
Chapter XII

Consideration of the provisions of other Articles of the Charter

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Introductory note

Chapter XII covers the consideration by the Security Council of Articles of the Charter not dealt with in the preceding chapters.

This chapter consists of four parts. In part I, material pertaining to the purposes and principles of the United Nations is considered, namely Articles 1 (2), 2 (4), 2 (5) and 2 (7). In part II, Articles 24 to 26 are covered, relating to the functions and powers of the Security Council. Part III deals with the practice of the Security Council in connection with the provisions of Chapter VIII of the Charter, Articles 52 to 54, concerning regional arrangements. In part IV, under consideration of miscellaneous provisions of the Charter, material relating to Article 103 is included.

Chapter VIII of this Supplement describes the entire chain of proceedings of the Council relating to all the matters which the Council has taken up under its responsibility for the maintenance of international peace and security. The present chapter focuses on material selected to highlight how the provisions of the Articles featured herein were interpreted and applied in deliberations and decisions of the Council.

Part I

Consideration of the purposes and principles of the United Nations (Articles 1 and 2 of the Charter)

A. 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 appropriate measures to strengthen universal peace.

Note

During the period under review, none of the decisions or other documents of the Security Council contained an explicit reference to Article 1 (2) of the Charter of the United Nations. The Council did however adopt several resolutions in connection with the situation concerning Western Sahara in which the principle of self-determination was referred to without giving rise to a constitutional discussion.¹ In several other cases, the Council made references that could be understood as having an implicit bearing on Article 1 (2). In welcoming the first general elections for the president and members of the House of Representatives of the Autonomous Region of Bougainville held from 20 May to 9 June 2005, the Council congratulated the Autonomous Bougainville Government and the people of Bougainville, and took note that those elections, “which reflect the expressed will of the people of Bougainville”, marked a significant and historical landmark in the Bougainville peace process.² Similarly, in connection with Afghanistan, the Council stressed the inalienable right of the people of Afghanistan to freely determine their own future, and welcomed the successful holding of the parliamentary and provincial elections on 18 September

2005.³ In connection with Iraq, the Council, on a number of occasions, reaffirmed the right of the Iraqi people freely to determine their own political future and control their own resources.⁴

The principle of self-determination was often invoked in communications. For example, in connection with the situation concerning Western Sahara, in a letter dated 26 September 2005 to the President of the Council, the representative of Algeria argued that, through the extension of the appointment of the Personal Envoy of the Secretary-General for Western Sahara, the Council had wished to reiterate the need to implement the Peace Plan for Self-Determination of the People of Western Sahara and, “since this involves bringing about the decolonization of a non-self-governing territory within the meaning of the Charter of the United Nations, to urge the occupying Power to comply with international law concerning the sanctity of the principle of equal rights of peoples and their right to self-determination”.⁵

In the deliberations of the Council, the principle of self-determination was often invoked without giving rise to a constitutional discussion. While references to the principle of self-determination were too numerous to be listed here, mention may be made of discussions in connection with the items entitled “The situation in the Middle East, including the Palestinian question”,⁶ “Security Council resolutions 1160 (1998), 1199

¹ Resolutions 1541 (2004), second preambular paragraph; 1570 (2004), second preambular paragraph; 1598 (2005), second preambular paragraph; 1634 (2005), second preambular paragraph; 1675 (2006), second preambular paragraph; 1720 (2006), third preambular paragraph; 1754 (2007), third preambular paragraph and para. 2; and 1783 (2007), third preambular paragraph and para. 3.

² S/PRST/2005/23.

³ Resolution 1662 (2006), fifth preambular paragraph.

⁴ Under the item entitled “The situation between Iraq and Kuwait”, resolution 1546 (2004), fourth preambular paragraph and para. 3; and under the item entitled “The situation concerning Iraq”, resolutions 1637 (2005), fourth preambular paragraph; 1723 (2006), fifth preambular paragraph; and 1790 (2007), fifth preambular paragraph.

⁵ S/2005/605, p. 2.

⁶ See, for example, S/PV.4929, p. 19 (Qatar); p. 23 (Kuwait); p. 24 (Saudi Arabia); and p. 32 (Malaysia); and S/PV.4945, p. 18 (Syrian Arab Republic); p. 20 (Yemen); p. 22 (United Arab Emirates); and p. 25 (Kuwait).

(1998), 1203 (1998), 1239 (1999) and 1244 (1999)”⁷ and “Children and armed conflict”.⁸

The two cases below reflect occasions when the Council, in its deliberations, dealt extensively with questions relating to the principle enshrined in Article 1 (2): in connection with the situation between Iraq and Kuwait, when the Council discussed the transfer of power from the Coalition Provisional Authority to the Government of Iraq (case 1); and in connection with threats to international peace and security caused by terrorist acts, when the Council discussed the definition of terrorism (case 2).

Case 1

The situation between Iraq and Kuwait

At the 4914th meeting, on 24 February 2004, the representative of the United States, in his briefing, maintained that the Coalition Provisional Authority, together with the Iraqi people and the United Nations, supported the transfer of sovereignty by 30 June 2004, as well as direct national elections as soon as practicable thereafter. He further argued that, until 30 June 2004, there was much to be done and welcomed the active engagement of the United Nations in helping the Iraqis define their own future and transition into a democratic, pluralistic society. Concerning the issue of governance, he emphasized that the Coalition Provisional Authority continued to support a transparent process of consultations and elections for the Iraqi people to choose representatives who reflected the make-up and character of their communities. Referring to the fact-finding mission dispatched by the Secretary-General, led by his Special Adviser, to assess the feasibility of direct elections by 30 June, he noted that the report of the mission⁹ had made clear that free and fair elections could not be held by 30 June, the date by which all agreed that the transfer of sovereignty should take place. Noting that the mechanism for governing Iraq between the transfer of sovereignty and the national elections remained to be worked out, he said that the Iraqi people, the Governing Council, the Coalition Provisional Authority and the United Nations would work to reach agreement on a transition mechanism

that would have the broad-based support of the Iraqi people.¹⁰

The representative of the United Kingdom, in his briefing, noted that Iraqis were gaining the right to control their own lives and their nation’s destiny. He underlined that the transfer of authority to a sovereign Government of Iraq on 30 June 2004 would be a defining moment. He maintained that the country was making progress towards the goal of a democratic Iraq governed by the people and for the people and appealed to the United Nations and its Members to continue to help the people of Iraq along that journey to ensure the successful transfer of authority on 30 June to a fully sovereign Iraqi Government.¹¹

The representative of Algeria stressed that the sooner the people of Iraq recovered full sovereignty and freely decided on their destiny, the sooner Iraq would regain peace, stability and progress, and he appealed for an end to “the occupation” as soon as possible. As the Secretary-General had recommended in his report¹² and because it was “the wish of the Iraqi people”, the United Nations should provide assistance to all political stakeholders to enable them to reach an understanding on the competence, the structure and the composition of the transitional body that needed to temporarily lead Iraq, as well as on the establishment process of that body. In that way, the United Nations would contribute not only to the establishment of a representative and credible government body with which the entire Iraqi people could identify, but also to enabling an orderly transfer of sovereignty to that organ and to ensuring that the date of the transfer, 30 June, was maintained in accordance with the wishes of all Iraqis. He said that maximum efforts needed to be made so that the electoral timetable would be strictly observed and that the people of Iraq would directly elect the men and women who would build and guide the future of Iraq into freedom, democracy and progress.¹³

The representative of the Russian Federation underlined the need to quickly restore Iraqi sovereignty and to ensure the rights of the people of Iraq to manage their own political future and to be the master of their own natural resources. He fully supported the position of the Secretary-General that only the Iraqis could truly

⁷ See, for example, S/PV.4967, p. 21 (Pakistan).

⁸ See, for example, S/PV.4898 (Resumption 1), p. 30 (Armenia).

⁹ S/2004/140.

¹⁰ S/PV.4914, pp. 2-4.

¹¹ *Ibid.*, p. 6.

¹² S/2004/140.

¹³ S/PV.4914, pp. 7-8.

define specific ways to pursue the political process, which included agreement on a mechanism to restore their sovereignty and on the means to put it into effect. He added that this restored sovereignty would lead to the holding of general elections. In recognizing the ongoing discussions by the Iraqis on acceptable mechanisms, he said that there would be a provisional mechanism which would most likely possess limited authority.¹⁴ The representative of the Philippines stressed that a weak Iraqi Government with limited legitimacy, ineffective institutions and limited control over the country needed to be avoided, and that the United Nations would continue to be needed to “nurse the new Government’s strength and ability to govern”.¹⁵

The representative of France considered it essential that all Iraqis affirmed their commitment to respecting the date of 30 June for the return of sovereignty, thus confirming their readiness to reassume control of their destiny as soon as possible. He stressed that, more than the holding of elections, the date of 30 June represented “an essential milestone” in transition as it marked the return of Iraqi sovereignty. He noted that the deadline of 30 June should lead to a genuine restoration of Iraqi sovereignty and therefore to a genuine handover of authority and resources to the Iraqis, so that they could administer their own country.¹⁶

The representative of Spain agreed that the Iraqis needed to feel themselves to be masters of their own process.¹⁷ A number of speakers also stressed that the Iraqi people themselves had to define the process for constituting a transitional Government for Iraq until elections could be held.¹⁸

By a statement by the President of 27 April 2004, the Council welcomed the provisional ideas that the Special Adviser had submitted as a basis for the formation of an interim Iraqi Government to which sovereignty would be transferred on 30 June 2004.¹⁹

By a letter dated 7 June 2004 to the President of the Council, the Secretary-General, in reporting the assistance provided by the Organization, through his

Special Adviser, to Iraq’s political transition process, stressed that the United Nations had consistently held that there was no substitute for the legitimacy that came from free and fair elections. The elections scheduled for January 2005 were therefore the most important milestone in Iraq’s transitional political process and the formation of the Interim Iraqi Government marked a first step in that process. He also stated that the United Nations had been fully involved in facilitating consensus on the structure and composition of the Interim Government, which had resulted from a consultative process that had encompassed a large and diverse range of Iraqis, as well as the Governing Council and the Coalition Provisional Authority. He stressed that, although it had not been elected, there was “a capable and reasonably balanced Interim Government” ready to take power by 30 June 2004, which was the best outcome achievable under the circumstances.²⁰

At its 4987th meeting, on 8 June 2004, the Council unanimously adopted resolution 1546 (2004), by which it endorsed the formation of a sovereign Interim Government of Iraq, which would assume full responsibility and authority by 30 June 2004 for governing Iraq while refraining from taking any actions affecting Iraq’s destiny beyond the limited interim period until an elected Transitional Government of Iraq assumed office. The Council welcomed the fact that, also by 30 June 2004, the occupation would end, the Coalition Provisional Authority would cease to exist and Iraq would reassert its full sovereignty. The Council also reaffirmed the right of the Iraqi people freely to determine their own political future and to control over their financial and natural resources.²¹

At the meeting, many speakers reiterated the importance of the inclusion of the above-mentioned provisions in the resolution.²² The representative of the United Kingdom maintained that the resolution, in addition to endorsing the formation of the interim Government, set a clear path for the future political process, which would end with elections on the basis of a constitution approved by the people of Iraq.²³ The representative of Pakistan hoped that the adoption of the resolution would enable the people of Iraq to, inter

¹⁴ *Ibid.*, pp. 8-9.

¹⁵ *Ibid.*, p. 14.

¹⁶ *Ibid.*, pp. 12-13.

¹⁷ *Ibid.*, p. 15.

¹⁸ *Ibid.*, p. 8 (Benin); p. 10 (Brazil); pp. 10-11 (Chile); pp. 11-12 (Germany); p. 17 (Pakistan); and p. 19 (United Kingdom).

¹⁹ S/PRST/2004/11.

²⁰ S/2004/461, p. 2.

²¹ Resolution 1546 (2004), paras. 1-3.

²² S/PV.4987, p. 4 (Algeria); p. 5 (Pakistan); p. 6 (China); p. 7 (France); p. 9 (Russian Federation); p. 10 (Chile); pp. 12-13 (Brazil); p. 13 (Romania); and p. 14 (Angola).

²³ *Ibid.*, p. 3.

alia, fully regain their sovereignty and control over their own destiny.²⁴ The representative of China considered it significant that the resolution gave expression to the principles of Iraqi sovereignty and the need for the people of Iraq to manage their own affairs.²⁵

At the 5033rd meeting, on 14 September 2004, the representative of Iraq stated that, despite an unprecedented rise in violence, a sovereign Government had taken office ahead of schedule and an Interim National Assembly had been formed. He maintained that the present government was “truly the most representative in Iraq’s history, not merely in terms of ethnic or confessional make-up”, but also “in terms of the broad range of political ideologies and beliefs held by its members”. While acknowledging difficulties, he stressed that a cohesive Iraqi State was being rebuilt “based upon the consent of the governed”. He also noted that a principal function of the interim Government was to provide for elections, as affirmed in resolution 1546 (2004).²⁶

At the 5123rd meeting, on 16 February 2005, the Under-Secretary-General for Political Affairs informed the Council of the successful holding of elections in Iraq on 30 January 2005, and noted that it was clear from the overall level of participation that the majority of the Iraqi people were committed to the political transition process that the country was undergoing, although regional variations had been significant. He held that the most immediate challenge of Iraq was to form a transitional Government that was broadly representative of Iraqi society and to find ways to bring together all Iraqi constituencies in a national effort to define the future of their country.²⁷ The representative of Iraq added that the people of Iraq had also proved that they alone possessed the will to determine their future and to choose the path that met their aspirations. He held that the Transitional National Assembly was on course to select a Government that represented the Iraqi people in all its diversity.²⁸

By a presidential statement dated 16 February 2005, the Council congratulated the people of Iraq on the successful elections of 30 January 2005 and commended them for having taken that step to exercise

their right to freely determine their own political future, and encouraged them to continue to do so in moving ahead with their political transition.²⁹

Case 2

Threats to international peace and security caused by terrorist acts

At its 5053rd meeting, on 8 October 2004, the Council adopted resolution 1566 (2004), by which it recalled, *inter alia*, that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or the taking of hostages, with the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidating a population or compelling a government or an international organization to do or to abstain from doing any act, which constituted offences within the scope of and as defined in the international conventions and protocols relating to terrorism, were under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.³⁰

At the meeting, the representative of Algeria welcomed resolution 1566 (2004) because it avoided “any conflation of acts of terrorism and the legitimate rights of peoples to resist foreign occupation”, a principle that had been fully enshrined in international law and United Nations resolutions, while stressing that the resolution reaffirmed that criminal attacks against civilians were never justified for any reason.³¹ The representative of the Philippines agreed that the resolution “in no way” overturned the right to self-determination under the Charter. Likewise, legitimate acts against foreign occupation and alien domination were not thwarted in the least by the resolution.³²

The representative of the United States recalled that in some cases, “supporters of the murder of civilians” said that their acts of violence were justifiable acts of national liberation or of self-determination. Noting that some had suggested that circumstances might be sufficient to justify such terrorism, and that such justification might include “self-determination, national liberation or one’s own perception of the will of God”, he stressed that the resolution clearly stated

²⁴ *Ibid.*, p. 5.

²⁵ *Ibid.*, p. 6.

²⁶ S/PV.5033, p. 7.

²⁷ S/PV.5123, pp. 2-4.

²⁸ *Ibid.*, pp. 4-5.

²⁹ S/PRST/2005/5.

³⁰ Resolution 1566 (2004), para. 3.

³¹ S/PV.5053, p. 4.

³² *Ibid.*, p. 8.

that the deliberate massacre of innocents was never justifiable by any cause.³³ The representative of the Russian Federation also underlined that the major emphasis in the resolution was that terrorist acts were crimes that could be justified by no political, ideological, religious or other views of any nature.³⁴

At the 5059th meeting, on 19 October 2004, the representative of Israel said that there was no cause, grievance or claim that could justify terrorism and attacks on civilians. Quoting paragraph 3 of resolution 1566 (2004), he stressed that even those who still insisted on using words such as “resistance” or “freedom fighters” to blur the distinction between means and ends could not hide from these clear statements.³⁵ The representative of the United States expressed concern that some regional conventions would seem to justify attacks against civilians, depending on the political, philosophical, ideological, racial or ethnic motivation of the perpetrators, and stressed that this was contrary to the text and spirit of resolution 1566 (2004), by which the Council had unanimously endorsed the proposition that the deliberate targeting of civilians was simply unjustifiable by any cause.³⁶ Several other speakers stressed that terrorism could not be justified under any circumstances.³⁷

On the other hand, a number of delegations expressed support for a definition of terrorism that distinguished between terrorism and the legitimate struggle of peoples for their right to self-determination and against foreign occupation.³⁸ The representative of Pakistan, referring to paragraph 3 of resolution 1566 (2004), reiterated that a legal and internationally agreed definition of terrorism still needed to be developed and recalled that, as the United Nations had decided in the past that “a distinction should be maintained between terrorism and the right of peoples to self-determination”, the United Nations should not and could not reverse its historical support for peoples and nations struggling for liberation from foreign occupation and alien domination. He welcomed the reference in the preamble

of resolution 1566 (2004) to the underlying causes of terrorism, which provided a good basis for developing a long-term strategy to broaden the focus in the fight against terrorism. He argued that such a strategy should focus on the root causes of terrorism, such as the denial or violation of human rights, including the right of self-determination, which provided fertile breeding ground for terrorism.³⁹ The representative of Algeria stressed that there was a need to distinguish between terrorist acts, which were unjustifiable in all their forms and manifestations, and the legitimate struggle of peoples for liberation, self-determination, freedom and independence, including through armed struggle, in accordance with international law. He therefore argued that the criminal acts set out in paragraph 3 of resolution 1566 (2004) should not be interpreted as a definition of terrorism.⁴⁰ The representative of Egypt suggested that the most effective way to deal with terrorism was to do so within a legal framework that took into account the principles of international law and the importance of distinguishing between terrorism and legitimate armed struggle. Such a framework would make the distinction between terrorist acts, which needed to be criminalized, and the popular expression of political demands, which were legitimate. This approach would pave the way for the international community to respond collectively in isolating terrorist elements and exposing their illegitimate objectives.⁴¹

In a statement made by the President at the meeting,⁴² the Council, *inter alia*, reaffirmed that terrorism in all its forms and manifestations constituted one of the most serious threats to peace and security and that any acts of terrorism were criminal and unjustifiable, regardless of their motivation, whenever and by whomsoever committed.

B. 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.

³³ *Ibid.*, p. 7.

³⁴ *Ibid.*, p. 3.

³⁵ S/PV.5059 (Resumption 1), p. 4.

³⁶ S/PV.5059, p. 19.

³⁷ *Ibid.*, pp. 25-26 (India); S/PV.5059 (Resumption 1), p. 7 (Uganda); p. 15 (Nepal); and p. 20 (Costa Rica).

³⁸ S/PV.5059, p. 13 (Pakistan); p. 17 (Algeria); and p. 27 (Cuba); S/PV.5059 (Resumption 1), p. 3 (Bangladesh); p. 14 (El Salvador); and p. 17 (Egypt).

³⁹ S/PV.5059, p. 13.

⁴⁰ *Ibid.*, p. 17.

⁴¹ S/PV.5059 (Resumption 1), p. 17.

⁴² S/PRST/2004/37.

Note

The practice of the Security Council touching upon the provisions of Article 2 (4), is illustrated below, first by decisions most relevant to the principles enshrined in that Article, and secondly by constitutional discussion within the Council touching upon the interpretation and application of Article 2 (4). A few communications containing explicit references to Article 2 (4) were received during the reporting period.⁴³

Decisions relating to Article 2 (4)

During the reporting period, the Council adopted no decisions containing an explicit reference to Article 2 (4). The Council did however, by its resolutions and decisions, reaffirm the principle of refraining from the threat or use of force in international relations; reiterated its position against interference by States in the internal affairs of others; condemned hostile action across borders of States; reaffirmed its commitment to the inviolability of international borders; and repeated its call for respect for the sovereignty, territorial integrity and political independence of States, as illustrated below.

Affirmation of the principle of refraining from the threat or use of force

By a number of its decisions concerning both regional situations and thematic issues, the Council reaffirmed the principle of refraining from the threat or use of force in international relations, as enshrined in Article 2 (4), quoting the text of Article 2 (4) on several occasions. In connection with the item entitled "Threats to international peace and security", the Council, by resolution 1625 (2005) of 14 September 2005, adopted a declaration on strengthening the effectiveness of the role of the Council in conflict

prevention, particularly in Africa, in which it reaffirmed the importance of adhering to the principles of "refraining, in international relations, from the threat or the use of force in any manner inconsistent with the purposes of the United Nations."⁴⁴ In connection with the same item, by a presidential statement dated 8 January 2007, the Council reaffirmed its commitment to the principles of sovereign equality, national sovereignty, territorial integrity and political independence of all States and underlined the importance of adhering to those principles.⁴⁵

In connection with the situation in Chad and the Sudan, by a presidential statement of 25 April 2005, the Council called on all Members to "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 manner inconsistent with the purposes of the United Nations". The Council also urged both Chad and the Sudan to refrain from any actions that violated their border.⁴⁶ In connection with the situation between Ethiopia and Eritrea, the Council, by a series of decisions, reiterated its call on both parties to refrain from any threat or use of force against each other.⁴⁷ For example, by resolution 1767 (2007) of 30 July 2007, the Council reiterated its call for the parties to show maximum restraint and refrain from any threat or use of force against each other.⁴⁸ In connection with the situation in the Great Lakes region, by resolution 1653 (2006) of 27 January 2006, the Council underlined the fact that all States in the region had to abide by their obligations under the Charter to refrain from the threat or use of force against the territorial integrity or political independence of their neighbours.⁴⁹ In connection with the situation concerning the Democratic Republic of the Congo, by a series of decisions, the Council repeatedly called upon the States of the region to put an end to the activities of illegal armed groups and underlined that any recourse to the threat or use of force against the

⁴³ Letter dated 3 October 2005 from the representative of the Democratic Republic of the Congo to the President (S/2005/620); letter dated 22 December 2005 from the representative of Ethiopia to the President (S/2005/816); letters dated 17 March 2006 and 31 July 2006 from the representative of the Islamic Republic of Iran to the Secretary-General and the President (S/2006/178 and S/2006/603, respectively); identical letters dated 22 May 2006 from the representative of Ethiopia to the Secretary-General and the President (S/2006/323); and letter dated 8 October 2007 from the representative of Azerbaijan to the Secretary-General (S/2007/615).

⁴⁴ Resolution 1625 (2005), annex, fifth preambular paragraph.

⁴⁵ S/PRST/2007/1.

⁴⁶ S/PRST/2006/19.

⁴⁷ Resolutions 1531 (2004), para. 5; 1586 (2005), para. 2; 1622 (2005), para. 3; 1640 (2005), para. 2; 1710 (2006), para. 3; 1741 (2007), para. 6; and 1767 (2007), para. 3; S/PRST/2005/47; S/PRST/2006/10; and S/PRST/2007/43.

⁴⁸ Resolution 1767 (2007), para. 3.

⁴⁹ Resolution 1653 (2006), para. 11.

territorial integrity of a State was contrary to the Charter of the United Nations.⁵⁰

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

In some cases, the Council reiterated its position against interference by States in the internal affairs of other States. For instance, in connection with the situation concerning Iraq, by resolution 1790 (2007) of 18 December 2007, the Council reaffirmed the importance of the principle of non-interference in the internal affairs of Iraq.⁵¹ Concerning the situation in Afghanistan, by resolution 1662 (2006) of 23 March 2006, the Council encouraged the promotion of confidence-building measures between Afghanistan and its neighbours in the spirit of the Kabul Declaration on Good-neighbourly Relations of 22 December 2002⁵² in order to foster dialogue and cooperation in the region “in full respect for the principles of territorial integrity, mutual respect, friendly relations and non-interference in each other’s internal affairs”.⁵³

In connection with the situation concerning the Democratic Republic of the Congo, by a presidential statement of 22 June 2004, the Council, condemning any involvement by outside forces in the Democratic Republic of the Congo, urged Rwanda not to provide any practical or political support to armed groups in the Democratic Republic of the Congo. The Council also reminded Uganda not to interfere in the Democratic Republic of the Congo, including through military support for armed groups, and called upon Burundi to prevent any support from its territory to armed groups in the Democratic Republic of the Congo.⁵⁴ By subsequent decisions the Council similarly demanded that those regional States not allow the use of their respective territories in support of activities of armed groups operating in the region.⁵⁵ In connection with the situation in the Middle East, by resolution 1636 (2005) of 31 October 2005, the Council, emphasizing that the future of Lebanon should be decided through peaceful means by the Lebanese themselves, free of intimidation

and foreign interference, insisted that the Syrian Arab Republic not interfere in Lebanese domestic affairs, either directly or indirectly, and that it should refrain from any attempt aimed at destabilizing Lebanon, and respect scrupulously the sovereignty, territorial integrity, unity and political independence of that country.⁵⁶

During the period under review, the Council repeatedly recalled the principles of good-neighbourliness, non-interference and regional cooperation, in cooperation with Burundi,⁵⁷ Côte d’Ivoire,⁵⁸ the Sudan,⁵⁹ and the Great Lakes region.⁶⁰

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

In dealing with regional situations, the Council reaffirmed its respect for the sovereignty, territorial integrity and political independence of States on many occasions during the period under review.⁶¹ On several

⁵⁶ Resolution 1636 (2005), fifteenth preambular paragraph and para. 12.

⁵⁷ Resolutions 1545 (2004), second preambular paragraph; 1577 (2004), second preambular paragraph; 1602 (2005), second preambular paragraph; 1641 (2005), second preambular paragraph; 1650 (2005), second preambular paragraph; 1669 (2006), second preambular paragraph; and 1692 (2006), second preambular paragraph.

⁵⁸ Resolutions 1527 (2004), second preambular paragraph; 1528 (2004), second preambular paragraph; 1572 (2004), second preambular paragraph; 1584 (2004), second preambular paragraph; 1594 (2005), second preambular paragraph; 1600 (2005), second preambular paragraph; 1603 (2005), second preambular paragraph; 1609 (2005), third preambular paragraph; 1633 (2005), second preambular paragraph; 1643 (2005), second preambular paragraph; 1652 (2006), second preambular paragraph; 1657 (2006), second preambular paragraph; 1682 (2006), second preambular paragraph; 1721 (2006), second preambular paragraph; 1726 (2006), second preambular paragraph; 1727 (2006), second preambular paragraph; 1739 (2007), third preambular paragraph; 1763 (2007), second preambular paragraph; 1765 (2007), second preambular paragraph; and 1782 (2007), second preambular paragraph.

⁵⁹ Resolutions 1574 (2004), second preambular paragraph; 1590 (2005), second preambular paragraph; 1591 (2005), second preambular paragraph; 1651 (2005), sixth preambular paragraph; 1665 (2006), seventh preambular paragraph; 1713 (2006), eighth preambular paragraph; and 1779 (2007), ninth preambular paragraph.

⁶⁰ Resolution 1653 (2006), fourth preambular paragraph.

⁶¹ Numerous to cite here; see, for instance, in connection with the situation concerning Iraq, resolution 1790 (2007), fourth preambular paragraph.

⁵⁰ Resolution 1649 (2005), ninth preambular paragraph; S/PRST/2004/45; S/PRST/2005/46; S/PRST/2006/4.

⁵¹ Resolution 1790 (2007), fourth preambular paragraph.

⁵² S/2002/1416, annex.

⁵³ Resolution 1662 (2006), para. 19.

⁵⁴ S/PRST/2004/21.

⁵⁵ Resolutions 1592 (2005), para. 9; and 1756 (2007), para. 18.

occasions the Council explicitly called upon States to respect those principles. In connection with the situation in Burundi, the Council, by a presidential statement dated 15 August 2004, called upon all States in the region to ensure that the territorial integrity of their neighbours was respected.⁶² In connection with the situation in the Middle East, following the issuance of the report of the International Independent Investigation Commission concerning its investigation into the terrorist bombing in Beirut on 14 February 2005 that had killed the former Prime Minister of Lebanon, Rafiq Hariri, and others,⁶³ the Council, by resolution 1636 (2005) of 31 October 2005, took note with extreme concern of the conclusion of the Commission that there was converging evidence pointing at the involvement of both Lebanese and Syrian officials and determined that the involvement of any State “in that terrorist act” would amount to a serious violation of its obligation to respect the sovereignty and political independence of Lebanon.⁶⁴

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

With regard to several situations of which it was seized, the Council called for cessation of involvement by foreign Governments in various conflicts and demanded withdrawal of foreign forces from the territories of other States. In connection with the situation concerning the Democratic Republic of the Congo, following the reports of incursions into the Democratic Republic of the Congo by elements of the Rwandan army and incursions made by the Forces démocratiques de libération du Rwanda into the territory of Rwanda, the Council, by a presidential statement of 14 May 2004, condemned any violation of the national sovereignty and territorial integrity of the Democratic Republic of the Congo as well as any incursions of armed groups into Rwanda. The Council demanded that the Government of Rwanda take measures to prevent the presence of any of its troops on the territory of the Democratic Republic of the Congo.⁶⁵ By a presidential statement dated 7 December 2004, the Council demanded that the Government of Rwanda withdraw without delay any forces it might

have in the territory of the Democratic Republic of the Congo.⁶⁶

In connection with the situation in Côte d’Ivoire, the Council urged countries neighbouring Côte d’Ivoire to prevent any cross-border movement of combatants or arms into Côte d’Ivoire.⁶⁷ Concerning the situation in the Middle East, by resolution 1559 (2004) of 2 September 2004, the Council reaffirmed its call for the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon throughout the country, and called upon all remaining foreign forces to withdraw from Lebanon.⁶⁸ By resolution 1701 (2006) of 11 August 2006, the Council, upon full cessation of hostilities, called upon the Government of Lebanon and the United Nations Interim Force in Lebanon to deploy their forces together throughout the south, and called upon the Government of Israel, as that deployment began, to withdraw all of its forces from southern Lebanon in parallel.⁶⁹

Deliberations relating to Article 2 (4)

During the period under review, there were instances in the deliberations of the Council in which explicit references were made to Article 2 and paragraph 4 thereof.⁷⁰ In connection with the item entitled “Non-proliferation”, at the 5500th meeting, on 31 July 2006, the representative of the Islamic Republic of Iran regretted that the Council had been prevented from reacting to acts of aggression and other violations of international law, such as the daily threats of resort to force against his country and even threats of using nuclear weapons that had been uttered at the highest levels by representatives of the United States, the United Kingdom and Israel “in violation of Article 2 (4) of the Charter”.⁷¹ At the 5647th meeting, on 24 March 2007, the representative of the United

⁶² S/PRST/2004/30.

⁶³ See S/2005/662.

⁶⁴ Resolution 1636 (2005), paras. 1 and 4.

⁶⁵ S/PRST/2004/15.

⁶⁶ S/PRST/2004/45.

⁶⁷ Resolutions 1633 (2005), para. 19, and 1721 (2006), para. 29.

⁶⁸ Resolution 1559 (2004), paras. 1 and 2.

⁶⁹ Resolution 1701 (2006), para. 2.

⁷⁰ In connection with non-proliferation, see S/PV.5500, p. 8 (Islamic Republic of Iran) and S/PV.5647, p. 10 (United States); in connection with Security Council mission, see S/PV.5096, p. 4 (Democratic Republic of the Congo); and in connection with the situation in the Middle East, including the Palestinian question, see S/PV.5736, p. 30 (Syrian Arab Republic).

⁷¹ S/PV.5500, p. 8.

States asserted that the path chosen by the leadership of the Islamic Republic of Iran posed a direct challenge to the very principles on which the United Nations was founded. He recalled that Article 2 of the Charter made it clear that all Members should refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State and that the calls by the leaders of the Islamic Republic of Iran to have Israel “wiped off the map” stood in stark contrast to everything for which the Council stood.⁷²

The three case studies below reflect the debates and decisions of the Council most relevant to the principles enshrined in Article 2 (4). The first, concerning the item entitled “Security Council mission”, features the discussion relating to the situation concerning the Democratic Republic of the Congo (case 3). The second case relates to the situation in the Middle East, including the Palestinian question (case 4). The third case concerns the Syrian-Lebanese relations under the item entitled “The situation in the Middle East” (case 5).

Case 3

Security Council mission

At the 5096th meeting, on 8 December 2004, during consideration of the report of the Security Council mission to Central Africa from 21 to 25 November 2004,⁷³ several speakers addressed the issue of former Rwandan Armed Forces/Interahamwe in the territory of the Democratic Republic of the Congo.⁷⁴

The representative of the Democratic Republic of the Congo said that, despite consultations between Rwandan and Congolese authorities to establish a climate of trust, Rwanda continued to make threats against the Democratic Republic of the Congo, which, in his opinion, was a deliberate attempt to prolong insecurity in the eastern part of his country. He asserted that, immediately following the Dar es Salaam Conference on Peace, Security, Democracy and

Development in the Great Lakes Region, the President of Rwanda had issued a declaration of war under the pretext of pursuing so-called negative forces and redeployed Rwandan troops in the provinces of North and South Kivu. He said that Rwanda’s demonstrated willingness to take responsibility for unleashing hostilities against the Democratic Republic of the Congo was in violation of the principles of the inviolability of borders, enshrined in Article 2 (4) of the Charter. He added that all incursions by foreign forces, including those of Rwanda, would require the Government of the Democratic Republic of the Congo to strictly implement Article 51 of the Charter, which stipulated the inherent right of individual or collective self-defence.⁷⁵

The representative of Rwanda reiterated that the allegations of the presence of Rwandan army troops were false and that the deployment of troops along the common border with the Democratic Republic of the Congo was intended to counter incursions perpetrated by former Rwandan Armed Forces/Interahamwe from the territory of the Democratic Republic of the Congo. He argued that the sovereignty and territorial integrity of Rwanda had been repeatedly violated over the past 10 years with relative impunity by those forces and that cross-border attacks were very frequent.⁷⁶

The representative of the Netherlands, speaking on behalf of the European Union, expressed concern about reports regarding the military incursion by Rwandan armed forces into the Democratic Republic of the Congo. Condemning any violation of the territorial integrity of the Democratic Republic of the Congo, the European Union called upon the Government of Rwanda to respect the sovereignty and territory of the Democratic Republic of the Congo and to withdraw its forces.⁷⁷ Similar concern was expressed by the representative of Japan.⁷⁸

The representative of the Philippines⁷⁹ pointed out that the Council’s clear position on the border problem in the region was set out in the presidential statement of 7 December 2004, by which the Council expressed, *inter alia*, its concern at multiple reports of military operations by the Rwandan army in the eastern

⁷² S/PV.5647, p. 10.

