

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.¹

Part I

CONSIDERATION OF THE PROVISIONS OF ARTICLE 1, PARAGRAPH 2, OF THE CHARTER

Article 1, paragraph 2

“2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.”

NOTE

During the period under review, none of the resolutions adopted by the Council contained an explicit reference to Article 1, paragraph 2, of the Charter. Some of the decisions and deliberations of the Council reflected, however, the significance of the Charter provision regarding the right to self-determination of peoples. This principle of self-determination was implicitly invoked in resolutions 384 (1975) of 22 December 1975 and 389 (1976) of 22 April 1976 regarding the situation in Timor; resolution 386 (1976) of 17 March 1976 in connection with the request by Mozambique under Article 50 of the Charter; resolution 403 (1977) of 14 January 1977 relating to the complaint by Botswana; resolution 411 (1977) of 30 June 1977 in connection with the complaint by Mozambique; resolutions 424 (1978) of 17 March 1978 and 455 (1979) of 23 November 1979 regarding the complaint by Zambia; resolutions 428 (1978) of 6 May 1978 and 447 (1979) of 28 March 1979 pertaining to the complaint by Angola against South Africa; and resolutions 423 (1978) of 14 March 1978, 445 (1979) of 8 March 1979, 448 (1979) of 30 April 1979 and 463 (1980) of 2 February 1980 relating to the situation in Southern Rhodesia.

In several of these cases² the text contained references to General Assembly resolution 1514 (XV) of 14 December 1960 entitled “Declaration on the Granting of Independence to Colonial Countries and Peoples”.

¹For observations on the methods adopted in compilation of the chapter, see *Repertoire of the Practice of the Security Council, 1946-1951*, introductory note to chapter VIII, part II; and the arrangement of chapters X-XII.

²Resolutions 384 (1975), fourth preambular para. and para. 1; 389 (1976), fifth preambular para. and para. 1; 386 (1976) fourth preambular para.; 403 (1977), third preambular para.; 411 (1977), sixth preambular para. and para. 5; 424 (1978), fourth preambular para.; 428 (1978), ninth preambular para.; 423 (1978), para. 5; 445 (1979), eighth preambular para.; 448 (1979), seventh preambular para.; 460 (1979), second and fourth preambular paras. and para. 1; and 463 (1980), fourth preambular para. and para. 1.

The Council also considered a few draft resolutions invoking the principle of self-determination, which either were not voted upon or failed to be adopted: one draft resolution was submitted in connection with the situation in Namibia;³ another one in connection with the Middle East problem including the Palestinian question,⁴ three drafts were introduced regarding the question of the exercise by the Palestinian people of its inalienable rights,⁵ and one draft resolution was before the Council in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan.⁶

On two occasions, Council proceedings focused on the tension between basic Charter principles, in these instances involving the norms of territorial integrity and of self-determination; some representatives stipulated that self-determination preceded territorial integrity while

³S/11713, *OR, 30th yr., Suppl. for April-June 1975*. This draft resolution was submitted by Guyana, Iraq, Mauritania, the United Republic of Cameroon and the United Republic of Tanzania at the 1829th meeting and failed to be adopted owing to the negative votes of three permanent members. The draft reaffirmed the inalienable right of the Namibian people to self-determination (ninth preambular para.).

⁴S/11940, *OR, 31st yr., Suppl. for Jan.-March 1976*. The draft resolution was sponsored by Benin, Guyana, Pakistan, Romania and the United Republic of Tanzania and introduced at the 1879th meeting; it failed to be adopted owing to the negative vote of a permanent member. The text would have affirmed that the Palestinian people should be enabled to exercise its inalienable national right to self-determination, including the right to establish an independent state in Palestine.

⁵S/12119, *OR, 31st yr., Suppl. for April-June 1976*. The draft resolution was submitted by Guyana, Pakistan, Panama and the United Republic of Tanzania at the 1938th meeting and failed to be adopted owing to the negative vote of a permanent member. Also S/13514, *OR, 34th yr., Suppl. for July-Sept. 1979*. This draft resolution was submitted by Senegal at the 2162nd meeting and was not put to the vote. Further, S/13911, *OR, 35th yr., Suppl. for April-June 1980*. This text was submitted by Tunisia at the 2220th meeting and was not adopted owing to the negative vote of a permanent member. All three texts invoked in the operative part the inalienable rights of the Palestinian people to self-determination.

⁶S/13729, *OR, 35th yr., Suppl. for Jan.-March 1980*. The draft resolution was submitted by Bangladesh, Jamaica, Niger, Philippines, Tunisia and Zambia at the 2188th meeting. It was put to the vote at the 2190th meeting and was not adopted owing to the negative vote of a permanent member. The right of all peoples to determine their own future free from outside interference was reaffirmed in the third preambular paragraph of the text.

others held the opposite to hold true.⁷ These constitutional arguments were, however, not reflected in the draft resolutions that were submitted for the Council's consideration. In the course of the Council's deliberations with regard to the situation in Timor⁸ and the letter dated

3 January 1980 from 52 Member States regarding Afghanistan⁹ the principle of self-determination was frequently invoked without giving rise to a constitutional discussion.

In a few cases, Article 1, paragraph 2, was explicitly referred to, without giving rise to a constitutional discussion.¹⁰

⁷Such arguments were made in connection with the situation concerning Western Sahara (see especially 1849th mtg.: Morocco, paras. 53 and 54; Spain, para. 88; and 1850th mtg.: Algeria, para. 11; Mauritania, paras. 77-90; Morocco, paras. 96-106 and United Republic of Tanzania, paras. 50 and 52); and the situation in the Comoros (1886th mtg.: Algeria, paras. 87 and 88; France, paras. 20-22; Guinea-Bissau, para. 45; Libyan Arab Republic, para. 65; United Republic of Tanzania, paras. 128, 129, 142, 146 and 147; 1887th mtg.: Benin, paras. 116 and 117; France, paras. 92 and 93; Kenya, paras. 64 and 65; and 1888th mtg.: Guyana, paras. 16 and 17).

⁸See 1910th mtg.: Japan, para. 25; 1912th mtg.: Italy, para. 56; and 1913th mtg.: Guyana, paras. 6-10. None of these references were explicit.

⁹See 2185th mtg.: Egypt, para. 148; 2186th mtg.: Saudi Arabia, para. 110; 2187th mtg.: Costa Rica, paras. 97-99; Liberia, para. 130; Spain, para. 62; United States, para. 20; 2190th mtg.: Panama, para. 29. None of these references were explicit.

¹⁰In connection with the situation in Namibia, 1828th mtg.: Senegal, para. 12; in connection with the Middle East problem including the Palestinian question, 1876th mtg.: India, para. 79; in connection with the question of South Africa, 1991st mtg.: Mr. Thompson, para. 54 (Article 1 was invoked with reference to the principle of self-determination); and in connection with the question of the exercise by the Palestinian people of its inalienable rights, 2161st mtg.: PLO, para. 105. In addition to those mentioned above, there were also other implicit references to the principle of self-determination, but they are often incidental and too numerous to be listed here.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 2 OF THE CHARTER

A. ARTICLE 2, PARAGRAPH 4

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

NOTE

During the period under review, none of the resolutions adopted by the Council contained an explicit reference to Article 2, paragraph 4 of the Charter. Many of the decisions and deliberations of the Council reflected, however, the significance of this provision of the Charter with its concomitant principles and obligations. Of the 40 resolutions referring to Article 2, paragraph 4, 7¹¹ used language taken from this Charter provision, while 38¹² contained other implicit references to it. Two statements of the President on behalf of the Council also

referred to Article 2, paragraph 4: one¹³ invoked the language of the Charter, whereas the other¹⁴ referred implicitly to the Article. Twenty-three draft resolutions, which either failed to be adopted or were not put to the vote, also contained references to Article 2, paragraph 4: six¹⁵ of these employed the language of the Charter;

and para. 1; 434 (1978), second preambular para.; 436 (1978), para. 1; 444 (1979), eighth preambular para.; 445 (1979), eighth preambular para. and para. 1; 447 (1979), fourth, fifth, sixth and ninth preambular paras. and paras. 1 and 3; 448 (1979), seventh preambular para.; 450 (1979), fifth preambular para. and para. 2; 454 (1979), fourth preambular para. and paras. 1 and 3; 455 (1979), third and seventh preambular paras. and para. 1; 459 (1979), seventh preambular para.; 466 (1980), third preambular para. and paras. 1 and 2; 467 (1980), para. 2 (a)-(c); 473 (1980), sixth preambular para. and para. 4; 474 (1980), fifth preambular para.; 475 (1980), third and fourth preambular paras. and paras. 1 and 3; 476 (1980), second preambular para.; 478 (1980), second preambular para.; 479 (1980), para. 1; and 483 (1980), fifth preambular para.

¹³S/14244, issued on 5 November 1980, regarding the situation between Iran and Iraq, *OR, 35th yr., Resolutions and Decisions of the Security Council, 1980*.

¹⁴S/13272, issued on 26 April 1979, regarding the situation in the Middle East, *OR, 34th yr., Resolutions and Decisions of the Security Council, 1979*.

¹⁵In connection with the complaint by Mauritius, current Chairman of the OAU, of the "act of aggression" by Israel against Uganda, draft resolution S/12139, fifth preambular para., *OR, 31st yr., Suppl. for July-Sept. 1976*; in connection with the complaint by Benin, draft resolution S/12282, third preambular para., *OR, 32nd yr., Suppl. for Jan.-March 1977*; in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea, draft resolution S/13022, third preambular para., *OR, 34th yr., Suppl. for Jan.-March 1979*; in connection with the situation in South-East Asia and its implication for international peace and security, draft resolution S/13162, fifth preambular para., *OR, 34th yr., Suppl. for Jan.-March 1979*; in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, draft resolution S/13729, fourth preambular para., *OR, 35th yr., Suppl. for Jan.-March 1980*; and in connection with the letter dated 25 November 1979 from the Secretary-General, draft resolution S/13735, eighth preambular para., *OR, 35th yr., Suppl. for Jan.-March 1980*.

¹¹Resolutions 387 (1976), fifth preambular para.; 393 (1976), ninth preambular para.; 404 (1977), third preambular para.; 428 (1978), fourth preambular para.; 457 (1979), sixth preambular para.; 461 (1979), ninth preambular para.; and 479 (1980), third preambular para.

¹²Resolutions 367 (1975), para. 1; 384 (1975), eighth preambular para. and para. 1; 385 (1976), eighth preambular para. and paras. 1 and 9; 386 (1976), third and fourth preambular paras. and para. 2; 387 (1976), sixth preambular para. and paras. 1 and 2; 389 (1976), para. 1; 392 (1976), para. 4; 393 (1976), third and fifth and eighth preambular paras. and paras. 1 and 2; 403 (1977), third and ninth preambular paras. and para. 1; 404 (1977), para. 1; 405 (1977), second preambular para. and paras. 2 and 6; 406 (1977), para. 1; 411 (1977), fourth, sixth, eighth and sixteenth preambular paras. and paras. 1 and 7; 417 (1977), fifth preambular para. and para. 1; 419 (1977), para. 1; 424 (1978), third and fourth preambular paras. and paras. 1 and 5; 425 (1978), paras. 1 and 2; 428 (1978), sixth, seventh, tenth and twelfth preambular paras. and paras. 1, 4, 5 and 8; 432 (1978), second preambular para.

twenty-two draft resolutions¹⁶ contained other implicit references to Article 2, paragraph 4.

