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## **Part III**

# **Purposes and principles of the Charter of the United Nation**

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## **Introductory note**

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

In 2023, Council members and other participants in Council discussions deliberated on the principle of self-determination at multiple meetings. These included country- and region-specific meetings on the Palestinian question, the referendums and elections held in the Donetsk, Luhansk, Kherson and Zaporizhzhya regions of Ukraine and the situation concerning Western Sahara, as well as thematic meetings focused on the rule of law among nations, effective multilateralism through the defense of the principles of the Charter, the implications of sea-level rise for international peace and security and women's participation in international peace and security. Council members also addressed the application and interpretation of Article 2 (4) of the Charter concerning the prohibition of the use or threat of use of force and non-interference in the internal affairs of other States on various occasions. These discussions took place at meetings in connection with the Armenia-Azerbaijan conflict, the Great Lakes region, the Golan Heights, Iraq, Libya, the Sudan, the Syrian Arab Republic and Ukraine, as well as at thematic meetings focused on topics such as the rule of law among nations and effective multilateralism through the defense of the principles of the Charter of the United Nations. Council members discussed the obligation of States to refrain from giving assistance to any State or non-State actor against which the United Nations was taking preventive or enforcement action pursuant to Article 2 (5) at various meetings, including in relation to the Democratic People's Republic of Korea, the Democratic Republic of the Congo, Libya, the Sudan, Ukraine and Yemen. Furthermore, Council members reflected on the principles enshrined in Article 2 (7) during discussions

concerning the situation in the Sudan and the cross-border humanitarian mechanism in the Syrian Arab Republic, as well as during an open debate focused on investment in people to enhance resilience against complex challenges.

During the period under review, the Council did not adopt any decisions containing explicit references to Articles 1 (2), 2 (4), 2 (5) or 2 (7) of the Charter. Nonetheless, Part III includes Council decisions featuring language relating to the principles enshrined in those Articles. In addition, it includes explicit invocations of Articles 1 (2) and 2 (4) found in the correspondence addressed to the Council during the period under review.

## **I. Principle of equal rights and self-determination of peoples under Article 1, paragraph 2**

### *Article 1, paragraph 2*

*[The Purposes of the United Nations are:]*

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

### **Note**

Section I concerns the practice of the Council regarding the principle of equal rights and self-determination of peoples as enshrined in Article 1 (2) of the Charter of the United Nations. Subsection A features decisions relevant to the principle enshrined in Article 1 (2). Subsection B describes the references made to the principle of self-determination in Council discussions during the reporting period. Subsection C sets out instances in which the principle of self-determination was invoked in communications addressed to the Council.

#### **A. Decisions relating to Article 1 (2)**

During the period under review, the Council did not explicitly invoke Article 1 (2) of the Charter in its decisions. However, language in one Council decision, adopted in connection with the envisaged referendum in Western Sahara, was of relevance for the interpretation and application of Article 1 (2) (see table 1).

Table 1

**Decisions containing implicit references to Article 1 (2), 2023**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation concerning Western Sahara</b>	
Resolution <a href="#">2703 (2023)</a> 30 October	Reaffirming its commitment to assist the parties to achieve a just, lasting, and mutually acceptable political solution, based on compromise, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in this respect (sixth preambular paragraph)  Calls upon the parties to resume negotiations under the auspices of the Secretary-General without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments with a view to achieving a just, lasting, and mutually acceptable political solution, which will provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter of the United Nations, and noting the role and responsibilities of the parties in this respect (para. 4)

**B. Discussion relating to Article 1 (2)**

During the period under review, Article 1 (2) of the Charter was explicitly invoked twice in deliberations at meetings of the Council under the item entitled “Maintenance of international peace and security”. At a high-level open debate held on 24 April under the sub-item entitled “Effective multilateralism through the defence of the principles of the Charter of the United Nations”, the representative of the United States stressed that Member States should not disagree about the fundamental values and principles laid out in the Charter, which were critical to the purpose of the United Nations and, in this context, quoted Article 1, including the provision outlined in paragraph 2.<sup>1</sup> Moreover, at a high-level open debate held on 20 September under the sub-item entitled “Upholding the purposes and principles of the United Nations Charter through effective multilateralism: maintenance of peace and security of Ukraine”, the Minister for Foreign Affairs of the Russian Federation urged for all the provisions of the Charter, including the principles of sovereign equality, non-interference, territorial integrity and the right to self-determination, to be respected and applied holistically. He recalled that in response to an operation launched against the Russian-speaking citizens of Ukraine, Crimea and Donbas had

<sup>1</sup> See [S/PV.9308](#).

held referendums on their independence, in full compliance with the principle of equality and self-determination of peoples, as enshrined in Article 1 (2).<sup>2</sup>

In addition, the principle of self-determination was addressed by Council members and other Member States and entities in the context of both thematic and country- and region-specific discussions, as elaborated upon below. With regard to thematic items, in his briefing at a high-level open debate held on 12 January under the item entitled “The promotion and strengthening of the rule of law in the maintenance of international peace and security” and sub-item “The rule of law among nations”,<sup>3</sup> the Secretary-General outlined how Member States could further strengthen the United Nations and its organs with a view to promoting the rule of law and, in that context, urged Member States to abide by international law, including by committing to the self-determination of peoples.<sup>4</sup> In the ensuing discussion, some Council members and Member States made reference to the extension of the right to self-determination in the context of decolonization.<sup>5</sup> Multiple participants highlighted that, in some cases, the right to self-determination continued to be undermined and suppressed.<sup>6</sup> In addition, several speakers underscored the importance of the fundamental principles of international law, including that of self-determination.<sup>7</sup>

At the same meeting, participants also invoked the principle of self-determination in relation to the situation in Ukraine. The representative of Italy stated that, in light of the war of aggression waged by the Russian Federation against Ukraine, his country continued to stand in defense of the Charter and the self-determination of peoples.<sup>8</sup> The representative of Australia was of the view that the Russian Federation contorted and abused fundamental principles of international law, including through its attempts to legitimize the so-called referendums in eastern and southern Ukraine with references to self-determination. At a meeting held on 8 September under the item entitled “Maintenance of peace and security of Ukraine”,<sup>9</sup> the representative of the Russian Federation stressed that the referendums were held in full

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<sup>2</sup> See [S/PV.9421](#).

<sup>3</sup> See [S/PV.9241](#) and [S/PV.9241 \(Resumption 1\)](#).

<sup>4</sup> See [S/PV.9241](#).

<sup>5</sup> See [S/PV.9241](#) (Mozambique, Gabon); and [S/PV.9241 \(Resumption 1\)](#) (South Africa).

<sup>6</sup> See [S/PV.9241 \(Resumption 1\)](#) (Jordan, Pakistan, State of Palestine, South Africa).

<sup>7</sup> See [S/PV.9241](#) (Ghana); and [S/PV.9241 \(Resumption 1\)](#) (Pakistan, Qatar, Serbia).

<sup>8</sup> See [S/PV.9241 \(Resumption 1\)](#).

<sup>9</sup> See [S/PV.9414](#).

compliance with the norms and principles of international law. He added that the decisions of those plebiscites reflected the rights of peoples to self-determination, which might take the form of the establishment of a sovereign and independent State, as well as the free association or integration with an independent State. The representative of the United Kingdom stated that, following the “so-called referendums”, the Russian Federation was committing another violation of the Charter by holding “so-called elections” in four oblasts and in illegally annexed Crimea. He added that, while the Russian Federation claimed that it was protecting the right to self-determination, it was not possible to hold elections in someone else’s country. The representative of Italy opined that the “illegitimate so-called elections” organized by the Russian Federation were far from being an exercise of democracy and self-determination, taking place amid widespread and systematic human rights abuses and intimidation.

At a high-level open debate held on 14 February under the item entitled “Threats to international peace and security” and sub-item “Sea-level rise: implications for international peace and security”,<sup>10</sup> participants deliberated on the principle of self-determination in the context of the potential submerging of the territories of States owing to sea-level rise (see case 1).

On 24 April, at a high-level open debate held under the item entitled “Maintenance of international peace and security” and sub-item “Effective multilateralism through the defence of the principles of the Charter of the United Nations”,<sup>11</sup> the Minister for Foreign Affairs of the Russian Federation pointed to double standards by the United States, which would recognize the independence of Kosovo without a referendum but would not recognize Crimea, even though a referendum had taken place.<sup>12</sup> He called for adherence to the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, which explicitly proclaimed “the principle of equal rights and self-determination of peoples ... thus possessed of a government representing the whole people belong to the territory”. He further stated that it was evident that the Kyiv regime could not be regarded as representing “the whole people belonging to the territory” and that Pristina could not claim to represent the interests of Kosovar Serbs. The representative of Mozambique was of the view that relations among nations should be based on respect for the principles of equal rights and self-determination. Several other

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<sup>10</sup> See [S/PV.9260](#); and [S/PV.9260 \(Resumption 1\)](#).

<sup>11</sup> See [S/PV.9308](#); and [S/PV.9308 \(Resumption 1\)](#).

<sup>12</sup> See [S/PV.9308](#).



speakers reaffirmed the importance of the principles of international law and the purposes and principles of the Charter, including that of self-determination, and reiterated their commitment to those principles.<sup>13</sup>

At a high-level open debate held on 25 and 26 October under the item entitled “Women and peace and security” and sub-item “Women’s participation in international peace and security: from theory to practice”,<sup>14</sup> the representative of Algeria emphasized that the Sahrawi women were struggling for their right to self-determination and that nobody could take away the right to defend peoples languishing under occupation and seeking self-determination.<sup>15</sup> He stated that the Sahrawi people were an occupied people, and cited a recent report by the Secretary-General,<sup>16</sup> which noted that the Council had called, in successive resolutions, for a just, lasting and mutually acceptable political solution which would provide for the self-determination of the people of Western Sahara. With reference to the intervention by the representative of Algeria, the representative of Morocco stated that there were no Sahrawi women, and that they were women from the south of Morocco, who were all Moroccan, adding that they always had been and always would be.<sup>17</sup> She further added that the situation of human rights in Algeria, specifically for the Kabyle people with a population of more than 8 million and over 9,000 years of history, continued to be dire, as they were denied their right to self-determination and were arrested and subject to collective punishment for reaffirming their inalienable right. In this connection, she added that the United Nations had the political and moral obligation to redress that historic injustice against the Kabyle people.

With regard to country- and region-specific items, at a meeting held on 30 October under the item entitled “The question concerning Western Sahara”, the Council adopted resolution [2703 \(2023\)](#), by which it extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO).<sup>18</sup> Following the adoption, the representative of Mozambique, explaining his delegation’s decision to abstain in the vote, expressed his support for all efforts aimed at a just, lasting and mutually acceptable political solution that would

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<sup>13</sup> See [S/PV.9308 \(Resumption 1\)](#) (Armenia, Bolivarian Republic of Venezuela, Kuwait, Azerbaijan (on behalf of the Movement of Non-Aligned Countries)).

<sup>14</sup> See [S/PV.9452](#); [S/PV.9452 \(Resumption 1\)](#); and [S/PV.9452 \(Resumption 2\)](#).

<sup>15</sup> See [S/PV.9452 \(Resumption 2\)](#).

<sup>16</sup> [A/78/249](#).

<sup>17</sup> See [S/PV.9452 \(Resumption 2\)](#); see also [S/PV.9452 \(Resumption 1\)](#).

<sup>18</sup> See [S/PV.9460](#).

provide for the self-determination of the people of Western Sahara in accordance with relevant Council resolutions, but opined that the resolution would not assist the parties in achieving such a solution. He added that his delegation's position was based on the right to self-determination, enshrined in the Charter and espoused by General Assembly resolution [1514 \(XV\)](#) of 1960, and called on the parties to engage in good faith with the Personal Envoy of the Secretary-General to achieve the long-delayed exercise of the right to self-determination by the people of Western Sahara. Also abstaining from the vote, the representative of the Russian Federation stressed that the final settlement formula should be based on mutually acceptable solutions that would facilitate a just political settlement, which suits both the Moroccans and the Frente POLISARIO and stipulates self-determination for the people of Western Sahara.

With regard to the situation in the Middle East, including the Palestinian question, throughout 2023, Council members and participants continued to express support for the right of the Palestinian people to self-determination at meetings held under the item "The situation in the Middle East, including the Palestinian question".<sup>19</sup> Participants called on the Council, the international community and Member States to take action to ensure the right of self-determination, of which they asserted that the Palestinian people continued to be deprived.<sup>20</sup> They emphasized that ensuring the right of the Palestinian people to self-determination was critical for resolving the conflict and for finding a comprehensive political solution.<sup>21</sup> Multiple speakers discussed the adoption of General Assembly resolution [77/247](#), which requested an advisory opinion of the International Court of Justice on the legal consequences arising from the

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<sup>19</sup> See, for example, [S/PV.9246](#) (Mozambique, Algeria); [S/PV.9246 \(Resumption 1\)](#) (Tunisia, Qatar, Cuba, Argentina); [S/PV.9309](#) (Mozambique, Egypt, Algeria); [S/PV.9309 \(Resumption 1\)](#) (Venezuela (Bolivarian Republic of), Iraq, Maldives, Argentina, Tunisia, Namibia, Azerbaijan (on behalf of the Movement of Non-Aligned Countries)); [S/PV.9387](#) (Bangladesh (on behalf of the Organization of Islamic Cooperation), Malaysia); [S/PV.9387 \(Resumption 1\)](#) (Egypt, Argentina, Azerbaijan (on behalf of the Movement of Non-Aligned Countries), Venezuela (Bolivarian Republic of)); [S/PV.9443](#) (Iraq); [S/PV.9489](#) (Jordan).

<sup>20</sup> See, for example, [S/PV.9241 \(Resumption 1\)](#) (Jordan); [S/PV.9246 \(Resumption 1\)](#) (Iran (Islamic Republic of), South Africa, Iraq, Brunei Darussalam); [S/PV.9309 \(Resumption 1\)](#) (Pakistan, Iran (Islamic Republic of), Viet Nam, Mauritania (on behalf of the Organization of Islamic Cooperation), Azerbaijan (on behalf of the Movement of Non-Aligned Countries)); [S/PV.9387](#) (Pakistan, Iran (Islamic Republic of)); [S/PV.9387 \(Resumption 1\)](#) (Azerbaijan (on behalf of the Movement of Non-Aligned Countries)); [S/PV.9489](#) (Malaysia).

