

# ARTICLE 1(2)

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## ARTICLE 1(2)

### TEXT OF ARTICLE 1(2)

The Purposes of the United Nations are:

...

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

### INTRODUCTORY NOTE

1. As in *Supplement No. 5*, the present study includes only the consideration by the General Assembly and the Security Council of the general question of the implementation of Article 1(2) and the bearing of the Article on specific political questions, while other questions relating to self-determination are treated, where appropriate, under Articles 55 and 73 of the Charter.

2. The practice of the General Assembly concerning the application and interpretation of the concept of the right of self-determination was formulated by the General Assembly in its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, is dealt with under Article 73 of the Charter.

3. The general survey reviews the decisions of the General Assembly and of the Security Council containing explicit and implicit references to Article 1(2). It also deals with the instances where Article 1(2) was explicitly invoked during discussions in the General Assembly and the Security Council.

4. During the period under review, the decisions and deliberations of the General Assembly and of the Security Council involved a constitutional discussion relevant to the application and interpretation of Article 1(2). Those questions are dealt with in the analytical summary of practice under a heading retained from *Supplements Nos. 2 and 3* entitled "C. The question of the scope of the application of the principle of equal rights and self-determination of peoples".

5. No material was found for treatment under the other headings of the analytical summary of practice included in *Supplements Nos. 2 and 3*.

6. The annex to the present study contains extracts of the provisions of those resolutions of the General Assembly and of the Security Council adopted during the period under review which were directly relevant to or could be considered as having a bearing on Article 1(2).

### I. GENERAL SURVEY

7. During the period under review, none of the resolutions of the General Assembly contained an explicit reference to Article 1(2) of the Charter. However, a large number of resolutions were adopted by the Assembly with implicit references to Article 1(2).

8. In the case of one agenda item, on the situation in Kampuchea, the adoption of a resolution<sup>1</sup> was preceded by some constitutional debate on the principle of self-determination, specifically as elaborated in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.<sup>2</sup> In connection with the same item, another draft resolution<sup>3</sup> containing implicit references to Article 1(2) was not put to the vote. The item is

discussed in more detail in the analytical summary of practice (see paras. 26-33).

9. No constitutional discussion was involved in the adoption by the General Assembly of the following resolutions, which implicitly invoked Article 1(2):<sup>4</sup>

(a) *Resolutions adopted without reference to a Main Committee*: question of Palestine;<sup>5</sup> question of Namibia;<sup>6</sup> policies of apartheid of the Government of South Africa;<sup>7</sup>

<sup>1</sup>G A resolution 34/22.

<sup>2</sup>G A resolution 2625 (XXV), annex.

<sup>3</sup>A/34/L.7/Rev.1/Add.1.

<sup>4</sup>The resolutions are indicated by the respective agenda items under which they were considered; titles of agenda items do not always correspond precisely to the titles of the resolutions.

<sup>5</sup>G A resolutions 34/65 B, ES-7/2, 35/169 A and B, 36/120 D and F, ES-7/6, 37/86 D and E and 38/58 C and E.

<sup>6</sup>G A resolutions 34/92 A, D, E and G, 35/227 A, C, E, F, G and J, ES-8/2, 36/121 A and C, 37/233 A, B and C, 38/36 A, B and C and 39/50 A, B and C.

<sup>7</sup>G A resolutions 34/93 A, I and O, 35/206 A, 36/172 A, 37/69 A, 38/39 A and 39/72 A.

implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples<sup>8</sup> and its Plan of Action;<sup>9</sup> drafting of an international convention against activities of mercenaries;<sup>10</sup> question of Southern Rhodesia;<sup>11</sup> the situation in Afghanistan and its implications for international peace and security;<sup>12</sup> the situation in Kampuchea;<sup>13</sup> the situation in the Middle East;<sup>14</sup> cooperation between the United Nations and the Organization of the Islamic Conference;<sup>15</sup> question of the Comorian island of Mayotte;<sup>16</sup> cooperation between the United Nations and the League of Arab States;<sup>17</sup> the situation in Grenada;<sup>18</sup> the situation in Central America: threats to international peace and security and peace initiatives;<sup>19</sup> proposed new racial constitution of South Africa;<sup>20</sup> and the situation in South Africa;<sup>21</sup>

(b) *Resolutions adopted on the reports of the First Committee:* development and strengthening of good-neighbourliness between States;<sup>22</sup> implementation of the Declaration on the Strengthening of International Security<sup>23</sup> and its review;<sup>24</sup> inadmissibility of the policy of hegemonism in international relations;<sup>25</sup> Declaration of the 1980s as the Second Disarmament Decade;<sup>26</sup> Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States;<sup>27</sup> strengthening of security and cooperation in the Mediterranean region;<sup>28</sup> inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States;<sup>29</sup>

(c) *Resolutions adopted on the reports of the Third Committee:* implementation of the Programme<sup>30</sup> for the Decade<sup>31</sup> and the Second Decade<sup>32</sup> for Action to Combat Racism and Racial Discrimination; importance of the

universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights;<sup>33</sup> alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;<sup>34</sup> adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist regimes in southern Africa;<sup>35</sup> measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror;<sup>36</sup> universal realization of the rights of peoples to self-determination;<sup>37</sup> human rights and scientific and technological developments;<sup>38</sup> further promotion and protection of human rights and fundamental freedoms;<sup>39</sup> and human rights and use of scientific and technological developments;<sup>40</sup>

(d) *Resolutions adopted on the reports of the Fourth Committee:* question of Western Sahara;<sup>41</sup> question of Belize;<sup>42</sup> question of Guam;<sup>43</sup> question of East Timor;<sup>44</sup> activities of foreign economic and other interests;<sup>45</sup> question of the Turks and Caicos Islands;<sup>46</sup> question of Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands;<sup>47</sup> and question of Bermuda;<sup>48</sup>

<sup>8</sup>G A resolutions 34/94, 35/119, 36/68, 37/35, 38/54 and 39/91.

<sup>9</sup>G A resolution 35/118.

<sup>10</sup>G A resolution 34/140. In subsequent sessions of the General Assembly, the title of the agenda item was amended to read as follows: "Drafting of an international convention against the recruitment, use, financing and training of mercenaries".

<sup>11</sup>G A resolution 34/192.

<sup>12</sup>G A resolutions ES-6/2, 35/37, 36/34, 37/37, 38/29 and 39/13.

<sup>13</sup>G A resolutions 35/6, 36/5, 37/6, 38/3 and 39/5.

<sup>14</sup>G A resolutions 35/207, 36/226 A, 37/123 F, 38/180 D and 39/146 A.

<sup>15</sup>G A resolutions 35/36, 36/23, 37/4, 38/4 and 39/7.

<sup>16</sup>G A resolutions 36/105, 37/65, 38/13 and 39/48.

<sup>17</sup>G A resolutions 37/17, 38/6 and 39/9.

<sup>18</sup>G A resolution 38/7.

<sup>19</sup>G A resolution 38/10.

<sup>20</sup>G A resolution 38/11.

<sup>21</sup>G A resolution 39/2.

<sup>22</sup>G A resolutions 34/99, 36/101 and 37/117.

<sup>23</sup>G A resolutions 34/100, 35/158, 36/102 and 39/155.

<sup>24</sup>G A resolutions 37/118 and 38/190.

<sup>25</sup>G A resolution 34/103.

<sup>26</sup>G A resolution 35/46.

<sup>27</sup>G A resolution 36/103.

<sup>28</sup>G A resolutions 38/189 and 39/153.

<sup>29</sup>G A resolution 39/159.

<sup>30</sup>G A resolutions 34/24, 36/8 and 37/40.

<sup>31</sup>G A resolution 35/33.

<sup>32</sup>G A resolution 38/14.

<sup>33</sup>G A resolutions 34/44, 35/35 A and B, 36/9, 37/43, 38/17 and 39/17.

<sup>34</sup>G A resolution 34/46.

<sup>35</sup>G A resolutions 35/32, 37/39 and 39/15. Beginning in the thirty-seventh session of the General Assembly, the title of the agenda item was amended to read as follows: "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist regime of South Africa".

<sup>36</sup>G A resolutions 35/200, 36/162, 37/179, 38/99 and 39/114.

<sup>37</sup>G A resolutions 36/10, 37/42, 38/16 and 39/18.

<sup>38</sup>G A resolution 37/189 A.

<sup>39</sup>G A resolution 37/200.

<sup>40</sup>G A resolutions 38/113 and 39/134.

<sup>41</sup>G A resolutions 34/37, 35/19, 36/46, 37/28, 38/40 and 39/40.

<sup>42</sup>G A resolutions 34/38 and 35/20.

<sup>43</sup>G A resolutions 34/39, 35/22, 36/63, 37/21, 38/42 and 39/32.

<sup>44</sup>G A resolutions 34/40, 35/27, 36/50 and 37/30.

<sup>45</sup>G A resolutions 34/41, 35/28, 36/51, 37/31, 38/50 and 39/42.

The full title of the agenda item reads as follows: "Activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Southern Rhodesia and Namibia and in all other Territories under colonial domination and efforts to eliminate colonialism, apartheid and racial discrimination in southern Africa". Beginning in the thirty-fifth session of the General Assembly, the reference to Southern Rhodesia was removed from the title.

<sup>46</sup>G A resolutions 35/25, 37/25, 38/47 and 39/37.

<sup>47</sup>G A resolution 36/62.

<sup>48</sup>G A resolutions 37/22, 38/43 and 39/33.

(e) *Resolutions adopted on the reports of the Sixth Committee*: measures to prevent international terrorism;<sup>49</sup> International Convention against the Taking of Hostages;<sup>50</sup> drafting of an international convention against the recruitment, use, financing and training of mercenaries<sup>51</sup> and the Report of its Ad Hoc Committee;<sup>52</sup> Manila Declaration on the Peaceful Settlement of International Disputes;<sup>53</sup> and development and strengthening of good-neighbourliness between States.<sup>54</sup>

10. During the period under review, none of the resolutions adopted by the Security Council contained an explicit reference to Article 1(2) of the Charter.

11. The Security Council, however, adopted the following resolutions which invoked the principle of self-determination without giving rise to a constitutional discussion:<sup>55</sup> question concerning the situation in Southern Rhodesia;<sup>56</sup> complaint by Angola against South Africa;<sup>57</sup> complaint by Zambia;<sup>58</sup> letter dated 5 May 1983 from the representative of Nicaragua on the Security Council addressed to the President of the Security Council;<sup>59</sup> the situation in Namibia;<sup>60</sup> the situation in Cyprus;<sup>61</sup> and question of South Africa.<sup>62</sup>

12. The Security Council also considered some draft resolutions invoking the principle of self-determination, which failed to be adopted.<sup>63</sup>

13. In the deliberations of the General Assembly and its Main Committees, Article 1(2), or Article 1 together with the language used in paragraph 2 of the Article, was explicitly invoked in many instances. In connection with one agenda item, relating to the question of the Falkland Islands

(Malvinas), explicit references to Article 1(2) gave rise to a constitutional discussion. This item is discussed in more detail in the analytical summary of practice (see paras. 37-41 below). In all other instances, Article 1(2) was explicitly invoked without giving rise to a constitutional discussion.

14. These explicit references were made in the general debate<sup>64</sup> and in connection with: the situation in Afghanistan and its implications for international peace and security;<sup>65</sup> special meeting to commemorate the twentieth anniversary of the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples;<sup>66</sup> report of the Ad Hoc Committee of the Twelfth Special Session of the General Assembly;<sup>67</sup> question of Palestine;<sup>68</sup> policies of apartheid of the Government of South Africa;<sup>69</sup> the situation in Central America: threats to international peace and security and peace initiatives;<sup>70</sup> credentials of representatives to the thirty-ninth session of the General Assembly;<sup>71</sup> inadmissibility of the policy of hegemonism in international relations;<sup>72</sup> the general debate pertaining to several disarmament items in the First Committee;<sup>73</sup> inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States;<sup>74</sup> international cooperation to avert new flows of refugees;<sup>75</sup> importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights;<sup>76</sup> implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples;<sup>77</sup> question of East Timor;<sup>78</sup> drafting of an international

<sup>49</sup>G A resolutions 34/145, 36/109 and 38/130. The full title of the agenda item reads as follows: "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes".

<sup>50</sup>G A resolution 34/146.

<sup>51</sup>G A resolutions 35/48, 37/109, 38/137 and 39/84.

<sup>52</sup>G A resolution 36/76.

<sup>53</sup>G A resolution 37/10.

<sup>54</sup>G A resolutions 38/126 and 39/78.

<sup>55</sup>The resolutions are indicated by their respective subjects, or agenda items. Security Council resolutions do not carry substantive titles. See also section B of the annex to the present study.

<sup>56</sup>S C resolutions 445 (1979), 448 (1979) and 463 (1980).

<sup>57</sup>S C resolution 447 (1979).

<sup>58</sup>S C resolution 455 (1979).

<sup>59</sup>S C resolution 530 (1983).

<sup>60</sup>S C resolutions 532 (1983) and 539 (1983).

<sup>61</sup>S C resolutions 541 (1983) and 550 (1984).

<sup>62</sup>S C resolutions 554 (1984) and 556 (1984).

<sup>63</sup>See S C (35), Suppl. for Jan.-March 1980, S/13729, in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan; S C (35), Suppl. for April-June 1980, S/13911, regarding the question of the exercise by the Palestinian people of its inalienable rights; S C (36), Suppl. for April-June 1981, S/14459, S/14460/Rev.1, S/14461 and S/14462, in connection with the situation in Namibia; and S C (37), Suppl. for April-June 1982, S/14941, in connection with the letter dated 19 March 1982 from the representative of Nicaragua.

<sup>64</sup>G A (34), plen., 12th mtg.: Syrian Arab Republic, para. 254; G A (37), plen., 18th mtg.: Somalia, para. 239; G A (38), plen., 15th mtg.: Israel, para. 254; and G A (39), plen., 30th mtg.: Swaziland, para. 149.

<sup>65</sup>G A (35), plen., 67th mtg., a.i. 116: Saudi Arabia, para. 52.

<sup>66</sup>Ibid., 93rd mtg.: the President, paras. 2 and 16.

<sup>67</sup>G A (S-12), plen., 29th mtg., a.i. 114: Federal Republic of Germany, p. 52.

<sup>68</sup>G A (ES-7), plen., a.i. 5, 21st mtg.: PLO, p. 22, and G A (39), plen., 90th mtg., a.i. 33: Saudi Arabia, para. 42.

<sup>69</sup>G A (37), plen., 62nd mtg., a.i. 33: Kuwait, para. 28.

<sup>70</sup>G A (38), plen., 47th mtg., a.i. 142: Mozambique, para. 124.

<sup>71</sup>G A (39), plen., 32nd mtg., a.i. 3: Libyan Arab Jamahiriya, para. 31.

<sup>72</sup>G A (34), 1st Comm., 5th mtg., a.i. 126: German Democratic Republic, p. 31, and 7th mtg.: Poland, p. 26.

<sup>73</sup>G A (37), 1st Comm., 26th mtg., a.i. 39-57, 133, 136, 138 and 139: Paraguay, p. 7.

<sup>74</sup>G A (39), 1st Comm., 60th mtg., a.i. 143: Poland, p. 26.

<sup>75</sup>G A (35), Spec. Pol. Comm., 43rd mtg., a.i. 122: Federal Republic of Germany, para. 5.

<sup>76</sup>G A (34), 3rd Comm., 17th mtg., a.i. 82: Chile, para. 36; *ibid.*, 20th mtg.: Cyprus, para. 19, G A (35), 3rd Comm., 16th mtg., a.i. 75: United Kingdom, para. 49; *ibid.*, 19th mtg.: Pakistan, para. 109, G A (36), 3rd Comm., 11th mtg., a.i. 81: Kuwait, para. 34, G A (37), 3rd Comm., 12th mtg., a.i. 79: Kuwait, para. 68; and 13th mtg.: United States, para. 22; G A (38), 3rd Comm., 8th mtg., a.i. 86: Canada, para. 40; and 16th mtg.: United States, para. 77.

<sup>77</sup>G A (34), 4th Comm., 20th mtg., a.i. 18: Burundi, paras. 41-42; G A (35), 4th Comm., 17th mtg.: Czechoslovakia, para. 18.

<sup>78</sup>G A (36), 4th Comm., 9th mtg., a.i. 93: International League for Human Rights, para. 34.

convention against the taking of hostages;<sup>79</sup> report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;<sup>80</sup> consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives;<sup>81</sup> report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations;<sup>82</sup> development and strengthening of good-neighbourliness between States;<sup>83</sup> and peaceful settlement of disputes between States.<sup>84</sup>

15. In the course of the deliberations of the Security Council in connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

<sup>79</sup>G A (34), 6th Comm., 13th mtg., a.i. 113: Bangladesh, para. 30.

<sup>80</sup>Ibid., 37th mtg., a.i. 114: Tunisia, para. 54, G A (35), 6th Comm., 41st mtg., a.i. 108: Zaire, para. 19, G A (36), 6th Comm., 29th mtg., a.i. 122: Peru, para. 23.

<sup>81</sup>G A (35), 6th Comm., 19th mtg., a.i. 114: Afghanistan, para. 33.

<sup>82</sup>G A (37), 6th Comm., 33rd mtg., a.i. 118: Benin, para. 53, G A (38), 6th Comm., 14th mtg., a.i. 126: United States, para. 40; *ibid.*, 16th mtg.: Mozambique, para. 50.

<sup>83</sup>G A (38), 6th Comm., 63rd mtg., a.i. 64: Nicaragua, para. 44, G A (39), 6th Comm., 22nd mtg., a.i. 123: Egypt, para. 59, and Nigeria, para. 98.

<sup>84</sup>G A (38), 6th Comm., 70th mtg., a.i. 124: Somalia, para. 32.

addressed to the President of the Security Council, explicit references to Article 1(2) involved a constitutional discussion. This matter is dealt with in the analytical summary of practice (see paras. 26-36).

16. In one other instance, pertaining to the question of the exercise by the Palestinian people of its inalienable rights, Article 1(2) was explicitly invoked without giving rise to a constitutional discussion.<sup>85</sup>

17. The implicit references to Article 1(2) in the deliberations of both the General Assembly and the Security Council were too numerous to be listed here.<sup>86</sup>

<sup>85</sup>S C (34), 2161st mtg.: PLO, para. 105.

<sup>86</sup>Among the many references to the principle of self-determination, mention should be made of the discussion in the Security Council in connection with the situation in Cyprus. One side argued that the well-established principle of self-determination could not be interpreted in such ways as to impair the territorial integrity of any State and must be exercised by a people as a whole. The Turkish Cypriot community could not exercise such a right on a part of the territory of Cyprus on which they had all along been a small minority. The other side maintained that, in Cyprus, there was not just one nation but two peoples and that the 1960 Constitution, which had created a bi-communal Republic of Cyprus, had meant that the right of self-determination was exercised jointly by the two communities. See S C (38), 2497th mtg.: Cyprus; 2498th mtg.: Mr. Denktas, Turkey, Nicaragua and India; 2500th mtg.: Democratic Yemen, Egypt and Turkey; 2503rd mtg.: Cyprus and Mr. Atalay; and S C (39), 2532nd mtg.: Turkey and India.

## II. ANALYTICAL SUMMARY OF PRACTICE

### **\*\*A. The question of the effect of the reference in Article 1(2) to respect for the principle of equal rights and self-determination of peoples**

### **\*\*B. The question of the appropriate means of implementing the principle of equal rights and self-determination of peoples**

### **C. The question of the scope of the application of the principle of equal rights and self-determination of peoples**

#### **1. THE SITUATION IN KAMPUCHEA**

#### *Decisions of the General Assembly of 14 November 1979*

##### *(i) **Precis of proceedings***

18. By a letter dated 17 August 1979 addressed to the Secretary-General,<sup>87</sup> the States members of the Association of South-East Asian Nations (ASEAN)<sup>88</sup> requested the inclusion of an item entitled "The situation in Kampuchea" in the agenda of the thirty-fourth session of the General Assembly. In the explanatory memorandum accompanying the letter, the ASEAN States expressed their grave concern

about the serious situation in Kampuchea arising out of armed intervention against the independence, sovereignty and territorial integrity of the country and reaffirmed the right of the people of Kampuchea to determine their own future by themselves, free from interference or influence from outside Powers.

19. At its 4th plenary meeting, on 21 September 1979, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to consider it directly in plenary meetings. The item was considered by the Assembly at its 62nd to 67th meetings.

20. At its 67th plenary meeting, on 14 November 1979, the General Assembly considered two draft resolutions<sup>89</sup> in connection with the agenda item. Thirty States<sup>90</sup> submitted draft resolution A/34/L.13/Rev.2, which, *inter alia*, would provide as follows:

*"The General Assembly,*

<sup>89</sup>A third draft resolution, A/34/L.38, was withdrawn by its sponsor (India) at the same meeting.

<sup>90</sup>Australia, Bangladesh, Belgium, Canada, Colombia, Comoros, Fiji, Gambia, Germany, Honduras, Indonesia, Japan, Luxembourg, Malaysia, Mauritania, Nepal, Netherlands, New Zealand, Niger, Pakistan, Papua New Guinea, Philippines, Samoa, Senegal, Singapore, Solomon Islands, Somalia, Thailand, Upper Volta and Zaire.

<sup>87</sup>G A (34), annexes, a.i. 123, A/34/191.

<sup>88</sup>Indonesia, Malaysia, the Philippines, Singapore and Thailand.

"Noting with great concern that the armed conflict in Kampuchea has escalated and is seriously threatening the peace and stability of South-East Asia,

"...

"Reaffirming the right of all peoples to determine their own future free from outside interference,

"...

"9. Appeals to all States to refrain from any interference in the internal affairs of Kampuchea in order to enable its people to decide their own future and destiny free from outside interference, subversion or coercion, and to respect scrupulously the sovereignty, territorial integrity and independence of Kampuchea;

"10. Resolves that the people of Kampuchea should be enabled to choose democratically their own government, without outside interference, subversion or coercion".

21. Nineteen other States<sup>91</sup> sponsored draft resolution A/34/L.7/Rev.1/Add.1. Under the draft, the General Assembly would, inter alia, bear in mind the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to its resolution 2625 (XXV) of 24 October 1970, and the Declaration on the Strengthening of International Security, contained in its resolution 2734 (XXV) of 16 December 1970; recall that every State had the duty to refrain from any forcible action which deprived peoples of their right to self-determination, their freedom and their independence; also recall that, when such peoples reacted to or resisted such forcible action in exercise of their right to self-determination, they were entitled to seek and to receive support in accordance with the purposes and principles of the Charter; note that the Kampuchean people, exercising their right to self-determination in conformity with the Charter and the above-mentioned Declarations, had regained their independence and freedom and begun the process of national reconstruction; and call upon all States to refrain from any activity which could be detrimental to the exercise of the Kampuchean people's right to self-determination and to their independence, sovereignty and territorial integrity and which would constitute interference in their internal affairs.

22. The General Assembly, by 85 votes to 32, with 23 abstentions, adopted a proposal of Malaysia that priority should be granted in the voting to draft resolution A/34/L.13/Rev.2. By a recorded vote of 91 to 21, with 29 abstentions, the Assembly then adopted the draft as resolution 34/22. At the same meeting, on a motion by Senegal, the General Assembly, by a recorded vote of 62 to 36, with 38 abstentions, decided not to put draft resolution A/34/L.7/Rev.1/Add.1 to the vote.

<sup>91</sup>Afghanistan, Angola, Bulgaria, Byelorussian SSR, Cuba, Czechoslovakia, Ethiopia, German Democratic Republic, Grenada, Hungary, Lao People's Democratic Republic, Mongolia, Mozambique, Nicaragua, Poland, Sao Tome and Principe, Ukrainian SSR, USSR and Viet Nam.

## (ii) *Precis of relevant constitutional discussion*

23. In the course of the discussion, conflicting views were expressed regarding the exercise of the right of the Kampuchean people to self-determination.

24. One side maintained that the National United Front for the Salvation of Kampuchea had the right to fight the Pol Pot regime, which had committed grave violations of human rights and been subject to the domination of a foreign Power, and to appeal for assistance from other countries. Those countries had not only the duty but the obligation to use all means, including armed force, to help the Kampuchean people exercise their right to self-determination. The presence in Kampuchea of Vietnamese forces under a bilateral Peace Treaty<sup>92</sup> was therefore in accordance with the tenets of international law, in particular the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.<sup>93</sup>

25. The other side argued that, if the Vietnamese military intervention had been sought by the Kampucheans in the exercise of their popular will, the Heng Samrin regime supported by Viet Nam would not be facing a resistance struggle. In fact, the principles of equal rights and self-determination and of non-intervention in internal affairs had been violated by the Vietnamese aggression. The cessation of hostilities and the withdrawal of foreign forces were prerequisites for the exercise by the people of Kampuchea of their right to self-determination in a free and democratic manner.<sup>94</sup>

## 2. QUESTION OF THE FALKLAND ISLANDS (MALVINAS)<sup>95</sup>

### (a) *Decisions of the Security Council of 3 April 1982 and 26 May 1982*

#### (i) *Precis of proceedings*

26. By a letter dated 1 April 1982,<sup>96</sup> the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations requested the

<sup>92</sup>Treaty of Peace, Friendship and Cooperation between the Socialist Republic of Viet Nam and the People's Republic of Kampuchea, signed at Phnom Penh on 18 February 1979.

<sup>93</sup>A paragraph of the Declaration, under the sub-heading "The principle of equal rights and self-determination of peoples", was quoted in making this argument.

<sup>94</sup>For the texts of relevant statements, see G A (34), plen., 62nd mtg.: Malaysia, paras. 14 and 21; Viet Nam, paras. 48-49, 53, 54, 66 and 81; Democratic Kampuchea, para. 144; Singapore, para. 182; 63rd mtg.: China, para. 80; Australia, paras. 114-115; Federal Republic of Germany, para. 123; 64th mtg.: Poland, para. 26; German Democratic Republic, para. 45; Zaire, para. 77; 65th mtg.: Lao People's Democratic Republic, paras. 29, 56 and 60; New Zealand, para. 69; 66th mtg.: Mongolia, para. 56; Byelorussian SSR, paras. 102-103; Thailand, para. 111; 67th mtg.: Austria, paras. 1-3 and 9; Philippines, paras. 78, 82, 89-90; Sudan, para. 107; Lao People's Democratic Republic, para. 113; and Senegal, paras. 203-204.

<sup>95</sup>Title of the item on the agenda of the General Assembly. The title of the corresponding item subsequently included in the agenda of the Security Council read: "Question concerning the situation in the region of the Falkland Islands (Islas Malvinas)" (see para. 29).

<sup>96</sup>S C (37), Suppl. for April-June 1982, S/14942.

President of the Security Council to convene an immediate meeting of the Council, saying it had good reason to believe that Argentina's armed forces were about to invade the Falkland Islands. At its 2345th meeting, on the same day, the Security Council decided to include the item in its agenda. The item was considered at the 2345th, 2346th, 2349th and 2350th meetings of the Security Council.

27. At the 2350th meeting, on 3 April 1982, draft resolution S/14947/Rev.1, introduced by the United Kingdom, was voted upon and adopted by 10 votes to 1, with 4 abstentions, as Security Council resolution 502 (1982). The resolution reads in part as follows:

*"The Security Council,*

*"...*

*"Determining that there exists a breach of the peace in the region of the Falkland Islands (Islas Malvinas),*

*"...*

*"3. Calls on the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to seek a diplomatic solution to their differences and to respect fully the purposes and principles of the Charter of the United Nations".*

28. At the same meeting, the representative of Panama introduced a draft resolution,<sup>97</sup> which was not put to the vote. Under the draft, the Council would have, inter alia, recalled General Assembly resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples; called upon the United Kingdom to cooperate with Argentina in the decolonization of the Malvinas Islands, South Georgia and the South Sandwich Islands; and requested both Governments to carry out negotiations in order to put an end to the situation of tension, duly respecting Argentine sovereignty over those Territories and the interests of their inhabitants.