In the instances indicated above,¹⁷ the Council invoked the principle of the prohibition of the threat or use of force in international relations against the territorial integrity or political independence of any State. In a few other cases,¹⁸ the Council affirmed the principle that the acquisition of territory by use of force was inadmissible. In other paragraphs, the Council expressed concern about, or censured, violations of the territorial integrity and sovereignty of States and Territories¹⁹ and

demanded respect for their territorial integrity and political independence.²⁰ Furthermore, the Council explicitly affirmed the territorial integrity²¹ and political independence of States,²² condemned armed invasions, acts of aggression and similar transgressions²³ or expressed concern about them;²⁴ it also condemned all acts of violence²⁵ and called upon parties to cease armed invasions or acts of aggression,²⁶ to cease acts against the territorial integrity²⁷ or political independence²⁸ of States, or to refrain from the use of force²⁹ or from further military acts against neighbouring countries.³⁰ In one instance, the Council was asked to condemn the illegal occupation of a territory.³¹ In a number of cases, the Council acknowledged the legitimacy of the struggle of peoples for their right to self-determination.³²

¹⁶In connection with the situation in Namibia, draft resolutions S/11713, ninth preambular para. and para. 4, *OR, 30th yr., Suppl. for April-June 1975*, and S/12211, eighth preambular para., *ibid.*, 31st yr., *Suppl. for Oct.-Dec. 1976*; in connection with the situation in the Middle East, draft resolutions S/11898, seventh preambular para. and paras. 1 and 2, *ibid.*, 30th yr., *Suppl. for Oct.-Dec. 1975*; S/13897, para. 2, and S/13897/Rev.1, para. 2 (a)-(c), *OR, 35th yr., Suppl. for April-June 1980*, and S/14106, third preambular para., *ibid.*, *Suppl. for July-Sept. 1980*; in connection with the Middle East problem including the Palestinian question, draft resolution S/11940, fifth preambular para. and para. 1 (d), *OR, 31st yr., Suppl. for Jan.-March 1976*; in connection with the situation in the Comoros, draft resolution S/11967, third and fifth preambular paras. and paras. 3 and 4, *OR, 31st yr., Suppl. for Jan.-March 1976*, p. 85; in connection with the situation in the occupied Arab territories, draft resolution S/12022, fourth preambular para., *OR, 31st yr., Suppl. for Jan.-March 1976*; in connection with the complaint by Mauritius, current Chairman of the OAU, of the "act of aggression" by Israel against Uganda, draft resolutions S/12138, para. 3, and S/12139, sixth preambular para. and para. 1, *OR, 31st yr., Suppl. for July-Sept. 1976*; in connection with the complaint by Benin, draft resolution S/12282, para. 1, *OR, 32nd yr., Suppl. for Jan.-March 1977*; in connection with the question of South Africa, draft resolutions S/12309, fifth preambular para., *OR, 32nd yr., Suppl. for Jan.-March 1977*, S/12310, fourth preambular para., *OR, 32nd yr., Suppl. for Jan.-March 1977*, and S/12433, third preambular para., *OR, 32nd yr., Suppl. for Oct.-Dec. 1977*; in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea, draft resolution S/13022, fourth preambular para. and paras. 1, 2 and 4, *OR, 34th yr., Suppl. for Jan.-March 1979*, and S/13027, para. 1, *OR, 34th yr., Suppl. for Jan.-March 1979*; in connection with the situation in South-East Asia and its implications for international peace and security, draft resolutions S/13117, second preambular para. and paras. 1 and 4, *OR, 34th yr., Suppl. for Jan.-March 1979*, S/13119, paras. 1-3, *OR, 34th yr., Suppl. for Jan.-March 1979*, and S/13162, para. 4, *OR, 34th yr., Suppl. for Jan.-March 1979*; in connection with the question of the exercise by the Palestinian people of its inalienable rights, draft resolutions S/13514, sixth preambular para., *OR, 34th yr., Suppl. for July-Sept. 1979*, and S/13911, seventh preambular para., *OR, 35th yr., Suppl. for April-June 1980*; and in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, draft resolution S/13729, paras. 1 and 3, *ibid.*, *Suppl. for Jan.-March 1980*.

¹⁷See the references under notes 11, 13 and 15 above for those cases where the language of Article 2, para. 4, was used.

¹⁸See resolutions 476 (1980), second preambular para., and 478 (1980), second preambular para. See also draft resolutions S/11940 (see note 16 above), fifth preambular para.; S/12022 (see note 16), fourth preambular para.; S/13514 (see note 16), sixth preambular para.; S/13911 (see note 16), seventh preambular para.; and S/14106 (see note 16), third preambular para.

¹⁹Resolutions 385 (1976), eighth preambular para.; 386 (1976), third preambular para.; 387 (1976), sixth preambular para.; 393 (1976), para. 1; 405 (1977), second preambular para.; 411 (1977), eighth preambular para.; 419 (1977), para. 1; 424 (1978), third preambular para. and para. 1; 428 (1978), sixth preambular para. and paras. 1 and 8; 445 (1979), para. 1; 447 (1979) fifth and sixth preambular paras. and para. 1; 454 (1979), fourth preambular para.; 455 (1979), third and seventh preambular paras. and para. 1; 466 (1980), third preambular para. and para. 1; and 467 (1980), fourth preambular para. and para. 1. Further, see draft resolutions S/11713 (see note 16), para. 4; S/11898 (see note 16), seventh preambular para.; S/11967 (see note 16), fifth preambular para. and para. 3; S/12139 (see note 16), eighth preambular para.; S/13897 (see note 16), para. 2; and S/13897/Rev.1 (see note 16), para. 2 (c).

²⁰Resolutions 367 (1975), para. 1; 384 (1975), para. 1; 387 (1976), para. 2; 389 (1976), para. 1; 393 (1976), para. 2; 404 (1977), para. 1; 411 (1977), para. 7; 425 (1978), para. 1; 428 (1978), fifth preambular para. and para. 4; 434 (1978), second preambular para.; 444 (1979), eighth preambular para.; 447 (1979), fourth preambular para. and para. 3; 450 (1979), fifth preambular para.; 454 (1979), third preambular para. and para. 3; 459 (1979), seventh preambular para.; 466 (1980), para. 2; 474 (1980), fifth preambular para.; 475 (1980), para. 3; and 483 (1980), fifth preambular para. See also the statement of the President (S/13272) dated 26 April 1979 (see note 14), para. 4. See further draft resolutions S/11967 (see note 16), fourth preambular para. and paras. 3 and 5; S/12138 (see note 16), para. 3; S/12282 (see note 15), para. 1; S/13022 (see note 15), para. 1; S/13117 (see note 16), para. 4; S/13119 (see note 16), para. 3; S/13162 (see note 15), para. 4; and S/13729 (see note 15), para. 3.

²¹Resolutions 385 (1976), para. 9; 403 (1977), ninth preambular para.; 406 (1977), para. 1; 411 (1977), sixteenth preambular para.; 432 (1978), para. 1; and 436 (1978), para. 1. Furthermore, see draft resolutions S/11713 (see note 16), tenth preambular para.; S/11940 (see note 16), para. 1 (d); S/11967 (see note 16), third preambular para. and para. 4; S/13027 (see note 16), para. 1; and S/13729 (see note 16), para. 1.

²²Resolutions 403 (1977), ninth preambular para., 406 (1977), para. 1; 411 (1977), sixteenth preambular para.; and 436 (1978), para. 1. See also draft resolutions S/11940 (see note 16), para. 1 (d); S/11967 (see note 16), para. 3; S/13027 (see note 16), para. 1; and S/13729 (see note 16), para. 1.

²³Resolutions 385 (1976), para. 1; 387 (1976), para. 1; 393 (1976), para. 1; 403 (1977), para. 1; 405 (1977), para. 2; 411 (1977), para. 1; 419 (1977), para. 1; 424 (1978), para. 1; 428 (1978), para. 1; 445 (1979), para. 1; 454 (1979), para. 1; 455 (1979), seventh preambular para. and para. 1 and 2; 466 (1980), para. 1; 467 (1980), para. 2 (b); and 475 (1980), para. 1. Further, see draft resolutions S/11898 (see note 16), para. 1; S/12139 (see note 15), para. 1; S/12433 (see note 16), third preambular para.; S/13022 (see note 15), para. 2; S/13117 (see note 16), para. 1; S/13119 (see note 16), para. 1; and S/13897 (see note 16), para. 2.

²⁴Resolutions 384 (1975), eighth preambular para.; 387 (1976), sixth preambular para.; 393 (1976), third preambular para.; 411 (1977), fourth preambular para.; 424 (1978), third preambular para.; 428 (1978), sixth preambular para.; 454 (1979), fourth preambular para.; and 475 (1980), fourth preambular para. See also draft resolutions S/12139 (see note 15), sixth preambular para.; S/13022 (see also note 15), fourth preambular para.; and S/13117 (see note 16), second preambular para.

²⁵Resolutions 403 (1977), para. 1; 417 (1977), para. 1; and 467 (1980), para. 2 (c).

²⁶Resolutions 447 (1979), para. 3; 466 (1980), para. 2; and 475 (1980), para. 3. See also draft resolutions S/11898 (see note 16), para. 2; S/13022 (see note 15), para. 4; S/13119 (see note 16), para. 2; and S/13162 (see note 15), para. 1.

²⁷Resolutions 425 (1978), para. 2; and 450 (1979), para. 2. See also draft resolution S/11967 (see note 16), para. 3.

²⁸Resolution 450 (1979), para. 2. See also draft resolution S/11967 (see note 16), para. 2.

²⁹Resolution 479 (1980), para. 1.

³⁰Resolution 473 (1980), para. 9.

³¹Draft resolution S/12310 (see note 16), fourth preambular para.

³²Resolutions 386 (1976), fourth preambular para.; 392 (1976), para. 4; 393 (1976), fifth preambular para.; 403 (1977), third preambular para.; 411 (1977), sixth preambular para.; 417 (1977), fifth preambular para.; 424 (1978), fourth preambular para.; 428 (1978), ninth preambular para.; 445 (1979), eighth preambular para.; 447 (1979), ninth preambular para.; 448 (1979), seventh preambular para.; and 473 (1980), para. 4. Further, see draft resolution S/12309 (see note 16), fifth preambular para.

Although references of this kind to the provision of Article 2, paragraph 4, were rather frequent, the Council engaged only occasionally in what might be described as some constitutional discussion or at least as clear espousal of the principles of the Charter. Twelve case histories belonging in this category are included below.

On a number of occasions,³³ Article 2, paragraph 4, was explicitly invoked, but usually did not give rise to a constitutional discussion.

CASE 1

The situation in Timor

(In connection with a draft resolution prepared as a result of consultations among the members of the Council and adopted on 22 December 1975 and another draft resolution submitted by Guyana and the United Republic of Tanzania, voted upon and adopted on 22 April 1976)

During the Council's deliberation of the situation in Timor, it was argued, on the one hand, that the Indonesian invasion of the Territory of East Timor constituted a clear violation of the principle of the non-use of force spelled out in Article 2, paragraph 4, and denied to the people of East Timor the fundamental right to self-determination to which they were entitled under the Charter of the United Nations; the necessity was underlined in this critical situation for Indonesia to relinquish control over East Timor and to allow for a peaceful negotiated transition from Portuguese colonial administration to self-determination and independence. On the other hand, it was alleged that various groups in East Timor had asked the Indonesian Government to assist the people of Timor against the terror of a small organization that had usurped political power and declared an independent republic; it was suggested that Indonesia's military presence was required to prevent East Timor from sliding into factional bloodshed and anarchy and to restore public order and that the integration of East Timor into the state of Indonesia fulfilled the principle of self-determination and the destiny of their common history.³⁴

³³In connection with the situation concerning Western Sahara, 1854th mtg.: Morocco, para. 3; in connection with the situation in Timor, 1864th mtg.: Portugal, para. 48; in connection with the complaint by Kenya concerning aggression by South Africa against Angola, 1906th mtg.: United Republic of Tanzania, para. 139; in connection with the complaint by the Prime Minister of Mauritius, current Chairman of the OAU, of the "act of aggression" by Israel against Uganda, 1939th mtg.: Israel, para. 108; Mauritania, para. 47; United Republic of Cameroon, para. 217; 1940th mtg.: Guyana, para. 80; Sweden, para. 119; 1941st mtg.: USSR, para. 162; 1942nd mtg.: India, para. 146; Israel, para. 103; Panama, para. 23; 1943rd mtg.: Cuba, para. 83; Uganda, para. 112; in connection with the complaint by Zambia against South Africa, 1945th mtg.: Madagascar, para. 160; in connection with the complaint by Benin, 1987th mtg.: India, para. 64; 2005th mtg.: Equatorial Guinea, para. 48; 2049th mtg.: Equatorial Guinea, para. 48; in connection with the situation in the occupied Arab territories, 2134th mtg.: Israel, para. 67; in connection with the situation in the Middle East, 2147th mtg.: Israel, para. 79; Kuwait, para. 109; 2149th mtg.: Bolivia, para. 164; in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, 2185th mtg.: Egypt, para. 132; 2190th mtg.: Panama, paras. 17 and 19; Zaire, para. 44; and in connection with the situation between Iran and Iraq, 2254th mtg.: USSR, para. 94. The implicit references are too numerous to be listed here.

³⁴For the texts of relevant statements see 1864th mtg.: Mr. Horta, paras. 96-137; Indonesia, paras. 67-94; Portugal, paras. 7-64; 1865th mtg.: China, paras. 3-9; 1867th mtg.: Japan, paras. 49-54; Portugal, paras. 56-67; USSR, paras. 41-46; United Republic of Tanzania, paras. 5-26; 1908th mtg.: Mr. Horta, paras. 14-76; Portugal, paras. 78-107; 1912th mtg.: Italy, paras. 56-64; and 1915th mtg.: Sweden, paras. 33-40.