<sup>21</sup> See [S/PV.9246](#) (Jordan); [S/PV.9246 \(Resumption 1\)](#) (Iran (Islamic Republic of)); [S/PV.9309](#) (Lebanon (on behalf of the Group of Arab States)); [S/PV.9309 \(Resumption 1\)](#) (Iran (Islamic Republic of), Kuwait, Namibia); [S/PV.9387](#) (Committee on the Exercise of the Inalienable Rights of the Palestinian People, Iran (Islamic Republic of)); [S/PV.9387 \(Resumption 1\)](#) (Yemen (on behalf of the Group of Arab States), Kuwait); [S/PV.9472](#) (Mozambique, Malta); [S/PV.9489](#) (Brazil, Malaysia).

ongoing violation by Israel of the right of the Palestinian people to self-determination.<sup>22</sup> Council members and other participants in Council meetings also deliberated on the principle of self-determination in the context of the escalation of the conflict in the Gaza Strip after 7 October (see case 2).

## Case 1

### Threats to international peace and security

On 14 February, at the initiative of Malta, which held the presidency for the month,<sup>23</sup> the Council held a high-level open debate under the item entitled “Threats to international peace and security” and the sub-item entitled “Sea-level rise: implications for international peace and security”.<sup>24</sup> During the meeting, participants heard briefings by the Secretary-General, the President of the General Assembly, the Co-Chair of the International Law Commission Study Group on sea level rise and Minister for Foreign Affairs of Romania, as well as the Director of Climate Change of the Pacific Community and President of Tofia Niue. In his briefing, the Co-Chair of the International Law Commission Study Group on sea level rise highlighted several measures to avoid possible situations of de facto statelessness, including preserving the right to self-determination of affected populations.<sup>25</sup> He noted that the submerging of land posed obvious threats to the territorial integrity of States and their existence, as territory had long been considered one of the requirements of statehood. Highlighting the novel situation in international law, he urged that the possible legal implications be assessed accordingly.

In the ensuing discussion, several participants exchanged views about the principle of self-determination in relation to the potential loss of territory owing to sea-level rise. The Minister for Foreign Affairs and Cooperation of Mozambique underlined the need to formulate a

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<sup>22</sup> See [S/PV.9241 \(Resumption 1\)](#) (Kuwait); [S/PV.9246](#) (Lebanon, Algeria); [S/PV.9246 \(Resumption 1\)](#) (Iran (Islamic Republic of ), South Africa, Syrian Arab Republic); [S/PV.9309](#) (Lebanon (on behalf of the Group of Arab States)); [S/PV.9309 \(Resumption 1\)](#) (Iran (Islamic Republic of) , Kuwait); [S/PV.9387 \(Resumption 1\)](#) (Yemen (on behalf of the Group of Arab States))

<sup>23</sup> A concept note was circulated by a letter dated 2 February 2023 ([S/2023/79](#)).

<sup>24</sup> See [S/PV.9260](#); and [S/PV.9260 \(Resumption 1\)](#).

<sup>25</sup> See [S/PV.9260](#).

consensus solution to the impending displacement and the loss of territory, noting that the international community should reflect on how to reaffirm the principle of self-determination and the continuation of statehood in perpetuity even in situations where territory had been lost. The representative of the Holy See, pointing out that climate migrants were not recognized by international conventions as refugees, acknowledged that the Council had rightly expressed concern at the security implications from the submerging of the entire territories, which raised legal issues concerning self-determination, maritime borders and statelessness.<sup>26</sup> He further emphasized that ensuring the protection of affected persons required greater clarity as to whether such States retained their sovereignty and the practical implications of that.

Several delegations invoked the principle of self-determination to argue in favor of a continuation of statehood in situations where the territory of a State was inundated. The representative of Liechtenstein was of the view that the international community could recommit to the right of self-determination of peoples and that the full or partial inundation of the territory of a State or the relocation of its people did not imply challenges to State persistence.<sup>27</sup> She further opined that those circumstances should not change the presumption that only the relevant people should be able to determine the mode of expression of their right to self-determination, including through statehood. Similarly, the representative of Antigua and Barbuda, speaking on behalf of the Caribbean Community (CARICOM), emphasized that the loss of territory did not affect the ability of peoples to express their right to self-determination through statehood given that the potential loss of territory by small islands due to sea level rise was not a natural phenomenon but was anthropogenic in cause.<sup>28</sup> Echoing Antigua and Barbuda, the representative of Samoa, speaking on behalf of the Alliance of Small Island States (AOSIS), which was comprised of 39 small island developing States (SIDS) specifically affected by the multiple and intersecting effects of climate change, stressed that the criteria outlined in the Montevideo Convention on the Rights and Duties of States did not apply to the continuation of States. Depriving small island States of their sovereignty in the context of the potential loss of land territory due to sea level rise was contrary to a century of State practice and AOSIS's interpretation of the relevant law and that it would constitute unacceptable exertion of power by

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<sup>26</sup> See [S/PV.9260 \(Resumption 1\)](#).

<sup>27</sup> See [S/PV.9260](#).

<sup>28</sup> See [S/PV.9260 \(Resumption 1\)](#).

larger States, contrary to the principle of self-determination. He stated that, once a State was created by a people expressing their right to self-determination through statehood, that statehood would only cease if another form of expression of the right to self-determination was explicitly sought and exercised by that people. The representative of the Federated States of Micronesia, noting that sea level rise posed a particularly acute threat to the overall peace and security of small island developing States, called on the Council to reject a school of thought in international law, which held that a State automatically ceased to exist and no longer enjoyed statehood once sea level rise inundated its land territory. He argued that affected people would not have engaged in any act of self-determination that endorsed the loss of statehood and that forcing them to accept that loss was fundamentally contrary to the development of friendly relations among nations.

## Case 2

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

On 24 October, the Council held a quarterly high-level open debate under the item entitled “The situation in the Middle East, including the Palestinian Question”.<sup>29</sup> At the meeting, the Secretary-General, the Special Coordinator for the Middle East Process, and the Deputy Special Coordinator, Resident Coordinator and Humanitarian Coordinator for the Occupied Palestinian Territory briefed the Council on the deteriorating situation in the Middle East amidst an escalation of the conflict in the Gaza Strip following the 7 October attacks launched by Hamas in Israel and the Israeli military operations. The Minister for Foreign Affairs and Expatriates of the Observer State of Palestine acknowledged that the members of the Council had all spoken about addressing the Palestinian people’s legitimate grievances and aspirations and about helping them to achieve their right to self-determination and supporting its realization.<sup>30</sup> That could be achieved only, as he maintained, by putting an immediate end to the Israeli war launched against the Palestinian people in the Gaza Strip. Further, he stated that this calls for

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<sup>29</sup> See [S/PV.9451](#); and [S/PV.9451 \(Resumption 1\)](#).

<sup>30</sup> See [S/PV.9451](#).

necessary practical measures to address the root causes of the problem and end the Israeli occupation of the land of the State of Palestine, with East Jerusalem as its capital, in line with Council resolutions, the terms of reference of the peace process and international law. The Minister also underlined the need to realize the inalienable rights of the Palestinian people, above all the right to self-determination and national independence and the return of the Palestinian refugees to the homes from which they were expelled.

In the ensuing discussion, numerous participants emphasized the centrality of the right of the Palestinian people to self-determination for achieving a lasting solution to the conflict. The Secretary of State of the United States emphasized that the only road to lasting peace and security in the region was through two States for two peoples and stressed that Palestinians deserved equal measures of security, freedom, justice, opportunity and dignity as well as a right to self-determination. Emphasizing that the Council stood at a crossroads, he called on the Council to reject the path of terrorism and nihilism offered by Hamas, instead advocating for a path towards greater peace and stability and towards Palestinians realizing their legitimate right to self-determination in a State of their own. The representative of Mozambique noted that peace was always possible if dialogue between the parties prevailed based on justice and observance of the principles of self-determination and mutual recognition. The Minister for Foreign and European Affairs of Luxembourg expressed his country's commitment to a peaceful resolution to the Israeli-Palestinian conflict that ensured Israel's right to security while respecting the right of Palestinians to self-determination and dignity.<sup>31</sup> He added that a comprehensive, just and lasting peace based on a two-State solution within the 1967 borders was the only viable way to end the cycle of violence. The Minister for Foreign Affairs of Egypt opined that the only solution to the Palestinian question was to ensure justice by granting Palestinians their legitimate rights to self-determination and to live in dignity and safety in their independent State on their territory. He added that Egypt would not accept the forcible displacement of the Palestinian people or any attempt to settle the Palestinian question at the expense of Egypt and other countries in the region. The Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People stated that, despite the immediate need to secure a ceasefire and to provide humanitarian assistance, it was necessary to focus on the long-standing objectives of ending the Israeli

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<sup>31</sup> See [S/PV.9451 \(Resumption 1\)](#).

occupation and fulfilling the inalienable rights of the Palestinian people, including to self-determination and independence, which were the pillars of a just and lasting peace. On the occasion of the quarterly open debate, many participants also reaffirmed their support to the right of the Palestinian people to self-determination and national independence.<sup>32</sup>

Several speakers discussed the role of the international community and the Council in relation to the right of the Palestinian people to self-determination. The Minister for Foreign Affairs of Gabon reaffirmed that diplomacy, dialogue and negotiations, with the United Nations playing a central role, were the sole and indispensable channels for achieving a lasting solution to the conflict that would uphold the Palestinian people's right to self-determination and Israel's legitimate right to security.<sup>33</sup> The representative of the Islamic Republic of Iran stated that, despite the overwhelming support of the vast majority of Member States, as evidenced by numerous General Assembly resolutions affirming the Palestinian nation's right to self-determination, the Council had faced significant obstacles in taking decisive action.<sup>34</sup> He opined that the inalienable rights of Palestinians, including the right to self-determination and the right of return, had continued to be violated by the occupying Israeli regime and stressed that the international community, together with the Council, had moral and legal obligations that demanded immediate action. The representative of Iraq stated that the increase in the number of martyrs and injured in Gaza, the continuing destruction and the exacerbation of the humanitarian situation, together with the silence of the international community, all constituted a new test of the international order and the international community's credibility, as it advocated for humanitarian values, including the right to self-determination. The representative of Mauritania, speaking on behalf of the Organization of Islamic Cooperation (OIC) in his capacity as the Chair of the OIC Group, categorically rejected any attempts to displace the Palestinian population and called on the Council to act immediately to uphold its responsibility under the Charter of the United Nations. He added that the absence of any moral, legal or political deterrent on the global stage had emboldened Israel, including to persist in its denial and violations of the inalienable rights of the Palestinian people, such as their right to self-determination and independence.

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<sup>32</sup> See, for example, [S/PV.9451 \(Resumption 1\)](#) (Namibia, Iraq, Venezuela (Bolivarian Republic of), Bahrain, Mauritania (on behalf of the Organization of Islamic Cooperation) and Maldives).

<sup>33</sup> See [S/PV.9451](#).

<sup>34</sup> See [S/PV.9451 \(Resumption 1\)](#).

Council members and participants also deliberated on the principle of self-determination in relation to the attacks on 7 October and the subsequent military action. The Minister for Europe and Foreign Affairs of Albania stated that his country condemned any justification and glorification of the terrorist attacks and opined that it was clear that the aim of Hamas was not to protect the Palestinians.<sup>35</sup> He noted that the actions of Hamas did not represent the Palestinians, and that it was time for the Palestinians to realize that their fight for self-determination, their dream of statehood and their aspirations for a better life in security and dignity would never be realized with the likes of Hamas. The representative of Pakistan rejected what he described as attempts to create a false equivalence between Israel, the occupying Power, and the Palestinians, the victims of the occupation.<sup>36</sup> Pakistan condemned terrorism in all its forms and manifestations but noted that, under international law, the struggle of people living under foreign occupation for self-determination and national liberation was legitimate and could not be equated with terrorism. The representative of the Islamic Republic of Iran opined that there was no provision in international law for an occupying regime to invoke the right to self-defense under Article 51 of the Charter.<sup>37</sup> He opined, however, that international law and the Charter recognized the legitimate right to self-determination and to self-defense of the Palestinian people, including members of resistance groups such as Hamas. The representative of Namibia stated that arguments about the legitimacy of Israeli security concerns could be juxtaposed with the inalienable right of the Palestinian people to self-determination.

### **C. Invocation of the principle enshrined in Article 1 (2) in communications**

During the period under review, two explicit references to Article 1 (2) of the Charter were made in a letter dated 20 September from the Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General and circulated as a document of the Council.<sup>38</sup> By the letter, the Chair of the Committee on the Exercise of the Inalienable Rights of the Palestinian People transmitted a study commissioned by the Committee and entitled “The legality of the Israeli occupation of the Occupied Palestinian Territory,

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<sup>35</sup> See [S/PV.9451](#).

<sup>36</sup> See [S/PV.9451 \(Resumption 1\)](#).

<sup>37</sup> For more information on the discussions in relation to the right of self-defence, see part VII, sect. X.

<sup>38</sup> See [S/2023/694](#), annex.



including East Jerusalem”. According to the study, Article 1 (2) provided for the right of self-determination of the peoples, as a *jus cogens* norm of international law which had obligations on States *erga omnes*. The right of self-determination had a special resonance for Mandate territories, whose right of self-determination was held internationally as a “sacred trust” until full independence. As such, the colonial process could only be considered to be fully brought to a complete end once the right of self-determination had been exercised by the inhabitants of the colony. The study also stated that Article 1 (2) provided for the right of self-determination as a founding principle to “develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”. In addition, it referred to the principle of self-determination on multiple occasions throughout the report, without explicitly mentioning Article 1 (2).

During the period under review, the principle of self-determination was also invoked in numerous other communications addressed to or brought to the attention of the Council, including communications from Member States relating to the India-Pakistan question,<sup>39</sup> the Middle East, including the Palestinian question,<sup>40</sup> Nagorno-Karabakh<sup>41</sup> and Western Sahara.<sup>42</sup> In addition, multiple letters from the Observer State of Palestine addressed to the President of the Council made references to the right to self-determination of the Palestinian people.<sup>43</sup> The Secretary-General made references to the principle of self-determination in his reports to the Council regarding the situation in Palestine,<sup>44</sup> the situation concerning Western Sahara,<sup>45</sup> the situation in the Sudan and the activities of the United Nations Integrated Transition Assistance Mission in the Sudan.<sup>46</sup>

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

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<sup>39</sup> See [S/2023/91](#); annex; [S/2023/582](#), annex; [S/2023/806](#), annex; and [S/2023/994](#), annex .

