>th</sup> meeting, the Council held a briefing on the implementation of resolution [2231 \(2015\)](#) which endorsed the Joint Comprehensive Action Plan (JCPOA) on the nuclear programme. During the meeting, Council members welcomed progress made in implementing the agreement and affirmed that it was a significant step forward for international peace and security. The representative of Spain, speaking in his capacity as the Facilitator for the implementation of resolution [2231 \(2015\)](#), highlighted that all Members States, including the Islamic Republic of Iran, must act in accordance with all the provisions of resolution [2231 \(2015\)](#).<sup>105</sup> The representative of the United States acknowledged the Islamic Republic of Iran’s implementation of the historic agreement and noted that it had “produced real, tangible change”.<sup>106</sup> Additionally, the representative of Senegal commended the outstanding work of the Facilitator, with the assistance of the Secretariat, in making it less difficult for the parties and the rest of the international community to monitor the implementation of resolution [2231 \(2015\)](#); welcoming the establishment of a dedicated website which provided Member States with access to the necessary information to meet their obligations under Article 25 of the Charter with respect to accepting and carrying out the decisions of the Security Council.<sup>107</sup>

Some speakers expressed concern about reports of the Islamic Republic of Iran’s non-compliance with some provisions of resolution [2231 \(2015\)](#),<sup>108</sup> as detailed in the Secretary-General’s report.<sup>109</sup> However, the representative of the Russian Federation argued to the contrary that some provisions of the Secretary-General’s report had “no relation to his mandate nor to the terms of reference to resolution [2231 \(2015\)](#) or the JCPOA”.<sup>110</sup> The representative of the United Kingdom urged Member States to continue to enforce the binding restrictions in place under resolution [2231 \(2015\)](#) and encouraged Member States to act on and report all suspected violations of those sanctions.<sup>111</sup>

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<sup>105</sup> [S/PV.7739](#), p. 5.

<sup>106</sup> *Ibid.*, p. 6.

<sup>107</sup> *Ibid.*, p. 12.

<sup>108</sup> *Ibid.*, p. 7 (United States); p. 8 (France); p. 11 (United Kingdom); p. 15 (Ukraine) and p. 20 (Germany).

<sup>109</sup> For more information, see the report of the Secretary-General ([S/2016/589](#)).

<sup>110</sup> *Ibid.*, p. 9.

<sup>111</sup> *Ibid.*, p. 11.

The representative of the Arab Republic of Egypt stated that divergence in views with regard to the technical aspects and the interpretation of resolution [2231 \(2015\)](#) should not overly absorb the Council's attention and derail from its mission to ensure international peace and security.<sup>112</sup> Similarly, the representative of Ukraine reiterated the importance of a united Council stance when dealing with this sensitive issue and its intention to ensure further implementation of resolution [2231 \(2015\)](#).<sup>113</sup>

At the 7865<sup>th</sup> meeting of the Council, on 18 January 2017, the representative of the United States affirmed that the Council needed to “come together to push Iran to effectively implement the binding provisions of resolution [2231 \(2015\)](#)”, especially the restrictions that banned the Islamic Republic of Iran's export of arms and related material and that banned all Member States from transferring to Iran advanced weapons systems. She further noted that the Council and each of the JCPOA participants needed to stand by the commitments made and work hard to make sure that all States complied with their obligations under resolution [2231 \(2015\)](#).<sup>114</sup>

At the 7990<sup>th</sup> meeting of the Council held on 19 June 2017, the representative of Kazakhstan expressed the view that the Security Council, as a guarantor of international peace and security, should always insist on full compliance.<sup>115</sup> In a similar vein, the representative of Uruguay referred to the Council as a guarantor of international peace and security that must ensure full compliance with the JCPOA and resolution 2231 (2015).<sup>116</sup> The representative of France referred to the endorsement of the JCPOA through the adoption of resolution 2231 (2015), a historic achievement for the Security Council, which had a responsibility to ensure that it lasted.<sup>117</sup>

At the 8143<sup>rd</sup> meeting of the Council held on 19 December 2017, several members stressed the historic significance of resolution 2231 (2015) and the JCPOA.<sup>118</sup> The representative of the Russian Federation expressed the hope that countries would continue respecting “the spirit of this historical agreement”.<sup>119</sup> Likewise, the representative of

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<sup>112</sup> *Ibid.*, p. 13.

<sup>113</sup> *Ibid.*, p. 15.

<sup>114</sup> [S/PV.7865](#), pp. 8-9.

<sup>115</sup> [S/PV.7990](#), p.10.

<sup>116</sup> *Ibid.*, p.13.

<sup>117</sup> *Ibid.*, p.8

<sup>118</sup> [S/PV.8143](#), p. 6 (European Union); p. 10 (Uruguay); p. 11-12 (France); p. 13 (Russian Federation); p. 15 (China); p. 16 (Bolivia (Plurinational State of)); p. 17 (Kazakhstan); p. 17 (Senegal) and p. 19 (United Kingdom).