At the 1869th meeting, on 22 December 1975, the Council unanimously adopted a draft resolution that had been prepared as a result of consultations among the members, as resolution 384 (1975).³⁵ It reads, *inter alia*, as follows:

The Security Council,

...

Gravely concerned at the deterioration of the situation in East Timor, *Gravely concerned also* at the loss of life and conscious of the urgent need to avoid further bloodshed in East Timor,

Deploing the intervention of the armed forces of Indonesia in East Timor,

...

1. *Calls upon* all States to respect the territorial integrity of East Timor as well as the inalienable right of its people to self-determination in accordance with General Assembly resolution 1514 (XV);

2. *Calls upon* the Government of Indonesia to withdraw without delay all its forces from the Territory;

...

5. *Requests* the Secretary-General to send urgently a special representative to East Timor for the purpose of making an on-the-spot assessment of the existing situation ...;

...

When the Council resumed consideration of the issue and included in its agenda the report of the Secretary-General in pursuance of resolution 384 (1975), the representatives of Guyana and the United Republic of Tanzania submitted a draft resolution at the 1913th meeting, on 12 April 1976. At the 1914th meeting, on 22 April 1976, following the rejection of a small amendment submitted by Japan, the Council adopted by 12 votes to none, with 2 abstentions, the draft resolution as resolution 389 (1976); one member did not participate in the vote.³⁶ Resolution 389 (1976) reads, *inter alia*, as follows:

The Security Council,

...

1. *Calls upon* all States to respect the territorial integrity of East Timor, as well as the inalienable right of its people to self-determination in accordance with General Assembly resolution 1514 (XV);

2. *Calls upon* the Government of Indonesia to withdraw without further delay all its forces from the Territory;

...

CASE 2

Complaint by Kenya concerning the act of aggression by South Africa against Angola

(In connection with the draft resolution sponsored by Benin, Guyana, the Libyan Arab Republic, Panama, Romania and the United Republic of Tanzania, voted upon and adopted on 31 March 1976)

During the deliberations of the Council, Article 2, paragraph 4, and relevant provisions of the Definition of Aggression (General Assembly resolution 3314 (XXIX)) were invoked to show their direct bearing on the South African aggression against Angola and to demand appropriate measures against the aggressor.³⁷

At the 1906th meeting, on 31 March 1976, the representative of the United Republic of Tanzania introduced a draft resolution sponsored by Benin, Guyana, the

³⁵For the vote on the draft resolution (S/11915), see 1869th mtg., para. 12.

³⁶For the votes on the amendment (S/12057) and the draft resolution (S/12056), see 1914th mtg., paras. 41 and 42. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

³⁷For the texts of the relevant statements, see 1903rd mtg.: Sierra Leone, paras. 19-37; 1905th mtg.: Romania, paras. 17-31; and 1906th mtg.: Mali, paras. 26-41; and United Republic of Tanzania, paras. 120-145.

Libyan Arab Republic, Panama, Romania and the United Republic of Tanzania. The six-Power draft resolution was put to the vote at the same meeting and adopted, by 9 votes to none, with 5 abstentions, as resolution 387 (1976); one member did not participate in the vote.³⁸ Resolution 387 (1976) reads, *inter alia*, as follows:

The Security Council,

...
Bearing in mind that all Member States must 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,

Gravely concerned at the acts of aggression committed by South Africa against the People's Republic of Angola and the violation of its sovereignty and territorial integrity,

Condemning the utilization by South Africa of the international Territory of Namibia to mount that aggression,

Gravely concerned also at the damage and destruction done by the South African invading forces in Angola and by their seizure of Angolan equipment and materials,

- ...
1. *Condemns* South Africa's aggression against the People's Republic of Angola;
 2. *Demands* that South Africa scrupulously respect the independence, sovereignty and territorial integrity of the People's Republic of Angola;
 3. *Demands also* that South Africa desist from the utilization of the international Territory of Namibia to mount provocative or aggressive acts against the People's Republic of Angola or any other neighbouring African State;
- ...

CASE 3

Complaint by Mauritius, current Chairman of the OAU, of the "act of aggression" by Israel against Uganda

(In connection with a draft resolution sponsored by the United Kingdom and the United States, voted upon and not adopted on 14 July 1976, and another draft resolution submitted by Benin, the Libyan Arab Republic and Mauritius, not voted upon)

During the deliberations in the Council a major constitutional discussion arose over the nature of the Israeli operation in rescuing hostages held by hijackers at the Entebbe international airport in Uganda. One side argued that the Israeli action was in clear violation of the fundamental precepts of Article 2, paragraph 4, and that the seizure of the hijackers and hostages on Ugandan soil constituted a breach of Uganda's territorial integrity and sovereignty; it was argued that self-defence could not be claimed by Israel in that the airliner and most of its crew and passengers were not from Israel, and the use of force could therefore not be condoned. On the other side, it was asserted that the practice of hijacking had grown into a major menace to international security and that the Israeli decision to liberate the victims from their grave predicament at Entebbe airport was to be applauded as long as the international community had not yet established a viable system of protection for international civil aviation; the rescue of innocent air passengers from injury or death could not be called an "act of aggression", but instead helped focus the international legal

³⁸ For the vote on the draft resolution (S/12030), see 1906th mtg., para. 240. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

and political debate on ways to overcome the new disease of hijacking.³⁹

At the 1940th meeting, on 12 July 1976, the representative of the United Kingdom submitted to the Council a draft resolution⁴⁰ co-sponsored by the United States, under which the Council would have condemned the hijacking, deplored the loss of life, reaffirmed the need to respect the sovereignty and territorial integrity of all States and called upon the international community to strengthen further the safety and reliability of international civil aviation.

At the 1941st meeting, on the same day, the representative of the United Republic of Tanzania introduced a second draft resolution⁴¹ sponsored by Benin, the Libyan Arab Republic and the United Republic of Tanzania, under which the Council would have invoked the text of Article 2, paragraph 4, expressed concern at the premeditated Israeli raid and the loss of life as well as the extensive property damage, condemned Israel's flagrant violation of Uganda's sovereignty and territorial integrity and asked for full compensation for the damage and destruction inflicted upon Uganda.

At the 1943rd meeting, on 14 July 1976, the two-Power draft resolution was put to the vote and not adopted, having received 6 votes to none, with 2 abstentions; seven members did not participate in the vote. The second draft resolution was not put to the vote.⁴²

CASE 4

Complaint by Zambia against South Africa

(In connection with the draft resolution sponsored by Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania, voted upon and adopted on 30 July 1976)

The deliberations of the Council revealed strong disapproval of South Africa's aggressive acts as being in violation of the principle of Article 2, paragraph 4, and showed support for measures to protect the territory and independence of Zambia.⁴³

At the 1947th meeting, on 30 July 1976, the representative of Guyana introduced a draft resolution sponsored by Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania. This seven-Power draft resolution was put to the vote at the 1948th meeting, on the same day, and adopted by 14 votes to none, with 1 abstention, as resolution 393 (1976).⁴⁴ The resolution reads, *inter alia*, as follows:

³⁹ For the texts of the relevant statements see 1939th mtg.: France, paras. 181-204; Israel, paras. 56-138; Mauritania, paras. 43-53; United Republic of Cameroon, paras. 210-222; 1940th mtg.: Guyana, paras. 75-89; Sweden, paras. 113-124; and United Kingdom, paras. 92-109; 1941st mtg.: Pakistan, paras. 125-142; USSR, paras. 149-170; United Republic of Tanzania, paras. 100-120; and United States, paras. 74-96; 1942nd mtg.: India, paras. 138-149; Israel, paras. 76-131; Panama, paras. 10-33; and Romania, paras. 38-47; and 1943rd mtg.: Cuba, paras. 81-89; France, paras. 41-52; and Uganda, paras. 103-136.

⁴⁰ S/12138, *OR*, 31st yr., *Suppl. for July-Sept. 1976*.

⁴¹ S/12139, *ibid*.

⁴² For the vote on the draft resolution (S/12138), see 1943rd mtg., para. 162. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

⁴³ For the texts of the relevant statements, see 1944th mtg.: Mauritania, paras. 71-89; South Africa, paras. 48-69; Zambia, paras. 12-45; 1945th mtg.: Madagascar, paras. 157-173; 1947th mtg.: Guyana, paras. 28-50; and 1948th mtg.: Sweden, paras. 13-18.

⁴⁴ For the vote on the draft resolution (S/12158), see 1948th mtg., para. 127. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

The Security Council,

Gravely concerned at the numerous hostile and unprovoked acts by South Africa violating the sovereignty, air space and territorial integrity of the Republic of Zambia resulting in death and injury of innocent people as well as in the destruction of property and culminating on 11 July 1976 in an armed attack which resulted in the regrettable loss of 24 innocent lives and the injury of 45 other persons,

Gravely concerned at South Africa's use of the international Territory of Namibia as a base for attacking neighbouring African countries,

Reaffirming the legitimacy of the struggle of the people of Namibia to liberate their country from the illegal occupation of the racist régime of South Africa,

Recalling its resolution 300 (1971) of 12 October 1971, which, *inter alia*, called upon South Africa to respect fully the sovereignty and territorial integrity of Zambia,

Bearing in mind that all Member States must 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,

1. *Strongly condemns* the armed attack of South Africa against the Republic of Zambia, which constitutes a flagrant violation of the sovereignty and territorial integrity of Zambia;

2. *Demands* that South Africa scrupulously respect the independence, sovereignty, air space and territorial integrity of the Republic of Zambia;

3. *Demands* that South Africa desist forthwith from the use of the international Territory of Namibia as a base for launching armed attacks against the Republic of Zambia and other African countries;

6. *Further declares* that, in the event of South Africa committing further acts of violation of the sovereignty and territorial integrity of Zambia, the Security Council will meet again to consider the adoption of effective measures, in accordance with the appropriate provisions of the Charter of the United Nations.

CASE 5

Complaint by Benin

(In connection with a draft resolution sponsored by Benin, Libyan Arab Republic and Mauritius, revised and adopted by consensus, without a vote, on 8 February 1977, another draft resolution sponsored by Benin, India, the Libyan Arab Jamahiriya, Mauritius and Panama, adopted by consensus, without a vote, on 14 April 1977, and a third draft resolution submitted by Benin, the Libyan Arab Jamahiriya and Mauritius, revised and adopted without a vote on 24 November 1977)

During the discussions regarding the complaint by Benin, the role of mercenaries in acts of aggression and breaches of the peace was the subject of considerable debate. It was argued by a large number of representatives that a mercenary attack against a sovereign State constituted an infringement of territorial integrity, sovereignty and independence and thus stood in direct violation of Article 2, paragraph 4. It was strongly recommended to regulate this dimension of international disturbances in order to ensure that the irregular transgressions of mercenaries were put clearly and effectively under the prohibition of the relevant Charter provisions. Other members of the Council did not accept this interpretation of the Charter.⁴⁵

⁴⁵For the texts of relevant statements see 1986th mtg.: Benin, paras. 10-41; Madagascar, paras. 66-90; and Rwanda, paras. 55-62; 1987th mtg.: India, paras. 58-65; 2000th mtg.: Mauritius, paras. 89-116; and Panama, paras. 18-35; 2001st mtg.: USSR, paras. 7-17; 2004th mtg.: Somalia, paras. 27-54; 2005th mtg.: Equatorial Guinea, paras. 45-53; and Mali, paras. 58-90; 2047th mtg.: Benin, paras. 8-31; and 2049th mtg.: Equatorial Guinea, paras. 44-51.

At the 1986th meeting, on 7 February 1977, the representative of Mauritius introduced a draft resolution sponsored by Benin, the Libyan Arab Republic and Mauritius. At the 1987th meeting, on 8 February 1977, a revised draft was circulated, in which paragraph 2 had been modified and a new paragraph 4 had been inserted. At the same meeting, this text was adopted by consensus, without a vote, as resolution 404 (1977).⁴⁶ The resolution reads, *inter alia*, as follows:

The Security Council,

Bearing in mind that all Member States must 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,

1. *Affirms* that the territorial integrity and political independence of the People's Republic of Benin must be respected;

2. *Decides* to send a Special Mission composed of three members of the Security Council to the People's Republic of Benin in order to investigate the events of 16 January 1977 at Cotonou and report not later than the end of February 1977;

At the 2000th meeting, on 6 April 1977, the Council included the report of the Special Mission⁴⁷ in its agenda and resumed consideration of the issue. At the 2004th meeting, on 14 April 1977, the representative of Mauritius introduced a draft resolution submitted by Benin, the Libyan Arab Jamahiriya and Mauritius.