<sup>40</sup> See [S/2023/153](#), annex; [S/2023/286](#), annex; [S/2023/503](#), annex; [S/2023/552](#), annex ; [S/2023/762](#), enclosure; [S/2023/764](#); [S/2023/790](#), annex; [S/2023/854](#), annex; [S/2023/939](#), annex; [S/2023/1026](#), annex; and [S/2023/1047](#).

<sup>41</sup> See [S/2023/55](#), annex; and [S/2023/251](#).

<sup>42</sup> See [S/2023/143](#), annex; [S/2023/456](#), annex; and [S/2023/794](#), annex.

<sup>43</sup> See [S/2023/61](#); [S/2023/103](#); [S/2023/183](#); [S/2023/279](#); [S/2023/310](#); [S/2023/327](#); [S/2023/375](#); [S/2023/454](#); [S/2023/494](#); [S/2023/500](#); [S/2023/547](#); [S/2023/731](#); and [S/2023/743](#).

<sup>44</sup> See [S/2023/458](#) and [S/2023/988](#).

<sup>45</sup> See [S/2023/729](#).

<sup>46</sup> See [S/2023/154](#).

*Article 2, paragraph 4*

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

**Note**

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

**A. Decisions relating to Article 2 (4)**

During the period under review, the Council did not adopt any decision containing explicit references to Article 2 (4) of the Charter. In a number of its decisions, however, the Council underlined the principles of Article 2 (4) by: (a) reaffirming the prohibition of the threat or use of force in international relations; (b) reiterating the importance of good-neighbourliness and non-interference by States in the internal affairs of others; (c) calling for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security; and (d) calling upon parties to withdraw all military forces from a disputed area or occupied territories. The four themes are covered below.

**Affirmation of the prohibition of the threat or use of force in international relations**

In 2023, the Council stressed the prohibition of the threat or use of force against other Member States through a few of its decisions, in particular concerning the situations in Libya and the Middle East (see table 2).

Table 2

## Decisions affirming the prohibition of the threat or use of force in international relations, 2023

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<i>Decision and date</i>	<i>Provision</i>
<b>The situation in Libya</b>	
<a href="#">S/PRST/2023/2</a> 16 March	The Security Council reiterates that the political process should be accompanied by constructive engagement in the economic and security tracks, as well as full respect for human rights law and international humanitarian law. The Security Council calls on all parties to uphold the 23 October 2020 ceasefire agreement and to accelerate full implementation of its provisions, including the Action Plan agreed by the 5+5 Joint Military Commission in Geneva on 8 October 2021, which is to be implemented in a synchronised, phased, gradual and balanced manner. The Security Council urges Member States to respect and support full implementation of the 23 October 2020 ceasefire agreement and Action Plan, including through the withdrawal of all foreign forces, foreign fighters and mercenaries from the country without further delay. They recalled the need to plan for security sector reform and to progress towards the demobilization, disarmament and reintegration of armed groups, as agreed by the 5+5 Joint Military Commission on 8 December 2022. The Security Council underscores the need for establishment of an inclusive, unified, accountable, civilian-led security architecture for Libya as a whole. (tenth paragraph)
Resolution <a href="#">2702 (2023)</a> 30 October	Calls on all parties to implement the 23 October 2020 ceasefire agreement in full, including the Action Plan agreed by the 5+5 Joint Military Commission in Geneva on 8 October 2021, which is to be implemented in a synchronised, phased, gradual and balanced manner, and urges Member States to respect and support its full implementation, including through the withdrawal of all foreign forces, foreign fighters, and mercenaries from Libya without further delay (para. 12)
<b>The situation in the Middle East</b>	
Resolution <a href="#">2689 (2023)</a> 29 June	Stressing that both parties must abide by the terms of the 1974 Disengagement of Forces Agreement between Israel and the Syrian Arab Republic and scrupulously observe the ceasefire (third preambular paragraph)  <i>See also resolution <a href="#">2718 (2023)</a>, para. 2</i>  Stresses the obligation on both parties to scrupulously and fully respect the terms of the 1974 Disengagement of Forces Agreement, calls on the parties to exercise maximum restraint and prevent any breaches of the ceasefire and the area of separation, encourages the parties to take full advantage of UNDOF's liaison function regularly to address issues of mutual concern, as appropriate, and to maintain their liaison with UNDOF to prevent any escalation of the situation across the ceasefire line, as well as to support the enhancement of the UNDOF liaison function, and underscores that there should be no military activity of any kind in the area of separation, including military operations by the Syrian Arab Armed Forces (para. 2)  <i>See also resolution <a href="#">2718 (2023)</a>, third preambular paragraph</i>

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

During the period under review, the Council reiterated in several of its decisions the principles enshrined in Article 2 (4) of the Charter of good neighbourliness, non-interference and regional cooperation with regard to the situations in the Central African Republic, the Democratic Republic of the Congo, Libya and South Sudan (see table 3). Furthermore, the

Council reaffirmed, in many of its decisions concerning country-specific situations, its respect for or commitment to the sovereignty, unity, independence and territorial integrity of States.

Table 3

**Decisions affirming the principle of good-neighbourliness, non-interference and regional cooperation among States, 2023**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in the Central African Republic</b>	
Resolution <a href="#">2693 (2023)</a> 27 July	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the Central African Republic, and recalling the importance of the principles of non-interference, good-neighbourliness and regional cooperation (second preambular paragraph)  <i>See also Resolution <a href="#">2709 (2023)</a>, second preambular paragraph</i>
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2688 (2023)</a> 27 June	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the Democratic Republic of the Congo as well as all States in the region and emphasizing the need to respect fully the principles of non-interference, good-neighbourliness and regional cooperation (second preambular paragraph)
Resolution <a href="#">2717 (2023)</a> 19 December	Reaffirming its strong commitment to the sovereignty, independence, unity and territorial integrity of the DRC as well as all States in the region and emphasising the urgent need to respect fully the principles of non-interference, good-neighbourliness and regional cooperation (third preambular paragraph)
<b>The situation in Libya</b>	
Resolution <a href="#">2701 (2023)</a> 19 October	Expresses serious concern over continued violations of the arms embargo, demands full compliance by all Member States with the arms embargo, calls on all Member States not to intervene in the conflict or take measures that exacerbate the conflict and reiterates that individuals and entities determined by the Committee to have violated the provisions of resolution 1970 (2011), including the arms embargo, or assisted others in doing so, are subject to designation (para. 5)
<b>Reports of the Secretary-General for the Sudan and South Sudan</b>	
Resolution <a href="#">2677 (2023)</a> 15 March	Reaffirming its strong commitment to the sovereignty, independence, territorial integrity, and national unity of the Republic of South Sudan, and recalling the importance of the principles of non-interference, good-neighbourliness and regional cooperation (second preambular paragraph)

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

During the period under review, the Council adopted decisions calling upon States to refrain from or prevent the provision of any form of support or assistance to armed groups in

relation to the situations concerning the Democratic Republic of the Congo and in Libya (see table 4).

Table 4

**Decisions calling for the cessation of support by States to armed groups engaged in destabilizing national and regional peace and security, 2023**

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<i>Decision and date</i>	<i>Provision</i>
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2688</a> ( <a href="#">2023</a> ) 27 June	Expressing concern at the continued presence of domestic and foreign armed groups in eastern DRC and the suffering they impose on the civilian population of the country, including from international humanitarian law violations and human rights violations and abuses, and at reported links between the ADF and terrorist networks, which may further exacerbate conflicts and contribute to undermining State authority, further expressing concern at the continued illegal exploitation and trade of natural resources, which enable these armed groups to operate, strongly condemning support of any kind to armed groups, reaffirming its support to national and regional efforts to promote peace and stability in the DRC and the Region, and calling on all signatory States to fully implement their commitments per the Peace and Security Framework for the DRC and the Region (fourth preambular paragraph)
Resolution <a href="#">2717</a> ( <a href="#">2023</a> ) 19 December	Reaffirms that the elimination of the threat posed by armed groups requires an integrated regional approach and strong political engagement by the Government of the DRC, the African Union (AU), the East African Community (EAC), the ICGLR, the Southern African Development Community (SADC), reaffirms its support to national and regional efforts to promote peace and stability in the DRC and the Region, further expresses the need for the revitalization of the PSC framework and calls on the countries of the region to renew their commitments under the Peace, Security and Cooperation (PSC) Framework for the DRC and the region, which remains an essential mechanism to achieve durable peace and stability, stresses the commitments undertaken by the region under the PSC Framework not to tolerate nor provide assistance or support of any kind to armed groups (para. 16)
<b>The situation in Libya</b>	
<a href="#">S/PRST/2023/2</a> 16 March	The Security Council reiterates that the political process should be accompanied by constructive engagement in the economic and security tracks, as well as full respect for human rights law and international humanitarian law. The Security Council calls on all parties to uphold the 23 October 2020 ceasefire agreement and to accelerate full implementation of its provisions, including the Action Plan agreed by the 5+5 Joint Military Commission in Geneva on 8 October 2021, which is to be implemented in a synchronised, phased, gradual and balanced manner. The Security Council urges Member States to respect and support full implementation of the 23 October 2020 ceasefire agreement and Action Plan, including through the withdrawal of all foreign forces, foreign fighters and mercenaries from the country without further delay. They recalled the need to plan for security sector reform and to progress towards the demobilization, disarmament and reintegration of armed groups, as agreed by the 5+5 Joint Military Commission on 8 December 2022. The Security Council underscores the need for establishment of an inclusive, unified, accountable, civilian-led security architecture for Libya as a whole (tenth paragraph)
Resolution <a href="#">2701</a> ( <a href="#">2023</a> ) 19 October	Calls on all parties to implement the 23 October 2020 ceasefire agreement in full and urges Member States to respect and support the full implementation of the agreement, including through the withdrawal of all foreign forces, foreign fighters and mercenaries from Libya without further delay (para. 8)
Resolution <a href="#">2702</a> ( <a href="#">2023</a> ) 30 October	Calls on all parties to implement the 23 October 2020 ceasefire agreement in full, including the Action Plan agreed by the 5+5 Joint Military Commission in Geneva on 8 October 2021, which is to be implemented in a synchronised, phased, gradual and balanced manner, and urges Member States to respect and support its full implementation, including through the withdrawal of all foreign forces, foreign fighters, and mercenaries from Libya without further delay (para. 12)

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### **Calls upon parties to withdraw all military forces from a disputed area or occupied territories**

During the period under review and consistent with past practice, the Council urged the Government of Israel to expedite the withdrawal of its army from northern Ghajar, located on the border between Israel and Lebanon.<sup>47</sup>

## **B. Discussion relating to Article 2 (4)**

During the period under review, Article 2 (4) of the Charter was explicitly invoked 18 times at ten Council meetings. References to this provision were made in connection with country- and region- specific as well as thematic items. Six of the 18 explicit references to Article 2 (4) were made during meetings held under items concerning Ukraine.<sup>48</sup> In addition, Council members and other participants made reference to Article 2 (4) on six occasions during a high-level open debate held on 12 January under the item entitled “The promotion and strengthening of the rule of law in the maintenance of international peace and security”.<sup>49</sup> Another five explicit references were made at an open debate held on 24 April under the item entitled “Maintenance of international peace and security”.<sup>50</sup> One speaker explicitly referred to Article 2 (4) at an open debate held on 5 September in connection with the item entitled “Implementation of the note by the President of the Security Council ([S/2017/507](#))”.<sup>51</sup>

In 2023, Council members and other participants in meetings explicitly referred to Article 2 of the Charter more broadly on 14 occasions during eleven meetings. Seven of those references were made in relation to the conflict in Ukraine at meetings held under the items entitled “Threats to international peace and security”<sup>52</sup> and “Maintenance of international peace and security”.<sup>53</sup> Council members and other participants also made reference to Article 2 at other

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<sup>47</sup> Resolution [2695 \(2023\)](#), para. 19.

<sup>48</sup> See, in connection with the item entitled “Maintenance of international peace and security of Ukraine”, [S/PV.9269](#) (Ghana); and in connection with the item entitled “Threats to international peace and security”, [S/PV.9300](#) (Ghana); [S/PV.9325](#) (Ukraine); [S/PV.9364](#) (Wilson E. Schmidt Distinguished Professor, John Hopkins School of Advanced International Studies); [S/PV.9380](#) (Ghana); and [S/PV.9415](#) (Ecuador).

<sup>49</sup> See [S/PV.9241](#) (Secretary-General, Brazil); and [S/PV.9241 \(Resumption 1\)](#) (Greece, Uruguay, South Africa, Mexico).

<sup>50</sup> See [S/PV.9308](#) (Brazil, Mozambique, United States, Mexico); and [S/PV.9308 \(Resumption 1\)](#) (Republic of Korea).

<sup>51</sup> See [S/PV.9410](#) (Denmark).

<sup>52</sup> See [S/PV.9256](#) (Mozambique); [S/PV.9262](#) (Albania); [S/PV.9325](#) (Mozambique); and [S/PV.9364](#) (Switzerland).

<sup>53</sup> See [S/PV.9421 \(Resumption 1\)](#) (Chile, Panama, Qatar).

meetings held under these two items,<sup>54</sup> as well as the items entitled “The promotion and strengthening of the rule of law in the maintenance of international peace and security”,<sup>55</sup> “Peacebuilding and sustaining peace”<sup>56</sup> and “The situation in Iraq”.<sup>57</sup>

In addition, language that may be considered of relevance for the application or interpretation of Article 2 (4) of the Charter was used at various country- and region-specific meetings held in connection with items related to the Great Lakes Region, the Golan Heights, Iraq, Libya, Nagorno-Karabakh, the Sudan, Syria and Ukraine.<sup>58</sup> The most relevant discussion held at the Council in 2023 and concerning Article 2 (4) in relation to Ukraine is featured in case 3.

Concerning thematic items, Council members and other participants addressed the principles enshrined in Article 2 (4) of the Charter, specifically the principle of non-interference, the need to respect the sovereignty and territorial integrity of States and the prohibition of the

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<sup>54</sup> See in connection with the item entitled “Threats to international peace and security”, [S/PV.9301](#) (South Africa); and in connection with the item entitled “Maintenance of international peace and security”, [S/PV.9308 \(Resumption 1\)](#) (Canada); and [S/PV.9392 \(Resumption 1\)](#) (Oman).