29. At its 2360th meeting, on 21 May 1982, the Security Council included three letters<sup>98</sup> in its agenda to give further consideration to the question concerning the situation in the region of the Falkland Islands (Islas Malvinas). The item was considered at the 2360th, 2362nd to 2364th, 2366th and 2368th meetings of the Council.

30. At its 2368th meeting, on 26 May 1982, the Security Council unanimously adopted a draft resolution sponsored by six members<sup>99</sup> as resolution 505 (1982), whereby it reaffirmed, inter alia, Security Council resolution 502 (1982).

#### (ii) *Precis of relevant constitutional discussion*

31. During the deliberations of the Security Council in connection with the agenda item, a discussion arose over the

<sup>97</sup>Ibid., S/14950.

<sup>98</sup>Ibid., S/15037 from the representative of Ireland; S/15099 from the Secretary-General; and S/15100 from the representative of Panama.

<sup>99</sup>Ibid., S/15122, sponsored by Guyana, Ireland, Jordan, Togo, Uganda and Zaire.

applicability of Article 1(2) to the situation of the Falkland Islands (Islas Malvinas).

32. One side maintained that the Falkland Islands (Islas Malvinas) was part of Argentine territory, illegally occupied in 1833 through the use of force by the United Kingdom and, since then, consistently claimed by Argentina. The General Assembly, by its resolution 2065 (XX),<sup>100</sup> had invited Argentina and the United Kingdom to pursue negotiations towards a peaceful settlement of their dispute about sovereignty over the islands and to bring an end to a colonial situation, bearing in mind the principles of the Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples and the interests of the population of the islands.

33. The General Assembly, it was argued, by its resolution 2065 (XX) and subsequent consensus decisions reached in 1966, 1967, 1969 and 1971, had explicitly recognized that the principles applicable in that case were those related to the territorial integrity of States, since the illegitimate act of force by the United Kingdom could not have given rise to any right. Moreover, the subsequent expulsion of Argentine nationals and their replacement by a few citizens from the colonial Power had rendered the principle of self-determination inapplicable. The 1,800 inhabitants of the island, mainly British Government officials and employees of the Falkland Islands Company, could not be considered as a population under international law.

34. It was further contended that the United Kingdom, which in the past had repeatedly stated that the principle of self-determination did not constitute a right and was not recognized as such in the Charter or under customary international law, was now invoking the principle merely to legitimize its presence in the islands. Self-determination was designed to protect the colonized people and hasten the eradication of the colonial system. It could not be used to strengthen that very system and give legitimacy to the presence of the occupying Power.

35. The other side argued that the Falkland Islands (Malvinas) had a population of about 1,800 people, most of whom were born to families that had lived there for four to six generations. They were an entirely separate people from that of Argentina, with a different language, culture and way of life. They formed a homogeneous community which had developed democratic institutions over a period of a century. Thus, whatever their number, they were entitled to the protection of international law and to have their freely expressed wishes respected.

36. No exception to the right of all peoples to self-determination was envisaged either by Article 1, paragraph 2, of the Charter or the common article 1 of the International Covenant on Civil and Political Rights<sup>101</sup> and the International Covenant on Economic, Social and Cultural Rights.<sup>102</sup> Although in the 1960s the United Kingdom had

<sup>100</sup>See *Repertory, Supplement No. 3*, vol. III, under Article 73, paras. 767-786.

<sup>101</sup>G A resolution 2200 A (XXI), annex.

<sup>102</sup>Ibid.

held the view that self-determination was a principle but not a right, it had since ratified the two above-mentioned international covenants and voted in favour of the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.<sup>103</sup> Those three documents recognized the right of all peoples to freely determine their political status. Moreover, Article 73 of the Charter had laid down the principle that the interests of the inhabitants of Non-Self-Governing Territories were paramount. Therefore, self-determination was the right of the people of the Falkland Islands (Islas Malvinas) under international law, in particular the Charter and its Article 73.<sup>104</sup>

(b) *Decisions of the General Assembly of 31 October 1984 and 1 November 1984*<sup>105</sup>

(i) *Precis of proceedings*

37. At its 3rd plenary meeting, on 21 September 1984, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its thirty-ninth session the item entitled "Question of the Falkland Islands (Malvinas)".<sup>106</sup> At the same meeting, the Assembly decided that the item should be considered directly in plenary meetings, on the understanding that representatives of the bodies and individuals having an interest in the question would be heard in the Fourth Committee, in conjunction with the consideration of the item in plenary meetings. The item was considered by the General Assembly at its 44th to 46th meetings.

38. At its 44th plenary meeting, on 31 October 1984, the General Assembly took note<sup>107</sup> of the report<sup>108</sup> of the Fourth Committee. At its 46th plenary meeting, on 1 November 1984, the Assembly adopted draft resolution A/39/L.8,

<sup>103</sup>G A resolution 2625 (XXV), annex.

<sup>104</sup>For the texts of relevant statements, see S C (37), 2345th mtg.: Argentina, paras. 29, 38-46, 60, 69 and 71; United Kingdom, para. 7; 2350th mtg.: Argentina, paras. 5-27; Jordan, paras. 62-64; Peru, paras. 87-92; Panama, paras. 96-134; Paraguay, paras. 149-154; Uganda, para. 213; Union of Soviet Socialist Republics, paras. 228-230; Poland, paras. 263-266; 2360th mtg.: Argentina, paras. 26, 33 and 64; United Kingdom, paras. 112-119; Brazil, paras. 180-192; Ecuador, paras. 195-200; Australia, paras. 212-224; 2366th mtg.: Argentina, paras. 129-158; United Kingdom, paras. 182-185; 2368th mtg.: Yugoslavia, paras. 24-32.

<sup>105</sup>At its thirty-fourth, thirty-fifth and thirty-sixth sessions, the General Assembly, on the recommendation of its Fourth Committee, deferred consideration of the question of the Falkland Islands (Malvinas). At its thirty-seventh and thirty-eighth sessions, the Assembly adopted resolutions 37/9 and 38/12, respectively, by which it reaffirmed, inter alia, the need for Argentina and the United Kingdom to take due account of the interests of the population of the Falkland Islands (Malvinas). No explicit references to Article 1(2) were made in the discussions preceding the adoption of these resolutions. See also the present *Supplement*, under Article 73.

<sup>106</sup>The item was first considered by the General Assembly at its thirty-seventh session at the request of the 20 Latin American States listed in footnote 109 below. See G A (37), annexes, a.i. 135, A/37/193.

<sup>107</sup>G A decision 39/404.

<sup>108</sup>G A (39), annexes, a.i. 26, A/39/615.

sponsored by 20 Latin American States,<sup>109</sup> by a recorded vote of 89 to 9, with 54 abstentions, as resolution 39/6. The resolution reads in part as follows:

"The General Assembly,

"...

"*Recalling* its resolutions 1514 (XV) of 14 December 1960, 2065 (XX) of 16 December 1965, 3160 (XXVIII) of 14 December 1973, 31/49 of 1 December 1976, 37/9 of 4 November 1982 and 38/12 of 16 November 1983, together with Security Council resolutions 502 (1983) of 3 April 1982 and 505 (1982) of 26 May 1982,

"...

"*Aware* of the interest of the international community in the settlement by the Governments of Argentina and the United Kingdom of all their differences, in accordance with the United Nations ideals of peace and friendship among peoples,

"...

"*Reaffirming* the need for the parties to take due account of the interests of the population of the Falkland Islands (Malvinas) in accordance with the provisions of General Assembly resolutions 2065 (XX), 3160 (XXVIII), 37/9 and 38/12,

"1. *Reiterates its request* to the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to resume negotiations in order to find as soon as possible a peaceful solution to the sovereignty dispute and their remaining differences relating to the question of the Falkland Islands (Malvinas)".

(ii) *Precis of relevant constitutional discussion*

39. Arguments similar to those made in the Security Council (see paras. 31-36 above), explicitly invoking Article 1, paragraph 2, were made during the deliberations of the General Assembly in connection with the agenda item.

40. One side contended that the question of the Falkland Islands (Malvinas) was essentially a dispute over sovereignty to be resolved by negotiations between Argentina and the United Kingdom. It was stated that resolution 1514 (XV) on decolonization made clear that, in the case of territorial enclaves such as the Falkland Islands (Malvinas), decolonization consisted in the restoration of such Territories to the State which held sovereign rights over them, in this case Argentina. The view was also expressed that the inhabitants of the islands were not a people under foreign domination. Almost all of them were citizens of the occupying Power. Thus, the principle of self-determination did not apply, and invoking it in this case only served to prolong an illegal occupation.

41. The other side maintained that there had been no settled Argentine population in the islands in 1833, when the British occupation had been effected peacefully. Except for

<sup>109</sup>Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela.



the Argentine invasion of 1982, the United Kingdom had remained since 1833 in open, continuous and peaceful possession, occupation and administration of the islands. The real issue was that of the right of the inhabitants of the islands to self-determination, which was universally applicable under Article 1, paragraph 2, of the Charter. As stated in the Fourth Committee<sup>110</sup> by the representative of the Falkland Islands Legislative Council, a democratically elected official, the overwhelming majority of the Falkland Islanders wished to maintain their links with the United Kingdom. They did not want to become part of Argentina. Draft resolution A/39/L.8 only made a cursory reference to the interests of the population and did not explicitly endorse the principle of self-determination, which was one of the cardinal principles of the Charter of the United Nations.<sup>111</sup>

<sup>110</sup>See G A (39), 4th Comm., 12th mtg.

<sup>111</sup>For the texts of relevant statements, see G A (39), 44th mtg.: Argentina, para. 79; Mexico, paras. 103-104; 45th mtg.: Costa Rica, paras. 24-25; Uruguay, para. 49; United Kingdom, paras. 135-136, 138-139 and 141-144; Argentina, para. 293; Botswana, paras. 37-39; Malawi, para. 62; Netherlands, para. 69; Australia, para. 81; Belize, para. 85; Norway, para. 86; Saint Lucia, para. 102; Chad, para. 122; United Kingdom, paras. 128-134.

- \*\*D. The question of the relationship between the principle of equal rights and self-determination of peoples and the maintenance of international peace and security**
- \*\*E. The question of the relationship between the principle of equal rights and self-determination of peoples and "permanent sovereignty" of peoples "over their natural wealth and resources"**

## ANNEX

### Resolutions bearing on Article 1(2)

#### A. Resolutions of the General Assembly

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
34/22	The situation in Kampuchea	<p><i>"Reaffirming the right of all peoples to determine their own future free from outside interference, [eighth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"9. Appeals to all States to refrain from any interference in the internal affairs of Kampuchea in order to enable its people to decide their own future and destiny free from outside interference, subversion or coercion ...</i></p> <p><i>"10. Resolves that the people of Kampuchea should be enabled to choose democratically their own government".</i></p>
34/24*	Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination	<p><i>"Aware of the serious threat to international peace and security resulting from ... the continuation of the illegal occupation of Namibia and the refusal to respect the right of peoples to self-determination, [fifth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"2. Strongly condemns the policies of apartheid, racism and racial discrimination practised in southern Africa and elsewhere, including the denial of the right of peoples to self-determination;</i></p> <p><i>"3. Reaffirms once again its strong support for the national liberation struggle against racism, racial discrimination, apartheid, colonialism and alien domination and for self-determination by all means, including armed struggle;</i></p> <p><i>"...</i></p> <p><i>"ANNEX</i></p> <p><i>"Programme of activities to be undertaken during the second half of the Decade for Action to Combat Racism and Racial Discrimination</i></p> <p><i>"...</i></p> <p><i>"2. Particular attention should be paid to specific measures designed to ensure the implementation of ... pertinent United Nations resolutions on racism, racial discrimination, apartheid, decolonization and self-determination ...</i></p> <p><i>"...</i></p> <p><i>"7. All States, international agencies and non-governmental organizations should intensify the campaigns organized to obtain the release of all political detainees imprisoned by the racist regimes for their brave struggle against apartheid, racism and racial discrimination and in defence of the rights of their peoples to self-determination and independence.</i></p> <p><i>"...</i></p>

\*See also G A resolutions 36/8 and 37/40.

Resolution No.	Title	Extract of provisions
		<p>"21. The United Nations Institute for Training and Research should organize an international colloquium in 1980 on the elimination of apartheid, racism and racial discrimination and the achievement of self-determination in international law, with special attention to the principles of non-discrimination and self-determination as pre-emptory norms of international law.</p> <p>"22. A study should be prepared by the Secretary-General in 1981 on the links between the struggle against racism and the struggle for self-determination in southern Africa."</p>
34/37 <sup>b</sup>	Question of Western Sahara	<p>"<i>Recalling</i> the inalienable right of all peoples to self-determination and independence in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples [second preambular paragraph]</p> <p>"...</p> <p>"1. <i>Reaffirms</i> the inalienable right of the people of Western Sahara to self-determination and independence in accordance with the Charter of the United Nations, the Charter of the Organization of African Unity and the objectives of General Assembly resolution 1514 (XV), and the legitimacy of their struggle to secure the enjoyment of that right, as envisaged in the relevant resolutions of the United Nations and the Organization of African Unity;"</p>
34/38 <sup>c</sup>	Question of Belize	<p>"<i>Reaffirming</i> the principles established in the Declaration on the Granting of Independence to Colonial Countries and Peoples, set out in its resolution 1514 (XV) of 14 December 1960, in particular that all peoples have the right to self-determination, by virtue of which right they freely determine their political status and freely pursue their economic, social and cultural development, [fifth preambular paragraph]</p> <p>"<i>Recognizing</i> the special responsibility of the United Kingdom of Great Britain and Northern Ireland, as the administering Power, to take urgent and necessary steps to enable the people of Belize to exercise freely and without fear their right to self-determination and to the firm and early independence of all of their territory, [eighth preambular paragraph]</p> <p>"<i>Noting with regret</i> the continuing failure of the parties concerned to settle their differences in a manner which will not prejudice the right of the people of Belize to self-determination, independence and territorial integrity in accordance with the relevant resolutions of the General Assembly, [ninth preambular paragraph]</p> <p>"1. <i>Reaffirms</i> the inalienable right of the people of Belize to self-determination, independence and the preservation of the inviolability and territorial integrity of Belize;</p> <p>"2. <i>Urges</i> the Government of the United Kingdom of Great Britain and Northern Ireland, acting in close consultation with the Government of Belize, and the Government of Guatemala to continue their efforts to conclude their negotiations without prejudice to the right of the people of Belize to self-determination ...;</p> <p>"3. <i>Requests</i> the Governments concerned to report to the General Assembly at its thirty-fifth session on any arrangements which have been made to enable the people of Belize to exercise freely and without fear their right to self-determination and an early and secure independence;</p> <p>"4. <i>Calls upon</i> the parties concerned to refrain from exerting any pressure or the use of threats or force against the Government and the people of Belize to prevent the full exercise of their inalienable right to self-determination, independence and territorial integrity;</p>

<sup>b</sup>See also G A resolution 35/19.

<sup>c</sup>See also G A resolution 35/20.

Resolution No.	Title	Extract of provisions
34/39 <sup>d</sup>	Question of Guam	<p>“5. <i>Urges</i> all States to respect the right of the people of Belize to self-determination, independence and territorial integrity and to render all practical assistance necessary for the secure and early exercise of that right”.</p> <p>“2. <i>Reaffirms</i> the inalienable right of the people of Guam to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples;</p> <p>“...</p> <p>“10. <i>Recalls</i> its relevant resolutions concerning military bases in colonial and Non-Self-Governing Territories, recognizes that the presence of military bases could constitute a factor impeding the implementation of the Declaration and reaffirms its strong conviction that the presence of military bases in Guam should not prevent the people of the Territory from exercising their inalienable right to self-determination and independence in accordance with the Declaration and the purposes and principles of the United Nations”.</p>
34/40	Question of East Timor	<p>“<i>Recognizing</i> the inalienable right of all peoples to self-determination and independence in accordance with the principles of the Charter of the United Nations and of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in its resolution 1514 (XV) of 14 December 1960, [second preambular paragraph]</p> <p>“...</p> <p>“1. <i>Reaffirms</i> the inalienable right of the people of East Timor to self-determination and independence, in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples;</p> <p>“2. <i>Declares</i> that the people of East Timor must be enabled freely to determine their own future, under the auspices of the United Nations”.</p>
34/41 <sup>e</sup>	Activities of foreign economic and other interests <sup>f</sup>	<p>“1. <i>Reaffirms</i> the inalienable right of the peoples of dependent Territories to self-determination and independence and to the enjoyment of the natural resources of their Territories, as well as their right to dispose of those resources in their best interests”.</p>
34/44 <sup>g</sup>	Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights	<p>“<i>Considering</i> that the activities of Israel, in particular the denial to the Palestinian people of its right to self-determination and independence, constitute a serious and increasing threat to international peace and security, [sixth preambular paragraph]</p> <p>“...</p> <p>“<i>Reaffirming</i> the importance of the universal realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperatives for the full enjoyment of all human rights, [eighth preambular paragraph]</p> <p>“...</p> <p>“<i>Reaffirming</i> the obligation of all Member States to comply with the principles of the Charter and the resolutions of the United Nations regarding the exercise of the right to self-determination by peoples under colonial and alien domination, [tenth preambular paragraph]</p> <p>“...</p>

<sup>d</sup>See also G A resolutions 35/22, 36/63, 37/21, 38/42 and 39/32.

<sup>e</sup>See also G A resolutions 35/28, 36/51, 37/31, 38/50 and 39/42.

<sup>f</sup>For the full title, see footnote 45 in the main body of the study.

<sup>g</sup>See also G A resolutions 35/35 A, 36/9, 37/43, 38/17 and 39/17.

Resolution No.	Title	Extract of provisions
		<p>"1. <i>Calls upon</i> all States to implement fully and faithfully the resolutions of the United Nations regarding the exercise of the right to self-determination by peoples under colonial and alien domination;</p> <p>"...</p> <p>"3. <i>Reaffirms</i> the inalienable right of the peoples of Namibia and Zimbabwe, of the Palestinian people and of all peoples under colonial and alien domination to self-determination, national independence, territorial integrity and national unity and sovereignty without external interference;</p> <p>"4. <i>Strongly condemns</i> all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter of the United Nations and the resolutions adopted in various international forums on the Palestinian issue, and which prevent the realization of the Palestinian people's aspiration to return to its homeland, to achieve self-determination and to exercise full sovereignty over its territories;</p> <p>"...</p> <p>"10. <i>Condemns</i> the policies of those members of the North Atlantic Treaty Organization and of other countries whose political, economic, military, nuclear, strategic, cultural and sporting relations with the racist regimes in southern Africa and elsewhere encourage those regimes to persist in their suppression of the aspirations of peoples for self-determination and independence;</p> <p>"...</p> <p>"12. <i>Strongly condemns</i> all Governments which do not recognize the right to self-determination and independence of all peoples still under colonial and foreign domination and alien subjugation, notably the peoples of Africa and the Palestinian people;</p> <p>"...</p> <p>"14. <i>Further condemns</i> the expansionist activities of Israel in the Middle East, as well as the continuous bombing of civilian Arab and, in particular, Palestinian populations and the destruction of their villages and encampments, which constitute a serious obstacle to the realization of the self-determination and independence of the Palestinian people;</p> <p>"15. <i>Urges</i> all States, competent United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its right to self-determination and independence in accordance with the Charter of the United Nations;</p> <p>"16. <i>Demands</i> the immediate and unconditional release of all persons detained or imprisoned as a result of their struggle for self-determination and independence ...;</p> <p>"...</p> <p>"19. <i>Takes note</i> of Economic and Social Council decision 1979/39 of 10 May 1979, by which the Council decided that the studies<sup>b</sup> on the historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms, and on the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination should be printed and given the widest possible distribution, including distribution in Arabic;</p>

<sup>b</sup>The two studies referred to are E/CN.4/Sub.2/404 (vols. I-III) and E/CN.4/Sub.2/405/Rev.1, published under the title *The Right to Self-Determination* (United Nations publication, Sales No. E.79.XIV.5).

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
		<p>"20. <i>Requests</i> the Secretary-General to give maximum publicity to the Declaration on the Granting of Independence to Colonial Countries and Peoples and to give the widest possible publicity to the struggle being waged by oppressed peoples for the realization of their self-determination and national independence [see also this resolution as a whole]".</p>
34/46	Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms	<p>"12. <i>Requests</i> the Secretary-General to prepare, taking into account relevant information already available within the United Nations, and to submit to the General Assembly at its thirty-sixth session a study on the nature and extent to which the realization of human rights and fundamental freedoms is affected by present international conditions, with particular reference to situations resulting from ... refusal to recognize the fundamental rights of peoples to self-determination and of every nation to the exercise of full sovereignty over its wealth and natural resources ...".</p>
34/65 B <sup>i</sup>	Question of Palestine	<p>"1. <i>Notes with concern</i> that the Camp David accords have been concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;</p> <p>"2. <i>Rejects</i> those provisions of the accords which ignore, infringe, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right of self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories occupied by Israel since 1967;</p> <p>"...</p> <p>"4. <i>Declares</i> that the Camp David accords and other agreements have no validity insofar as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967; [see also resolutions 34/65 A to D in their entirety]".</p>
	Question of Namibia <sup>j</sup>	
34/92 A	Programme of Work of the United Nations Council for Namibia	<p>"<i>Reaffirming</i> that the Territory and people of Namibia are the direct responsibility of the United Nations and that the Namibian people must be enabled to attain self-determination and independence within a united Namibia, [fourth preambular paragraph]</p> <p>"...</p> <p>"5. <i>Declares</i> that the United Nations is committed to genuine self-determination and national independence for Namibia and that all United Nations programmes for the benefit of the Namibian people will be carried out in accordance with the resolutions of the General Assembly in support of the struggle of the Namibian people under the leadership of the South West Africa People's Organization, their sole and authentic liberation movement, to achieve self-determination and national independence in Namibia".</p>
34/92 D	Nationhood Programme for Namibia	<p>"<i>Aware</i> of the decisive stage achieved in the struggle of the Namibian people for self-determination, freedom and independence under the leadership of the South West Africa People's Organization," [fifth preambular paragraph]</p>
34/92 E	United Nations Fund for Namibia	<p>"<i>Mindful</i> that, by assuming direct responsibility for Namibia, the United Nations accepted a solemn obligation to grant all possible support to the Namibian people in their struggle for self-determination, freedom and national independence in a united Namibia," [fifth preambular paragraph]</p>
34/92 G	Situation in Namibia resulting from the illegal occupation of the Territory by South Africa	<p>"<i>Reaffirming</i> that the Territory and people of Namibia are the direct responsibility of the United Nations and that the Namibian people must be enabled to attain self-determination and independence within a united Namibia, [sixth preambular paragraph]</p>

<sup>i</sup>See also G A resolution 36/120 F.

<sup>j</sup>See also G A resolutions 35/227 A, C, E, F, G and J; 36/121 A and C; 37/233 A, B and C; 38/36 A, B and C; 39/50 A, B and C.

Resolution No.	Title	Extract of provisions
		“... <p>“<i>Indignant at the ... arbitrary inhuman measures of collective punishment and measures designed to intimidate the Namibian people and to destroy their will to fulfil their legitimate aspirations for self-determination, freedom and national independence in a united Namibia, [eighth preambular paragraph]</i></p> <p>“...  <p>“<i>Strongly reiterating its support for the national liberation movement of Namibia, the South West Africa People’s Organization, the sole and authentic representative of the Namibian people in their struggle to achieve self-determination, freedom and national independence in a united Namibia, [thirteenth preambular paragraph]</i></p> <p>“...  <p>“2. <i>Reiterates that Namibia is the direct responsibility of the United Nations until genuine self-determination and national independence are achieved in the Territory ...;</i></p> <p>“...  <p>“4. <i>Reaffirms the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, including Walvis Bay, in accordance with the Charter of the United Nations ...;</i></p> <p>“...  <p>“12. <i>Supports the armed struggle of the Namibian people, led by the South West Africa People’s Organization, to achieve self-determination, freedom and national independence in a united Namibia;</i></p> <p>“...  <p>“21. <i>Strongly condemns South Africa for obstructing the implementation of Security Council resolutions 385 (1976), 435 (1978) and 439 (1978) and its manoeuvres, in contravention of those resolutions, designed to consolidate its colonial and neo-colonial interests at the expense of the legitimate aspirations of the Namibian people for genuine self-determination, freedom and national independence in a united Namibia;</i></p> <p>“...  <p>“23. <i>Calls upon the Security Council to act decisively against any dilatory manoeuvres and fraudulent schemes of the illegal occupation regime aimed at frustrating the legitimate aspirations of the Namibian people, under the leadership of the South West Africa People’s Organization, for self-determination and national liberation as well as negating the achievements of their just struggle; [see also resolutions 34/92 A to G in their entirety]</i>”.</p> </p></p></p></p></p></p>
34/93	Policies of apartheid of the Government of South Africa <sup>k</sup>	
34/93 A	Situation in South Africa	“3. <i>Reaffirms the legitimacy of the struggle of the oppressed people of South Africa and their national liberation movement — by all available and appropriate means, including armed struggle — for the seizure of power by the people, the elimination of the apartheid regime and the exercise of the right of self-determination by the people of South Africa as a whole</i> ”.

<sup>k</sup>See also G A resolution 35/206 A.

Resolution No.	Title	Extract of provisions
34/93 I	Assistance to the oppressed people of South Africa and their national liberation movement	"1. <i>Appeals</i> to all States to provide increased humanitarian, educational, economic and other forms of assistance to the oppressed people of South Africa, as well as all appropriate assistance to the national liberation movement of South Africa in its legitimate struggle for the exercise of the right of self-determination by the people of South Africa as a whole".
34/93 O	Declaration on South Africa	<p>"<i>Reaffirming</i> that all the people of South Africa, irrespective of race, colour or creed, should be enabled to exercise their right of self-determination, [tenth preambular paragraph]</p> <p>"...</p> <p>"<i>Adopts</i> the following Declaration: [twelfth preambular paragraph]</p> <p>"<i>Declaration on South Africa</i></p> <p>"...</p> <p>"3. All States shall solemnly pledge to refrain from overt or covert military intervention in support or defence of the Pretoria regime in its effort to repress the legitimate aspirations and struggle of the African people of South Africa against it in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations ..."</p>
34/94 <sup>1</sup>	Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	<p>"4. <i>Affirms once again</i> its recognition of the legitimacy of the struggle of the peoples under colonial and alien domination to exercise their right to self-determination and independence by all the necessary means at their disposal;</p> <p>"...</p> <p>"9. <i>Requests</i> all States, directly and through their action in the specialized agencies and other organizations within the United Nations system, to withhold assistance of any kind from the Government of South Africa and from the illegal racist minority regime in Southern Rhodesia until the inalienable right of the peoples of Namibia and Zimbabwe to self-determination and independence has been restored, and to refrain from taking any action which might imply recognition of the legitimacy of the domination of the Territories by those regimes [see also this resolution as a whole]".</p>
34/99 <sup>m</sup>	Development and strengthening of good-neighbourliness between States	<p>"<i>Considering</i> that the generalization of the long practice and certain norms of good-neighbourliness is likely to strengthen friendly relations and cooperation among States, in accordance with the Charter, [eighth preambular paragraph]</p> <p>"...</p> <p>"2. <i>Affirms</i> that good-neighbourliness conforms with the purposes of the United Nations and is founded upon the principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations ..."</p>
34/100 <sup>n</sup>	Implementation of the Declaration on the Strengthening of International Security	"3. <i>Further calls upon</i> all States to adhere fully to the purposes and principles of the Charter and to observe strictly, in international relations, the principles of national independence, sovereignty, territorial integrity, sovereign equality, non-intervention and non-interference in the internal or external affairs of other States, the right of all States and peoples to determine their political systems and pursue economic, social and cultural development without intimidation, hindrance or pressure ...