<sup>119</sup> [S/PV.8143](#), p.8.

Uruguay stressed the need to comply with all the JCPOA provisions, in addition to those contained in resolutions 2231 (2015), including its annexes A and B.<sup>120</sup> Similarly, the representative of France held the view that it would be a mistake to denounce the JCPOA just as it would be irresponsible to selectively implement the provisions of the resolution endorsing it.<sup>121</sup>

## Case 8

### General issues relating to sanctions

At the 7620<sup>th</sup> meeting of the Council, on 11 February 2016, Council members discussed, inter alia, the draft note by the President of the Security Council on the work of the subsidiary organs of the Council.<sup>122</sup> In this connection, the representative of the Republic of Angola expressed hope that the provisions in the note would force States, entities and individuals to respect international law and abide by Security Council's decisions.<sup>123</sup>

The representative of Japan highlighted the importance of compliance and implementation of the decisions of the Security Council, as stipulated in Article 25 of the Charter. He added that all Member States were obliged to implement Council decisions irrespective of whether they were involved in the decision-making or not.<sup>124</sup> The representative of the United Kingdom also highlighted the importance of the effective implementation of Council decisions. In this context, he stated that sanctions regimes established by the Council under Chapter VII imposed legally binding obligations on all Member States, and it was crucial that all States implemented them fully.<sup>125</sup> Moreover, with reference to the lack of implementation of sanctions measures against certain individuals, the representative of the Central African Republic raised the issue of the binding nature of the resolutions of the Council concerning situations when Members States deliberately violated the provisions and principles of the Charter.<sup>126</sup>

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<sup>120</sup> Ibid., p. 13.

<sup>121</sup> Ibid., p. 11.

<sup>122</sup> Subsequent to the meeting and as envisaged in the concept note ([S/2016/102](#)), the President of the Security Council issued the Note by the President of 22 February 2016 ([S/2016/170](#)). For the aspects concerning sanctions measures discussed in this meeting, see part VII, sect. III.

<sup>123</sup> [S/PV.7620](#), p. 8.

<sup>124</sup> Ibid., p. 12.

<sup>125</sup> Ibid., p. 11.

<sup>126</sup> Ibid., p. 30.

### **III. The responsibility of the Security Council to formulate plans to regulate armaments under Article 26**

#### *Article 26*

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

#### **Note**

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

During the period under review, the Council did not adopt any decisions explicitly invoking Article 26 of the Charter. Furthermore, the communications to the Council also did not contain any reference to Article 26. However, Article 26 was mentioned explicitly during three meetings of the Council,<sup>127</sup> as further illustrated in Section A below.

#### **A. Discussion relating to Article 26**

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

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<sup>127</sup> In connection with non-proliferation of weapons of mass destruction, see [S/PV.7758](#), p. 66 (Costa Rica) and [S/PV.7837](#), p. 65 (Costa Rica). In connection with maintenance of international peace and security, see [S/PV.8144](#), p. 42 (Ecuador).

## Case 9

### **Non-proliferation of weapons of mass destruction**

On 23 August 2016, at the 7758<sup>th</sup> meeting,<sup>128</sup> the representative of Costa Rica observed that peace and security as a global public good could be achieved by honouring the Charter, in particular Articles 26 and 10. Moreover, pointing out that Costa Rica had no army and possessed no weapons of mass destruction, he called for compliance with Article 26 of the Charter, since a world without weapons of mass destruction was the only way to achieve peace, security and sustainable development.<sup>129</sup>

On 15 December 2016, at the 7837<sup>th</sup> meeting of the Council, the representative of Costa Rica continued to call for compliance with Article 26 of the Charter which stated that the Council should promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources.<sup>130</sup>

## Case 10

### **Maintenance of international peace and security**

On 20 December 2017, at the 8144<sup>th</sup> meeting of the Council under the sub-item entitled "Addressing contemporary challenges to international peace and security",<sup>131</sup> the representative of Ecuador, recalling that the United Nations was established to prevent the scourge of war, highlighted that the Charter emphasized the interlinkage and evident relationship between disarmament and development. In this connection, she stressed that Article 26 of the Charter expressed the need to maintain international peace and security with the least diversion for armaments of the world's human and economic resources. She also called for a more coordinated work between the General Assembly, the Security Council and the Economic and Social Council and the Secretariat to meet the objectives and purposes of the Charter, while respecting the prerogatives of each organ and avoiding the duplication of functions.<sup>132</sup>

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<sup>128</sup> The meeting took place further to the concept note circulated by the letter dated 15 August 2016 from the Permanent Representative of Malaysia addressed to the Secretary-General ([S/2016/712](#)).

<sup>129</sup> [S/PV.7758](#), pp. 65-66.

<sup>130</sup> [S/PV.7837](#), p. 65.

<sup>131</sup> The meeting took place further to the concept note circulated by the letter dated 1 December 2017 from the Permanent Representative of Japan addressed to the Secretary-General ([S/2017/1016](#)).

<sup>132</sup> [S/PV.8144](#), p. 42.