⁷³ S/2004/934.

⁷⁴ S/PV.5096, p. 4 (Democratic Republic of the Congo); p. 8 (Netherlands, on behalf of the European Union); p. 10 (Rwanda); p. 12 (Germany); p. 14 (Brazil); p. 15 (United Kingdom); p. 17 (Pakistan); p. 18 (Benin); and p. 20 (Angola).

⁷⁵ *Ibid.*, p. 4.

⁷⁶ *Ibid.*, p. 10.

⁷⁷ *Ibid.*, p. 8.

⁷⁸ *Ibid.*, p. 11.

⁷⁹ *Ibid.*, p. 16.

part of the Democratic Republic of the Congo and at threats by the Government of Rwanda in that regard, underlined the fact that the threat or use of force against the territorial integrity of any State was contrary to the purposes and principles stated in the Charter, and demanded the Government of Rwanda withdraw without delay any forces it might have in the territory of the Democratic Republic of the Congo.⁸⁰

The representative of Pakistan stressed the importance of respect for the principles of sovereignty, independence and territorial integrity for all States and further stressed that international borders were inviolable. He added that, in the absence of actual external military aggression, the threat or use of force across international borders could not be justified and said that, as declared in the presidential statement dated 7 September 2004, Rwanda should withdraw without delay any forces from the Democratic Republic of the Congo and exercise restraint in its actions and pronouncements.⁸¹

Case 4

The situation in the Middle East, including the Palestinian question

At the 5411th meeting, on 17 April 2006, the representative of Israel quoted statements allegedly made by the leaders of the Islamic Republic of Iran, the Syrian Arab Republic and the newly-elected Government of the Palestinian Authority and described those statements as “clear declarations of war”.⁸²

In response, the representative of the Islamic Republic of Iran pointed out that his country had officially declared its commitment to the fundamental principle of the Charter to refrain from the threat or use of force against any Member of the United Nations. On the other hand, he held that the “daily barrage of illegal threats” relating to the resort to force by Israeli officials, recent instances of which he said had started in December 2003, required urgent and serious attention by the Council. He urged the Council to demand that Israel abandon its “policy of flouting international law and the Charter” and cease immediately from resorting to the threat of the use of force.⁸³

⁸⁰ S/PRST/2004/45.

⁸¹ S/PV.5096, p. 17.

⁸² S/PV.5411, p. 6.

⁸³ *Ibid.*, p. 33.

Case 5

The situation in the Middle East

At the 5028th meeting, on 2 September 2004, the Council adopted resolution 1559 (2004) by which it, *inter alia*, reaffirmed its call for the strict respect of the sovereignty, territorial integrity, unity, and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon throughout Lebanon, called upon all remaining foreign forces to withdraw from Lebanon, supported the extension of the control of the Government of Lebanon over all Lebanese territory and declared its support for a free and fair electoral process in Lebanon’s upcoming presidential elections conducted according to Lebanese constitutional rules devised without foreign interference or influence.⁸⁴

The representative of Lebanon asserted that the resolution confused two matters — one that related to the relations between Lebanon and the Syrian Arab Republic and another that was purely internal and related to the presidential electoral process in Lebanon because the mandate of its President would come to an end on 23 November 2004. He declared that the relations between Lebanon and the Syrian Arab Republic were unique and achieved their common interests, particularly the interests of Lebanon, as the Syrian Arab Republic had helped Lebanon to maintain security and stability within its borders, while Israel had threatened the security of Lebanon and stability by violating its land borders, territorial waters and airspace. He stressed that the Syrian troops had come to Lebanon in response to Lebanon’s legitimate request, guided by the Taif Agreement. In his opinion, the resolution discussed the bilateral relations between two friendly countries, neither of which had filed any complaint with regard to those relations.⁸⁵

The representative of China, which abstained in the voting, stressed that his country had always been resolute in supporting respect for, and the safeguarding of, the sovereignty, independence and territorial integrity of Lebanon, stating that respect for sovereignty, independence and territorial integrity and the principle of non-interference in internal affairs in international relations was a fundamental principle enshrined in the Charter. In his view, the resolution

⁸⁴ Resolution 1559 (2004), paras. 1-5.

⁸⁵ S/PV.5028, p. 3.

touched on questions that fell within the purview of the internal affairs of Lebanon and should be decided by the Lebanese people themselves. Pointing out the objection by the Government of Lebanon to the consideration of those questions expressed in letters to the President and the Secretary-General,⁸⁶ he explained that his country respected the wishes of that Government.⁸⁷

On the other hand, the representative of the United States stressed that the Council consistently supported the full sovereignty and independence of Lebanon, free of all foreign forces. He asserted that the Syrian Arab Republic had “imposed its political will” on Lebanon and “compelled” the Cabinet and the National Assembly to amend the Constitution and “abort” the electoral process. Declaring that Lebanese parliamentarians had been “pressured, and even threatened” by the Syrian Arab Republic, he argued that the Lebanese parliament and Cabinet should express the will of their people through a free and fair presidential electoral process, and supported the extension of the control of the Government of Lebanon over all Lebanese territory, as called for by the Council over the previous four years. He stated that the presence of armed Hizbullah militia elements, the Syrian military and Iranian forces in Lebanon hindered that goal. He underlined that it was wrong for the Syrian Arab Republic to continue to maintain its forces in Lebanon, in flat contravention of the spirit and clear intent of the Taif Agreement, and it would be also wrong for it to continue to interfere in the presidential electoral process in Lebanon.⁸⁸

The representative of France asserted that the future of Lebanon was being seriously threatened by the interference of the Syrian Arab Republic in the political life of the country and, in particular, in the electoral process, as well as by the continued occupation and the persistent presence of armed militias. He said that the withdrawal of foreign forces from the entire territory of Lebanon should not be delayed any longer and that the electoral process should proceed without any foreign interference.⁸⁹

By a presidential statement dated 4 May 2005, the Council acknowledged the letter of 26 April 2005 from the Minister for Foreign Affairs of the Syrian

Arab Republic to the Secretary-General stating that the Syrian Arab Republic had completed the full withdrawal of its forces, military assets and intelligence apparatus from Lebanon.⁹⁰ The Council also acknowledged that the full and complete Syrian withdrawal would represent a significant and important step towards Lebanon’s full political independence and full exercise of its sovereignty, which was the ultimate goal of resolution 1559 (2004), thus opening a new chapter in Lebanese history. Welcoming the decision of the Government of Lebanon to conduct elections beginning on 29 May 2005, the Council underlined the fact that free and credible elections held without foreign interference or influence would be another central indication of the political independence and sovereignty of Lebanon.⁹¹

C. Article 2, paragraph 5

Article 2, paragraph 5

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

Note

During the period under review, there were no explicit references to Article 2 (5) in the decisions of the Security Council. There was one explicit reference in the deliberations of the Council. In connection with the item entitled “Relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security”, the representative of Uruguay stated that Article 2 (5) of the Charter established the obligation of all Members to provide every assistance in any action taken in accordance with the Charter. He argued that such action was collective, and therefore all shared that obligation, under equal conditions, which would ensure that the action was legitimate.⁹²

The Council did adopt several resolutions and a number of presidential statements which might have an implicit bearing on the principle enshrined in

⁸⁶ S/2004/699.

⁸⁷ S/PV.5028, p. 5.

⁸⁸ *Ibid.*, p. 4.

⁸⁹ *Ibid.*, p. 4.

⁹⁰ S/2005/272.

⁹¹ S/PRST/2005/17.

⁹² S/PV.5649 (Resumption 1), p. 4.

Article 2 (5), as grouped into two categories below. First, examples are given of calls for assistance relating to mandatory measures within the framework of Article 41 of the Charter; subsidiary bodies of the Council, including peacekeeping operations; actions of regional organizations authorized under Chapter VII of the Charter; and Council-authorized multinational forces. Secondly, instances are given in which the Council, by its decisions, called on all States to refrain from actions that could be seen as providing assistance to a State against which the United Nations was taking preventive or enforcement action.

Examples of calls for assistance

Assistance relating to measures imposed within the framework of Article 41 of the Charter

During the period under review, implicit references to Article 2 (5) were frequently made in decisions of the Council in connection with the measures imposed by the Council under Article 41 of the Charter.⁹³ In a number of instances, the Council called on States to take action, or otherwise strengthen their efforts, in support of sanctions or other measures that had been imposed by the Council.⁹⁴ In connection with the item entitled “Non-proliferation”, by resolution 1737 (2006) of 23 December 2006, the Council, in imposing sanctions against the Islamic Republic of Iran related to its nuclear programme, called upon all States to exercise vigilance and prevent specialized teaching or training of Iranian nationals, within their territories or by their nationals, of disciplines which would contribute to the Islamic Republic of Iran’s proliferation-sensitive nuclear activities and to the development of nuclear weapon delivery systems.⁹⁵ With regard to the situation concerning the Democratic Republic of the Congo, the Council, by resolution 1533 (2004) of 12 March 2004, reaffirmed the demand made in resolution 1493 (2003) that all States take the necessary measures to prevent the supply of arms and any related materiel or assistance to armed groups operating in North and South Kivu and in the Ituri district, and to groups not parties to the Global and All-Inclusive Agreement on

⁹³ For more information on Article 41, see chap. XI, part III.

⁹⁴ For more information on actions that the Council required Member States to take relating to measures under Article 41, see chap. XI, part VI.

⁹⁵ Resolution 1737 (2006), para. 17.

the Transition in the Democratic Republic of the Congo.⁹⁶

The Council also called for Member States to give assistance to its subsidiary bodies in connection with measures imposed under Article 41. By resolution 1584 (2005) of 1 February 2005 regarding the situation in Côte d’Ivoire, the Council urged all States to cooperate fully with the Committee established by paragraph 14 of resolution 1572 (2004), the Group of Experts, and the United Nations Operation in Côte d’Ivoire, in particular by supplying any information at their disposal on possible violations of the arms embargo imposed by resolution 1572 (2004).⁹⁷

Assistance relating to subsidiary bodies of the Security Council

In a number of decisions, the Council called upon Member States to provide assistance to peacekeeping missions, including provision of troops and material support.⁹⁸ In connection with the situation in Chad, the Central African Republic and the subregion, the Council, by resolution 1778 (2007) of 25 September 2007, urged all Member States to facilitate the delivery to Chad and the Central African Republic freely, without obstacles or delay, of all personnel, equipment, provisions, supplies and other goods, intended for the United Nations Mission in the Central African Republic and Chad.⁹⁹

In other cases, the Council called on Member States to provide support to other subsidiary organs, including investigative bodies. By resolution 1595 (2005) of 7 April 2005, the Council, in establishing the International Independent Investigation Commission, called upon all States and all parties to cooperate fully with the Commission, and in particular to provide it with any relevant information they might possess pertaining to the terrorist bombing in Beirut on 14 February 2005 that killed the former Prime Minister of Lebanon, Rafiq Hariri, and others.¹⁰⁰

⁹⁶ Resolution 1533 (2004), para. 1.

⁹⁷ Resolution 1584 (2005), para. 11.

⁹⁸ For requests to Member States to provide assistance to peacekeeping operations in resolutions adopted under Chapter VII of the Charter, see chap. XI, part V, sect. A.

⁹⁹ Resolution 1778 (2007), paras. 9 and 14.

¹⁰⁰ Resolution 1595 (2005), paras. 1 and 7.

Assistance relating to actions by regional arrangements authorized by the Security Council under Chapter VII

In some cases, the Council called upon Member States to assist enforcement actions taken by the regional arrangements which were authorized by the Council. In connection with the situation in Somalia, by resolution 1772 (2007) of 20 August 2007, the Council urged Member States to provide financial resources, personnel, equipment and services for the full deployment of the African Union Mission in Somalia, which was authorized to take all necessary measures appropriate to carry out its mandate.¹⁰¹ In connection with the situation concerning the Democratic Republic of the Congo, by resolution 1671 (2006) of 25 April 2006, while authorizing under Chapter VII of the Charter the temporary deployment of a European Union force to support the United Nations Organization Mission in the Democratic Republic of the Congo during the elections period, the Council requested all Member States to provide all necessary support to facilitate the swift deployment of the European Union force.¹⁰²

Assistance relating to multinational forces authorized by the Security Council

In a number of cases, the Council called on States to provide assistance to multinational forces that it had authorized. With regard to Iraq, by resolution 1546 (2004) of 8 June 2004, the Council, in reaffirming the authorization for the multinational force established by resolution 1511 (2003), requested Member States to contribute assistance to the multinational force, including military forces, as agreed with the Government of Iraq, to help to meet the needs of the Iraqi people for security and stability, humanitarian and reconstruction assistance, and to support the efforts of the United Nations Assistance Mission for Iraq.¹⁰³ In the case of Afghanistan, by resolution 1623 (2005) of 13 September 2005, the Council called upon Member States to contribute personnel, equipment and other resources to the International Security Assistance Force whose authorization it extended for another year by that resolution.¹⁰⁴

¹⁰¹ Resolution 1772 (2007), para. 14.

¹⁰² Resolution 1671 (2006), paras. 2 and 13.

¹⁰³ Resolution 1546 (2004), paras. 9 and 15.

¹⁰⁴ Resolution 1623 (2005), paras. 1 and 3.

Examples of calls for States to refrain from assisting the target of preventive or enforcement actions

In a number of resolutions concerning the situation in Somalia, the Council reiterated its insistence that all Member States, in particular those in the region, should refrain from any action in contravention of the arms embargo.¹⁰⁵ By resolution 1725 (2006) of 6 December 2006, the Council further insisted that all Member States should take all actions necessary to prevent such contraventions.¹⁰⁶

In connection with the situation concerning the Democratic Republic of the Congo, the Council demanded that the Governments of Uganda, Rwanda and the Democratic Republic of Congo put a stop to, or take measures to prevent, the use of their respective territories in support of violations of the arms embargo or in support of activities of armed groups present in the region.¹⁰⁷

D. Article 2, paragraph 7

Article 2, paragraph 7

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Note

During the period under review, the Council adopted no decisions containing an explicit reference to Article 2 (7), but a few decisions did contain provisions which might be deemed to have an implicit bearing on that Article. In connection with United Nations peacekeeping operations, the Council, by a

¹⁰⁵ Resolutions 1630 (2005), ninth preambular paragraph; 1676 (2006), tenth preambular paragraph; 1724 (2006), ninth preambular paragraph; 1725 (2006), fourth preambular paragraph; and 1766 (2007), tenth preambular paragraph.

¹⁰⁶ Resolution 1725 (2006), fourth preambular paragraph.

¹⁰⁷ Resolutions 1592 (2005), para. 9; and 1649 (2005), para. 15.

presidential statement dated 17 May 2004, reaffirmed its commitment to the purposes and principles enshrined in the Charter of the United Nations, in particular, the political independence, sovereignty and territorial integrity of all States in conducting all peacekeeping and peacebuilding activities.¹⁰⁸

Explicit references to Article 2 (7) were made in a few communications to the Council.¹⁰⁹ In the deliberations of the Council, Article 2 and paragraph 7 thereof were invoked explicitly on several occasions.¹¹⁰ Deliberations during which the principles enshrined in Article 2 (7), while not always expressly invoked, were frequently touched upon, are illustrated in the six cases below. The first case deals with the situation in Myanmar (case 6), and two cases (cases 7 and 8) concern the situation in the Middle East. Case 7 covers Council meetings relating to the adoption of resolution 1559 (2004), while case 8 refers to the discussion relating to resolution 1757 (2007), by which the Council decided to establish a special tribunal for Lebanon. The last three cases relate to thematic issues, namely, the maintenance of international peace and security: role of the Security Council in supporting security sector reform (case 9); maintenance of international peace and security (case 10); and protection of civilians in armed conflict (case 11).

Case 6

The situation in Myanmar

At the 5526th meeting, on 15 September 2006, before the Council adopted its provisional agenda,¹¹¹ the representative of the United States recalled that,

¹⁰⁸ S/PRST/2004/16.

¹⁰⁹ Letter dated 19 February 2004 from the representative of Finland to the President of the Council (S/2004/135); identical letters dated 1 September 2004 from the representative of the Syrian Arab Republic to the Secretary-General and the President of the Council (S/2004/706); and identical notes verbales dated 6 October 2004 from the Permanent Mission of the Syrian Arab Republic to the United Nations to the Secretary-General and the President of the Council (S/2004/796).

¹¹⁰ In connection with the situation in the Middle East, see S/PV.5028, p. 6 (Pakistan); and p. 7 (Philippines); S/PV.5417, p. 6 (Syrian Arab Republic); and S/PV.5685, p. 3 (Indonesia). In connection with maintenance of international peace and security, see S/PV.5735, p. 21 (Indonesia).

¹¹¹ S/Agenda/5526.

due to the deteriorating situation in Myanmar, which threatened to have a destabilizing impact on the region and was likely to endanger the maintenance of international peace and security, his Government had requested that the situation in Myanmar be placed on the agenda of the Council.¹¹²

The representative of China, pointing out that according to the Charter it was only those questions that constituted threats to international peace and security that warranted discussion by the Council, maintained that labelling the situation in Myanmar as a threat to international peace and security was a “far cry from reality” and argued that to request the Council to discuss an issue which by nature pertained to the internal affairs of a country not only exceeded the mandate given by the Charter to the Council but would also undermine the authority and legality of the Council. Stressing that Myanmar was attempting to solve its own problems, he said that to force the Council into intervening was not only inappropriate but would also further complicate the situation and have a negative impact on future interaction between Myanmar and the United Nations. He maintained that the events in Myanmar related to the internal affairs of that country, and that it should therefore be left to the Government and the people of Myanmar to find a solution to the problem on the basis of consultations.¹¹³ Following the discussion, the provisional agenda was adopted by vote.¹¹⁴

At its 5619th meeting, on 12 January 2007, owing to the negative votes of permanent members,¹¹⁵ the Council failed to adopt a draft resolution,¹¹⁶ by which it would have, *inter alia*, called on the Government of Myanmar to begin without delay a substantive political dialogue leading to a genuine democratic transition, to include all political stakeholders, including representatives of ethnic nationality groups and political leaders.

The representative of China, in explaining his vote against the draft resolution, maintained that the Myanmar issue was mainly the internal affair of a sovereign State, which did not constitute a threat to

¹¹² S/PV.5526, p. 3.

¹¹³ *Ibid.*, pp. 2-3.

¹¹⁴ See also chap. II, part II, sect. A, case 2.

¹¹⁵ There were 9 votes in favour to 3 against (China, Russian Federation, South Africa) and 3 abstentions (Congo, Indonesia, Qatar) (see S/PV.5619, p. 6).

¹¹⁶ S/2007/14.

international or regional peace and security. He held that if the problems with which Myanmar was faced, such as refugees, child labour, HIV/AIDS, human rights and drugs, were to be arbitrarily labelled as a prominent or potential threat to regional security, included on the agenda of the Council, and made the subject of a draft resolution, then the situations in all other 191 Member States might also need to be considered by the Council. Such an approach was, he said, obviously neither logical nor reasonable. He said that it was the consistent position of China that the internal affairs of Myanmar should be handled mainly and independently by the Government and people of Myanmar themselves through consultation and that the international community could offer all kinds of constructive advice and assistance, but should refrain from arbitrary interference.¹¹⁷

The representative of Qatar, who abstained in the voting, stated that the position of his delegation was one of total respect for the Charter and for international law in a manner that promoted the maintenance of international peace and security and the finding of the best possible solutions to the problems that faced Member States, with no interference in their internal affairs. He recalled that in the view of the neighbouring countries, the Association of Southeast Asian Nations, China, and the Non-Aligned Movement, among others, the issue of Myanmar was an internal problem mainly of a humanitarian character that did not pose any threat to international peace and security.¹¹⁸

Case 7

The situation in the Middle East

In connection with a draft resolution before the Council concerning Syrian-Lebanese relations,¹¹⁹ the representative of Lebanon, by identical letters dated 30 August 2004 to the Secretary-General and the President of the Security Council,¹²⁰ expressed the fear that the timing of the submission of the draft resolution could adversely affect the electoral process of the forthcoming presidential election in his country and that the Council could subsequently be seen as a tool of intervention in Lebanon's internal affairs. He expressed concern that it could create a grave precedent that

could lead the United Nations to abandon its fundamental role and become involved in the internal affairs of a Member State. Similarly, by identical letters dated 1 September 2004 to the Secretary-General and the President,¹²¹ the representative of the Syrian Arab Republic expressed the view that the discussion of the topic by the Security Council contradicted Article 2 (7) of the Charter and was a dangerous precedent, which deviated from the Council's main functions and made it "a tool for illegal interference" in the internal affairs of an independent and sovereign State.

At the 5028th meeting, on 2 September 2004, the draft resolution was adopted by 9 votes, with 6 abstentions (Algeria, Brazil, China, Pakistan, Philippines, Russian Federation), as resolution 1559 (2004), by which the Council, mindful of the upcoming Lebanese presidential elections, and underlining the importance of free and fair elections according to Lebanese constitutional rules devised without foreign interference or influence, *inter alia*, reaffirmed its call for the strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon throughout the country.¹²²

The representative of Lebanon stressed that the references in the resolution to support for free and fair presidential elections in Lebanon were unprecedented as the elections were "an internal matter". He argued that the legitimacy of the United Nations, the Charter and the rules of procedure of the Council provided no justification for that resolution, which constituted interference in the internal affairs of a State Member of the Organization.¹²³ The representative of China maintained that questions concerning presidential elections fell within the purview of the internal affairs of Lebanon and should be freely decided by the Lebanese people themselves.¹²⁴ The representative of Brazil was also of the view that resolution 1559 (2004) dealt with matters that were essentially within the domestic jurisdiction of Lebanon.¹²⁵

¹¹⁷ S/PV.5619, p. 3.

¹¹⁸ *Ibid.*, p. 5.

¹¹⁹ S/2004/707.

¹²⁰ S/2004/699.

¹²¹ S/2004/706.

¹²² Resolution 1559 (2004), sixth preambular paragraph and para. 1.

¹²³ S/PV.5028, p. 3.

¹²⁴ *Ibid.*, p. 5.

¹²⁵ *Ibid.*, pp. 6-7.

The representative of Algeria stated that the Council should neither interfere in the internal affairs of States nor in the bilateral relations between States, especially when those in no way posed a threat to international peace and security. He noted that the consideration by the Council of a matter that was internal to Lebanon constituted an unfortunate precedent that should not be repeated, lest the Council be dragged seriously adrift, with consequences that would be detrimental to its credibility and to the Charter, in both its letter and spirit.¹²⁶ The representative of Pakistan, citing both Article 24 (2) and Article 2 (7) of the Charter, argued that the resolution, in its sixth preambular paragraph and operative paragraph 5, intervened in the internal affairs of Lebanon and held that such intervention was unacceptable, contrary to the Charter, and set an unfortunate precedent.¹²⁷

The representative of the Philippines opined that the adoption of resolution 1559 (2004) as part of the role given to the Council in the collective security system under the Charter could not be justified. He held that there was a fine, but nevertheless clear, boundary that demarcated the role of the Council in the maintenance of international peace and security as embodied in Article 39. His delegation's view was that resolution 1559 (2004) crossed that line and "collided head-on" with the principle of non-interference embodied in the Charter. He maintained that Article 2 (7) of the Charter was "sacrosanct", and emphasized that the action of his delegation was aimed at preserving the integrity of the Charter and its time-honoured values of sovereign equality of States and non-interference.¹²⁸

The representative of France asserted that the Council was not committing an act of interference by denouncing the risk to international peace and security represented by the current crisis. Rather, he added, if the Council refrained from taking action, it would be sanctioning the inadmissible interference by a State in the internal affairs of another sovereign State.¹²⁹

¹²⁶ *Ibid.*, p. 5.

¹²⁷ *Ibid.*, p. 6.

¹²⁸ *Ibid.*, p. 7.

¹²⁹ *Ibid.*, p. 4.

Case 8

The situation in the Middle East

By a letter dated 14 May 2007 to the Secretary-General, the Prime Minister of Lebanon recalled that the parliamentary majority had expressed its support for the Special Tribunal and asked that his request that the Tribunal be put into effect be presented to the Council as a matter of urgency.¹³⁰ In transmitting that letter, the Secretary-General concurred with the Prime Minister that regrettably all domestic options for the ratification of the Special Tribunal appeared to be exhausted, while acknowledging that the resolution of the issue among the Lebanese parties based on a national consensus would have been preferable.¹³¹

By a letter dated 15 May 2007 to the Secretary-General, the President of Lebanon, in reference to the above-mentioned letter from the Prime Minister, stressed that the approval of the Tribunal directly by the Security Council would constitute a "transgression of the constitutional mechanism that had been completely ignored". He further expressed his desire that the Security Council not be involved in the internal affairs of his country and its established constitutional mechanism and not favour one political grouping over another.¹³²

At its 5685th meeting, on 30 May 2007, by 10 votes, with 5 abstentions (China, Indonesia, Qatar, Russian Federation, South Africa), the Council adopted resolution 1757 (2007), by which, acting under Chapter VII of the Charter, it decided, *inter alia*, that the provisions of the annexed agreement on the establishment of a Special Tribunal for Lebanon should enter into force on 10 June 2007, unless the Government of Lebanon provided notification before that date that the legal requirements for entry into force had been complied with.¹³³

The representative of Indonesia pointed out that although the resolution had been based on a request from the Prime Minister of Lebanon, the Council needed to take into consideration that there was no unified voice among the leaders of Lebanon. He further argued that the resolution had changed the legal nature of article 19 of the agreement, which clearly stated that

¹³⁰ S/2007/281, annex.

¹³¹ S/2007/281.

¹³² S/2007/286, annex.

¹³³ Resolution 1757 (2007), para. 1 (a).

the agreement should enter into force on the day after the Government of Lebanon had notified the United Nations that the internal legal requirements for its entry into force had been met. He expressed concern that the resolution would bypass the constitutional procedures and national processes of Lebanon. He stressed that the Council had no legal grounds to take over an issue that was domestic in nature. Quoting Article 2 (7), he reminded the Council that, while that provision did not prejudice the application of enforcement measures under Chapter VII, the Council should not be involved in “an exercise of interpreting, let alone taking over” the constitutional requirements with which a State should comply regarding the conduct of its own authorities.¹³⁴

The representative of South Africa maintained that it was inappropriate for the Council to impose such a tribunal on Lebanon, especially under Chapter VII of the Charter. The Council had no right to bypass the procedures required by the Constitution of Lebanon for the entry into force of an agreement with the United Nations. He said that, in discarding the Constitution of Lebanon, the Council was contravening its own decision regarding the need to respect the sovereignty, territorial integrity, unity and political independence of Lebanon.¹³⁵

The representative of China expressed concern that, by invoking Chapter VII of the Charter, the resolution would override the legislative organs of Lebanon by arbitrarily deciding on the date of the entry into force of the draft statute of the Tribunal. He cautioned that such a move would create a precedent of Council interference in the domestic affairs and legislative independence of a sovereign State, thus undermining the authority of the Council.¹³⁶

The representative of the Russian Federation described the resolution as legally dubious because the treaty between the two entities, Lebanon and the United Nations, by definition could not enter into force on the basis of a decision by only one party. The imposition of the constituent documents for the Tribunal by a unilateral decision of a United Nations body — a Security Council resolution — essentially represented an encroachment upon the sovereignty of Lebanon.¹³⁷

¹³⁴ S/PV.5685, p. 3.

¹³⁵ Ibid., p. 4.

¹³⁶ Ibid.

¹³⁷ Ibid., p. 5.

The representative of the United Kingdom argued in response that the adoption of resolution 1757 (2007) was not a capricious intervention or interference in the domestic political affairs of a sovereign State. In his opinion, it was a considered response by the Council, properly taken, to a request from the Government of Lebanon for action to overcome a continued impasse in the internal procedures of Lebanon, despite long and serious efforts to find a solution within Lebanon.¹³⁸ The representative of Peru was of the view that the resolution was the only way to overcome the legislative impasse regarding the establishment of the Tribunal in Lebanon, while stressing that it was due to the particular circumstances of the case.¹³⁹

Case 9

The maintenance of international peace and security: role of the Security Council in supporting security sector reform

In a concept paper for an open debate on the item entitled “The maintenance of international peace and security: role of the Security Council in supporting security sector reform”,¹⁴⁰ the representative of Slovakia pointed out that security sector reform depended on national ownership because reform of the most sensitive sector of the State needed to be shaped and driven by local actors and supported, if necessary, by external actors.¹⁴¹

At the 5632nd meeting, on 20 February 2007, a number of speakers recognized the importance of national ownership in implementing security sector reform, which, in particular in post-conflict situations, should be supported by the international community, including the United Nations.¹⁴² The representative of the United Kingdom held that security sector reform

¹³⁸ Ibid., p. 6.

¹³⁹ Ibid.

¹⁴⁰ Transmitted by a letter dated 8 February 2007 from the representative of Slovakia to the Secretary-General (S/2007/72).

¹⁴¹ See S/2007/72.

¹⁴² S/PV.5632, p. 2 (President of the Security Council); p. 3 (Secretary-General); p. 5 (President of the General Assembly); p. 8 (Angola); pp. 9-10 (Italy); pp. 11-12 (Belgium); p. 15 (United Kingdom); p. 16 (South Africa); p. 19 (France); and p. 20 (Indonesia); S/PV.5632 (Resumption 1), p. 3 (Congo); p. 5 (Ghana); p. 6 (Slovakia); p. 15 (Netherlands); p. 17 (Australia); p. 20 (Republic of Korea); and p. 22 (Afghanistan).

was a national responsibility which should be defined and owned by national stakeholders, informed by the best international standards and practices and then supported by the international community.¹⁴³ According to the representative of Italy, the role of the United Nations in security sector reform was fundamental, given that the Organization was the actor that enjoyed the international legitimacy needed to act in a sector as sensitive as State security.¹⁴⁴ The representative of Japan said that for the eventual handover of security sector responsibilities from the international community to the local Government to be conducted smoothly, it was imperative, first and foremost, that the Council ensured that the intervention of the international community in a conflict, whenever the Council decided to authorize such intervention, was made with legitimacy.¹⁴⁵

While recognizing the important role of the United Nations in security sector reform through its peacekeeping and peacebuilding efforts, the representative of China asserted that, in any security sector reform exercise, the will of the countries concerned should be respected, as the rebuilding of national institutions was essentially a country's internal affair and would depend on the country itself. He added that the international community, for its part, should act more as an adviser and assistance provider aiming at improving capacity to build national strength and helping to find mechanisms and approaches that fitted their national conditions, instead of "going beyond given mandates or even acting arbitrarily".¹⁴⁶ Similarly, the representative of Qatar argued that recognizing the sovereign rights of States and national ownership of the security sector process was critical to guaranteeing its success and sustainability,¹⁴⁷ and the representative of Uruguay opined that, given that security sector reform affected institutions which protected State sovereignty, such reform would not be viable without agreement, ownership, cooperation and the full participation of the State carrying it out.¹⁴⁸

The representative of the Sudan stressed that any discussion of security sector reform should be undertaken within a clear frame of reference and based

in particular on the purposes and principles of the Charter, including respect for State sovereignty, territorial integrity and national unity, respect for the national choices made by countries and for their economic and social systems, and non-interference in the internal affairs of States. He reiterated that, since security sector reform was a gradual phased process focusing on sensitive sovereign institutions, the only guarantee of its viability was the participation of national institutions of the country concerned, in accordance with the principle of respect for State sovereignty and legitimacy, in other words, national ownership.¹⁴⁹

The representative of Cuba, speaking on behalf of the Non-Aligned Movement, argued that there was a lack of clarity as to how to assess the ineffectiveness [of the security sector], which had led to divergent interpretations and value judgements. That could lead to arbitrary implementation, thus undermining and infringing upon the concept of sovereignty, which was a matter of overriding concern in the Charter. He argued that security sector reform was a matter that should be decided by national Governments based on their national strategies for post-conflict peacebuilding. He maintained that it was not the prerogative of the international community to prescribe the road to follow and thus national ownership was essential. He stressed that past mistakes, such as when the Council attempted to impose reforms on the judicial and security sectors without the prior consent of the concerned State, should not be repeated.¹⁵⁰

The representative of Egypt also argued that no widespread agreement on a new concept of security sector reform existed, especially considering that security sector reform was linked to a number of controversial ideas on which there was also no consensus, such as the "responsibility to protect" and "human security". He maintained that those ideas sought to utilize humanitarian concepts to codify interference in the internal affairs of States without even reaching international agreement on the definition of those ideas, the scope of their application or their relationship to the sovereignty of each State over its territory. He further argued that, if the purpose was to help States emerging from conflict to shoulder their responsibilities, then the issue was not about reforming

¹⁴³ S/PV.5632, p. 15.

¹⁴⁴ *Ibid.*, p. 9.

¹⁴⁵ S/PV.5632 (Resumption 1), p. 10.

¹⁴⁶ S/PV.5632, p. 9.

¹⁴⁷ *Ibid.*, p. 11.

¹⁴⁸ S/PV.5632 (Resumption 1), p. 23.

¹⁴⁹ *Ibid.*, pp. 24-25.