<sup>1</sup>See also G A resolutions 35/119, 36/68, 37/35, 38/54 and 39/91.

<sup>m</sup>See also G A resolutions 36/101, 37/117, 38/126 and 39/78.

<sup>n</sup>See also G A resolutions 35/158, 36/102, 37/118, 38/190 and 39/155.



Resolution No.	Title	Extract of provisions
		“ ... <p>“7. <i>Reaffirms again</i> the legitimacy of the struggle of peoples under colonial and alien domination or occupation to achieve self-determination and independence ...;</p> <p>“ ...  <p>“12. <i>Commends also</i> the decision of the Sixth Conference of Heads of State or Government of Non-Aligned Countries on transforming the Mediterranean into a zone of peace and cooperation and urges all States to cooperate in applying that decision on the basis of the principles of respect of each State's sovereignty and territorial integrity, the right of peoples to make their own decisions, non-intervention and non-interference in internal affairs, and equal rights”.</p> </p>
34/103	Inadmissibility of the policy of hegemonism in international relations	“6. <i>Calls upon</i> all States, in the conduct of international relations, to observe strictly the principles of the Charter of the United Nations and those regarding respect for the sovereignty, sovereign equality, national independence, unity and territorial integrity of States, non-interference in their internal affairs, non-aggression, peaceful settlement of disputes and cooperation, as well as the right of peoples under colonial and alien domination to self-determination; <p>“7. <i>Calls for</i> the withdrawal of all occupation forces back to their own territories, so as to enable the peoples of all States to determine and administer their own affairs;  <p>“8. <i>Further calls</i> for strict respect for the right of all States to determine their political and socio-economic systems and pursue their national economic, social and other policies without intimidation, hindrance or interference from outside”.</p> </p>
34/140	Drafting of an international convention against activities of mercenaries <sup>o</sup>	“ <i>Deplores</i> the increased recruitment, training, assembly, transit and use of mercenaries for the purpose of ... fighting against the national liberation movements of peoples which are struggling against colonial domination or alien occupation or racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, [sixth preambular paragraph] <p>“<i>Calling upon</i> all States to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to ensure by both administrative and legislative measures that their territory and other territories under their control, as well as their nationals, are not used ... to fight the national liberation movements of peoples which are struggling against colonial domination or alien occupation or racist regimes in the exercise of their right of self-determination, as enshrined in the Charter ... [seventh preambular paragraph]”</p>
34/145	Measures to prevent international terrorism <sup>p</sup>	“ <i>Reaffirming</i> the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements, in accordance with the purposes and principles of the Charter and the relevant resolutions of the organs of the United Nations, [fifth preambular paragraph] <p>“ ...  <p>“4. <i>Condemns</i> the continuation of repressive and terrorist acts by colonial, racist and alien regimes in denying peoples their legitimate right to self-determination and independence and other human rights and fundamental freedoms”.</p> </p>

<sup>o</sup>See footnote 10 in the main body of the study.

<sup>p</sup>For the full title, see footnote 49 in the main body of the study.

Resolution No.	Title	Extract of provisions
34/146	International Convention against the Taking of Hostages	<p>"ANNEX</p> <p><i>"International Convention against the Taking of Hostages</i></p> <p>"...</p> <p><i>"Reaffirming</i> the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, as well as in other relevant resolutions of the General Assembly, [third preambular paragraph]</p> <p>"...</p> <p><i>"Article 12</i></p> <p>"Insofar as the Geneva Conventions of 1949 for the protection of war victims or the Protocols Additional to those Conventions are applicable to a particular act of hostage-taking, and insofar as States Parties to this Convention are bound under those conventions to prosecute or hand over the hostage-taker, the present Convention shall not apply to an act of hostage-taking committed in the course of armed conflicts as defined in the Geneva Conventions of 1949 and the Protocols thereto, including armed conflicts, mentioned in article 1, paragraph 4, of Additional Protocol I of 1977, in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right to self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations."</p>
34/192	Question of Southern Rhodesia	<p><i>"Reaffirming</i> the responsibility of the United Nations in support of the struggle of the people of Southern Rhodesia for the exercise of their inalienable right to self-determination and independence, [sixth preambular paragraph]</p> <p>"...</p> <p><i>"Noting</i> that the Government of the United Kingdom has resumed its responsibility as the administering Power and is committed to decolonize Southern Rhodesia on the basis of free and democratic elections which will lead Southern Rhodesia to genuine independence accepted by the international community, [eighth preambular paragraph]</p> <p>"...</p> <p>"1. <i>Reaffirms</i> the inalienable right of the people of Zimbabwe to self-determination, freedom and independence and the legitimacy of their struggle to secure by all means at their disposal the enjoyment of that right, as set forth in the Charter of the United Nations and in conformity with the objectives of General Assembly resolution 1514 (XV);</p> <p>"2. <i>Reaffirms</i> the principle that there should be no independence before majority rule in Zimbabwe and, in this regard, takes note of the agreements reached at Lancaster House intended to bring about genuine independence on the basis of free and fair elections".</p>
ES-6/2 <sup>a</sup>	The situation in Afghanistan and its implications for international peace and security	<p><i>"Reaffirming</i> the inalienable right of all peoples to determine their own future and to choose their own form of government free from outside interference, [third preambular paragraph]</p> <p>"...</p>

<sup>a</sup>See also G A resolutions 35/37, 36/34, 37/37, 38/29 and 39/13.

Resolution No.	Title	Extract of provisions
		<p><i>"Recognizing the urgent need for immediate termination of foreign armed intervention in Afghanistan so as to enable its people to determine their own destiny without outside interference and coercion, [fifth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"4. Calls for the immediate, unconditional and total withdrawal of the foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, subversion, coercion or constraint of any kind whatsoever".</i></p>
ES-7/2	Question of Palestine	<p><i>"4. Reaffirms also the inalienable rights in Palestine of the Palestinian people, including:</i></p> <p><i>(a) The right to self-determination without external interference, and to national independence and sovereignty;</i></p> <p><i>(b) The right to establish its own independent and sovereign State [see also this resolution as a whole]".</i></p>
35/6 <sup>f</sup>	The situation in Kampuchea	<p><i>"Convinced that, to bring about durable peace and stability in South-East Asia, there is an urgent need for a comprehensive political solution to the Kampuchean problem which will ensure the sovereignty and independence of Kampuchea and the right of the Kampuchean people to determine their own future free from outside interference, [eleventh preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"2. Decides, taking into account paragraph 12 of resolution 34/22, to convene early in 1981 an international conference on Kampuchea ...</i></p> <p><i>"3. Decides further that the conference should negotiate with a view to reaching agreement on, inter alia:</i></p> <p><i>"...</i></p> <p><i>"(d) United Nations-supervised free elections in Kampuchea".</i></p>
35/25 <sup>g</sup>	Question of the Turks and Caicos Islands	<p><i>"2. Reaffirms the inalienable right of the people of the Turks and Caicos Islands to self-determination and independence in conformity with the Declaration on the Granting of Independence to Colonial Countries and Peoples;</i></p> <p><i>"...</i></p> <p><i>"4. Recognizes that the presence of military bases and other installations could constitute an impediment to the implementation of the Declaration, and reaffirms its conviction that the presence of foreign military bases and installations should not prevent the peoples of colonial and dependent Territories from exercising their right to self-determination and independence in accordance with the Declaration and the purposes and principles of the Charter of the United Nations".</i></p>
35/27 <sup>h</sup>	Question of East Timor	<p><i>"Recognizing the inalienable right of all peoples to self-determination and independence in accordance with the principles of the Charter of the United Nations and of the Declaration ...; [first preambular paragraph]</i></p> <p><i>"...</i></p>

<sup>f</sup>See also G A resolutions 36/5, 37/6, 38/3 and 39/5.

<sup>g</sup>See also G A resolutions 37/25, 38/47 and 39/37.

<sup>h</sup>See also G A resolutions 36/50 and 37/30.

Resolution No.	Title	Extract of provisions
		<p>"<i>Bearing in mind</i> that the Fifth and Sixth Conferences of Heads of State or Government of Non-Aligned Countries, held at Colombo and Havana in 1976 and 1979, respectively, reaffirmed the right of the people of East Timor to self-determination and independence, [third preambular paragraph]</p> <p>"...</p> <p>"<i>Taking into consideration</i> the recent communiqué of the Council of Ministers of Portugal, issued on 12 September 1980, in which the administering Power reaffirmed the right of the people of East Timor to self-determination, [fifth preambular paragraph]</p> <p>"...</p> <p>"2. <i>Declares</i> that the people of East Timor must be enabled freely to determine their own future within the framework of the United Nations;</p> <p>"3. <i>Welcomes</i> the diplomatic initiative taken by the Government of Portugal as a first step towards the free exercise by the people of East Timor of their right to self-determination and independence, and urges all parties directly concerned to cooperate fully with a view to creating the conditions necessary for the speedy implementation of General Assembly resolution 1514 (XV)".</p>
35/32 <sup>a</sup>	Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist regimes in southern Africa <sup>y</sup>	<p>"1. <i>Reaffirms</i> the inalienable right of the oppressed peoples of southern Africa to self-determination, independence and the enjoyment of the natural resources of their territories".</p>
35/33	Decade for Action to Combat Racism and Racial Discrimination	<p>"2. <i>Strongly condemns</i> the policies of apartheid, racism and racial discrimination practised in southern Africa, all occupied Arab territories and elsewhere, including the denial of the right of peoples to self-determination and independence;</p> <p>"...</p> <p>"4. <i>Reaffirms once again</i> its strong support for the national liberation struggle against racism, racial discrimination, apartheid, colonialism and foreign domination and for the achievement of self-determination by all available means, including armed struggle;</p> <p>"...</p> <p>"16. <i>Invites</i> all States, international bodies and non-governmental organizations to intensify the campaigns aimed at securing the release of all political prisoners held by the racist regimes because of their courageous efforts to combat apartheid, racism and racial discrimination and at defending the right of their peoples to self-determination and independence".</p>

<sup>a</sup>See also G A resolutions 37/39 and 39/15.

<sup>y</sup>See footnote 35 in the main body of the study.

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
35/35 B	Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights	<p><i>"Reaffirming</i> the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination and the speedy granting of independence to colonial countries and peoples, principles enshrined in the Charter of the United Nations ..., [first preambular paragraph]</p> <p><i>"Welcoming</i> the progressive exercise of the right of self-determination by peoples formerly under colonial and alien domination and their emergence into sovereign statehood and independence, [second preambular paragraph]</p> <p><i>"Deeply concerned</i> that the right of self-determination of a growing number of sovereign peoples and nations is being threatened or suppressed through acts of foreign military intervention or foreign occupation, [third preambular paragraph]</p> <p>...</p> <p><i>"Noting</i> the relevant resolutions regarding the violation of the right to self-determination and of other human rights of peoples as a result of military intervention and foreign aggression and occupation, adopted by the Commission on Human Rights at its thirty-sixth session, [fifth preambular paragraph]</p> <p><i>"1. Reaffirms</i> that the universal realization of the right of peoples to self-determination and the speedy granting of independence to colonial countries and peoples are a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights in various parts of the world;</p> <p><i>"2. Declares</i> its firm opposition to acts of foreign military intervention, aggression and occupation, since they result in the suppression of the right to self-determination and other human rights of peoples in various parts of the world;</p> <p>...</p> <p><i>"5. Requests</i> the Commission on Human Rights to continue to give special attention to the violation of the right of self-determination and other human rights resulting from foreign military aggression, intervention or occupation; [see also this resolution as a whole]"</p>
35/36 <sup>w</sup>	Cooperation between the United Nations and the Organization of the Islamic Conference	<p><i>"Bearing in mind</i> the numerous resolutions of the Organization of the Islamic Conference seeking to find solutions to the serious problems relating, inter alia, to international peace and security, disarmament, self-determination, decolonization, fundamental human rights and the establishment of a new international economic order, which are matters of common concern for the two organizations, [seventh preambular paragraph]</p> <p>...</p> <p><i>"1. Decides</i> to promote further the cooperation between the United Nations and the Organization of the Islamic Conference in the political, economic, social, cultural and humanitarian fields and urges the two organizations to cooperate in their common search for solutions to global problems, such as questions relating to international peace and security, disarmament, self-determination, decolonization, fundamental human rights and the establishment of a new international economic order".</p>
35/46	Declaration of the 1980s as the Second Disarmament Decade	<p>"ANNEX</p> <p><i>"Declaration of the 1980s as the Second Disarmament Decade</i></p> <p>"I. General</p> <p>...</p>

<sup>w</sup>See also G A resolutions 36/23, 37/4, 38/4 and 39/7.

Resolution No.	Title	Extract of provisions
		<p>"4. In spite of the positive and encouraging outcome of the special session devoted to disarmament, the decade of the 1980s has started with ominous signs of deterioration in the international situation. International peace and security are threatened by ... the denial of the right of self-determination of peoples and nations under colonial and alien domination ..."</p> <p>"...</p> <p>"III. Activities</p> <p>"...</p> <p>"E. Disarmament and international security</p> <p>"...</p> <p>"18. All States Members of the United Nations have, in the Final Document, reaffirmed their full commitment to the purposes of the Charter of the United Nations ... This implies a commitment on the part of all States to avoid actions likely to increase tension or create new areas of threats to international peace and security and, in their relationship with other countries, strictly to respect the sovereignty and territorial integrity of States, and the right of peoples under colonial or foreign domination to self-determination and national independence."</p>
35/48*	Drafting of an international convention against the recruitment, use, financing and training of mercenaries	<p>"<i>Bearing in mind</i> the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples, as enshrined in the Charter of the United Nations and developed in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, [first preambular paragraph]</p> <p>"...</p> <p>"<i>Recognizing</i> that the activities of mercenaries are contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impede the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination, [fourth preambular paragraph]"</p>
35/118	Plan of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	<p>"<i>Reaffirming</i> that all peoples have the right to self-determination and independence ..., [third preambular paragraph]</p> <p>"...</p> <p>"1. <i>Reaffirms</i> the inalienable right of all peoples under colonial domination to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples;</p> <p>"...</p> <p>"4. <i>Reaffirms</i> the inherent right of peoples under colonialism in all its forms and manifestations to struggle by all means at their disposal against those colonial and racist regimes which suppress their aspirations for freedom, self-determination and independence;</p> <p>"5. <i>Categorically rejects</i> any agreement, arrangement or unilateral action by colonial and racist Powers which ignores, violates, denies or conflicts with the inalienable right of peoples under colonial domination to self-determination and independence;</p> <p>"...</p>

\*See also G A resolutions 36/76, 37/109, 38/137 and 39/84.

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
		<p><i>"Annex</i></p> <p><i>"Plan of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples</i></p> <p><i>"...</i></p> <p><i>"2. Member States shall render all necessary moral and material assistance to the peoples under colonial domination in their struggles to exercise their right to self-determination and independence.</i></p> <p><i>"...</i></p> <p><i>"11. Member States shall recognize that armed conflicts in which peoples are fighting against colonial and racist domination and occupation in exercise of their right to self-determination are international armed conflicts as provided for by Additional Protocol I to the Geneva Conventions of 1949 ...</i></p> <p><i>"...</i></p> <p><i>"13. All States shall undertake measures aimed at enhancing public awareness of the need for active assistance to bring about the complete eradication of colonialism in all its forms and manifestations, including racism and apartheid, through the exercise of the right to self-determination ... [see also this resolution as a whole]"</i></p>
35/169 A <sup>y</sup>	Question of Palestine	<p><i>"2. Reaffirms that a just and lasting peace in the Middle East cannot be established without the achievement, inter alia, of a just solution of the problem of Palestine on the basis of the attainment of the inalienable rights of the Palestinian people, including the right of return and the right to self-determination, national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations and the principles of international law;</i></p> <p><i>"...</i></p> <p><i>"6. Reaffirms also the inalienable rights in Palestine of the Palestinian people, including:</i></p> <p>(a) The right to self-determination without external interference, and to national independence and sovereignty;</p> <p>(b) The right to establish its own independent sovereign State;</p> <p><i>"...</i></p> <p><i>"ANNEX</i></p> <p><i>"Recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, endorsed by the General Assembly at its thirty-first session</i></p> <p><i>"1. Basic considerations and guidelines</i></p> <p><i>"59. The question of Palestine is at the heart of the Middle East problem, and, consequently, the Committee stressed its belief that no solution in the Middle East can be envisaged which does not fully take into account the legitimate aspirations of the Palestinian people.</i></p> <p><i>"60. The legitimate and inalienable rights of the Palestinian people to return to their homes and property and to achieve self-determination, national independence and sovereignty are endorsed by the Committee in the conviction that the full implementation of these rights will contribute decisively to a comprehensive and final settlement of the Middle East crisis.</i></p>

<sup>y</sup>See also G A resolutions 35/169 B and 36/120 D.

Resolution No.	Title	Extract of provisions
		“ ... “III. Right to self-determination, national independence and sovereignty “70. The Palestinian people has the inherent right to self-determination, national independence and sovereignty in Palestine. The Committee considers that the evacuation of the territories occupied by force and in violation of the principles of the Charter and relevant resolutions of the United Nations is a <i>conditio sine qua non</i> for the exercise by the Palestinian people of its inalienable rights in Palestine. The Committee considers, furthermore, that upon the return of the Palestinians to their homes and property and without the establishment of an independent Palestinian entity, the Palestinian people will be able to exercise its rights to self-determination and to decide its form of government without external interference [see also resolutions 35/69 A to E in their entirety]”.
35/200 <sup>z</sup>	Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror	“Reaffirming the purposes and principles laid down in the Charter, which are aimed at maintaining international peace and security, developing friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples, and achieving international cooperation, [third preambular paragraph]”
35/207 <sup>aa</sup>	The situation in the Middle East	“4. Declares once more that peace in the Middle East is indivisible and that a just and lasting settlement of the Middle East problem must be based on a comprehensive solution, under the auspices of the United Nations, which ensures complete and unconditional withdrawal from all the Palestinian and other Arab territories occupied since June 1967, including Jerusalem, and enables the Palestinian people to exercise its inalienable rights, including the right of return, and the right to self-determination, national independence and the establishment of its independent State in Palestine under the leadership of the Palestine Liberation Organization, in accordance with resolutions of the United Nations relating to the question of Palestine, in particular General Assembly resolutions ES-7/2 of 29 July 1980 and 35/169 A of 15 December 1980”.
ES-8/2	Question of Namibia	“1. Reaffirms the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, in accordance with the Charter of the United Nations and General Assembly resolution 1514 (XV) of 14 December 1960, as well as the subsequent relevant resolutions and decisions of the Assembly and the Security Council; “2. Reaffirms that Namibia is the legal responsibility of the United Nations until genuine self-determination and national independence are achieved ... “3. Reaffirms its support for the South West Africa People’s Organization, the sole and authentic representative of the Namibian people, and for its armed struggle to achieve self-determination, freedom and national independence”.
36/10 <sup>bb</sup>	Universal realization of the rights of peoples to self-determination	“Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations ... , [first preambular paragraph] “Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence, [second preambular paragraph]

<sup>z</sup>See also G A resolutions 36/162, 37/179, 38/99 and 39/114.

<sup>aa</sup>See also G A resolutions 36/226 A, 37/123 F, 38/180 D and 39/146 A.

<sup>bb</sup>See also G A resolutions 37/42, 38/16 and 39/18.



Resolution No.	Title	Extract of provisions
		<p>“<i>Deeply concerned</i> at the continuation of acts or threats of foreign military intervention and occupation, which are endangering, or have already resulted in the suppression of the right to self-determination of an increasing number of sovereign peoples and nations, [third preambular paragraph]</p> <p>“...</p> <p>“<i>Recalling</i> the relevant resolutions regarding the violation of the right of peoples to self-determination and of other human rights as a result of military intervention and foreign aggression and occupation, adopted by the Commission on Human Rights at its thirty-sixth and thirty-seventh sessions, [fifth preambular paragraph]</p> <p>“...</p> <p>“1. <i>Reaffirms</i> that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;</p> <p>“2. <i>Declares</i> its firm opposition to acts of foreign military intervention, aggression or occupation, since these have resulted in the suppression of the right of peoples to self-determination and of other human rights in certain parts of the world;</p> <p>“...</p> <p>“5. <i>Requests</i> the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation”.</p>
36/46 <sup>∞</sup>	Question of Western Sahara	<p>“<i>Recalling</i> the inalienable right of all peoples to self-determination and independence in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, [second preambular paragraph]</p> <p>“...</p> <p>“<i>Taking note</i> of the decision of the Assembly of Heads of State and Government of the Organization of African Unity at its eighteenth ordinary session, held at Nairobi from 24 to 27 June 1981, to organize throughout the Territory of Western Sahara a general and free referendum of the people of Western Sahara on self-determination, [seventh preambular paragraph]</p> <p>“<i>Taking note</i> of the decision adopted by the Implementation Committee on Western Sahara of the Organization of African Unity at its first ordinary session, held at Nairobi from 24 to 26 June 1981, concerning the establishment of appropriate machinery to enable the people of Western Sahara to express themselves freely and democratically on their future, [eighth preambular paragraph]</p> <p>“...</p> <p>“1. <i>Reaffirms</i> the inalienable right of the people of Western Sahara to self-determination and independence in accordance with the Charter of the United Nations, the Charter of the Organization of African Unity and the objectives of General Assembly resolution 1514 (XV), as well as the relevant resolutions of the General Assembly and the Organization of African Unity;</p> <p>“...</p>

<sup>∞</sup>See also G A resolutions 37/28, 38/40 and 39/40.

Resolution No.	Title	Extract of provisions
		<p>"3. <i>Takes note</i> of the decision of the Assembly of Heads of State and Government of the Organization of African Unity at its eighteenth ordinary session to organize throughout the Territory of Western Sahara a general and free referendum of the people of Western Sahara on self-determination;</p> <p>"...</p> <p>"6. <i>Urges</i>, to that end, Morocco and the Frente Popular para la Liberación de Saguia el Hamra y de Río de Oro to enter into negotiations with a view to establishing an immediate ceasefire and concluding a peace agreement permitting the fair conduct of a general and free referendum on self-determination in Western Sahara;</p> <p>"7. <i>Reaffirms</i> the determination of the United Nations to cooperate fully with the Organization of African Unity in the fair and impartial organization of the referendum;</p> <p>"8. <i>Requests</i> to that end the Secretary-General to take the necessary steps to ensure that the United Nations participates in the organization and conduct of the referendum and to report to the General Assembly and the Security Council on this subject and on the measures requiring a decision by the Council".</p>
36/62	Question of Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks and Caicos Islands	<p>"2. <i>Reaffirms</i> the inalienable right of the peoples of those Territories to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples;</p> <p>"...</p> <p>"5. <i>Recognizes</i> that the presence of military bases and other installations could constitute an impediment to the implementation of the Declaration and reaffirms its conviction that the presence of foreign military bases and installations in Bermuda and the Turks and Caicos Islands should not prevent the peoples of those Territories from exercising their right to self-determination and independence in accordance with the Declaration and the purposes and principles of the Charter".</p>
36/103	Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States	<p>"<i>Conscious</i> of the imperative need for all foreign forces engaged in military occupation, intervention or interference to be completely withdrawn to their own territories, so that peoples under colonial domination, foreign occupation or racist regimes may freely and fully exercise their right to self-determination, in order to enable peoples of all States to administer their own affairs and determine their own political, economic and social systems without external interference or control, [sixth preambular paragraph]</p> <p>"<i>Conscious also</i> of the imperative need to put a complete end to any threat of aggression, any recruitment, any use of armed bands, in particular mercenaries, against sovereign States, so as to enable the peoples of all States to determine their own political, economic and social systems without external interference or control, [seventh preambular paragraph]</p> <p>"...</p> <p>"ANNEX</p> <p>"<i>Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States</i></p> <p>"...</p> <p>"<i>Bearing in mind</i> that the establishment, maintenance, and strengthening of international peace and security are founded upon freedom, equality, self-determination and independence ..., [third preambular paragraph]</p> <p>"...</p>

Resolution No.	Title	Extract of provisions
		<p>“<i>Reaffirming</i>, in accordance with the Charter, the right to self-determination and independence of peoples under colonial domination, foreign occupation or racist regimes, [fifth preambular paragraph]</p> <p>“<i>Stressing</i> that the purposes of the United Nations can be achieved only under conditions where peoples enjoy freedom ... [sixth preambular paragraph]</p> <p>“ ...</p> <p>“2. The principle of non-intervention and non-interference in the internal and external affairs of States comprehends the following rights and duties:</p> <p>“I</p> <p>“ ...</p> <p>“(b) The sovereign and inalienable right of a State freely to determine its own political, economic, cultural and social systems, to develop its international relations and to exercise permanent sovereignty over its natural resources, in accordance with the will of its people, without outside intervention, interference, subversion, coercion or threat of any form whatsoever;</p> <p>“ ...</p> <p>“II</p> <p>“ ...</p> <p>“(b) The duty of a State to ensure that its territory is not used in any manner which would violate the sovereignty, political independence, territorial integrity and national unity or disrupt the political, economic and social stability of another State; this obligation applies also to States entrusted with responsibility for Territories yet to attain self-determination and national independence;</p> <p>“ ...</p> <p>“(d) The duty of a State to refrain from any forcible action which deprives peoples under colonial domination or foreign occupation of their right to self-determination, freedom and independence;</p> <p>“ ...</p> <p>“III</p> <p>“ ...</p> <p>“(b) The right and duty of States fully to support the right to self-determination, freedom and independence of peoples under colonial domination, foreign occupation or racist regimes, as well as the right of these peoples to wage both political and armed struggle to that end, in accordance with the purposes and principles of the Charter;</p> <p>“ ...</p> <p>“(d) The right and duty of States to combat, within their constitutional prerogatives, the dissemination of false or distorted news which can be interpreted as interference in the internal affairs of other States or as being harmful to the promotion of peace, cooperation and friendly relations among States and nations;</p> <p>“ ...</p>

Resolution No.	Title	Extract of provisions
		“4. Nothing in this Declaration shall prejudice in any manner the right to self-determination, freedom and independence of peoples under colonial domination, foreign occupation or racist regimes, and the right to seek and receive support in accordance with the purposes and principles of the Charter [see also the Declaration as a whole]”.
36/105 <sup>dd</sup>	Question of the Comorian island of Mayotte	“2. <i>Invites</i> the Government of France to honour the commitments entered into prior to the referendum on the self-determination of the Comoro Archipelago of 22 December 1974 concerning respect for the unity and territorial integrity of the Comoros”.
36/109 <sup>ee</sup>	Measures to prevent international terrorism <sup>ff</sup>	“ <i>Reaffirming</i> the principle of self-determination of peoples as enshrined in the Charter of the United Nations, [fifth preambular paragraph]”  “ <i>Reaffirming</i> the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements, in accordance with the purposes and principles of the Charter and of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, [sixth preambular paragraph]”
36/172 A <sup>gg</sup>	Policies of apartheid of the Government of South Africa: situation in South Africa	“ <i>Emphasizing</i> the conclusion of the Paris Declaration that the continuing political, economic and military collaboration of certain Western States and their transnational corporations with the racist regime of South Africa encourages its persistent intransigence and defiance of the international community and constitutes a major obstacle to the elimination of the inhuman and criminal system of apartheid in South Africa and the attainment of self-determination, freedom and national independence by the people of Namibia, [twenty-second preambular paragraph]
		“...  “13. <i>Reaffirms</i> the legitimacy of the struggle of the oppressed people of South Africa and their national liberation movement by all available means, including armed struggle, for the seizure of power by the people, the elimination of the apartheid regime and the exercise of the right of self-determination by the people of South Africa as a whole;  “...  “21. <i>Reaffirms</i> the commitment of the United Nations to the total eradication of apartheid and the establishment of a democratic society in which all the people of South Africa as a whole, irrespective of race, colour, sex or creed, will enjoy equal and full human rights and fundamental freedoms and participate freely in the determination of their destiny.”
ES-7/6	Question of Palestine	“ <i>Guided</i> by the purposes and principles of the United Nations, in particular the respect for equal rights and self-determination of peoples, [third preambular paragraph]  “...  “2. <i>Calls</i> for the free exercise in Palestine of the inalienable rights of the Palestinian people to self-determination without external interference and to national independence”.