At the 2005th meeting, on the same day, the draft resolution was adopted by consensus, without a vote, as resolution 405 (1977).⁴⁸ It reads, *inter alia*, as follows:

The Security Council,

Gravely concerned at the violation of the territorial integrity, independence and sovereignty of the State of Benin,

2. *Strongly condemns* the act of armed aggression perpetrated against the People's Republic of Benin on 16 January 1977;

3. *Reaffirms* its resolution 239 (1967) of 10 July 1967, by which, *inter alia*, it condemns any State which persists in permitting or tolerating the recruitment of mercenaries and the provision of facilities to them, with the objective of overthrowing the Governments of Member States;

4. *Calls upon* all States to exercise the utmost vigilance against the danger posed by international mercenaries and to ensure that their territory and other territories under their control, as well as their nationals, are not used for the planning of subversion and recruitment, training and transit of mercenaries designed to overthrow the Government of any Member State;

5. *Further calls upon* all States to consider taking necessary measures to prohibit, under their respective domestic laws, the recruitment, training and transit of mercenaries on their territory and other territories under their control;

6. *Condemns* all forms of external interference in the internal affairs of Member States, including the use of international mercenaries to destabilize States and/or to violate their territorial integrity, sovereignty and independence.

At its 2047th meeting, on 22 November 1977, the Council resumed consideration of the item. Benin, the Libyan Arab Jamahiriya and Mauritius submitted a draft resolution, which was introduced at the 2048th meeting. At the 2049th meeting, on 24 November 1977, the Council

⁴⁶For the adoption of the revised draft resolution (S/12282/Rev.1), see 1987th mtg., para. 123. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

⁴⁷S/12294 and Add.1, replaced by S/12294/Rev.1, OR, 32nd yr., Special Supplement No. 3.

⁴⁸For the adoption of the draft resolution (S/12322), see 2005th mtg., para. 207. For further details regarding this case, see chapter VIII, part II, under the same title.

adopted the draft resolution, slightly revised,⁴⁹ without a vote as resolution 419 (1977).⁵⁰ It reads, *inter alia*, as follows:

The Security Council,

...
Deeply concerned over the danger which international mercenaries represent for all States, in particular the smaller ones,

...
 1. *Reaffirms its resolution 405 (1977), in which it had, among other provisions, taken note of the report of the Security Council Special Mission to the People's Republic of Benin established under resolution 404 (1977) of 8 February 1977 and strongly condemned the act of armed aggression perpetrated against the People's Republic of Benin on 16 January 1977 and all forms of external interference in the internal affairs of Member States, including the use of international mercenaries to destabilize States and/or to violate their territorial integrity, sovereignty and independence;*

CASE 6

The situation in the Middle East

(In connection with a draft resolution submitted by the United States, voted upon and adopted on 19 March 1978, and another draft resolution prepared during consultations among the members of the Council, voted upon and adopted on 14 June 1979)

During the Council's consideration of complaints by Lebanon and Israel in 1978 leading to the establishment of the United Nations Interim Force in Lebanon (UNIFIL) and of a new complaint by Lebanon in 1979, most speakers invoked explicitly or implicitly Article 2, paragraph 4, declared that the use of force against the territory of another State was inadmissible, rejected the Israeli claim to a right of reprisal in retaliation against terrorist attacks and expressed the view that the Government of Lebanon could not be held accountable for the movements and actions of Palestinians resisting the Israeli occupation of their native land. Speaking in defence of retaliatory measures, other speakers asserted that under international law every Government was bound to refrain from the use of force and to prevent anybody from using its territory for threats and attacks against another country; it was suggested that the right to self-defence under Article 51 had to be seen in the light of every Government's foremost duty to protect its citizens from all external attacks.⁵¹

At the 2073rd meeting, on 18 March 1978, the representative of the United States introduced the draft resolution submitted by his delegation. This draft was put to the vote at the 2074th meeting, on 19 March 1978, and adopted, by 12 votes to none, with 2 abstentions, as

⁴⁹The changes were purely editorial.

⁵⁰For the adoption of the revised draft resolution (S/12454/Rev.1), see 2049th mtg., para. 96. For further details regarding this case, see chapter VIII, part II, under the same title.

⁵¹For the texts of the relevant statements, see 2071st mtg.: Israel, paras. 20-70; Jordan, paras. 73-83; Lebanon, paras. 11-17; and Syrian Arab Republic, paras. 87-104; 2072nd mtg.: Egypt, paras. 7-25; France, paras. 47-50; Kuwait, paras. 27-46; and Nigeria, paras. 51-63; 2073rd mtg.: Federal Republic of Germany, paras. 19-23; USSR, paras. 33-49; United States, paras. 11-23; 2146th mtg.: Israel, paras. 39-54; and Lebanon, paras. 20-35; 2147th mtg.: Israel, paras. 74-100; Kuwait, paras. 30-57, 102-121; and Libyan Arab Jamahiriya, paras. 126-150; 2148th mtg.: Egypt, paras. 6-17; France, paras. 52-57; Iran, paras. 83-91; Jordan, paras. 73-80; Syrian Arab Republic, paras. 95-113; and United Kingdom, paras. 30-39; 2149th mtg.: Bolivia, paras. 162-167; Israel, paras. 20-57; President (USSR), paras. 126-146; and United States, paras. 78-89.

resolution 425 (1978); one member did not participate in the voting.⁵² Resolution 425 (1978) reads, *inter alia*, as follows:

The Security Council,

...
 1. *Calls for strict respect for the territorial integrity, sovereignty and political independence of Lebanon within its internationally recognized boundaries;*

2. *Calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory;*

...
 At the 2149th meeting, on 14 June 1979, the President drew attention to a draft resolution that had been prepared during consultations among members of the Council. This draft was put to the vote at the same meeting and adopted by 12 votes to none, with 2 abstentions, as resolution 450 (1979); one member did not participate in the voting.⁵³ Resolution 450 (1979) reads, *inter alia*, as follows:

The Security Council,

...
Reaffirming its call for the strict respect for the territorial integrity, unity, sovereignty and political independence of Lebanon within its internationally recognized boundaries,

...
 1. *Strongly deplores acts of violence against Lebanon that have led to the displacement of civilians, including Palestinians, and brought about destruction and loss of innocent lives;*

2. *Calls upon Israel to cease forthwith its acts against the territorial integrity, unity, sovereignty and political independence of Lebanon, in particular its incursions into Lebanon and the assistance it continues to lend to irresponsible armed groups;*

CASE 7

Complaint by Angola against South Africa

(In connection with the draft resolution sponsored by Bolivia, Gabon, India, Kuwait, Mauritius, Nigeria and Venezuela, voted upon and adopted on 6 May 1978)

During the Council's deliberations regarding the complaint by Angola, which had suffered acts of aggression and invasion from South Africa, the members were unanimous in condemning the South African aggressive acts as violations of the principles of Article 2, paragraph 4, and related Charter provisions, but whereas a large group demanded forceful punitive measures under Chapter VII of the Charter, several representatives warned against excessive reactions and called for restraint on all sides to allow efforts to continue whereby Namibia would eventually gain its independence.⁵⁴

At the 2077th meeting on 5 May 1978, the representative of Mauritius introduced the draft resolution co-sponsored by Bolivia, Gabon, India, Kuwait, Mauritius,

⁵²For the vote on the draft resolutions (S/12610) setting up UNIFIL, see 2074th mtg., para. 41. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

⁵³For the vote on the draft resolution (S/13392), see 2149th mtg., para. 148. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

⁵⁴For the texts of the relevant statements, see 2077th mtg.: Angola, paras. 5-21; Mauritius, paras. 68-89; United Republic of Tanzania, paras. 57-67; Zambia, paras. 38-55; Mr. Nujoma, paras. 25-36; 2078th mtg.: Algeria, paras. 147-154; Canada, paras. 17-23; China, paras. 39-43; Czechoslovakia, paras. 24-38; France, paras. 44-49; India, paras. 102-107; Kuwait, paras. 10-16; Mauritius, paras. 81-101; Nigeria, paras. 50-65; USSR, paras. 66-80; United Kingdom, paras. 113-118; and United States, paras. 125-129.

Nigeria and Venezuela. At the 2078th meeting, on 6 May 1978, the draft resolution was put to the vote and unanimously adopted as resolution 428 (1978).⁵⁵ It reads, *inter alia*, as follows:

The Security Council,

Bearing in mind that all Member States are obliged to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State and from acting in any other manner inconsistent with the principles and purposes of the Charter of the United Nations,

Recalling its resolution 387 (1976) of 31 March 1976 in which, *inter alia*, it condemned South Africa's aggression against the People's Republic of Angola and demanded that South Africa scrupulously respect the independence, sovereignty and territorial integrity of the People's Republic of Angola,

Gravely concerned at the armed invasions committed by South Africa in violation of the sovereignty, air space and territorial integrity of the People's Republic of Angola and in particular the armed invasion of Angola carried out on 4 May 1978,

Reaffirming the inalienable right of the people of Namibia to self-determination and independence in accordance with General Assembly resolution 1514 (XV) of 14 December 1960 and the legitimacy of their struggle to secure the enjoyment of such rights as set forth in the Charter,

Reiterating its grave concern at South Africa's brutal repression of the Namibian people and its persistent violation of their human rights as well as its efforts to destroy the national unity and territorial integrity of Namibia and its aggressive military build-up in the area,

1. *Strongly condemns* the latest armed invasion perpetrated by the South African racist régime against the People's Republic of Angola, which constitutes a flagrant violation of the sovereignty and territorial integrity of Angola;

2. *Condemns equally strongly* South Africa's utilization of the international Territory of Namibia as a springboard for armed invasions of the People's Republic of Angola;

4. *Further demands* that South Africa scrupulously respect the independence, sovereignty and territorial integrity of the People's Republic of Angola;

5. *Reaffirms* its support for the just and legitimate struggle of the people of Namibia for the attainment of their freedom and independence and for the maintenance of the territorial integrity of their country;

8. *Decides* to meet again in the event of further acts of violation of the sovereignty and territorial integrity of the People's Republic of Angola by the South African racist régime in order to consider the adoption of more effective measures, in accordance with the appropriate provisions of the Charter of the United Nations, including Chapter VII thereof.

CASE 8

Telegram dated 3 January 1979 from the Deputy Prime Minister in Charge of Foreign Affairs of Democratic Kampuchea

(In connection with a draft resolution submitted by China and not voted upon, and another draft resolution sponsored by Bangladesh, Bolivia, Gabon, Jamaica, Nigeria and Zambia, voted upon and not adopted on 15 January 1979)

During the Council's deliberations regarding the charges brought by the Government of Democratic Kampuchea against Viet Nam, one side viewed the actions

⁵⁵For the vote on the draft resolution (S/12692), see 2078th mtg., para. 6. Subsequent discussions and resolutions in connection with the complaints by Angola against South Africa reflect the same line of reasoning about South African acts of aggression as in the case of resolution 428 (1978). For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

taken by the Government of Viet Nam as use of force as prohibited by Article 2, paragraph 4, of the Charter and charged that the political independence and territorial integrity of Democratic Kampuchea had been violated; it was further argued that this Vietnamese action amounted to interference in the internal affairs of Democratic Kampuchea which was also prohibited under the Charter. The other side suggested that the charges by the no longer functioning Pol Pot régime were unfounded in that the Kampuchean people, with the help of their Vietnamese neighbours, had thrown off the yoke of the brutal and inhuman clique and begun to resume a new existence in security and tranquillity; the appeal to the Council was described as unwarranted, and the concern shown by the Council and the international community was dismissed as interference in strictly domestic matters of the new Kampuchean society.⁵⁶

At the 2108th meeting, on 11 January 1979, the representative of China introduced a draft resolution under which the Council would have, *inter alia*, restated the provision of Article 2, paragraph 4, expressed its grave concern about Viet Nam's military invasion of Democratic Kampuchea in violation of the Charter, and, in the operative part, stressed that the independence, sovereignty and territorial integrity of Democratic Kampuchea had to be strictly respected in accordance with the purposes and principles of the Charter and strongly condemned Viet Nam for its acts of armed invasion and aggression against Democratic Kampuchea, acts that constituted a flagrant violation of the independence, sovereignty and territorial integrity of Democratic Kampuchea and caused serious damage to the lives and property of the Kampuchean people.⁵⁷

At the 2111th meeting, on 15 January 1979, the representative of Kuwait submitted a draft resolution sponsored by Bangladesh, Bolivia, Gabon, Jamaica, Kuwait, Nigeria and Zambia, under which the Council would have, *inter alia*, reaffirmed anew its conviction that the preservation of sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter, any violation of which was inconsistent with its aims and purposes.⁵⁸

At the 2112th meeting, on 15 January 1979, the President announced that the Chinese delegation would not press for a vote on its draft resolution at that stage.⁵⁹ Then the seven-Power draft resolution was put to the vote, received 13 votes to 2, and was not adopted owing to the negative vote of a permanent member of the Council.⁶⁰

⁵⁶For the texts of the relevant statements, see 2108th mtg.: China, paras. 17-22 and 97-109; Cuba, paras. 173-193; Democratic Kampuchea, paras. 73-92; USSR, paras. 9-15, 34, 35, 40-45, 69, 146-170; and Viet Nam, paras. 113-144; 2109th mtg.: Bangladesh, paras. 43-51; Bolivia, paras. 55-63; Czechoslovakia, paras. 20-27; France, paras. 33-37; German Democratic Republic, paras. 66-76; Kuwait, paras. 6-13; Norway, paras. 16-19; and Sudan, paras. 90-94; 2110th mtg.: Gabon, paras. 15-18; Malaysia, paras. 36-44; New Zealand, paras. 57-60; Portugal, paras. 22-32; United Kingdom, paras. 63-68; United States, paras. 72-84; and Zambia, paras. 8-11; 2111th mtg.: Australia, paras. 24-29; Indonesia, paras. 66-74; Japan, paras. 16-21; Nigeria, paras. 31-37; Philippines, paras. 92-105; Poland, paras. 77-90; President (Jamaica), paras. 144-150; Thailand, paras. 40-46; USSR, paras. 151-154; Viet Nam, paras. 163-178; and Yugoslavia, paras. 124-135.