¹⁵⁰ *Ibid.*, p. 9.

but “rehabilitating” security institutions, which fell within the purview of national capacity-building. He asserted that only after there had been a comprehensive debate in the General Assembly to reach consensus on the objectives of reforms and the scope of their application while respecting the fundamental principles of the Charter, including respect for the sovereignty, territorial integrity and unity of States and non-interference in their internal affairs, could the Council discuss its limited role in supporting the national will of States to reform their security sectors, within the limits of the prerogatives of the Council, and only in areas affecting the maintenance of international peace and security.¹⁵¹

By a statement made by the President at that meeting, the Council underlined that it was the sovereign right and the primary responsibility of the country concerned to determine the national approach and priorities of security sector reform. Security sector reform should be a nationally owned process that was rooted in the particular needs and conditions of the country in question. The Council also underlined that the United Nations had a crucial role to play in promoting comprehensive, coherent and coordinated international support to nationally-owned security sector reform programmes, implemented with the consent of the country concerned.¹⁵²

Case 10

Maintenance of international peace and security

At the 5705th meeting, on 25 June 2007, considering the issue of natural resources and conflict, some speakers noted that, in addressing the link between natural resources and conflict, it was necessary to respect the full and permanent sovereignty of countries over their natural resources.¹⁵³

The representative of Qatar emphasized that the principles of national political and economic independence depended on a State being able to exercise the undiminished right of self-determination and full sovereignty over its natural resources in the interest of development and the well-being of its people, in accordance with international law.

Accordingly, endowing the Security Council with authority over those resources contravened international law and diminished the sovereignty of States over their natural resources.¹⁵⁴

The representative of the Russian Federation said that combating the illicit use of natural resources was, first and foremost, the prerogative and obligation of the Government of the State concerned. He believed that the primary role of the United Nations in the process of tackling the problem should be to help States, at their request, by providing political and advisory support. In his opinion, the sanctions mechanisms of the Council and their groups of experts contributed in that context, when the relevant crisis situations were before the Council. He stressed that the Council should be guided by the Charter principles of non-interference in the internal affairs, sovereignty, territorial integrity and political independence of States. He emphasized the importance of maintaining a balance between the efforts of the international community to prevent escalation of conflicts through the illegal exploitation of natural resources, and the strict observance of the sovereign right of States to use their natural resources.¹⁵⁵

Similarly, the representative of Argentina opined that the Council’s authority to impose sanctions on the illegal exploitation of natural resources in countries on the Council’s agenda because of a specific conflict which threatened international peace and security was clearly among the powers conferred upon the Council by the Charter. The situation would be different, however, if the Council were to determine that preventive intervention was necessary owing to a risk that exploitation of a given country’s natural resources could in the future lead to a conflict posing a threat to international peace and security. He held that such a determination would violate the principle of non-intervention in the internal affairs of States set out in the Charter, because the intervention would be based on the potential consequences that the sovereign actions of a country could have for international peace and security.¹⁵⁶

By a statement made by the President at that meeting, the Council reaffirmed that every State had the full and inherent sovereign right to control and

¹⁵¹ Ibid., pp. 13-14.

¹⁵² S/PRST/2007/3, third paragraph.

¹⁵³ S/PV.5705, p. 9 (Qatar), p. 16 (Peru); p. 17 (China); and p. 30 (Egypt); S/PV.5705 (Resumption 1), p. 3 (India).

¹⁵⁴ S/PV.5705, p. 9.

¹⁵⁵ Ibid., p. 23.

¹⁵⁶ Ibid., p. 32.

exploit its own natural resources in accordance with the Charter and the principles of international law. The Council also recognized that United Nations missions and peacekeeping operations deployed in resource-endowed countries experiencing armed conflict could play a role in helping the Governments concerned, with full respect of their sovereignty over their natural resources, to prevent the illegal exploitation of those resources from further fuelling the conflict.¹⁵⁷

Case 11

Protection of civilians in armed conflict

At the 4990th meeting, on 14 June 2004, several speakers affirmed that responsibilities to protect civilians rested with the States concerned.¹⁵⁸ At the same time, some of them, including the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, pointed out that, when Governments were unable or unwilling to take on that responsibility, the United Nations needed to execute its responsibilities.¹⁵⁹ In particular, the representative of Uganda stated that there should be an obligation on the part of the international community to intervene and protect people in failed States or States that were unwilling to protect their citizens from the scourge of conflict. In his opinion, the right to protect should transcend the notion of sovereignty. He commended the African Union, which had enshrined in its Charter the right to intervene in certain circumstances, notwithstanding the issue of sovereignty.¹⁶⁰ The representative of Canada, speaking also on behalf of

Australia and New Zealand, held that Member States themselves needed to take primary responsibility for ensuring the protection of their own people, as it was a responsibility implicit in the very concept of State sovereignty. While stressing that much more could and should be done by Member States, he said that when they failed to assume that responsibility the Security Council had to act.¹⁶¹

Pointing out the difficulties in ensuring access to humanitarian assistance when dealing with non-State actors, the representative of Colombia cautioned that legitimate concerns about humanitarian access should not end up threatening legitimate Governments, interfering in internal affairs or violating fundamental purposes and principles of the Charter.¹⁶² Similarly, the representative of Nepal was of the view that any humanitarian assistance provided by the international community to a particular country to address suffering, whether occasioned by natural disaster or by man-made disaster, should be provided only with the consent of the State concerned and in accordance with the Charter. He maintained that efforts to gain access to illegal armed groups should in no way infringe on the principle of State sovereignty.¹⁶³ The Under-Secretary-General, in response, concurred that the issue of engagement with non-State armed groups was a sensitive and complex one and reaffirmed that in situations of armed conflict Governments bore the primary responsibility to provide humanitarian access, protect civilians and cooperate with humanitarian agencies. He asserted that any engagement with non-State armed groups had to be aimed solely at providing protection and humanitarian assistance to civilians in areas under their control and be conducted transparently, neutrally and impartially in a manner that did not in any way legitimize the armed groups concerned.¹⁶⁴

¹⁵⁷ S/PRST/2007/22, second and seventh paragraphs.

¹⁵⁸ S/PV.4990, p. 3 (Under-Secretary-General); p. 7 (Romania); p. 23 (China); S/PV.4990 (Resumption 1), p. 16 (Canada, also on behalf of Australia and New Zealand); and p. 21 (Nepal).

¹⁵⁹ S/PV.4990, p. 3 (Under-Secretary-General); p. 7 (Romania); S/PV.4990 (Resumption 1), p. 4 (Uganda); and p. 16 (Canada, also on behalf of Australia and New Zealand).

¹⁶⁰ S/PV.4990 (Resumption 1), p. 4.

¹⁶¹ *Ibid.*, p. 16.

¹⁶² *Ibid.*, p. 12.

¹⁶³ *Ibid.*, p. 21.

¹⁶⁴ *Ibid.*, p. 24.

Part II

Consideration of the functions and powers of the Security Council (Articles 24 to 26 of the Charter)

A. 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

During the period under review, none of the decisions adopted by the Security Council contained an explicit reference to Article 24 of the Charter.¹⁶⁵ A number of resolutions and presidential statements did however contain provisions that related to this Article. The provision by which Member States confer on the Council the primary responsibility for the maintenance of international peace and security was implicitly referred to primarily in connection with thematic issues. By such decisions, the Council recalled its responsibilities under the Charter for the maintenance of international peace and security.¹⁶⁶

¹⁶⁵ Article 24 (3), relating to the annual report of the Security Council to the General Assembly, is dealt with in chap. VI, part I, sect. E.

¹⁶⁶ In connection with small arms, see S/PRST/2004/1; S/PRST/2005/7; and S/PRST/2007/24. In connection with children and armed conflict, see resolutions 1539 (2004), fifth preambular paragraph; and 1612 (2005), sixth preambular paragraph; and S/PRST/2006/48. In connection with United Nations peacekeeping operations, see S/PRST/2004/16. In connection with cooperation between the United Nations and regional

organizations in stabilization processes, see S/PRST/2004/27. In connection with the institutional relationship with the African Union, see S/PRST/2004/44. In connection with the maintenance of international peace and security: the role of the Security Council in humanitarian crises — challenges, lessons learned and the way ahead, see S/PRST/2005/30. In connection with threats to international peace and security, see resolutions 1624 (2005), third preambular paragraph; and 1625 (2005), annex, third preambular paragraph. In connection with cooperation between the United Nations and regional organizations in maintaining international peace and security, see resolution 1631 (2005), sixth preambular paragraph; and S/PRST/2006/39. In connection with protection of civilians in armed conflict, see resolutions 1674 (2006), tenth preambular paragraph; and 1738 (2006), first preambular paragraph. In connection with non-proliferation, see resolutions 1696 (2006), ninth preambular paragraph; 1737 (2006), ninth preambular paragraph; and 1747 (2007), ninth preambular paragraph. In connection with relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security, see S/PRST/2007/7. In connection with maintenance of international peace and security, see S/PRST/2007/22; and S/PRST/2007/31. In connection with women and peace and security, see S/PRST/2007/40. In connection with the role of regional and subregional organizations in the maintenance of international peace and security, see S/PRST/2007/42.

¹⁶⁷ See resolutions 1535 (2004), third preambular paragraph; 1611 (2005), para. 4; and 1618 (2005), para. 8; S/PRST/2004/14; S/PRST/2004/31; S/PRST/2005/36; S/PRST/2005/45; S/PRST/2005/53; S/PRST/2005/55; S/PRST/2006/18; S/PRST/2006/29; S/PRST/2006/30; S/PRST/2006/56; S/PRST/2007/10; S/PRST/2007/11; S/PRST/2007/26; S/PRST/2007/32; S/PRST/2007/36; S/PRST/2007/39; S/PRST/2007/45; and S/PRST/2007/50.

recalled its primary responsibility for the maintenance of international peace and security and considered post-conflict peacebuilding closely linked to its primary responsibilities.¹⁶⁸ In connection with threats to international peace and security, the Council, welcoming the newly-appointed Secretary-General, committed itself to work closely and in a focused and action-oriented manner with him in order to better address the multifaceted and interconnected challenges and threats confronting the world, “within its primary responsibility for the maintenance of international peace and security, as provided for in the Charter”.¹⁶⁹ In connection with the item entitled “Maintenance of international peace and security: role of the Security Council in supporting security sector reform”, in acknowledging the need for a comprehensive report of the Secretary-General on United Nations approaches to security sector reform, the Council expressed its readiness to consider such a report “within the scope of its prerogatives” under the Charter.¹⁷⁰ In connection with the item entitled “Letter dated 4 July 2006 from the Permanent Representative of Japan to the United Nations addressed to the President of the Security Council”,¹⁷¹ the Council adopted resolution 1695 (2006), “acting under its special responsibility for the maintenance of international peace and security”.¹⁷²

During the period under review, explicit references to Article 24 were found in several communications.¹⁷³

¹⁶⁸ S/PRST/2005/20.

¹⁶⁹ S/PRST/2007/1.

¹⁷⁰ S/PRST/2007/3.

¹⁷¹ S/2006/481.

¹⁷² Resolution 1695 (2006), thirteenth preambular paragraph.

¹⁷³ See the following letters, addressed to the President of the Council unless otherwise indicated: letters dated 3 and 15 February 2006 from the representative of Malaysia (S/2006/85 and S/2006/111); letter dated 17 February 2006 from the representative of South Africa (S/2006/113); letters dated 29 September 2006, 8 December 2006 and 19 January 2007 from the representative of Cuba (S/2006/781, S/2006/969 and S/2007/31); letter dated 23 December 2006 from the representative of the Islamic Republic of Iran (S/2006/1024); letter dated 19 February 2004 from the representative of Finland (S/2004/135); letter dated 1 August 2006 from the representative of Malaysia to the Secretary-General (S/2006/718); letter dated 19 September 2006 from the representative of Cuba to the Secretary-General (S/2006/780); and identical letters dated 19 December 2006 from the representative of the Islamic Republic of Iran to the Secretary-General and the President of the Council (S/2006/1008).

Explicit references to Article 24 were also made on several occasions in proceedings of the Council.¹⁷⁴ At the 5246th meeting, on 4 August 2005, in connection with threats to international peace and security caused by terrorist acts, following the unanimous adoption of resolution 1618 (2005), the representative of Iraq declared that the Council had spoken with one voice on an issue that was at the core of its functions, powers and responsibilities as specified in Article 24 of the Charter, namely, peace and security. In doing so, he held, the Council was acting, as the Article stated, on behalf of all Member States.¹⁷⁵

In order to illustrate the interpretation and application of Article 24 by the Council, the following six cases were drawn from deliberations of the Council on its role and responsibilities under the Charter. The case covering a geographical situation precedes the cases covering thematic issues, the latter arranged chronologically. Case 12, concerning the situation in Myanmar, presents the discussion with respect to the

¹⁷⁴ In connection with cooperation between the United Nations and regional organizations in stabilization processes, see S/PV.5007 (Resumption 1), p. 11 (Chair of the African Union). In connection with the situation in the Middle East, see S/PV.5028, p. 6 (Pakistan). In connection with threats to international peace and security caused by terrorist acts, see S/PV.5053, p. 9 (Benin) and S/PV.5246, p. 7 (Iraq). In connection with small arms, see S/PV.5127, p. 32 (Egypt). In connection with the situation in the Middle East, including the Palestinian question, see S/PV.5230 (Resumption 1), p. 12 (Malaysia). In connection with strengthening international law: rule of law and maintenance of international peace and security, see S/PV.5474, p. 20 (Argentina); and pp. 29 and 31 (Mexico); and S/PV.5474 (Resumption 1), p. 16 (Venezuela, Bolivarian Republic of). In connection with children and armed conflict, see S/PV.5494 (Resumption 1), p. 3 (San Marino). In connection with non-proliferation, see S/PV.5612, pp. 9 and 12 (Islamic Republic of Iran). In connection with the situation in Myanmar, see S/PV.5619, p. 10 (Myanmar). In connection with relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security, see S/PV.5649 (Resumption 1), p. 4 (Uganda); and p. 17 (Rwanda). In connection with letter dated 5 April 2007 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/2007/186), see S/PV.5663 (Resumption 1), p. 27 (Cuba, on behalf of the Non-Aligned Movement).

¹⁷⁵ S/PV.5246, pp. 6-7.

Council's legitimacy in being seized of the issue. Case 13 features the debate under the item entitled "Non-proliferation of weapons of mass destruction" leading to the adoption of resolution 1540 (2004). Case 14 features the debate under the item entitled "United Nations peacekeeping operations" relating to the Council's role in dealing with matters such as procurement. Case 15, concerning the item entitled "Strengthening international law: rule of law and maintenance of international peace and security", illustrates the discussion among Member States regarding the appropriateness of the legislative role of the Security Council according to Article 24 of the Charter. Cases 16 and 17 deal with the items entitled "Letter dated 5 April 2007 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/2007/186)" and "Maintenance of international peace and security", respectively. In those cases, speakers debated the mandate of the Security Council in considering the topics of climate change and natural resources, respectively.

Case 12

The situation in Myanmar

At its 5619th meeting, on 12 January 2007, owing to the negative votes of permanent members,¹⁷⁶ the Council failed to adopt a draft resolution,¹⁷⁷ by which it would have, *inter alia*, called on the Government of Myanmar to begin without delay a substantive political dialogue leading to a genuine democratic transition, cease military attacks against civilians in ethnic minority regions and put an end to the associated human rights and humanitarian law violations.

The representative of China held that, since various United Nations agencies had already held discussions on the Myanmar issue, and given that the primary responsibility entrusted by the Charter to the Council was to maintain world peace and security, and that the matter was mainly the internal affair of a sovereign State which did not constitute a threat to international or regional peace and security, there was no need for the Council to get involved or to take

action. In the event that the Council took action on the issue of Myanmar, he believed that the Council would not only exceed its mandate, but also hinder discussions by other relevant United Nations agencies and bring no benefit to the Secretary-General's good offices efforts.¹⁷⁸ The representative of the Russian Federation pointed out that the problems in Myanmar mentioned in the draft resolution were being considered within the framework of other bodies of the United Nations system, such as the General Assembly and the Human Rights Council. In his view, duplication of their efforts by the Security Council would be counterproductive and would not facilitate the division of labour between the main bodies of the Organization, as provided for in the Charter, or the development of their constructive cooperation. He further deemed "unacceptable" any attempt to use the Security Council to discuss issues outside its purview.¹⁷⁹

The representative of South Africa insisted that the draft resolution did not fit with the mandate conferred by the Charter upon the Council. He also stated that the matter would be best left to the Human Rights Council. Should the Security Council adopt the draft resolution, it would mean that the Human Rights Council would be unable to address the matter while the Security Council remained seized with the issue.¹⁸⁰ The representative of Qatar strongly believed that the Organization should continue to help Myanmar to overcome its internal problems through such competent organs as the Third Committee of the General Assembly, the Economic and Social Council and the Human Rights Council. In his view, for the efforts of those organs to be fruitful, carried out correctly and without duplication or starting from scratch, an organ such as the Security Council should not encroach on the competences of other organs, given that it shouldered tremendous responsibilities in the area of international peace and security. He concluded that the Council's resources should be directed towards resolving problems of international peace and security, and that the Council should not create a precedent that could have negative consequences for international relations.¹⁸¹ The representative of the Congo also

¹⁷⁶ There were 9 votes in favour, 3 against (China, Russian Federation, South Africa) and 3 abstentions (Congo, Indonesia, Qatar) (see S/PV.5619, p. 6).

¹⁷⁷ S/2007/14.

¹⁷⁸ S/PV.5619, p. 3.

¹⁷⁹ *Ibid.*, p. 6.

¹⁸⁰ *Ibid.*, pp. 3-4.

¹⁸¹ *Ibid.*, pp. 5-6.

deemed that the matter fell under the purview of other United Nations bodies than the Security Council.¹⁸²

The representative of Indonesia maintained that there were other bodies in the United Nations, such as the Human Rights Council, that were “more appropriate” venues for addressing the problem of Myanmar. While recognizing that the issue of Myanmar had become not just a bilateral or regional issue but an international one, he said that it was a matter of principle to consider whether a resolution of the Council would be effective in addressing the problem, or whether the Council was the appropriate body to address the issue.¹⁸³

Expressing disappointment at the failure of the Council to adopt the draft resolution and attributing it to the disagreement among Council members regarding the competence of the Council, the representative of the United Kingdom declared that the issue was within the responsibilities of the Council. While acknowledging that the Council did not claim an exclusive interest, as other organs of the United Nations had a key role to play in tackling the problems affecting Myanmar, he urged the Council, for its part, to continue to monitor the situation in Myanmar, which was not an impediment to the issue being considered by any other entity of the United Nations.¹⁸⁴ The representative of Belgium considered that the Council was legitimately seized of the question of Myanmar.¹⁸⁵ The representative of France said that the situation in that country called for the international community’s serious concern with respect to important aspects of the Council’s responsibilities.¹⁸⁶

The representative of Panama noted that his country had assumed its seat on the Council with a view to acting on behalf of and for the Member States with respect to the maintenance of international peace and security. He opined that the topic actually being addressed far transcended the situation in Myanmar, being in fact the functions and mandate of the Security Council, specifically its capacity to act preventively. Being aware that important changes had occurred in the international situation since the Charter had been adopted, he stressed the need, in the face of new

realities, for a discussion on the functions of various bodies of the United Nations, and of the Security Council in particular. He hoped that such discussions would lead to the development of an understanding that all of those bodies should act as part of a whole and not in a segregated and individual fashion.¹⁸⁷

The representative of Myanmar, for his part, declared that under Article 24 of the Charter, Member States had conferred upon the Council the primary responsibility for maintenance of international peace and security. He pointed out that there were many issues that deserved, even demanded, the immediate attention of the Council. In his view, Myanmar was “by no stretch of the imagination” among them. He stressed that, had the draft resolution been adopted, it would have created a dangerous precedent and would have clearly exceeded the mandate given by the Charter to the Council, undermining the Council’s authority and legality.¹⁸⁸

Case 13

Non-proliferation of weapons of mass destruction

At its 4950th meeting, on 22 April 2004, the Council held an open debate in connection with a draft resolution concerning the non-proliferation of weapons of mass destruction.¹⁸⁹ Noting that the mandate conferred upon it by the Charter entitled the Council to play the leading role in the global fight against terrorism, the representative of Angola, echoed by the representative of Romania, welcomed the Council’s decision to consider the adoption of a resolution on the non-proliferation of weapons of mass destruction. In his view, the draft resolution addressed a widely felt urgency to fill the existing gap in international law relating to the non-proliferation regimes and preventing weapons of mass destruction from falling into the hands of non-State actors.¹⁹⁰

The representative of the United Kingdom held that, in the face of the urgent threat of weapons of mass destruction falling into the hands of terrorists and other non-State actors, only the Council could act with the necessary speed and authority. He stressed that it was not only “appropriate” for the Council to act, but

¹⁸² *Ibid.*, p. 8.

¹⁸³ *Ibid.*, pp. 4-5.

¹⁸⁴ *Ibid.*, p. 7.

¹⁸⁵ *Ibid.*, p. 8.

¹⁸⁶ *Ibid.*, p. 9.

¹⁸⁷ *Ibid.*, p. 9.

¹⁸⁸ *Ibid.*, p. 10.

¹⁸⁹ Not issued as a document of the Council.

¹⁹⁰ S/PV.4950, p. 9 (Angola); and pp. 13-14 (Romania).

“imperative” that it did so.¹⁹¹ Similarly, the representative of the Russian Federation expressed the belief that the Council was not only entitled but also obligated to take appropriate measures in the area of international security and stressed that the draft resolution under consideration was not an exception in that respect, citing as an example resolution 984 (1995), which provided for security assurances in the case of an attack on States, including with the use of nuclear weapons.¹⁹² The representative of Sweden recalled that his Government had consistently advocated that a strong and central role be given to the Council in addressing threats to international peace and security posed by weapons of mass destruction. He consequently considered it both timely and proper that the Council, as the body with the main responsibility for the maintenance of international peace and security, was addressing questions related to the proliferation of weapons of mass destruction in a comprehensive manner.¹⁹³ The representative of Australia maintained that, as a clear threat to international peace and security, proliferation of weapons of mass destruction fell within the Council’s mandate. Recalling the presidential statement of 31 January 1992,¹⁹⁴ by which the Council had recognized the threat posed by the proliferation of all weapons of mass destruction to international peace and security, he deemed it entirely appropriate and consistent with its mandate to maintain international peace and security that the Council dealt with the issue.¹⁹⁵

The representative of Liechtenstein affirmed that open debates constituted an important means of enabling the Council to hear the views of other Member States and thus to act truly on their behalf, as foreseen in the Charter. Such an approach, in his view, was of particular importance when the Council tackled, on an exceptional basis, issues in the area of standard-setting and lawmaking, as was the case with the issue of proliferation of weapons of mass destruction.¹⁹⁶

While welcoming the fact that the Council was addressing the dangers posed by the proliferation of weapons of mass destruction, the representative of Norway expressed the belief that the General Assembly

had an important role to play in all non-proliferation efforts.¹⁹⁷ The representative of Namibia observed that, under the existing international law regime, which recognized the sovereignty of States, the affected States should take part in the negotiation of any measure that sought to impose obligations over and above existing treaties and conventions, and hence stressed that the issue under consideration should be discussed in the General Assembly.¹⁹⁸ Expressing concern over the “increasing tendency” of the Council to assume “new and wider powers of legislation” on behalf of the international community, with its resolutions binding on all States, the representative of India drew attention to the fact that the exercise of legislative functions by the Council, combined with the recourse to Chapter VII mandates, could disrupt the balance of power between the General Assembly and the Security Council, as enshrined in the Charter.¹⁹⁹

Several speakers were of the view that, in principle, legislative obligations should be established through multinational negotiations. Given the urgency of the matter, the Council could assume a treaty-making or legislative function in exceptional circumstances, but it should do so with caution.²⁰⁰ According to the representative of Algeria, in the absence of international binding standards and because of the seriousness and urgent nature of the threat, the response to it needed to be articulated and formulated by the Council. He maintained that the Council was acting in an exceptional manner, since the Charter did not give it a mandate to legislate on behalf of the international community, but simply gave it the principal responsibility for the maintenance of international peace and security.²⁰¹

The representative of Mexico expressed concern over not only the proliferation of parallel regimes to those already established, using channels outside the norms of existing treaties, but also the growing trend whereby the Council sought to legislate, particularly with regard to issues that had their own regime of

¹⁹¹ Ibid., p. 11.

¹⁹² Ibid., p. 16.

¹⁹³ Ibid., p. 27.

¹⁹⁴ S/23500.

¹⁹⁵ S/PV.4950 (Resumption 1), p. 7.

¹⁹⁶ Ibid., pp. 11-12.

¹⁹⁷ Ibid., p. 6.

¹⁹⁸ Ibid., p. 17.

¹⁹⁹ S/PV.4950, p. 23.

²⁰⁰ Ibid., p. 5 (Algeria); p. 25 (Singapore); p. 28 (Japan, Switzerland); S/PV.4950 (Resumption 1), p. 8 (Republic of Korea); and p. 11 (Jordan).

²⁰¹ S/PV.4950, p. 5.

rights and obligations, even if they were incomplete when it came to non-State actors.²⁰²

In reference to the question whether the Council had the right to prescribe legislative action, the representative of Pakistan pointed out that existing treaties, such as the Treaty on the Non-Proliferation of Nuclear Weapons, already stipulated most of the legislation that would cover proliferation by both State and non-State actors. He argued that the Council, comprising five nuclear powers with the right to “veto”, was not the most appropriate body to be entrusted with the authority for oversight over non-proliferation or nuclear disarmament.²⁰³ Similarly, the representative of Cuba expressed concern that the Council, a body known to be of limited composition and in which some members had the right of veto, had taken the initiative to prepare a draft resolution on a subject which, in his view, should be considered in the framework of the traditional multilateral disarmament setting, where the appropriate space existed for negotiating a legally binding instrument.²⁰⁴

The representative of Indonesia said he believed that any far-reaching assumption of authority by the Council to enact global legislation was not consistent with the Charter, and therefore insisted on the necessity of involving all States in the negotiating process towards the establishment of international norms on the issue.²⁰⁵ The representative of the Islamic Republic of Iran stated that the draft resolution represented a “clear manifestation” of the Council’s departure from its Charter-based mandate, as the Charter did not confer authority on the Council to act as a global legislature imposing obligations on States without their participation in the process.²⁰⁶ Noting a growing trend towards granting the Council additional legislative powers, the representative of Egypt insisted that the Charter did not give the Council such legislative authority, but only the power to safeguard the Charter and to monitor compliance with its provisions.²⁰⁷ Holding that the Council lacked competence in making treaties, the representative of Nepal expressed concern that, by the draft resolution under consideration, the Council sought to establish something tantamount to a

treaty by fiat, an approach which was likely to undermine the intergovernmental treaty-making process and implementation mechanisms. To ensure the support of the broader membership needed for maintaining international peace and security, he argued that the Council should work within its mandate and be seen to be doing so. He said that the Council should resist the temptation of acting as a “world legislature, a world administration and a world court rolled into one”.²⁰⁸

At its 4956th meeting, on 28 April 2004, the Council adopted resolution 1540 (2004), by which, affirming its resolve to take appropriate and effective action against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the Charter, and acting under Chapter VII of the Charter, the Council decided that all States should refrain from providing any form of support to non-State actors that attempted to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.²⁰⁹

The representative of France stated that, with regard to proliferation, the Council drew its legitimacy to act from the Charter, since the proliferation of weapons of mass destruction and their means of delivery constituted a threat to international peace and security.²¹⁰ The representative of Romania held that, with the adoption of resolution 1540 (2004), the Council had lived up to its responsibilities: addressing one of the most ominous challenges to international peace and security.²¹¹

Case 14

United Nations peacekeeping operations

By letters dated 3 and 15 February 2006 to the President of the Security Council, the representative of Malaysia, on behalf of the Non-Aligned Movement, transmitted the principled position of the Movement concerning to the relationship between the Security Council and other principal organs of the United

²⁰² S/PV.4950 (Resumption 1), p. 5.

²⁰³ S/PV.4950, p. 15.

²⁰⁴ *Ibid.*, p. 30.

²⁰⁵ *Ibid.*, p. 31.

²⁰⁶ *Ibid.*, p. 32.

²⁰⁷ S/PV.4950 (Resumption 1), p. 3.

²⁰⁸ *Ibid.*, p. 14.

²⁰⁹ Resolution 1540 (2004), fourth preambular paragraph and para. 1.

²¹⁰ S/PV.4956, p. 2.

²¹¹ *Ibid.*, p. 9.

Nations, in particular the General Assembly. By those letters, the Non-Aligned Movement reiterated its concern over the continuing encroachment by the Council on the functions and powers of the General Assembly and the Economic and Social Council through addressing issues which traditionally fell within the competence of the latter organs, and the exercise by the Council of norm-setting and establishment of definitions, which fell within the purview of the General Assembly, citing Article 24 of the Charter. The Non-Aligned Movement also stressed the accountability of the Security Council to the General Assembly, consistent with that Article.²¹²

Similarly, by a letter dated 17 February 2006 to the President, the representative of South Africa, on behalf of the Group of 77 and China, expressed concern over the continuing encroachment by the Council on the functions and powers of the General Assembly and the Economic and Social Council, stating that for the Council to discuss such matters as procurement was contrary to Article 24 of the Charter.²¹³

At the 5376th meeting, on 22 February 2006, the Chef de Cabinet of the Executive Office of the Secretary-General, in his briefing on the recent audit by the Office of Internal Oversight Services of peacekeeping procurement and the actions taken to improve the procurement system, recognized that the issue was of interest to the Council, while stressing the leading role of the General Assembly in those matters.²¹⁴

Following the briefing, several representatives held the view that issues involving the use of peacekeeping funds in procurement management belonged to the General Assembly.²¹⁵ The representative of China observed that, while the Council had primary responsibility in matters regarding the deployment, extension and conclusion of peacekeeping operations and the defining of their mandates and scale, issues involving the use of peacekeeping funds in procurement management belonged to the General Assembly and its subsidiary

organs, in keeping with the principle of division of labour among United Nations bodies, which helped all entities to play their proper roles, prevent duplication and facilitate mutual oversight.²¹⁶ Noting that the General Assembly was in fact actively seized of the subject, the representative of Sierra Leone, speaking on behalf of the Group of African States, viewed the debate as an encroachment on the authority of the General Assembly.²¹⁷

Speaking on behalf of the Group of 77 and China, the representative of South Africa noted that the Council was not the forum for discussing matters that fell within the purview of the General Assembly. Recalling that the Charter clearly set out that the General Assembly was the chief deliberative, policy-making and representative organ of the United Nations, he expressed concern over the encroachment by the Council on the functions and powers of the General Assembly and the Economic and Social Council. In his view, by discussing such matters as procurement, the Council was infringing on issues that traditionally fell outside of its competence and assuming for itself norm-setting powers that were solely within the purview of the General Assembly, which was contrary to Article 24 of the Charter. He held that the debate undermined the General Assembly, particularly the oversight functions that belonged to all Member States.²¹⁸

The representative of Malaysia, speaking on behalf of the Non-Aligned Movement, stated that not only was it inappropriate for the Council to discuss the issues of oversight and management, which were the functions of the General Assembly, but it was even more inappropriate to have such a discussion based on a report that had been mandated by the General Assembly. While mindful of the multifaceted and multidisciplinary character of the mandates of the peacekeeping operations sanctioned by the Council and bearing in mind Article 24 of the Charter, the representative strongly affirmed that the Council was not given the competence to address issues which fell within the functions and powers of the General Assembly and the Economic and Social Council and cautioned about the danger of encroachment by the Council on issues which clearly fell within the functions and powers of the General Assembly and its

²¹² S/2006/85 and S/2006/111.

²¹³ S/2006/113.

²¹⁴ S/PV.5376, p. 2.

²¹⁵ *Ibid.*, p. 8 (China); p. 10 (Argentina); p. 15 (Ghana); and p. 24 (Sierra Leone, on behalf of the Group of African States).

²¹⁶ *Ibid.*, p. 8.

²¹⁷ *Ibid.*, p. 24.

²¹⁸ *Ibid.*, pp. 21-22.

subsidiary bodies. Underlining the need for full respect for the functions and powers of the principal organs of the Organization and for maintaining the balance among them within their respective powers in accordance with the Charter, he insisted on the need for Member States, in respecting and upholding the Charter, to stop any attempt to shift issues from the agenda of the General Assembly and the Economic and Social Council to the Council.²¹⁹

Noting that the report of the Office of Internal Oversight Services had been initiated by the General Assembly, the representative of the United Republic of Tanzania considered it only fair that the organ that had mandated the report should experience a sense of dispossession when it was not the first in line to examine and pronounce itself on the report. In his view, the initiatives of the Security Council and the General Assembly should be complementary in addressing the issues raised by the report.²²⁰

On the other hand, while stressing that there could be no substitute for systematic consideration and action by the General Assembly and its subsidiary bodies which dealt with the management of, and resources for, United Nations peacekeeping, the representative of the United Kingdom pointed out that the Council was responsible for the mandates of United Nations peacekeepers and needed to understand the challenges and shortcomings of peacekeeping in the field and at Headquarters in order to deliver effective mandates. He further believed that it was incumbent not just on the General Assembly and its subsidiary bodies but also on the Council to follow the discussion, to consider any appropriate recommendations and to reflect the lessons learned in designing future mandates.²²¹ The representative of Japan declared that the issue under consideration fell clearly under the purview of the Council, as the organ responsible for the creation of the mandates of United Nations peacekeeping operations and for their overall oversight, and therefore supported the Council's taking up the issue. Noting that the issues of management, budget and procurement had generally been the prerogative of the General Assembly, as the chief deliberative and representative organ of the United Nations, he believed that the two bodies needed to work with a sense of urgency, by complementing each

other and ensuring coherence in the overall approach to the matter.²²² The representative of the United States pointed out that, given the Council's clear responsibility under the Charter for creating, supervising and terminating peacekeeping operations, the legitimacy of the open briefing could not be doubted. He added that, as a whole, the Security Council bore responsibility, along with the Secretariat, to ensure that United Nations peacekeeping operations were undertaken in the most efficient and transparent manner possible.²²³ The representative of France held that the General Assembly clearly had an important part to play in monitoring peacekeeping operations and counted on the General Assembly to complete and follow up on the reports it had requested. At the same time, he stressed that, as the body which had the responsibility for international peace and security, the Council, too, was set up to examine such questions and could not remain aloof from the material conditions surrounding its mission.²²⁴ The representative of Peru observed that the consideration of the management of peacekeeping operations was already a practice of the Council and insisted that such practice did not ignore the fact that the General Assembly was the principal organ considering the issue. Furthermore, he noted that, to ensure that peacekeeping operations were effective, the Council was "duty-bound" to review its management and any abuses, irregularities or corruption that might have occurred.²²⁵

Case 15

Strengthening international law: rule of law and maintenance of international peace and security

By a letter dated 7 June 2006 to the Secretary-General, in preparation for the open debate on strengthening international law, the representative of Denmark expressed the view that the Security Council, in the previous decade, had increasingly resorted to legal mechanisms in fulfilling its responsibilities. While recognizing the important role of the General Assembly in the progressive development of international law, she underlined that the objective of the debate was to consider the Council's particular role in promoting international law and to discuss the legal

²¹⁹ Ibid., pp. 25-26.