<sup>55</sup> See [S/PV.9241](#) (Mozambique); and [S/PV.9241 \(Resumption 1\)](#) (Egypt).

<sup>56</sup> See [S/PV.9315 \(Resumption 1\)](#) (Uruguay).

<sup>57</sup> See [S/PV.9432](#) (Brazil).

<sup>58</sup> See, for example, under the item entitled “The situation in the Great Lakes region”, [S/PV.9307](#) (United States, China, Ghana (also on behalf of Gabon and Mozambique)); in connection with the item entitled “The situation in the Middle East, including the Palestinian question”, [S/PV.9309](#) (Cuba, Lebanon, Russian Federation); [S/PV.9309 \(Resumption 1\)](#) (Syrian Arab Republic); [S/PV.9387](#) (Cuba); [S/PV.9387 \(Resumption 1\)](#) (Permanent Observer of the League of Arab States to the United Nations, Azerbaijan (on behalf of the Movement of Non-Aligned Countries)); under the item entitled “The situation concerning Iraq”, [S/PV.9253](#) (United Arab Emirates, Russian Federation, Switzerland, China, France, Albania, Japan, Malta); [S/PV.9432](#) (France, Malta, United Arab Emirates, China, Japan, Brazil, Iraq); in connection with the item entitled “The situation in Libya”, [S/PV.9306](#) (Mozambique (also on behalf of Gabon and Ghana), France, Malta, United Arab Emirates, Albania, Russian Federation); [S/PV.9351](#) (China, France, Russian Federation, United States); [S/PV.9438](#) (Japan, United Arab Emirates, Russian Federation, Brazil); under the item entitled “Letter dated 13 September 2022 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (S/2022/688)”, [S/PV.9422](#) (France, United Kingdom, Mozambique, Albania, Azerbaijan, European Union); under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, [S/PV.9310](#) (China, Ghana (also on behalf of Gabon and Mozambique), Russian Federation, Djibouti (on behalf of the Intergovernmental Authority on Development), Egypt, Ethiopia); under the item entitled “The situation in the Middle East”, [S/PV.9248](#) (Brazil, Russian Federation, China); [S/PV.9272](#) (Russian Federation, Brazil, China, Iran (Islamic Republic of)); [S/PV.9291](#) (Brazil, Russian Federation, United Arab Emirates, China, Syrian Arab Republic); [S/PV.9333](#) (Russian Federation, Syrian Arab Republic, Iran (Islamic Republic of)); [S/PV.9459](#) (Russian Federation, Ghana (also on behalf of Gabon and Mozambique), China, Syrian Arab Republic); [S/PV.9487](#) (Russian Federation, Ghana (also on behalf of Gabon and Mozambique), Iran (Islamic Republic of)).



threat or use of force, at various meetings held during the reporting period.<sup>59</sup> Cases 4 and 5 feature discussions of the prohibition of the threat or the use of force against the territorial integrity or political independence of States in the context of meetings focused on the rule of law among nations and effective multilateralism through the defense of the principles of the Charter, respectively.

### Case 3

#### Maintenance of peace and security of Ukraine

On 24 February, the Council held a high-level meeting under the item entitled “Maintenance of peace and security of Ukraine” on the occasion of the one-year anniversary of the beginning of the war in Ukraine.<sup>60</sup> The Council heard a briefing by the Secretary-General, who stressed that the purposes and principles embedded in the Charter of the United Nations were not a matter of convenience or merely words on paper but were at the core of the United Nations and reflected the Organization’s driving mission. He described the invasion by the Russian Federation of Ukraine as a blatant violation of the Charter and international law, which had unleashed widespread death, destruction and displacement. The Secretary-General added that veiled threats to use nuclear weapons in the context of the conflict had spiked nuclear risks to levels not seen since the darkest days of the Cold War and stressed that those threats were unacceptable. He added that the path of diplomacy and accountability was the road to a just and sustainable peace in line with the Charter, international law and General Assembly resolution [ES-11/6](#), which had been adopted the previous day.<sup>61</sup>

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<sup>59</sup> See, for example, in connection with the item entitled “Peacebuilding and sustaining peace”, [S/PV.9315](#) (China, Russian Federation); [S/PV.9315 \(Resumption 1\)](#) (Uruguay, Ethiopia, Viet Nam, Morocco, Bahrain); in connection with the item entitled “Threats to international peace and security”, [S/PV.9390](#) (Switzerland, Malta, Japan, United States, China, France, Mozambique, United Arab Emirates, Brazil, Ukraine); and in connection with the item entitled “Maintenance of international peace and security”, [S/PV.9392](#) (Germany); [S/PV.9392 \(Resumption 1\)](#) (Oman (on behalf of the Member States of the Cooperation Council for the Arab States of the Gulf), Azerbaijan, Qatar); [S/PV.9421](#) (Switzerland, Japan, Malta, Russian Federation); [S/PV.9421 \(Resumption 1\)](#) (Portugal, Guatemala, Denmark (on behalf of the Nordic countries), Bulgaria, Romania, Slovakia, Chile, Spain, Bosnia and Herzegovina, Panama, Qatar).

<sup>60</sup> See [S/PV.9269](#).

<sup>61</sup> See also [A/ES-11/PV.19](#).

In the ensuing discussion, numerous delegations opined that the Russian Federation had violated the Charter and international law, with several speakers condemning and rejecting what they described as the aggression against or invasion of Ukraine.<sup>62</sup> The Minister for Foreign and European Affairs and Trade of Malta stressed that no State or Power had the right to redraw borders in accordance with its geopolitical interests. The Secretary of State of the United States was of the view that the world continued to stand with Ukraine because it had realized that abandoning Ukraine meant abandoning the Charter and the principles and rules that made all countries safer and more secure, namely no seizing of land by force, no erasing of another country's borders, no targeting civilians in war and no wars of aggression. The Minister for Foreign Affairs and Human Mobility of Ecuador called on the Council to unequivocally reject attempts to annex territories by force and violence as a tool of domination between States. He added that this was not a vision of the West but a sacred principle for developing countries, whose only arsenal was international law, and ammunition the provisions of the Charter. The Secretary of State for Foreign, Commonwealth and Development Affairs of the United Kingdom was of the view that the international order itself, which was at the heart of the United Nations, was at stake. The Charter, territorial integrity and international law existed to protect countries that did not themselves have big and powerful armies from the aggression of those countries that did. The representative of Ghana said that the aggression by the Russian Federation against Ukraine constituted a serious violation of international law and stood as one of the clearest violations of the prohibition against the use of force under Article 2 (4) of the Charter. He further stressed that it was impossible to see the aggression against Ukraine in any other light than as an attack on the accepted standards of the international order and allowing it to stand imperiled the independence and equality of states, especially less powerful states, under the Charter.

Multiple participants called on the Russian Federation to end the war, as well as to withdraw its forces from the territory of Ukraine and respect the territorial integrity and political independence of Ukraine.<sup>63</sup> Several speakers also urged the Russian Federation to abide by the

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<sup>62</sup> See [S/PV.9269](#) (Malta, Switzerland, Japan, France, Ghana, Brazil, Slovakia, Romania, Poland, Latvia (also on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway, Sweden), Republic of Moldova, Netherlands (on behalf of the Group of Friends of Accountability following the aggression against Ukraine), Italy, North Macedonia, Spain and Croatia).

<sup>63</sup> Malta, Ecuador, Switzerland, Japan, France, Ghana, Slovakia, Romania, Latvia (also on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway and Sweden), Republic of Moldova, North Macedonia, Spain.

provisional measures ordered by the International Court of Justice of 16 March 2022 and immediately end its military operations in the territory of Ukraine.<sup>64</sup> Several speakers further criticized and denounced what they described as the nuclear rhetoric by the Russian Federation.<sup>65</sup> In that regard, the Minister for Foreign and European Affairs and Trade of Malta emphasized that any declaration by the Russian Federation suggesting that the possible use of nuclear weapons was in any way justified was unacceptable. In addition, the representative of the Republic of Moldova stated that his country was on the front line of a hybrid war and said that it was unacceptable that Moldova's airspace had been violated by missiles of the Russian Federation and that missile debris had landed on its territory. He called for the complete withdrawal of Russian military forces and munitions storage sites illegally present in the breakaway Transnistrian region.

During the discussion, multiple delegations also discussed the need to ensure accountability for the crime of aggression. The Minister for Foreign Affairs of Poland stated that the prohibition of aggression, genocide and crimes against humanity were *jus cogens* norms, from which no derogation was permitted, and advocated for the full accountability for all the violations and compensation for the inflicted damage. The Minister for Foreign Affairs of Latvia, speaking on behalf of the Baltic and Nordic countries, stressed that the crime of aggression had to be addressed, expressing support for a meaningful role of the United Nations in securing international support for the establishment of a tribunal for the prosecution of the crime of aggression. The Deputy Prime Minister and Minister for Foreign Affairs of the Netherlands, on behalf of the Group of Friends of Accountability following the aggression against Ukraine, commended the efforts and initiatives already taken to ensure accountability for the most serious crimes under international law committed on the territory of Ukraine, including the creation of an International Centre for Prosecution of the Crime of Aggression and Register of Damages Caused to Ukraine by Russian Aggression.

Several Member States called for an immediate ceasefire<sup>66</sup> or expressed support for the resumption of negotiations between the Russian Federation and Ukraine.<sup>67</sup> However, numerous

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<sup>64</sup> Latvia (also on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway and Sweden), Netherlands (on behalf of the Group of Friends of Accountability following the aggression against Ukraine), North Macedonia.

<sup>65</sup> Malta, Japan, France.

<sup>66</sup> Ecuador, Gabon and Hungary.

<sup>67</sup> Ghana, Gabon, Mozambique, Brazil and China.

participants also emphasized that peace had to uphold the sovereignty, territorial integrity and independence of Ukraine.<sup>68</sup> In that context, multiple delegations welcomed and reaffirmed General Assembly resolution [ES-11/6](#), which underscored the need for a comprehensive, just and lasting peace in Ukraine in line with the principles of the Charter.<sup>69</sup> The Minister for Foreign Affairs of Ukraine stated that the resolution followed the logic of the 10-point plan by the President of Ukraine, which aimed at restoring respect for Ukraine’s sovereignty and territorial integrity within its internationally recognized borders, in full compliance with the Charter. He added that any new peace proposals had to be aligned with the demands set forth by the resolution. The Secretary of State of the United States noted that any peace that legitimized the Russian Federation’s seizure of land by force would weaken the Charter and encourage would-be aggressors everywhere. The High Representative of the European Union for Foreign Affairs and Security Policy was of the view that, through resolution [ES-11/6](#), the General Assembly had made it clear that the world condemned the aggression, that the Russia Federation had to withdraw its troops and that the world wanted and needed a just peace, based on international law and the Charter.

In his remarks, the representative of the Russian Federation said that the word “peace” used by high-ranking representatives of Ukraine and Western countries meant something completely different, namely the capitulation and strategic defeat of the Russian Federation, ideally followed by the disintegration of the country and the redrawing of its constituent territories. He was of the view that those were the true goals of Western interference in Ukrainian affairs, which had led to the formation of a hostile regime on the borders of the Russian Federation. Further, he rejected the portrayal of Ukraine as a victim and stated that Ukraine had sent guns and tanks against unarmed civilians in the east of the country and had bombed them because they did not want to abandon their identity. He asserted that there would have been no need for the Russian Federation’s special military operation if Ukraine had not gone to war against the inhabitants of Donetsk and Luhansk. The representative of China said that the sovereignty, independence and territorial integrity of all countries had to be effectively

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<sup>68</sup> Ukraine, United States, Albania, Ecuador, United Arab Emirates, European Union, Romania, Germany, Latvia (also on behalf of Denmark, Estonia, Finland, Iceland, Lithuania, Norway and Sweden), Estonia.

<sup>69</sup> Ukraine, United States, Albania, Ecuador, Switzerland, Japan, France, Ghana, United Arab Emirates, Brazil, European Union, Romania, Germany, Republic of Moldova, Netherlands, Spain, Czechia, Croatia, Estonia; see also General Assembly resolution [ES-11/6](#).

guaranteed and that universally recognized international law and the basic norms governing international relations should be equally and uniformly applied in every place and on every issue, without exception. He added that some countries, while emphasizing sovereignty and territorial integrity with regard to Ukraine, were blatantly interfering in the internal affairs of other countries and undermining their sovereignty and territorial integrity.

#### Case 4

### **The promotion and strengthening of the rule of law in the maintenance of international peace and security**

On 12 January, at the initiative of Japan, which held the presidency of the Security Council for the month,<sup>70</sup> the Council held a high-level open debate under the item entitled “The promotion and strengthening of the rule of law in the maintenance of international peace and security” and the sub-item entitled “The rule of law among nations”.<sup>71</sup> At the meeting, the Council heard briefings by the Secretary-General, the President of the International Court of Justice and Mr. Dapo Akande, Professor of Public International Law at the University of Oxford. The Secretary-General stated that there was a grave risk of the rule of lawlessness and opined that States continued to flout international law with impunity, including through the illegal use of force.<sup>72</sup> He added that the invasion of Ukraine by the Russian Federation had created a humanitarian and human rights catastrophe, traumatized a generation of children and accelerated the global food and energy crises. Reaffirming that any annexation of a State’s territory by another State resulting from the threat or use of force was a violation of the Charter of the United Nations and of international law, the Secretary-General outlined ways by which Member States could further strengthen the United Nations and its organs with a view to promoting the rule of law. Among other recommendations, he urged Member States to settle disputes peacefully, without recourse to the threat or use of force and to commit to non-intervention in domestic

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<sup>70</sup> A concept note was circulated by a letter dated 3 January 2023 ([S/2023/1](#)).

<sup>71</sup> See [S/PV.9241](#); and [S/PV.9241 \(Resumption 1\)](#). For more information on the discussion held at that meeting in relation to the right of self-defence, see part VII, sect. X.B.

<sup>72</sup> See [S/PV.9241](#).

affairs. He further stressed that the primacy of the rule of law was essential to the maintenance of international peace and security and for peacebuilding efforts, which included clear rules governing the threat or use of force, as set out in Article 2 (4) and Chapter VII of the Charter.