<sup>dd</sup>See also G A resolutions 37/65, 38/13 and 39/48.

<sup>ee</sup>See also G A resolution 38/130.

<sup>ff</sup>For the full title, see footnote 49 in the main body of the study.

<sup>gg</sup>See also G A resolutions 37/69 A, 38/39 A and 39/72 A.

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
37/10	Manila Declaration on the Peaceful Settlement of International Disputes	<p>"ANNEX</p> <p><i>"Manila Declaration on the Peaceful Settlement of International Disputes</i></p> <p>"...</p> <p><i>"Reaffirming the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations ..., [eighth preambular paragraph]</i></p> <p><i>"Stressing the need for all States to desist from any forcible action which deprives peoples, particularly peoples under colonial and racist regimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, [ninth preambular paragraph]</i></p> <p>"...</p> <p>"I</p> <p>"...</p> <p>"12. In order to facilitate the exercise by the peoples concerned of the right to self-determination as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the parties to a dispute may have the possibility, if they agree to do so and as appropriate, to have recourse to the relevant procedures mentioned in the present Declaration, for the peaceful settlement of the dispute.</p> <p>"...</p> <p><i>"Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration".</i></p>
37/17	Cooperation between the United Nations and the League of Arab States	<p><i>"Noting also with appreciation the commitment of the League of Arab States to the eradication of apartheid and all other forms of racial discrimination, to the elimination of colonization and to the promotion of the right of self-determination and the safeguarding of human rights and fundamental freedoms for all, [fifth preambular paragraph]"</i></p>
37/22 <sup>hh</sup>	Question of Bermuda	<p><i>"2. Reaffirms the inalienable right of the people of Bermuda to self-determination and independence in conformity with the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV);</i></p> <p>"...</p> <p><i>"8. Reaffirms its strong conviction that the administering Power must ensure that military bases and installations do not hinder the population of the Territory from exercising its right to self-determination and independence in conformity with the purposes and principles of the Charter and urges the administering Power to take all necessary measures to comply fully with the relevant resolutions of the United Nations relating to military bases and installations in colonial and Non-Self-Governing Territories".</i></p>

<sup>hh</sup>See also G A resolutions 38/43 and 39/33.

<i>Resolution No.</i>	<i>Title</i>	<i>Extract of provisions</i>
37/86 D	Question of Palestine	"4. <i>Requests</i> the Security Council to discharge its responsibilities under the Charter and recognize the inalienable rights of the Palestinian Arab people, including the right to self-determination and the right to establish its independent Arab State in Palestine".
37/86 E	Question of Palestine	"1. <i>Reaffirms</i> the inalienable legitimate rights of the Palestinian people, including the right to self-determination and the right to establish, once it so wishes, its independent State in Palestine;  "  "5. <i>Recommends</i> that, following the withdrawal of Israel from the occupied Palestinian territories, those territories should be subjected to a short transitional period under the supervision of the United Nations, during which period the Palestinian people would exercise its right to self-determination".
37/189 A	Human rights and scientific and technological developments	" <i>Reaffirming</i> the determination of the peoples of the United Nations to ... develop friendly relations among peoples ..., [first preambular paragraph]  "  " <i>Deeply concerned</i> that international peace and security continue to be threatened by the arms race, particularly the nuclear arms race, as well as by violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and self-determination of peoples, [seventh preambular paragraph]  "  "2. <i>Stresses</i> the urgent need for all possible efforts by the international community to strengthen peace ... and prevent violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and self-determination of peoples, thus contributing to assuring the right to life".
37/200	Further promotion and protection of human rights and fundamental freedoms	"3. <i>Emphasizes</i> that foreign occupation, colonialism, apartheid, racism and racial discrimination and the denial of the right to self-determination of peoples and of all universally recognized human rights are serious impediments to peace and development".
38/6 <sup>ii</sup>	Cooperation between the United Nations and the League of Arab States	" <i>Realizing</i> that the strengthening of international peace and security is directly related, inter alia, to disarmament, decolonization, self-determination and the eradication of all forms of racism and racial discrimination, [eighth preambular paragraph]  "  "5. <i>Requests</i> the secretariats of the United Nations and the League of Arab States, within their respective fields of competence, to intensify their cooperation towards the realization of the purposes and principles of the Charter of the United Nations, the strengthening of international peace and security, disarmament, decolonization, self-determination and the eradication of all forms of racism and racial discrimination".
38/7	The situation in Grenada	"5. <i>Requests</i> that free elections be organized as rapidly as possible to enable the people of Grenada to choose its government democratically".
38/10	The situation in Central America: threats to international peace and security and peace initiatives	" <i>Also reaffirming</i> the inalienable right of all peoples to decide on their own form of government and to choose their own economic, political and social system free from foreign intervention, coercion or limitation, [third preambular paragraph]

<sup>ii</sup>See also G A resolution 39/9.

Resolution No.	Title	Extract of provisions
		“... “1. <i>Reaffirms</i> the right of all the countries of the region to live in peace and to decide their own future, free from all outside interference or intervention, whatever pretext may be adduced or whatever the circumstances in which they may be committed”.
38/11 <sup>jj</sup>	Proposed new racial constitution of South Africa	“ <i>Reaffirming</i> the legitimacy of the struggle of the oppressed people of South Africa for the elimination of apartheid and for the establishment of a society in which all the people of South Africa as a whole, irrespective of race, colour or creed, will enjoy equal and full political and other rights and participate freely in the determination of their destiny, [eighth preambular paragraph] “... “4. <i>Solemnly declares</i> that only the total eradication of apartheid and the establishment of a non-racial democratic society based on majority rule, through the full and free exercise of adult suffrage by all the people in a united and non-fragmented South Africa, can lead to a just and lasting solution of the explosive situation in South Africa”.
38/14	Second Decade to Combat Racism and Racial Discrimination	“ANNEX “ <i>Programme of Action for the Second Decade to Combat Racism and Racial Discrimination</i> “A. Action to combat apartheid “... “3. The Conference further reaffirms the legitimacy of the struggle of the oppressed peoples of South Africa and Namibia and their national liberation movements for the elimination of apartheid by all available means, including armed struggle, and the special responsibility of the United Nations and the international community to provide them with moral, political and material assistance in the realization of their quest to exercise their right to self-determination. “4. The Conference reiterates the commitment of the United Nations to the total eradication of apartheid and to the establishment of a democratic society in which all people of South Africa as a whole, irrespective of race, colour, sex or creed, will enjoy equal and full human rights and fundamental freedoms and participate freely in the determination of their destiny.”
38/58 C	Question of Palestine	“3. <i>Welcomes and endorses</i> the call for convening an International Peace Conference on the Middle East in conformity with the following guidelines: “(a) The attainment by the Palestinian people of its legitimate inalienable rights, including the right to return, the right to self-determination, and the right to establish its own independent State in Palestine”.
38/113 <sup>kk</sup>	Human rights and use of scientific and technological developments	“ <i>Reaffirming</i> the determination of the peoples of the United Nations to ... maintain international peace and security and develop friendly relations among peoples ..., [first preambular paragraph] “... “ <i>Profoundly concerned</i> that international peace and security continue to be threatened by ... violations of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and self-determination of peoples, [seventh preambular paragraph] “...

<sup>jj</sup>See also G A resolution 39/2.

<sup>kk</sup>See also G A resolution 39/134.

Resolution No.	Title	Extract of provisions
		<p>"2. <i>Stresses once again</i> the urgent need for the international community to ... prevent violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and self-determination of peoples, thus contributing to ensuring the right to life".</p>
38/189 <sup>11</sup>	Strengthening of security and cooperation in the Mediterranean	<p>"1. <i>Recognizes</i>:</p> <p>"...</p> <p>"(c) The need for just and viable solutions to existing problems and crises in the area, on the basis of the provisions of the Charter and of relevant resolutions of the United Nations, the withdrawal of foreign forces of occupation and the right of peoples under colonial or foreign domination to self-determination and independence".</p>
39/159	Inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States	<p>"<i>Reaffirming</i> the obligation of all States to refrain in their international relations from the threat or use of force against ... the inalienable right of all peoples to determine their own form of government and to choose their own economic, political and social system free from outside intervention, subversion, coercion and constraint of any kind whatsoever, [first preambular paragraph]</p> <p>"<i>Expressing its profound concern</i> that State terrorism has lately been practised ever more frequently in relations between States and that military and other actions are being taken against the sovereignty and political independence of States and the self-determination of peoples, [second preambular paragraph]</p> <p>"...</p> <p>"<i>Reaffirming</i> the inalienable right of all peoples freely to determine their own destiny and the course of their development, [fourth preambular paragraph]</p> <p>"<i>Convinced</i> that the interests of maintaining peace require that relations between States, regardless of ideologies, should be based on ... permanent sovereignty of States and peoples over their natural resources, self-determination and independence of peoples under colonial domination, foreign occupation or racist regimes, [fifth preambular paragraph]</p> <p>"...</p> <p>"3. <i>Urges</i> all States to respect and strictly observe, in accordance with the Charter of the United Nations, the sovereignty and political independence of States and the right of peoples to self-determination, as well as their right freely, without outside interference and intervention, to choose their socio-political system and to pursue their political, economic, social and cultural development".</p>

<sup>11</sup>See also G A resolution 39/153.



## B. Resolutions of the Security Council

<i>Resolution No.</i>	<i>Subject</i>	<i>Extract of provisions</i>
445 (1979) <sup>mm</sup>	Question concerning the situation in Southern Rhodesia	<p><i>"Reaffirming the inalienable right of the people of Southern Rhodesia (Zimbabwe) to self-determination and independence in accordance with General Assembly resolution 1514 (XV) of 14 December 1960 and the legitimacy of their struggle to secure the enjoyment of such rights as set forth in the Charter of the United Nations, [eighth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"5. Condemns all attempts and manoeuvres by the illegal regime, including its so-called elections of April 1979, aimed at retaining and extending a racist minority rule and at preventing the accession of Zimbabwe to independence and genuine majority rule;</i></p> <p><i>"6. Declares that any elections held under the auspices of the illegal racist regime and the results thereof will be null and void and that no recognition will be accorded either by the United Nations or any Member State to any representative or organ established by that process".</i></p>
447 (1979)	Complaint by Angola against South Africa	<p><i>"Reaffirming the inalienable right of the people of Namibia to self-determination and independence in accordance with resolutions 385 (1976) and 435 (1978) and all other relevant resolutions of the United Nations, and the legitimacy of their struggle to secure the exercise of such rights as set forth in these resolutions, [ninth preambular paragraph]</i></p> <p><i>"Reaffirming also its condemnation of South Africa's continued illegal occupation of Namibia and the militarization of the Territory, through which it persists in its suppression of the legitimate aspirations of the Namibian people to self-determination and independence as well as in its armed invasions against neighbouring African States, [tenth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"4. Commends the People's Republic of Angola and other front-line States for their steadfast support of the people of Namibia in their just and legitimate struggle against the illegal occupation of their territory by South Africa and for the enjoyment of their inalienable rights to self-determination and national independence".</i></p>
455 (1979)	Complaint by Zambia	<p><i>"Convinced that these wanton acts of aggression by the illegal minority regime in Southern Rhodesia form a consistent and sustained pattern of violations aimed at destroying the economic infrastructure of the Republic of Zambia and weakening its support of the struggle of the people of Zimbabwe for freedom and national liberation, [sixth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"3. Commends the Republic of Zambia and other front-line States for their continued support of the people of Zimbabwe in their just and legitimate struggle for the attainment of freedom and independence and for their scrupulous restraint in the face of unwarranted armed provocations by the Rhodesian rebels in collusion with South African armed forces".</i></p>
463 (1980)	Question concerning the situation in Southern Rhodesia	<p><i>"Noting that the conference held at Lancaster House, in London, has produced agreement on the Constitution for a free and independent Zimbabwe providing for genuine majority rule ..., [third preambular paragraph]</i></p> <p><i>"Noting also that the Government of the United Kingdom of Great Britain and Northern Ireland, having resumed its responsibility as the administering Power, is committed to decolonizing Southern Rhodesia on the basis of free and democratic elections which will lead Southern Rhodesia to genuine independence acceptable to the international community in accordance with the objectives of General Assembly resolution 1514 (XV) of 14 December 1960, [fourth preambular paragraph]</i></p>

<sup>mm</sup>See also S C resolution 448 (1979).

Resolution No.	Subject	Extract of provisions
		“... “1. <i>Reaffirms</i> the inalienable right of the people of Zimbabwe to self-determination, freedom and independence, as enshrined in the Charter of the United Nations and in conformity with the objectives of General Assembly resolution 1514 (XV); “... “5. <i>Calls upon</i> the Government of the United Kingdom to take all necessary steps in order to ensure that eligible Zimbabwe nationals will freely participate in the forthcoming electoral process, including: “... “(e) The rescinding of all emergency measures and regulations inconsistent with the conduct of free and fair elections; “6. <i>Calls upon</i> the Government of the United Kingdom to create conditions in Southern Rhodesia which will ensure free and fair elections and thereby avert the danger of the collapse of the Lancaster House agreement”.
530 (1983)	Letter dated 5 May 1983 from the representative of Nicaragua on the Security Council addressed to the President of the Security Council	“ <i>Recalling</i> all the relevant principles of the Charter of the United Nations, particularly the obligation of States to settle disputes exclusively by peaceful means, not to resort to the threat or use of force and to respect the self-determination of peoples and the sovereign independence of all States, [fourth preambular paragraph] “... “ <i>Commending</i> the appeal of the Contadora Group of countries, Colombia, Mexico, Panama and Venezuela, in its 12 May 1983 communiqué, that the deliberations of the Council should strengthen the principles of self-determination and non-interference in the affairs of other States ... [sixth preambular paragraph] “... “1. <i>Reaffirms</i> the right of Nicaragua and of all the other countries of the area to live in peace and security, free from outside interference”.
532 (1983) <sup>nn</sup>	The situation in Namibia	“ <i>Reaffirming</i> the legal responsibility of the United Nations over Namibia and the primary responsibility of the Security Council for ensuring the implementation of its resolutions 385 (1976) and 435 (1978), including the holding of free and fair elections in Namibia under the supervision and control of the United Nations, [fourth preambular paragraph] “... “2. <i>Calls upon</i> South Africa to make a firm commitment as to its readiness to comply with Council resolution 435 (1978) for the independence of Namibia; “3. <i>Further calls upon</i> South Africa to cooperate forthwith and fully with the Secretary-General in order to expedite the implementation of resolution 435 (1978) for the early independence of Namibia; “4. <i>Decides</i> to mandate the Secretary-General to undertake consultations with the parties to the proposed ceasefire, with a view to securing the speedy implementation of resolution 435 (1978)”.

<sup>nn</sup>See also S C resolution 539 (1983).

<i>Resolution No.</i>	<i>Subject</i>	<i>Extract of provisions</i>
541 (1983)	The situation in Cyprus	<p><i>"Concerned at the declaration by the Turkish Cypriot authorities issued on 15 November 1983 which purports to create an independent State in northern Cyprus, [second preambular paragraph]</i></p> <p><i>"Considering that this declaration is incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee, [third preambular paragraph]</i></p> <p><i>"Considering, therefore, that the attempt to create a 'Turkish Republic of Northern Cyprus' is invalid, and will contribute to a worsening of the situation in Cyprus, [fourth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"1. Deplores the declaration of the Turkish Cypriot authorities of the purported secession of part of the Republic of Cyprus;</i></p> <p><i>"2. Considers the declaration referred to above as legally invalid and calls for its withdrawal".</i></p>
550 (1984)	The situation in Cyprus	<p><i>"Gravely concerned about the further secessionist acts in the occupied part of the Republic of Cyprus which are in violation of resolution 541 (1983), namely, the purported exchange of ambassadors between Turkey and the legally invalid 'Turkish Republic of Northern Cyprus' and the contemplated holding of a 'constitutional referendum' and 'elections', as well as by other actions or threats of actions aimed at further consolidating the purported independent State and the division of Cyprus, [sixth preambular paragraph]</i></p> <p><i>"...</i></p> <p><i>"1 Reaffirms its resolution 541 (1983) and calls for its urgent and effective implementation;</i></p> <p><i>"2. Condemns all secessionist actions, including the purported exchange of ambassadors between Turkey and the Turkish Cypriot leadership, declares them illegal and invalid and calls for their immediate withdrawal;</i></p> <p><i>"3. Reiterates the call upon all States not to recognize the purported State of the 'Turkish Republic of Northern Cyprus' set up by secessionist acts and calls upon them not to facilitate or in any way assist the aforesaid secessionist entity".</i></p>
554 (1984)	Question of South Africa	<p><i>"Reaffirming the legitimacy of the struggle of the oppressed people of South Africa for the elimination of apartheid and for the establishment of a society in which all people of South Africa as a whole, irrespective of race, colour, sex or creed, will enjoy equal and full political and other rights and participate freely in the determination of their destiny, [sixth preambular paragraph]</i></p> <p><i>"Firmly convinced that the so-called 'elections' to be organized by the Pretoria regime in the current month of August for the 'coloured' people and people of Asian origin and the implementation of this 'new constitution' will inevitably aggravate tension in South Africa and in southern Africa as a whole, [seventh preambular paragraph]</i></p> <p><i>"1. Declares that the so-called 'new constitution' is contrary to the principles of the Charter of the United Nations, that the results of the referendum of 2 November 1983 are of no validity whatsoever and that the enforcement of the 'new constitution' will further aggravate the already explosive situation prevailing inside apartheid South Africa;</i></p> <p><i>"2. Strongly rejects and declares as null and void the so-called 'new constitution' and the 'elections' to be organized ...;</i></p> <p><i>"...</i></p> <p><i>"4. Solemnly declares that only the total eradication of apartheid and the establishment of a non-racial, democratic society based on majority rule, through the full and free exercise of universal adult suffrage by all the people in a united and unfragmented South Africa, can lead to a just and lasting solution of the explosive situation in South Africa;</i></p>

<i>Resolution No.</i>	<i>Subject</i>	<i>Extract of provisions</i>
556 (1984)	The question of South Africa	<p>“5. <i>Urges</i> all Governments and organizations not to accord recognition to the results of the so-called ‘elections’ and to take appropriate action, in cooperation with the United Nations and the Organization of African Unity and in accordance with the present resolution, to assist the oppressed people of South Africa in their legitimate struggle for a non-racial, democratic society”.</p> <p>“<i>Reaffirming</i> the legitimacy of the struggle of the oppressed people of South Africa for the full exercise of the right to self-determination and the establishment of a non-racial democratic society in an unfragmented South Africa, [seventh preambular paragraph]</p> <p>“...</p> <p>“5. <i>Urges</i> all Governments and organizations to take appropriate action, in cooperation with the United Nations and the Organization of African Unity and in accordance with the present resolution, to assist the oppressed people of South Africa in their legitimate struggle for the full exercise of the right to self-determination;</p> <p>“6. <i>Demands</i> the immediate eradication of apartheid as the necessary step towards the full exercise of the right to self-determination in an unfragmented South Africa”.</p>

## ARTICLE 2(4)

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## ARTICLE 2(4)

### TEXT OF ARTICLE 2(4)

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles:

...

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.

### INTRODUCTORY NOTE

1. As in the four previous *Supplements*, covering the periods from 1 September 1956 to 31 August 1959,<sup>1</sup> 1 September 1959 to 31 August 1966,<sup>2</sup> 1 September 1966 to 31 December 1969<sup>3</sup> and 1 January 1970 to 31 December 1978,<sup>4</sup> Article 2(4) requires treatment in a separate study since there were a number of decisions of the Security Council and the General Assembly bearing on its provisions and giving rise to extensive constitutional discussions.

2. The general survey gives an overview of the decisions of the Security Council and the General Assembly that explicitly or implicitly referred to Article 2(4) and accords further treatment to: (a) certain decisions of both organs which referred implicitly to the provisions of Article 2(4) but were not preceded by a constitutional discussion; (b) some general legal questions considered by the General Assembly; and (c) other decisions of the General Assembly which involved a constitutional discussion very similar to that which had previously taken place in the Security Council.

3. The analytical summary of practice contains a detailed account of several decisions of the Security Council and one of the General Assembly which have a direct bearing on the interpretation and application of Article 2(4) and were preceded by an extensive constitutional discussion.

4. While the constitutional discussion in the Security Council was related to specific situations under consideration, there were five instances in the General Assembly where the consideration of an item of a general nature gave rise to constitutional discussion concerning the interpretation of Article 2(4). One of these instances, relating to the Manila Declaration on the Peaceful Settlement of International Disputes adopted by the General Assembly at

its thirty-seventh session, is considered in the analytical summary of practice.<sup>5</sup>

5. In the other four instances, the provisions of Article 2(4) were considered in general terms in connection with the items entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations"<sup>6</sup> during the thirty-fourth to thirty-ninth sessions of the General Assembly; "Drafting of an international convention against activities of mercenaries"<sup>7</sup> during the same period; "Report of the International Law Commission", particularly the consideration of the draft on responsibility of States for internationally wrongful acts, during the thirty-fifth session; and "Draft Code of Offences against the Peace and Security of Mankind",<sup>8</sup> during the thirty-sixth to thirty-ninth sessions. As the General Assembly did not make final recommendations on these matters during the period under review, the relevant proceedings are briefly reviewed in the general survey.

6. The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, which was adopted by the General Assembly during the thirty-sixth session, is also reviewed in the general survey. The discussions of the General Assembly and its First Committee that led to the adoption of the Declaration

<sup>1</sup>*Repertory, Supplement No. 2*, vol. I, pp. 69-116. For the relationship of Article 2(4) to other provisions of the Charter, see paras. 2-7.

<sup>2</sup>*Repertory, Supplement No. 3*, vol. I, pp. 132-173.

<sup>3</sup>*Repertory, Supplement No. 4*, vol. I, pp. 36-70.

<sup>4</sup>*Repertory, Supplement No. 5*, vol. I, pp. 28-48.

<sup>5</sup>For the detailed presentation and evaluation of this instance in the General Assembly, see paras. 92-96.

<sup>6</sup>For prior consideration of this item by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), paras. 32-36. For consideration during the present period under review, see paras. 27 and 28.

<sup>7</sup>This item, which was introduced by Nigeria during the thirty-fourth session, gave rise to deliberations in the Sixth Committee of the General Assembly and the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. See paras. 29 and 30.

<sup>8</sup>For prior consideration of the draft Code by the General Assembly, see *Repertory, Supplement No. 2*, under Article 2(4), para. 15. For consideration during the present period under review, see para. 32.

touched on the provisions of Article 2(4) but did not involve substantive constitutional discussion.<sup>9</sup>

7. The proceedings and constitutional discussions in the Security Council and the General Assembly relating to questions treated in the present study shed light on the meaning and scope of the terms of Article 2(4) as understood by the members of those two organs. In some instances, references to Article 2(4) were accompanied by references to other Articles of the Charter or to the provisions of other paragraphs of Articles 1 and 2, which set forth the purposes and principles of the United Nations. On occasion, the objections raised against the threat or use of force were answered by references to Article 2(7), which prohibits the United Nations from intervening in matters which are essentially within the domestic jurisdiction of any State. The threat or use of force was also frequently defended with references to Articles 51 and 53.

8. Except as described in paragraph 2 above, the general structure of this study follows that developed in the last four *Supplements* of the *Repertory*. The material in the analytical summary of practice is again organized under the broad subheadings: A. The question of the scope and limits of the phrase "threat or use of force against the territorial integrity or political independence of any State"; and C. The question of the bearing of the injunction in Article 2(4) on the right of self-defence. No material was found for inclusion under subheading B (The question of the scope and limits of the phrase "in any other manner inconsistent with the Purposes of the United Nations").

<sup>9</sup>For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), para. 31. For consideration during the present period under review, see paras. 33 and 34.

## I. GENERAL SURVEY

12. During the period under review, the Security Council adopted two resolutions, concerning a complaint by Iraq<sup>10</sup> and a complaint by Angola against South Africa,<sup>11</sup> which contained explicit references to Article 2(4) of the Charter. In addition, the Council adopted one resolution on the situation between Iran and Iraq<sup>12</sup> which explicitly invoked Article 2 as a whole and recalled that the establishment of peace and security in that region required strict adherence to the provisions of that Article. The General Assembly also adopted two resolutions, regarding the situation in Grenada<sup>13</sup> and armed Israeli aggression against the Iraqi nuclear installations,<sup>14</sup> which contained explicit references to Article 2(4).

<sup>10</sup>S C resolution 487 (1981) (preamb. para. 9).

<sup>11</sup>S C resolution 545 (1983) (preamb. para. 5).

<sup>12</sup>S C resolution 514 (1982) (preamb. para. 3).

<sup>13</sup>G A resolution 38/7 (preamb. para. 6).

<sup>14</sup>G A resolution 38/9 (preamb. para. 7). The full title of the resolution reads as follows: "Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of

9. One of the questions which arose in the proceedings of the Security Council and the General Assembly was whether the use of force in certain specific circumstances, as claimed, could be considered legitimate within the provisions of Article 2(4). The categories of such claims listed below were formulated merely in order to enable the reader to obtain an overall view of the cases related to the interpretation and application of the provisions of Article 2(4). No constitutional significance should be attached to them.

(a) The use of force by one State:

(i) Against acts of violence perpetrated from the territory of another State or for the purpose of reprisals;

(ii) For the prevention of a threat to its peace and security and/or to the regional peace and security;

(iii) For the protection of its nationals in another State;

(iv) For the recovery of its national sovereignty.

(b) The use of force pursuant to the request of a State, on the basis of Article 51 of the Charter.

(c) The use of force by, or in support of, peoples under colonial, racist or foreign domination to achieve their right to self-determination, freedom and independence.

10. Another issue which arose in the discussions concerning the interpretation and application of Article 2(4) was whether the use of force to overthrow a Government that had committed gross and massive human rights violations contravened Article 2(4).

11. In the analytical summary of practice and, where applicable, in the general survey, some indication is offered as to the instances in which those specific topics were discussed in the Security Council or in the General Assembly and its committees.

13. Several resolutions of the Security Council,<sup>15</sup> without referring explicitly to Article 2(4), cited the text of that provision in the preambular parts. Similarly, the General Assembly adopted a number of resolutions quoting the text<sup>16</sup>

nuclear energy, the non-proliferation of nuclear weapons and international peace and security".

<sup>15</sup>S C resolutions 457 (1979) (preamb. para. 6): Letter dated 25 November 1979 from the Secretary-General to the President of the Security Council; 461 (1979) (preamb. para. 9): Letter dated 22 December 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council; 479 (1980) (preamb. para. 3): The situation between Iran and Iraq; 496 (1981) (preamb. para. 3): Complaint by Seychelles; 527 (1982) (preamb. para. 3): Complaint by Lesotho against South Africa; 552 (1984) (preamb. para. 4): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council.