²²⁰ Ibid., p. 17.

²²¹ Ibid., pp. 18-19.

²²² Ibid., p. 9.

²²³ Ibid., p. 19.

²²⁴ Ibid., p. 6.

²²⁵ Ibid., p. 11.

tools applied by the Council in its endeavours to maintain international peace and security.²²⁶

At the 5474th meeting, on 22 June 2006, the President, speaking in his capacity as the representative of Denmark, declared that the Council was a political body with far-reaching powers to maintain and restore international peace and security and yet operated within a legal framework set out by the Charter. He emphasized that, more than ever before, the Council's legitimacy and credibility rested on its explicit commitment to operate within the framework and in the furtherance of international law.²²⁷

The representative of the Russian Federation held that promoting the rule of law in international relations was the cornerstone of any lasting system of collective security, in which the United Nations, the General Assembly and the Security Council played a key role. He further recalled that in the recent past the Council's legislative activities had influenced the establishment and interpretation of international legal norms. He pointed to the Council's decisions to establish ad hoc international tribunals and to impose measures to counteract terrorism and the proliferation of weapons of mass destruction. In his view, those innovations in the Council's work, as the body with the main responsibility for the maintenance of international peace and security, merited the attention of legal experts.²²⁸

While acknowledging that the Council acted on behalf of all Member States pursuant to Article 24 of the Charter, the representative of Argentina pointed out the perceptions that existed among Member States outside of the Council that the Council had decided at times to act as a "global judge and legislature".²²⁹

The representative of Mexico insisted that the Council should refrain from taking decisions of a legislative nature, which fell under the purview of the General Assembly, as provided for under Article 13 of the Charter. Given the far-reaching nature of the responsibilities entrusted to the Council by the Charter and the fact that the Council acted on behalf of all Member States, he deemed that respecting the "limits imposed by the Charter" was more important for the Council than for any other organ. He suggested that the

Council should instead encourage the General Assembly to codify and develop international law whenever it believed that the legal framework in force was not adequate to cope with threats to international peace and security. He recalled that his country had expressed serious objections about the power of the Council to establish jurisdictional bodies when the General Assembly had set for itself the task of negotiating the Rome Statute for the International Criminal Court, in order to end the establishment of ad hoc tribunals by the Council. He urged the Council to involve the General Assembly more closely in its work and underlined that a restrictive interpretation of the competency of the Council on the basis of Article 12 of the Charter was no longer appropriate. He believed that both organs had "concurrent competencies" in all matters relating to the maintenance of international peace and security. He referred to the advisory opinion of the International Court of Justice, which stipulated that Article 24 conferred primary "but not necessarily exclusive" responsibility on the Council in that regard.²³⁰ Similarly, the representative of Sierra Leone stated that, while the Council had primary responsibility for the maintenance of international peace and security, strengthening international law was not the exclusive domain of the Security Council, as the General Assembly and its organs had an important role to play in that respect.²³¹

The representative of the Bolivarian Republic of Venezuela held that the Council's action in strengthening international law should complement the "leading role" played by the General Assembly, given the strengths of the General Assembly as a deliberative, legislative, democratic and representative organ of the Organization. Bearing in mind that the Council's competencies were derived from the Charter, which had been agreed among Member States and served as a constitutional framework for the Organization, she underlined that the Council had to act in strict conformity with the Charter in carrying out its functions. She argued that Article 24 of the Charter did not necessarily provide the Council with the competency to address issues that corresponded to the functions and powers of the General Assembly or the Economic and Social Council, including the establishment of rules, legislation and definitions. Since the General Assembly had the main

²²⁶ S/2006/367.

²²⁷ S/PV.5474, p. 3.

²²⁸ *Ibid.*, p. 16.

²²⁹ *Ibid.*, p. 20.

²³⁰ *Ibid.*, p. 31.

²³¹ S/PV.5474 (Resumption 1), p. 2.

responsibility for the progressive development and codification of international law, she believed that the Council should avoid the practice of using its authority to impose legislative requirements on Member States or assuming powers that could be considered a “usurpation” of the competencies of the General Assembly.²³²

Case 16

Letter dated 5 April 2007 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

By a letter dated 5 April 2007 to the President of the Security Council, the representative of the United Kingdom transmitted a concept paper for the proposed open debate on the security implications of climate change, including through its impact on potential drivers of conflict, indicating that no international forum had yet addressed those issues from that perspective. He stressed that a Security Council discussion would therefore make a useful initial contribution, while recognizing that it was for other United Nations bodies, in particular the United Nations Framework Convention on Climate Change, to pursue aspects of climate change that were not within the mandate of the Council.²³³

At the 5663rd meeting, on 17 April 2007, the President, speaking in her capacity as the representative of the United Kingdom, referred to the responsibility of the Security Council to maintain international peace and security, which included the prevention of conflict, and noted that an unstable climate would exacerbate some of the core drivers of conflict, such as migratory pressures and competition for resources. She emphasized the importance of recognizing the existence of a “security imperative”, as well as economic, developmental and environmental ones, for tackling climate change. She further indicated that the debate did not intend to seek to pre-empt the authorities of those institutions and processes where action was being decided, including the General Assembly, the Economic and Social Council and its subsidiary bodies.²³⁴

²³² Ibid., pp. 15-16.

²³³ S/2007/186.

²³⁴ S/PV.5663, p. 2.

Several speakers concurred that the Council had the responsibility to discuss the issue.²³⁵ The representative of Germany held that while the Council usually dealt with more imminent threats to international peace and security than those caused by climate change, less obvious and more distant drivers of conflict should not be neglected. He also said that there was a clear linkage between climate change and the need for conflict prevention, one of the central tasks of the Council.²³⁶ Similarly, the representative of the Netherlands emphasized the need for the Council to look “beyond the horizon” of existing conflicts to explore the challenges and threats to security that the future might bring. Using the impact of HIV/AIDS on peace and security in Africa as an example, he opined that climate change might have far-reaching and potentially dramatic consequences for security in regions throughout the world.²³⁷ The representative of Papua New Guinea stated that the debate in the Council suggested that, in addition to forums such as the Commission on Sustainable Development, there were more avenues for discussing one of the most critical issues for the survival of Pacific island communities. In his opinion, the Council, charged with protecting human rights and the integrity and security of States, was the paramount international forum available to them. While he did not expect the Council to get involved in the details of the discussions on the Framework Convention on Climate Change, he hoped that the Council would keep the matter under continuous review so as to ensure the contribution of all countries to solving the climate change problem.²³⁸

With respect to the mandate and the role of the Security Council vis-à-vis the issue of climate change, the representative of Slovakia was of the view that, notwithstanding what the other forums, including the General Assembly, had already dealt with, the Council was well positioned to incorporate the new dimension of threat perception into its considerations and ad hoc discussions, “while remaining within its mandate”.²³⁹

²³⁵ Ibid., p. 4 (Slovakia); p. 7 (Ghana); p. 11 (France); p. 19 (Germany, on behalf of the European Union); p. 21 (Netherlands); p. 26 (Switzerland); pp. 28-29 (Papua New Guinea, on behalf of the small island developing States of the Pacific Islands Forum); and p. 29 (Japan); S/PV.5663 (Resumption 1), p. 24 (Norway).

²³⁶ S/PV.5663, p. 19.

²³⁷ Ibid., p. 21.

²³⁸ Ibid., pp. 28-29.

²³⁹ Ibid., p. 4.

The representative of France held that the Council was not the “number one forum” for dealing with the issue of climate change, pointing out the Framework Convention on Climate Change and the General Assembly had a central role to play. However, he argued that within its mandate the Council could not ignore the threats to international security caused by global warming.²⁴⁰ The representative of Switzerland expressed hope that the debate would provide an impetus in strengthening the coherence of the United Nations system in addressing the issue of climate change, in the framework of the General Assembly, the Economic and Social Council and other relevant bodies, including the Security Council.²⁴¹ Similarly, while expressing support for addressing the implications of climate change for the maintenance of peace and security in the Council, the representative of Norway indicated that the broader aspects of climate change were clearly an issue for the General Assembly.²⁴²

A number of speakers were more cautious about the involvement of the Security Council in the issue, given the existence of other forums for discussion within the United Nations system.²⁴³ The representative of Qatar held that the issue of threats emanating from climate change could not be addressed in debates limited exclusively to the Security Council. In his view, because of imbalances in its power hierarchy, the Council was “not the optimal mechanism” to address the question of climate change, which instead should be dealt with by the Commission on Sustainable Development, the Economic and Social Council and the General Assembly.²⁴⁴ The representative of China believed that discussing climate change in the Council would not help countries to find solutions to the problem. Instead, discussions on climate change should be conducted within a framework accessible to all parties. He further insisted that the current discussion be regarded as an exception, giving rise to neither outcome documents nor

follow-up actions.²⁴⁵ Although he acknowledged the urgency of the threats posed by climate change, the representative of Mexico warned that the possibility of conferring on the Council the responsibility to adopt preventive measures that were the purview of the specialized bodies would, among other things, erode the Council’s efficiency with regard to the maintenance of international peace and security.²⁴⁶ Pointing out that there were other appropriate international forums, such as the General Assembly and the Commission on Sustainable Development, in which the issue of climate change could be fully considered, the representative of the Russian Federation stressed that the Council should deal only with questions directly related to its mandate.²⁴⁷

The representative of Pakistan, speaking on behalf of the Group of 77 and China, expressed the view that, under the Charter, the Council’s primary responsibility was for the maintenance of international peace and security, while other issues such as economic and social development were assigned to the Economic and Social Council and the General Assembly. In his opinion, the “ever-increasing encroachment” by the Security Council on the roles and responsibilities of other principal organs not only represented a distortion of the principles and purposes of the Charter but also infringed on the authority of those organs and compromised the rights of the general membership of the United Nations. He added that responsibilities in the field of sustainable development, for which the issues of energy and climate change were vital, belonged to the General Assembly and the Economic and Social Council, while no role had been envisaged for the Security Council.²⁴⁸ Similarly, indicating that the subject of the debate lay within the mandate of other bodies in the United Nations, the representative of Egypt expressed concern over the “deliberate encroachment” by the Council on the mandates and primary responsibilities of other principal organs, which, in his view, reflected a “clear and deliberate neglect of the provisions of the Charter” and indifference to the “repeated demands of Member States to put an end to this dangerous and unjustified phenomenon”. He deemed that it was a “clear challenge” to the general membership of the United

²⁴⁰ *Ibid.*, p. 11.

²⁴¹ *Ibid.*, p. 26.

²⁴² S/PV.5663 (Resumption 1), p. 24.

²⁴³ S/PV.5663, pp. 9-10 (Qatar); pp. 12-13 (China); p. 14 (Indonesia); pp. 15-16 (South Africa); p. 17 (Russian Federation); and p. 24 (Pakistan, on behalf of the Group of 77 and China); S/PV.5663 (Resumption 1), pp. 4-5 (Egypt); p. 12 (Sudan, on behalf of the Group of African States); p. 27 (Cuba); and pp. 31-32 (Costa Rica).

²⁴⁴ S/PV.5663, p. 10.

²⁴⁵ *Ibid.*, p. 13.

²⁴⁶ S/PV.5663 (Resumption 1), p. 20.

²⁴⁷ S/PV.5663, p. 17.

²⁴⁸ *Ibid.*, p. 24.

Nations to leave open for every President of the Council to decide a theme for an open debate, particularly when the issue lay “totally beyond” the Council’s mandate.²⁴⁹ Speaking on behalf of the Non-Aligned Movement, the representative of Cuba cautioned against the continued and increasing encroachment by the Council on the functions and powers of the General Assembly, the Economic and Social Council and other organs. Referring to the Council’s mandate, as defined by Article 24, he held that the Council had to abide fully by all Charter provisions and maintained that the issue of climate change fell outside its competence.²⁵⁰ A number of speakers also considered that the debate on the issue of climate change did not fall within the Council’s mandate and constituted an encroachment by the Council on the mandates of other bodies.²⁵¹

Case 17

Maintenance of international peace and security

In a concept paper for an open debate on the link between natural resources and conflict, transmitted by a letter dated 6 June 2007 to the Secretary-General,²⁵² the representative of Belgium pointed out that the Security Council, having the primary responsibility for all questions related to peace and security, was already dealing with conflict situations linked to natural resources through its peacekeeping operations and sanctions. Stressing that improving the governance of natural resources in the absence of conflict was not the primary responsibility of the Council, he nonetheless asked whether the Council could encourage other existing initiatives to the extent that they had an impact on the maintenance of peace and security and whether there was a role for the Council in the early identification of situations in which issues related to natural resources could create a risk of conflict.

At the 5705th meeting, held on 25 June 2007²⁵³ in connection with the above-mentioned concept paper,²⁵⁴ the representative of Qatar opined that the

topic of natural resources did not fall within the competence and mandate of the Security Council, as set forth and defined by the Charter. Rather, the topic lay at the heart of the competence and mandates of the Economic and Social Council and the General Assembly. He argued that dealing with the topic in the Council infringed on the prerogatives of both of those bodies and undermined the democratic principles of the United Nations. He further disapproved of extending the authority of the Council to cover State resources by linking natural resources to issues of international peace and security.²⁵⁵

The representative of the Russian Federation maintained that the theme of the debate was so broad as to go beyond the competence of the Council and suggested that its further consideration should involve the relevant specialized bodies of the United Nations system, including those under the General Assembly.²⁵⁶ The representative of Brazil argued that the Council’s primary responsibility for the maintenance of international peace and security should not be invoked in general, abstract terms. He recalled that the Charter foresaw that issues relating to economic and social development, as was the case of natural resources, fell within the purview of the functions and powers of the General Assembly and the Economic and Social Council. He cautioned against an expansive interpretation of resolutions 1625 (2005), concerning the role of the Council in conflict prevention, and 1653 (2006), on the situation in the Great Lakes region. Such an approach, in his opinion, would undermine the roles and responsibilities of the other principal organs of the United Nations and risk not only distorting the application of the purposes and principles of the Organization, but also reinforcing the tendency to mistrust the intentions of the Security Council. Taking into account the global nature of the use of natural resources and its multiple dimensions, he held that any relevant international debate on the issue should take place in the General Assembly, as the forum of universal representation, and subsequently in the Economic and Social Council and their relevant subsidiary bodies. He concluded that the possible linkage between the exploitation of natural resources and conflict should be examined by the Security

²⁴⁹ S/PV.5663 (Resumption 1), pp. 4-5.

²⁵⁰ *Ibid.*, p. 27.

²⁵¹ S/PV.5663, pp. 15-16 (South Africa); S/PV.5663 (Resumption 1), p. 12 (Sudan, on behalf of the Group of African States); and pp. 31-32 (Costa Rica).

²⁵² S/2007/334.

²⁵³ See also chap. VI, part II, sect. B, case 11 (d).

²⁵⁴ S/2007/334.

²⁵⁵ S/PV.5705, p. 9.

²⁵⁶ *Ibid.*, p. 23.

Council only on a case-by-case basis and inasmuch as it might be relevant to a particular decision.²⁵⁷

The President of the General Assembly expressed the view that the various and complex aspects of the relationship between natural sources and conflict should be addressed through the collaboration of all organs, namely, the General Assembly, the Security Council and the Economic and Social Council.²⁵⁸ The representative of Italy opined that the debate provided a good opportunity for considering the theme of natural resources and conflict from the perspective of the Council, while stressing the importance of the role and experience of the General Assembly and the Economic and Social Council in that field.²⁵⁹ The representative of Egypt asserted that the link between natural resources and conflicts lay at the intersection of the prerogatives of the General Assembly and the Economic and Social Council, “on an equal footing” with the Security Council, each within the limits of its responsibilities as set forth in the Charter. Therefore, he was of the view that the matter should be addressed in all its aspects through full coordination and transparency among the three principal organs. Such an approach would ensure the complementarity of the efforts, as well as the effectiveness of international action to prevent the illegal exploitation of natural resources from inflaming conflicts and to orient the use of those resources towards sustainable development and peace.²⁶⁰

In contrast, the representative of Ghana considered it only appropriate for the Council, in discharging its responsibility for the maintenance of international peace and security, to focus on natural resources as one of the root causes of conflict.²⁶¹ The representative of the United Kingdom acknowledged that the transparent, well-regulated exploitation of natural resources was not the responsibility of the Council, but said that the Council was required to make an assessment of the role of natural resources in conflict, to discuss appropriate actions to take, and to examine the impact of missions themselves. Such action on the part of the Council, in his view, did not constitute Council encroachment.²⁶² The President,

speaking in his capacity as the representative of Belgium, made it clear that in discussing the issue, the Council was not attempting to provide any guardianship over efforts not related to its competencies and which were better placed with other national or international organs. However, he underlined that those initiatives had an impact on international peace and security, which was the primary responsibility of the Council. He added that the Council had a duty to promote awareness of the fact that security and development were linked and to encourage all actors involved in managing natural resources to bear that in mind. It was up to the Council to highlight the complementarity between those initiatives and its own actions and to encourage them so that they could contribute to peace.²⁶³

At the end of the meeting, the President read out a statement, in which the Council recalled the principles of the Charter, in particular the primary responsibility of the Council for the maintenance of international peace and security, and, in that respect, recognized the role that natural resources could play in armed conflict and post-conflict situations.²⁶⁴

B. 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

During the period under review, the Security Council did not adopt any decisions that explicitly invoked Article 25 of the Charter. The principle enshrined in Article 25 was however referred to in a number of resolutions and presidential statements primarily dealing with compliance with sanctions measures. In connection with the item entitled “General issues related to sanctions”, the Council emphasized the obligations placed upon all Member States to implement, in full, the mandatory measures adopted by the Security Council.²⁶⁵ In connection with

²⁵⁷ S/PV.5705 (Resumption 1), p. 2.

²⁵⁸ S/PV.5705, p. 5.

²⁵⁹ *Ibid.*, p. 19.

²⁶⁰ *Ibid.*, pp. 29-30.

²⁶¹ *Ibid.*, p. 13.

²⁶² *Ibid.*, p. 22.

²⁶³ *Ibid.*, p. 24.

²⁶⁴ S/PRST/2007/22.

²⁶⁵ Resolution 1699 (2006), sixth preambular paragraph.

the item entitled “Small arms”, by a presidential statement of 29 June 2007, the Council called upon all Member States to abide by their obligations to observe the arms embargoes established under relevant Council resolutions.²⁶⁶

There were a few instances in which Article 25 was explicitly cited in communications. In connection with the reports of the Secretary-General on the Sudan, in the report of the International Commission of Inquiry for Darfur,²⁶⁷ with regard to the Council’s referral of the case to the International Criminal Court, it was noted that the Council was the supreme body of the Organization and that all members of the United Nations were “bound by its decisions pursuant to Article 25 of the Charter”.²⁶⁸ There were also explicit references in connection with the item “Threats to international peace and security caused by terrorist acts”²⁶⁹ and in four resolutions of the Organization of the Islamic Conference in connection with the Middle East that were forwarded to the Security Council.²⁷⁰

Article 25 was explicitly invoked a number of times in the deliberations of the Council.²⁷¹ In many

instances, speakers considered the binding nature of Article 25 in comparison with resolutions adopted under Chapter VII. In connection with the item entitled “Strengthening international law: rule of law and maintenance of international peace and security”, speaking of the primary responsibility of the Council in the maintenance of international peace and security entrusted by the Charter, the representative of Mexico noted that his delegation did not customarily distinguish between decisions taken under Chapter VII of the Charter and those taken on the basis of Chapter VI as all the decisions of the Council were governed by Article 25 of the Charter and, given their substantive content, had a binding character for those to whom they were directed.²⁷² In discussing the establishment of a Special Tribunal for Lebanon,²⁷³ the representative of Qatar argued that the insistence of the sponsors to present the draft resolution²⁷⁴ under Chapter VII of the Charter, despite the fact that all Security Council resolutions were binding, in accordance with Article 25 of the Charter, went beyond the designated aim of endorsing the establishment of the Tribunal.²⁷⁵

In another case, a speaker offered an interpretation of Article 25 under “Briefings by Chairmen of subsidiary bodies of the Security Council”, in connection with the sanctions regime affecting Al-Qaida and the Taliban and related Council resolutions. The representative of Qatar argued that, while as a matter of principle Council resolutions were binding “by virtue of Article 25 of the Charter”, when the Council adopted its resolutions in accordance with Article 25, this meant that the Council performed its duties in accordance with the purposes and principles of the United Nations, as set out in Article 1 of the Charter, and specifically in accordance with the principles of justice and international law, human rights and fundamental freedoms for all.²⁷⁶

²⁶⁶ S/PRST/2007/24, eighth paragraph. For information on the binding nature of Chapter VII measures, see chap. XI, part VI.

²⁶⁷ For details about the Commission, established pursuant to resolution 1564 (2004), see chap. V, part I, sect. D.

²⁶⁸ See S/2005/60, para. 607; the report was transmitted to the Council by a letter dated 31 January 2005 from the Secretary-General to the President.

²⁶⁹ Letter dated 28 June 2006 from the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism to the President of the Security Council (S/2006/447).

²⁷⁰ See the following letters to the Secretary-General: letter dated 15 July 2004 from the representative of Turkey (S/2004/582); letter dated 25 July 2005 from the representative of Yemen (S/2005/522); letter dated 9 August 2006 from the representative of Azerbaijan (S/2006/650); and letter dated 30 May 2007 from the representative of Pakistan (S/2007/656).

²⁷¹ In connection with the situation in the Great Lakes region, see S/PV.5359, p. 13 (Botswana). In connection with strengthening international law: rule of law and maintenance of international peace and security, see S/PV.5474, p. 29 (Mexico). In connection with the situation in the Middle East, see S/PV.5685, p. 3 (Qatar). In connection with briefings by the Chairmen of subsidiary bodies of the Council, see S/PV.5779, p. 23 (Qatar). In connection with the non-proliferation of weapons of mass destruction, see S/PV.4950, p. 4 (Brazil); p. 5 (Algeria); and p. 34 (Syrian Arab Republic);

and S/PV.4950 (Resumption 1), p. 4 (Malaysia on behalf of the Non-Aligned Movement); p. 11 (Jordan); and p. 17 (Kuwait). In connection with non-proliferation, see S/PV.5500, p. 6 (China); and S/PV.5647, p. 10 (United States); and p. 16 (Islamic Republic of Iran).

²⁷² S/PV.5474, p. 29.

²⁷³ For more information on this case, see chap. VIII, sect. 33.D.

²⁷⁴ S/2007/315. The draft resolution was adopted as resolution 1757 (2007).

²⁷⁵ S/PV.5685, p. 3.

²⁷⁶ S/PV.5779, p. 23.

The cases which follow are drawn from deliberations of the Council on the interpretation of Article 25, in particular the binding nature of Security Council decisions in connection with the items entitled “Non-proliferation of weapons of mass destruction” (case 18) and “Non-proliferation” with regard to the Islamic Republic of Iran (case 19).

Case 18

Non-proliferation of weapons of mass destruction

At the 4950th meeting, on 22 April 2004, the representative of Brazil pointed out that the draft resolution under consideration,²⁷⁷ which sought to prevent the proliferation of weapons of mass destruction by non-State actors, had no need to invoke Chapter VII of the Charter, since Article 25 of the Charter provided that all decisions by the Security Council should be accepted and carried out by the States Members of the Organization.²⁷⁸ The representative of Algeria opined that, given that the Members of the United Nations would accept and implement the decisions the Council took in that area in accordance with Article 25, it seemed unnecessary for the Council to take action under Chapter VII of the Charter.²⁷⁹ The representative of Malaysia, speaking on behalf of the Non-Aligned Movement and echoed by the representative of the Syrian Arab Republic, observed that, while the Movement agreed that preventing non-State actors from acquiring weapons of mass destruction was an issue of paramount importance and was in line with efforts to address threats to international peace and security, that objective could still be achieved without resorting to Chapter VII. He maintained that the text of the draft resolution should conform to Article 25.²⁸⁰ The representative of Jordan, echoed by the representative of Kuwait, expressed the view that, since all Council resolutions were binding in accordance with Article 25, the value, validity and “binding effect” of any draft resolution to be adopted by the Council on the matter would not be

²⁷⁷ Not circulated as a document of the Council.

²⁷⁸ S/PV.4950, p. 4.

²⁷⁹ *Ibid.*, p. 5.

²⁸⁰ S/PV.4950, p. 34 (Syrian Arab Republic); S/PV.4950 (Resumption 1), p. 4 (Malaysia).

compromised if such a draft was not adopted under Chapter VII of the Charter.²⁸¹

On the other hand, the representative of Spain, echoed by the representative of the United States, stated that the draft resolution should be adopted within the framework of Chapter VII in order to “make it unequivocally legally binding for all United Nations Members” and to send a strong political message.²⁸² The representative of the United Kingdom noted that a Chapter VII legal base also underlined “the binding nature” of the requirement to establish sensible controls on weapons of mass destruction, which would give States the increased authority they needed to introduce robust domestic measures.²⁸³ The representative of New Zealand held that by placing the draft resolution under Chapter VII, the Council would send a clear signal of the importance it placed on the obligations in the draft resolution.²⁸⁴

Case 19

Non-proliferation (Islamic Republic of Iran)

At its 5500th meeting, on 31 July 2006, the Council adopted resolution 1696 (2006), by which, acting under Article 40 of Chapter VII of the Charter, it, *inter alia*, demanded that the Islamic Republic of Iran suspend all enrichment-related and reprocessing activities, including research and development, to be verified by the International Atomic Energy Agency.²⁸⁵

The representative of the United States stressed that the pursuit of nuclear weapons by the Islamic Republic of Iran demanded a clear statement from the Council in the form of a binding resolution and that his delegation expected the Islamic Republic of Iran and other Member States to immediately act in accordance with the mandatory obligations of the resolution.²⁸⁶

The representative of China maintained that according to Article 25 of the Charter, all Member States were obliged to accept and carry out Security Council resolutions. He said that his Government urged the Islamic Republic of Iran to practise restraint, attach

²⁸¹ S/PV.4950 (Resumption 1), p. 11 (Jordan); and p. 17 (Kuwait).

²⁸² S/PV.4950, p. 7 (Spain); and p. 17 (United States).

²⁸³ *Ibid.*, p. 12.

²⁸⁴ *Ibid.*, p. 21.

²⁸⁵ Resolution 1696 (2006), ninth preambular paragraph and para. 2.

²⁸⁶ S/PV.5500, p. 3.

importance to the extensive appeals and expectations of the international community, earnestly implement the requirements of the adopted resolution and make an early response to the package of proposals, so as to create conditions to increase trust and promote dialogue and negotiations.²⁸⁷

At its 5647th meeting, on 24 March 2007, the Council adopted resolution 1747 (2007), by which it affirmed its decision that the Islamic Republic of Iran should suspend all enrichment-related and processing activities, and imposed additional measures against the Islamic Republic of Iran to those imposed by resolution 1737 (2006).²⁸⁸

The representative of the United States observed that the unanimous adoption of resolution 1747 (2007) sent a clear and unambiguous message to the Islamic Republic of Iran that the regime's continued pursuit of a nuclear-weapons capability was in violation of its obligations as a State Member of the United Nations. He hoped that the presence of the delegation of the Islamic Republic of Iran at the meeting reflected its Government's understanding of the weight that should be attached to the decisions of the Council and the binding obligations that the Islamic Republic of Iran had as a Member of the Organization under Article 25 of the Charter to accept and carry out the decisions of the Security Council.²⁸⁹

In contrast, the representative of the Islamic Republic of Iran maintained that the decision by the Security Council to try to coerce his country into suspension of its peaceful nuclear programme was a gross violation of Article 25 of the Charter and contradicted the rights of the Iranian people to development and education. The representative further stressed that, while Member States had agreed, in accordance with Article 25, to accept and carry out the decisions of the Council in accordance with the Charter, the Council could not pressure countries to submit either to its decisions taken in bad faith or to demands that negated the fundamental purposes and principles of the Charter. He further argued that the

International Court of Justice had held in its 1971 Advisory Opinion that Member States were required to comply with Council decisions only if they were "in accordance with the Charter". He held that the Charter did not authorize the Security Council to require Member States to give up their basic rights emanating from treaties, as such action would violate the principles set forth in the preamble to the Charter.²⁹⁰

C. 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

During the reporting period, there was one occasion when Article 26 was explicitly referred to in the deliberations of the Security Council. At the 5127th meeting, on 17 February 2005, in connection with small arms, the representative of Costa Rica, questioning the existence of the political will of all Member States to regulate the international trade in weapons, argued that for the past five decades there was no exercise of responsibility stemming from Article 26 of the Charter, although that Article explicitly recognized the link between disarmament and development by entrusting the Council with establishing an arms control system 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.²⁹¹

²⁸⁷ Ibid., p. 6.

²⁸⁸ Resolution 1747 (2007), paras. 1-7.

²⁸⁹ S/PV.5647, pp. 9-10.

²⁹⁰ Ibid., p. 16.

²⁹¹ S/PV.5127 (Resumption 1), p. 14.

Part III

Consideration of the provisions of Chapter VIII of the Charter

Article 52

1. *Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.*

2. *The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.*

3. *The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.*

4. *This Article in no way impairs the application of Articles 34 and 35.*

Article 53

1. *The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.*

2. *The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.*

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

Note

The period under review saw an exponential increase in the cooperation between the Security Council and regional arrangements or agencies in the maintenance of international peace and security, as provided for in Chapter VIII of the Charter.²⁹² The rise in the role of regional and subregional organizations in both the pacific settlement of disputes and enforcement action led to a substantive debate in the Council on strengthening the involvement of regional organizations in the maintenance of international peace and security. Under the item entitled “Cooperation between the United Nations and regional organizations in maintaining international peace and security”, the Council adopted its first-ever resolution solely dedicated to that issue, resolution 1631 (2005) of 17 October 2005. In that resolution, the Council urged, *inter alia*, that regional organizations, particularly those in Africa, be strengthened in the areas of conflict prevention, crisis management and post-conflict resolution. A significant number of deliberations during the period under review highlighted the importance of matching resources to mandates when the Council authorized regional organizations to take action. At one meeting, the Chairman of the African Union stated, “Give us the tools, and we will do the job”.²⁹³

The decisions and deliberations of the Council during the period under consideration also demonstrated an increasing importance and weight attached to the role of regional organizations in the common effort to find solutions to regional conflicts as well as to combat a wide range of issues in view of the interconnected threats facing the world. Three regional

²⁹² Chapter VIII of the Charter refers to “regional arrangements and agencies”. The *Repertoire* follows the practice of the Council in its use of these terms synonymously with “regional organizations”.

²⁹³ S/PV.5043, p. 17.

and subregional peacekeeping operations, in Burundi, Côte d'Ivoire and the Sudan, were transitioned into United Nations peacekeeping operations and the authority of the stabilization force in Bosnia and Herzegovina was transferred from one organization to another. New modalities for cooperation between the United Nations and regional organizations were authorized by the Council, including the United Nations-African Union Hybrid Operation in Darfur, and the United Nations multidimensional presence in the Central African Republic and Chad, supported by a European Union force.

All instances of cooperation with regional arrangements could be considered to fall within the framework of Chapter VIII of the Charter, and indeed the Council, in a number of decisions, explicitly invoked Chapter VIII²⁹⁴ of Articles 52, 53 and 54.²⁹⁵

²⁹⁴ In connection with the item entitled "United Nations peacekeeping operations" see S/PRST/2004/16. In connection with the item entitled "Institutional relationship with the African Union", see S/PRST/2004/44. In connection with the item entitled "Threats to international peace and security", see resolution 1625 (2005), annex, para. 7. In connection with the item entitled "Cooperation between the United Nations and regional organizations in maintaining international peace and security", see resolution 1631 (2005), first and seventh preambular paragraphs and para. 1, and S/PRST/2006/39. In connection with the item entitled "Post-conflict peacebuilding", see resolution 1645 (2005), para. 11. In connection with the item entitled "Relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security", see S/PRST/2007/7. In connection with the item entitled "Maintenance of international peace and security", see S/PRST/2007/22 and S/PRST/2007/31. In connection with the item entitled "The role of regional and subregional organizations in the maintenance of international peace and security", see S/PRST/2007/42.

²⁹⁵ Articles 52, 53 and 55: in connection with the item entitled "Cooperation between the United Nations and regional organizations in stabilization processes", see S/PRST/2004/27; in connection with the item entitled "Civilian aspects of conflict management and peacebuilding", see S/PRST/2004/33; in connection with the item entitled "Institutional relationship with the African Union", see S/PRST/2004/44. Article 54: in connection with the item entitled "Cooperation between the United Nations and regional organizations in maintaining international peace and security", see resolution 1631 (2005), para. 9; in connection with the item entitled "Relationship between the United Nations

While such explicit references in deliberations are too numerous to be listed here, reference is made to discussions on thematic or cross-cutting issues relevant to cooperation between the United Nations and regional organizations.²⁹⁶

The practice of the Council under Chapter VIII of the Charter is described below without reference to specific Articles. Section A deals with the debates and decisions of the Council on general and thematic issues touching upon the provisions of Chapter VIII. Section B illustrates various ways in which the Council, in considering specific situations, encouraged and supported efforts by regional organizations in the peaceful settlement of disputes. Section C covers eight regional situations where the Council authorized enforcement action by regional organizations. Section D describes those instances in which the Council explicitly requested regional organizations to keep the Council informed of their activities for the maintenance of international peace and security.