⁵⁷S/13022, OR, 34th yr., Suppl. for Jan.-March 1979; see especially the third and fourth preambular paras. and paras. 1 and 2.

⁵⁸S/13027, OR, 34th yr., Suppl. for Jan.-March 1979, especially para. 1.

⁵⁹2112th mtg.: President, para. 3.

⁶⁰2112th mtg., para. 4. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

CASE 9

The situation in the occupied Arab territories

(In connection with a draft resolution sponsored by Bangladesh, Kuwait, Nigeria and Zambia, twice revised and adopted on 22 March 1979)

The Council focused in its deliberations on the inadmissibility of the acquisition of territory by war and on the legal and political consequences deriving from that principle for the administration of the occupied territories by Israel. The wide support for the validity of the principle clearly espoused in the language of Article 2, paragraph 4, of the Charter was opposed by the argument that a common negotiating procedure under relevant resolutions of the Council would be more promising than a restatement of familiar charges.⁶¹

At the 2128th meeting, on 16 March 1979, the representative of Kuwait introduced a draft resolution sponsored by Bangladesh, Kuwait, Nigeria and Zambia, under which the Council would have, *inter alia*, expressed grave anxiety and concern over the serious situation in the occupied Arab territories and the ominous and accelerating erosion of the status of Jerusalem and the rest of the occupied territories as a result of the Israeli occupation authorities' systematic, relentless and deliberate policy and practice of settlements and colonization of those territories; determined that all such policy and practices taken by Israel in the Palestinian and other Arab territories occupied since 1967 had no legal validity and constituted a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East; and expressed its indignation at the persistence of Israel in carrying out such policy and practices, in particular the establishment of settlements and the massive expropriation of lands, water and other resources in the Palestinian and other occupied territories.⁶²

The draft resolution was subsequently twice revised,⁶³ and, at the 2134th meeting, on 22 March 1979, adopted by 12 votes to none, with 3 abstentions, as resolution 446 (1979).⁶⁴ Its paragraph 1 reads as follows:

The Security Council,

1. *Determines* that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East;

CASE 10

Letter dated 25 November 1979 from the Secretary-General

(In connection with a draft resolution prepared in the course of consultations and adopted unanimously on 4 December 1979)

During the Council's consideration of the situation resulting from the detention of United States diplomatic

⁶¹For the texts of the relevant statements, see 2125th mtg.: Israel and PLO; 2127th mtg.: Bangladesh, para. 16; Hungary, para. 107; and Jamaica, para. 59; 2131st mtg.: Gabon, para. 17; Romania, para. 71; and 2134th mtg.: Israel, para. 67.

⁶²S/13171, *OR*, 34th yr., *Suppl. for Jan.-March 1979*, third preambular para. and paras. 1 and 2.

⁶³The third preambular para. and para. 2 were deleted; para. 1 was reworded as reflected in the text of resolution 446 (1979), para. 1.

⁶⁴For the vote on the draft resolution (S/13171/Rev.2), see 2134th mtg., para. 113. For the detailed procedural history, see chapter VIII, part II, under the same title.

personnel in Teheran, a number of Charter principles were underlined and emphasized by many speakers, giving special attention to the principle of peaceful settlement of disputes and the concomitant prohibition of the threat or use of force under Article 2, paragraph 4. Appeals were made to adhere to these norms in the United States-Iranian relationship rather than to seek mandatory punitive measures.⁶⁵

At the 2178th meeting, on 4 December 1979, the President drew attention to a draft resolution that had been prepared in the course of consultations among members of the Council. At the same meeting, the draft was put to the vote and unanimously adopted as resolution 457 (1979).⁶⁶ The sixth preambular paragraph of the resolution reads as follows:

The Security Council,

Conscious of the responsibility of States 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 other manner inconsistent with the purposes of the United Nations,⁶⁷

CASE 11

Letter dated 3 January 1980 from 52 Member States regarding Afghanistan

(In connection with a draft resolution sponsored by Bangladesh, Jamaica, Niger, the Philippines, Tunisia and Zambia, put to the vote and not adopted on 7 January 1980)

During the extensive discussion of the developments in Afghanistan, members of the Council and other speakers condemned the intervention of foreign troops in internal political conflicts in Afghanistan as a grave violation of Article 2, paragraph 4, and other pertinent provisions of the Charter; they called for an end to foreign interference and the withdrawal of all foreign troops from Afghan soil. Other representatives rejected these accusations regarding the use of force and intervention and suggested that the Afghan authorities had requested the assistance of the foreign troops.⁶⁸

At the 2189th meeting, on 7 January 1980, the representative of Bangladesh introduced a draft resolution sponsored by Bangladesh, Jamaica, Niger, the Philippines,

⁶⁵For the texts of the relevant statements, see 2175th mtg.: Czechoslovakia, para. 114; France, para. 65; Gabon, para. 57; USSR, para. 90; United States, paras. 22-24; Zaire, para. 145; Zambia, para. 96; 2176th mtg.: Kuwait, para. 6; and Yugoslavia, paras. 115-117. During these meetings and subsequent sessions devoted to the same question, there were numerous references to Articles 33 and 2, paragraph 7, and to the provisions of Chapter VI of the Charter.

⁶⁶For the vote on the draft resolution (S/13677), see 2178th mtg., para. 12. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

⁶⁷This citation of Article 2, paragraph 4, was reiterated in resolution 461 (1979), ninth preambular paragraph, and in the United States draft resolution S/13735, eighth preambular para.; for the text, see *OR*, 35th yr., *Suppl. for Jan.-March 1980*.

⁶⁸For the texts of relevant statements, see 2187th mtg.: Australia, paras. 30-35; Costa Rica, paras. 92-100; Italy, paras. 104-110; Liberia, paras. 112-133; Norway, paras. 52-56; Singapore, paras. 38-48; Somalia, paras. 72-80; Spain, paras. 59-68; and United States, paras. 6-27; 2188th mtg.: German Democratic Republic, paras. 5-21; Jamaica, paras. 97-102; Netherlands, paras. 51-59; Portugal, paras. 24-27; Venezuela, paras. 30-38; and Viet Nam, paras. 62-93; 2189th mtg.: Bangladesh, paras. 41-49; Federal Republic of Germany, paras. 63-75; Lao People's Democratic Republic, paras. 101-112; Mongolia, paras. 21-37; Yugoslavia, paras. 80-97; and Zambia, paras. 6-17; 2190th mtg. and Corr. I and Add. I: Afghanistan, paras. 87-102; Canada, paras. 62-72; Chile, paras. 75-84; German Democratic Republic, paras. 135-139; Panama, paras. 10-34; President (France), paras. 125-131; USSR, paras. 110-123; Zaire, paras. 39-59; Mexico, paras. 160-165; and Philippines, paras. 145-156. There were numerous invocations of Articles 2, paragraph 7, and 51 in addition to references to Article 2, paragraph 4.

Tunisia and Zambia. Under this draft, the Council, mindful of the obligations of Member States 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 other manner inconsistent with the purposes of the United Nations, would, *inter alia*, have reaffirmed anew its conviction that the preservation of the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter of the United Nations, any violation of which on any pretext whatsoever was contrary to its aims and purposes; deeply deplored the armed intervention in Afghanistan, which was inconsistent with that principle; affirmed that the sovereignty, territorial integrity, political independence and non-aligned status of Afghanistan must be fully respected; and called for the immediate and unconditional withdrawal of all foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, coercion or constraint of any kind whatsoever.⁶⁹

At the 2190th meeting, also on 7 January 1980, the draft resolution was put to the vote, received 13 votes to 2, and was not adopted owing to the negative vote of a permanent member of the Council.⁷⁰

CASE 12

The situation between Iran and Iraq

(In connection with a draft resolution sponsored by Mexico, voted upon and adopted on 28 September 1980, and a statement of the President of the Council issued on 5 November 1980)

During the first phase of the Council's deliberations on the situation between Iran and Iraq in fall 1980, the principle of non-use of force was endorsed by a unanimous Council and the two war parties were strongly urged

⁶⁹S/13729, *OR*, 35th yr., *Suppl. for Jan.-March 1980*; fourth pre-ambular para. and paras. 1-4.

⁷⁰For the vote on the draft resolution (S/13729), see 2190th mtg. and Corr. 1 and Add. 1, para. 140. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

to abandon the battle and to seek a solution through peaceful means.⁷¹

At the 2248th meeting, on 28 September 1980, the President drew attention to a draft resolution sponsored by Mexico that had been prepared in the course of lengthy consultations. The draft was put to the vote at the same meeting and unanimously adopted as resolution 479 (1980).⁷² It reads, *inter alia*, as follows:

The Security Council,

...

Mindful as well that all Member States are obliged to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State,

...

1. *Calls upon Iran and Iraq to refrain immediately from any further use of force and to settle their dispute by peaceful means and in conformity with principles of justice and international law;*

...

The Council held further meetings and consultations on the evolving conflict between the two countries. On 5 November 1980, the President of the Council issued a statement⁷³ on behalf of the members, which reads, *inter alia*, as follows:

...

Members of the Council are deeply concerned that hostilities continue, with resulting loss of life and material damage. They continue to urge that all concerned be guided by Member States' obligations under the Charter to settle their international disputes by peaceful means and in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State.

...

⁷¹For the texts of relevant statements, see 2248th mtg.: Bangladesh, paras. 85-91; 2252nd mtg.: United States, paras. 33-46; 2253rd mtg.: United Kingdom, paras. 3-11; 2254th mtg.: France, paras. 5-20; Jamaica, paras. 23-32; Tunisia, paras. 58-72. There were also many references to Articles 24 and 33.

⁷²For the vote on the draft resolution (S/14201), see 2248th mtg., para. 11.

⁷³For the full text of the statement (S/14244), see *OR*, 35th yr., *Resolutions and Decisions of the Security Council, 1980*, pp. 23 and 24. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

B. 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, no constitutional discussion arose in connection with Article 2, paragraph 5 of the Charter. The Council, however, adopted a number of resolutions containing provisions which might be described as implicit references to the principle in that paragraph of Article 2.⁷⁴ There were no explicit references to Article 2, paragraph 5 during any of the Council debates.

⁷⁴Resolution 388 (1976), para. 2, in connection with the situation in Southern Rhodesia; resolution 444 (1979), para. 6; resolution 450 (1979), para. 8, and resolution 467 (1980), para. 9 in connection with the situation in the Middle East; and the statement of the President, on behalf of the Council, para. 6 (S/12958), *OR*, 33rd yr., *Resolutions and Decisions of the Security Council, 1978*, pp. 8 and 9; also in connection with the situation in the Middle East. All these references could also be linked to Article 25, which states the principle of Article 2, paragraph 5, in a narrower and more specific manner. For the consideration of the provisions of Article 25, see part IV below.