<sup>16</sup>G A resolutions ES-6/2 (preamb. para. 4), 35/37 (preamb. para. 3), 36/34 (preamb. para. 3), 37/37 (preamb. para. 3), 38/29 (preamb. para. 3), 39/13 (preamb. para. 3): The situation in Afghanistan and its implications for international peace and security; 36/103, annex (preamb. para. 2): Declaration on the Inadmissibility of Intervention



of Article 2(4) or the basic principle<sup>17</sup> enshrined in that provision without referring to it explicitly.

14. During the period under review, both the Security Council and the General Assembly adopted numerous resolutions which contained what might be considered implicit references to Article 2(4). In several resolutions, adopted by both organs, they condemned, deplored, or expressed concern about acts of aggression or armed intervention.<sup>18</sup> A number of resolutions contained calls for a

and Interference in the Internal Affairs of States; 37/10, annex (preamb. para. 4): Manila Declaration on the Peaceful Settlement of International Disputes; 37/119 (preamb. para. 2), 38/191 (preamb. para. 3): Implementation of the collective security provisions of the Charter of the United Nations for the maintenance of international peace and security; 38/10 (preamb. para. 2): The situation in Central America: threats to international peace and security and peace initiatives; 39/159 (preamb. para. 1): Inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States.

<sup>17</sup>G A resolutions 34/13 (preamb. para. 6), 35/50 (preamb. para. 7), 36/31 (preamb. para. 7), 37/105 (preamb. para. 7), 38/133 (preamb. para. 8), 39/181 (preamb. para. 7): Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations; 34/22 (preamb. para. 9), 35/6 (preamb. para. 13), 36/5 (preamb. para. 14), 37/6 (preamb. para. 14), 38/3 (preamb. para. 14), 39/5 (preamb. para. 14): The situation in Kampuchea; 34/84 (preamb. para. 2), 35/154 (preamb. para. 2), 36/94 (preamb. para. 2), 37/80 (preamb. para. 2), 38/67 (preamb. para. 2), 39/57 (preamb. para. 2): Conclusion of an international convention on the strengthening of the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/85 (preamb. para. 5), 35/155 (preamb. para. 5), 36/95 (preamb. para. 5), 37/81 (preamb. para. 5), 38/68 (preamb. para. 5), 39/58 (preamb. para. 5): Conclusion of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/100 (preamb. para. 4, paras. 3, 4 and 5), 35/158 (preamb. para. 4, paras. 4 and 5), 36/102 (preamb. para. 3, para. 14), 37/118 (para. 15) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 37/9 (preamb. para. 7), 38/12 (preamb. para. 10), 39/6 (preamb. para. 3): Question of the Falkland Islands (Malvinas); 37/18 (preamb. para. 6): Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security; 38/189 (para. 1(c)), 39/153 (para. 1(c)): Strengthening of security and cooperation in the Mediterranean region; 39/11, annex (para. 3): Declaration on the Right of Peoples to Peace.

<sup>18</sup>S C resolutions 445 (1979) (preamb. para. 5, para. 1): Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 6, para. 1), 454 (1979) (preamb. para. 4, para. 1), 475 (1980) (preamb. para. 4, para. 1), 546 (1984) (preamb. para. 3, para. 1): Complaint by Angola against South Africa; 455 (1979) (preamb. para. 3, para. 1): Complaint by Zambia; 466 (1980) (preamb. para. 3): Complaint by Zambia against South Africa; 459 (1979) (preamb. para. 4), 467 (1980) (para. 2(b) and (c)), 517 (1982) (preamb. para. 1), 518 (1982) (preamb. para. 2), 520 (1982) (para. 2): The situation in the Middle East; 487 (1981) (para. 1): Complaint by Iraq; 496 (1981) (para. 2), 507 (1982) (preamb. para. 4, para. 2): Complaint by Seychelles; 502 (1982) (preamb. para. 2): Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 527 (1982) (preamb. paras. 4 and 6, para. 1), 535 (1983) (preamb. para. 3): Complaint by Lesotho against South Africa; 552 (1984) (preamb. para. 6): Letter dated 21 May 1984 from the

ceasefire,<sup>19</sup> for a refrain from the threat or use of force,<sup>20</sup> for

representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council; G A resolutions 34/22 (preamb. para. 2), 35/6 (preamb. paras. 3 and 4), 36/5 (preamb. para. 6), 37/6 (preamb. para. 5), 38/3 (preamb. para. 5), 39/5 (preamb. para. 5): The situation in Kampuchea; 34/92 G (preamb. para. 18, para. 16), 35/227 A (preamb. para. 19, para. 21) and J (para. 9), ES-8/2 (para. 5), 36/121 A (preamb. para. 16, paras. 12 and 16), 37/223 A (preamb. para. 17, paras. 18 and 19), 38/36 A (preamb. para. 19, paras. 29, 30 and 31), 39/50 A (preamb. paras. 17 and 18, paras. 40, 42 and 43): Question of Namibia; 34/93 O (preamb. para. 5), 35/206 A (para. 3), 36/172 A (para. 2) and C (preamb. para. 3, para. 1), 37/69 A (para. 2), 38/39 A (para. 10) and C (preamb. paras. 2 and 6, paras. 1 and 5), 39/72 A (preamb. para. 5, para. 3) and G (para. 3): Policies of apartheid of the Government of South Africa; 34/103 (paras. 3, 4 and 5): Inadmissibility of the policy of hegemonism in international relations; 34/192 (para. 5): Question of Southern Rhodesia; ES-6/2 (para. 2), 35/37 (preamb. para. 5), 36/34 (preamb. para. 5), 37/37 (preamb. para. 5), 38/29 (preamb. para. 5), 39/13 (preamb. para. 5): The situation in Afghanistan and its implications for international peace and security; 35/33 (preamb. para. 5, para. 3), 36/8 (preamb. para. 6, para. 5), 37/40 (para. 5), 38/14, annex (para. 9) concerning racism and racial discrimination; 35/207 (para. 7), 36/226 A (paras. 7 and 9), 37/123 F (para. 7), 38/180 D (para. 8), 39/146 A (para. 8): The situation in the Middle East; 36/9 (preamb. para. 6, paras. 7, 8 and 19), 37/43 (preamb. para. 6, paras. 7, 10 and 22), 38/17 (preamb. para. 15, paras. 9, 11, 13, 16 and 30), 39/17 (preamb. para. 16, paras. 10 and 16): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 36/27 (preamb. para. 2, para. 1), 37/18 (para. 2): Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security; 36/86 A (preamb. para. 10), 37/74 B (preamb. para. 8), 38/181 B (preamb. para. 8), 39/61 B (preamb. para. 8): Implementation of the Declaration on the Denuclearization of South Africa; ES-7/5 (preamb. para. 3), ES-7/6 (preamb. para. 6), ES-7/7 (preamb. para. 2): Question of Palestine; 37/101 (preamb. para. 2, para. 1): Invasion of Lesotho by South Africa; 38/7 (preamb. para. 7, para. 1): The situation in Grenada; 38/10 (preamb. paras. 5, 7, 8 and 9, para. 3): The situation in Central America: threats to international peace and security and peace initiatives; 38/181 B (preamb. para. 8), 39/61 B (preamb. para. 8): Implementation of the Declaration on the Denuclearization of Africa; 39/2 (para. 4): Situation in South Africa.

<sup>19</sup>S C resolutions 498 (1981) (para. 4), 516 (1982) (para. 1), 517 (1982) (para. 2), 542 (1983) (para. 3): The situation in the Middle East; 505 (1982) (para. 4): Question concerning the situation in the Falkland Islands (Islas Malvinas); 514 (1982) (para. 1), 522 (1982) (para. 1): The situation between Iran and Iraq; G A resolutions 36/46 (para. 5), 37/28 (para. 4), 38/40 (para. 1), 39/40 (para. 3): Question of Western Sahara; 37/3 (para. 2): Consequences of the prolongation of the armed conflict between Iran and Iraq.

<sup>20</sup>S C resolutions 530 (1983) (preamb. para. 4): Letter dated 5 May 1983 from the representative of Nicaragua on the Security Council addressed to the President of the Security Council; 542 (1983) (para. 4): The situation in the Middle East; G A resolutions 34/38 (para. 4), 35/20 (para. 4): Question of Belize; 34/88 (II, para. b): Declaration on International Cooperation for Disarmament; 36/25 (para. 7): Report of the International Atomic Energy Agency; 36/102 (para. 3(a)), 37/118 (para. 2(a)), 38/190 (para. 6(a)), 39/155 (para. 2(a)) concerning the implementation of the Declaration on the Strengthening of International Security and its review.

the withdrawal of troops from foreign territory<sup>21</sup> or for the cessation of hostilities or armed attacks.<sup>22</sup> In addition, some resolutions<sup>23</sup> contained a paraphrase of the basic provision in Article 2(4), that is, the prohibition of the threat or use of force.<sup>24</sup> The Security Council<sup>25</sup> and the General Assembly<sup>26</sup>

<sup>21</sup>S C resolutions 454 (1979) (para. 2), 475 (1980) (para. 3), 545 (1983) (para. 3), 546 (1984) (para. 3): Complaint by Angola against South Africa; 466 (1980) (para. 2): Complaint by Zambia against South Africa; 502 (1982) (para. 2): Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 509 (1982) (para. 1), 517 (1982) (paras. 2 and 4), 520 (1982) (para. 3): The situation in the Middle East; 514 (1982) (para. 2), 522 (1982) (para. 2): The situation between Iran and Iraq; G A resolutions 34/22 (para. 7), 35/6 (para. 3(a)), 36/5 (para. 2), 37/6 (para. 2), 38/3 (para. 2), 39/5 (para. 2): The situation in Kampuchea; 34/30 (para. 5), 37/253 (para. 8): Question of Cyprus; 34/103 (para. 7): Inadmissibility of the policy of hegemonism in international relations; 34/192 (para. 7): Question of Southern Rhodesia; ES-6/2 (para. 4), 35/37 (para. 3), 36/34 (para. 3), 37/37 (para. 3), 38/29 (para. 3): The situation in Afghanistan and its implications for international peace and security; 36/172 C (para. 3), 37/69 A (para. 7), 38/39 C (para. 2), 39/72 A (para. 7) and G (para. 4(e)): Policies of apartheid of the Government of South Africa; 37/3 (para. 2): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/7 (para. 4): The situation in Grenada; 38/181 B (preamb. para. 9), 39/61 B (preamb. para. 9): Implementation of the Declaration on the Denuclearization of Africa.

<sup>22</sup>S C resolutions 450 (1979) (para. 2), 490 (1981) (preamb. para. 1, para. 1), 508 (1982) (para. 1), 509 (1982) (para. 2), 516 (1982) (para. 1), 518 (1982) (para. 1): The situation in the Middle East; 447 (1979) (para. 3), 454 (1979) (para. 2), 546 (1984) (para. 3): Complaint by Angola against South Africa; 502 (1982) (para. 1): Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 505 (1982) (para. 3): Question concerning the situation in the Falkland Islands (Islas Malvinas); 540 (1983) (paras. 2 and 3): The situation between Iran and Iraq; 552 (1984) (para. 5): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council; G A resolution 34/22 (para. 6): The situation in Kampuchea; 36/27 (para. 2): Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security.

<sup>23</sup>S C resolutions 454 (1979) (para. 4): Complaint by Angola against South Africa; 455 (1979) (para. 4): Complaint by Zambia; 473 (1980) (para. 9): The question of South Africa; 487 (1981) (para. 2): Complaint by Iraq; 512 (1982) (para. 1): The situation in the Middle East; 527 (1982) (para. 7): Complaint by Lesotho against South Africa; G A resolutions 34/22 (para. 7): The situation in Kampuchea; 34/103: Inadmissibility of the policy of hegemonism in international relations; 34/145 (para. 7), 38/130 (para. 4) concerning measures to prevent international terrorism; 36/102 (para. 3(a)), 37/118 (paras. 2(a) and 5), 38/190 (paras. 6(a) and 7), 39/155 (paras. 2(a) and 4) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 38/10 (para. 4): The situation in Central America: threats to international peace and security and peace initiatives; 39/159 (para. 2): Inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States.

<sup>24</sup>The paraphrases of the principle included formulations such as

also condemned acts of violence against civilian populations and deplored the loss of life resulting from such acts.

15. In a number of other cases that could be considered to have a bearing on the provisions of Article 2(4), the General Assembly condemned acts of violence against diplomatic and consular missions and urged States to ensure their protection,<sup>27</sup> called upon States to suspend any type of military assistance to Governments accused of human rights violations<sup>28</sup> and declared that the continued occupation of a territory constituted aggression under the provisions of Article 39 of the Charter and General Assembly resolution 3314 (XXIX) on the Definition of Aggression.<sup>29</sup>

16. Throughout the period under review, the Security Council<sup>30</sup>

to refrain from "military, political, economic or other forms of coercion" or to desist from "terrorist attacks".

<sup>25</sup>S C resolutions 447 (1979) (preamb. para. 8), 454 (1979) (preamb. para. 6), 475 (1980) (preamb. para. 6), 545 (1983) (preamb. para. 3), 546 (1984) (preamb. para. 4): Complaint by Angola against South Africa; 455 (1979) (preamb. para. 5): Complaint by Zambia; 466 (1980) (preamb. para. 5): Complaint by Zambia against South Africa; 450 (1979) (para. 1), 513 (1982) (para. 1), 520 (1982) (para. 5), 521 (1982) (preamb. para. 1, paras. 1 and 2), 542 (1983) (preamb. para. 3, para. 1): The situation in the Middle East; 507 (1982) (preamb. para. 3): Complaint by Seychelles; 514 (1982) (preamb. para. 2), 522 (1982) (preamb. para. 2), 540 (1983) (preamb. para. 5): The situation between Iran and Iraq; 527 (1982) (preamb. para. 7): Complaint by Lesotho against South Africa.

<sup>26</sup>G A resolutions 34/44 (para. 14), 35/35 A (para. 12), 36/9 (para. 18), 37/43 (paras. 20 and 21), 38/17 (para. 30), 39/17 (para. 28): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 35/207 (para. 7), 36/226 A (para. 7), 37/123 D (para. 1): The situation in the Middle East; ES-7/8 (preamb. para. 2), ES-7/9 (preamb. para. 4, para. 1): Question of Palestine; 37/101 (preamb. para. 3): Invasion of Lesotho by South Africa; 38/7 (para. 2): The situation in Grenada; 38/10 (para. 3(b)): The situation in Central America: threats to international peace and security and peace initiatives.

<sup>27</sup>G A resolutions 35/168 (paras. 2 and 4), 36/33 (paras. 2 and 3), 37/108 (paras. 2 and 3), 38/136 (paras. 2 and 4), 39/83 (paras. 2 and 4): Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives; 34/148 (paras. 2 and 3), 35/165 (para. 2), 36/115 (para. 2), 37/113 (paras. 2 and 3), 38/140 (paras. 2 and 3), 39/87 (paras. 2 and 3): Report of the Committee on Relations with the Host Country.

<sup>28</sup>G A resolutions 35/192 (para. 5), 36/155 (para. 5), 37/185 (para. 8), 38/101 (para. 7), 39/119 (para. 6): Situation of human rights and fundamental freedoms in El Salvador; 37/184 (para. 5), 38/100 (para. 8), 39/120 (para. 11): Situation of human rights and fundamental freedoms in Guatemala.

<sup>29</sup>G A resolutions ES-9/1 (para. 1): The situation in the occupied Arab territories; 37/123 A (para. 2), 38/180 A (para. 2), 39/146 B (para. 2): The situation in the Middle East.

<sup>30</sup>S C resolutions 444 (1979) (preamb. para. 8), 450 (1979) (preamb. para. 5), 459 (1979) (preamb. para. 7), 467 (1980) (para. 2(a)), 474 (1980) (preamb. para. 5), 483 (1980) (preamb. para. 5), 488 (1981) (para. 1), 490 (1981) (para. 2), 498 (1981) (para. 2), 508 (1982) (preamb. para. 4), 509 (1982) (preamb. para. 3), 520 (1982) (para. 4), 536 (1983) (preamb. para. 4), 538 (1983) (preamb. para. 4), 542 (1983) (para. 2), 549 (1984) (para. 2), 555 (1984) (para. 2):

and the General Assembly<sup>31</sup> adopted a large number of resolutions which contained implicit references to Article

The situation in the Middle East; 445 (1979) (para. 1): Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 6, paras. 1 and 3), 454 (1979) (preamb. para. 4, para. 3), 475 (1980) (preamb. para. 4, paras. 1 and 3), 545 (1983) (paras. 1, 3 and 5), 546 (1984) (preamb. para. 3, paras. 1 and 3): Complaint by Angola against South Africa; 455 (1979) (preamb. para. 3, para. 1): Complaint by Zambia; 466 (1980) (preamb. para. 3, paras. 1 and 2): Complaint by Zambia against South Africa; 496 (1981) (para. 1), 507 (1982) (preamb. para. 2, para. 5): Complaint by Seychelles; 514 (1982) (para. 4), 540 (1983) (para. 3): The situation between Iran and Iraq; 527 (1982) (preamb. para. 4, para. 1), 535 (1983) (preamb. para. 3): Complaint by Lesotho against South Africa; 541 (1983) (paras. 1 and 6), 550 (1984) (preamb. para. 6, paras. 2 and 4): The situation in Cyprus; 552 (1984) (para. 3): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council.

<sup>31</sup>G A resolutions 34/22 (para. 9), 35/6 (preamb. paras. 4 and 13, para. 3f), 36/5 (preamb. para. 14, para. 2), 37/6 (preamb. para. 14, para. 2), 38/14 (preamb. para. 14, para. 2), 39/5 (preamb. para. 14, para. 2): The situation in Kampuchea; 34/30 (paras. 1 and 3), 37/253 (paras. 1, 2 and 14): Question of Cyprus; 34/44 (preamb. para. 12), 35/35 A (preamb. para. 12), 36/9 (preamb. para. 15), 37/43 (preamb. para. 16), 38/17 (preamb. para. 18), 39/17 (preamb. para. 20): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 34/69 (preamb. para. 4, para. 1), 35/43 (preamb. para. 5, para. 1), 36/105 (preamb. para. 5, paras. 1 and 2), 37/65 (preamb. para. 5, paras. 1 and 2), 38/13 (preamb. para. 5, paras. 1 and 2), 39/48 (preamb. para. 5, paras. 1 and 2): Question of the Comorian island of Mayotte; 34/85 (preamb. para. 7), 35/155 (preamb. para. 7), 36/95 (preamb. para. 7), 37/81 (preamb. para. 7), 38/68 (preamb. para. 7), 39/58 (preamb. para. 7): Conclusion of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/91 (paras. 1 and 4): Question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India; 34/100 (paras. 3, 4 and 12), 35/158 (paras. 2 and 11), 36/102 (paras. 3(a) and 14), 37/118 (para. 15), 38/190 (preamb. para. 6(a) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 34/103 (preamb. paras. 1 and 2, para. 6): Inadmissibility of the policy of hegemonism in international relations; 34/146, annex (article 14): International Convention against the Taking of Hostages; ES-6/2 (paras. 1 and 3), 35/37 (para. 1), 36/34 (para. 1), 37/37 (para. 1), 38/29 (para. 1), 39/13 (para. 1): The situation in Afghanistan and its implications for international peace and security; 35/48 (preamb. paras. 1 and 4), 36/76 (preamb. paras. 1 and 5), 37/109 (preamb. paras. 1 and 5), 38/137 (preamb. paras. 1 and 5), 39/84 (preamb. paras. 1 and 5) concerning the drafting of an international convention against the recruitment, use, financing and training of mercenaries and the report of the Ad Hoc Committee on the subject; 35/207 (para. 8), 36/226 A (para. 10), 37/123 E (para. 1): The situation in the Middle East; ES-7/5 (para. 2), ES-7/9 (para. 4): Question of Palestine; 36/172 C (para. 3), 37/69 A (para. 7), 38/39 C (para. 2), 39/72 A (para. 7): Policies of apartheid of the Government of South Africa; 37/3 (preamb. para. 3): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/7 (paras. 1 and 3): The situation in Grenada; 38/10 (paras. 2 and 3): The situation in Central America: threats to international peace and security and peace initiatives; 38/83 I (preamb. para. 7), 39/99 I (preamb. para. 8): United Nations Relief and Works Agency for Palestine Refugees in the Near East; 38/181 B (preamb. para. 9), 39/61 B (preamb. para. 9): Implementation of the Declaration on the Denuclearization

2(4) in that they affirmed the principle of territorial integrity and political independence of States or deplored their violation and asked that they be fully respected. The Council<sup>32</sup> and the Assembly,<sup>33</sup> also by reference to Article 2(4), reaffirmed the inadmissibility of territorial acquisition through the use of force.

17. Both organs affirmed in a number of resolutions<sup>34</sup> the legitimacy of the struggle of peoples under colonial, racist or

of Africa; 38/189 (para. 1(b), 39/153 (para. 1(b)): Strengthening of security and cooperation in the Mediterranean region.

<sup>32</sup>S C resolutions 476 (1980) (preamb. para. 2), 478 (1980) (preamb. para. 2), 497 (1981) (preamb. para. 2): The situation in the Middle East.

<sup>33</sup>G A resolutions 34/30 (preamb. para. 3), 37/253 (preamb. para. 4): Question of Cyprus; 34/70 (preamb. para. 6), 35/207 (preamb. para. 4), 36/226 A (preamb. para. 6), B (preamb. para. 2), 37/123 A (preamb. para. 6) and F (preamb. para. 8), 38/180 A (preamb. para. 6) and D (preamb. para. 8), 39/146 A (preamb. para. 8) and B (preamb. para. 6): The situation in the Middle East; 34/90 A (para. 5(a) and (d)), 35/122 C (para. 5(a) and (d)) and E (preamb. para. 4), 36/147 C (preamb. para. 7(a) and (d)) and E (preamb. para. 5), 37/88 C (para. 7(a) and (e)) and E (preamb. para. 5), 38/79 D (para. 7(a) and (e)) and F (preamb. para. 5), 39/95 D (para. 7(a) and (f)) and F (preamb. para. 6): Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories; ES-7/2 (para. 6), 35/169 A (para. 8), annex (I, para. 62) and E (preamb. para. 3), 36/120 D (preamb. para. 5) and E (preamb. para. 3), ES-7/4 (para. 2), ES-7/5 (para. 1), ES-7/6 (para. 1), ES-7/9 (para. 5), 37/86 D (preamb. para. 2) and E (para. 3), 38/58 C (para. 3(c)): Question of Palestine; ES-9/1 (preamb. para. 8): The situation in the occupied Arab territories; 37/3 (preamb. para. 3): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/189 (para. 1(b)), 39/153 (para. 1(b)): Strengthening of security and cooperation in the Mediterranean region.

<sup>34</sup>S C resolutions 445 (1979) (preamb. para. 8), 448 (1979) (preamb. para. 7): Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 9): Complaint by Angola against South Africa; 473 (1980) (preamb. para. 7, para. 4), 554 (1984) (preamb. para. 6), 556 (1984) (preamb. para. 7): The question of South Africa; G A resolutions 34/24 (para. 3), 35/33 (para. 4), 36/8 (para. 3), 37/40 (para. 3), 38/14, annex (A, para. 3), 39/16 (para. 2) concerning racism and racial discrimination; 34/37 (para. 1), 35/19 (para. 1): Question of Western Sahara; 34/44 (para. 2), 35/35 A (para. 2), 36/9 (para. 2), 37/43 (para. 2), 38/17 (para. 2), 39/17 (para. 2): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 34/88 (IV, para. 2): Declaration on International Cooperation for Disarmament; 34/92 G (preamb. para. 14, paras. 4 and 12), 35/227 A (preamb. para. 14, paras. 3 and 5), ES-8/2 (paras. 3 and 6), 36/121 A (preamb. para. 12, paras. 3 and 7), 37/233 A (preamb. para. 10, paras. 3 and 7), 38/36 A (preamb. para. 12, paras. 4 and 10), 39/50 A (preamb. para. 12, paras. 5 and 10): Question of Namibia; 34/93 A (para. 3), I (preamb. para. 2) and O (paras. 1 and 2), 35/206 A (para. 1), 36/172 A (para. 13) and J (preamb. para. 7), 37/69 A (para. 16), 38/39 A (para. 4), 39/72 A (preamb. paras. 9, 19 and 20) and G (para. 10): Policies of apartheid of the Government of South Africa; 34/94 (para. 4), 35/119 (para. 4), 36/68 (para. 4), 37/35 (para. 4), 38/54 (para. 4), 39/91 (para. 4) concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and 35/118 (para. 4) concerning its Plan of Action; 34/100 (para. 7), 35/158 (para. 8), 36/102 (para. 10), 37/118 (para. 11), 38/190 (para. 10), 39/155 (para. 12) concerning the implementation of the Declaration on the Strengthening of

foreign domination to achieve their right to self-determination, freedom and independence. In one instance, the General Assembly adopted resolutions<sup>35</sup> calling, among other things, for increased and sustained support as well as military assistance to enable a liberation movement to intensify its struggle. Both organs also supported the right of certain States to defend their territorial integrity against aggression and called for assistance in that regard.<sup>36</sup>

18. During the period under review, the Security Council also considered several draft resolutions which contained explicit<sup>37</sup> or implicit<sup>38</sup> references to Article 2(4) but failed of adoption.

19. Most of the decisions of the Security Council and the General Assembly which contain explicit or implicit

International Security and its review; 34/145 (preamb. para. 5), 36/109 (preamb. para. 6), 38/130 (preamb. para. 6) concerning measures to prevent international terrorism; 34/192 (para. 1): Question of Southern Rhodesia; 38/11 (preamb. para. 8): Proposed new racial constitution of South Africa. In several of the resolutions mentioned above, the General Assembly also expressed its support for the struggle of such peoples by "all means", including armed struggle.

<sup>35</sup>G A resolutions 34/92 G (para. 13), 35/227 A (para. 6) and J (para. 7), ES-8/2 (para. 6), 36/121 A (para. 9), 37/233 A (para. 16), 38/36 A (para. 22), 39/50 (para. 29): Question of Namibia.

<sup>36</sup>S C resolutions 445 (1979) (para. 3): Question concerning the situation in Southern Rhodesia; 447 (1979) (para. 5), 454 (1979) (para. 5), 475 (1980) (para. 5), 546 (1984) (paras. 5 and 6): Complaint by Angola against South Africa; 507 (1982) (para. 3): Complaint by Seychelles; 38/39 C (paras. 3 and 7): Policies of apartheid of the Government of South Africa; G A resolutions ES-8/2 (para. 7), 36/121 A (para. 28), 37/233 (para. 20), 38/36 A (para. 35), 39/50 A (para. 24): Question of Namibia.

<sup>37</sup>S C (37), Suppl. for April-June 1982, S/14941, in connection with the letter dated 19 March 1982 from the representative of Nicaragua; S C (38), Suppl. for Oct.-Dec. 1983, S/16077/Rev.1, in connection with the situation in Grenada.