A. General consideration of the provisions of Chapter VIII

During the period under review, the Council referred to the provisions of Chapter VIII of the Charter during its deliberations on thematic and cross-cutting issues and included such provisions in its decisions. Several cases are discussed below.

and regional organizations, in particular the African Union, in the maintenance of international peace and security", see S/PRST/2007/7.

²⁹⁶ In connection with the item entitled "Cooperation between the United Nations and regional organizations in stabilization processes", see S/PV.5007 and S/PV.5007 (Resumption 1); in connection with the item entitled "Cooperation between the United Nations and regional organizations in maintaining international peace and security", see S/PV.5282, S/PV.5282 (Resumption 1) and S/PV.5529; in connection with the item entitled "Relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security", see S/PV.5649 and S/PV.5649 (Resumption 1); and in connection with the item entitled "The role of regional and subregional organizations in the maintenance of international peace and security", see S/PV.5776 and S/PV.5776 (Resumption 1).

Cross-border issues in West Africa

By a presidential statement dated 25 March 2004, the Council, emphasizing the importance of addressing the continuing factors of instability in West Africa within a regional framework, invited the Secretary-General and the Economic Community of West African States (ECOWAS) to take the requisite practical decisions to improve the coordination of the activities of the United Nations and ECOWAS in West Africa. The Council urged the States members of ECOWAS to fully implement their Declaration of a Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa, signed in Abuja on 31 October 1998²⁹⁷ and invited them to take all necessary steps to better combat illegal trafficking in small arms and light weapons in the region. The Council expressed its intention to pay close attention and remain in close consultation with ECOWAS and Member States on steps to stop the illicit flows of arms to conflict zones in the region. Recalling the measures it had implemented on the illegal exploitation and trade of diamonds and timber in the subregion, the Council encouraged ECOWAS and its member States to promote transparent and sustainable exploitation of those resources. The Council also encouraged ECOWAS to publicly identify parties and actors who were shown to engage in illicit trafficking in the subregion and use mercenaries and further called upon the State members of ECOWAS to work together to agree to a coherent approach to the problem of foreign combatants.²⁹⁸

By a presidential statement dated 25 February 2005, the Council welcomed the growing and constructive partnership between, inter alia, the United Nations system and ECOWAS, aimed at addressing the many complex challenges confronting the West African subregion, and encouraged the United Nations Office for West Africa further to promote an integrated and joint subregional approach with ECOWAS and the African Union, among other actors. The Council welcomed the ongoing efforts by ECOWAS to transform the moratorium on small arms and light weapons into a binding convention. The Council also welcomed the ongoing efforts of ECOWAS, in collaboration with the United Nations Office on Drugs and Crime, to improve border control mechanisms in West Africa.²⁹⁹

²⁹⁷ S/1998/1194, annex.

²⁹⁸ S/PRST/2004/7.

²⁹⁹ S/PRST/2005/9.

Peace consolidation in West Africa

By a presidential statement dated 9 August 2006, the Council, recalling the measures it had implemented on the illegal exploitation of natural resources in the region, encouraged States members of ECOWAS to promote transparent and sustainable exploitation of such resources. Considering that illicit trafficking in small arms and light weapons still posed a threat to peace and security in the region, the Council welcomed the decision of members of ECOWAS to transform the Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons in West Africa into a binding Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials. The Council stressed the continued need for assisting West African States and ECOWAS in curbing illicit cross-border activities, and further stressed the need for continued and enhanced cooperation between the United Nations, ECOWAS and the African Union in peace consolidation initiatives, based on an integrated approach and with the aim of maximizing the use of available resources.³⁰⁰

United Nations peacekeeping operations

At the 4970th meeting, on 17 May 2004, a number of speakers recognized the cooperation between the United Nations and regional organizations in the area of peacekeeping, highlighting complementary capacities offered by regional organizations, and called for the strengthening of such cooperation.³⁰¹ The representative of the Russian Federation considered that United Nations interaction with regional structures pursuant to Chapter VIII of the Charter was one of the basic principles and criteria for United Nations peacekeeping operations.³⁰² The representative of Canada pointed out that regional and multinational arrangements were entirely consistent with both the letter and the spirit of Articles 43 and 53 of the Charter and would have a critical role to play in the future of peace support

³⁰⁰ S/PRST/2006/38.

³⁰¹ S/PV.4970, p. 5 (Secretary-General); p. 7 (France); pp. 10-11 (Romania); p. 13 (Algeria); p. 14 (Angola); p. 20 (Spain); p. 23 (China); pp. 24-25 (Benin); and p. 26 (Germany); S/PV.4970 (Resumption 1), p. 4 (Japan); p. 5 (Ireland, on behalf of the European Union); p. 9 (Tunisia); p. 11 (Peru); p. 12 (Ukraine); pp. 17-18 (Canada); p. 19 (Guatemala); p. 22 (South Africa); p. 25 (Fiji); p. 29 (Indonesia); p. 32 (Serbia and Montenegro); and p. 35 (Republic of Korea).

³⁰² S/PV.4970, p. 15.

operations and in both supplementing and supporting the capabilities of the United Nations itself. Therefore, he encouraged the Organization to continue to develop its partnerships with them.³⁰³

The representative of the United Kingdom stressed the need for the further development of new partnerships between the United Nations and regional organizations under Chapter VIII of the Charter. He said that, with its ever-increasing peacekeeping portfolio, the United Nations could not be expected to “perform everything everywhere” and held that regional organizations had unique and complementary capacities to offer. At the same time, he maintained that such operations by regional organizations did not threaten the primacy of United Nations peacekeeping, since the United Nations still mandated them.³⁰⁴ The representative of the United States drew attention to the fact that the new peacekeeping missions in Côte d’Ivoire, Burundi and Haiti built on efforts by regional organizations to support the restoration of peace and stability, particularly saluting the work of ECOWAS in Côte d’Ivoire as providing valuable augmentation for United Nations peacekeeping forces.³⁰⁵ With regard to strengthening regional peacekeeping capacities, the representatives of Tunisia and South Africa emphasized that the principal responsibility for the maintenance of international peace and security under the Charter still remained with the Security Council.³⁰⁶

On the other hand, while recognizing the recent tendencies towards adopting regional solutions in peacekeeping, particularly in Africa, the representative of India cautioned that such operations should not become franchised or subcontracted to a degree where the Council was “perceived as using regionalization as a device to shirk the exercise of its global responsibility” for peace and security.³⁰⁷

Some speakers pointed out the need to extend financial support to regional peacekeeping operations in order to enhance their capacity.³⁰⁸ The representative of Canada raised the issue of financing of missions undertaken by regional organizations as an

underlying problem and stated that, although they might be mandated by the Council, they were paid for not through assessed contributions but through voluntary funding. He said that, given the benefits received from such operations, there should be effective “burden-sharing arrangements” for donor support.³⁰⁹

By a presidential statement read out at the meeting, the Council recognized the need to work, as appropriate, with, inter alia, regional and subregional organizations in peacekeeping operations in accordance with Chapter VIII of the Charter to ensure complementary capacities and approaches before and during the deployment and after the withdrawal of United Nations peacekeeping missions.³¹⁰

Complex crises and United Nations response

At the 4980th meeting, on 28 May 2004, the representative of Brazil, referring to Chapter VIII of the Charter, opined that the instrumentalities relating to regional arrangements should be urgently revisited given that regional organizations had an increasingly important role to play in the overall international efforts for peace and security. He argued that the primary role of regional organizations was of a preventive nature, contributing to addressing the root causes of conflict and violations of human rights before they escalated into major conflicts. He also held that when prevention failed and enforcement actions were needed the Council might empower regional arrangements to enforce action, as stated in Article 53 of the Charter, in cases where such a possibility had been foreseen in the relevant constitutive acts.³¹¹

The representative of the Russian Federation indicated that the agreed-upon international steps taken under the aegis of the United Nations had been successful because of the unique ability of the Organization to combine its leading role in the area of security and restoring peace with the division of labour within the regional and subregional organizations in accordance with Chapter VIII of the Charter. He stressed that such potential should be developed to ensure a truly legitimate collective reaction to complex emergency situations under conditions of international conflict.³¹² Other speakers also underlined the

³⁰³ S/PV.4970 (Resumption 1), pp. 17-18.

³⁰⁴ S/PV.4970, p. 9.

³⁰⁵ *Ibid.*, p. 27.

³⁰⁶ S/PV.4970 (Resumption 1), p. 9 (Tunisia); and p. 22 (South Africa).

³⁰⁷ *Ibid.*, p. 14.

³⁰⁸ S/PV.4970, p. 14 (Angola); and S/PV.4970 (Resumption 1), p. 18 (Canada); and pp. 22-23 (South Africa).

³⁰⁹ S/PV.4970 (Resumption 1), p. 18.

³¹⁰ S/PRST/2004/16.

³¹¹ S/PV.4980, pp. 9-10.

³¹² *Ibid.*, p. 21.

increasing cooperation with regional organizations in maintaining regional stability, some citing Chapter VIII of the Charter in that context.³¹³

Cooperation between the United Nations and regional organizations in stabilization processes

In a background paper for the debate on cooperation in stabilization processes, the representative of Romania stated, that while Chapter VIII of the Charter spelled out the principles guiding the role of regional arrangements whose activities needed to be undertaken in a manner consistent with the purposes and principles of the Charter, the Charter provided no precise definition of regional organizations, thus allowing for a variety of cooperative efforts.³¹⁴

At the 5007th meeting, on 20 July 2004,³¹⁵ a number of speakers said that cooperation between the United Nations and regional and subregional organizations was on the basis of complementarity and should be further enhanced, and many of them explicitly cited Chapter VIII of the Charter as a basis for such cooperation.³¹⁶ The representative of China stressed that the Council was at the core of the international collective security machinery in accordance with the Charter and that regional organizations too could contribute to the peaceful settlement of disputes. Reaffirming that the Charter served as a guide for United Nations actions and as a framework for those of regional organizations, he pointed out that Chapter VIII provided for a role by regional organizations in the settlement of disputes and defined the relationship between the United Nations and such organizations. He stressed in particular

Article 53 regarding the need for authorization by the Council for any enforcement action to be taken by regional arrangements or agencies. He further held that regional organizations should, on their own initiative but as required by the Charter, maintain closer contacts with the Council in order to provide it with timely and comprehensive updates on actions they were taking. In his opinion, this was essential to ensure that regional actions were correctly oriented.³¹⁷ Similarly, the representative of Algeria considered it imperative that regional security operations be pursued under a Council mandate, on the understanding that regular dialogue with the Council should be maintained.³¹⁸ The representative of the Philippines held that the exchange of information relating to the maintenance of international peace and security at the regional level was not only required under Article 54 of the Charter, but should also serve as the backbone of a framework for cooperation between the United Nations and regional organizations.³¹⁹

The representative of the United Kingdom stated that although Chapter VIII of the Charter might be the foundation, regional organizations were not just subcontractors for maintaining collective security, and he therefore called for a mutually reinforcing partnership between the United Nations and regional organizations, in order to avoid duplication of effort and allow work to be undertaken by the organization with comparative advantage.³²⁰

The representative of the North Atlantic Treaty Organization (NATO) affirmed that the past decade had seen a stronger reliance on regional organizations, not as a challenge to the primary role of the Organization but rather to support it, adding that NATO was proud to be one of those organizations. Although NATO did not consider itself formally a regional organization under Chapter VIII of the Charter, its transition from a purely collective-defence organization into a security manager in a broad sense had enabled it to act in the same spirit, first in Europe and then beyond.³²¹

Several speakers stressed the importance of and the need for the Council's authorization in enforcement

³¹³ Ibid., pp. 8-9 (China); p. 12 (Algeria); p. 14 (Benin); and p. 29 (Pakistan).

³¹⁴ S/2004/546.

³¹⁵ The Council invited representatives of the African Union, the European Union, the League of Arab States (LAS), the Association of Southeast Asian Nations (ASEAN), the North Atlantic Treaty Organization (NATO), the Commonwealth of Independent States (CIS), the Organization of the Islamic Conference (OIC), the Organization for Security and Cooperation in Europe (OSCE) and the Economic Community of West African States (ECOWAS) to participate in the meeting.

³¹⁶ S/PV.5007, p. 13 (China); p. 16 (Germany); p. 18 (Russian Federation); p. 19 (Chairperson of the Standing Committee of ASEAN); p. 21 (Brazil); p. 22 (Algeria); p. 27 (Pakistan); and p. 31 (Spain); S/PV.5007 (Resumption 1), p. 10 (France); and p. 15 (Romania).

³¹⁷ S/PV.5007, p. 13.

³¹⁸ Ibid., pp. 22-23.

³¹⁹ Ibid., p. 28.

³²⁰ S/PV.5007 (Resumption 1), p. 15.

³²¹ S/PV.5007, pp. 24-25.

action taken by regional arrangements.³²² As to financial support for regional arrangements, the representative of the Commonwealth of Independent States opined that it was important for the United Nations to provide at least partial material and financial support for peacekeeping operations in those regions where operations were being carried out under the Charter by forces of regional organizations. He cited an example where only one country, the Russian Federation, shouldered virtually all of the financial and material requirements for certain peacekeeping activities.³²³

By a presidential statement read out at the meeting, the Council, recalling that Articles 52 and 53 of the Charter set forth the contribution of regional organizations to the settlement of disputes, as well as the relationship between the United Nations and regional organizations, acknowledged the important role that could be played by regional organizations in the prevention, resolution and management of conflicts, including by addressing their root causes. Emphasizing the primary responsibility of the Council for the maintenance of international peace and security, the Council noted that effectively addressing the numerous conflict situations confronting the international community would require an increased level of cooperation with regional organizations, where appropriate. It was stressed that common and coordinated efforts undertaken by the United Nations and regional organizations in stabilization processes should be based on complementarity and their comparative advantages, making full use of their experience, in accordance with the Charter and the relevant statutes of the regional organizations. Furthermore, the statements made at the meeting reiterated the importance of a coherent approach to stabilization processes through improved cooperation and collaboration, including increased and timely exchange of information between the United Nations and regional organizations, in accordance with the provisions of Article 54 of the Charter.³²⁴

*Civilian aspects of conflict management
and peacebuilding*

At the 5041st meeting, held on 22 September 2004 at the ministerial level, Commissioner for Peace

³²² Ibid., p. 18 (Russian Federation); p. 21 (Brazil); and p. 27 (Pakistan).

³²³ Ibid., p. 30.

³²⁴ S/PRST/2004/27.

and Security of the African Union opined that the African Union had been taking up the challenge of deploying peace-support operations, albeit with limited experience, in the expectation that the United Nations and other partners would provide the requisite support. He said that the African Union would rely on the continued support of the United Nations within the framework of Chapter VIII of the Charter, while counting on the strong support of its partners to further build its capacity to plan, deploy and manage peace-support operations.³²⁵ Citing Chapter VIII of the Charter, the Secretary-General of the League of Arab States maintained that the operationalization of the system of relations was needed, in order that regional organizations might become one of the main organs of United Nations action in dealing with regional crises and conflicts, as well as other world challenges and developments. He said that the complexity of crisis management favoured burden-sharing between different actors, drawing on each of their particular strengths.³²⁶

The representative of Pakistan said that, if national civilian crisis management instruments and capacities were not available or inadequate, the logical recourse to fill the capacity gap should be to subregional or regional resources, where possible. The role of regional and subregional organizations and their cooperation with the United Nations under Chapter VIII of the Charter were important with regard to civilian and military capacities, both of which needed to be developed.³²⁷

The representative of Angola held that joint deployment with regional and subregional organizations, in keeping with the provisions of the Charter, had demonstrated that such partnerships were mutually advantageous. He cited the response of ECOWAS in Côte d'Ivoire and Liberia before the deployment of United Nations peacekeeping forces as cases in point.³²⁸ Other speakers also commended the role of regional organizations in crisis management and supported their further development and improvement.³²⁹

While agreeing that cooperation between the United Nations and regional and subregional organizations needed to be intensified in the

³²⁵ S/PV.5041, pp. 4-5.

³²⁶ Ibid., pp. 6-7.

³²⁷ Ibid., p. 19.

³²⁸ Ibid., p. 20.

³²⁹ Ibid., p. 9 (Chile); p. 21 (United States); pp. 22-23 (United Kingdom); and p. 28 (Algeria).

peacekeeping area, in keeping with Chapter VIII of the Charter, the representative of the Russian Federation expressed the view that as each crisis situation was unique there was no uniform peacekeeping model that could be applied to all conflicts. Therefore, in each specific case, there would be a need to choose the best set of peacekeeping instruments, whether it be a United Nations peacekeeping operation, a coalition or a regional operation. He said that such efforts needed to be organized in strict conformity with the Charter, which clearly stipulated the Council's primary responsibility for the maintenance of international peace and security and in particular its key political role at all stages of peacekeeping operations, from the definition of their mandates to the transition towards peacebuilding.³³⁰

Pointing out a marked tendency in the Organization to have recourse to the possibilities outlined in Chapter VIII of the Charter, the representative of Algeria affirmed that, in order to make that international cooperation a success, reliance on regional pillars should not be understood as any neglect by the United Nations or the Security Council of their obligations to maintain international peace and security.³³¹

By a presidential statement read out at the meeting, ministers recognized the increasing role of some regional and subregional organizations and intergovernmental organizations in crisis management. They also recalled that Articles 52 and 53 of the Charter set forth the contribution of regional organizations to conflict management, as well as the relationship between the United Nations and regional organizations. They encouraged those organizations, whenever possible, to continue to develop their crisis management capabilities, including in the civilian field, in close coordination with the United Nations and in accordance with the provisions of Article 54 of the Charter. When applicable, clear schemes for joint operations should be developed. Greater coordination and interoperability among those organizations, as well as developing and sharing common strategies, operational policies and best practices in civilian crisis management, would enhance efficiency and coherence in crisis management.³³²

³³⁰ Ibid., p. 24.

³³¹ Ibid., p. 28.

³³² S/PRST/2004/33.

Institutional relationship with the African Union

At the 5084th meeting, on 19 November 2004, the President read out a statement by which the Council recalled that cooperation with regional and subregional organizations in matters relating to the maintenance of peace and security was an important pillar of the system of collective security established by the Charter, as provided for in Chapter VIII. The Council recognized the importance of strengthening cooperation with the African Union in order to help to build its capacity to deal with collective security challenges, including through the establishment of rapid and appropriate responses to emerging crisis situations and the development of effective strategies for conflict prevention, peacekeeping and peacebuilding. Particularly welcoming the leading role of the African Union in efforts to settle crises on the African continent, the Council expressed its full support for the peace initiatives conducted by the African Union, and through subregional organizations such as ECOWAS, the Southern African Development Community, the Central African Economic and Monetary Community, the Intergovernmental Authority on Development and other regional agreements committed to the peaceful settlement of disputes in Africa. The Council also underlined the importance of being kept fully informed, consistent with Article 54 of the Charter. The Council also welcomed the strengthening of practical cooperation between the United Nations and the African Union, as demonstrated in the case of the African Union Mission in the Sudan and the African Mission in Burundi, to support and enhance the management and operational capacities of the African Union in the field of peacekeeping and peacebuilding. The Council called upon the international community to support the efforts of the African Union to strengthen its capacities for peacekeeping, conflict resolution and post-conflict reconstruction, through the provision of information, training, expertise and resources, and to support the activities of the United Nations and its agencies in that regard.³³³

The representative of Benin opined that the Council should reinforce cooperation with the African Union in order to optimize its ability to rapidly counter the new threats to peace and security through rapid responses to crisis situations, as had been the case in Darfur. Darfur had demonstrated that peacekeeping

³³³ S/PRST/2004/44.

operations were a particularly complex and burdensome undertaking for the African Union, and the necessary logistical and financial support should therefore be provided.³³⁴ The representative of the United Kingdom, supporting the need for the Council to help the African Union to develop its capacities, argued that the Council should do so because, *inter alia*, it was within the Council's responsibility regarding international peace and security to help those that were "sharing and shouldering the burden with the Council", as justified by regional cooperative arrangements set out in the Charter.³³⁵

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

At the 5282nd meeting, on 17 October 2005,³³⁶ the representative of China reiterated its position regarding Chapter VIII of the Charter as a guide for the relationship between the United Nations and regional arrangements, as well as the importance of communications from regional bodies to the Council in accordance with the Charter. He also stressed that the necessary financial resources and logistical and technical support needed to be provided with a view to strengthening cooperation between the United Nations and African regional and subregional organizations so that the peacekeeping and peacebuilding capacities of those organizations could be enhanced.³³⁷ The representative of the Russian Federation underlined the immutability of the principle of the primary responsibility of the Council for the maintenance of international peace and security and its exclusive prerogative to sanction the use of force by the international community.³³⁸ The representative of France opined that it was necessary to have good information and communication between the United Nations and regional organizations, welcoming the progress in that regard and encouraging further progress, as invited by Article 54 of the Charter.³³⁹

³³⁴ S/PV.5084, p. 3.

³³⁵ *Ibid.*, p. 4.

³³⁶ The Council invited representatives of the African Union, ASEAN, CIS, LAS, NATO, the Organization of American States (OAS) and OSCE to participate in the meeting.

³³⁷ S/PV.5282, pp. 11-12.

³³⁸ *Ibid.*, p. 18.

³³⁹ *Ibid.*, p. 30.

As to Chapter VIII of the Charter vis-à-vis new global realities, the representative of the League of Arab States held that there were many economic, social and human issues facing the international community, including terrorism, that required the Council to "fine-tune" Chapter VIII so as to enable regional organizations to face new challenges with regard to the maintenance of international peace and security.³⁴⁰ The representative of Algeria was of the view that dealing with matters that were continually evolving was not a question of rewriting Chapter VIII of the Charter but of the Council's exploring the resources at its disposal and basing itself on a liberal and pragmatic reading of its provisions. He went on to say that in the case of involvement of regional organizations in the settlement of crises, the Council was not being asked to delegate some of its responsibilities to regional organizations but rather to make good use of the contributions of such organizations through improved interaction, on the basis of the principles of complementarity and comparative advantage.³⁴¹

By resolution 1631 (2005) adopted at the meeting, the Council, recalling Chapter VIII of the Charter, emphasizing that the growing contribution made by regional organizations in cooperation with the United Nations could usefully complement the work of the Organization in maintaining international peace and security, and stressing that such contribution must be made in accordance with Chapter VIII of the Charter, expressed its determination to take appropriate steps for the further development of cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, consistent with Chapter VIII of the Charter. The Council also urged all States and relevant international organizations to contribute to strengthening the capacity of regional and subregional organizations, in particular of African regional and subregional organizations, in conflict prevention and crisis management, and in post-conflict stabilization, including through the provision of human, technical and financial assistance. The Council stressed the importance for the United Nations of developing the ability of regional and subregional organizations to deploy peacekeeping forces rapidly in support of United Nations peacekeeping operations or other operations mandated by the Council. The Council

³⁴⁰ *Ibid.*, p. 32.

³⁴¹ *Ibid.*, pp. 12-13.

further reiterated the need to encourage regional cooperation, including through the involvement of regional and subregional organizations in the peaceful settlement of disputes, and to include, where appropriate, specific provisions with that aim in future mandates of peacekeeping and peacebuilding operations authorized by the Council. The Council recommended better communication between the United Nations and regional and subregional organizations through, notably, liaison officers and the holding of consultations at all appropriate levels and reiterated the obligation for regional organizations, under Article 54 of the Charter, to keep the Council fully informed of their activities for the maintenance of international peace and security. The Council also requested the Secretary-General to submit a report on the opportunities and challenges facing the cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security, and encouraged the Secretary-General to explore with regional organizations the possibility of agreements establishing a framework for regional organizations' cooperation with and contributions to United Nations-led peacekeeping operations, taking into due consideration the cooperation guidelines already identified between the United Nations and certain regional organizations.³⁴²

Pursuant to the above-mentioned request, the Secretary-General submitted a report on 28 July 2006 entitled "A regional-global security partnership: challenges and opportunities", with recommendations including that, with a view to clarifying the nature of the overall partnership, the Council could discuss the desirability and practicability of partner organizations identifying themselves either as regional organizations acting under Chapter VIII of the Charter or as other intergovernmental organizations acting under other provisions of the Charter.³⁴³

At its 5529th meeting, on 20 September 2006,³⁴⁴ the Council had before it the above-mentioned report

³⁴² Resolution 1631 (2005), first and seventh preambular paragraphs and paras. 1-3, 5-6 and 8-10.

³⁴³ S/2006/590, para. 99.

³⁴⁴ Representatives of the following organizations were invited to participate in the meeting: the European Union, OAS, ASEAN, LAS, OSCE, CIS, OIC, NATO, the Collective Security Treaty Organization and the Council of Europe.

and a background paper prepared by the Presidency.³⁴⁵ The President (Greece), speaking in her national capacity, said that, while Chapter VIII of the Charter, in particular Articles 52 and 53, referred to regional arrangements and set forth the functional relationship with the Council, it was silent with regard to their constitutional relationship with the Council. It was time, therefore, for greater clarity on a series of issues that would facilitate the shaping of the vision of a global-regional mechanism for peace and security agreed by both the Council and the regional organizations. She held that it was necessary to clarify the criteria by which those agencies were distinguished from other international organizations for the purpose of applying Chapter VIII of the Charter, as such clarity should restore more authority to the Council and greater reliance on constitutionally delegated executive functions to genuine regional agencies under Chapter VIII.³⁴⁶ The representative of the United Republic of Tanzania opined that an institutionalized approach and mechanism would make possible a shift from the current fragile arrangements to a more substantive and regularized cooperation. He affirmed that the challenge lay in devising practical arrangements for strengthening the relationship between the United Nations and regional and intergovernmental organizations in keeping with the provisions of Chapter VIII of the Charter. He said that, as the primary organ responsible for peace and security, the Council had the power and the prerogative to advance cooperation with such organizations to a higher level so as to make it more effective and responsive to challenges that threatened international peace and security.³⁴⁷ The Chairman of the African Union said that, if Chapter VIII of the Charter was referred to as a basis for operational cooperation between the United Nations and regional organizations, the important role that regional organizations could play in the area of conflict prevention, peacemaking, peacekeeping, peacebuilding, disarmament, non-proliferation, the protection of civilians and natural disasters should be recognized.³⁴⁸

By a presidential statement read out at the meeting, the Council stated that Member States had emphasized that the establishment of a more effective

³⁴⁵ S/2006/719.

³⁴⁶ S/PV.5529, p. 3.

³⁴⁷ *Ibid.*, p. 14.

³⁴⁸ *Ibid.*, p. 17.

partnership between the United Nations and regional and other intergovernmental organizations, consistent with Chapter VIII of the Charter, would contribute to the maintenance of international peace and security. The Council welcomed the progress made in realizing the goals of resolution 1631 (2005), as elaborated by the Secretary-General in his report,³⁴⁹ and commended the efforts of the Secretary-General in strengthening partnerships with regional, subregional and other intergovernmental organizations on peace and security, thereby contributing to the realization of the recommendations of the 2005 World Summit Outcome³⁵⁰ for a stronger relationship between such organizations and the United Nations. The Council stressed the benefits of closer cooperation with regional and subregional organizations in the maintenance of international peace and security, including the brokering of peace agreements in conflict situations. The Council also invited all regional and subregional organizations that had a capacity for peacekeeping or rapid response in crisis situations to enhance their working relations with the Secretariat and cooperate with the Secretariat to determine the conditions in which that capacity could contribute to the fulfilment of United Nations mandates and goals. The Council welcomed efforts under way to enhance cooperation between the Secretariat and regional and subregional organizations in mediation and peacemaking. The Council also encouraged regional and subregional organizations to convey their perspectives and analysis to the Council prior to its examination of regionally relevant agenda items.³⁵¹

Post-conflict peacebuilding

By a presidential statement dated 26 May 2005, the Council recognized the crucial role of regional and subregional organizations in post-conflict peacebuilding and their involvement at the earliest possible stage. Realizing that a clear regional perspective was necessary, as most conflict had interlocking political, security, humanitarian and economic dynamics across borders, the Council underlined in that respect the need for enhanced cooperation and, where appropriate, coordination between United Nations and regional and subregional organizations in peacebuilding, based on a more

integrated approach and with the aim of maximizing the use of available resources and capabilities. The Council also welcomed the ever-closer partnership between the African Union, the African subregional organizations and the United Nations in the area of peacemaking and peacekeeping and stressed the importance of extending that partnership to peacebuilding efforts.³⁵²

By resolution 1645 (2005) of 20 December 2005, the Council, recognizing the important role of regional and subregional organizations in carrying out post-conflict peacebuilding activities in their regions and stressing the need for sustained international support for their efforts and capacity-building to that end, emphasized that the Peacebuilding Commission, established by the resolution, should, where appropriate, work in close consultation with regional and subregional organizations to ensure their involvement in the peacebuilding process in accordance with Chapter VIII of the Charter.³⁵³

Security Council mission

The Security Council mission to the Sudan and Chad from 4 to 10 June 2006 reported, concerning its visit to the African Union headquarters in Addis Ababa, that both the African Union Commission and the Peace and Security Council had called for a deepening of their relationship, especially in the areas of conflict prevention and post-conflict peacebuilding. The Commission had added that cooperation under Chapter VIII of the Charter should be strengthened, in particular with regard to making available United Nations resources to regional organizations undertaking peacekeeping operations.³⁵⁴

At the 5462nd meeting, on 15 June 2006, the representative of the United Kingdom, in his briefing as head of the Security Council mission, noted the importance of the wider relations between the United Nations and the African Union and said that Chapter VIII of the Charter had included the role of regional organizations with foresight. He opined that the cooperation with the Africa Union was a positive and timely development which had many possibilities and affirmed that peacekeeping and demobilization,

³⁴⁹ S/2006/590.

³⁵⁰ General Assembly resolution 60/1.

³⁵¹ S/PRST/2006/39.

³⁵² S/PRST/2005/20.

³⁵³ Resolution 1645 (2005), eleventh preambular paragraph and para. 11.

³⁵⁴ S/2006/433, para. 61.

destabilization and reintegration and security sector reform were obvious candidates for cooperation. He stressed that the United Nations had a particular responsibility to help to develop the capacities of the African Union and its regional manifestations.³⁵⁵ The representative of United Republic of Tanzania said that the visit of the Security Council mission to Addis Ababa was the occasion for the first meeting ever of the Security Council and the African Union Peace and Security Council, which offered an opportunity for continued partnership between the two organs under Chapter VIII of the Charter.³⁵⁶

As reported in the report of the Security Council mission to Addis Ababa, Khartoum, Accra, Abidjan and Kinshasa, from 14 to 21 June 2007,³⁵⁷ the Council and the African Union Peace and Security Council on 16 June 2007 issued a joint communiqué on improving cooperation between the two bodies, by which, inter alia, recalling the provisions of Chapter VIII of the Charter, they would bear in mind that in taking initiatives for the promotion of peace and security in Africa, in terms of Chapter VIII of the Charter the African Union was also acting on behalf of the international community. They also agreed to hold joint meetings of the two Councils at least once a year.³⁵⁸

Relationship between the United Nations and regional organizations, in particular the African Union, in the maintenance of international peace and security

At the 5649th meeting, on 28 March 2007, some speakers recognized the limitations of the operational scope of regional organizations due to a lack of logistical and financial resources, and concurred with the proposal made by the African Union to the Council to consider the possibility of financing by the United Nations, through assessed contributions, of peacekeeping operations undertaken by the African Union or under its authority and with the consent of the United Nations.³⁵⁹ Others were cautious about supporting such an idea. The representative of the

United Kingdom said that formal funding from the peacekeeping budget for a strictly regional organization might not be possible, but other assistance should be automatic.³⁶⁰ The representative of the United States opined that it was not the role of the United Nations to provide funding for non-United Nations operations and affirmed that assessed United Nations peacekeeping contributions must be used only for Council-mandated operations under clear United Nations command and control with full accountability, ensured through the financial and administrative procedures of the Organization.³⁶¹

By a presidential statement read out at the meeting, the Council recognized the important role of regional organizations in the prevention, management and resolution of conflicts in accordance with Chapter VIII of the Charter. The Council recalled that cooperation between the United Nations and the regional arrangements in matters relating to the maintenance of peace and security as were appropriate for regional action was an integral part of collective security as provided for in the Charter. The Council recognized that regional organizations were well positioned to understand the root causes of many conflicts closer to home and to influence prevention or resolution, owing to their knowledge of the region. The Council welcomed the growing contribution that was being made by the African Union and the resolve of its leaders to address and solve the conflicts on the African continent and stressed, in accordance with Article 54 of the Charter, the need for the African Union to keep the Council fully informed of those efforts at all times in a comprehensive and coordinated manner. Emphasizing the primacy of the Council in the maintenance of international peace and security, the Council stressed the importance of supporting and improving in a sustained way the resource base and capacity of the African Union.³⁶²

Maintenance of international peace and security

By a presidential statement dated 25 June 2007, the Council reiterated the important role of regional organizations in the prevention, management and resolution of conflicts in accordance with Chapter VIII of the Charter. The Council also recognized, in armed conflict and post-conflict situations, the need for a

³⁵⁵ S/PV.5462, p. 5.

³⁵⁶ *Ibid.*, p. 9.

³⁵⁷ S/2007/421.

³⁵⁸ S/2007/386, annex.

³⁵⁹ S/PV.5649, p. 8 (Commissioner for Peace and Security of the African Union); p. 18 (Panama); p. 24 (Peru); and S/PV.5649 (Resumption 1), pp. 4-5 (Uganda); p. 6 (Namibia); p. 17 (Rwanda); and p. 19 (Algeria).

³⁶⁰ S/PV.5649, p. 22.

³⁶¹ *Ibid.*, p. 27.