C. ARTICLE 2, PARAGRAPH 6

"The Organization shall ensure that States which are not Members of the United Nations act in accordance with these principles so far as may be necessary for the maintenance of international peace and security."

NOTE

During the period under review, the Council adopted two resolutions⁷⁵ that contained explicit references to article 2, paragraph 6. Neither of these resolutions gave rise to a constitutional discussion nor did members refer to the Article during the deliberations of the Council.

Several resolutions contained provisions that might be interpreted as implicit references to Article 2, paragraph 6.⁷⁶ A number of draft resolutions also referred

⁷⁵ Resolutions 388 (1976), para. 3 (Article 2 invoked) and 409 (1977), para. 2, in connection with the situation in Southern Rhodesia.

⁷⁶ Resolutions 384 (1975), para. 4, and 389 (1976), para. 5, in connection with the situation in Timor; resolutions 405 (1977), paras. 4 and 5, and 419 (1977), para. 3, in connection with the complaint by Benin; resolution 411 (1977), para. 8, in connection with the complaint by Mozambique; resolutions 417 (1977), para. 4, 418 (1977), paras. 2-5, and 421 (1977), para. 2, in connection with the question of South Africa; and resolution 465 (1980), para. 7, in connection with the situation in the occupied Arab territories.

to the Charter provision, one of them explicitly.⁷⁷ But the Council members did not engage in any constitutional argument nor did they invoke the principle during the deliberations.

⁷⁷ S/12211, *OR*, 31st yr., *Suppl. for Oct.-Nov. 1976*, paras. 11 (b)-(e) and 12, in connection with the situation in Namibia (the draft resolution was not adopted, owing to the negative votes of 3 permanent members); S/12433, *OR*, 32nd yr., *Suppl. for Oct.-Dec. 1977*, paras. 2 and 3, in connection with the question of South Africa (the draft resolution was withdrawn by the sponsors); S/12548, *OR*, 33rd yr., *Suppl. for Jan.-March 1978*, para. 1, also in connection with the question of South Africa (the draft resolution was not put to the vote); and S/13735, *OR*, 35th yr., *Suppl. for Jan.-March 1980*, para. 5 (with explicit reference to Article 2) in connection with the letter dated 22 December 1979 from the representative of the United States regarding Iran (the draft resolution was not adopted, owing to the negative vote of a permanent member).

D. 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

The principle of non-interference in domestic affairs was frequently mentioned in Council proceedings, but the Council did not adopt any decision that invoked the provisions of Article 2, paragraph 7 implicitly or explicitly. In one case,⁷⁸ a draft resolution with a reference to the principle of non-interference in the internal affairs of States failed to be adopted, owing to the negative vote of a permanent member.

In a number of instances the deliberations of the Council contained significant exchanges of views pertaining to the relevance of non-interference in political as well as constitutional terms. During the consideration of the situation in South Africa, several delegations explained their support for resolution 392 (1976) whereby the Council strongly condemned the South African Government for its resort to massive violence against and killings of the African people, with the argument that Article 2, paragraph 7, had not been violated, as the Council had not imposed measures under Chapter VII but had protested violations of human rights as stipulated in Articles 55 and 56 of the Charter.⁷⁹

When the Council considered the letter dated 25 November 1979 from the Secretary-General to the President of the Council and the letter dated 22 December 1979 from the representative of the United States regarding Iran, the Charter principle of non-interference was frequently invoked by delegations warning against interventionist measures against Iran, which had detained United States diplomatic personnel in violation of international law; instead, most speakers suggested that only peaceful settlement procedures be used to resolve this dangerous situation.⁸⁰

During the Council's deliberations on the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, the principle of non-interference was invoked by representatives holding opposing views on the merits of the case; a number of delegates condemned the interference by foreign troops in the internal affairs of Afghanistan, whereas others held that the sovereign right of the Afghan people to determine on their own their social and political development had been impinged upon by foreign Powers, which were abrogating the principle of domestic

⁷⁸ See case 13 below.

⁷⁹ See 1930th mtg.: United Kingdom, paras. 301 and 302; and United States, paras. 289-292. See also 1930th mtg.: South Africa, para. 150, for a statement alleging interference of the Council.

⁸⁰ See 2175th mtg.: President (China), para. 119; USSR, para. 90; and United States, para. 22; 2176th mtg.: Federal Republic of Germany, para. 43; Kuwait, para. 6; Spain, para. 125; and Yugoslavia, para. 116; 2177th mtg.: Belgium, para. 26; and 2182nd mtg.: United Kingdom, para. 34. Most of the references did not go beyond a general restatement of this principle, together with other basic norms of the Charter; none of them invoked Article 2, paragraph 7, explicitly.

jurisdiction, including the right of the Government to seek outside assistance.⁸¹

In connection with the situation between Iran and Iraq, members of the Council emphasized certain Charter provisions, including the principle of non-interference in internal matters of States, as keys to a solution in this violent conflict between neighbouring countries.⁸²

When the Council considered the situation in the Comoros, the deliberations did not touch upon Article 2, paragraph 7, but a draft resolution was submitted that contained a clear, though implicit, reference to the principle of non-interference.⁸³ The draft resolution was put to the vote and not adopted owing to the negative vote of a permanent member.⁸⁴

Article 2, paragraph 7, was explicitly referred to in two other instances of the Council's deliberations,⁸⁵ and both explicitly⁸⁶ and implicitly⁸⁷ in a number of

⁸¹2185th mtg.: Afghanistan, paras. 86-116 (explicit); Egypt, paras. 126-149; German Democratic Republic, paras. 29-33; Japan, paras. 119-123; Pakistan, paras. 66-83; Philippines, paras. 53-59; USSR, paras. 11-20; 2186th mtg.: China, paras. 35-44; New Zealand, paras. 129-133; Poland, paras. 118-126 (explicit); Saudi Arabia, paras. 109-115; Turkey, paras. 138-142; USSR, paras. 3-33; United Kingdom, paras. 48-55; 2187th mtg.: Australia, paras. 30-35; Costa Rica, paras. 92-100; Hungary, paras. 136-147; Italy, paras. 104-110; Liberia, paras. 112-133 (explicit); Malaysia, paras. 86-90; Norway, paras. 52-56; Singapore, paras. 38-49; Somalia, paras. 72-80; Spain, paras. 59-68; United States, paras. 6-27; 2188th mtg.: German Democratic Republic, paras. 6-21; Jamaica, paras. 97-102; Netherlands, paras. 51-59; Portugal, paras. 24-27; Venezuela, paras. 29-38 (explicit); Viet Nam, paras. 62-93; 2189th mtg.: Bangladesh, paras. 41-49; Federal Republic of Germany, paras. 63-76; Lao People's Democratic Republic, paras. 101-112 (explicit); Mongolia, paras. 21-37 (explicit); Niger, paras. 53-57; Yugoslavia, paras. 80-97; Zambia, paras. 6-18; 2190th mtg. and Corr. 1 and Add. 1: Afghanistan, paras. 86-102; Canada, paras. 62-72; Chile, paras. 75-84; German Democratic Republic, paras. 135-139; Panama, paras. 10-34; President (France), paras. 126-131; Tunisia, paras. 105-108, p. 41; USSR, paras. 110-123; Zaire, paras. 39-59; German Democratic Republic, paras. 175-177; Mexico, paras. 160-165; Philippines, paras. 145-156; USSR, paras. 166-169 (explicit). Article 2, paragraph 7, was, however, not referred to in the draft resolution that was submitted to the Council.

⁸²2252nd mtg.: United States, paras. 29-41, p. 16; 2253rd mtg.: United Kingdom, paras. 3-11; 2254th mtg.: France, paras. 5-20; Jamaica, paras. 23-32; Tunisia, paras. 58-72; USSR, paras. 84-94.

⁸³S/11967, *OR*, 31st yr., *Suppl. for Jan.-March 1976*, para. 1. The draft resolution was sponsored by Benin, Guyana, the Libyan Arab Republic, Panama and the United Republic of Tanzania. The Council considered the issue at its 1886th to 1888th meetings, from 4 to 6 February 1976.

⁸⁴For the procedural history of this instance, see chapter VIII, part II, under the same title "Situation in the Comoros".

⁸⁵1863rd mtg.: Greece, paras. 215 and 219, in connection with the situation in Cyprus; 1989th mtg.: Liberia, para. 59, in connection with the question of South Africa.

⁸⁶S/11835, *OR*, 30th yr., *Suppl. for July-Sept. 1975* (a letter from Spain to the Secretary-General); and S/13986, *OR*, 35th yr., *Suppl. for April-June 1980* (a letter from South Africa to the President of the Council).

⁸⁷S/11838, *OR*, 30th yr., *Suppl. for Oct.-Dec. 1975* (a letter from Spain to the Secretary-General); and S/13725, *OR*, 35th yr., *Suppl. for Jan.-March 1980* (a letter from Afghanistan to the President of the Council). For similar implicit references to Article 2, paragraph 7, in communications from Member States, see case 13 below.

communications from Member States addressed to the United Nations.

CASE 13

Telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea

(In connection with a draft resolution submitted by Bangladesh, Bolivia, Gabon, Jamaica, Kuwait, Nigeria and Zambia, voted upon and not adopted on 15 January 1979)

During the Council's consideration of the developments in Democratic Kampuchea, the speakers engaged in what could be called a constitutional discussion regarding the protection or violation of Article 2, paragraph 7; some saw the role of the troops from neighbouring Viet Nam as interference in the internal affairs of Democratic Kampuchea, whereas others argued that the request by the new Kampuchean Government for military and other assistance from Viet Nam against the remnant forces of the Pol Pot régime was a matter of domestic jurisdiction and did not warrant outside clamouring for international intervention; both sides stressed the principal relevance of the provisions of Article 2, paragraph 7.⁸⁸

At the 2111th meeting, on 15 January 1979, the representative of Kuwait introduced a draft resolution⁸⁹ jointly submitted by Bangladesh, Bolivia, Gabon, Jamaica, Kuwait, Nigeria and Zambia, under which the Council would, *inter alia*, have demanded that the parties concerned adhere strictly to the principle of non-interference in the internal affairs of States, so as to create an atmosphere conducive to the stability of the region.

At the 2112th meeting, on the same day, the draft resolution was put to the vote, received 13 votes to 2, and was not adopted, owing to the negative vote of a permanent member of the Council.⁹⁰

⁸⁸For the texts of relevant statements, see 2108th mtg.: Cuba, para. 177; Czechoslovakia, para. 26; USSR, paras. 10 and 146; Viet Nam, para. 113 (explicit); 2109th mtg.: Bolivia, para. 59; German Democratic Republic, para. 66; Kuwait, para. 10; Norway, para. 17; Sudan, para. 94; 2110th mtg.: Gabon, para. 16; Portugal, paras. 26 and 31; Singapore, paras. 48 and 51; United States, para. 72; Zambia, para. 10; 2111th mtg.: Nigeria, para. 35; Poland, para. 77; President (Jamaica), para. 147; USSR, para. 154; Viet Nam, para. 167. For implicit references to Article 2, paragraph 7, see also S/13011 (letter dated 8 January 1979 from Viet Nam) and S/13013 (letter dated 8 January 1979 from Viet Nam), *OR*, 34th yr., *Suppl. for Jan.-March 1979*, in connection with this question.

⁸⁹S/13027, *OR*, 34th yr., *Suppl. for Jan.-March 1979*; para. 3.
⁹⁰For the vote on the draft resolution, see 2112th mtg.: para. 4. For the detailed procedural history of this case, see chapter VIII, part II.

Part III

CONSIDERATION OF THE PROVISIONS OF ARTICLE 24 OF THE CHARTER

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, the Council, while discussing the situation between Iran and Iraq, adopted a resolution⁹¹ that explicitly invoked Article 24. During the Council's consideration of the situation in South-East Asia and its implications for international peace and security, two draft resolutions were submitted, which referred to the Article implicitly; one of these draft resolutions was not put to the vote; the other was not adopted, owing to the negative vote of a permanent member.⁹²

In connection with the question of South Africa, the Council adopted resolution 417 (1977) of 31 October 1977 which, in its preambular part, contained an implicit reference to Article 24.⁹³ The consideration and adoption of this resolution did not involve any constitutional discussion.

There were a number of explicit references to Article 24, other than those listed in cases 14 and 15, in the course of the Council debates, but no constitutional discussion ensued.⁹⁴ Article 24 was also explicitly invoked in a letter⁹⁵ from the representative of Israel to the Secretary-General.