<sup>38</sup>S C (34), Suppl. for Jan.-March 1979, S/13027, in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea; S C (34), Suppl. for Jan.-March 1979, S/13162, in connection with the situation in South-East Asia and its implications for international peace and security; S C (35), Suppl. for Jan.-March 1980, S/13729, in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan; S C (35), Suppl. for Jan.-March 1980, S/13735, in connection with the letter dated 25 November 1979 from the Secretary-General; S C (35), Suppl. for April-June 1980, S/13911, in connection with the question of the exercise by the Palestinian people of its inalienable rights; S C (36), Suppl. for April-June 1981, S/14459, S/14460/Rev.1 and S/14462, in connection with the situation in Namibia; S C (36), Suppl. for July-Sept. 1981, S/14664/Rev.2, in connection with the complaint by Angola against South Africa; S C (37), Suppl. for Jan.-March 1982, S/14832/Rev.1, in connection with the situation in the Middle East; S C (37), Suppl. for April-June 1982, S/15156/Rev.2, in connection with the question concerning the situation in the region of the Falkland Islands (Islas Malvinas); S C (38), Suppl. for July-Sept. 1983, S/15185 and S/15255/Rev.2, S C (39), Suppl. for Jan.-March 1984, S/16351/Rev.2, and S C (39), Suppl. for July-Sept. 1984, S/16732, in connection with the situation in the Middle East including the occupied Arab territories; S C (38), Suppl. for July-Sept. 1983, S/15966/Rev.1, in connection with the Korean airliner incident; S C (39), Suppl. for April-June 1984, S/16463, in connection with the letter dated 3 February 1984 from the representative of Nicaragua.

references to Article 2(4), as listed above, did not give rise to a constitutional discussion regarding its interpretation and application. The decisions which involved relevant and extensive constitutional discussions have been included in the analytical summary of practice.

20. A number of other resolutions or draft resolutions also merit special attention. During the period under review, the Security Council considered three questions<sup>39</sup> of a political nature that have a bearing on Article 2(4). Similarly, the General Assembly considered two questions<sup>40</sup> that brought out significant aspects of the principle of non-use of force.

21. At the 2178th meeting of the Security Council, during the consideration of the detention of United States diplomatic personnel in Tehran under the agenda item entitled "Letter dated 25 November 1979 from the Secretary-General addressed to the President of the Council", the Council unanimously adopted resolution 457 (1979)<sup>41</sup> in which, *inter alia*, it cited the basic principle of Article 2(4) in full; reaffirmed the solemn obligation of all States parties to both the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963 to respect the inviolability of diplomatic personnel and premises of their missions; urgently called upon the Government of the Islamic Republic of Iran to release immediately the personnel of the Embassy of the United States of America being held at Tehran, to provide them with protection and to allow them to leave the country; and called upon the Governments of the Islamic Republic of Iran and the United States of America to resolve the remaining issues between them peacefully and to their mutual satisfaction in accordance with the purposes and principles of the Charter. During the Council's deliberations,<sup>42</sup> a number of Charter principles were invoked, particularly the principle of the peaceful settlement of disputes and the prohibition of the threat or use of force under Article 2(4).

22. At the 2347th meeting of the Security Council, a draft resolution<sup>43</sup> submitted on the situation in Central America under the agenda item entitled "Letter dated 19 March 1982 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General" failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Council would have, *inter alia*, taken into account Article 2(4) of the Charter and other relevant provisions concerning the pacific settlement of disputes; reminded all Member States of their obligations to respect the principles of the Charter, in particular those relating to the non-use or threat of force and the territorial integrity and political independence of States; and appealed to all Member States to refrain from the direct, indirect, overt or covert use of force against any country of Central America and the Caribbean. During the Council's deliberations<sup>44</sup> on the

<sup>39</sup>See paras. 21-23 below.

<sup>40</sup>See paras. 24 and 25 below.

<sup>41</sup>Preamb. paras. 6 and 7, paras. 1 and 2.

<sup>42</sup>S C (34), 2172nd and 2175th-2178th mtgs.

<sup>43</sup>S C (37), Suppl. for April-June 1982, S/14941.

<sup>44</sup>S C (37), 2335th-2337th, 2339th, 2341st-2343rd and 2347th mtgs.

subject several implicit references were made to Article 2(4) of the Charter, along with the other Charter principles of non-interference in the internal affairs of States and the peaceful settlement of disputes. It was charged, on the one hand, that Nicaragua was under the threat of an imminent military intervention by the United States, which, in addition to providing military support to the Salvadoran army, had for long conducted covert operations and other more open acts of hostility against Nicaragua, including the use of Honduran territory to train and dispatch forces against the Sandinista Government. On the other hand, it was asserted that the repressive regime in Nicaragua was attempting to export its violent revolution to other countries in Central America, especially El Salvador, and building up a massive military arsenal that was a major source of destabilization for the region.

23. At its 2383rd, 2399th and 2493rd meetings, the Security Council considered the situation between Iran and Iraq and adopted resolutions 514 (1982),<sup>45</sup> 522 (1982)<sup>46</sup> and 540 (1983),<sup>47</sup> respectively, in which the Council, *inter alia*, called for a ceasefire, an immediate end to all military operations between the parties and the withdrawal of forces to internationally recognized boundaries. During the Council's deliberations,<sup>48</sup> concern was expressed about the prolongation of the armed hostilities between Iran and Iraq despite numerous international initiatives and intensive efforts aimed at ending the fighting. The importance of settling the issues underlying the conflict on the basis of the principles of the Charter, in particular the principle of peaceful settlement of disputes and the prohibition of the use of force under Article 2(4), was underscored.

24. During its thirty-seventh session, the General Assembly considered the agenda item entitled "Consequences of the prolongation of the armed conflict between Iran and Iraq" and adopted resolution 37/3<sup>49</sup> in which, *inter alia*, it reaffirmed the principles that no State should acquire or occupy territories by force, that whatever territories had been so acquired should be returned, that no act of aggression should be committed against any State and that the territorial integrity and the sovereignty of all States should be respected.<sup>50</sup>

25. The General Assembly considered the item entitled "The situation in Central America: threats to international peace and security and peace initiatives" during its thirty-eighth session and adopted resolution 38/10<sup>51</sup> in which, *inter alia*, it cited the text of Article 2(4) in part and condemned the acts of aggression against the sovereignty, independence and territorial integrity of the States of the region. Especially serious in this context were the attacks launched from outside Nicaragua against the country's strategic installations, the continued loss of human life in El Salvador and Honduras and the resultant refugee flows. In addition,

the General Assembly urged the States of the region and other States to desist or refrain from initiating military operations intended to exert political pressure.<sup>52</sup> The deliberations<sup>53</sup> concerning the item continued to focus on the claim that the United States was conducting an "undeclared war" on Nicaragua and the counterclaim that Nicaragua was repressing its own people and threatening the stability of the region. Regarding the assertion by some countries that there was an exemption from the Charter prohibition on the use of force for wars of national liberation, it was maintained that "either there [were] no exemptions from the prohibition against the use of force, or one exemption pave[d] the way for another". It was argued that, if one side in a struggle violated international law, as in the use of violence on behalf of national liberation movements, then the victim might use force to compel the violator to comply with the provisions of international law.<sup>54</sup>

26. During the period under review, the General Assembly considered five legal questions of a general nature that have a bearing on the interpretation and application of Article 2(4) but have not been included in the analytical summary of practice either because their consideration was not completed by the end of the thirty-ninth session or because the deliberations concerning the item did not lead to a substantive constitutional debate. These questions are discussed briefly in the following paragraphs.<sup>55</sup>

27. At the thirty-fourth session and in subsequent years, the General Assembly continued its consideration of a draft world treaty on the non-use of force in international relations under the agenda item entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations".<sup>56</sup> By its resolutions<sup>57</sup> adopted in connection with the item, the General Assembly, *inter alia*, reaffirmed the need for universal and effective application of the principle of non-use of force; took note of the reports of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations,<sup>58</sup> and extended its mandate to allow the completion of a draft world treaty on the subject.<sup>59</sup> In addition, by the

<sup>52</sup>For the proceedings in the plenary regarding the draft resolutions concerning this item, see G A (38), Annexes, a.i. 142.

<sup>53</sup>G A (38), Plen., 47th-53rd mtgs.; see also discussion in para. 22 above.

<sup>54</sup>*Ibid.*, 48th mtg.: United States, para. 158.

<sup>55</sup>See paras. 27-34 below.

<sup>56</sup>For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), paras. 32-36.

<sup>57</sup>G A resolutions 34/13 (preamb. para. 6, paras. 1, 2 and 5); 35/50 (preamb. para. 7, paras. 1, 2 and 6); 36/31 (preamb. para. 7, paras. 1, 2 and 8); 37/105 (preamb. para. 7, paras. 1, 2 and 7); 38/133 (preamb. para. 8, paras. 1, 2 and 9); 39/81 (preamb. para. 7, paras. 1, 2 and 9).

<sup>58</sup>For the reports of the Special Committee, see G A (34), Suppl. No. 41, A/34/41; G A (35), Suppl. No. 41, A/35/41; G A (36), Suppl. 41, A/36/41; G A (37), Suppl. No. 41, A/37/41; G A (38), Suppl. No. 41, A/38/41; G A (39), Suppl. No. 41, A/39/41.

<sup>59</sup>For the proceedings in the Sixth Committee regarding the draft resolutions concerning this item, see G A (34), Annexes, a.i. 116; G A (35), Annexes, a.i. 105; G A (36), Annexes, a.i. 116; G A (37), Annexes, a.i. 118; G A (38), Annexes, a.i. 126; G A (39), Annexes, a.i. 126.

<sup>45</sup>Paras. 1 and 2.

<sup>46</sup>Paras. 1 and 2.

<sup>47</sup>Preamb. para. 2.

<sup>48</sup>S C (37), 2383rd and 2399th mtgs.; S C (38), 2493rd mtg.

<sup>49</sup>Preamb. para. 3; see also discussion in para. 23 above.

<sup>50</sup>For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (37), Annexes, a.i. 134.

<sup>51</sup>Preamb. para. 2, paras. 3 (a) to (c) and 4.

resolutions<sup>60</sup> adopted on the subject at its thirty-seventh to thirty-ninth sessions, the General Assembly, inter alia, requested the Special Committee to focus on the elaboration of the formulas of the working paper containing the main elements of the principle of non-use of force, as put forward by its Chairman in 1982, taking duly into account the proposals submitted to it. That paper,<sup>61</sup> which was further elaborated upon by the Special Committee in 1984,<sup>62</sup> contained proposals and suggestions grouped under the headings: Manifestations, scope and dimensions of the threat or use of force; General prohibition of the threat or use of force; Consequences of the threat or use of force; Legitimate use of force; Peaceful settlement of disputes; Role of the United Nations; and Disarmament and confidence-building measures.

28. The deliberations concerning this item in the Sixth Committee<sup>63</sup> and the Special Committee<sup>64</sup> contained numerous explicit references to Article 2(4) and the arguments presented were similar to those described in the previous *Supplement*.<sup>65</sup>

29. During the thirty-fourth session, the General Assembly began its examination of the agenda item entitled "Drafting of an international convention against activities of mercenaries", which had been proposed for inclusion in the agenda by Nigeria.<sup>66</sup> In the following year, the General Assembly continued its consideration of that item and adopted resolution 35/48<sup>67</sup> in which, inter alia, it bore in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples; recognized that the activities of mercenaries were contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impeded the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination; and decided to establish an Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. In

subsequent resolutions<sup>68</sup> on the subject, the General Assembly renewed the mandate of the Ad Hoc Committee.<sup>69</sup>

30. During the deliberations concerning the item in the Sixth Committee<sup>70</sup> and the Ad Hoc Committee,<sup>71</sup> mercenarism was described as a gross violation of fundamental principles of international law, including the principles of political independence and territorial integrity of States and the non-use of force in international relations. Frequent mention was made of the use of mercenarism to deny peoples their inalienable right to self-determination and, in this regard, a distinction was drawn between mercenarism and the use of force by, and/or in support of, peoples struggling for self-determination.

31. During the thirty-fifth session, by its resolution 35/163<sup>72</sup> on the report of the International Law Commission, the General Assembly, inter alia, noted the completion of the first reading of the set of articles constituting part one of the draft on responsibility of States for internationally wrongful acts.<sup>73</sup> A detailed account of the issues considered by the International Law Commission in connection with this item, some of which may have a bearing on Article 2(4), is included in the report<sup>74</sup> of the Commission submitted to the General Assembly at its thirty-fifth session.

32. During the thirty-sixth session, by its resolution 36/106<sup>75</sup> on the Draft Code of Offences against the Peace and Security of Mankind, the General Assembly, inter alia, invited the International Law Commission to resume its work on the draft Code.<sup>76</sup> A detailed account of the issues considered by the International Law Commission in connection with the item, several of which may have a bearing on Article 2(4), is included in the report<sup>77</sup> of the

<sup>60</sup>G A resolutions 37/105 (para. 3); 38/133 (para. 3); 39/81 (para. 3).

<sup>61</sup>G A (37), Suppl. No. 41, A/37/41 and Corr.1, para. 372.

<sup>62</sup>G A (39), Suppl. No. 41, A/39/41, para. 123.

<sup>63</sup>For the deliberations in the Sixth Committee regarding the item, see G A (34), 6th Comm., 16th-25th mtgs.; G A (35), 6th Comm., 26th-33rd, 37th, 40th and 47th mtgs.; G A (36), 6th Comm., 2nd, 7th-16th, 21st and 27th-29th mtgs.; G A (37), 6th Comm., 31st-40th, 51st and 57th mtgs.; G A (38), 6th Comm., 12th-20th and 57th mtgs.; G A (39), 6th Comm., 12th-19th, 58th, 60th, 61st and 63rd mtgs.

<sup>64</sup>For the summary of statements regarding the item, see the reports of the Special Committee cited in footnote 58.

<sup>65</sup>See *Repertory, Supplement No. 5*, under Article 2(4), para. 35.

<sup>66</sup>See G A (34), Annexes, a.i. 129, A/34/247, for the text of the letter dated 5 December 1979 from the Permanent Representative of Nigeria to the United Nations addressed to the Secretary-General. An explanatory memorandum and a draft resolution were attached to the letter as annexes I and II. The General Assembly adopted the draft as resolution 34/140.

<sup>67</sup>Preamb. paras. 1 and 4, para. 1.

<sup>68</sup>G A resolutions 36/76 (preamb. paras. 1 and 5, para. 2); 37/109 (preamb. paras. 1 and 5, para. 2); 38/137 (preamb. paras. 1 and 5, para. 2); 39/84 (preamb. paras. 1 and 5, para. 2).

<sup>69</sup>For the proceedings in the Sixth Committee regarding the draft resolutions concerning the item, see G A (35), Annexes, a.i. 29; G A (36), Annexes, a.i. 115; G A (37), Annexes, a.i. 121; G A (38), Annexes, a.i. 129; G A (39), Annexes, a.i. 129.

<sup>70</sup>For the deliberations in the Sixth Committee regarding the item, see G A (35), 6th Comm., 20th-24th, 51st-54th and 56th mtgs.; G A (36), 6th Comm., 16th-24th and 57th mtgs.; G A (37), 6th Comm., 9th-15th, 45th, 53rd and 56th mtgs.; G A (38), 6th Comm., 19th, 21st-29th, 49th-51st, 54th, 57th, 60th and 61st mtgs.; G A (39), 6th Comm., 49th-57th and 64th mtgs.

<sup>71</sup>For the summary of statements regarding the item, see the reports of the Ad Hoc Committee: G A (36), Suppl. No. 43, A/36/43; G A (37), Suppl. No. 43, A/37/43 and Corr.1; G A (38), Suppl. No. 43, A/38/43; G A (39), Suppl. No. 43, A/39/43 and Corr.1.

<sup>72</sup>Preamb. para. 3.

<sup>73</sup>This was in accordance with G A resolution 34/141 (para. 4(b)), adopted on the same subject, during the thirty-fourth session of the General Assembly.

<sup>74</sup>G A (35), Suppl. No. 10, A/35/10, chap. III. See, in particular, the commentaries relating to articles 33 (State of necessity) and 34 (Self-defence), which fall under chapter V (Circumstances precluding wrongfulness) of the draft.

<sup>75</sup>Para. 1.

<sup>76</sup>For prior consideration of the draft Code by the General Assembly, see *Repertory, Supplement No. 2*, under Article 2(4), para. 15.

<sup>77</sup>G A (39), Suppl. No. 10, A/39/10, chap. II.



Commission to the General Assembly at its thirty-ninth session.

33. In the course of the thirty-sixth session the General Assembly also adopted resolution 36/103,<sup>78</sup> the annex to which contains the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States. In the Declaration the General Assembly proclaimed that the principle of non-intervention and non-interference in the internal and external affairs of States comprehended a number of rights and duties, many of which may have a bearing on Article 2(4). These rights and duties include the duty to refrain from: the threat or use of force; violations of the sovereignty, political independence and territorial integrity of other States, including those Territories yet to attain self-determination and independence; armed intervention, subversion, military occupation, in overt or covert forms, including acts of reprisal involving the use of force; forcible action which deprived people under colonial domination or foreign occupation of their right to self-determination, freedom and independence; engaging in destabilizing activities; promoting rebellious or secessionist activities; strengthening or creating new military blocs and alliances; using terrorist practices as State policy; organizing, training, financing and arming political ethnic groups or mercenaries; and conducting military and other activity in the territory of another State without its consent. They also include the right and duty of States to support the right of peoples under colonial domination, foreign occupation or racist regimes to wage political and armed struggle in accordance with the purposes and principles of the Charter and to observe, promote and defend human rights.<sup>79</sup> The Declaration was elaborated in the Ad Hoc Working Group of the First Committee on Inadmissibility of Intervention and Interference in the Internal Affairs of States,<sup>80</sup> which presented an oral report to the First Committee during the thirty-fifth session.<sup>81</sup>

34. During the deliberations on this item in the First Committee<sup>82</sup> and the plenary,<sup>83</sup> in explanation of their votes, some delegations expressed reservations with regard to the provisions of the Declaration that affirmed a State's right and duty to support the right of peoples under colonial, foreign or racist domination to wage both political and armed struggle for self-determination, freedom and independence. The view

<sup>78</sup>See G A resolution 36/103, annex II, paras. (a)-(g), (i), (k), (m)-(o); III, paras. (b) and (c).

<sup>79</sup>For the proceedings in the First Committee regarding the draft resolution on the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, see G A (36), Annexes, a.i. 58(b).

<sup>80</sup>The Ad Hoc Working Group was established by the General Assembly in resolution 34/101, entitled "Non-interference in the internal affairs of States", which was considered under the agenda item entitled "Implementation of the Declaration on the Strengthening of International Security". For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), para. 31.

<sup>81</sup>For the oral report by the Chairman of the Ad Hoc Working Group, see G A (35), 1st Comm., 52nd mtg. No meeting records of the discussion in the Working Group were issued.

<sup>82</sup>G A (36), 1st Comm., 51st mtg.: Ireland, p. 61; Fiji, p. 62.

<sup>83</sup>G A (36), Plen., 91st mtg.: Uruguay, para. 276.

was held that any attempt to institutionalize recourse to armed force for the attainment of an objective, however noble, was unacceptable.<sup>84</sup>

35. During the period under review, the General Assembly also considered a number of questions that had previously given rise to substantive constitutional discussion in the Security Council. Since similar arguments were used in both organs, the discussion in the Council has been included in the analytical summary of practice, whereas the relevant provisions of the General Assembly resolutions are presented in the following paragraphs.<sup>85</sup>

36. At its thirty-fourth to thirty-ninth sessions, the General Assembly considered the situation in Kampuchea. During the thirty-fourth session, the Assembly adopted resolution 34/22,<sup>86</sup> in which, *inter alia*, it cited the text of Article 2(4) in part; deeply regretted the armed intervention by outside forces into the internal affairs of Kampuchea; called for the immediate withdrawal of all foreign forces from Kampuchea and called upon all States to refrain from all acts or threats of aggression; and appealed to all States to respect scrupulously the sovereignty, territorial integrity and independence of Kampuchea.<sup>87</sup> In resolutions<sup>88</sup> adopted on the subject during the subsequent five years, the General Assembly made implicit references to Article 2(4) by paraphrasing its basic provisions.

37. At its sixth emergency special session, the General Assembly considered the situation in Afghanistan under the agenda item entitled "Question considered by the Security Council at its 2185th to 2190th meetings, from 5 to 9 January 1980" and adopted resolution ES-6/2<sup>89</sup> in which, *inter alia*, it cited the text of Article 2(4) in full; recognized the urgent need for immediate termination of foreign armed intervention in Afghanistan so as to enable its people to determine their own destiny without outside interference or coercion; reaffirmed that respect for the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter of the United Nations; strongly deplored the recent armed intervention in Afghanistan, which was inconsistent with that principle; appealed to all States to respect the sovereignty, territorial integrity, political independence and non-aligned character of Afghanistan and to refrain from any interference in the internal affairs of that country; and called for the immediate, unconditional and total withdrawal of the foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, subversion, coercion or constraint of any kind whatsoever.<sup>90</sup>

<sup>84</sup>*Ibid.*

<sup>85</sup>See paras. 36-41 below.

<sup>86</sup>Preamb. paras. 2 and 9, paras. 7 and 9.

<sup>87</sup>For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (34), Annexes, a.i. 123.

<sup>88</sup>G A resolutions 35/6 (preamb. paras. 3, 4, 11 and 13, para. 3(e) and (f)); 36/5 (preamb. paras. 6, 12 and 14, para. 2); 37/6 (preamb. paras. 5, 11 and 13, para. 2); 38/3 (preamb. paras. 5, 12 and 14, para. 2); 39/5 (preamb. paras. 5, 12 and 14, para. 2).

<sup>89</sup>Preamb. paras. 4 and 5, paras. 1 to 4.

<sup>90</sup>For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (ES-6), Annexes, a.i. 5.

In its subsequent resolutions<sup>91</sup> on Afghanistan, the General Assembly made frequent implicit references to Article 2(4) by paraphrasing its core provisions.

38. At its ninth emergency special session, the General Assembly considered the situation in the occupied Arab territories and adopted resolution ES-9/1<sup>92</sup> in which, *inter alia*, it recalled specific provisions of its resolution 3314 (XXIX) of 14 December 1974, containing the Definition of Aggression; reaffirmed the fundamental principle of the inadmissibility of the acquisition of territory by force; and declared that Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights constituted an act of aggression under the provisions of Article 39 of the Charter of the United Nations and resolution 3314 (XXIX).<sup>93</sup> Similar provisions were included in resolutions<sup>94</sup> adopted on the situation in the Middle East in subsequent regular sessions of the General Assembly.

39. During the thirty-eighth session, the General Assembly considered the situation in Grenada and adopted resolution 38/7<sup>95</sup> in which, *inter alia*, it explicitly referred to Article 2(4) and cited the text of the principle in full; deeply deplored the armed intervention in Grenada which constituted a flagrant violation of international law and of the independence, sovereignty and territorial integrity of that State; deplored the death of innocent civilians resulting from the armed intervention; called upon States to show the strictest respect for the sovereignty, independence and territorial integrity of Grenada; and called for an immediate cessation of the armed intervention and the immediate withdrawal of the foreign troops from Grenada.<sup>96</sup>

<sup>91</sup>G A resolutions 35/37 (preamb. paras. 3 and 5, paras. 1, 3 and 6); 36/34 (preamb. paras. 3 and 5, paras. 1, 3 and 6); 37/37 (preamb. paras. 3 and 5, paras. 1, 3 and 7); 38/29 (preamb. paras. 3 and 5, paras. 1, 3 and 7); 39/13 preamb. paras. 3 and 5, paras. 1, 3 and 7).

<sup>92</sup>Preamb. paras. 7 and 8, para. 2.

<sup>93</sup>For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (ES-9), Annexes, a.i. 5.

<sup>94</sup>G A resolutions 37/123 A (preamb. paras. 5 and 6, para. 2); 38/180 A (preamb. paras. 5 and 6, para. 2); 39/146 B (preamb. paras. 5 and 6, para. 2).

<sup>95</sup>Preamb. para. 6, paras. 1 to 4.

<sup>96</sup>For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (38), Annexes, a.i. 145.

40. At its thirty-eighth session, the General Assembly also adopted resolution 38/9<sup>97</sup> on the armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security, which, *inter alia*, made an explicit reference to Article 2(4) and included the full text of that Article in its preamble.<sup>98</sup> In previous resolutions<sup>99</sup> on the subject, the General Assembly had strongly condemned Israel for its acts of aggression in violation of the Charter of the United Nations and the norms of international conduct.

41. In its resolution 38/39 C<sup>100</sup> on the policies of apartheid of the Government of South Africa, also adopted at the thirty-eighth session, the General Assembly, *inter alia*, condemned the acts of aggression by the apartheid regime of South Africa against Angola, Lesotho and Mozambique; demanded that South Africa respect fully the independence, sovereignty and territorial integrity of independent African States; and fully supported the right of the Government of Angola to take measures in accordance with Article 51 of the Charter of the United Nations in order to guarantee and safeguard the territorial integrity and national sovereignty of Angola.<sup>101</sup>

42. During the period under review, frequent explicit and implicit references were made to Article 2(4) in the deliberations of the Security Council and General Assembly. Many of those references are identified in connection with the case material in the analytical summary of practice and the general survey. Such references also occurred in other instances; most of them only involved incidental remarks and are too numerous to be listed here.

<sup>97</sup>Preamb. para. 7.

<sup>98</sup>For the proceedings in the plenary regarding the draft resolution concerning the item, see G A (38), Annexes, a.i. 28.

<sup>99</sup>G A resolution 36/27 (para. 1); 37/18 (para. 2).

<sup>100</sup>Paras. 1-3.

<sup>101</sup>For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (38), Annexes, a.i. 32.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. The question of the scope and limits of the phrase "threat or use of force against the territorial integrity or political independence of any State"

43. Article 2(4) was referred to in the Security Council in connection with questions that involved allegations of the threat or use of force against the territorial integrity or political independence of a State. It was also invoked in the General Assembly in connection with one basic legal instrument which focused, among other things, on the principles of the non-use of force and the peaceful settlement of disputes and their applicability to peoples struggling for

their right to self-determination. In the course of the discussion of those issues, questions arose concerning the interpretation and application of the principle of Article 2(4). The following items entailed such relevant constitutional material:

In the Security Council:

(a) In connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea, the issue under discussion was whether the actions taken by Viet Nam violated the territorial integrity and political independence of Democratic



Kampuchea and constituted a use of force as prohibited by Article 2(4);

(b) In connection with the situation in the Middle East, the question was discussed whether the so-called "acts of reprisal" and "pre-emptive" strikes by Israel against the territory of Lebanon fell under Article 51 or violated Article 2(4);

(c) In connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, the discussion focused on whether the intervention of foreign troops in Afghanistan constituted a violation of the principles contained in Article 2(4);

(d) In connection with the complaint by Iraq, the question arose whether Israel had attacked the Iraqi nuclear installations in the exercise of its inherent right of self-defence or in violation of Article 2(4);

(e) In connection with the complaint by Angola against South Africa, the question was discussed whether the military intervention by South Africa in the territory of Angola constituted an act of aggression in violation of the principles of Article 2(4), or whether South Africa had exercised its right to self-defence;

(f) In connection with the complaint by Seychelles, the discussion focused on the use of mercenaries in an armed attack against the Republic of Seychelles and the assertion that the recruitment, use, financing and training of mercenaries was in direct violation of Article 2(4);

(g) In connection with the situation in the occupied Arab territories, the discussion focused on the inadmissibility of the acquisition of territory by force and on whether Israel's decision to apply its laws, jurisdiction and administration to the Golan Heights constituted an act of aggression;

(h) In connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom, the question was discussed whether Argentina had legitimately used force to reclaim national sovereignty over the Falkland Islands or violated Article 2(4);

(i) In connection with the complaint by Lesotho against South Africa, the attack on Lesotho's capital city, Maseru, by the South African Defence Force (SADF) was condemned as a blatant violation of the principles of Article 2(4), notwithstanding South Africa's attempt to justify the attack as a pre-emptive defensive measure;

(j) In connection with the situation in Grenada, the question was discussed whether the military intervention in Grenada constituted a violation of the sovereignty, territorial integrity and political independence of the island, given that the member Governments of the Organization of Eastern Caribbean States (OECS) and their partners in the Caribbean Community (CARICOM) had acted in conformity with a regional defence pact and at the request of the sole legitimate authority remaining in Grenada. In addition, the question of the use of force to protect foreign nationals abroad was also discussed.