³⁶² S/PRST/2007/7.

more coordinated approach by the United Nations, regional organizations and Governments concerned.³⁶³

At the 5735th meeting, on 28 August 2007, the representative of the Russian Federation held that more needed to be done to activate the provisions of Chapter VIII of the Charter, encouraging regional organizations to take proactive steps in the areas of preventive diplomacy and the peaceful resolution of disputes. That entailed, in particular, continuing the practice of the Council supporting African peacekeeping operations and providing assistance to establish African rapid-deployment forces and early-warning systems. He stressed, however, that in doing so, the prerogatives set for the Council by the Charter with regard to the establishment of peacekeeping operations whose mandate included the use of force must be respected.³⁶⁴

The representative of Benin, in emphasizing the importance of cooperation between the United Nations and regional conflict-prevention bodies, stated that such cooperation should rest on decisive implementation of the provisions of Chapter VIII of the Charter and added that resolution 1631 (2005) had spelled out those modalities. He also affirmed that although until recently the United Nations system in conducting peacekeeping operations had operated with “marginal” involvement by regional organizations, the time had come to make the necessary changes so that those organizations could fully play their role in the collective security system envisioned by the Charter, both in terms of the doctrine of peace operations and the allocation of related resources. He welcomed the support programmes for building the capacity of the African Union, the introduction of annual meetings of the Security Council and the Peace and Security Council of the African Union and the appointment of joint special representatives in crisis situations, as in Darfur.³⁶⁵

By the presidential statement read out at the meeting, the Council reiterated its recognition of the important role of regional organizations, citing Chapter VIII of the Charter. The Council underlined the need for a stronger and more structured relationship between the Security Council and the African Union Peace and Security Council contributing to the achievement of the goals of peace and stability in the

context of the arrangements provided for in Chapter VIII. The Council also recognized the important contribution of subregional bodies and underlined the need for African subregional bodies to enhance their capacities in early warning and conflict prevention in order to allow those important actors to respond more promptly to the emerging threats to security in their areas.³⁶⁶

The role of regional and subregional organizations in the maintenance of international peace and security

In the concept paper for the debate on the role of regional and subregional organizations, the representative of Indonesia said that the debate would be anchored on the premise that those organizations, consistent with the provisions of the Charter, could contribute to the maintenance of international peace and security directly, by building and developing their capacities to deal with threats in their respective regions, as well as indirectly, by contributing to the Council’s discharge of its Charter-mandated responsibilities.³⁶⁷

At the 5776th meeting, on 6 November 2007, a few speakers maintained that the active role of regional organizations should not be perceived as absolving the United Nations, in particular the Security Council, of its responsibilities for the maintenance of international peace and security mandated by the Charter.³⁶⁸

The representative of Qatar recalled that the Charter had “reserved” a principal role for regional arrangements in the maintenance of international peace and security and called for more resources in order for regional organizations to contain disputes and resolve conflicts under Chapter VIII of the Charter. In his opinion, the Charter gave priority to regional organizations in settling regional disputes.³⁶⁹

Some speakers were of the view that the African Union-United Nations Hybrid Operation in Darfur (UNAMID) should not necessarily lead to a generally applicable model.³⁷⁰ The representative of Belgium, expressing awareness of the dangers inherent in all

³⁶³ S/PRST/2007/22.

³⁶⁴ S/PV.5735, p. 20.

³⁶⁵ S/PV.5735 (Resumption 1), p. 14.

³⁶⁶ S/PRST/2007/31.

³⁶⁷ S/2007/640.

³⁶⁸ S/PV.5776, p. 7 (South Africa); p. 19 (Ghana); p. 22 (France); and p. 28 (African Union).

³⁶⁹ Ibid., p. 6.

³⁷⁰ Ibid., p. 16 (Belgium); and S/PV.5776 (Resumption 1), p.16 (Guatemala); and p. 22 (Benin).

processes aimed at the institutionalization of relationships, considered it more important to create “pragmatic and flexible synergies” than to establish theoretical frameworks, which very often proved to be rigid and not very functional.³⁷¹

While some speakers expressed concern of the lack of mechanisms to financially support regional arrangements,³⁷² the representative of Japan opined that in principle every organization should be responsible for its own costs and held that, in examining the possibility of offering financial support to regional peacekeeping operations, the Council should consider the advisability and modality of support on a case-by-case basis, taking into account consistency with the principles governing United Nations peacekeeping operations so as to ensure transparency.³⁷³

With regard to Article 54 of the Charter, the representative of the Congo stressed that, in conformity with that Article, regional organizations should submit periodic reports to the Council on their relevant activities.³⁷⁴ The representative of Solomon Islands stated that there was a lack of observance of Article 54, which underlined the requirement that the Council be kept fully informed on all activities under regional and subregional arrangements in the maintenance of international peace.³⁷⁵

By the presidential statement read out at the meeting, the Council recognized the important role of regional and subregional organizations in the prevention, management and resolution of conflicts in accordance with Chapter VIII of the Charter, and emphasized that the growing contribution made by them in cooperation with the United Nations could usefully support the work of the Organization in maintaining international peace and security. It stressed that such contribution should be made in accordance with Chapter VIII of the Charter. The Council encouraged regional cooperation, including through the involvement of regional and subregional organizations in the peaceful settlement of disputes, and intended to consult closely with them, whenever appropriate, on their role in future peacekeeping operations as well as political and integrated missions authorized by the

Council. The Council stressed the need to develop effective partnership between the Council and regional and subregional organizations in order to enable early response to disputes and emerging crises. The Council recognized the importance of promoting the identification and further development of modalities which enhanced the contribution of regional and subregional organizations to the work of the Council in maintaining international peace and security in accordance with Chapter VIII of the Charter. For that purpose, the Council deemed it useful to consider further strengthening its interaction and cooperation with regional and subregional organizations in accordance with Chapter VIII of the Charter.³⁷⁶

B. Encouragement by the Security Council of efforts undertaken by regional arrangements in the pacific settlement of disputes

During the period under review, the Security Council, on various occasions, expressed encouragement for efforts undertaken by regional organizations in the pacific settlement of disputes, including the African Union-led inter-Sudanese peace talks in Abuja and the Somali National Reconciliation Conference launched under the auspices of the Intergovernmental Authority on Development (IGAD). The practice of the Council in this regard is set out below, by region and in chronological order.

Africa

The situation in Côte d’Ivoire

The Council continued to support, and cooperate with, the African Union and ECOWAS with a view to re-establishing peace and stability in Côte d’Ivoire.

By resolutions 1527 (2004) of 4 February 2004 and 1528 (2004) of 27 February 2004, the Council recalled its full support for the efforts of ECOWAS to promote a peaceful settlement of the conflict, and welcomed the commitment of the African Union in supporting the process of national reconciliation in Côte d’Ivoire.³⁷⁷

³⁷¹ S/PV.5776, p. 16.

³⁷² Ibid., p. 20 (Panama); and p. 29 (African Union).

³⁷³ S/PV.5776 (Resumption 1), p. 8.

³⁷⁴ S/PV.5776, p. 10.

³⁷⁵ S/PV.5776 (Resumption 1), p. 14.

³⁷⁶ S/PRST/2007/42.

³⁷⁷ Resolutions 1527 (2004), fifth preambular paragraph; and 1528 (2004), tenth and eleventh preambular paragraphs.

By a presidential statement dated 5 August 2004, the Council welcomed the resolute commitment of the African Heads of State and Government, in particular of the Chairmen of ECOWAS and the African Union, to the summit held in Accra on 29 and 30 July 2004, thanks to which the conclusion of the Accra III Agreement of 30 July 2004 had been made possible.³⁷⁸

By resolution 1572 (2004) of 15 November 2004 and in subsequent decisions, the Council welcomed the ongoing efforts of, inter alia, the African Union and ECOWAS towards re-establishing peace and security in Côte d'Ivoire. The Council also expressed its full support for their efforts and encouraged them to continue those efforts in order to relaunch the peace process in Côte d'Ivoire.³⁷⁹

By a presidential statement dated 16 December 2004 and similarly by a series of decisions, the Council commended the efforts made by the African Union to promote dialogue and relaunch the peace and national reconciliation process in Côte d'Ivoire. It expressed its full support for the facilitation mission undertaken by the President of South Africa on behalf of the African Union.³⁸⁰

By resolution 1600 (2005) of 4 May 2005, the Council, welcoming the signing by the Ivorian parties at Pretoria on 6 April 2005 of the agreement on the peace process in Côte d'Ivoire (the Pretoria Agreement),³⁸¹ under the auspices of the President of South Africa, commended the President for the essential role he had played, on behalf of the African Union, to restore peace and stability in Côte d'Ivoire, and reaffirmed its full support for his mediation efforts.³⁸²

By resolution 1603 (2005) of 3 June 2005, the Council reiterated the appreciation and support for the mediation efforts by the President of South Africa, on behalf of the African Union, and encouraged the Secretary-General, the President and the African Union

to continue to collaborate closely in the implementation of the Pretoria Agreement.³⁸³

By a presidential statement dated 6 July 2005, the Council welcomed the efforts undertaken by the African Union mediation so that the forthcoming elections in Côte d'Ivoire were credible and were held as planned, and reiterated its full support to the African Union mediator.³⁸⁴

By a presidential statement dated 14 October 2005, the Council expressed appreciation of the efforts of the African Union and ECOWAS for the elections to promote peace and stability in Côte d'Ivoire and reiterated its full support for those efforts.³⁸⁵

By resolution 1633 (2005) of 21 October 2005 and similarly by subsequent decisions, the Council commended continued efforts of the African Union and ECOWAS to promote peace and stability in Côte d'Ivoire and reiterated its full support for them. The Council also urged the Chairmen of the African Union and ECOWAS and the African Union Mediator to consult immediately with all the Ivorian parties in order to ensure that a new Prime Minister acceptable to all the Ivorian parties signatories to the Linas-Marcoussis Agreement³⁸⁶ was appointed by 31 October 2005, and to maintain close contact with the Secretary-General throughout that process.³⁸⁷

By resolution 1721 (2006) of 1 November 2006, the Council paid tribute to the President of South Africa for the untiring efforts he had deployed in the service of peace and reconciliation in Côte d'Ivoire, as well as the numerous initiatives he had taken to move forward the peace process, in his capacity as African Union Mediator, driven by his deep commitment to finding African solutions to African problems. The Council endorsed the decision of the Peace and Security Council of the African Union that, to avoid multiple and conflicting mediation efforts, the President of the Congo, in his capacity as Chairperson of the African Union, should lead the mediation efforts, in liaison with the Chairmen of the African Union

³⁷⁸ S/PRST/2004/29.

³⁷⁹ Resolution 1572 (2004), seventh preambular paragraph; and para. 5; see also resolutions 1584 (2005), 1594 (2005), 1600 (2005), 1603 (2005), 1632 (2005), and 1708 (2006).

³⁸⁰ S/PRST/2004/48 and resolutions 1584 (2005), sixth preambular paragraph; 1594 (2005), fourth preambular paragraph; and 1600 (2005), fourth preambular paragraph.

³⁸¹ S/2005/270, annex I.

³⁸² Resolution 1600 (2005), para. 1.

³⁸³ Resolution 1603 (2005), fifth preambular paragraph and para. 3.

³⁸⁴ S/PRST/2005/28.

³⁸⁵ S/PRST/2005/49.

³⁸⁶ S/2003/99, annex I.

³⁸⁷ Resolution 1633 (2005), paras. 1 and 5; see also resolutions 1643 (2005) and 1722 (2006) and S/PRST/2005/58.

Commission and ECOWAS and, as the need might arise, in liaison with any other African leader willing to make a contribution to the search for peace in Côte d'Ivoire. The Council further underlined that the representative of the Mediator in Côte d'Ivoire would lead, in liaison with the Special Representative of the Secretary-General for Côte d'Ivoire, the day-to-day mediation. The Council also requested the African Union and ECOWAS to continue to monitor and follow up closely the implementation of the peace process, and invited them to review before 1 February 2007 the progress achieved and, should they deem it appropriate, to review the situation again between that date and 31 October 2007.³⁸⁸

By a presidential statement dated 21 December 2006, the Council invited the African Union Mediator to visit Côte d'Ivoire to relaunch the peace process as soon as possible.³⁸⁹

By a presidential statement dated 28 March 2007, the Council welcomed, under the facilitation of the Chairman of ECOWAS, the agreement signed by President Laurent Gbagbo and Mr. Guillaume Soro in Ouagadougou on 4 March 2007 (the Ouagadougou Political Agreement)³⁹⁰ and paid tribute to the Chairman for his efforts to facilitate the conclusion of the Agreement.³⁹¹

By resolutions 1765 (2007) of 16 July 2007 and 1782 (2007) of 29 October 2007, the Council paid tribute to the Chairman of ECOWAS for his continued efforts at facilitation of the inter-Ivorian direct dialogue that had enabled, in particular, the signing of the Ouagadougou Political Agreement. By resolution 1765 (2007), the Council also commended and encouraged the continued efforts of the African Union and ECOWAS to promote peace and stability in Côte d'Ivoire and reiterated its full support for them.³⁹²

The situation in Somalia

During the period under review, the Council continued to support the efforts of various organizations in promoting peace, stability and reconciliation in

Somalia, including IGAD, the African Union, the League of Arab States (LAS), the European Union and the Organization of the Islamic Conference (OIC).

By a presidential statement dated 25 February 2004, the Council commended the Presidents of Kenya and Uganda, other leaders of IGAD and international supporters of the Somali National Reconciliation Conference, launched under the auspices of IGAD, for their perseverance to help Somalis achieve national reconciliation. The Council reiterated its readiness to support IGAD in the implementation of the agreements reached at the Somali National Reconciliation Conference. The Council also welcomed the commitment and preparation by the African Union to deploy a military observer mission to Somalia and called upon the international community to support the African Union's efforts to improve the security situation in Somalia.³⁹³

By a presidential statement dated 14 July 2004 and similarly in subsequent decisions, the Council continued to commend States members of IGAD for their efforts in the search for peace in Somalia.³⁹⁴

By a presidential statement dated 26 October 2004, the Council welcomed and expressed its support for the commitment of the African Union to assist the transitional peace process in Somalia, in particular through planning for a peace support mission to Somalia, including options for disarmament, demobilization and reintegration, and encouraged the international donor community to contribute to those efforts. Furthermore, the Council welcomed the efforts of, among others, the European Union, the IGAD Partners Forum and LAS in developing a peacebuilding framework leading to the formation of a rapid assistance package.³⁹⁵

By a presidential statement dated 19 November 2004, the Council reaffirmed its support for the commitment of the African Union to assist the transitional process in Somalia, in particular the planning for a mission in Somalia, and urged, inter alia, regional and subregional organizations to provide support to the efforts of the future Somali government and institutions to ensure their ability to function inside

³⁸⁸ Resolution 1721 (2006), fifth preambular paragraph and paras. 20 and 21.

³⁸⁹ S/PRST/2006/58.

³⁹⁰ See S/2007/144, annex.

³⁹¹ S/PRST/2007/8.

³⁹² Resolutions 1765 (2007), fourth preambular paragraph; and 1782 (2007), fifth preambular paragraph.

³⁹³ S/PRST/2004/3.

³⁹⁴ S/PRST/2004/24, S/PRST/2004/38 and S/PRST/2004/43 and resolution 1558 (2004), second preambular paragraph.

³⁹⁵ S/PRST/2004/38.

Somalia, and to assist in the reconstruction of Somalia.³⁹⁶

By a presidential statement dated 7 March 2005, the Council recognized the African Union's readiness to play an important role in a future peace support mission in Somalia, which needed to be carefully considered and planned and would require the support of the Somali people. By the same statement, and similarly by a series of decisions, the Council commended the efforts of the African Union and IGAD in support of the Transitional Federal Government and reiterated its support for the efforts of the African Union in assisting the process of transition and national reconciliation in Somalia.³⁹⁷

By a presidential statement dated 14 July 2005, the Council welcomed the readiness of the African Union and IGAD to reinforce their continued support for the establishment of a functioning central government of Somalia, including the possible deployment of a peace support mission to Somalia, and encouraged the African Union Peace and Security Council to keep the Security Council informed of all developments.³⁹⁸

By a presidential statement dated 9 November 2005, the Council commended, among others, IGAD, the African Union, LAS and the European Union for their keen interest and persistent efforts in support of the peace process in Somalia and urged them to use their influence and leverage through a common approach to ensure that the transitional federal institutions resolved their differences and built trust, through an inclusive dialogue, and to move ahead on the key issues of security and national reconciliation.³⁹⁹

By a presidential statement dated 15 March 2006, the Council commended, inter alia, IGAD, the African Union, LAS, the European Union and OIC for their keen interest and persistent efforts in support of the peace, reconciliation and recovery process in Somalia and again encouraged them to continue to use their influence in support of the transitional federal institutions. The Council also welcomed the decision on Somalia of the African Union summit of 25 January 2006, including the possible deployment of an IGAD peace support mission in Somalia, to be followed by an

African Union peace support mission. Concerning the increased incidents of piracy and armed robbery against ships in waters off the coast of Somalia, the Council welcomed the communiqué of the meeting of the Council of Ministers of IGAD, held on 29 November 2005, in which the Council of Ministers decided to coordinate its strategies and action plans to face that common challenge in close collaboration with the international community.⁴⁰⁰

By a presidential statement dated 13 July 2006, the Council commended LAS for facilitating the talks which culminated in the agreement reached in Khartoum on 22 June 2006 between the Transitional Federal Government of Somalia and the Islamic Courts.⁴⁰¹ Also, the Council commended the African Union and IGAD for their continuing efforts to promote peace and stability in Somalia and the region.⁴⁰²

By resolution 1724 (2006) of 29 November 2006, the Council commended the efforts of the African Union, IGAD and LAS for their continued support for national reconciliation in Somalia.⁴⁰³

By resolution 1725 (2006) of 6 December 2006, the Council commended the crucial efforts of LAS and IGAD to promote and encourage political dialogue between the transitional federal institutions and the Union of Islamic Courts and expressed its full support for those initiatives.⁴⁰⁴

By resolution 1744 (2007) of 20 February 2007, and similarly by resolution 1766 (2007) of 23 July 2007, the Council reiterated its appreciation of the efforts of the African Union, LAS and IGAD to promote peace, stability and reconciliation in Somalia, and welcomed their continued engagement in that regard.⁴⁰⁵

By resolution 1772 (2007) of 20 August 2007, the Council reiterated its appreciation of the efforts of the international community, in particular the African Union, as well as LAS, IGAD and the European Union, to promote peace, stability and reconciliation in Somalia, and welcomed their continued engagement. The Council also recalled that cooperation between the United Nations and the regional arrangements in matters

³⁹⁶ S/PRST/2004/43.

³⁹⁷ S/PRST/2005/11; see also resolutions 1587 (2005), 1630 (2005) and 1676 (2006) and S/PRST/2005/32.

³⁹⁸ S/PRST/2005/32.

³⁹⁹ S/PRST/2005/54.

⁴⁰⁰ S/PRST/2006/11.

⁴⁰¹ See S/2006/442, annex.

⁴⁰² S/PRST/2006/31.

⁴⁰³ Resolution 1724 (2006), fifth preambular paragraph.

⁴⁰⁴ Resolution 1725 (2006), sixth preambular paragraph.

⁴⁰⁵ Resolutions 1744 (2007), fifth preambular paragraph; and 1766 (2007), sixth preambular paragraph.

relating to the maintenance of peace and security as were appropriate for regional action was an integral part of collective security as provided for in the Charter.⁴⁰⁶

The situation in Sierra Leone

By resolutions 1537 (2004) of 30 March 2004 and 1562 (2004) of 17 September 2004, the Council commended the efforts of ECOWAS towards building peace in the subregion. By resolution 1537 (2004), the Council also encouraged the Presidents of the States members of the Mano River Union to resume dialogue and to renew their commitment to building regional peace and security. By resolution 1562 (2004), the Council encouraged the Mano River Union member States to continue their dialogue aimed at building regional peace and security.⁴⁰⁷

In connection with the decision in 2003 of the President of Nigeria to facilitate the removal of former President Taylor from Liberia, which had allowed the Comprehensive Peace Agreement⁴⁰⁸ to take effect, the Council, by resolution 1688 (2006) of 16 June 2006, recognized the contribution made by ECOWAS in that regard.⁴⁰⁹

By resolutions 1734 (2006) of 22 December 2006 and 1793 (2007) of 21 December 2007, the Council encouraged the member States of the Mano River Union and other regional organizations to continue their dialogue aimed at building regional peace and stability. By resolution 1793 (2007), the Council also welcomed the role played by ECOWAS.⁴¹⁰

The situation in Burundi

The Council commended the contribution of the African Union to the peace process in Burundi and welcomed the efforts of the African Mission in Burundi (AMIB) which had been transformed into a United Nations peacekeeping operation during 2004.

By resolution 1545 (2004) of 21 May 2004, the Council paid tribute to the efforts made by the African Union, among other actors, to bring peace to Burundi

and encouraged the African Union to maintain a strong presence in Burundi to accompany the efforts of the Burundian parties, as specified in the Arusha Agreement and subsequent agreements. The Council also welcomed the efforts of AMIB and the contingents from South Africa, Ethiopia and Mozambique which made it up as well as Member States which had assisted AMIB in its deployment. Acting under Chapter VII of the Charter, the Council authorized the deployment of a peacekeeping operation, the United Nations Operation in Burundi (ONUB), which should initially be composed of existing forces of AMIB, and requested the Secretary-General, acting in liaison with the African Union, to ensure the transfer of authority over AMIB, within the framework of ONUB, to his Special Representative.⁴¹¹

In his report dated 25 August 2004, the Secretary-General reported that on 1 June 2004, troops of AMIB had been "re-hatted" as ONUB troops.⁴¹²

Subsequent to the election of the President of Burundi on 19 August 2005, the Council, by a presidential statement dated 30 August 2005, commended, inter alia, the critical contribution of the African Union to the peace process in Burundi.⁴¹³

By resolution 1650 (2005) of 21 December 2005, congratulating the people of Burundi for the successful conclusion of the transitional period and the peaceful transfer of authority to representative and democratically elected government and institutions, the Council expressed its gratitude to, inter alia, the African Union for its significant contribution to the success of the political transition.⁴¹⁴

By resolution 1719 (2006) of 25 October 2006, the Council reiterated its gratitude to, among others, AMIB for its important contribution to the successful completion of the transition process in Burundi and to peace in the region.⁴¹⁵

By a presidential statement dated 30 May 2007, the Council, commending the efforts undertaken by, inter alia, the African Union Special Task Force in support of the Comprehensive Ceasefire Agreement

⁴⁰⁶ Resolution 1772 (2007), fifth and ninth preambular paragraphs.

⁴⁰⁷ Resolutions 1537 (2004), third preambular paragraph; and 1562 (2004), third preambular paragraph.

⁴⁰⁸ S/2003/850.

⁴⁰⁹ Resolution 1688 (2006), sixth preambular paragraph.

⁴¹⁰ Resolutions 1734 (2006), eleventh preambular paragraph; and 1793 (2007), tenth preambular paragraph.

⁴¹¹ Resolution 1545 (2004), fifteenth and sixteenth preambular paragraphs and paras. 2 and 3.

⁴¹² S/2004/682, para. 37.

⁴¹³ S/PRST/2005/41.

⁴¹⁴ Resolution 1650 (2005), third and fourth preambular paragraphs.

⁴¹⁵ Resolution 1719 (2006), eleventh preambular paragraph.

signed at Dar es Salaam on 7 September 2006 between the Government of Burundi and the Parti pour la libération du peuple hutu — Forces nationales de libération (Palipehutu-FNL) and invited, among others, the African Union to continue to support the efforts by the parties.⁴¹⁶

At the 5786th meeting, on 28 November 2007, the representative of South Africa encouraged the Facilitator for the Burundi peace process to continue his work, as determined by the regional initiative and the African Union, stating that it was important that the process continued to receive the full support of the Council “in line with Chapter VIII of the Charter”.⁴¹⁷

By resolution 1791 (2007) of 19 December 2007, paying tribute to the facilitation efforts of South Africa, in conjunction with the countries of the regional peace initiative and the African Union, to promote the full implementation of the Comprehensive Ceasefire Agreement, the Council encouraged the South African facilitation, the other States of the regional peace initiative on Burundi, the African Union and other international partners to reinforce efforts in support of the early conclusion of the peace process between the Government of Burundi and Palipehutu-FNL.⁴¹⁸

The situation concerning the Democratic Republic of Congo

During the period under review, the Council welcomed and supported the ongoing efforts of the African Union to restore peace and security in the Democratic Republic of the Congo. The Council also recognized the contribution by the European Union in the areas of security sector and police reform.

Following the seizure of the town of Bukavu by dissident forces on 2 June 2004, the Council, by a presidential statement dated 7 June 2004, welcomed the initiative of the Chairperson of the Commission of the African Union aimed at overcoming the crisis, including in its human dimension, and at facilitating the successful conclusion of the peace process in the Democratic Republic of the Congo.⁴¹⁹

By resolution 1592 (2005) of 30 March 2005, the Council welcomed the African Union’s support for efforts to further peace in the eastern part of the Democratic Republic of the Congo and called upon the African Union to work closely with the United Nations Organization Mission in the Democratic Republic of the Congo in defining its role in the region.⁴²⁰

By resolution 1596 (2005) of 18 April 2005, the Council commended the efforts made by, among others, the African Union to restore peace and security in the Democratic Republic of the Congo.⁴²¹

By resolution 1671 (2006) of 25 April 2006, the Council commended the donor community, in particular the European Union, for the assistance that it was providing to the electoral process and in the interest of a successful outcome to the transition in the Democratic Republic of the Congo and encouraged it to continue its support. The Council also welcomed the additional assistance that the European Union was providing in the context of the forthcoming elections by temporarily reinforcing the European Union police mission in Kinshasa to support the coordination of units of the police forces of the Democratic Republic of the Congo.⁴²²

By resolution 1693 (2006) of 30 June 2006, the Council recalled the importance of security sector reform for the long-term stabilization of the Democratic Republic of the Congo, and the contribution brought by, among others, the European Union Mission of Assistance for Security Sector Reform in that regard.⁴²³ By resolution 1742 (2007) of 15 February 2007, the Council urged the Government of the Democratic Republic of the Congo and its partners, in particular the European Union, to agree promptly on ways to coordinate their efforts and to carry out security sector reform by building on the results already achieved.⁴²⁴

⁴²⁰ Resolution 1592 (2005), fourth preambular paragraph.

⁴²¹ Resolution 1596 (2005), seventh preambular paragraph.

⁴²² Resolution 1671 (2006), sixth and seventh preambular paragraphs.

⁴²³ Resolution 1693 (2006), sixth preambular paragraph.

⁴²⁴ Resolution 1742 (2007), para. 9.

⁴¹⁶ S/PRST/2007/16.

⁴¹⁷ S/PV.5786, p. 9.

⁴¹⁸ Resolution 1791 (2007), seventh preambular paragraph and para. 4.

⁴¹⁹ S/PRST/2004/19.

*Items relating to the Sudan*⁴²⁵

In the case of the Sudan, concerning the North-South peace process, the Council supported the work of IGAD in facilitating the peace talks, which resulted in the signing of the Comprehensive Peace Agreement on 9 January 2005. With regard to the Darfur peace process, the Council continuously supported the efforts of the African Union to find a solution to the crisis, including the successful African Union-led inter-Sudanese peace talks on the conflict in Darfur in Abuja, which led to the agreed framework between the parties for a resolution of the conflict in Darfur (the Darfur Peace Agreement).

With regard to the North-South peace process, by resolutions 1547 (2004) of 11 June 2004 and 1574 (2004) of 19 November 2004, the Council commended the work and continued support of IGAD in facilitating the peace talks, and expressed hope that IGAD would continue to play a vital role during the transitional period.⁴²⁶ By resolution 1590 (2005) of 24 March 2005, the Council, in welcoming the signing of the Comprehensive Peace Agreement between the Government of the Sudan and the Sudan People's Liberation Movement/Army in Nairobi on 9 January 2005, commended the efforts of IGAD. The Council requested the Secretary-General, through his Special Representative, to facilitate coordination with other international actors, in particular, the African Union and IGAD, of activities in support of the transitional process established by the Comprehensive Peace Agreement.⁴²⁷

With regard to the Darfur peace process, the Council, by a presidential statement dated 25 May 2004, stressing that a ceasefire commission with international representation was a central component of the ceasefire agreement signed on 8 April 2004 in N'Djamena, and expressed its full and active support for the efforts of the African Union to establish the ceasefire commission and protection units. The Council also called upon Member States to provide generous support for the efforts of the African Union.⁴²⁸ By resolution 1547 (2004), the

Council urged the parties to the N'Djamena ceasefire agreement of 8 April 2004 to conclude a political agreement without delay and welcomed the efforts of the African Union towards that end.⁴²⁹

By resolution 1556 (2004) of 30 July 2004 and similarly by resolution 1564 (2004) of 18 September 2004, the Council welcomed the leadership role and the engagement of the African Union regarding the situation in Darfur and expressed its readiness to support fully those efforts.⁴³⁰

By resolution 1574 (2004) of 19 November 2004, the Council stressed the importance of further progress towards resolving the crisis in Darfur and welcomed the vital and wide-ranging role being played by the African Union towards that end.⁴³¹

By resolution 1591 (2005) of 29 March 2005, the Council welcomed the continued commitment of the African Union to play a key role in facilitating a resolution to the conflict in Darfur in all respects.⁴³²

By resolution 1651 (2005) of 21 December 2005 and similarly by its subsequent decisions, the Council stressed its firm commitment to the cause of peace throughout the Sudan, including through the African Union-led inter-Sudanese peace talks in Abuja and commended the efforts of and reiterated its full support for the African Union, among other players, to promote peace and stability in Darfur.⁴³³ By a presidential statement dated 11 April 2006, reiterating its full support for the Abuja talks, the Council noted that the African Union should maintain leadership of that process and endorsed the decision of the African Union Peace and Security Council that 30 April 2006 was the final deadline for reaching an agreement.⁴³⁴

By a presidential statement dated 9 May 2006, the Council strongly welcomed the agreement reached at the inter-Sudanese peace talks in Abuja on 5 May 2006 as a basis for lasting peace in Darfur and expressed its

⁴²⁵ Letter dated 25 May 2004 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council (S/2004/425); and Reports of the Secretary-General on the Sudan.

⁴²⁶ Resolutions 1547 (2004), second preambular paragraph; and 1574 (2004), sixth preambular paragraph.

⁴²⁷ Resolution 1590 (2005), third and fifteenth preambular paragraphs and para. 3.

⁴²⁸ S/PRST/2004/18.

⁴²⁹ Resolution 1547 (2004), para. 6.

⁴³⁰ Resolutions 1556 (2004), second preambular paragraph; and 1564 (2004), third preambular paragraph.

⁴³¹ Resolution 1574 (2004), twelfth preambular paragraph.

⁴³² Resolution 1591 (2005), thirteenth preambular paragraph.

⁴³³ Resolution 1651 (2005), second preambular paragraph; see also resolutions 1665 (2006), 1672 (2006) and 1713 (2006) and S/PRST/2005/67, S/PRST/2006/16 and S/PRST/2006/17.

⁴³⁴ S/PRST/2006/16.

appreciation of the efforts of the Special Envoy of the African Union and the Chief Mediator, among others.⁴³⁵

By resolution 1679 (2006) of 16 May 2006, the Council welcomed the success of the African Union-led Abuja talks, in particular the framework agreed between the parties for a resolution of the conflict in Darfur (Darfur Peace Agreement) and again commended the efforts of Chair of the African Union and Special Envoy of the African Union for the talks and Chief Mediator.⁴³⁶

By resolution 1706 (2006) of 31 August 2006, the Council welcomed the efforts of the African Union to find a solution to the crisis in Darfur, including the success of the African Union-led Abuja talks, in particular the Darfur Peace Agreement.⁴³⁷

By resolution 1755 (2007) of 30 April 2007, the Council expressed its full support for the coordinated efforts of the United Nations and African Union special envoys for Darfur to broaden support for and move forward implementation of the Darfur Peace Agreement.⁴³⁸

By resolution 1779 (2007) of 28 September 2007, the Council commended the efforts of, and reiterated its full support for, the African Union, the Secretary-General and their respective special envoys to promote peace and stability in Darfur and expressed strong support for the political process under African Union-United Nations mediation.⁴³⁹

By a presidential statement dated 24 October 2007, the Council stressed the urgent need for an inclusive and sustainable political settlement in Darfur, and strongly welcomed, in that regard, the convening of peace talks on 27 October 2007 in Sirte, Libyan Arab Jamahiriya, under the leadership of the United Nations Special Envoy for Darfur and the African Union Special Envoy for Darfur, who had the full support of the Council.⁴⁴⁰

At the 5784th meeting, on 27 November 2007, the Special Envoy of the Secretary-General for Darfur said that working together in the spirit of Chapter VIII

of the Charter and having the African Union and the United Nations performing common tasks, both in the area of peacekeeping and political talks, was a fascinating but difficult task. He hoped that the political process would move forward.⁴⁴¹

The situation in Guinea-Bissau

By a presidential statement dated 18 June 2004, the Council reaffirmed the importance of the regional dimension in the solution of the problems faced by Guinea-Bissau, and, in that regard, welcomed the role being played by the African Union, the West African Economic and Monetary Union, ECOWAS and the Community of Portuguese-speaking Countries in the peace-building process in Guinea-Bissau.⁴⁴²

By resolution 1580 (2004) of 22 December 2004, the Council encouraged the establishment of a joint coordinating mechanism among the United Nations, ECOWAS and the Community of Portuguese-speaking Countries to ensure synergy and complementarity.⁴⁴³

Following the successful holding of the presidential elections in Guinea-Bissau, the Council, by a presidential statement dated 19 August 2005, expressed its appreciation for the contribution made by, inter alia, the African Union, the Community of Portuguese-speaking Countries, ECOWAS and the European Union, and underlined the importance of their timely diplomatic efforts aimed at promoting national dialogue and respect for the rule of law.⁴⁴⁴

By a presidential statement dated 19 October 2007, the Council welcomed the decision by ECOWAS to convene later that year a regional conference on combating drug trafficking, aimed at developing a regional plan of action to deal with that challenge, recognizing the importance of containing and reversing the threat of drug trafficking to the peace consolidation process in Guinea-Bissau. The Council also welcomed the assistance provided to Guinea-Bissau by, among others, the European Union, and encouraged its enhanced constructive involvement in the country. The Council took note of the announcement made by the European Union and ECOWAS to make resources available in support of security sector reform. Furthermore, the Council again welcomed the role that

⁴³⁵ S/PRST/2006/21.