In her briefing, the President of the International Court of Justice noted that the relationship between the obligation to settle disputes peacefully and the prohibition on the threat or use of force was addressed in the Manila Declaration on the Peaceful Settlement of International Disputes, which stated that “[n]either the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat of force by any of the States parties to the dispute”. Mr. Dapo Akande, Professor of Public International Law at the University of Oxford, stated that the central rules of international law were those that sought to restrain the use of force by States and noted that States were not permitted to seek to impose their will on other States by using force. He added that the basic rules of international law on the use of force were clear, stressing that the threat or use of force in international relations was prohibited. Force could be used legally only in two circumstances, namely when authorized in accordance with the collective security scheme established by the Charter, or when used in the exercise of individual or collective self-defense. In that connection, he emphasized that the Charter was clear that force could not be used against the territorial integrity or political independence of another State. The use of force in order to advance national policy and interests was inimical to the maintenance of peace and to the rule of law, and States had an obligation to fulfil their obligations, including those relating to the use of force, in good faith. Further, the professor acknowledged that there was ambiguity about some aspects of the law relating to the use of force but opined that it was important to ensure that those areas were not abused for purposes that undermined the rule of law.

In the ensuing discussion, numerous Council members and participants reaffirmed the importance of the prohibition of the threat or use of force and the centrality of that principle to the Charter and international law.<sup>73</sup> Several speakers emphasized that States had agreed on and committed to fundamental principles of international law, including the prohibition of the threat

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<sup>73</sup> See [S/PV.9241](#) (Brazil (p. 19)); and [S/PV.9241 \(Resumption 1\)](#) (Pakistan, Germany, Uruguay, South Africa, Guatemala, Latvia, Chile, New Zealand).

or use of force, with some stressing that those principles applied to all States.<sup>74</sup> In that context, the representative of Brazil stated that the prohibition of the use of force was considered to be a *jus cogens* norm and therefore left no room for derogation.<sup>75</sup> He added that no rights could ever arise from its violation and stressed that all acts of aggression against sovereign States and any individual or collective use of force without the Council's approval, as well as the use of unilateral coercive measures, were all expressions of disregard for the norms and principles of the Charter. The representative of Uruguay stressed that actions that contradicted the Charter were unacceptable and gave rise to international responsibility, which was especially true for the most important provisions of the Charter, such as the obligation not to use force against the territorial integrity and political independence of another State, enshrined in Article 2 (4) of the Charter, and the respect for the principle of sovereign equality of States.<sup>76</sup> He added that Member States had agreed on those principles through a binding international agreement, namely the Charter.

Multiple speakers emphasized the importance of upholding and applying the prohibition of the threat or use of force, including by responding to violations of that principle and ensuring accountability for such breaches.<sup>77</sup> Council members and other participants also stressed the critical role of the Council in ensuring respect for Article 2 (4) of the Charter and underscored the importance for the Council to act when fundamental principles were violated.<sup>78</sup> The representative of Ghana reminded Member States of the benefits that accrued to all when States constrained their actions within the limits of international law and the fundamental principles of self-determination, sovereignty, territorial integrity, non-aggression of States and the prohibition of the threat or use of force.<sup>79</sup> The representative of India opined that the application of the rule of law at the international level should protect the sovereignty and territorial integrity of States

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<sup>74</sup> See [S/PV.9241](#) (Albania, France (p. 16), Gabon (p. 24)); and [S/PV.9241 \(Resumption 1\)](#) (Egypt (p. 3), Austria, on behalf of the Group of Friends of the Rule of Law (pp. 7-8); Republic of Korea (p. 10); Denmark, also on behalf of Finland, Iceland, Norway and Sweden (p. 15); Uruguay (p. 24), Islamic Republic of Iran (p. 29), Eritrea (p. 43), Qatar (p. 48)).

<sup>75</sup> See [S/PV.9241](#).

<sup>76</sup> See [S/PV.9241 \(Resumption 1\)](#).

<sup>77</sup> See [S/PV.9241](#) (United States, United Arab Emirates, Albania); and [S/PV.9241 \(Resumption 1\)](#) (Republic of Korea, Greece, Uruguay, European Union, Viet Nam, Slovakia and Kenya).

<sup>78</sup> See [S/PV.9241](#) (Switzerland, Ecuador, United States); [S/PV.9241 \(Resumption 1\)](#) (Indonesia, Liechtenstein, Republic of Korea, Pakistan and Myanmar).

<sup>79</sup> See [S/PV.9241](#).

from aggression, including terrorism and cross-border terrorism.<sup>80</sup> The representative of the Republic of Korea was of the view that taking insufficient action or no action in response to plain breaches of the rule of law would allow violators and perpetrators to continue to threaten international peace and security and make the rule of force more tempting.

Many speakers pointed to instances in which the prohibition of the threat or use of force was violated, especially referring to the Palestinian and the Armenian-Azerbaijani conflicts.<sup>81</sup> In addition, several Member States opined that the Russian Federation had violated international law and the Charter, and in particular the prohibition of the use of force, through what they described as aggression against or invasion of Ukraine.<sup>82</sup> They expressed particular concern regarding those actions because the Russian Federation was a permanent member of the Council,<sup>83</sup> with some adding that the Council was unable to act because of the use of the veto.<sup>84</sup> Some speakers also opined that the actions by the Russian Federation went beyond Ukraine and represented an attack on the international order.<sup>85</sup> The Minister for Foreign Affairs of Japan stated that the rule of law never allowed any country to rewrite borders by force or through the flexing of muscles.<sup>86</sup> He added that it applied to any coercion, including the deployment of armed personnel beyond internationally recognized borders, or to territory under the peaceful administration of another State to create a *fait accompli*. He stressed that such actions could by no means be justified through the arbitrary interpretations of the Charter and international law, including the right of self-defense. He called on Member States to unite for the rule of law and to cooperate with each other to stand up against violations of the Charter, such as aggression against or the acquisition of territory by force from a Member State.<sup>87</sup> The representative of

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<sup>80</sup> See [S/PV.9241 \(Resumption 1\)](#).

<sup>81</sup> See [S/PV.9241 \(Resumption 1\)](#) (Jordan, Armenia, Permanent Observer of the Observer State of Palestine, Kuwait and Azerbaijan).

<sup>82</sup> See [S/PV.9241](#) (Japan, Switzerland, Ecuador, United States, United Kingdom, Albania, France, Poland); [S/PV.9241 \(Resumption 1\)](#) (Singapore, Romania, Estonia, Liechtenstein, Greece, Denmark (also on behalf of Finland, Iceland, Norway and Sweden), European Union, Australia, Portugal, Luxembourg (on behalf of the Benelux countries), Guatemala, Slovakia, Latvia, Lithuania, Georgia).

<sup>83</sup> See [S/PV.9241](#) (United Kingdom, Albania, Poland); [S/PV.9241 \(Resumption 1\)](#) (European Union, Luxembourg (on behalf of the Benelux countries and Georgia)).

<sup>84</sup> See [S/PV.9241 \(Resumption 1\)](#) (Liechtenstein, European Union, Germany, Luxembourg (on behalf of the Benelux countries), Latvia).

<sup>85</sup> See [S/PV.9241](#) (Ecuador); [S/PV.9241 \(Resumption 1\)](#) (Liechtenstein, Denmark (also on behalf of Finland, Iceland, Norway and Sweden), Slovakia, Latvia).

<sup>86</sup> See [S/PV.9241](#).

<sup>87</sup> See [S/PV.9241](#).



Estonia emphasized that the crime of aggression was the “mother of all crimes in international law”, setting the scene for war crimes, crimes against humanity and the crime of genocide.<sup>88</sup> The Deputy Minister for Foreign Affairs of Poland stated that the conduct of the Russian Federation was a clear example of the rule of force, which stood in radical opposition to the rule of law and that the aggression could not be more distant from the notion of friendly relations and cooperation.

The representative of Denmark, also speaking also on behalf of Finland, Iceland, Norway and Sweden, expressed encouragement that the vast majority of countries had stood by the Charter and the rule of law and had rejected the violation of Ukrainian sovereignty and territorial integrity and of the Charter.<sup>89</sup> He added that the adoption of a series of General Assembly resolutions on Ukraine by an overwhelming majority was a testimony to the strong and collective response to Russia’s attack on Ukraine and the international rules-based order. The representative of Slovakia stated that it was crucial for the future of the United Nations system, anchored in the Charter, as well as for its credibility and the binding force of international law, that all Member States became vocal when violations occurred, and that accountability was triggered. The representative of Luxembourg, speaking on behalf of the Benelux countries, stressed that the international community had to continue to speak out against all grave violations of the Charter wherever they occurred.

## **Case 5**

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

On 24 April, at the initiative of the Russian Federation which held the presidency of the Council for the month,<sup>90</sup> the Council held an open debate under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Effective multilateralism through the defence of the principles of the Charter of the United Nations”.<sup>91</sup> The Secretary-General

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<sup>88</sup> See [S/PV.9241 \(Resumption 1\)](#).

<sup>89</sup> See [S/PV.9241 \(Resumption 1\)](#).

<sup>90</sup> A concept note circulated by a letter dated 3 April 2023 ([S/2023/244](#)).

<sup>91</sup> See [S/PV.9308](#); and [S/PV.9308 \(Resumption 1\)](#).

briefed the Council and called on Member States to recommit to their obligations under the Charter, putting human rights and dignity first and prioritizing the prevention of conflict and crises.<sup>92</sup> He stated that the principles enshrined in the Charter and reinforced in the Declaration on Friendly Relations and Cooperation among States, namely respect for the sovereignty, territorial integrity and political independence of all States, non-interference in the affairs of other States, the elimination of all forms of discrimination and the peaceful settlement of disputes, were the foundation of all international cooperation to end conflicts, save lives, protect human rights and promote social and economic progress.

During the discussion that followed, several speakers emphasized that the principles laid out in the Charter, including those enshrined in Article 2 (4) of the Charter, were central to international law, the international order and multilateralism and underscored the importance of Member States adhering to those principles.<sup>93</sup> The representative of the United States cited Article 2 (4) and opined that Member States were not meant to disagree about the values and principles laid out in the Charter as they had already agreed to uphold those principles, which were the basis of the greatest triumphs of the United Nations over the past decades.<sup>94</sup> The representative of the Republic of Korea opined that the principle of prohibiting the threat or use of force was at the heart of the Charter and stated that no one could deny that the principles reflected in Articles 2 (3) and 2 (4) were core values that all Member States had to uphold at all times. He added that the so-called legitimate security concerns mentioned in the concept note for the meeting could not and would not justify any use of force incompatible with international law.<sup>95</sup> The representatives of Bangladesh and Bahrain reaffirmed the commitment of their countries to the principles of sovereignty of States and non-interference in their internal affairs.

Several Member States further discussed violations of the prohibition of the threat or use of force. The Minister for Foreign Affairs of the Russian Federation stated that the principle of the indivisibility of security had been proclaimed in the outcome documents of the Organization for Security and Cooperation in Europe (OSCE) Summits of 1999 and 2010 and that the North

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<sup>92</sup> See [S/PV.9308](#).

<sup>93</sup> See [S/PV.9308](#) (United Arab Emirates, Ghana, Brazil, United States, China, France, Iran (Islamic Republic of), Philippines); [S/PV.9308 \(Resumption 1\)](#) (Viet Nam, Ethiopia, Venezuela (Bolivarian Republic of) (on behalf of the Group of Friends in Defence of the Charter of the United Nations), Kuwait, Republic of Korea, Azerbaijan (on behalf of the Movement of Non-Aligned Countries)

<sup>94</sup> See [S/PV.9308](#).

<sup>95</sup> See also [S/2023/244](#), annex.

Atlantic Treaty Organization (NATO) had ignored those commitments, with one example being the unlawful bombing of Yugoslavia in 1999.<sup>96</sup> He further described the invasion of Iraq by the United States-led coalition in 2003, the aggression against Libya in 2011 and the United States intervention in the affairs of former States of the Soviet Union, as violations of the United Nations Charter. The representative of Mexico affirmed that the invasion of a sovereign country by another represented a flagrant violation of Article 2 (4) of the Charter and constituted an act of aggression under the terms of General Assembly resolution [3314 \(XXIX\)](#). The representative of Egypt opined that there had been a remarkable retreat from the basic principles on which the United Nations was founded with attempts to violate the principle of sovereignty of States, as well as a constant endeavor to interfere in their internal affairs under various pretexts. The representative of the Syrian Arab Republic stated that his country had been a victim of the loss of genuine multilateralism and the exploitation by a number of countries of the United Nations as a platform to serve their hostile and interfering policies in intervening in the affairs of the Syrian Arab Republic. He added that the Syrian Arab Republic had been left alone to face the threats of the most intractable and cruel terrorist groups and that its national resources and wealth had been pillaged by foreign forces illegally present in its territories. The representative of South Africa said that, although the Charter maintained that the United Nations was based on the principle of sovereign equality, some members were in reality more equal than others.<sup>97</sup> This was often expressed through unilateral actions and a blatant disregard for international law, which enabled those with power to violate the Charter by, for example, settling their disputes by non-peaceful means or violating or supporting the infringement of the territorial integrity and sovereignty of others.

Some speakers opined that the Russian Federation had violated the sovereignty and territorial integrity of Ukraine. They condemned the use of force against Ukraine and called on the Russian Federation to withdraw its military forces from the territory of Ukraine within its internationally recognized borders.<sup>98</sup> The representative of the United States was of the view that the full-scale invasion by the Russian Federation was not about self-defense but about redrawing

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<sup>96</sup> See [S/PV.9308](#).

<sup>97</sup> [S/PV.9308 \(Resumption 1\)](#), p. 19.

<sup>98</sup> See [S/PV.9308](#) (Switzerland, United States, Japan, France, Malta, Ecuador, Albania); [S/PV.9308 \(Resumption 1\)](#) (European Union, Canada).

international borders by force in violation of the Charter which went against everything that the United Nations stood for and concerned all states.<sup>99</sup> The representative of France stated that the Russian Federation had been using force illegally for more than a year throughout Ukraine, violating the fundamental principles of the international order and Ukraine's State sovereignty and territorial integrity.