In the General Assembly:

In connection with the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes, the

applicability of the Charter principles of non-use of force and peaceful settlement of disputes to struggles for self-determination was discussed.

# 1. IN THE SECURITY COUNCIL

(a) *Decision of 15 January 1979 in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea*<sup>102</sup>

## (i) *Precis of proceedings*

44. By telegram<sup>103</sup> dated 3 January 1979 addressed to the President of the Security Council, the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea reported that Viet Nam had further intensified its war of aggression against Democratic Kampuchea and requested an urgent meeting of the Security Council to condemn the Vietnamese aggression and to take necessary measures to ensure that Viet Nam ceased its aggression and respected the independence, sovereignty and territorial integrity of Democratic Kampuchea.

45. At the 2108th meeting, on 11 January 1979, a draft resolution<sup>104</sup> submitted in connection with the item was not put to the vote. Under the draft text, the Council would have, inter alia, restated the provisions of Article 2(4); expressed its grave concern about Viet Nam's military invasion of Democratic Kampuchea in violation of the Charter; and, in the operative part, stressed that the independence, sovereignty and territorial integrity of Democratic Kampuchea had to be strictly respected in accordance with the purposes and principles of the Charter; and strongly condemned Viet Nam for its acts of armed invasion and aggression against Democratic Kampuchea, acts that constituted a flagrant violation of the independence, sovereignty and territorial integrity of Democratic Kampuchea and caused serious damage to the lives and property of the Kampuchean people.

46. At the 2111th meeting, on 15 January 1979, another draft resolution<sup>105</sup> submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Council would have, inter alia, reaffirmed anew its conviction that the preservation of the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter, any violation of which was inconsistent with its aims and purposes.

## (ii) *Precis of relevant constitutional discussion*

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

<sup>102</sup>For the consideration of this issue by the General Assembly, see para. 36.

<sup>103</sup>S C (34), Suppl. for Jan.-March 1979, S/13003.

<sup>104</sup>The draft resolution (S/13022) was sponsored by China and not voted upon.

<sup>105</sup>The draft resolution (S/13027) was sponsored by Bangladesh, Bolivia, Gabon, Jamaica, Kuwait, Nigeria and Zambia, and received 13 votes to 2, with no abstentions.

taken by the Government of Viet Nam as constituting use of force as prohibited by Article 2(4) of the Charter and alleged that the political independence and territorial integrity of Democratic Kampuchea had been violated. It was further argued that the Vietnamese intervention amounted to interference in the internal affairs of Democratic Kampuchea, which was also prohibited under the Charter. The other side suggested that the charges by the no longer functioning Pol Pot regime were unfounded in that the Kampuchean people, with the help of their Vietnamese neighbours, had thrown off the yoke of the brutal and inhuman clique and had begun to resume a new existence in security and tranquillity. The appeal to the Council was described as unwarranted, and the concern shown by the Council and the international community was dismissed as interference in strictly domestic matters of the new Kampuchean society.<sup>106</sup>

(b) *Decisions of 14 June 1979 and 21 July 1981 in connection with the situation in the Middle East*

(i) *Precis of proceedings*

48. By letter<sup>107</sup> dated 30 May 1979 addressed to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Security Council to discuss the rapidly deteriorating situation in southern Lebanon resulting from the escalation of Israeli attacks and the adverse effect this might have on the implementation of Council resolutions 425 (1978)<sup>108</sup> and 444 (1979).<sup>109</sup>

<sup>106</sup>For the texts of relevant statements, see S C (34), 2108th mtg.: USSR, paras. 9-15, 34, 35, 40-45, 69, 146-170; China, paras. 17-22 and 97-109; Democratic Kampuchea, paras. 73-92; Viet Nam, paras. 113-145; Cuba, paras. 173-193; 2109th mtg.: Kuwait, paras. 6-13; Norway, paras. 16-19; Czechoslovakia, paras. 20-27; France, paras. 33-37; Bangladesh, paras. 43-51; Bolivia, paras. 55-63; German Democratic Republic, paras. 66-76; Sudan, paras. 90-94; 2110th mtg.: Zambia, paras. 8-11; Gabon, paras. 15-18; Portugal, paras. 22-32; Malaysia, paras. 36-44; New Zealand, paras. 57-60; United Kingdom, paras. 63-68; United States, paras. 72-84; 2111th mtg.: Japan, paras. 16-21; Australia, paras. 24-29; Nigeria, paras. 31-37; Thailand, paras. 40-46; Indonesia, paras. 66-74; Poland, paras. 77-89; Philippines, paras. 92-105; Yugoslavia, paras. 124-135; Jamaica, paras. 144-150; USSR, paras. 151-154; Viet Nam, paras. 163-178.

<sup>107</sup>S C (34), Suppl. for April-June 1979, S/13356.

<sup>108</sup>For prior consideration of S C resolution 425 (1978), see *Repertory, Supplement No. 5*, under Article 2(4), para. 55.

<sup>109</sup>S C resolution 444 (1979) was primarily concerned with the United Nations Interim Force in Lebanon (UNIFIL) and its inability to fulfil its mandate. The relevant provisions read as follows: "The Security Council, ... reaffirming the necessity for the strict respect for the sovereignty, territorial integrity and political independence of Lebanon within its internationally recognized boundaries, ... 1. Deplores the lack of cooperation, particularly on the part of Israel, with the efforts of the United Nations Interim Force in Lebanon fully to implement its mandate, including assistance lent by Israel to irregular armed groups in Southern Lebanon ..." (preamble, para. 8, para. 1).

49. At the 2149th meeting, on 14 June 1979, the Security Council adopted<sup>110</sup> resolution 450 (1979) which read in part as follows:

*"The Security Council,*

*"...*

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

*"...*

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

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

*"...*

*"6. Reaffirms the validity of the General Armistice Agreement between Israel and Lebanon in accordance with its relevant decisions and resolutions and calls upon the parties to take the necessary steps to reactivate the Mixed Armistice Commission and to ensure full respect for the safety and freedom of action of the United Nations Truce Supervision Organization".*

50. By letter<sup>111</sup> dated 17 July 1981 addressed to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Council to discuss the deteriorating situation in southern Lebanon and the attacks committed by Israel against civilian targets in the city of Beirut.

51. At the conclusion of the 2292nd meeting, on 17 July 1981, the President of the Council issued a statement<sup>112</sup> on behalf of the Council which contained an urgent appeal for an immediate end to all armed attacks and for the greatest restraint so that peace and quiet might be established in Lebanon and a just and lasting peace in the Middle East as a whole.

52. At the 2293rd meeting, on 21 July 1981, the Security Council unanimously adopted<sup>113</sup> resolution 490 (1981), which read in part as follows:

*"The Security Council,*

*"Reaffirming the urgent appeal made by the President and the members of the Security Council on 17 July 1981,*

*"...*

<sup>110</sup>The draft resolution (S/13392) was adopted by 12 votes to none, with 2 abstentions. One member of the Council did not participate in the voting.

<sup>111</sup>S C (36), Suppl. for July-Sept. 1981, S/14596.

<sup>112</sup>S/14599.

<sup>113</sup>The draft resolution (S/14604) was sponsored by Ireland, Japan and Spain and adopted without discussion.

"1. Calls for an immediate cessation of all armed attacks;

"2. Reaffirms its commitment to the sovereignty, territorial integrity and independence of Lebanon within its internationally recognized boundaries".

(ii) *Precis of relevant constitutional discussion*

53. In the discussions that were held prior to the adoption of Security Council resolutions 450 (1979) and 490 (1981), the provisions of Article 2(4) were explicitly or implicitly invoked. On the one hand, it was declared that the use of force against the territorial integrity or political independence of another State was inadmissible. In addition, Israel's policy of pre-emptive strikes and its claim to a right of reprisal against terrorist attacks were rejected as unjustified by any interpretation of Article 51 of the Charter and contrary to General Assembly resolution 2625 (XXV)<sup>114</sup> and resolutions of the Security Council. The view was expressed that the Government of Lebanon could not be held accountable for the movements and actions of Palestinians resisting the Israeli occupation of their native land.<sup>115</sup> On the other hand, it was contended that the PLO had launched attacks against Israel from Lebanon that had resulted in loss of life and considerable damage to property and that the PLO had plans to escalate such attacks in kind and size. Consequently, and in the absence of Security Council action, Israel had no choice but to stand up to the PLO. It was further contended that the Israeli actions, which had been specifically targeted at the PLO and not at Lebanon's territorial integrity, were in exercise of the inherent right of self-defence as preserved under Article 51 of the Charter.<sup>116</sup>

<sup>114</sup>Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted on 24 October 1970.

<sup>115</sup>For the texts of relevant statements, see S C (34), 2146th mtg.: Lebanon, paras. 20-35; 2147th mtg.: Kuwait, paras. 30-57, 102-121; Libyan Arab Jamahiriya, paras. 126-150; 2148th mtg.: Egypt, paras. 6-17; United Kingdom, paras. 30-39; France, paras. 52-57; Jordan, paras. 73-80; Iran, paras. 83-91; Syrian Arab Republic, paras. 95-113; 2149th mtg.: United States, paras. 78-89; USSR, paras. 126-146; Bolivia, paras. 162-167; S C (36), 2292nd mtg.: Lebanon, paras. 23-35; Jordan, paras. 66-75; PLO, paras. 77-102; USSR, paras. 103-116; 2293rd mtg.: Tunisia, paras. 23-38; France, paras. 40-44; United Kingdom, paras. 46-54; Egypt, paras. 63-82; Syrian Arab Republic, paras. 143-166; Democratic Yemen, paras. 172-181; Yemen, paras. 184-196; S C (37) 2374th mtg.: France, paras. 92-98; 2375th mtg.: Poland, paras. 121 and 122; 2379th mtg.: United Kingdom, paras. 54-56; Syrian Arab Republic, paras. 178 and 179; 2384th mtg.: France, paras. 22-24; Egypt, paras. 35 and 36; 2386th mtg.: Lebanon, para. 12.

<sup>116</sup>S C (36), 2292nd mtg.: Israel, paras. 40-63; S C (37), 2374th mtg.: Israel, paras. 74-78; 2379th mtg.: Israel, para. 126.

(c) *Decision of 7 January 1980 in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan*<sup>117</sup>

(i) *Precis of proceedings*

54. By letter<sup>118</sup> dated 3 January 1980 addressed to the President of the Security Council, 52 Member States requested an urgent meeting of the Security Council to consider the situation in Afghanistan and its implications for international peace and security.

55. At the 2190th meeting, on 7 January 1980, a draft resolution<sup>119</sup> submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Security Council, mindful of the obligations of Member States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, would have, inter alia, reaffirmed anew its conviction that the preservation of the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter of the United Nations, any violation of which on any pretext whatsoever was contrary to its aims and purposes; deeply deplored the armed intervention in Afghanistan, which was inconsistent with that principle; affirmed that the sovereignty, territorial integrity, political independence and non-aligned status of Afghanistan must be fully respected; and called for the immediate and unconditional withdrawal of all foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, coercion or constraint of any kind whatsoever.

(ii) *Precis of relevant constitutional discussion*

56. During the discussion of the developments in Afghanistan, one side condemned the intervention by foreign troops in an internal political conflict in Afghanistan as a grave violation of Article 2(4) and other pertinent provisions of the Charter and called for an end to foreign interference and the withdrawal of all foreign troops from Afghan soil. The other side rejected these assertions, by claiming that the Afghan authorities had requested the assistance of foreign troops in accordance with both Article 51 of the Charter and the Treaty of Friendship, Good-Neighbourliness and Cooperation of 5 December 1978 between the Democratic Republic of Afghanistan and the Soviet Union.<sup>120</sup>

<sup>117</sup>For the consideration of this issue by the General Assembly, see para. 37.

<sup>118</sup>S C (35), Suppl. for Jan.-March 1980, S/13724 and Add.1 and 2.

<sup>119</sup>The draft resolution (S/13729) was sponsored by Bangladesh, Jamaica, Niger, the Philippines, Tunisia and Zambia, and received 13 votes to 2, with no abstentions.

<sup>120</sup>For the texts of relevant statements, see S C (35), 2187th mtg.: United States, paras. 6-27; Australia, paras. 30-35; Singapore, paras. 38-48; Norway, paras. 52-56; Spain, paras. 59-68; Somalia, paras. 72-80; Costa Rica, paras. 92-100; Italy, paras. 104-110; Liberia, paras. 112-133; 2188th mtg.: German Democratic Republic, paras.

(d) *Decision of 19 June 1981 in connection with the complaint by Iraq*<sup>121</sup>

(i) *Precis of proceedings*

57. By letter<sup>122</sup> dated 8 June 1981 addressed to the President of the Security Council, the representative of Iraq transmitted the text of a letter from the Minister for Foreign Affairs of Iraq, requesting the convening of an immediate meeting of the Council to deal with an act of aggression by Israel against Iraq with far-reaching consequences for international peace and security.

58. At the 2288th meeting, on 19 June 1981, the Security Council unanimously adopted<sup>123</sup> resolution 487 (1981), which read in part as follows:

*"The Security Council,*

*"...*

*"Deeply concerned about the danger to international peace and security created by the premeditated Israeli air attack on Iraqi nuclear installations on 7 June 1981, which could at any time explode the situation in the area, with grave consequences for the vital interests of all States,*

*"Considering that, under the terms of Article 2, paragraph 4, of the Charter of the United Nations, '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',*

*"1. Strongly condemns the military attack by Israel in clear violation of the Charter of the United Nations and the norms of international conduct;*

*"2. Calls upon Israel to refrain in the future from any such acts or threats thereof;*

*"3. Further considers that the said attack constitutes a serious threat to the entire safeguards regime of the International Atomic Energy Agency, which is the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons;*

*"4. Fully recognizes the inalienable sovereign right of Iraq and all other States, especially the developing countries, to establish programmes of technological and*

nuclear development to develop their economy and industry for peaceful purposes in accordance with their present and future needs and consistent with the internationally accepted objectives of preventing nuclear-weapons proliferation;

*"5. Calls upon Israel urgently to place its nuclear facilities under the safeguards of the International Atomic Energy Agency;*

*"6. Considers that Iraq is entitled to appropriate redress for the destruction it has suffered, responsibility for which has been acknowledged by Israel".*

(ii) *Precis of relevant constitutional discussion*

59. During the deliberations of the Security Council, Article 2(4) and relevant provisions of the Definition of Aggression<sup>124</sup> were frequently invoked and said to have been clearly violated by the attack carried out by the Israel Air Force against the Iraqi nuclear installations located in the vicinity of Baghdad. It was maintained, on the other hand, that Israel had acted in the exercise of its inherent right of self-defence as "understood in general international law" and as preserved in Article 51 of the Charter, in order to counter a threat of nuclear obliteration which had been made against it by Iraq.<sup>125</sup> However, the self-defence contention was rejected by others, who asserted that the Charter recognized the right of self-defence only against an armed attack, pending action by the Council to restore peace, and did not provide for a right to "preventive attack" under which a State could act to eliminate a subjectively assessed potential danger. Furthermore, it was stressed that Iraq was a party to the Treaty on the Non-Proliferation of Nuclear Weapons,<sup>126</sup> pursuant to which it had accepted and implemented the safeguards of the International Atomic Energy Agency; that the Agency had testified that Iraq had satisfactorily complied with the safeguards regime; and that Israel, by its armed attack, had not only violated the fundamental principle of Article 2(4) but dangerously challenged the international system under the Treaty and the right of all States to develop nuclear energy for peaceful purposes.<sup>127</sup>

5-21; Portugal, paras. 24-27; Venezuela, paras. 30-38; Netherlands, paras. 51-59; Viet Nam, paras. 62-93; Jamaica, paras. 97-102; 2189th mtg.: Zambia, paras. 6-17; Mongolia, paras. 21-37; Bangladesh, paras. 41-49; Federal Republic of Germany, paras. 63-75; Yugoslavia, paras. 80-97; Lao People's Democratic Republic, paras. 101-112; 2190th mtg.: Panama, paras. 10-34; Zaire, paras. 39-59; Canada, paras. 62-72; Chile, paras. 75-84; Afghanistan, paras. 87-102; USSR, paras. 110-123; France, paras. 125-131; German Democratic Republic, paras. 135-139; Philippines, paras. 145-156; Mexico, paras. 160-165. There were numerous invocations of Articles 2(7) and 51 in addition to references to Article 2(4).

<sup>121</sup>For the consideration of this issue by the General Assembly, see para. 40.

<sup>122</sup>S C (36), Suppl. for April-June 1981, S/14509.

<sup>123</sup>The draft resolution (S/14556) was prepared in the course of the Security Council's consultations.

<sup>124</sup>G A resolution 3314 (XXIX), annex.

<sup>125</sup>S C (36), 2280th mtg.: Israel, paras. 57-117; 2288th mtg.: Israel, paras. 38-98.

<sup>126</sup>G A resolution 2373 (XXII), annex.

<sup>127</sup>For the texts of relevant statements, see S C (36), 2280th mtg.: Iraq, paras. 20-53; Tunisia, paras. 118-140; Algeria, paras. 145-173; Sudan, paras. 176-184; 2282nd mtg.: Uganda, paras. 7-38; France, paras. 41-59; Spain, paras. 75-86; 2283rd mtg.: Ireland, paras. 4-39; Sierra Leone, paras. 144-157; 2284th mtg.: Syrian Arab Republic, paras. 62-81; 2285th mtg.: Morocco, paras. 7-23; Bangladesh, paras. 110-130; 2287th mtg.: Sri Lanka, paras. 39-47; and 2288th mtg.: Mexico, paras. 105-132; Iraq, paras. 181-186 and 198-203.

(e) *Decisions of 31 August 1981, 20 December 1983 and 6 January 1984 in connection with the complaint by Angola against South Africa*<sup>128</sup>

(i) *Precis of proceedings*

60. By letter<sup>129</sup> dated 26 August 1981 addressed to the Secretary-General, the representative of Angola transmitted a letter from the President of Angola reporting that South Africa had intensified its aggression against Angola and requested the urgent convening of the Security Council in order to take the necessary steps to stop the situation from escalating and to demand the immediate and unconditional withdrawal of all South African troops from Angolan territory.

61. At the 2300th meeting, on 31 August 1981, a revised draft resolution<sup>130</sup> submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Council would have, *inter alia*, condemned South Africa for its armed invasion perpetrated against the people and the territory of Angola as well as for its utilization of the illegally occupied Territory of Namibia as a springboard for such invasions; declared that such armed invasion was a violation of the sovereignty and territorial integrity of Angola and constituted a danger to international peace and security; and demanded the immediate withdrawal of all South African troops from Angolan territory.

62. By letter<sup>131</sup> dated 14 December 1983 addressed to the President of the Security Council, the representative of Angola requested an urgent meeting of the Security Council to deal with the situation in Angola in view of the South African armed forces' continued occupation of southern Angola and the increased acts of aggression and violence by the South African regime against the Angolan people.

63. At the 2508th meeting, on 20 December 1983, the Security Council adopted<sup>132</sup> resolution 545 (1983), which read in part as follows:

*"The Security Council,*

*"...*

*"Deeply concerned at the continued occupation of parts of southern Angola by the South African military forces in flagrant violation of the principles and objectives of the Charter of the United Nations and of international law,*

*"...*

*"Bearing in mind that in accordance with Article 2, paragraph 4, of the Charter, all Member States shall*

<sup>128</sup>For the consideration of this issue by the General Assembly, see para. 41.

<sup>129</sup>S C (36), Suppl. for July-Sept. 1981, S/14647.

<sup>130</sup>The revised draft resolution (S/14664/Rev.2) was sponsored by Mexico, Niger, Panama, Philippines, Tunisia and Uganda and received 13 votes to 1, with 1 abstention.

<sup>131</sup>S C (38), Suppl. for Oct.-Dec. 1983, S/16216.

<sup>132</sup>The draft resolution (S/16226) was sponsored by Angola, Botswana, Guyana, Jordan, Malta, Mozambique, Nicaragua, Pakistan, Togo, the United Republic of Tanzania, Zaire, Zambia and Zimbabwe, and received 14 votes to none, with 1 abstention.

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

*"...*

*"1. Strongly condemns South Africa's continued military occupation of the territory of southern Angola which constitutes a flagrant violation of international law and of the independence, sovereignty and territorial integrity of Angola;*

*"2. Declares that the continued illegal military occupation of the territory of Angola is a flagrant violation of the sovereignty, independence and territorial integrity of Angola and endangers international peace and security;*

*"3. Demands that South Africa should unconditionally withdraw forthwith all its occupation forces from the territory of Angola and cease all violations against that State and henceforth scrupulously respect the sovereignty and territorial integrity of Angola;*

*"4. Considers, moreover, that Angola is entitled to appropriate redress for any material damage it has suffered;*

*"5. Calls upon all Member States to desist from any action which would undermine the independence, territorial integrity and sovereignty of Angola".*

64. By letter<sup>133</sup> dated 1 January 1984 addressed to the President of the Security Council, the representative of Angola transmitted an urgent message from the President of the People's Republic of Angola, reporting the worsening military situation in southern Angola created by the advancement of the South African military forces and requesting that the Security Council be urgently convened to take the necessary action.

65. At the 2511th meeting, on 6 January 1984, the Security Council adopted<sup>134</sup> resolution 546 (1984), which read in part as follows:

*"The Security Council,*

*"...*

*"Gravely concerned at the renewed escalation of unprovoked bombing and persistent acts of aggression, including the continued military occupation, committed by the racist regime of South Africa in violation of the sovereignty, airspace and territorial integrity of Angola,*

*"...*

*"Indignant at the continued military occupation of parts of the territory of Angola by South Africa in contravention of the Charter of the United Nations and relevant Security Council resolutions,*

*"...*

<sup>133</sup>S C (39), Suppl. for Jan.-March 1984, S/16244.

<sup>134</sup>The revised draft resolution (S/16247/Rev.1) was sponsored by Angola, Egypt, India, Malta, Mozambique, Nicaragua, Pakistan, Peru, the United Republic of Tanzania, Upper Volta, Zambia and Zimbabwe, and received 13 votes to none, with 2 abstentions.

"1. *Strongly condemns* South Africa for its renewed, intensified, premeditated and unprovoked bombing, as well as the continuing occupation of parts of the territory of Angola, which constitute a flagrant violation of the sovereignty and territorial integrity of that country and endanger seriously international peace and security;

"2. *Further strongly condemns* South Africa for its utilization of the international Territory of Namibia as a springboard for perpetrating the armed attacks as well as sustaining its occupation of parts of the territory of Angola;

"3. *Demands* that South Africa should cease immediately all bombing and other acts of aggression and unconditionally withdraw forthwith all its military forces occupying Angolan territory as well as undertake scrupulously to respect the sovereignty, airspace, territorial integrity and independence of Angola;

"...

"5. *Reaffirms* the right of Angola, in accordance with the relevant provisions of the Charter of the United Nations and, in particular, Article 51, to take all measures necessary to defend and safeguard its sovereignty, territorial integrity and independence;

"6. *Renews* its request to Member States to extend all necessary assistance to Angola, in order that Angola may defend itself against the escalating military attacks by South Africa as well as the continuing occupation of parts of Angola by South Africa;

"7. *Reaffirms further* that Angola is entitled to prompt and adequate compensation for the damage to life and property consequent upon these acts of aggression and the continuing occupation of parts of its territory by the South African military forces".

(ii) *Precis of relevant constitutional discussion*

66. During the Council's consideration of complaints by Angola, South Africa's aggressive acts were condemned as violations of the principles of Article 2(4) and related Charter provisions. It was maintained that South Africa had sent its troops into Angola to eliminate the patriots of the South West African People's Organization (SWAPO); to consolidate its illegal occupation of the Territory of Namibia; and to destabilize the front-line States. The policy of "pre-emptive strikes" was rejected, especially considering that the attacks were being undertaken from a Territory that was legally subject to United Nations authority and that South African territory was not in any danger.<sup>135</sup> On the

<sup>135</sup>For the texts of relevant statements, see S C (36), 2296th mtg.: Angola, paras. 7-25; United Kingdom, paras. 26-30; Spain, paras. 31-38; German Democratic Republic, paras. 40-56; Zimbabwe, paras. 58-63; USSR, paras. 64-69, 75-81; Japan, paras. 86-91; Cuba, paras. 120-134; United States, paras. 144-148; President, paras. 158 and 159; 2297th mtg.: France, paras. 38-47; Libyan Arab Jamahiriya, paras. 58-65; Yugoslavia, paras. 68-77; 2298th mtg.: Federal Republic of Germany, paras. 5-10; Kenya, paras. 49-58; S C (38), 2504th mtg.: Botswana, paras. 77-91; 2505th mtg.: Brazil, paras. 16-20; 2506th mtg.: United Republic of Tanzania, paras. 119-136; 2507th mtg.: Zambia, paras. 5-11.

other hand, it was stressed that peaceful coexistence with neighbouring States could only come about if those States did not allow their territories to be used as sanctuaries from which attacks could be launched against the civilian population of South West Africa/Namibia. It was further held that SWAPO had recently escalated its premeditated attacks from Angola, leaving South Africa no alternative but to defend the civilian population of South West Africa/Namibia and to pursue the attackers wherever they could be found. The allegation of aggression against Angola was denied, on the grounds that any action on the part of South African security forces was aimed solely at SWAPO and not at Angola and its people.<sup>136</sup>

(f) *Decisions of 15 December 1981 and 28 May 1982 in connection with the complaint by Seychelles*

(i) *Precis of proceedings*

67. By letter<sup>137</sup> dated 8 December 1981 addressed to the President of the Security Council, the representative of Seychelles informed the Council that on 25 November 1981 the Republic of Seychelles had been invaded by 45 mercenaries who had landed at the Seychelles international airport. The invaders, who had come from South Africa, had immediately launched an attack at the airport, inflicting heavy damage and taking hostages. Those invaders who had not been captured and detained had fled in panic by hijacking an Air India aircraft, which they had commandeered to South Africa. In view of the threat to international peace and security resulting from the situation, the representative of Seychelles requested that the Security Council should be convened urgently to consider the matter and take appropriate action.

68. At the 2314th meeting, on 15 December 1981, the Security Council unanimously adopted<sup>138</sup> resolution 496 (1981), which read in part as follows:

"The Security Council,

"...

"*Bearing in mind* that all Member States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

"1. *Affirms* that the territorial integrity and political independence of the Republic of Seychelles must be respected;

"2. *Condemns* the recent mercenary aggression against the Republic of Seychelles and the subsequent hijacking;

"3. *Decides* to send a commission of inquiry composed of three members of the Security Council in order to investigate the origin, background and financing of the mercenary aggression of 25 November 1981 against the Republic of Seychelles, as well as assess and

<sup>136</sup>S C (36), 2298th mtg.: South Africa, paras. 13-39.

<sup>137</sup>S C (36), Suppl. for Oct.-Dec. 1981, S/14783.

<sup>138</sup>The draft resolution (S/14793) was prepared in the course of the Security Council's consultations.

evaluate economic damages, and to report to the Council with recommendations no later than 31 January 1982".

69. At its 2359th meeting, on 20 May 1982, the Security Council included the report of the Commission of Inquiry<sup>139</sup> in its agenda and resumed consideration of the issue.