⁴³⁶ Resolution 1679 (2006), fifth and sixth preambular paragraphs.

⁴³⁷ Resolution 1706 (2006), fourth preambular paragraph.

⁴³⁸ Resolution 1755 (2007), fifteenth preambular paragraph.

⁴³⁹ Resolution 1779 (2007), sixth preambular paragraph.

⁴⁴⁰ S/PRST/2007/41.

⁴⁴¹ S/PV.5784, p. 28.

⁴⁴² S/PRST/2004/20.

⁴⁴³ Resolution 1580 (2004), para. 8.

⁴⁴⁴ S/PRST/2005/39.

was being played by the African Union, ECOWAS and the Community of Portuguese-speaking Countries in the peacebuilding process in Guinea-Bissau.⁴⁴⁵

The situation in Liberia

By resolution 1561 (2004) of 17 September 2004, the Council recognized the critical role ECOWAS continued to play in the Liberian peace process and welcomed the support and continued engagement of the African Union and its close coordination with ECOWAS and the United Nations.⁴⁴⁶

By resolution 1626 (2005) of 19 September 2005 and similarly in subsequent resolutions, the Council expressed its appreciation for the indispensable and continuing contributions to the Liberian peace process by ECOWAS and the African Union.⁴⁴⁷

The situation in the Central African Republic

With regard to the situation in the Central African Republic, the Council continued to cooperate with and support the Central African Economic and Monetary Community (CEMAC), including its multinational force, whose deployment had been supported by the Council in 2002.

By a presidential statement dated 28 October 2004, the Council welcomed the considerable efforts in the Central African Republic made by the States members of CEMAC in the political, economic and security fields. The Council also reiterated its full support for the multinational force of CEMAC.⁴⁴⁸

Following the successful holding of the presidential and legislative elections, the Council, by a presidential statement dated 22 July 2005, commended the multinational force of CEMAC and the European Union, among others, for providing decisive support to the Central African defence and security forces. The Council expressed appreciation for the vital role played in the electoral process by the force to date and expressed its support for the continuing efforts by the force to back the consolidation of the constitutional order, which had thus been re-established, and the

rebuilding of the rule of law. The Council welcomed the decision of the States of CEMAC to extend the mandate of the force.⁴⁴⁹

By a presidential statement dated 22 November 2006, the Council encouraged the multinational force of CEMAC to continue supporting the Central African armed forces beyond 30 June 2007. The Council also requested the Secretary-General to reinforce cooperation between the United Nations and members of CEMAC with a view to facilitating and strengthening initiatives aimed at addressing trans-border insecurity in the subregion and bringing to an end the violation by armed groups of the territorial integrity of the Central African Republic.⁴⁵⁰

The situation in the Great Lakes region

At the 5359th meeting, on 27 January 2006, the representative of Angola, noting that the adoption of resolution 1631 (2005) had opened a new era of cooperation and coordination between the United Nations and regional organizations, expressed the view that the African Union and subregional organizations could better play their role if an effective response was given to the problems of the lack of resources and of how to make partnerships between the two mechanisms as efficient as possible. He stressed that useful lessons on the negative impact of the lack of resources should be drawn from the deployment of the missions of the African Union in Burundi and Darfur, while reflecting on the improvement in cooperation between the Council and regional organizations.⁴⁵¹ The representative of Ghana underlined the need to further enhance the burgeoning cooperation between the United Nations and the African Union in accordance with Chapter VIII of the Charter, especially the strengthening of coordination and communications between the two in mediation and peacekeeping efforts in the Great Lakes region.⁴⁵² The representative of Egypt, stressing the need for more coherence among various institutions involved in the region, held that the Council should perform its role, consistent with its responsibility for the maintenance of international peace and security, through its mandates for various peacekeeping operations, while the Peace and Security Council of the African Union should perform its role as

⁴⁴⁵ S/PRST/2007/38.

⁴⁴⁶ Resolution 1561 (2004), third preambular paragraph.

⁴⁴⁷ Resolution 1626 (2005), fifth preambular paragraph; see also resolutions 1667 (2006), 1712 (2006), 1750 (2007) and 1777 (2007).

⁴⁴⁸ S/PRST/2004/39.

⁴⁴⁹ S/PRST/2005/35.

⁴⁵⁰ S/PRST/2006/47.

⁴⁵¹ S/PV.5359 (Resumption 1), p. 7.

⁴⁵² *Ibid.*, p. 10.

the primary regional body concerned with continental security. He added that the relationship between the two bodies needed to be governed by Chapter VIII of the Charter and resolution 1631 (2005) and welcomed in that context the development of consultative institutional mechanisms between the two, including exchanging visits and holding ongoing periodic consultations on peace and security issues.⁴⁵³

By resolution 1653 (2006), adopted at that meeting, the Council commended the positive role played by, among others, the African Union in organizing and participating in the first summit of the International Conference on Peace, Security, Democracy and Development in the Great Lakes Region in Dar es Salaam, United Republic of Tanzania, on 19 and 20 November 2004. The Council also invited the international community, including regional organizations, among other actors, to support and complement the peacebuilding and development initiatives required to sustain peace, security and stability in the countries of the Great Lakes region.⁴⁵⁴

Following the conclusion of the second summit of the International Conference on the Great Lakes Region in Nairobi on 15 December 2006, the Council, by a presidential statement dated 20 December 2006, paid tribute to, among others, the joint African Union/United Nations Secretariat, the African Union and the European Union for their support and assistance to the International Conference process.⁴⁵⁵

The situation in Chad, the Central African Republic and the subregion

By a presidential statement dated 27 August 2007, the Council encouraged the Secretary-General and the European Union to continue to collaborate with the African Union and regional stakeholders in support of the ongoing process of improving the security situation in the Sudan, Chad and the Central African Republic.⁴⁵⁶

By resolution 1778 (2007) of 25 September 2007, the Council reiterated its full support for the efforts of the Secretary-General and the African Union to revive the peace process begun by the Darfur Peace

Agreement, consolidate the ceasefire and reinforce the peacekeeping presence in Darfur.⁴⁵⁷

Americas

The question concerning Haiti

The Council supported and encouraged the efforts of the Organization of American States (OAS) and the Caribbean Community (CARICOM) to advance the peace process in Haiti, including the national election process, in cooperation and coordination with the United Nations Stabilization Mission in Haiti (MINUSTAH) established during the period under review.

At the 4917th meeting, on 26 February 2004, the representative of Jamaica said that the situation in Haiti was a serious regional concern and noted that “in keeping with Chapter VIII of the Charter”, regional organizations were often the first recourse in addressing threats to peace and security, using as an example the efforts of CARICOM and OAS in Haiti, following the coup d’état against President Aristide in 2001.⁴⁵⁸

By a presidential statement read out at the meeting, the Council, expressing deep concern in regard to the deterioration of the political, security and humanitarian environment in Haiti, commended OAS and CARICOM for their lead role in promoting a peaceful solution and for trying to re-establish confidence among the parties, in particular through their Plan of Action. The Council supported CARICOM and OAS as they continued to work towards a peaceful and constitutional solution to the current impasse. It stated that the principles outlined in the CARICOM/OAS Plan of Action represented an important basis for a solution to the crisis.⁴⁵⁹ The Council again commended the lead efforts by OAS and CARICOM in resolution 1529 (2004) of 29 February 2004, and subsequently called upon the international community, in particular, among others, OAS and CARICOM, to work with the people of Haiti in a long-term effort to promote the rebuilding of democratic institutions and to assist in the development of a strategy to promote social and economic development

⁴⁵³ Ibid., p. 32.

⁴⁵⁴ Resolution 1653 (2006), paras. 1 and 19.

⁴⁵⁵ S/PRST/2006/57.

⁴⁵⁶ S/PRST/2007/30.

⁴⁵⁷ Resolution 1778 (2007), eighth preambular paragraph.

⁴⁵⁸ S/PV.4917, p. 3.

⁴⁵⁹ S/PRST/2004/4.

and to combat poverty, and welcomed the intention of OAS and CARICOM to participate in such efforts.⁴⁶⁰

By resolution 1542 (2004) of 30 April 2004, in deciding to establish MINUSTAH, the Council requested that in carrying out its mandate, MINUSTAH cooperate and coordinate with OAS and CARICOM.⁴⁶¹

At the 5110th meeting, on 12 January 2005, the representative of Bolivia noted with satisfaction that the provisions of Chapter VIII of the Charter had been implemented in a positive manner, through the signing of a memorandum of understanding between the United Nations and OAS on electoral assistance in Haiti and through the contacts established with CARICOM to assess the electoral assistance that its members would contribute to support the reconciliation and recovery efforts of the people of Haiti.⁴⁶² By a presidential statement read out at the meeting, the Council called upon the Transitional Government, with the assistance of MINUSTAH and OAS, urgently to take the necessary measures to ensure the holding of free and fair elections in 2005 and the subsequent transfer of power to elected authorities.⁴⁶³ By a presidential statement dated 18 October 2005, the Council, noting with appreciation that 3 million people had to date been registered for elections, praised, among others, OAS for its contribution to that process.⁴⁶⁴ By a presidential statement dated 9 February 2006, commending the Haitian people on the holding of the first round of national elections on 7 February 2006 with high voter turnout and congratulating them on taking that fundamental step towards the restoration of democracy and stability in their country, the Council stated that it wished to thank OAS, among others, for providing crucial assistance to the Transitional Government and the Provisional Electoral Council during that period.⁴⁶⁵ By resolution 1658 (2006) of 14 February 2006, the Council again commended OAS for its efforts in supporting the national elections in Haiti.⁴⁶⁶

⁴⁶⁰ Resolutions 1529 (2004), fifth preambular paragraph and para. 10; and 1542 (2004), ninth preambular paragraph and para. 13.

⁴⁶¹ Resolution 1542 (2004), paras. 1 and 6.

⁴⁶² S/PV.5110 (Resumption 1), p. 20.

⁴⁶³ S/PRST/2005/1.

⁴⁶⁴ S/PRST/2005/50.

⁴⁶⁵ S/PRST/2006/7.

⁴⁶⁶ Resolution 1658 (2006), third preambular paragraph.

Following the inauguration of the President of Haiti, the Council, by a presidential statement dated 15 May 2006, welcomed the intention of CARICOM to reintegrate Haiti fully into the activities of the Community and also expressed its appreciation for the contribution of OAS to the electoral process.⁴⁶⁷

By resolution 1702 (2006) of 15 August 2006, the Council welcomed the readmittance of Haiti to the Councils of CARICOM and called upon MINUSTAH to continue to work closely with OAS and CARICOM. The Council paid tribute to the continued support of the international community, including regional organizations, for Haiti.⁴⁶⁸

By resolutions 1743 (2007) of 15 February 2007 and 1780 (2007) of 15 October 2007, the Council emphasized the role of the regional organizations in the ongoing process of stabilization and reconstruction of Haiti, and called upon MINUSTAH to continue to work closely with OAS and CARICOM. By resolution 1780 (2007), the Council also welcomed the support of OAS to update the Haitian voter registry while calling upon the Haitian authorities to establish permanent and effective electoral institutions and to hold elections consistent with the Haiti's constitutional requirements.⁴⁶⁹

Europe

The situation in Georgia

With regard to the situation in Georgia, the Council continued to encourage the efforts of the collective peacekeeping force of the Commonwealth of Independent States (CIS), operating side by side with the United Nations Observer Mission in Georgia (UNOMIG). The Council also continued to support the efforts of the Organization for Security and Cooperation in Europe (OSCE) in the pacific settlement of the dispute.

By several resolutions, the Council welcomed the important contributions made by UNOMIG and the collective peacekeeping force of CIS in stabilizing the situation in the zone of conflict and stressed its attachment to the close cooperation existing between

⁴⁶⁷ S/PRST/2006/22.

⁴⁶⁸ Resolution 1702 (2006), fifteenth and seventeenth preambular paragraphs.

⁴⁶⁹ Resolutions 1743 (2007), seventh preambular paragraph; and 1780 (2007), eleventh and sixteenth preambular paragraphs.

them in the performance of their respective mandates.⁴⁷⁰ It also commended and strongly supported the sustained efforts of, among others, OSCE, to promote the stabilization of the situation and the achievement of a comprehensive political settlement, which had to include a settlement of the political status of Abkhazia within the State of Georgia.⁴⁷¹

By a series of resolutions, the Council extended the mandate of UNOMIG, subject to a review, as appropriate, of its mandate by the Council in the event of changes in the mandate of the collective peacekeeping force.⁴⁷²

By resolution 1666 (2006) of 31 March 2006 and also subsequent resolutions, the Council stressed the sustained efforts of OSCE and stressed the importance of close and effective cooperation between UNOMIG and the peacekeeping force of CIS, as they were playing an important stabilizing role in the conflict zone, and recalled that a lasting and comprehensive settlement of the conflict would require appropriate security guarantees.⁴⁷³ In addition, by resolution 1716 (2006) of 13 October 2006, the Council acknowledged the important role of the peacekeeping force of CIS and of UNOMIG in the Georgian-Abkhaz conflict zone. The Council also noted with satisfaction the resumption of joint patrols in the upper Kodori Valley by UNOMIG and the peacekeeping force of CIS and reaffirmed that such joint patrols should be conducted on a regular basis.⁴⁷⁴

The situation in Bosnia and Herzegovina

During the period under review, the Council continued to emphasize its appreciation to a number of actors, which included OSCE, the European Union and personnel of NATO and other international

organizations and agencies in Bosnia and Herzegovina, for their contributions to the implementation of the Dayton Peace Agreement,⁴⁷⁵ in several decisions.⁴⁷⁶ By a number of resolutions, the Council also reiterated its appreciation for the deployment by the European Union of its Police Mission to Bosnia and Herzegovina since 1 January 2003.⁴⁷⁷

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

By a presidential statement dated 24 October 2005, the Council, welcoming the report of the Secretary-General's envoy on the comprehensive review of the implementation of standards, as well as of the overall situation in and relating to Kosovo, Serbia and Montenegro,⁴⁷⁸ called upon interested regional and international organizations to cooperate closely in the process to determine the future status of Kosovo.⁴⁷⁹

Asia

The situation in Afghanistan

By a presidential statement dated 15 July 2004, the Council acknowledged the intention of the European Union and bilateral donors to contribute to the conduct of free and fair elections and noted ongoing discussions within OSCE on a possible contribution in that context.⁴⁸⁰

By a presidential statement of 17 July 2007, the Council welcomed the deployment, beginning of 15 June 2007, of the European Union Police Mission in Afghanistan.⁴⁸¹

⁴⁷⁰ Resolutions 1524 (2004), ninth preambular paragraph; 1554 (2004), eighth preambular paragraph; 1582 (2005), eighth preambular paragraph; and 1615 (2005), eighth preambular paragraph.

⁴⁷¹ Resolutions 1524 (2004), para. 3; 1554 (2004), para. 2; 1582, (2005), para. 2; and 1615 (2005), para. 2.

⁴⁷² Resolutions 1524 (2004), para. 29; 1554 (2004), para. 28; 1582 (2005), para. 31; 1615 (2005), para. 33; and 1666 (2006), para. 11.

⁴⁷³ Resolutions 1666 (2006), third and fourth preambular paragraphs; 1716 (2006), third preambular paragraph and para. 7; 1752 (2007), third and fourth preambular paragraphs; and 1781 (2007), fourth and fifth preambular paragraphs.

⁴⁷⁴ Resolution 1716 (2006), paras. 5 and 7.

⁴⁷⁵ See S/1995/1021, annex.

⁴⁷⁶ Resolutions 1551 (2004), fifth preambular paragraph; 1575 (2004), seventh preambular paragraph; 1639 (2005), seventh preambular paragraph; 1722 (2006) seventh preambular paragraph; and 1785 (2007), seventh preambular paragraph.

⁴⁷⁷ Resolutions 1551 (2004), para. 22; 1575 (2004), para. 20; 1639 (2005), para. 20; 1722 (2006), para. 20; and 1785 (2007), para. 20.

⁴⁷⁸ S/2005/635.

⁴⁷⁹ S/PRST/2005/51.

⁴⁸⁰ S/PRST/2004/25.

⁴⁸¹ S/PRST/2007/27.

Letter dated 31 March 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Papua New Guinea to the United Nations addressed to the President of the Security Council

By a presidential statement dated 15 June 2005, the Council, welcoming the first general elections for the president and members of the House of Representatives of the Autonomous Region of Bougainville held from 20 May through 9 June 2005, which marked a significant and historical landmark in the Bougainville peace process, the Council expressed its appreciation for the role played by electoral observers in the smooth conduct of the elections in Bougainville.⁴⁸²

The situation in Myanmar

By a presidential statement dated 11 October 2007, the Council welcomed the important role played by the countries of the Association of Southeast Asian Nations (ASEAN) in urging restraint, calling for a peaceful transition to democracy and supporting the good offices mission of the Secretary-General.⁴⁸³

Middle East

*The situation concerning Iraq*⁴⁸⁴

Subsequent to the successful elections of 30 January 2005, the Council, by a presidential statement of 16 February 2005, expressed appreciation for the assistance given by international actors, including European Union electoral experts.⁴⁸⁵ Following the inauguration on 20 May 2006 of Iraq's constitutionally elected Government, the Council, by a presidential statement dated 24 May 2006, looked forward to the continued efforts of LAS, including the forthcoming conference in Baghdad, in support of the political process that the Council had endorsed.⁴⁸⁶

The situation in the Middle East

By a presidential statement dated 22 June 2005, the Council, welcoming the Lebanese parliamentary elections held from 29 May to 19 June 2005, paid

⁴⁸² S/PRST/2005/23.

⁴⁸³ S/PRST/2007/37.

⁴⁸⁴ Decisions were taken also under the item entitled "The situation between Iraq and Kuwait".

⁴⁸⁵ S/PRST/2005/5.

⁴⁸⁶ S/PRST/2006/24.

tribute to the crucial contribution of the international observers, notably from the European Union.⁴⁸⁷

The situation in the Middle East, including the Palestinian question

By a presidential statement dated 30 November 2005, the Council, welcoming the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing reached between the Government of Israel and the Palestinian Authority on 15 November 2005, expressed its strong appreciation to the European Union for assuming the role of third-party monitor.⁴⁸⁸

C. Authorization by the Security Council of enforcement action by regional arrangements, and related action by the Council

From 2004 to 2007, the Security Council increasingly gave its authorization under Chapter VII of the Charter to regional arrangements to deploy peacekeeping operations, most of which were also authorized to take all necessary actions. During the reporting period, six new regional peacekeeping operations were authorized by the Council in Bosnia and Herzegovina, Chad/Central African Republic, the Democratic Republic of the Congo, Somalia and Sudan (Darfur).⁴⁸⁹ The culmination of cooperation with regional arrangements in peacekeeping was the deployment of a hybrid peacekeeping operation of the African Union and the United Nations in Darfur, which evolved from the African Union Mission in the Sudan authorized by the Council under Chapter VII of the Charter.

The Council continued to cooperate with regional organizations in the implementation of Chapter VII measures, such as sanctions. In its decisions, the Council welcomed the efforts undertaken by its subsidiary bodies with responsibilities in counter-

⁴⁸⁷ S/PRST/2005/26.

⁴⁸⁸ S/PRST/2005/57.

⁴⁸⁹ The European Union force in Bosnia and Herzegovina; the European Union operation in Chad/Central African Republic; the European Union force in the Democratic Republic of the Congo; the Intergovernmental Authority on Development Peace Support Mission and the African Union Mission in Somalia; and the African Union Mission in the Sudan.

terrorism to foster cooperation with regional and subregional organizations and noted with appreciation the efforts made by an increasing number of those organizations in the fight against terrorism.⁴⁹⁰

The practice of the Council in this regard is presented below, by region and in chronological order.

Africa

The situation in Côte d'Ivoire

On 4 April 2004, the ECOWAS Mission in Côte d'Ivoire, which the Council had originally authorized by resolution 1464 (2003), under Chapter VII of the Charter, to "take the necessary steps" to guarantee the security and freedom of movement of its personnel and to ensure the protection of civilians, transferred its authority to a newly established peacekeeping operation, the United Nations Operation in Côte d'Ivoire (UNOCI).

By resolutions 1527 (2004) of 4 February 2004 and 1528 (2004) of 27 February 2004, the Council welcomed in particular the effective action taken by the ECOWAS forces in order to stabilize the country.⁴⁹¹ By resolution 1527 (2004), acting under Chapter VII of the Charter, the Council decided to renew until 27 February 2004 the authorization given to Member States participating in forces of ECOWAS.⁴⁹²

By resolution 1528 (2004), taking note of the request made by ECOWAS to the Council on 24 November 2003 to establish a peacekeeping operation in Côte d'Ivoire and acting under Chapter VII of the Charter, the Council decided to establish UNOCI for an initial period of 12 months as from 4 April 2004, and requested the Secretary-General to transfer authority from the United Nations Mission in Côte d'Ivoire (MINUCI) and the ECOWAS forces to UNOCI on that date. The Council decided to renew until 4 April 2004 the authorization given to the forces of ECOWAS through its resolution 1527 (2004).⁴⁹³

In his report dated 2 June 2004, the Secretary-General reported that on 4 April 2004 UNOCI officially had replaced MINUCI and re-hatted ECOWAS troops.⁴⁹⁴

Items relating to the Sudan

The Council's cooperation with the African Union resulted in the deployment of the first-ever joint peacekeeping operation with a regional organization under Chapter VII of the Charter, the African Union-United Nations Hybrid Operation in Darfur (UNAMID), in July 2007, which was authorized to use force. The Council invited the African Union to cooperate in the implementation of sanctions measures as well as in the context of its referral of the situation in Darfur to the International Criminal Court.

By resolution 1556 (2004) of 30 July 2004, the Council, acting under Chapter VII of the Charter, endorsed the deployment of international monitors, including the protection force envisioned by the African Union, to the Darfur region of the Sudan under the leadership of the African Union. The Council urged Member States to reinforce the international monitoring team, led by the African Union, including the protection force, by providing personnel and other assistance as needed for the monitoring operations and expressed its full support for the African Union-led ceasefire commission and monitoring mission in Darfur.⁴⁹⁵

By resolution 1564 (2004) of 18 September 2004, the Council, acting under Chapter VII of the Charter, welcomed and supported the intention of the African Union to enhance and augment its monitoring mission in the Darfur region of the Sudan and encouraged the undertaking of proactive monitoring. The Council again urged Member States to support the African Union in those efforts, including by providing all equipment, logistical, financial, material and other resources necessary to support the rapid expansion of the African Union mission.⁴⁹⁶

⁴⁹⁰ See, for example, resolution 1631 (2005), para. 6, S/PRST/2006/39 and S/PRST/2007/42.

⁴⁹¹ Resolutions 1527 (2004), fifth preambular paragraph; and 1528 (2004), eleventh preambular paragraph.

⁴⁹² Resolution 1527 (2004), para. 2.

⁴⁹³ Resolution 1528 (2004), thirteenth preambular paragraph and paras. 1 and 15.

⁴⁹⁴ S/2004/443, para. 25.

⁴⁹⁵ Resolution 1556 (2004), paras. 2, 3 and 16.

⁴⁹⁶ Resolution 1564 (2004), paras. 2-3. Throughout the period under review, the call for provision of the required equipment and necessary resources to the African Union mission was reiterated in several decisions (see resolutions 1574 (2004); 1590 (2005); and 1591 (2005); and S/PRST/2005/67).

At the 5040th meeting, following the adoption of resolution 1564 (2004), a few representatives expressed regret that the resolution had not included a reference to Chapter VIII of the Charter. The representative of Benin opined that such a reference would have highlighted the cooperation and consultation necessary between the United Nations and the regional organizations.⁴⁹⁷ The representative of Brazil said that, while resolution 1564 (2004) committed the international community to political and military efforts made by the African Union in Darfur, the Council should have gone further by basing the appropriate paragraphs of the resolution on Chapter VIII of the Charter. Such provisions would have been not only easily acceptable but also timely and appropriate and provided a steadier political and legal basis for the budding cooperation between the United Nations and the African Union in that particular instance.⁴⁹⁸

By resolution 1574 (2004) of 19 November 2004, the Council expressed its strong support of the decisions of the African Union to increase its mission in Darfur to 3,320 personnel and to enhance its mandate to include the tasks listed in paragraph 6 of the communiqué of 20 October 2004 of the Peace and Security Council of the African Union.⁴⁹⁹

By resolution 1590 (2005) of 24 March 2005, commending the efforts of the African Union and acknowledging the progress made by the African Union in the deployment of an international protection force, police and military observers, the Council requested that the United Nations Mission in the Sudan (UNMIS), established by that resolution, closely and continuously liaise and coordinate at all levels with the African Union Mission in the Sudan (AMIS) with a view to expeditiously reinforcing the effort to foster peace in Darfur, especially with regard to the Abuja peace process and AMIS.⁵⁰⁰ By resolution 1591 (2005) of 29 March 2005, the Council reiterated its commendation for the efforts of the African Union, including its deployment of an international protection force, police and military observers.⁵⁰¹

By a presidential statement dated 12 May 2005, the Council applauded the vital leadership role of the African Union in Darfur and the work of AMIS on the ground. The Council supported the subsequent decision taken by the African Union Peace and Security Council on 28 April 2005 to expand its Mission in Darfur to 7,731 personnel by the end of September 2005. It looked forward to close coordination and cooperation between UNMIS and AMIS, recalling resolution 1590 (2005) in that regard. The Council also welcomed the role played by the partners of the African Union in support of AMIS and underlined the active role played by the European Union.⁵⁰²

By a presidential statement dated 21 December 2005, the Council expressed its gratitude to the African Union and its Mission in the Sudan for the positive role that its forces had played in reducing violence and promoting the restoration of order in Darfur.⁵⁰³

By a presidential statement of 3 February 2006, the Council commended the efforts of the African Union for successful deployment of AMIS and for significant contribution to the provision of a secure environment for civilians and the humanitarian situation in Darfur. The Council welcomed the recognition by the Peace and Security Council of the partnership between the African Union and the United Nations in the promotion of peace, security and stability in Africa. The Council further took note of the communiqué of 12 January 2006 issued by the Peace and Security Council, in which it had expressed its support, in principle, for a transition from AMIS to a United Nations operation and requested the Chairman of the Commission of the African Union to initiate consultations with the United Nations and other stakeholders on that matter. The Council emphasized the importance of maintaining strong support for AMIS until any eventual transition was completed.⁵⁰⁴

By resolution 1663 (2006) of 24 March 2006, the Council welcomed the communiqué of 10 March 2006 issued by the Peace and Security Council at its forty-sixth meeting,⁵⁰⁵ and the decision of that Council to support in principle the transition of AMIS to a United Nations operation within the framework of partnership between the African Union and the United Nations in

⁴⁹⁷ S/PV.5040, pp. 8-9.

⁴⁹⁸ *Ibid.*, p. 10.

⁴⁹⁹ Resolution 1574 (2004), para. 13.

⁵⁰⁰ Resolution 1590 (2005), fourteenth preambular paragraph and para. 2.

⁵⁰¹ Resolution 1591 (2005), fourteenth preambular paragraph.

⁵⁰² S/PRST/2005/18.

⁵⁰³ S/PRST/2005/67.

⁵⁰⁴ S/PRST/2006/5.

⁵⁰⁵ S/2006/156, annex.

the promotion of peace, security and stability in Africa, to pursue the conclusion of a peace agreement on Darfur by the end of April 2006, and to extend the mandate of AMIS until 30 September 2006. The Council requested that the Secretary-General, jointly with the African Union, in close and continuing consultations with the Council, expedite the necessary preparatory planning for transition of AMIS to a United Nations operation, and encouraged the Secretary-General to continue to provide the maximum possible assistance to AMIS. The Council also requested the Secretary-General and the African Union to consult with international and regional organizations and member States to identify resources to support AMIS during transition to a United Nations operation.⁵⁰⁶

By a presidential statement of 11 April 2006 and subsequent decisions, the Council commended the African Union for what AMIS had successfully achieved in Darfur despite exceptionally difficult circumstances. The Council again stressed that the Secretary-General should consult jointly with the African Union, in close and continuing consultation with the Council, on decisions concerning the transition and called upon international and regional organizations and Member States to provide every possible additional assistance to a follow-on United Nations operation.⁵⁰⁷

Following the conclusion of the Darfur Peace Agreement, the Council, by resolution 1679 (2006) of 16 May 2006, commended the efforts of the African Union for successful deployment of AMIS and further commended the efforts of, among others, regional organizations that had assisted AMIS in its deployment. The Council also welcomed the efforts of, *inter alia*, regional organizations to maintain and strengthen their support to AMIS and potentially to a follow-on United Nations operation in Darfur and appealed to African Union partners to provide the necessary support to AMIS to allow it to continue to perform its mandate during the transition. The Council called upon the African Union to agree with the United Nations, regional and international organizations and Member States on requirements necessary to strengthen the capacity of AMIS to enforce the security

arrangements of the Darfur Peace Agreement, with a view to a follow-on United Nations operation in Darfur, and endorsed the decision of the Peace and Security Council in its communiqué of 15 May 2006⁵⁰⁸ that, in view of the signing of the Darfur Peace Agreement, concrete steps should be taken to effect the transition from AMIS to a United Nations operation.⁵⁰⁹

By resolution 1706 (2006) of 31 August 2006, the Council again commended the efforts of the African Union for the successful deployment of AMIS and the role of AMIS in reducing large-scale organized violence in Darfur and stressed the need for AMIS to assist implementation of the Darfur Peace Agreement until transition to the United Nations force in Darfur was completed. The Council also welcomed the decision of the Peace and Security Council of 27 June 2006 on strengthening the mandate and tasks of the Mission, including on the protection of civilians. The Council requested the Secretary-General to consult jointly with the African Union on a plan and timetable for transition from AMIS to a United Nations operation in Darfur and decided that UNMIS should take over from AMIS the responsibility for supporting the implementation of the Darfur Peace Agreement upon the expiration of the mandate of AMIS but in any event no later than 31 December 2006. The Council also requested the Secretary-General to take the necessary steps to strengthen AMIS through the use of existing and additional United Nations resources with a view to transitioning to a United Nations operation in Darfur and authorized the Secretary-General during that transition to implement the longer-term support to AMIS outlined in the report of the Secretary-General of 28 July 2006,⁵¹⁰ including provision of air assets, ground mobility package, training, engineering and logistics, mobile communications capacity and broad public information assistance.⁵¹¹

At the 5528th meeting, on 18 September 2006, the Special Representative of the Secretary-General for the Sudan, speaking of the difficulties of a transition from AMIS to an United Nations operation due to the lack of consent by the Government of the Sudan, indicated his belief that the Government of the Sudan

⁵⁰⁶ Resolution 1663 (2006), seventh preambular paragraph and paras. 4-6.

⁵⁰⁷ S/PRST/2006/16; S/PRST/2006/21; and resolution 1679 (2006), ninth preambular paragraph and para. 4.

⁵⁰⁸ S/2006/307, annex.

⁵⁰⁹ Resolution 1679 (2006), tenth and thirteenth preambular paragraphs and paras. 2-4.

⁵¹⁰ S/2006/591.

⁵¹¹ Resolution 1706 (2006), fifth preambular paragraph and paras. 5 and 7.

would accept the authority of a transition rooted in Chapter VIII of the Charter.⁵¹²

By resolution 1714 (2006) of 6 October 2006, the Council welcomed the decision of the Peace and Security Council at its sixty-third meeting, on 20 September 2006, to extend the mandate of AMIS until 31 December 2006, and encouraged the efforts of the Secretary-General and the African Union to implement those provisions of resolution 1706 (2006) on United Nations assistance to AMIS.⁵¹³

By resolution 1755 (2007) of 30 April 2007, the Council again commended the efforts of the African Union for successful deployment of AMIS, despite exceptionally difficult circumstances.⁵¹⁴

By a presidential statement dated 25 May 2007, the Council welcomed the transmission of the report of the Secretary-General and the Chairperson of the African Union Commission on the hybrid operation in Darfur,⁵¹⁵ which contained recommendations regarding a mandate and a structure for the hybrid operation, details on the various components of the proposed operation and their specific tasks, and a description of the ongoing efforts of the international community to support the peace process in Darfur and to strengthen AMIS. The Council noted that agreement between the African Union and the United Nations on that joint report was an important development in the comprehensive approach to the peace process in Darfur, which also included re-energizing the political process, strengthening the ceasefire, and implementing the three-phase approach to peacekeeping, culminating in an African Union-United Nations hybrid operation. The Council called for the full implementation without delay of the United Nations light and heavy support packages of assistance to AMIS, as well as for the report of the Secretary-General and the Chairperson of the African Union Commission on the hybrid operation to be considered and taken forward immediately.⁵¹⁶

By resolution 1769 (2007) of 31 July 2007, the Council recalled that cooperation between the United Nations and the regional arrangements in matters

relating to the maintenance of peace and security was an integral part of collective security as provided for in the Charter of the United Nations. The Council also commended the efforts of the African Union for the successful deployment of AMIS as well as the efforts of Member States and regional organizations that had assisted it in its deployment, and stressed the need for AMIS, as supported by the United Nations light and heavy support packages, to assist in the implementation of the Darfur Peace Agreement until the end of its mandate. The Council recalled the communiqué of the seventy-ninth meeting of the Peace and Security Council of 22 June 2007, at which that Council had extended the mandate of AMIS for an additional period not exceeding six months, until 31 December 2007.⁵¹⁷

By the same resolution, the Council decided to authorize and mandate the establishment, for an initial period of 12 months, of an African Union-United Nations Hybrid Operation in Darfur (UNAMID), to incorporate personnel from AMIS and the United Nations heavy and light support packages to AMIS, with command and control structures and backstopping provided by the United Nations. In doing so, the Council authorized UNAMID to “take the necessary action”, in the areas of deployment of its forces and as it deemed within its capabilities in order to, inter alia, protect its personnel, support early and effective implementation of the Darfur Peace Agreement and to protect civilians. The Council also stressed the urgent need to mobilize the financial, logistical and other support required for AMIS.⁵¹⁸

At the 5727th meeting, on 31 July 2007, at which that resolution was adopted, the representative of France expressed the view that resolution 1769 (2007) was the outcome of a process of cooperation between the United Nations and the African Union that had been exemplary in many respects. He held that given its unprecedented hybrid nature and joint leadership by two organizations, UNAMID would require the special commitment of, and ongoing mobilization by, the international community, relying on the United Nations and the African Union which had a special responsibility.⁵¹⁹ The representative of Slovakia expressed particular appreciation that resolution 1769

⁵¹² S/PV.5528, pp. 21-22.