In addition, some participants discussed the principles laid out in Article 2 (4) of the Charter in the context of sanctions and unilateral coercive measures. The representative of Brazil noted that there had been many occasions on which the demand for sanctions had been the "knee-jerk reaction" to crisis situations and that, in most cases, those initiatives were preceded by unilateral coercive measures, which were illegal under international law and ineffective.<sup>100</sup> He added that Brazil rejected the pursuit of hegemonies and, in line with Article 2 (4), condemned the threat or use of force as a means of resolving disputes, as in the case of Ukraine. Brazil also condemned the more subtle attempts to impose the will of the few on the many on the basis of concepts of dubious multilateral standing. The representative of the Bolivarian Republic of Venezuela pointed to a growing resort of unilateralism, which could largely be seen in the illegal application of unilateral coercive measures, which flagrantly violated international law.<sup>101</sup> He noted that the Group of Friends in Defence of the Charter of the United Nations, which had been established in response to these increasing threats against the Charter, stressed the importance of ensuring compliance with and strict adherence to the letter and spirit of the Charter and to its timeless principles. These ranged from the sovereign equality of States to self-determination, non-interference in the internal affairs of States and the need to refrain from the threat or the use of force against the territorial integrity or political independence of any State. The representative of Belarus stated that an entire arsenal of political, economic and security instruments was being deployed in the struggle to preserve a unipolar world order, which included sanctions and unilateral coercive measures that violated all norms of international law.<sup>102</sup> Pointing out that the future of multilateral cooperation and the role of the United Nations were at stake, he was of the view that the world needed a platform for true multilateral cooperation based on the principles of

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<sup>99</sup> See [S/PV.9308](#).

<sup>100</sup> See [S/PV.9308](#), p. 14.

<sup>101</sup> See [S/PV.9308 \(Resumption 1\)](#), p. 7.

<sup>102</sup> See [S/PV.9308 \(Resumption 1\)](#), p. 26.

the sovereign equality of States, non-interference in the internal affairs of States and respect for all the legitimate concerns of States as they pertained to issues related to security and development.

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

In 2023, eight communications from Member States addressed to or brought to the attention of the Council included explicit references to Article 2 (4) of the Charter (see table 5). In addition, four communications addressed to the Secretary-General and circulated as documents of the Council made reference to Article 2 in relation to the conflict in Ukraine,<sup>103</sup> the situation in Palestine,<sup>104</sup> the political and legal cooperation between the Russian Federation and African States,<sup>105</sup> and the prevention of an arms race in outer space.<sup>106</sup>

Table 5  
**Communications containing explicit references to Article 2(4) of the Charter, 2023**

<i>Symbol</i>	<i>Title</i>	<i>Relevant extract</i>
<a href="#">S/2023/9</a>	Letter dated 3 January 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council	These inflammatory and belligerent statements threatening to use force against Iran's peaceful nuclear programmes, which have been under the most stringent and intrusive nuclear verification, monitoring and transparency measures ever implemented in a country in the history of the International Atomic Energy Agency, are a flagrant violation of international law and the Charter of the United Nations, specifically Article 2 (4) of the Charter.
<a href="#">S/2023/165</a>	Letter dated 1 March 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council	The threats to use force, especially against civilian and critical infrastructure, are a blatant violation of international humanitarian law and the Charter, specifically Article 2 (4) of the Charter, and have devastating consequences on regional and international peace and security. Therefore, the Security Council must shoulder its Charter responsibility and unequivocally condemn the Israeli regime's warmongering statements and malevolent activities, which are a real threat to international peace and security. This regime must be forced to comply with international law and abandon its dangerous plans for the region.

<sup>103</sup> See [S/2023/524](#), annex.

<sup>104</sup> See [S/2023/694](#), annex.

<sup>105</sup> See [S/2023/577](#), annex I.

<sup>106</sup> See [S/2023/577](#), annex II; [S/2023/583](#), annex I.

- [S/2023/339](#) Letter dated 9 May 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council Without a doubt, this irresponsible, provocative and belligerent statement violates international law and the Charter of the United Nations, particularly Article 2 (4), as it threatens to use force against the peaceful nuclear facilities of a State Member of the United Nations. Furthermore, such a statement not only implies the United States' potential complicity in any future acts of terrorism or aggression carried out by the Israeli regime against Iran, including against its peaceful nuclear facilities, but also serves as an admission of responsibility by the United States for its role in assisting, facilitating and supporting Israel's terrorist and sabotage operations against Iranian officials, scientists, civilians and peaceful nuclear facilities, thus requiring the United States to bear the consequences of such internationally wrongful acts, in accordance with international law.
- [S/2023/672](#) Letter dated 14 September 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council These inflammatory and bellicose statements, which explicitly threaten the officials of a sovereign State of the United Nations with the use of force and terror, not only constitute a flagrant violation of international law and Article 2 (4) of the United Nations Charter but also serve as a clear illustration of the acts of terrorism this illegitimate regime has always used to maintain its existence. Furthermore, such rhetoric and bellicose threats should not be interpreted as isolated actions. As previously emphasized in our numerous communications to the Security Council, including the letter dated 1 March 2023 (S/2023/165), the Israeli regime has openly admitted its involvement in acts of terrorism and sabotage activities within Iranian territory. These acts have targeted Iranian officials, scientists, civilians and the country's peaceful nuclear infrastructure in recent years.
- [S/2023/697](#) Letter dated 25 September 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council Given that nuclear weapons pose an existential threat to humanity and our planet, the gravity of such a threat is immeasurable and sends shockwaves throughout the international community when delivered from the prestigious podium of the United Nations General Assembly, which serves as the United Nations' primary representative body. The use or even the mere threat of use of nuclear weapons, regardless of the circumstances, by anyone, at any time, and anywhere is an egregious violation of not only international law but also the very essence of the United Nations Charter, in particular, Article 2(4) of the Charter. Moreover, when such a bellicose threat emanates from an illegitimate regime that has been widely condemned for its aggressions, apartheid policies, and sponsoring terrorism, and is known to possess an arsenal of weapons of mass destruction alongside advanced conventional weaponry, it heightens the serious threat to international peace and security, and the international community must not remain indifferent or silent.
- [S/2023/846](#) Letter dated 7 November 2023 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council The use or even the mere threat of nuclear weapons, irrespective of the circumstances or the responsible party, constitutes a flagrant violation not only of international law but also of the fundamental principles enshrined in the Charter of the United Nations, especially Article 2 (4). Furthermore, what makes this situation even more alarming is when such dire threats originate from the authorities of an occupying regime, which has displayed a consistent disregard for international humanitarian law and is continuing its unabated heinous crimes against the Palestinian people, including genocide, war crimes and crimes against humanity, and even using starvation as a method of warfare in the besieged Gaza Strip. Additionally, their refusal to heed the international community's widespread call for a ceasefire sends shockwaves throughout the global community.
- [S/2023/961](#) Identical letters dated 6 December 2023 from the Permanent Representative of the Co-operative Republic of Guyana to the United Nations addressed to the Secretary-General and the President of the Security Council Venezuela's actions also violate the most fundamental principles of international law enshrined in Article 2 (4) of the Charter, which make it unlawful for any State to use or threaten force against the territorial integrity or political independence of another State. The acquisition, or attempted acquisition of another State's territory constitutes aggression, which violates obligations under peremptory norms of international law. Venezuela is now guilty of breaching all these obligations, and the actions it has announced that it will soon take will only further aggravate the situation. Its conduct plainly constitutes a direct threat to Guyana's peace and security, and more broadly threatens the peace and security of the entire region.
- [S/2023/971](#) Letter dated 7 December 2023 from the Permanent Representative of Further to my letter dated 6 December 2023, I write to bring to your attention a video recording released to the public today by the Minister of Defense of the Bolivarian Republic of Venezuela, General Vladimir Padrino Lopez, in which he announces that three Generals have been identified to lead the "conquest of Guyana Esequiba". [...]

Guyana to the United Nations addressed to the President of the Security Council	This is a direct threat of military force against Guyana's territory and, as such, a grave breach of Article 2 (4) of the Charter of the United Nations, as well as the order of the International Court of Justice of 1 December 2023.
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### **III. Obligation under Article 2, paragraph 5, to refrain from assisting the target of enforcement action**

#### *Article 2, paragraph 5*

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

#### **Note**

Section III covers the practice of the Council with regard to the principle enshrined in Article 2 (5) of the Charter of the United Nations, in particular, the obligation of Member States to refrain from providing assistance to a State against which the United Nations has taken preventive or enforcement action.<sup>107</sup> Subsection A features implicit references made to Article 2 (5) in the decisions of the Council, and subsection B features discussions held by the Council which may be considered relevant to the interpretation of Article 2 (5). Communications addressed to the Council in 2023 did not contain any references to Article 2 (5).

#### **A. Decisions relating to Article 2 (5)**

In 2023, the Council did not explicitly invoke Article 2 (5) of the Charter in its decisions. The Council, however, included language that is of relevance to the interpretation of Article 2 (5) in decisions concerning the situations in Haiti, Somalia, South Sudan, as well as the sanctions against Al-Shabaab (see table 6).

Table 6

**Decisions referring to the obligation of Member States to refrain from providing assistance to a State against which the United Nations has taken preventive or enforcement action, 2023**

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<sup>107</sup> For the practice of the Council relating to assistance by Member States to United Nations action in accordance with the Charter, see part V, sect. II (Article 25) and part VII, sects. V and VI (Articles 43, 45 and 48).



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<i>Decision and date</i>	<i>Provision</i>
<b>The question concerning Haiti</b>	
Resolution <a href="#">2692 (2023)</a> 14 July	Strongly urges Member States to without delay prohibit the supply, sale, or transfer of small arms, light weapons, and ammunition to non-State actors engaged in or supporting gang violence, criminal activities, or human rights abuses in Haiti, as well as to take all appropriate steps to prevent their illicit trafficking and diversion, and expresses its intent to consider further appropriate measures in this regard in connection with the renewal of the measures imposed under resolution <a href="#">2653 (2022)</a> (para. 6)
<b>Peace and security in Africa</b>	
Resolution <a href="#">2713 (2023)</a> 27 June	<p>Decides that all States shall, for the purposes of preventing Al-Shabaab and other actors intent on undermining peace and security in Somalia and the region from obtaining weapons and ammunition, take the necessary measures to prevent all deliveries of weapons, ammunition and military equipment to Somalia, including prohibiting the financing of all acquisitions and deliveries of weapons, ammunition and military equipment, and further decides that these measures shall not apply to deliveries or supplies to the GFRS, the Somali National Army (SNA), the National Intelligence and Security Agency (NISA), the Somali National Police Force (SNPF) and the Somali Custodial Corps (para. 4)</p> <p>Reaffirms that all States shall prevent the direct or indirect sale, supply or transfer of the items in part I of Annex C to this resolution to Somalia from their territories or by their nationals outside their territories, or using their flag vessels or aircraft if there is sufficient evidence to demonstrate that the item(s) will be used, or a significant risk they may be used, in the manufacture in Somalia of improvised explosive devices (para. 18)</p>
<b>The situation in Somalia</b>	
Resolution <a href="#">2687 (2023)</a> 27 June	Requests the Government of Somalia continue to strengthen cooperation and coordination with other Member States, particularly other Member States in the region, to prevent and counter the financing of terrorism, consistent with resolutions <a href="#">1373 (2001)</a> , <a href="#">2178 (2014)</a> , and <a href="#">2462 (2019)</a> , and urges Somalia, with the support of the African Union, the United Nations, European Union and other Member States to work closer together to increase the delivery of non-military activities to degrade Al-Shabaab and ISIL/Da'esh, to prevent them conducting activities that harm the sovereignty, territorial integrity, political independence and unity of Somalia, to counter their terrorist activities, illicit finance, organised crime, access to, and trafficking in, arms and ammunition, including small arms and light weapons, IED manufacture, and to work together with the international community, to implement the measures set out in resolution <a href="#">2662 (2022)</a> , including those measures imposed against individuals and groups designated by the Security Council Committee pursuant to resolution <a href="#">751 (1992)</a> (para. 16)
<b>Reports of the Secretary-General for the Sudan and South Sudan</b>	
Resolution <a href="#">2677 (2023)</a> 15 March	Expresses its intention to consider all appropriate measures, as demonstrated by adoption of resolutions <a href="#">2206 (2015)</a> , <a href="#">2290 (2016)</a> , <a href="#">2353 (2017)</a> , <a href="#">2428 (2018)</a> , <a href="#">2471 (2019)</a> , <a href="#">2521 (2020)</a> , <a href="#">2577 (2021)</a> and <a href="#">2633 (2022)</a> , against those who take actions that undermine the peace, stability, and security of South Sudan, stresses the sanctity of United Nations protection sites, underscores that individuals or entities that are responsible for or complicit in attacks against UNMISS personnel and premises and any humanitarian personnel, may meet the designation criteria, takes note of the 20 February 2018 Special Report of the Secretary-General on the renewal of the mandate of the United Nations Mission in South Sudan ( <a href="#">S/2018/143</a> ) that the steady re-supply of weapons and ammunition to South Sudan has directly affected the safety of United Nations personnel and UNMISS's ability to carry out its mandate, underscores the measures adopted by the Security Council in resolution <a href="#">2428 (2018)</a> , including the arms embargo, to deprive the parties of the means to continue fighting and to prevent violations of the ACOH, and demands

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<i>Decision and date</i>	<i>Provision</i>
Resolution <a href="#">2683 (2023)</a> 30 May 2023	that all Member States comply with their obligations to prevent the direct or indirect supply, sale or transfer of arms and related materiel of all types, including weapons and ammunition, to the territory of South Sudan as set out in relevant Security Council resolutions (para. 18)  Underscores that arms shipments in violation of this resolution risk fueling conflict and contributing to further instability, and strongly urges all Member States to take urgent action to identify and prevent such shipments within their territory (para. 8)

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## **B. Discussion relating to Article 2 (5)**

In 2023, Article 2 (5) of the Charter was not explicitly invoked in any of the Council’s meetings. However, implicit references that may be considered of relevance for the interpretation of Article 2 (5) were made at several meetings of the Council in connection with the Democratic People’s Republic of Korea, the Democratic Republic of the Congo, Libya, the Sudan, Ukraine, and Yemen, as well as at thematic meetings under the items entitled “Non-proliferation” and “Small arms”.