70. At the 2370th meeting, on 28 May 1982, the Security Council unanimously adopted<sup>140</sup> resolution 507 (1982). The resolution read in part as follows:

*"The Security Council,*

*"...*

*"Gravely concerned at the violation of the territorial integrity, independence and sovereignty of the Republic of Seychelles,*

*"Deeply grieved at the loss of life and substantial damage to property caused by the mercenary invading force during its attack on the Republic of Seychelles on 25 November 1981,*

*"Gravely concerned at the mercenary aggression against the Republic of Seychelles, prepared in and executed from South Africa,*

*"Deeply concerned at the danger which mercenaries represent for all States, particularly the small and weak ones, and for the stability and independence of African States,*

*"Concerned at the long-term effects of the mercenary aggression of 25 November 1981 on the economy of the Republic of Seychelles,*

*"Reiterating resolution 496 (1981), by which it affirms that the territorial integrity and political independence of the Republic of Seychelles must be respected,*

*"...*

*"2. Strongly condemns the mercenary aggression against the Republic of Seychelles;*

*"3. Commends the Republic of Seychelles for successfully repulsing the mercenary aggression and defending its territorial integrity and independence;*

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

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

*"6. Further condemns the illegal acts against the security and safety of civil aviation committed in the Republic of Seychelles on 25 November 1981".*

<sup>139</sup>S C (37), Special Suppl. No. 2, S/14905/Rev.1.

<sup>140</sup>The draft resolution (S/15127) was sponsored by Guyana, Jordan, Panama, Togo, Uganda and Zaire.

(ii) *Precis of relevant constitutional discussion*

71. During the discussions regarding the complaint by Seychelles, all forms of mercenary activity were condemned as a direct violation of the principle of respect for the territorial integrity and political independence of States regardless of their size and geographical location. It was underlined that international law prohibited any State from allowing its territory to be used for purposes that threatened the independence and sovereignty of other States; that it was the duty of all States to refrain from financing, encouraging or tolerating armed subversive activities aimed at destabilizing or overthrowing by violence the established Government of another State; and that the mercenary aggression against Seychelles had once again demonstrated the urgent need for an international instrument prohibiting all acts pertaining to the recruitment, use, financing and training of mercenaries.<sup>141</sup>

(g) *Decisions of 17 December 1981 and 20 January 1982 in connection with the situation in the occupied Arab territories*<sup>142</sup>

(i) *Precis of proceedings*

72. By letter<sup>143</sup> dated 14 December 1981 addressed to the President of the Security Council, the representative of the Syrian Arab Republic requested an urgent meeting of the Security Council to discuss the decision of the Government of Israel to apply Israeli laws to the occupied Golan Heights.

73. At the 2319th meeting, on 17 December 1981, the Security Council unanimously adopted<sup>144</sup> resolution 497 (1981), which read in part as follows:

*"The Security Council,*

*"...*

*"Reaffirming that the acquisition of territory by force is inadmissible, in accordance with the Charter of the United Nations, the principles of international law and relevant Security Council resolutions,*

*"1. Decides that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect;*

*"2. Demands that Israel, the occupying Power, should rescind forthwith its decision;*

<sup>141</sup>For the texts of relevant statements, see S C (36), 2314th mtg.: Seychelles, paras. 8-18; Japan, paras. 37-43; Niger, paras. 94 and 95; Ireland, paras. 98-101; Spain, paras. 104-106; Tunisia, paras. 110-117; Uganda, paras. 119-126; S C (37), 2359th mtg.: Panama, paras. 11-39; Seychelles, paras. 46-52; France, paras. 55-64; Jordan, paras. 67-74; Argentina, paras. 150-162; Czechoslovakia, paras. 210-215; 2365th mtg.: Poland, paras. 10-22; United Republic of Tanzania, paras. 27-40; Botswana, paras. 42-56; Yugoslavia, paras. 91-101; Mozambique, paras. 190-206; 2370th mtg.: United States, paras. 28-36.

<sup>142</sup>For the consideration of this issue by the General Assembly, see para. 38.

<sup>143</sup>S C (36), Suppl. for Oct.-Dec. 1981, S/14791.

<sup>144</sup>The draft resolution (S/14798) was prepared in the course of the Security Council's consultations.



"3. *Determines* that all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, continue to apply to the Syrian territory occupied by Israel since June 1967;

"4. *Requests* the Secretary-General to report to the Security Council on the implementation of the present resolution within two weeks and decides that, in the event of non-compliance by Israel, the Council would meet urgently, and not later than 5 January 1982, to consider taking appropriate measures in accordance with the Charter of the United Nations".

74. At the 2322nd meeting, on 6 January 1982, following the submission by the Secretary-General of a report<sup>145</sup> informing the Council of Israel's refusal to comply with resolution 497 (1981), the Security Council resumed its consideration of the issue.

75. At the 2329th meeting, on 20 January 1982, a revised draft resolution<sup>146</sup> submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Council would have, *inter alia*, recalled General Assembly resolution 3314 (XXIX) of 14 December 1974, in which the Assembly defined an act of aggression as "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof"; and determined that Israeli measures in the occupied Syrian Golan Heights, culminating in Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration, constituted an act of aggression under the provision of Article 39 of the Charter.

#### (ii) *Precis of relevant constitutional discussion*

76. During the deliberations preceding the adoption of Security Council resolution 497 (1981), Israel's decision to change the status of a territory occupied by war since 1967 was viewed as tantamount to annexation and contrary to the principles of international law and of the Charter of the United Nations, particularly the principle of the inadmissibility of the acquisition of territory by force. It was argued that Article 2(4) of the Charter, in providing against the threat or use of force against the territorial integrity of States, precluded the annexation of territories. It was also contended that the Geneva Convention for the Protection of Civilian Persons in Time of War applied to the territory, rather than Israeli law.<sup>147</sup> Moreover, it was underscored that the Israeli decision was a violation of the Israeli-Syrian ceasefire, thus constituting an act of war against the Syrian

Arab Republic.<sup>148</sup> On the other hand, it was maintained that in view of the need to administer everyday activities on the Golan Heights, occupied since 1967, Israel had decided to regularize the situation by applying Israeli law, jurisdiction and administration to the area. An account of Syrian "harassment and aggression" between 1948 and 1967 and of the refusal of the Syrian Arab Republic to make peace with Israel was given to justify Israel's vital interest in seeking protection against strikes from the Golan Heights. It was also claimed that if a State violated the fundamental principle of non-use of force, as the Syrian Arab Republic had done without interruption since 1948 by using or threatening force against Israel, such violations did not create any rights for the violating State.<sup>149</sup>

77. During the Security Council's deliberations on the issue in the wake of non-compliance by Israel with the implementation of resolution 497 (1981), in addition to arguments similar to those mentioned above, the discussion revolved, on the one hand, around the assertion that Israel's action constituted aggression under Article 39 of the Charter and within the meaning of articles 3 and 5 of the annex to General Assembly resolution 3314 (XXIX), containing the Definition of Aggression.<sup>150</sup> The view was also expressed that, if the Council failed to impose sanctions against Israel, the Syrian Arab Republic reserved its right under Article 51 of the Charter to deal with the Israeli aggression.<sup>151</sup> On the other hand, it was charged that the past acts of hostility by the Syrian Arab Republic were in violation of articles 1 and 2 of resolution 3314 (XXIX).<sup>152</sup>

<sup>148</sup>*Ibid.*, 2316th mtg.: Syrian Arab Republic, para. 14.

<sup>149</sup>*Ibid.*, 2316th mtg.: Israel, paras. 20-46; 2319th mtg.: Israel, paras. 37-40 and 51-53.

<sup>150</sup>For the text of relevant statements, see S C (37), 2322nd mtg.: Syrian Arab Republic, paras. 32-70 and 173-82; Jordan, paras. 77-99; 2328th mtg.: Syrian Arab Republic, paras. 166-70. The representatives quoted from article 3(a) of the Definition of Aggression, which defines an act of aggression, *inter alia*, as: "The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof"; and article 5(1), which reads as follows: "No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression".

<sup>151</sup>S C (37), 2322nd mtg.: Syrian Arab Republic, para. 69.

<sup>152</sup>S C (37), 2322nd mtg.: Israel, para. 157. The representative cited article 1 of the Definition of Aggression, which reads as follows: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition. *Explanatory note:* In this Definition the term 'State': (a) is used without prejudice to questions of recognition or to whether a State is a Member of the United Nations". The representative also quoted from article 2, which reads: "The first use of armed force by a State in contravention of the Charter shall constitute *prima facie* evidence of an act of aggression ..."

<sup>145</sup>S C (36), Suppl. for Oct.-Dec. 1981, S/14821.

<sup>146</sup>The revised draft resolution (S/14832/Rev.1) was sponsored by Jordan and received 9 votes to 1, with 5 abstentions.

<sup>147</sup>For the text of relevant statements, see S C (36), 2316th mtg.: Syrian Arab Republic, paras. 7-17; Kuwait, paras. 50-58; Egypt, paras. 62-72; United Kingdom, paras. 73-77; 2317th mtg.: Cuba, paras. 5-12; India, paras. 151-155; 2318th mtg.: Zaire, paras. 20-44; Yugoslavia, paras. 47-55; Niger, paras. 56-63; Philippines, paras. 65-69; Mexico, paras. 70-84; Pakistan, paras. 87-94; 2319th mtg.: Indonesia, paras. 6-11; Uganda, paras. 20-27; Syrian Arab Republic, paras. 42-49.



(h) *Decision of 3 April 1982 in connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom*

(i) *Precis of proceedings*

78. By letter<sup>153</sup> dated 1 April 1982 addressed to the President of the Security Council, the Permanent Representative of the United Kingdom requested an immediate meeting of the Council as his Government had good reason to believe that the armed forces of the Argentine Republic were about to attempt to invade the Falkland Islands.

79. At the 2345th meeting, on 1 April 1982, after holding consultations with Council members, the President made a statement<sup>154</sup> on behalf of the Security Council, in which he called upon the Governments of Argentina and the United Kingdom to refrain from the use or threat of force in the region of the Falkland Islands (Islas Malvinas) and to continue the search for a diplomatic solution to the dispute.

80. At the 2346th meeting, on 2 April 1982, the representative of the United Kingdom informed the Council that Argentina was invading the Falkland Islands.

81. At the 2350th meeting, on 3 April 1982, the Security Council adopted<sup>155</sup> resolution 502 (1982), which read in part as follows:

*"The Security Council,*

*"Recalling the statement made by the President of the Security Council at the 2345th meeting of the Council on 1 April 1982 calling on the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to refrain from the use or threat of force in the region of the Falkland Islands (Islas Malvinas),*

*"Deeply disturbed at reports of an invasion on 2 April 1982 by armed forces of Argentina,*

*"Determining that there exists a breach of the peace in the region of the Falkland Islands (Islas Malvinas),*

*"1. Demands an immediate cessation of hostilities;*

*"2. Demands an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas);*

*"3. Calls on the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to seek a diplomatic solution to their differences and to respect fully the purposes and principles of the Charter of the United Nations".*

(ii) *Precis of relevant constitutional discussion*

82. During the deliberations in the Council, which focused mainly on the issues of sovereignty, decolonization and self-determination,<sup>156</sup> there was some discussion of the nature of the armed intervention in the Falkland Islands. On

the one hand, the invasion was viewed as an attempt to impose by force a foreign and an unwanted control and was described as a blatant violation of international law and the Charter, in particular Article 2(4).<sup>157</sup> On the other hand, it was argued that the Government of Argentina had merely recovered its national sovereignty over the territories of the Malvinas, South Georgia and South Sandwich Islands. It was an act that was based on a just Argentine claim, an act of legitimate defence in response to the acts of aggression by the United Kingdom, which had occurred episodically since 1833 when the United Kingdom had taken possession of the islands by force. In that regard, it was asserted that Article 2(3) and (4) of the Charter could not be taken to legitimize situations that had their origin in wrongful acts carried out before the Charter had come into force.<sup>158</sup>

(i) *Decisions of 15 December 1982 and 29 June 1983 in connection with the complaint by Lesotho against South Africa*

(i) *Precis of proceedings*

83. By letter<sup>159</sup> dated 9 December 1982 addressed to the President of the Security Council, the representative of Lesotho transmitted the text of a telegram from the Minister for Foreign Affairs of his country, in which it was charged that SADF had launched an attack that day on the capital of Lesotho, Maseru, and requested an urgent meeting of the Council to address the issue.

84. At the 2407th meeting, on 15 December 1982, the Security Council adopted<sup>160</sup> resolution 527 (1982) which read in part as follows:

*"The Security Council,*

*"...*

*"Bearing in mind that all Member States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,*

*"Gravely concerned at the recent premeditated aggressive act by South Africa, in violation of the sovereignty, airspace and territorial integrity of the Kingdom of Lesotho, and its consequences for peace and security in southern Africa,*

*"Gravely concerned that this wanton aggressive act by South Africa is aimed at weakening the humanitarian support given by Lesotho to South African refugees,*

*"...*

<sup>157</sup>For the texts of relevant statements, see S C (37), 2346th mtg.: United Kingdom, paras. 4-8; 2349th mtg.: France, paras. 5-9; Australia, paras. 21-24; Canada, paras. 27-30; New Zealand, paras. 33-36; 2350th mtg.: Japan, paras. 66-70.

<sup>158</sup>S C (37), 2346th mtg.: Argentina, paras. 10-17; 2350th mtg.: Argentina, paras. 5-45.

<sup>159</sup>S C (37), Suppl. for Oct.-Dec. 1982, S/15515.

<sup>160</sup>The draft resolution (S/15524) was prepared in the course of the Security Council's consultations and received 12 votes to none, with 2 abstentions. One member of the Council did not participate in the voting.

<sup>153</sup>S C (37), Suppl. for April-June 1982, S/14942.

<sup>154</sup>S/14944.

<sup>155</sup>The draft resolution (S/14947/Rev.1) was sponsored by the United Kingdom, and received 10 votes to 1, with 4 abstentions.

<sup>156</sup>See the present *Supplement*, under Article 1(2).

"1. *Strongly condemns* the apartheid regime of South Africa for its premeditated aggressive act against the Kingdom of Lesotho which constitutes a flagrant violation of the sovereignty and territorial integrity of that country;

"2. *Demands* the payment by South Africa of full and adequate compensation to the Kingdom of Lesotho for the damage to life and property resulting from this aggressive act;

"3. *Reaffirms* the right of Lesotho to receive and give sanctuary to the victims of apartheid in accordance with its traditional practice, humanitarian principles and its international obligations;

"...

"6. *Declares* that there are peaceful means to resolve international problems and that, in accordance with the Charter of the United Nations, only these should be employed;

"7. *Calls upon* South Africa to declare publicly that it will, in the future, comply with provisions of the Charter and that it will not commit aggressive acts against Lesotho either directly or through its proxies".

85. At the 2455th meeting, on 29 June 1983, when the Council resumed consideration of the item, it included in its agenda the report<sup>161</sup> of the Secretary-General recommending assistance to Lesotho to ensure the protection of refugees. At the same meeting, the Security Council unanimously adopted<sup>162</sup> resolution 535 (1983), which read in part as follows:

"*The Security Council,*

"...

"*Having heard* the statement of the Chargé d'affaires of the Permanent Mission of the Kingdom of Lesotho expressing the deep concern of his Government at the frequent aggressive acts by South Africa against the territorial integrity and independence of Lesotho,

"*Reaffirming* its opposition to the system of apartheid and the right of all countries to receive refugees fleeing from apartheid oppression,

"...

"1. *Commends* the Government of Lesotho for its steadfast opposition to apartheid and its generosity to the South African refugees;

"...

"4. *Requests* Member States, international organizations and financial institutions to assist Lesotho in the fields identified in the report of the mission to Lesotho".

<sup>161</sup>S/15600.

<sup>162</sup>The draft resolution (S/15846) was prepared in the course of the Security Council's consultations.

(ii) *Precis of relevant constitutional discussion*

86. During the Council's deliberations regarding the complaint by Lesotho, South Africa's aggressive acts against defenceless and vulnerable Lesotho were condemned as blatant violations of the principles of international law and of the Charter, particularly the principle of the non-use of force against the territorial integrity or political independence of any State. It was underlined that the apartheid policies of South Africa were the only source of conflict in the region; and South Africa's attempts to justify the attack on Maseru as a pre-emptive defensive measure were rejected as untenable and dangerous to the maintenance of international peace and security. Lesotho's right to receive and provide humanitarian support to South African refugees was reaffirmed.<sup>163</sup> On the other hand, it was pointed out that South Africa's pre-emptive action was aimed exclusively at the African National Congress (ANC) and its bases, to prevent the escalation of terrorist activity, and was not intended to be hostile to the people of Lesotho.<sup>164</sup>

(j) *Decision of 27 October 1983 in connection with the situation in Grenada*<sup>165</sup>

(i) *Precis of proceedings*

87. By letter<sup>166</sup> dated 25 October 1983 addressed to the President of the Security Council, the Deputy Minister for External Relations of Nicaragua requested an urgent meeting of the Council to consider the invasion of Grenada by troops of the United States of America.

88. At the 2491st meeting, on 27 October 1983, a revised draft resolution<sup>167</sup> submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Security Council, bearing in mind that, in accordance with Article 2(4) of the Charter, all Member States were obliged to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State or to act in any other manner inconsistent with the principles of the Charter, would have, *inter alia*, deplored the armed intervention in Grenada; and called for the immediate cessation of the intervention and the withdrawal of the foreign troops from that State.

<sup>163</sup>For the texts of relevant statements, see S C (37), 2406th mtg.: Lesotho, paras. 15-37; 2407th mtg.: Libyan Arab Jamahiriya, paras. 6-17; Zaire, paras. 19-32; United Kingdom, paras. 50-68; France, paras. 71-80; Japan, paras. 99-107; Spain, paras. 165-169; 2408th mtg.: Guyana, paras. 7-16; United States, paras. 19-26; Yugoslavia, paras. 60-70; Sierra Leone, paras. 73-83; Swaziland, paras. 110-127; Egypt, paras. 130-135; 2409th mtg.: Panama, paras. 7-15; Botswana, paras. 18-29; Grenada, paras. 77-84; Zimbabwe, paras. 88-91; Yemen, paras. 105-112; Mr. Makatini, paras. 167-205; Poland, paras. 207-216.

<sup>164</sup>S C (37), 2409th mtg.: South Africa, paras. 137 and 146.

<sup>165</sup>For the consideration of this issue by the General Assembly, see para. 39.

<sup>166</sup>S C (38), Suppl. for Oct-Dec. 1983, S/16067.

<sup>167</sup>The revised draft resolution (S/16077/Rev.1) was sponsored by Guyana, Nicaragua and Zimbabwe and received 11 votes to 1, with 3 abstentions.

(ii) *Precis of relevant constitutional discussion*

89. During the Council's deliberations regarding the situation in Grenada, where a multinational force had disembarked following the assassination of the Prime Minister of Grenada, several cabinet ministers and other citizens, a considerable constitutional discussion arose involving the provisions of Article 2(4) and Chapter VIII of the Charter relating to regional arrangements.

90. On the one hand, it was argued that the events that had taken place, however deplorable, were the internal affair of Grenada and provided no justification for an invasion by forces, including United States troops, in clear violation of Grenada's sovereignty, territorial integrity and political independence. It was charged that the attempts at justifying the invasion on whatever grounds were inadmissible pretexts advanced for the purpose of imposing political models in direct violation of the basic principles of the United Nations, in particular Article 2(4) of the Charter. Furthermore, it was maintained that under the Charter the use of force was permissible only in response to a request from the legitimate authorities of a country for assistance in individual and collective self-defence against armed external aggression, or upon a decision of the Council acting under Chapter VII of the Charter. It was stressed that no regional or subregional instrument contradicted the principle of non-intervention in the internal affairs of another State, and in the particular case of the Organization of Eastern Caribbean States (OECS), collective defensive measures were authorized against external aggression only.<sup>168</sup> Moreover, it was emphasized that the prohibition of the use of force could not be subject to interpretation since that would allow "subjective policies to be marketed as objective realities", thereby legitimizing the use of force and permitting intervention with the consequence being the reversal of the whole jurisprudence of the Charter.<sup>169</sup>

91. On the other hand, it was held that, following the violent events in which Cuban-trained armed officers had seized power in Grenada, which had undergone an extensive and disproportionate military build-up in recent years, the member Governments of the OECS had sought assistance from countries within the region and subsequently from the United States, whose nationals on the island were endangered, to form a multinational task force for the purpose of undertaking the pre-emptive defensive strike required to remove the threat to peace and security in the subregion and to restore a situation of normalcy in Grenada. The action had been undertaken in accordance with the regional defence pact of OECS, to which Grenada was a party, and at the request of the island's Governor-General, who was the only remaining legitimate authority. It was also maintained that, while military action to protect nationals in real and compelling danger would not be justified under normal circumstances, it was permitted by international law in a situation where anarchy prevailed. Moreover, it was asserted that the Charter prohibition against the use of force was contextual and not absolute; that the use of force against force was justified in pursuit of other values also inscribed in

the Charter such as freedom, democracy and peace; and that the Charter did not require peoples to submit supinely to terror, nor that their neighbours should be indifferent to their terrorization. The action taken by the task force, it was declared, was legal and within the letter and spirit of the Charter.<sup>170</sup>

## 2. IN THE GENERAL ASSEMBLY

*Decision of 15 November 1982 in connection with the item: Peaceful settlement of disputes between States*(i) *Precis of proceedings*

92. At its thirty-fourth to thirty-sixth sessions, the General Assembly adopted resolutions<sup>171</sup> endorsing the preparation of a declaration on the peaceful settlement of disputes between States, which had been suggested within the context of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization as a topic on which general agreement might be possible.<sup>172</sup>

93. At its thirty-seventh session, at its 4th plenary meeting, on 24 September 1982, the General Assembly decided to include the item entitled "Peaceful settlement of disputes between States" in its agenda, in accordance with the resolution<sup>173</sup> adopted on the subject at its previous session, and allocated it to the Sixth Committee for consideration and report.

94. The Sixth Committee considered the item at its 20th to 30th meetings on the basis of, among other things, the report of the 1982 session of the Special Committee.<sup>174</sup> At the 29th meeting, a draft resolution<sup>175</sup> on the subject was adopted by consensus, together with the draft declaration annexed thereto.

95. At its 68th plenary meeting, on 15 November 1982, the General Assembly adopted by consensus the draft<sup>176</sup> submitted by the Sixth Committee as resolution 37/10. Among the provisions of the Manila Declaration on the

<sup>170</sup>For the texts of relevant statements, see S C (38), 2487th mtg.: Mexico, paras. 9-19; Nicaragua, paras. 20-41; Guyana, paras. 68-86; Grenada, paras. 88-110; Cuba, paras. 114-125; USSR, paras. 158-161 and 168; United States, paras. 188-196; 2489th mtg.: Dominica, paras. 6-14; Viet Nam, paras. 21-30; Nigeria, paras. 32-34; Poland, paras. 36-43; Jamaica, paras. 45-58; China, paras. 65-69; Argentina, paras. 71-77; Algeria, para. 93-102; France, para. 146; Antigua and Barbuda, 156 and 157; 2491st mtg.: Saint Lucia, paras. 13-29; Zimbabwe, paras. 31-41; Ecuador, paras. 44-50; United States, paras. 51-77; Benin, para. 91; Barbados, paras. 141-149; Sao Tome and Principe, paras. 175 and 177; Guinea-Bissau, para. 245; Mr. Maksoud, paras. 293-295; Saint Vincent and the Grenadines, paras. 327-331; United Republic of Tanzania, paras. 382-384; Jordan, paras. 412-414.

<sup>171</sup>G A resolutions 34/102, 35/160 and 36/110.

<sup>172</sup>G A (34), Suppl. No. 33, A/34/33, para. 13.

<sup>173</sup>G A resolution 36/110 (para. 6).

<sup>174</sup>G A (37), Suppl. No. 33, A/37/33.

<sup>175</sup>The draft resolution (A/C.6/37/L.2) was sponsored by 40 Member States.

<sup>176</sup>The draft resolution was submitted by the Sixth Committee in its report (A/37/590, para. 10).

<sup>168</sup>S C (38), 2487th mtg.: Mexico, para. 14.

<sup>169</sup>Ibid., 2491st mtg.: Mr. Maksoud, para. 295.

Peaceful Settlement of International Disputes, which was contained in the annex to the resolution, were the following:

*"The General Assembly,*

*"...*

*"Reaffirming the principle of the Charter of the United Nations that all States 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 manner inconsistent with the purposes of the United Nations,*

*"...*

*"Stressing the need for all States to desist from any forcible action that deprives peoples, particularly peoples under colonial and racist regimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,*

*"...*

*"Solemnly declares that:*

**I**

*"...*

*"4. States parties to a dispute shall continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning sovereignty, independence and territorial integrity of States, as well as other generally recognized principles and rules of contemporary international law.*

*"...*

*"12. In order to facilitate the exercise by the peoples concerned of their right to self-determination as referred to in the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the parties to a dispute may have the possibility, if they agree to do so and as appropriate, to have recourse to the relevant procedures mentioned in the present Declaration, for the peaceful settlement of disputes.*

*"13. Neither 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 party to the dispute.*

*"...*

*"Declares that nothing in the present Declaration shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes;*

*"Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter,*

*of peoples forcibly deprived of that right and referred to in the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration".*

*(ii) Precipis of relevant constitutional discussion*

96. During the debates that took place in the Sixth Committee, the close relationship between the Charter principles of peaceful settlement of disputes and of the non-use of force was emphasized. However, the applicability of those principles to peoples struggling for their right to self-determination, as defined in the final draft of the Manila Declaration, gave rise to opposing views. On the one hand, caution was expressed that the relevant provisions of the Declaration could be interpreted to mean that the parties to a conflict involving the exercise of the right to self-determination were not obliged to settle that conflict by peaceful means, and were free to resort to other means such as armed force.<sup>177</sup> On the other hand, support was expressed for the struggle of peoples exercising their right to self-determination. It was emphasized that nothing in the Declaration should be construed as undermining or diminishing that right, which included recourse to armed struggle if necessary.<sup>178</sup> The view was also expressed that the procedures for the peaceful settlement of disputes referred to in the Declaration would advance the rights of such peoples and that, in order to be effective, the Declaration would require the support of national liberation movements recognized by the United Nations.<sup>179</sup>

**\*\*B. The question of the scope and limits of the phrase "in any other manner inconsistent with the Purposes of the United Nations"**

**C. The question of the bearing of the injunction in Article 2(4) on the right of self-defence**

97. During the period under review, there were numerous occasions when some constitutional discussion regarding the right to self-defence and its interrelationship with the injunction in Article 2(4) arose. Those instances are dealt with above in part A of the analytical summary of practice.<sup>180</sup> In the current period, no other cases requiring separate analysis were found.<sup>181</sup>

<sup>177</sup>G A (37), 6th Comm., 25th mtg.: Netherlands, para. 16.

<sup>178</sup>Ibid., 20th mtg.: Egypt, para. 36; 24th mtg.: Viet Nam, para. 67; 28th mtg.: Zambia, para. 3; 28th mtg.: Burundi, para. 32.

<sup>179</sup>Ibid., 21st mtg.: Algeria, para. 12; 25th mtg.: Tunisia, para. 49; 27th mtg.: Democratic Yemen, para. 35.

<sup>180</sup>See cases (b), (c), (d), (e), (g), (h), (i) and (j) in the Security Council (paras. 48-53, 54-56, 57-59, 60-66, 72-77, 78-82, 83-86 and 87-91 above). The references to statements bearing on those cases include the relevant material regarding self-defence and threat or use of force.

<sup>181</sup>See also the present *Supplement*, under Article 51.