⁵¹³ Resolution 1714 (2006), ninth and tenth preambular paragraphs.

⁵¹⁴ Resolution 1755 (2007), fourteenth preambular paragraph.

⁵¹⁵ See S/2007/307/Rev.1.

⁵¹⁶ S/PRST/2007/15.

⁵¹⁷ Resolution 1769 (2007), third and eighth preambular paragraphs.

⁵¹⁸ *Ibid.*, paras. 1, 2, 7, 11 and 15 (a). For details of the mandate of UNAMID, see chap. V, part I.F.

⁵¹⁹ S/PV.5727, p. 4.

(2007) reflected the new partnership between the African Union and the United Nations, which would be crucial for the future success of the hybrid operation.⁵²⁰ The representative of the United States, echoed by the representative of Belgium, stated that the hybrid operation represented a new and unique form of cooperation between the two organizations.⁵²¹ The representative of the African Union was convinced that the joint efforts of the United Nations and the African Union in Darfur and in other conflict situations in Africa would greatly contribute to building a new framework of cooperation between the United Nations, the African Union and other regional organizations in the maintenance of international peace and security and the promotion of sustainable development.⁵²²

With regard to the measures imposed in the framework of Article 41 against the Sudan, the Council, by resolution 1591 (2005) of 29 March 2005, in strengthening the arms embargo originally imposed by resolution 1556 (2004) and imposing additional measures of a travel ban and an asset freeze, invited the African Union Ceasefire Commission to share pertinent information as appropriate with the Secretary-General and the Committee or the Panel of Experts established by the resolution.⁵²³ By a presidential statement of 13 October 2005, the Council urged the African Union to share results of its investigations into recent attacks against personnel of AMIS with the Council for possible referral to the Sudan sanctions committee in order to assist in the implementation of the provisions of the relevant Council resolutions, while expressing its unequivocal support for AMIS.⁵²⁴ Furthermore, by a series of resolutions, the Council urged the African Union and other interested parties to cooperate fully with the Committee and the Panel of Experts, in particular by supplying any information at their disposal on implementation of the measures imposed by resolutions 1556 (2004) and 1591 (2005).⁵²⁵

By resolution 1593 (2005) of 31 March 2005, the Council, acting under Chapter VII of the Charter, decided to refer the situation in Darfur since 1 July

2002 to the Prosecutor of the International Criminal Court and urged all States and “concerned regional and other international organizations” to cooperate fully. The Council also invited the Court and the African Union to discuss practical arrangements that would facilitate the work of the Prosecutor and of the Court, including the possibility of conducting proceedings in the region, which would contribute to regional efforts in the fight against impunity.⁵²⁶

The situation concerning the Democratic Republic of Congo

The Council authorized the European Union to deploy a peacekeeping operation in the Democratic Republic of the Congo for a limited period of time, to assist in the elections in that country.

By a letter dated 27 December 2005 to the Presidency of the European Union, the Under-Secretary-General for Peacekeeping Operations appealed to the European Union to consider the possibility of making available a deterrent force that, if necessary, could be deployed to the Democratic Republic of the Congo during the electoral process.⁵²⁷ The Minister for Foreign Affairs of Austria on behalf of the Council of the European Union, in his letter dated 28 March 2006, informed the Secretary-General that the Council of the European Union had decided to respond positively to that request, while underlining the need for the Security Council to adopt accordingly a resolution under Chapter VII of the Charter which would provide a legal basis for the presence of European troops and give a robust mandate to the European force. The Minister also stated that the force would not substitute for the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) or the armed forces of the Democratic Republic of the Congo in their tasks, and noted the assessment that the capabilities of MONUC in certain parts of the territory of the Democratic Republic of the Congo should enable it to address possible difficulties without support from the European Union.⁵²⁸

By resolution 1671 (2006) of 25 April 2006, welcoming the intention of the European Union to deploy a force to support MONUC during the electoral period in the Democratic Republic of the Congo as

⁵²⁰ Ibid., p. 6.

⁵²¹ Ibid., p. 6 (Belgium); and p. 7 (United States).

⁵²² Ibid., p. 12.

⁵²³ Resolution 1591 (2005), para. 7.

⁵²⁴ S/PRST/2005/48.

⁵²⁵ Resolutions 1665 (2006), para. 3; 1713 (2006), para. 3; and 1779 (2007), para. 4.

⁵²⁶ Resolution 1593 (2005), paras. 1-3.

⁵²⁷ S/2006/219, annex I.

⁵²⁸ Ibid., annex II.

expressed in the above-mentioned letter by the Minister for Foreign Affairs of Austria, the Council, acting under Chapter VII of the Charter, authorized, for a period ending four months after the date of the first round of the presidential and parliamentary elections, the deployment of a European Union force in the Democratic Republic of the Congo. The Council decided that the force was authorized to “take all necessary measures”, within its means and capabilities, to carry out the following tasks: (a) to support the Mission to stabilize a situation, in case the Mission faced serious difficulties in fulfilling its mandate within its existing capabilities; (b) to contribute to the protection of civilians under imminent threat of physical violence in the areas of its deployment, and without prejudice to the responsibility of the Government of the Democratic Republic of the Congo; (c) to contribute to airport protection in Kinshasa; (d) to ensure the security and freedom of movement of the personnel as well as the protection of the installations of the force; and (e) to execute operations of a limited character in order to extract individuals in danger. The Council requested the European Union and the Secretary-General to ensure close cooperation during the preparation of the establishment of the European Union force and for the duration of its mandate, and until its full disengagement. The Council also authorized MONUC, within the limit of its capacities, to provide all necessary logistical support to the European Union force, on a cost-reimbursement basis.⁵²⁹ The Council also decided that the arms embargo imposed by resolutions 1493 (2003) and 1596 (2005) would not apply to supplies of arms and related materiel as well as technical training and assistance intended solely for the support of or use by the European Union force.⁵³⁰

By a presidential statement dated 3 August 2006 and similarly by resolution 1711 (2006) of 29 September 2006, the Council, paying tribute to the citizens of the Democratic Republic of the Congo who, on 30 July 2006, had taken part in great numbers in democratic elections of historic importance for their nation, expressed its gratitude to, among others, the European Union and the force it had temporarily deployed during the electoral process.⁵³¹

⁵²⁹ Resolution 1671 (2006), tenth preambular paragraph and paras. 2, 8, 11 and 14.

⁵³⁰ *Ibid.*, para. 10.

⁵³¹ S/PRST/2006/36; and resolution 1711 (2006), fifth preambular paragraph.

By a presidential statement dated 22 September 2006, the Council, deploring the violence that had erupted in Kinshasa from 20 to 22 August 2006 between security forces loyal to President Joseph Kabila and Vice-President Jean-Pierre Bemba, commended the effective action of European Union force in support of MONUC.⁵³²

Following the provincial elections and the second round of the presidential election held on 29 October 2006, the Council, by a presidential statement of 7 November 2006, welcomed the support provided for the holding of the elections by, among others, the European Union force and the European Union.⁵³³ After the announcement by the Supreme Court of Justice on 27 November 2006 of the formal results of the second round of the presidential election, the Council again commended the invaluable support provided for the holding of the elections by, inter alia, the European Union force and the European Union.⁵³⁴

At the 5616th meeting, on 9 January 2007, reporting on the implementation of the mandate of the European Union force in the Democratic Republic of the Congo, the representative of Germany, speaking on behalf of the European Union, stated that, after the adoption of resolution 1671 (2006), the force had been launched in July 2006, with a total of 21 member States participating, and had concluded its mission after four months, at the end of November 2006. He stressed that the force had been another milestone of cooperation between the European Union and the United Nations in the field of peacekeeping in Africa and opined that the lessons drawn from the experience would be important for the future partnership in the field of crisis management, adding that such cooperation needed to be accompanied by appropriate mechanisms of dialogue and exchange.⁵³⁵

The situation in Somalia

The Council authorized Member States and the African Union to establish a mission in Somalia, which should also be authorized to take all necessary measures to carry out its mandate.

By resolution 1725 (2006) of 6 December 2006, the Council, acting under Chapter VII of the Charter,

⁵³² S/PRST/2006/40.

⁵³³ S/PRST/2006/44.

⁵³⁴ S/PRST/2006/50.

⁵³⁵ S/PV.5616, p. 3.

decided to authorize IGAD and States members of the African Union to establish a protection and training mission in Somalia, to be known as IGASOM, to be reviewed after an initial period of six months by the Council, with the following mandate: (a) to monitor progress by the transitional federal institutions and the Union of Islamic Courts in implementing agreements reached in their dialogue; (b) to ensure free movement and safe passage of all those involved with the dialogue process; (c) to maintain and monitor security in Baidoa; (d) to protect members of the transitional federal institutions and the Transitional Federal Government as well as their key infrastructure; and (e) to train the security forces of the transitional federal institutions to enable them to provide their own security and to help to facilitate the re-establishment of national security forces of Somalia. The Council also endorsed the specification in the deployment plan of IGAD that those States that bordered Somalia would not deploy troops to Somalia and decided that the arms embargo imposed by resolution 733 (1992) should not apply to supplies of weapons and military equipment and technical training and assistance intended solely for the support of or use by IGASOM.⁵³⁶

In his report dated 28 February 2007, the Secretary-General reported that, since the adoption of resolution 1725 (2006), efforts had been under way to expedite the deployment of a peace support mission to Somalia. Once it became clear that IGAD would be unable to deploy IGASOM, it was decided that the African Union Mission in Somalia (AMISOM) would be deployed, which was approved by the Peace and Security Council of the African Union for six months to contribute to the initial stabilization phase in Somalia.⁵³⁷

In its communiqué of 19 January 2007, the Peace and Security Council stated that the African Union should deploy for a period of six months a mission to Somalia, aimed essentially at contributing to the initial stabilization phase in Somalia, and that the mission would evolve into a United Nations operation that would support the long-term stabilization and post-conflict restoration of Somalia.⁵³⁸ By resolution 1744 (2007) of 20 February 2007, the Council took note of that communiqué and welcomed the intention of the African Union to establish a mission in Somalia. The Council underlined that the deployment of

AMISOM would help to avoid a security vacuum and create the conditions for full withdrawal of the troops of Ethiopia and the lifting of emergency security measures that were currently in place.⁵³⁹

By the same resolution, the Council, acting under Chapter VII of the Charter, decided to authorize member States of the African Union to establish for a period of six months a mission in Somalia, which should be authorized to “take all necessary measures”, as appropriate, to carry out its mandate. The mandate included (a) to support dialogue and reconciliation in Somalia by assisting with the free movement, safe passage and protection of all those involved with the political process referred to in the resolution; (b) to provide, as appropriate, protection to the transitional federal institutions to help them to carry out their functions of government, and security for key infrastructure; (c) to assist, within its capabilities, and in coordination with other parties, with implementation of the National Security and Stabilization Plan, in particular the effective re-establishment and training of all-inclusive Somali security forces; (d) to contribute, as might be requested and within capabilities, to the creation of the necessary security conditions for the provision of humanitarian assistance; and (e) to protect its personnel, facilities, installations, equipment and mission, and to ensure the security and freedom of movement of its personnel. The Council decided that the arms embargo, as imposed by resolution 733 (1992) should not apply to supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by AMISOM. The Council urged States members of the African Union to contribute to AMISOM in order to create the conditions for the withdrawal of all other foreign forces from Somalia, further urged Member States to provide personnel, equipment and services if required, for the successful deployment of AMISOM and encouraged Member States to provide financial resources for AMISOM.⁵⁴⁰ Similar calls for contribution and assistance to AMISOM were reiterated in subsequent decisions.⁵⁴¹

⁵³⁹ Resolution 1744 (2007), sixth, seventh and eighth preambular paragraphs.

⁵⁴⁰ *Ibid.*, paras. 4, 5, 6 (a) and 8.

⁵⁴¹ Resolution 1772 (2007), paras. 10 and 14; and S/PRST/2007/13; S/PRST/2007/19; and S/PRST/2007/49.

⁵³⁶ Resolution 1725 (2006), paras. 3-5.

⁵³⁷ S/2007/115, p. 6.

⁵³⁸ S/2007/34, annex.

By a presidential statement dated 30 April 2007, the Council reiterated that, as set out in resolution 1744 (2007), full and effective deployment of AMISOM was vital, welcomed deployments thus far under AMISOM and emphasized the contribution of AMISOM to lasting peace and stability in Somalia.⁵⁴²

By a presidential statement dated 14 June 2007, the Council underlined its appreciation for the efforts of the Ugandan forces currently deployed in Mogadishu under AMISOM and the invaluable contribution of Uganda to peace and stability in Somalia.⁵⁴³

In a communiqué of 18 July 2007, the Peace and Security Council stated that the African Union would extend the mandate of its mission to Somalia for an additional six months and called for the United Nations to deploy a peacekeeping operation to Somalia that would support the long-term stabilization and post-conflict restoration in the country.⁵⁴⁴ By resolution 1772 (2007) of 20 August 2007, the Council again emphasized the contribution that AMISOM and its Ugandan contingents were making to lasting peace and stability in Somalia. The Council welcomed the above-mentioned communiqué and underlined that the full deployment of AMISOM would help to avoid a security vacuum and to create the conditions for the full withdrawal of other foreign forces from Somalia. Acting under Chapter VII of the Charter, the Council reauthorized the deployment for an additional six months of AMISOM, which was again authorized to take all necessary measures to carry out its mandate as set out in that resolution.⁵⁴⁵

At the 5805th meeting, on 17 December 2007, the Special Representative of the Secretary-General for Somalia stressed that AMISOM needed to remain operational and that its effectiveness needed to be strengthened.⁵⁴⁶ A majority of speakers commended the work of AMISOM and stressed the need to strengthen it, including by providing financial, logistical and technical support.⁵⁴⁷ The representative

⁵⁴² S/PRST/2007/13.

⁵⁴³ S/PRST/2007/19.

⁵⁴⁴ S/2007/444, annex.

⁵⁴⁵ Resolution 1772 (2007), fifth, sixth, fourteenth and fifteenth preambular paragraphs and para. 9.

⁵⁴⁶ S/PV.5805, p. 3.

⁵⁴⁷ *Ibid.*, p. 5 (China); p. 6 (United Kingdom); p. 7 (Indonesia); p. 9 (Slovakia, Belgium); p. 10 (Ghana); p. 13 (Russian Federation); pp. 13-14 (Peru); p. 14 (United States); p. 15 (Qatar); p. 17 (Italy); and p. 18 (Portugal, on behalf of the European Union).

of Italy held that the first priority was to strengthen AMISOM, because the credibility of the partnership between the African Union and the United Nations was at stake.⁵⁴⁸ The representative of South Africa stressed that, despite the often-cited admirable work that AMISOM had been doing, “we all know that this has gone beyond sustainability and effectiveness”. Noting that the problem was not just one of resources but also the nature of the mandate, he stated that AMISOM was deployed as a stopgap until the United Nations could deploy. He expressed hope that the Security Council would revisit the request of the African Union for an expedited deployment of a United Nations operation to Somalia.⁵⁴⁹ Pointing out that the Ugandan contingent of AMISOM was the only one there, the Special Representative emphasized that the contingent had to be reinforced and a means to do that had to be found.⁵⁵⁰

By a presidential statement dated 19 December 2007, the Council reiterated its strong support for AMISOM.⁵⁵¹

The situation in Chad, the Central African Republic and the subregion

The Council authorized the establishment of a European Union operation under Chapter VII of the Charter to support the United Nations Mission in the Central African Republic and Chad (MINURCAT) and the operation was authorized to take all necessary measures to fulfil its functions.

By a presidential statement dated 27 August 2007 and by resolution 1778 (2007) of 25 September 2007, the Council welcomed the readiness of the European Union, expressed at the meeting of the Council of the European Union on 23 and 24 July 2007, to consider the establishment of an operation in support of the United Nations presence in eastern Chad and the north-eastern Central African Republic.⁵⁵² By resolution 1778 (2007), taking note of the letter dated 17 September 2007 from the Secretary-General/High Representative of the Council of the European Union,⁵⁵³ the Council, acting under Chapter VII of the Charter, authorized the European Union to deploy, for

⁵⁴⁸ *Ibid.*, p. 17.

⁵⁴⁹ *Ibid.*, p. 7.

⁵⁵⁰ *Ibid.*, p. 20.

⁵⁵¹ S/PRST/2007/49.

⁵⁵² S/PRST/2007/30 and resolution 1778 (2007), fifteenth preambular paragraph.

⁵⁵³ S/2007/560, annex.

a period of one year, an operation aimed at supporting the multidimensional presence, MINURCAT, established by the same resolution. The Council further decided that the European Union operation should be authorized to “take all necessary measures”, within its capabilities and its area of operation in eastern Chad and the north-eastern Central African Republic, to fulfil the following functions: (a) to contribute to protecting civilians in danger, particularly refugees and displaced persons; (b) to facilitate the delivery of humanitarian aid and the free movement of humanitarian personnel by helping to improve security in the area of operations; and (c) to contribute to protecting United Nations facilities, installations and equipment and to ensuring the security and freedom of movement of its staff and United Nations and associated personnel. The Council also requested the European Union, the Secretary-General and the Governments of Chad and the Central African Republic to cooperate closely throughout the period of deployment of the European Union operation, until its complete disengagement.⁵⁵⁴

Europe

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

With regard to the international security presence with substantial NATO participation in Kosovo (KFOR), which had been authorized by resolution 1244 (1999) under Chapter VII of the Charter with all necessary means to fulfil its responsibilities, the Council continued to express its support during the period under review.

By a presidential statement dated 18 March 2004, the Council expressed its full support for the efforts of KFOR and welcomed the fact that the international security presence was continuing to take additional measures, as deemed necessary, to stabilize the situation throughout Kosovo.⁵⁵⁵

By a presidential statement dated 30 April 2004, the Council again welcomed the strong measures by the international presence in Kosovo aimed at enhancing the security and protection of all communities, as well as

their religious, historical and cultural sites, with the goal of ensuring lasting stability in Kosovo.⁵⁵⁶

The situation in Bosnia and Herzegovina

The Council authorized in 2004 a multinational stabilization force for Bosnia and Herzegovina, the European Union Force (EUFOR), as a legal successor to the multinational Stabilization Force (SFOR) led by NATO. EUFOR was authorized to take all necessary measures in fulfilment of its mandate.

By resolution 1551 (2004) of 9 July 2004, the Council, paying tribute to those Member States which had participated in the multinational Stabilization Force established in accordance with its resolution 1088 (1996), and welcoming their willingness to assist the parties to the Dayton Peace Agreement⁵⁵⁷ by continuing to deploy a multinational stabilization force, authorized Member States acting through or in cooperation with the organization referred to in annex 1-A of the Peace Agreement to continue for a further planned period of six months SFOR as established in accordance with its resolution 1088 (1996) under unified command and control in order to fulfil the role specified in annexes 1-A and 2 of the Peace Agreement. It further authorized those Member States to “take all necessary measures” to effect the implementation of and to ensure compliance with annex 1-A of the Peace Agreement as well as with the rules and procedures established by the Commander of the Force, governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic.⁵⁵⁸ The Council welcomed the decision of NATO to conclude its current Stabilization Force operation in Bosnia and Herzegovina by the end of 2004, and the intention of the European Union to launch a European Union mission to Bosnia and Herzegovina, including a military component, from December 2004.⁵⁵⁹

By resolution 1575 (2004) of 22 November 2004, the Council authorized the Member States acting through or in cooperation with the European Union to establish for an initial planned period of 12 months a multinational stabilization force, the European Union Force (EUFOR), as a legal successor to SFOR under

⁵⁵⁴ Resolution 1778 (2007), paras. 6 (a) and 9.

⁵⁵⁵ S/PRST/2004/5.

⁵⁵⁶ S/PRST/2004/13.

⁵⁵⁷ S/1995/1021, annex.

⁵⁵⁸ Resolution 1551 (2004), paras. 8, 11, 13 and 15.

⁵⁵⁹ *Ibid.*, para. 10.

unified command and control, which would fulfil its missions in relation to the implementation of annexes 1-A and 2 of the Peace Agreement in cooperation with the NATO headquarters presence in accordance with the arrangements agreed between NATO and the European Union as communicated to the Council in their letters of 19 November 2004,⁵⁶⁰ which recognized that EUFOR would have the main peace stabilization role under the military aspects of the Peace Agreement.⁵⁶¹ The Council authorized the Member States acting under those provisions to “take all necessary measures” to effect the implementation of and to ensure compliance with annexes 1-A and 2 of the Peace Agreement, as well as with the rules and procedures governing command and control of airspace over Bosnia and Herzegovina with respect to all civilian and military air traffic.⁵⁶² By subsequent resolutions, the Council, welcoming the increased engagement of the European Union in Bosnia and Herzegovina and the continued engagement of NATO and acting under Chapter VII of the Charter, continued to authorize the extension of the mandate of EUFOR, including its authorization of taking all necessary measures for an additional 12 months.⁵⁶³

Asia

The situation in Afghanistan

The Council continued to authorize the International Security Assistance Force (ISAF) led by NATO in the stabilization process of Afghanistan.

By several resolutions, the Council, acting under Chapter VII of the Charter, extended the authorization of ISAF, as defined in resolutions 1386 (2001) and 1510 (2003), for successive periods of 12 months. In doing so, the Council authorized the Member States participating in the Force to “take all necessary measures” to fulfil its mandate.⁵⁶⁴ The Council also called upon the Force to continue to work in close consultation with the Afghan

Transitional Administration and its successors and the Special Representative of the Secretary-General, as well as with the Operation Enduring Freedom coalition in the implementation of the mandate of ISAF.⁵⁶⁵

By resolution 1536 (2004) of 26 March 2004, the Council welcomed the progress made by ISAF in expanding its presence outside of Kabul and in implementing its mandate in accordance with resolutions 1444 (2002) and 1510 (2003) and requested that the Force continue working in close consultation with the Secretary-General and his Special Representative. The Council welcomed the readiness of ISAF to provide security assistance for the organization of the forthcoming elections in support of the Afghan authorities and the United Nations Assistance Mission in Afghanistan, in accordance with resolution 1510 (2003).⁵⁶⁶ By subsequent decisions, the Council acknowledged and welcomed the readiness of ISAF to assist in establishing a secure environment for the conduct of elections.⁵⁶⁷ By resolution 1623 (2005) of 13 September 2005, the Council welcomed the role played by ISAF in assisting in securing the conduct of national elections.⁵⁶⁸

By resolution 1659 (2006) of 15 February 2006, the Council acknowledged the continuing commitment of NATO to lead ISAF and welcomed the adoption by NATO of a revised operational plan allowing the continued expansion of the Force across Afghanistan, closer operational synergy with Operation Enduring Freedom and support, within means and capabilities, to Afghan security forces in the military aspects of their training and operational deployments.⁵⁶⁹ By resolution 1707 (2006) of 12 September 2006, the Council welcomed the extension of ISAF into southern Afghanistan with effect from 31 July 2006, the planned further expansion of the Force into eastern Afghanistan and the increased coordination between ISAF and the Operation Enduring Freedom coalition.⁵⁷⁰ By a presidential statement of 17 July 2007, the Council welcomed the efforts of ISAF and other partners to

⁵⁶⁰ S/2004/915 and S/2004/916, respectively.

⁵⁶¹ Resolution 1575 (2004), para. 10.

⁵⁶² *Ibid.*, paras. 14 and 16.

⁵⁶³ Resolutions 1639 (2005), nineteenth preambular paragraph and paras. 10, 14 and 16; 1722 (2006), nineteenth preambular paragraph and paras. 10, 14 and 16; and 1785 (2007), nineteenth preambular paragraph and paras. 10, 14 and 16.

⁵⁶⁴ Resolutions 1563 (2004), paras. 1 and 2; 1623 (2005), paras. 1 and 2; 1707 (2006), paras. 1 and 2; and 1776 (2007), paras. 1 and 2.

⁵⁶⁵ Resolutions 1563 (2004), paras. 1, 2 and 4; 1623 (2005), paras. 1, 2 and 4; and 1707 (2006), paras. 1, 2 and 4.

⁵⁶⁶ Resolution 1536 (2004), paras. 12-13.

⁵⁶⁷ Resolution 1563 (2004), eighth preambular paragraph; S/PRST/2004/9; and S/PRST/2004/25.

⁵⁶⁸ Resolution 1623 (2005), ninth preambular paragraph.

⁵⁶⁹ Resolution 1659 (2006), para. 6.

⁵⁷⁰ Resolution 1707 (2006), tenth preambular paragraph.

train and mentor the Afghan national security forces.⁵⁷¹ By resolution 1776 (2007) of 19 September 2007, the Council welcomed the completion of the expansion of ISAF throughout Afghanistan, the continued coordination between the Force and the coalition, and the cooperation established between ISAF and the European Union presence in Afghanistan, in particular the European Union Police Mission in Afghanistan.⁵⁷²

D. Consultation with, briefing and reporting by regional arrangements

In a note by the President of the Security Council dated 19 July 2006 on the work of the Informal Working Group on Documentation and Other Procedural Questions,⁵⁷³ the Council agreed to expand consultation and cooperation with regional and subregional organizations by inviting relevant regional and subregional organizations to participate in the public and private meetings of the Council, when appropriate; continuing to consult informally with regional and subregional organizations when drafting, inter alia, resolutions, presidential statements and press statements, as appropriate; and drawing the attention of representatives of regional and subregional organizations, where appropriate, to relevant resolutions, presidential statements and press statements. During the period under review, the Council continued to consult with, hear briefings from and receive reporting from regional arrangements in dealing with a range of matters before it, both regional situations and thematic issues. Examples of the practice in accordance with Article 54 of the Charter included a series of communications from the League of Arab States transmitting to the Council its decisions and outcomes of its meetings concerning a variety of issues before the Council⁵⁷⁴ and those from

⁵⁷¹ S/PRST/2007/27.

⁵⁷² Resolution 1776 (2007), eighteenth preambular paragraph.

⁵⁷³ S/2006/507.

⁵⁷⁴ See letters dated 26 January 2004, 9 June 2004, 18 August 2004, 4 October 2004, 7 March 2005, 18 April 2005, 10 May 2005, 12 September 2005, 13 March 2006, 17 April 2006, 27 April 2006, 18 May 2006, 28 June 2006, 26 July 2006, 1 August 2006, 30 August 2006, 14 September 2006, 13 November 2006, 7 December 2006, 7 March 2007, 16 April 2007, 23 April 2007 and 11 September 2007 from the representative of the League of Arab States to the President of the Council (S/2004/84, S/2004/486, S/2004/674, S/2004/795, S/2005/144, S/2005/274, S/2005/309, S/2005/597,

the representatives of New Zealand and Australia in May 2006 in connection with the situation in Timor-Leste.⁵⁷⁵

In dealing with several regional situations, the Council, in its resolutions, explicitly requested the involved organizations to report to it on a regular basis, directly or through the Secretary-General, concerning their activities in the pacific settlement of disputes, peacekeeping and enforcement actions. Such provisions can be found below, organized by region and in chronological order.

Africa

The situation in Côte d'Ivoire

By resolution 1603 (2005) of 3 June 2005, the Council invited the African Union to keep the Council regularly informed of the implementation of the provisions of the Pretoria Agreement⁵⁷⁶ and to make recommendations to the Council as it deemed necessary.⁵⁷⁷

By resolution 1721 (2006) of 1 November 2006, in requesting the African Union and ECOWAS to continue to monitor and follow up closely the implementation of the peace process and inviting them to review the progress achieved, the Council requested those organizations to report to it, through the Secretary-General, on their assessment and, if necessary, to submit to the Council any new recommendations.⁵⁷⁸

The situation concerning the Democratic Republic of the Congo

By resolution 1671 (2006) of 25 April 2006, the Council requested the European Union to report regularly to the Council on the implementation of the

S/2006/168, S/2006/247, S/2006/285, S/2006/305, S/2006/442, S/2006/582, S/2006/614, S/2006/700, S/2006/745, S/2006/886, S/2006/963, S/2007/128, S/2007/215, S/2007/232 and S/2007/544).

⁵⁷⁵ See the letters dated 24 May 2006 from the representative of New Zealand to the President of the Council and from the representative of Australia to the President of the Council (S/2006/320 and S/2006/321, respectively).

⁵⁷⁶ S/2005/270, annex I.

⁵⁷⁷ Resolution 1603 (2005), para. 19.

⁵⁷⁸ Resolution 1721 (2006), para. 21.

mandate of the European Union force in the Democratic Republic of the Congo, established by that resolution.⁵⁷⁹

The situation in Somalia

By resolution 1725 (2006) of 6 December 2006, in authorizing IGAD and States members of the African Union to establish a protection and training mission in Somalia, the Council expressed its wish to review the mandate of that mission after an initial period of six months “with a briefing by the Intergovernmental Authority”. The Council also requested the Secretary-General, “in consultation with the African Union Commission and the Secretariat of IGAD” to report to the Council on the implementation of the mandate of the mission within 30 days and every 60 days thereafter.⁵⁸⁰

The situation in Chad, the Central African Republic and the subregion

By resolution 1778 (2007) of 25 September 2007, the Council requested the European Union to report to the Council, in the middle and at the end of the period of one year from the date that its initial operating capability was declared by the European Union in consultation with the Secretary-General, on how its operation would fulfil its mandate.⁵⁸¹

⁵⁷⁹ Resolution 1671 (2006), para. 15.

⁵⁸⁰ Resolution 1725 (2006), paras. 3 and 7.

⁵⁸¹ Resolution 1778 (2007), para. 12.

Europe

The situation in Bosnia and Herzegovina

By resolution 1551 (2004) of 9 July 2004, the Council requested the Member States acting through or in cooperation with the organization referred to in annex 1-A of the Peace Agreement to continue to report to the Council, through the appropriate channels and at least at monthly intervals.⁵⁸²

Following the transition from the NATO-led Stabilization Force to the European Union Force, the Council, by several resolutions, requested the Member States acting through or in cooperation with the European Union and the Member States acting through or in cooperation with NATO to report to the Council on the activity of the European Union Force and the NATO headquarters presence respectively, through the appropriate channels and at least at three-monthly intervals.⁵⁸³

Asia

The situation in Afghanistan

By a number of resolutions, the Council requested the leadership of the International Security Assistance Force to provide quarterly reports on the implementation of its mandate to the Council through the Secretary-General.⁵⁸⁴

⁵⁸² Resolution 1551 (2004), para. 19.

⁵⁸³ Resolutions 1575 (2004), para. 18; 1639 (2005), para. 18; 1722 (2006), para. 18; and 1785 (2007), para. 18.

⁵⁸⁴ Resolutions 1563 (2004), para. 5; 1623 (2005), para. 5; 1707 (2006), para. 5; and 1776 (2007), para. 6.

Part IV Consideration of the miscellaneous provisions of the Charter

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

During the period under review, Article 103 was not invoked explicitly in any resolution or decision of the Security Council. The principle enshrined in

Article 103 was however, implicitly invoked in a draft resolution concerning the situation in Cyprus which was not adopted, owing to a negative vote by a permanent member.⁵⁸⁵ By that draft resolution, the Council would have called upon all States and all international and regional organizations to act strictly in conformity with the resolution, notwithstanding the existence of any rights granted or obligations conferred

⁵⁸⁵ See S/PV.4947, p. 2.

or imposed by any international agreement or of any contract entered into or any licence or permit granted prior to the entry into force of the measures imposed by the resolution.⁵⁸⁶

During the deliberations of the Council, one explicit reference to Article 103 was made at the 5779th meeting, on 14 November 2007, in connection with item entitled “Briefings by Chairmen of subsidiary bodies of the Security Council”. The representative of Qatar, offering a legal interpretation of the sanctions regime and Council decisions, noted that:

Article 103 of the Charter provides that obligations under the Charter prevail over other obligations, but this does not mean that they prevail over or supersede pre-emptory norms of *jus cogens*. In other words, the framers of the Charter did not give the Council a blank cheque to impose sanctions or take actions that violate the purposes and principles of the Charter or violate the sovereignty of States and that do not take into account internationally recognized legal controls and standards — especially since the political nature of the Council’s resolutions does not exclude the possibility that the Council might take an action that is contrary to the purposes and principles of the Charter.⁵⁸⁷

Explicit references to Article 103 were also made in two communications.⁵⁸⁸ For example, in the final report of the independent Commission of Experts which was mandated to review the prosecution of serious violations of human rights in Timor-Leste in 1999, Article 103 was invoked in connection with the consideration of the possible retrospective jurisdiction of the International Criminal Court in the context of a referral from the Security Council. The Commission reported that one argument raised in favour of retrospective jurisdiction interpreted Chapter VII and Article 103 of the Charter as establishing a legal basis upon which the Security Council could legitimately extend the scope of the temporal jurisdiction of the Court. According to that interpretation, empowerment measures adopted in a referral resolution by the Council under Chapter VII would prevail over conflicting provisions in the Rome Statute, in accordance with Article 103 of the Charter. The Commission pointed out, however, that the question would arise whether Article 103 applied to judges in an intergovernmental jurisdiction in the same way as it applied to Member States, and concluded that the issue could be authoritatively settled only by the Court itself.⁵⁸⁹

⁵⁸⁶ S/2004/313, para. 11.

⁵⁸⁷ S/PV.5779, p. 23.

⁵⁸⁸ See identical letters dated 19 May 2006 from the representatives of Germany, Sweden and Switzerland to the President of the General Assembly and the President of the Security Council, transmitting a white paper, entitled “Strengthening targeted sanctions through fair and clear procedures” (S/2006/331, pp. 11 and 23) and a letter dated 24 June 2005 from the Secretary-General to the President of the Council, transmitting the report of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste in 1999 (S/2005/458).

⁵⁸⁹ S/2005/458, annex II, paras. 455-457.