At meetings held on 16 January and 15 March under the item entitled “The situation in the Middle East”, the representatives of the United Kingdom and the United States reported that they had interdicted arms shipments from the Islamic Republic of Iran to the Houthis.<sup>108</sup> At the meeting held on 16 January, the representative of Yemen explained that the Iranian regime continued to transfer weapons and military technology, including ballistic missiles and drones, to the Houthi militias, in flagrant violation of relevant Council resolutions.<sup>109</sup> Speaking at the meeting held on 15 March, the representative of Japan expressed concern about the unchanged pattern of supply of arms to the Houthis and urged Member States to implement the arms embargo in Yemen.<sup>110</sup> The representative of the United States expressed dismay at the continued flow of weapons from the Islamic Republic of Iran to the Houthis and reminded Member States involved in those illicit transfers that they were in violation of Council resolutions. He added that only by ending such shipments the Yemeni people would be allowed the greatest possible chance at peace.

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<sup>108</sup> See [S/PV.9244](#) (United States); and [S/PV.9282](#) (United Kingdom, United States).

<sup>109</sup> See, [S/PV.9244](#) (Yemen).

<sup>110</sup> See [S/PV.9282](#).

At a meeting held on 26 June under the item entitled “The situation concerning the Democratic Republic of the Congo”, the representatives of France and the United States expressed concern about the continued support by Rwanda to the Mouvement du 23 mars, and by the Congolese armed forces to the Forces démocratiques de libération du Rwanda, which were both under United Nations sanctions.<sup>111</sup> They further called for an end to the support for those armed groups. The representative of Rwanda stated that the Government of the Democratic Republic of the Congo had given financial support, weapons and political cover to a number of illegal armed groups, including the genocidal group of the Forces démocratiques de libération du Rwanda and that the Forces démocratiques de libération du Rwanda had carried out three attacks against Rwanda together with the Democratic Republic of the Congo forces in the previous year. The representative of Rwanda added that the Democratic Republic of the Congo’s choice to integrate the Forces démocratiques de libération du Rwanda into Government forces rather than repatriating its member sent a strong and clear message that the Democratic Republic of the Congo was not interested in peace.

At meetings held on 13 September and 16 November under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, Council members and other speakers called on Member States and international actors to refrain from supporting the warring parties in the Sudan and from supplying military material to those parties.<sup>112</sup> On 1 December, following the adoption of resolution [2715 \(2023\)](#), by which the Council terminated the mandate of the United Nations Integrated Transition Assistance Mission in the Sudan (UNITAMS), the representative of the United States stated that some Council members had refused to allow the Council to speak clearly and loudly in support of resolution [1591 \(2005\)](#), which called on all States to take necessary measures to prevent the sale or supply of arms and related material to actors operating in Darfur.<sup>113</sup> He added that the Council had to unite to prevent external military support for either the Sudanese Armed Forces or the Rapid Support Forces and stop the flow of weapons into and through Darfur. The representative of the Sudan asserted that the rebel militia had mobilized mercenaries from various States to undermine security and stability of the Sudan and urged the

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<sup>111</sup> See [S/PV.9358](#).

<sup>112</sup> See, for example, [S/PV.9417](#) (Special Representative of the Secretary-General for the Sudan and Head of the United Nations Integrated Transition Assistance Mission in the Sudan); [S/PV.9480](#) (Ecuador, France).

<sup>113</sup> See [S/PV.9492](#).

Council to call on the external parties and States supporting the rebel militia to stop interfering in Sudan's internal affairs. In addition, at a meeting held on 19 June under the item entitled "The situation in Libya", the representatives of Albania and the United States expressed concern about the possibility of weapons transfers from Libya to the Sudan, which were prohibited under the Libya arms embargo and the regional arms embargo on Darfur.<sup>114</sup>

At a meeting held on 27 November, under the item entitled "Non-proliferation/Democratic People's Republic of Korea" some Member States expressed concern about the arms transfers and the military cooperation between the Democratic People's Republic of Korea and the Russian Federation, emphasizing that those activities violated multiple Council resolutions and the arms embargo established therein.<sup>115</sup> The representative of France recalled that all Member States, not just the Democratic People's Republic of Korea, had the obligation to implement Council resolutions and that the mutual arms transfers provided direct support for the Democratic People's Republic of Korea in its proliferation activities. The representative of Japan warned that such transfers would not only exacerbate the situation in Ukraine but also severely undermine the non-proliferation regime and expressed concern about the potential for any transfer of nuclear- or ballistic missile-related technology to the Democratic People's Republic of Korea. In that connection, he called on the Democratic People's Republic of Korea and the Russia Federation to abide by their obligations under all relevant Council resolutions and immediately cease all activities that violated them. The representative of the Republic of Korea stressed that all arms transfer to or from the Democratic People's Republic of Korea and technical cooperation concerning its weapons programs, whether conventional or nuclear, directly violated multiple Council resolutions. The representative of the United Kingdom urged the Democratic People's Republic of Korea to cease its arms supply and abide by its public commitment not to sell arms to Russia. On the other hand, the representative of the Russian Federation stated that suggestions of so-called "illegal military-technical cooperation" between his country and the Democratic People's Republic of Korea were baseless. He added that the Russian Federation complied responsibly with its international obligations, which did not prevent

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<sup>114</sup> See [S/PV.9351](#).

<sup>115</sup> See [S/PV.9485](#) (France, Japan, Republic of Korea).

it from developing traditional relations of friendship and cooperation with its neighbors, including the Democratic People’s Republic of Korea.

Throughout 2023, at meetings held under items related to the situation in Ukraine, multiple Council members and other speakers raised concerns about or condemned the reported transfer of weapons by the Islamic Republic of Iran and the Democratic People’s Republic of Korea to the Russian Federation, as well as the latter’s use of those weapons in Ukraine, and many representatives pointed out that those arms transfers violated Council resolutions.<sup>116</sup> In that regard, several Council members expressed support for a United Nations investigation on the reported arms transfers.<sup>117</sup> The representatives of Ecuador, Japan and the United States emphasized that transfers between the Russian Federation and the Democratic People’s Republic of Korea not only exacerbated the situation in Ukraine but also undermined the non-proliferation regime.<sup>118</sup> The representative of the United States elaborated that the Democratic People’s Republic of Korea could channel the revenue generated in those transfers to further develop its unlawful weapons of mass destruction and ballistic missile programs, noting that the Democratic People’s Republic of Korea was seeking Russian military technology and assistance in return for its support to the Russian Federation.<sup>119</sup> Conversely, the representatives of the Islamic Republic of Iran and the Russian Federation rejected the allegations concerning the transfer of weapons for use in Ukraine.<sup>120</sup> The representative of the Islamic Republic of Iran stated that his country had never transferred arms in violation of its obligations and that the allegations were unrelated to resolution [2231 \(2015\)](#).<sup>121</sup> The representative of the Russian Federation stressed that the Kyiv regime had not presented any credible evidence to his delegation or to the Islamic Republic of

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<sup>116</sup> See, for example, under the item entitled “Maintenance of peace and security of Ukraine”, [S/PV.9243](#) (United States, France, Japan); [S/PV.9357](#) (France); under the item entitled “Threats to international peace and security”, [S/PV.9256](#) (Albania, United States, France); [S/PV.9301](#) (United States, Albania, Japan); [S/PV.9325](#) (Albania, Japan, United States, Malta); [S/PV.9364](#) (Japan, Albania, United States); [S/PV.9399](#) (Albania, United States); [S/PV.9415](#) (Albania, United States, France, ); [S/PV.9436](#) (United States, France, Switzerland, United Kingdom, Albania); [S/PV.9457](#) (United States, United Kingdom, Albania, Ecuador, France, Ukraine); [S/PV.9501](#) (Japan, Albania, United States, France);

<sup>117</sup> See under the item entitled “Maintenance of peace and security of Ukraine”, [S/PV.9243](#) (France, Japan); and under the item entitled “Threats to international peace and security”, [S/PV.9256](#) (France); [S/PV.9301](#) (Japan); [S/PV.9325](#) (Japan); [S/PV.9399](#) (United States);

<sup>118</sup> See under the item entitled “Threats to international peace and security”, [S/PV.9415](#) (United States); [S/PV.9457](#) (United States, Ecuador); [S/PV.9501](#) (United States, Japan).

<sup>119</sup> See under the item entitled “Threats to international peace and security”, [S/PV.9415](#); [S/PV.9457](#); [S/PV.9501](#).

<sup>120</sup> See under the item entitled “Threats to international peace and security”, [S/PV.9301](#); and under the item entitled “Maintenance of peace and security of Ukraine”, [S/PV.9357](#).

<sup>121</sup> See under the item entitled “Threats to international peace and security”, [S/PV.9301](#).

Iran and cautioned against attempts to involve the so-called group of resolution [2231 \(2015\)](#), which might risk putting in question the commitment of the Secretariat to Article 100 of the Charter.<sup>122</sup>

Council members and other speakers also discussed the issue of reported arms transfers from the Islamic Republic of Iran to the Russian Federation, as well as to the Houthis and to actors in the Middle East, at meetings held under the item entitled “Non-proliferation” focused on the implementation of resolution [2231 \(2015\)](#).<sup>123</sup> Further, Council members and other participants also addressed those transfers at a meeting held on 15 December under the item entitled “Small arms” and the sub-item entitled “Addressing the threat posed by diversion, illicit trafficking and misuse of small arms and light weapons and their ammunition to peace and security”.<sup>124</sup> At the same meeting, the representative of the Democratic Republic of the Congo stated that the increase in the volume and quality of small arms acquired by terrorist groups was a repeated reminder that they could not exist without State sponsorship or support.<sup>125</sup> He added that it was the case with the Movement du 23 mars in the Democratic Republic of the Congo, which was utilized by Rwanda to destabilize the east of the country.

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<sup>122</sup> See under the item entitled “Maintenance of peace and security of Ukraine”, [S/PV.9357](#). For more information on the functions of the Secretariat, see part II, sect. V.

<sup>123</sup> See, for example, [S/PV.9367](#) (United States, Japan, Albania, France, United Kingdom, Ukraine, Germany); and [S/PV.9511](#) (Under-Secretary-General for Political and Peacebuilding Affairs, European Union, United States, Albania, Russian Federation, France, Switzerland, United Kingdom, Germany, Iran (Islamic Republic of)).

<sup>124</sup> See [S/PV.9509](#) (Japan, Ukraine, Republic of Korea).

<sup>125</sup> See [S/PV.9509 \(Resumption 1\)](#).

## **IV. Non-intervention in the internal affairs of States by the United Nations under Article 2, paragraph 7**

### *Article 2, paragraph 7*

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

### **Note**

Section IV concerns the practice of the Council in relation to the principle of non-intervention by the United Nations in the internal affairs of States enshrined in Article 2 (7) of the Charter of the United Nations. Subsection A features references to that Article in the decisions of the Council. Subsection B covers the deliberations of the Council touching upon the principle enshrined in Article 2 (7). Communications addressed to the Council in 2023 did not contain any references to Article 2 (7).

#### **A. Decisions relating to Article 2 (7)**

In 2023, the Council did not explicitly refer to Article 2 (7) of the Charter in its decisions. Nonetheless, language used in some Council decisions under country- and region- specific as well as thematic items may be considered of relevance for the interpretation and application of Article 2 (7) (see tables 7 and 8).

Table 7

**Decisions containing implicit references to Article 2 (7), by region and country, 2023**

<i>Decision and date</i>	<i>Provision</i>
<b>The situation in the Central African Republic</b>	
Resolution <a href="#">2709 (2023)</a> 15 November	<p>Reaffirming the basic principles of peacekeeping, such as consent of the parties, impartiality, and non-use of force, except in self-defence and defence of the mandate, recognising that the mandate of each peacekeeping mission is specific to the need and situation of the country concerned, underlining that the mandates that it authorises are consistent with the basic principles, reiterating that the Security Council expects full delivery of the mandates it authorises, and recalling in this regard its resolution <a href="#">2436 (2018)</a> (third preambular paragraph)</p> <p>Recalling that the CAR authorities have the primary responsibility to protect all populations in the CAR, including from international crimes, recognising the persistent security challenge threatening civilians, also underlining the progress made to restore State authority in all parts of the country, including MINUSCA's assistance, to overcome the threats posed by armed groups (fourth preambular paragraph)</p>
<b>The situation concerning the Democratic Republic of the Congo</b>	
Resolution <a href="#">2717 (2023)</a> 19 December	<p>Reaffirming the basic principles of peacekeeping, including consent of the parties, impartiality, and non-use of force, except in self-defence and defence of the mandate (second preambular paragraph)</p> <p>Recalling that the Government of the DRC bears the primary responsibility to protect civilians within its territory and subject to its jurisdiction, including from international crimes, recognising the persistent security challenge threatening civilians, also underlining the importance of national efforts to restore State authority in all parts of the country to overcome the threats posed by armed groups (sixth preambular paragraph)</p>
<b>The question concerning Haiti</b>	
Resolution <a href="#">2692 (2023)</a> 14 July	<p>Stressing the primary responsibility of the Government of Haiti to address root causes of instability and inequality, and to engage with other stakeholders, including civil society, youth, and the private sector, to deliver durable solutions to Haiti's immediate and long-term challenges, bearing in mind full, equal, meaningful, and safe participation of women (sixth preambular paragraph)</p>
Resolution <a href="#">2699 (2023)</a> 2 October	<p>Emphasizing that the Government of Haiti has the primary responsibility for the provision of security, ensuring stability and respect for the rule of law and human rights, and for the protection of civilians across the territory of Haiti, and expressing great concern at the increasingly violent actions taken by armed groups and criminal networks (third preambular paragraph)</p> <p>Reaffirms that the rules of engagement and any directives on the use of force are to be developed by the leadership of the Multinational Security Support mission in consultation with Haiti and other Member States participating in the Multinational Security Support Mission and should be in full respect of Haiti's sovereignty and in strict compliance with international law, including, international human rights law, as applicable (para. 9)</p>
Resolution <a href="#">2700 (2023)</a> 19 October	<p>Stressing the primary responsibility of the Government of Haiti to address longstanding drivers of instability and inequality (fifth preambular paragraph)</p>
<b>The situation concerning Iraq</b>	
Resolution <a href="#">2682 (2023)</a> 30 May	<p>Requests that the Special Representative of the Secretary-General and the United Nations Assistance Mission for Iraq (UNAMI), at the request of the Government of Iraq, shall: (d) promote accountability and the protection of human rights, and judicial and legal reform, with full respect for the sovereignty of Iraq, in order to strengthen the rule of law and improve governance in Iraq, in addition to supporting the work of the UN Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) established in resolution <a href="#">2379 (2017)</a> (para. 2 (d))</p>