CASE 14

The situation in South-East Asia and its implications for international peace and security

(In connection with a draft resolution sponsored by Czechoslovakia and the USSR, not put to the vote, and another draft resolution sponsored by Indonesia, Malaysia, the Philippines, Singapore and Thailand, put to the vote and not adopted on 16 March 1979)

The responsibility of the Council for the maintenance of international peace and security was stressed by most speakers, but while some wanted the Council to focus exclusively on the conflict between Viet Nam and China, others considered it necessary to view the recent crisis involving Viet Nam and Democratic Kampuchea together

with the violent clashes between the Chinese and Vietnamese troops.⁹⁶

At the 2114th meeting, on 23 February 1979, the representative of the USSR introduced a draft resolution jointly sponsored by Czechoslovakia and the USSR, which, in its preambular part,⁹⁷ referred to the Council's responsibility under the Charter for the maintenance of international peace and security. This draft resolution was not put to the vote.⁹⁸

At the 2129th meeting, on 16 March 1979, the representative of Thailand introduced another draft resolution, which was sponsored by Indonesia, Malaysia, the Philippines, Singapore and Thailand and which also recognized the Council's responsibility under Article 24 of the Charter.⁹⁹ The draft resolution was put to the vote at the same meeting, received 13 votes to 2, and was not adopted, owing to the negative vote of permanent member.¹⁰⁰

CASE 15

The situation between Iran and Iraq

(In connection with the draft resolution sponsored by Mexico, put to the vote and unanimously adopted on 28 September 1980)

During the deliberations in the Council concerning the first phase of the widening war between Iran and Iraq, the speakers were unanimous in calling for energetic efforts by the Council, under its Charter mandate, for the maintenance of international peace and security, and by the Secretary-General to bring about a speedy and equitable end to the fighting and to restore peace and good neighbourly relations.¹⁰¹

At the 2248th meeting, on 28 September 1980, the President drew attention to a draft resolution sponsored by Mexico.¹⁰² At the same meeting, the draft resolution, which had been prepared during the course of lengthy consultations, was put to the vote and unanimously

⁹¹ Resolution 479 (1980). See case 15 below.

⁹² See case 14 below.

⁹³ Resolution 417 (1977), seventh preambular para.

⁹⁴ In connection with the Middle East problem including the Palestinian question, see 1871st mtg.: Syrian Arab Republic, para. 88; 1878th mtg.: Democratic Yemen, para. 10; in connection with the request by Mozambique under Article 50 of the Charter, see 1891st mtg.: Sweden, para. 33; in connection with the situation in the occupied Arab territories, see 1922nd mtg.: Syrian Arab Republic, para. 106; 1966th mtg.: Syrian Arab Republic, para. 159; in connection with the complaint by Benin, see 1987th mtg.: Pakistan, para. 50; in connection with the situation in the Middle East, see 2071st mtg.: Israel, para. 22; in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea, 2111th mtg.: Poland, para. 77; and in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, see 2186th mtg.: Poland, para. 119. Implicit references to Article 24 are too numerous to be listed here.

⁹⁵ S/12028, OR, 31st yr., Suppl. for Jan.-March 1976. The letter protested the election of the Libyan Arab Republic to a non permanent seat in the Council.

⁹⁶ For the texts of the relevant statements, see 2114th mtg.: China, paras. 92 and 123; USSR, paras. 9, 69 and 70; United States, paras. 32 (explicit) and 33; 2115th mtg.: Australia, para. 191; Bangladesh, para. 43; Canada, para. 136; France, para. 6; India, para. 178 (explicit); Jamaica, para. 54; Poland, para. 212; United Kingdom, para. 14; Zambia, paras. 26 (explicit) and 36; 2116th mtg.: Indonesia, paras. 5 and 12 (explicit); Japan, para. 26; Philippines, para. 86; 2117th mtg.: Nigeria, para. 11 (explicit); 2129th mtg.: New Zealand, para. 135; United States, para. 90.

⁹⁷ S/13117, OR, 34th yr., Suppl. for Jan.-March 1979; fourth preambular para.

⁹⁸ For further details, see chapter VIII, part II, under the same title.

⁹⁹ S/13162, OR, 34th yr., Suppl. for Jan.-March 1979; sixth preambular para.

¹⁰⁰ For the vote on the draft resolution (S/13162), see 2129th mtg., para. 72. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

¹⁰¹ For the texts of relevant statements, see 2247th mtg.: Mexico, paras. 16-26; Norway, paras. 29-33; Secretary-General, paras. 5-13; 2248th mtg.: France, paras. 54-60; Philippines, paras. 113-118; United States, paras. 32-46 (explicit); 2250th mtg.: Cuba, paras. 51-58; 2251st mtg.: United States, paras. 69-73; 2253rd mtg.: Philippines, paras. 14-24; 2254th mtg.: Jamaica, paras. 23-32; Portugal, paras. 75-82; USSR, paras. 84-94.

¹⁰² S/14201, adopted without change as resolution 479 (1980).

adopted as resolution 479 (1980).¹⁰¹ The fourth preambular paragraph reads as follows:

¹⁰¹ For the adoption of the draft resolution (S/14201), see 2248th mtg., para. 11. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

The Security Council,

...

Recalling that under Article 24 of the Charter the Security Council has primary responsibility for the maintenance of international peace and security,

Part IV

CONSIDERATION OF THE PROVISIONS OF ARTICLE 25 OF THE CHARTER

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 Council adopted two resolutions¹⁰⁴ in which Article 25 of the Charter was explicitly invoked. In one of these cases,¹⁰⁵ the Council engaged in what might be called a constitutional discussion concerning the termination of sanctions under the Charter.

Article 25 was also explicitly referred to in two draft resolutions, both of which were voted upon and not adopted.¹⁰⁶

A large number of resolutions¹⁰⁷ and several draft resolutions, which either were not brought to a vote or

failed of adoption,¹⁰⁸ contained paragraphs that could be considered as implicit references to Article 25.

There were also explicit references to Article 25 and to its binding nature during the debates in the Council, usually in connection with decisions previously taken by the Council.¹⁰⁹ With the exception of one case, the

in the occupied Arab territories, resolutions 446 (1979), para. 2; and 471 (1980), para. 4.

¹⁰⁴ In connection with the situation in Namibia, draft resolution S/12211, *OR, 31st yr., Suppl. for Oct.-Dec. 1976*, seventh preambular para. and paras. 1, 6, 9 and 12 (it was put to the vote at the 1963rd meeting, on 19 October 1976, and was not adopted, owing to the negative votes of three permanent members); in connection with the question of South Africa, draft resolution S/12547, *OR, 33rd yr., Suppl. for Jan.-March 1978*, fourth and sixth preambular paras. and para. 2 (it was not put to the vote); in connection with the situation in Cyprus, draft resolution S/12927, *OR, 33rd yr., Suppl. for Oct.-Dec. 1978*, third preambular para. and paras. 2 and 4 (it was not put to the vote); in connection with the question of the exercise by the Palestinian people of its inalienable rights, draft resolutions S/13514, *OR, 34th yr., Suppl. for July-Sept. 1979*, fourth, fifth and seventh preambular paras. and para. 1 (a) (this draft was not put to the vote); and S/13911, *OR, 35th yr., Suppl. for April-June 1980*, fifth and sixth preambular paras. and para. 6 (this draft was put to the vote and was not adopted, owing to the negative vote of a permanent member of the Council); and in connection with the situation in the Middle East, draft resolution S/14106, *OR, 35th yr., Suppl. for July-Sept. 1980*, fifth and sixth preambular paras. and paras. 1, 5 and 6 (the draft resolution was not put to the vote).

¹⁰⁹ In connection with the situation in Namibia, 1824th mtg.: Ghana, para. 58 and 63; 1827th mtg.: USSR, para. 93; 1880th mtg.: Algeria, para. 71; 1957th mtg.: Kenya, para. 97; 1959th mtg.: United Republic of Tanzania, para. 65; 1961st mtg.: USSR, para. 40; 1963rd mtg.: Panama, para. 65; and 2092nd mtg.: Burundi, para. 92; in connection with the Middle East problem including the Palestinian question, 1871st mtg.: Syrian Arab Republic, para. 90; in connection with the situation in the Comoros, 1888th mtg.: United Republic of Tanzania, para. 30; in connection with the request by Mozambique under Article 50 of the Charter, 1890th mtg.: Egypt, para. 125; and Jamaica, para. 45; in connection with the request by the Libyan Arab Republic and Pakistan for consideration of the situation arising from developments in the occupied Arab territories, 1894th mtg.: Pakistan, para. 147; in connection with the exercise by the Palestinian people of its inalienable rights, 1924th mtg.: Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian people, para. 36; 2160th mtg.: PLO, para. 69; in connection with the complaint by Mauritius, current Chairman of OAU, of the "act of aggression" by Israel against Uganda, 1942nd mtg.: Panama, para. 20; in connection with the question of South Africa, 1989th mtg.: Liberia, para. 43; in connection with the situation in the Middle East, 2085th mtg.: United States, para. 23; 2180th mtg.: Nigeria, para. 103; in connection with the situation in Southern Rhodesia (other than the 2181st meeting), 2090th mtg.: Nigeria, para. 74; USSR, paras. 39 and 41; 2120th mtg.: Ghana, para. 133; 2143rd mtg.: Czechoslovakia, para. 71; Kuwait, para. 114; United Kingdom, para. 141; United States, para. 118; in connection with the situation in the occupied Arab territories, 2157th mtg.: Kuwait, para. 7; 2199th mtg.: PLO, para. 158; 2200th mtg.: Tunisia, para. 66; 2203rd mtg.: PLO, para. 60; 2221st mtg.: PLO, paras. 60 and 90; and 2226th mtg.: PLO, para. 120; in connection with the complaint by Zambia, 2171st mtg.: Nigeria, para. 40; and in connection with the letter dated 22 December 1979 from the representative of the United States, 2191st mtg. and Add. I: United States, para. 28. Implicit references to Article 25 were too numerous to be listed here.

¹⁰⁴ Resolutions 437 (1978), para. 2, and 460 (1979), para. 4, both in connection with the situation in Southern Rhodesia.

¹⁰⁵ Resolution 460 (1979), see case 16 below.

¹⁰⁶ In connection with the question of South Africa, S/12310, *OR, 32nd yr., Suppl. for Jan.-March 1977*, seventh preambular para., revised as S/12310/Rev.1, *ibid.*, *Suppl. for Oct.-Dec. 1977*, seventh preambular para., voted upon and not adopted, owing to the negative votes of three permanent members; and in connection with the letter dated 22 December 1979 from the representative of the United States, S/13735, *OR, 35th yr., Suppl. for Jan.-March 1980*, para. 4, voted upon and not adopted, owing to the negative vote of a permanent member.

¹⁰⁷ In connection with the situation in Cyprus, resolutions 367 (1975), para. 4; 370 (1975), paras. 1-3; 383 (1975), paras. 1-3; 391 (1976), paras. 1-3; 401 (1976), paras. 1-3; 410 (1977), paras. 1-3; 414 (1977), paras. 2 and 3; 422 (1977), paras. 1-3; and 440 (1978), paras. 1-3; in connection with the situation in the Middle East, resolutions 368 (1975), operative para. (a); 369 (1975), fourth preambular para., operative para. (a); 371 (1975), para. 1; 378 (1975), para. 1 (a); 390 (1976), operative para. (a); 396 (1976), para. 1 (a); 398 (1976), operative para. (a); S/12218, statement dated 11 November 1976 by the President on behalf of the Council, para. 4 (*OR, 31st yr., Resolutions and Decisions of the Security Council, 1976*; resolutions 408 (1977), operative para. (a); 416 (1977), para. 1 (a); 420 (1977), operative para. (a); 429 (1978), operative para. (a); 434 (1978), para. 2; 441 (1978), operative para. (a); S/12958, statement dated 8 December 1978 by the President on behalf of the Council, paras. 3 and 5 (*OR, 33rd yr., Resolutions and Decisions of the Security Council, 1978*; resolutions 444 (1979), para. 7; 449 (1979), operative para. (a); 450 (1979), para. 9; 456 (1979), operative para. (a); 459 (1979), para. 10; 467 (1980), paras. 1 and 10; 470 (1980), operative para. (a); 474 (1980), para. 6; 476 (1980), paras. 2, 5 and 6; 478 (1980), fifth preambular para. and para. 1; 481 (1980), operative para. (a); and 483 (1980), para. 7; in connection with the situation in Namibia, resolutions 385 (1976), seventh preambular para. and paras. 5, 9, 10 and 12; 435 (1978), paras. 2, 5 and 6; and 439 (1978), paras. 1, 5 and 6; in connection with the situation in Southern Rhodesia, resolutions 388 (1976), para. 1 (a)-(c); 437 (1978), second preambular para. and paras. 1 and 3; 445 (1979), tenth and eleventh preambular paras.; and 448 (1979), fourth and eighth preambular paras.; in connection with the complaint by Botswana, resolution 403 (1977), para. 3; in connection with the complaint by Lesotho, resolution 407 (1977), fifth preambular para.; in connection with the complaint by Mozambique, resolution 411 (1977), tenth, thirteenth and fourteenth preambular paras. and paras. 3, 6, 8, 10 and 12; in connection with the question of South Africa, resolutions 417 (1977), second preambular para. and para. 4; 418 (1977), para. 5; 421 (1977), paras. 1 (a) and 2; and 473 (1980), paras. 1, 10 and 11; in connection with the complaint by Zambia, resolution 424 (1978), fifth preambular para.; in connection with the complaint by Angola against South Africa, resolutions 428 (1978), para. 7, and 475 (1980), para. 4; and in connection with the situation

Council did not engage in any constitutional discussion concerning Article 25 that represented more than a reaffirmation of long-held views about its interpretation and application.

Article 25 was explicitly invoked in a letter¹¹⁰ dated 23 March 1979 from the Chairman of the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia to the President of the Council and in letters¹¹¹ dated 12 and 14 December 1979 from the representatives of the United Kingdom and Madagascar to the President of the Council regarding the lifting of sanctions against Southern Rhodesia.

CASE 16

Situation in Southern Rhodesia

(In connection with the draft resolution prepared in the course of consultations, put to the vote and adopted on 21 December 1979)

At the 2181st meeting, on 21 December 1979, when the Council took up the announcement by the United Kingdom regarding the lifting of the sanctions against Southern Rhodesia,¹¹² the disagreement revolved around the question whether a Member State had the right unilaterally to cease to discharge its obligations with regard to a mandatory decision taken by the Security Council in accordance with Article 25 of the Charter. Several representatives held that the termination of the sanctions was untimely and hasty as well as in violation of the principles

¹¹⁰S/13191, *OR*, 34th yr., *Suppl. for Jan.-March 1979*.

¹¹¹S/13688 and S/13693, *ibid.*, *Suppl. for Oct.-Dec. 1979*.

¹¹²See the letter dated 12 December 1979 from the representative of the United Kingdom, stating the British position regarding the termination of the sanctions (S/13688, *OR*, 34th yr., *Suppl. for Oct.-Dec. 1979*), and the letter dated 14 December 1979 from the representative of Madagascar, in his capacity of Chairman of the African Group for the month of December protesting against the British announcement as completely unacceptable and illegal (S/13693, *OR*, 34th yr., *Suppl. for Oct.-Dec. 1979*). Both letters invoked Article 25 explicitly.

of the legal framework established by the United Nations and international law and demanded that the authority of the Council be fully upheld in this matter. Others suggested that the changed situation in Southern Rhodesia, following the resumption of formal British rule over the territory, did indeed warrant the cancellation of all mandatory sanctions against the rebellious régime.¹¹³

At the 2181st meeting, on 21 December 1979, the President drew attention to a draft resolution that had been prepared in the course of prior consultations. At the same meeting, the draft resolution was put to the vote, and was adopted by 13 votes to none, with 2 abstentions, as resolution 460 (1979).¹¹⁴ It reads, *inter alia*, as follows:

The Security Council,

...

Recalling its resolutions 232 (1966) of 16 December 1966, 253 (1968) of 29 May 1968 and subsequent resolutions on the situation in Southern Rhodesia,

...

2. *Decides*, having regard to the agreement reached at the Lancaster House conference, to call upon Member States to terminate the measures taken against Southern Rhodesia under Chapter VII of the Charter pursuant to resolutions 232 (1966), 253 (1968) and subsequent related resolutions on the situation in Southern Rhodesia;

3. *Further decides* to dissolve the Committee established in pursuance of resolution 253 (1968) in accordance with rule 28 of the provisional rules of procedure of the Security Council;

4. *Commends* Member States, particularly the front-line States, for their implementation of its resolutions on sanctions against Southern Rhodesia in accordance with their obligation under Article 25 of the Charter;

...

¹¹³For the texts of the relevant statements, see 2181st mtg.: Botswana, para. 251 (explicit); Czechoslovakia, para. 119; Liberia, para. 232; Nigeria, para. 51 (explicit); USSR, para. 135; United Republic of Tanzania, paras. 194 and 205 (explicit); United States, para. 75; and Zambia, paras. 30 and 34.

¹¹⁴For the vote on the draft resolution (S/13699), see 2181st mtg., para. 4. For the detailed procedural history of this case, see chapter VIII, part II, under the same title.

Part V

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

In consequence of the obligations placed by the Charter upon Members of the United Nations and upon regional arrangements or agencies, the attention of the Council was drawn during the period from 1975 to 1980 to the following communications, which were circulated by the Secretary-General to the representatives on the Council, but were not included in the provisional agenda.

**A. COMMUNICATIONS FROM THE SECRETARY-GENERAL OF THE ORGANIZATION OF AFRICAN UNITY

B. COMMUNICATIONS FROM THE SECRETARY-GENERAL OF THE ORGANIZATION OF AMERICAN STATES

- (i) Dated 29 July 1975: transmitting the text of a resolution adopted on the same date by the Sixteenth Meeting of Consultation of Ministers of Foreign Affairs of OAS.¹¹⁵
- (ii) Dated 2 August 1976: transmitting the text of a resolution adopted on 31 July by the Thirteenth Meeting of Consultation of Ministers of Foreign Affairs of OAS.¹¹⁶
- (iii) Dated 18 September 1978: transmitting the text of a resolution adopted on the same date by the Permanent Council of OAS.¹¹⁷
- (iv) Dated 23 September 1978: transmitting the text of a resolution adopted the same date by the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of OAS.¹¹⁸
- (v) Dated 9 November 1978: transmitting the text of a resolution adopted on 16 October by the Permanent Council of OAS.¹¹⁹
- (vi) Dated 29 December 1978: transmitting the text of a resolution adopted on the same date by the Permanent Council of OAS.¹²⁰
- (vii) Dated 2 January 1979: transmitting the text of a resolution adopted on 30 December 1978 by the Permanent Council of OAS.¹²¹
- (viii) Dated 23 June 1979: transmitting the text of a resolution adopted on the same date by the Seventeenth Meeting of Consultation of Ministers of Foreign Affairs of OAS.¹²²

C. COMMUNICATIONS FROM STATES PARTIES TO DISPUTES OR SITUATIONS

- (i) Dated 4 July 1976: Sudan, requesting a meeting of the Council to consider an act of aggression by the Libyan Arab Republic.¹²³
- (ii) Dated 7 July 1976: Libyan Arab Republic, rejecting Sudanese allegations and warning that the request by Sudan would undermine efforts by OAU and the League of Arab States.¹²⁴
- (iii) Dated 26 November 1976: Democratic Yemen, charging violations of its air space by Iranian fighter planes stationed inside Oman.¹²⁵
- (iv) Dated 26 November 1976: Iran, charging an act of aggression against Iranian aircraft stationed in Oman from across the border by Democratic Yemen and warning that that action was designed to sabotage the Foreign Ministers' Conference of the Persian Gulf Littoral States which was in session in the capital of Oman.¹²⁶
- (v) Dated 29 November 1976: Oman, also charging an act of aggression by Democratic Yemen against unarmed Iranian Air Force plane in Oman and an attempt by the aggressor to undermine the Foreign Ministers' Conference held in Oman.¹²⁷
- (vi) Dated 28 March 1979: Uganda, requesting a meeting of the Council to consider aggression by the United Republic of Tanzania.¹²⁸
- (vii) Dated 5 April 1979: Uganda, withdrawing its request for a meeting, since it had accepted an appeal of the Group of African States at the United Nations not to have a meeting at that stage.¹²⁹
- (viii) Dated 12 May 1980: Bahamas, charging the violation of its air space and an attack upon a Bahamian patrol vessel resulting in the sinking of the boat by Cuban military aircraft.¹³⁰
- (ix) Dated 13 May 1980: Cuba, expressing regret if the vessel was indeed a Bahamian control boat and alleging pirate attacks on Cuban fishing boats.¹³¹

¹¹⁵S/11786, *OR*, 30th yr., *Suppl. for July-Sept. 1975*.

¹¹⁶S/12163, *ibid.*, 31st yr., *Suppl. for July-Sept. 1976*.

¹¹⁷S/12852, *ibid.*, 33rd yr., *Suppl. for July-Sept. 1978*.

¹¹⁸S/12861, *ibid.*

¹¹⁹S/12955, *ibid.*, *Suppl. for Oct.-Dec. 1978*.

¹²⁰S/12993, *ibid.*, 34th yr., *Suppl. for Jan.-March 1979*.

¹²¹S/13004, *ibid.*

¹²²S/13451, *ibid.*, *Suppl. for July-Sept. 1979*.

¹²³S/12122, *ibid.*, 31st yr., *Suppl. for July-Sept. 1976*.

¹²⁴S/12129, *ibid.*

¹²⁵S/12242, *ibid.*, *Suppl. for Oct.-Dec. 1976*.

¹²⁶S/12244, *ibid.*

¹²⁷S/12248, *ibid.*

¹²⁸S/13204, *ibid.*, 34th yr., *Suppl. for Jan.-March 1979*.

¹²⁹S/13228, *ibid.*, *Suppl. for April-June 1979*.

¹³⁰S/13937, *ibid.*, 35th yr., *Suppl. for April-June 1980*.

¹³¹S/13939, *ibid.*, 35th yr., *Suppl. for April-June 1980*.

- (x) Dated 16 May 1980: Bahamas, rejecting Cuban explanations and insisting on apology and compensation.¹³²
- (xi) Dated 21 May 1980: Cuba, reiterating that attacks on Cuban fishing boats had confused the Cuban Air Force, leading to the attack on the Bahamian vessel.¹³³
- (xii) Dated 23 May 1980: Bahamas, accepting Cuban apologies, acknowledgements and assurances as solution for both Governments.¹³⁴
- (xiii) Dated 27 May 1980: Bahamas, expressing regret that Cuba had not yet replied to its letter offering a mutually satisfactory solution.¹³⁵
- (xiv) Dated 2 June 1980: Bahamas, announcing agreement between Cuba and Bahamian Governments regarding a formula for a solution.¹³⁶

D. COMMUNICATIONS FROM OTHER STATES CONCERNING MATTERS BEFORE REGIONAL ORGANIZATIONS

- (i) Dated 17 March 1977: Egypt, transmitting the text of the Political Declaration of the first Afro-Arab Summit Conference, held at Cairo from 7 to 9 March 1977.¹³⁷

In addition to circulating these communications to the representatives on the Council, it has been the practice to include summary accounts of some of them in the annual reports of the Council to the General Assembly.¹³⁸

During the period under review, the question of the respective responsibilities of the Security Council and the regional agencies concerning matters before the Council was not the subject of constitutional arguments nor were the provisions of Chapter VIII explicitly invoked.¹³⁹

¹³⁷S/12298, *ibid.*, 32nd yr., *Suppl. for Jan.-March 1977*.

¹³⁸See the reports of the Council to the General Assembly, 1975/76 (GAOR, 31st sess., *Suppl. No. 2*), p. 59; 1976/77 (GAOR, 32nd sess., *Suppl. No. 2*), pp. 46 and 47, 48 and 49, and 51; 1978/79 (GAOR, 34th sess., *Suppl. No. 2*), pp. 55 and 57; and 1979/80 (GAOR, 35th sess., *Suppl. No. 2*), p. 63.

¹³⁹Article 54 was explicitly invoked in all communications from the OAS listed under B above.

¹³²S/13943, *ibid.*

¹³³S/13955, *ibid.*

¹³⁴S/13959, *ibid.*

¹³⁵S/13964, *ibid.*

¹³⁶S/13974, *ibid.*

**Part VI

**CONSIDERATION OF THE PROVISIONS OF CHAPTER XII OF THE CHARTER

Part VII

CONSIDERATION OF THE PROVISIONS OF CHAPTER XVI 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."

NOTE

During the period under review, Article 103 was not the subject of any constitutional discussion or argument, but it was explicitly referred to in the course of proceedings of the Council.¹⁴⁰

**Part VIII

**CONSIDERATION OF THE PROVISIONS OF CHAPTER XVII OF THE CHARTER

¹⁴⁰In connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, 2190th mtg.: Panama, paras. 14 and 15.