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<i>Decision and date</i>	<i>Provision</i>
<b>The situation in Libya</b>	
<a href="#">S/PRST/2023/2</a> 16 March	The Security Council reaffirms its strong commitment to an inclusive, Libyan-led and Libyan-owned political process, facilitated by the United Nations and supported by the international community, as well as its strong support for the people of Libya to determine who governs them through elections and to ensure this legitimate demand is heard through the political process (first paragraph)
Resolution <a href="#">2701</a> (2023) 19 October	Reaffirming its strong commitment to an inclusive, Libyan-led and Libyan-owned political process, facilitated by the United Nations and supported by the international community, which builds on progress achieved in negotiations thus far, and enables the holding of free, fair, transparent and inclusive national presidential and parliamentary elections across Libya as soon as possible (third preambular paragraph)
Resolution <a href="#">2702</a> (2023) 30 October	Reaffirming its strong commitment to an inclusive Libyan-led and Libyan-owned political process, facilitated by the United Nations, and supported by the international community, which builds on the updated electoral laws agreed by the 6+6 Committee, and which will enable the holding of free, fair, transparent and inclusive national presidential and parliamentary elections across Libya as soon as possible (second preambular paragraph)
<b>The situation in Mali</b>	
Resolution <a href="#">2690</a> (2023) 30 June	Reaffirming the primary responsibility of the Transition Government of Mali to protect civilians across its territory in accordance with its international obligations (third preambular paragraph)  Decides further that, until 30 September 2023, without prejudice to the primary responsibility of the Malian authorities and in consultation with them, and acting within its means and capabilities in its immediate vicinity, the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) is authorized to respond to imminent threats of violence to civilians and contribute to the safe civilian-led delivery of humanitarian assistance (para. 5)
<b>The situation in Somalia</b>	
Resolution <a href="#">2687</a> (2023) 27 June	Recalling that the Government of Somalia has primary responsibility for ensuring security within Somalia, and recognising the Government of Somalia's request for continued international support to enable it to achieve progressively its aim of a secure, stable, peaceful, united and democratic country (third preambular paragraph)  Underscores that the Government of Somalia has primary responsibility for protecting civilians in Somalia, and underlines the importance of protecting civilians in accordance with relevant provisions of international human rights law and international humanitarian law (para. 1)
<b>Reports of the Secretary-General on the Sudan and South Sudan</b>	
Resolution <a href="#">2676</a> (2023) 8 March	Reaffirming the primary responsibility of the Government of Sudan to protect civilians across its territory, and acknowledging in this regard the Government of Sudan's National Plan for Civilian Protection ( <a href="#">S/2020/429</a> ) and the weapons-collection programme (fifth preambular paragraph)
Resolution <a href="#">2677</a> (2023) 15 March	Strongly condemning all human rights violations and abuses and violations of international humanitarian law by all parties, including armed groups and national security forces, as well as the incitement to commit such abuses and violations, including those in Tambura, Western Equatoria State, further condemning harassment, targeting, and censorship of civil society, humanitarian personnel and journalists, emphasizing that those responsible for violations of international humanitarian law and violations and abuses of human rights must be held accountable, and that South Sudan's government bears the primary responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, and expressing concern that despite the signing of the Revitalised Agreement, violations and abuses including rape and sexual violence continue to occur which may amount to international crimes, including war crimes and crimes against humanity (fourteenth preambular paragraph)

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<i>Decision and date</i>	<i>Provision</i>
	<p>Demands all parties to the conflict and other armed actors to immediately end the fighting throughout South Sudan and engage in political dialogue, reminds South Sudanese authorities of their primary responsibility to protect civilians in South Sudan, and further demands South Sudan’s leaders to implement the permanent ceasefire declared in the Revitalised Agreement and all previous ceasefire and cessation of hostilities agreements, including commitments in the Rome Declaration (para. 5)</p> <p>Recalls its resolution <a href="#">2086 (2013)</a>, reaffirms the basic principles of peacekeeping, as set forth in Presidential Statement <a href="#">S/PRST/2015/22</a>, including consent of the parties, impartiality, and non-use of force, except in self-defence and defence of the mandate, and recognizes that the mandate of each peacekeeping mission is specific to the need and situation of the country concerned, and that the Security Council expects full delivery of the mandates it authorizes (para. 19)</p>
<p>Resolution <a href="#">2708 (2023)</a> 14 November</p>	<p>Urges the Governments of Sudan and South Sudan to provide full support for UNISFA in the implementation of its mandate and deployment of UNISFA personnel, including to facilitate the smooth functioning of all UNISFA bases and JBVM teams sites, in line with their primary responsibility as host states and the Status of Forces Agreements, and further reiterates that the Abyei Area shall be demilitarized from any forces, as well as armed elements of the local communities, other than UNISFA and the Abyei Police Service when it is gradually established, and urges the Governments of Sudan and South Sudan and the local communities to take all necessary steps in this regard (para. 4)</p>

Table 8

**Decisions containing implicit references to Article 2 (7), by thematic issue**

<i>Decision and date</i>	<i>Provision</i>
<b>United Nations peacekeeping operations</b>	
<p>Resolution <a href="#">2719 (2023)</a> 21 December</p>	<p>Reaffirming that States bear the primary responsibility for the prevention of conflict and protection of civilians within their territories and further recognizing the role that regional and subregional organizations play in this regard and that national ownership and regional and subregional support is key to establishing sustainable peace (eighth preambular paragraph)</p>

**B. Discussion relating to Article 2 (7)**

During the period under review, Article 2 (7) of the Charter was not explicitly invoked in the Council’s deliberations. Nonetheless, during several meetings of the Council in 2023, its members and other speakers discussed the principle of non-intervention by the United Nations in the domestic affairs of States enshrined in Article 2 (7).

At an open debate held on 26 January under the item entitled “Peacebuilding and sustaining peace” and sub-item “Investment in people to enhance resilience against complex challenges”, Council members and participants addressed the principles laid out in Article 2 (7)

of the Charter.<sup>126</sup> The representative of Gabon stated that the Council should consider closer collaboration with the United Nations development system to ensure that the Sustainable Development Goals remained within the reach of conflict-affected countries.<sup>127</sup> In this connection, he added that the Council could explore closer collaboration with the Peacebuilding Commission and also the Economic and Social Council to strengthen its integrated approach across the entire spectrum of peace and security, humanitarian aid and development, without prejudice to sovereignty or jeopardizing international peace. The representative of China underlined that United Nations peacekeeping and peacebuilding should remain committed to the original vision of the United Nations Charter, which laid out a people-centered philosophy, while also fully supporting the sovereignty and leadership of the countries concerned. The representative of Lebanon stated that the Council could increase its efforts to create a participatory environment in the design and implementation of peacebuilding strategies.<sup>128</sup> He emphasized that proper consideration had to be given to respect for sovereign principles, as well as the unique national specificities and cultures of each Member State.

At a meeting held on 25 April under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, focusing on the situation in the Sudan, the representative of China called on the international community to respect the Sudan’s sovereignty and ownership and to support it in exploring institutional arrangements in line with its national conditions.<sup>129</sup> He added that imposing an external solution was likely to be counterproductive and underscored the importance of the African Union’s communiqué issued at its emergency meeting on 20 April, by which the African Union reiterated its rejection of any form of external interference in the internal affairs of the Sudan. The representative of the Russian Federation was of the view that the crisis in the Sudan was to a large extent due to external interference in its sovereign affairs as well as attempts to engage in political engineering and impose democratic formulae on the country. He opined that the provision of international assistance to the country had been directly tied to the transfer of authority to a civilian Government and had caused the fragile stability in the country to be sacrificed. This had been disappointing to see in the context of activities of

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<sup>126</sup> See [S/PV.9250](#); and [S/PV.9250 \(Resumption 1\)](#).

<sup>127</sup> See [S/PV.9250](#).

<sup>128</sup> See [S/PV.9250 \(Resumption 1\)](#).

<sup>129</sup> See [S/PV.9310](#).

UNITAMS. The representative of the Sudan reiterated his delegation's belief in the principle of African solutions to African problems, which was in line with Chapter VIII of the Charter, and underlined that the Council must uphold the provisions of the Charter, respect the territorial sovereignty of regional organizations and give the Sudan and its regional neighbors leadership in dealing with the current situation. The representative of Ethiopia asked the Council to exercise patience and wisdom in support of the African Union-led effort as the Sudan had seen what he described as more than its fair share of sanctions and pressure and needed all possible constructive support. Further, he asked the international community to avoid undue external interference and to stand in solidarity with the Sudan, while respecting the country's sovereignty and territorial integrity.

Council members and other speakers also addressed the need for the Council to respect the sovereignty and territorial integrity of the Syrian Arab Republic in the context of discussions on the cross-border humanitarian mechanism at several meetings held under the item entitled "The situation in the Middle East" (see case 6).

## Case 6

### The situation in the Middle East

At the meeting held on 9 January, the Council unanimously adopted resolution [2672 \(2023\)](#), by which it decided to extend, for a period of six months, its previous authorization to use the Bab al-Hawa border crossing for the delivery of humanitarian aid into the Syrian Arab Republic.<sup>130</sup> Speaking after the vote, the representative of the United Arab Emirates explained that her delegation had voted in favor of the resolution because of the importance of the mechanism in alleviating the suffering of the people of the country, who were facing a deteriorating humanitarian situation.<sup>131</sup> She added that the mechanism had seen many changes over the past years and that work remained to be done to improve it to better respond to the conditions on the ground. She underlined that it was imperative to find solutions that respected the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic. The

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<sup>130</sup> See [S/PV.9237](#); see also resolution [2672 \(2023\)](#), para. 2.

<sup>131</sup> See [S/PV.9237](#).

representative of China emphasized that the sovereignty of the Syrian Arab Republic and the ownership of the Government had to be fully respected and noted that cross-border assistance was a temporary arrangement made under special circumstances. Therefore, the transition to cross-line assistance had to eventually be made in an orderly manner for the latter to become the main channel for humanitarian assistance to the Syrian Arab Republic. The representative of the Russian Federation stressed that the resolution did not reflect the aspirations of the Syrian people, who, in addition to effective humanitarian efforts, expected the Council to respect the territorial integrity and sovereignty of the country. He was of the view that the preservation of the cross-border mechanism encroached upon the universally recognized norms of humanitarian assistance and in no way helped to advance that objective.

At a meeting held on 29 June, Council members heard briefings by the Deputy Special Envoy of the Secretary-General for Syria and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, reporting about the security and humanitarian situation in the Syrian Arab Republic.<sup>132</sup> In the ensuing discussion, the representative of the Russian Federation stated that his delegation was told once again that, without the cross-border mechanism, millions of Syrians would starve and freeze and that there was no choice but to once again extend a scheme that violated the country's sovereignty and territorial integrity. He asserted that the mechanism was only nominally humanitarian, opining that it was increasingly being used to undermine the country's sovereignty and deepen territorial divisions in the country, as well as to discriminate against Government-controlled territories and fuel illegal armed groups. The representative of China reiterated that the Syrian Arab Republic's sovereignty, as well as the Government's ownership, had to be respected and that the cross-border mechanism was an exceptional arrangement in response to a specific situation that should eventually be phased out in an orderly manner. He further advocated for the transition from cross-border to cross-line deliveries as the right way forward for subsequent discussions in the Council. The representative of the Islamic Republic of Iran, while supporting the provision of assistance through the cross-border mechanism, emphasized that the mechanism was a temporary arrangement that had to be implemented in a non-discriminatory manner, while fully respecting the Syrian Arab Republic's sovereignty and territorial integrity. Several other delegations

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<sup>132</sup> See [S/PV.9363](#).

emphasized the importance of extending the authorization for cross-border humanitarian assistance for a minimum of 12 months to ensure predictable and sustained humanitarian access.<sup>133</sup>

At a meeting held on 11 July, Council members voted on two draft resolutions, one submitted by Brazil and Switzerland,<sup>134</sup> which would have extended the cross-border humanitarian mechanism by nine months, and another submitted by the Russian Federation,<sup>135</sup> which would have extended the cross-border humanitarian mechanism by six months and requested the Secretary-General to provide a special report on the impact of unilateral sanctions on the humanitarian situation and needs in the Syrian Arab Republic.<sup>136</sup> The former draft resolution was not adopted owing to the veto cast by the Russian Federation, with China abstaining, while the latter failed to obtain the required number of votes, with only China and the Russian Federation voting in favor. Explaining his vote, the representative of the Russian Federation stated that his country would not give its blessing to a mechanism whereby “terrorists from Idlib” would be able to prevent, with impunity, cross-line humanitarian assistance provided for by the Council resolution from entering their enclave, while Western countries funded early-recovery and humanitarian aid projects only in areas not under the legitimate Government’s control and the Syrian Arab Republic itself was strangled with inhumane sanctions. He added that the cross-border mechanism was an obvious violation of the country’s sovereignty and territorial integrity that had been permissible five to seven years before but looked completely anachronistic in that context. The representative of China expressed regret about the Council’s failure to reach a consensus and reiterated the need for humanitarian assistance to respect the sovereignty of the Syrian Arab Republic, as well as the Government’s ownership. In that connection, he added that cross-line relief should become the primary modality for humanitarian assistance to the Syrian Arab Republic, and the cross-border humanitarian mechanism, as an expedient, temporary arrangement made under specific circumstances, should be phased out after a speedy transition. Several other Council members regretted the failure of the Council to adopt

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<sup>133</sup> United States, France, Switzerland (also on behalf of Brazil as co-penholders of the resolution), United Kingdom, Ecuador, Japan, Albania, Malta, United Arab Emirates, Türkiye.

<sup>134</sup> [S/2023/506](#).

<sup>135</sup> [S/2023/507](#).

<sup>136</sup> See [S/PV.9371](#).

the draft resolution submitted by Brazil and Switzerland and to reauthorize the cross-border mechanism, expressing concern about the humanitarian needs in the country.<sup>137</sup>

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<sup>137</sup> Switzerland (also on behalf of Brazil as co-penholders of the resolution), Japan, Albania, France, Brazil.