

ARTICLE 2 (6)

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TEXT OF ARTICLE 2 (6)

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

INTRODUCTORY NOTE

1. Under the terms of Article 2 (6), the Organization shall ensure that non-member States act in accordance with "these Principles so far as may be necessary for the maintenance of international peace and security". The term "these Principles" refers to the Principles set forth in Article 2.
2. Since the responsibility for the maintenance of international peace and security is entrusted by the Charter to the Security Council and to the General Assembly, the present study examines the decisions of these two principal organs concerning actions to be taken by or in respect of non-member States.
3. The General Survey indicates whether a case has been brought before the Organization or whether action has been taken by it in explicit application of Article 2 (6); it also briefly covers the range and types of the decisions of the Organization which bear upon the provisions of Article 2 (6).
4. The Analytical Summary of Practice provides an analysis of the decisions of the Organization affecting non-member States and bearing on Article 2 (6). Cross references are made to other studies in this Repertory dealing with those Articles in application of which the decisions were taken. Since the decisions which may be said to bear upon Article 2 (6) are many and varied, those treated herein are merely intended to illustrate the scope of action taken.
5. In only one case had fairly extensive discussion taken place which reflected the meaning given to Article 2 (6) by certain delegations. The views expressed by those delegations are therefore summarized under a separate heading (section B) in the Analytical Summary of Practice.
6. In addition to Article 2 (6), the following Articles contain express reference to non-member States in regard to their relations with the United Nations: Article 11 (2) confers upon the General Assembly the power to discuss any questions relating to the maintenance of international peace and security, including those brought before it by a non-member State in accordance with Article 35 (2); Article 32 makes provision for the right and conditions of participation by any non-member State in the discussion of the Security Council relating to a dispute to which it is a party; Article 35 (2) deals with the submission by a non-member State of a dispute to the General Assembly or the Security Council, as well as with the obligations which that State must accept in advance; Article 50 confers on a non-member State the right to consult the Security Council in connexion with special economic problems arising out of carrying out preventive or enforcement measures taken by the Council against any State; and Article 93 (2) enables a non-member State to become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council. There are other

provisions of the Charter referring to a "State" or "States" without limitation to Members of the United Nations, such as Articles 2 (7) and 81. Finally, the Charter refers to "friendly relations among nations" in Articles 1 (2), 14 and 55.

7. Under each of the Articles mentioned in the foregoing paragraph, the Organization has taken decisions affecting non-member States.

I. GENERAL SURVEY

8. None of the decisions taken by the General Assembly or by the Security Council for the maintenance of international peace and security and involving non-member States contains explicit reference to Article 2 (6). In one case, a draft resolution which contained such a reference was later withdrawn (see paragraph 53 below).

9. Article 2 (6) was, however, expressly invoked in a letter dated 9 April 1946 from the representative of Poland requesting the inclusion of the Spanish question in the agenda of the Security Council. After referring to General Assembly resolution 32 (I) of 9 February 1946 and stating that "the activities of the Franco Government have ... caused international friction and endangered international peace and security", the letter continued: 1/

"In view of the foregoing, the situation in Spain must be considered not as an internal affair of that country but as a concern of all the United Nations. Article 2 of the Charter in paragraph 6 provides that the United Nations Organization shall insure that States not Members of the United Nations act in accordance with the principles of the Organization so far as may be necessary for the maintenance of international peace and security. The situation in Spain makes the application of this provision imperative."

10. References to Article 2 (6) have sometimes been made in the proceedings of United Nations organs in connexion with specific cases. Except in the case of the agenda item entitled "Observance in Bulgaria and Hungary of human rights and fundamental freedoms" (see paragraphs 50-52 below), where discussion of Article 2 (6)

1/ S C, 1st yr., 1st Series, Suppl. No. 2, p. 55; annex 3 b (S/34).

was extensive, such references are incidental and throw little light on the application of the provision in that paragraph. 2/

11. Decisions of the General Assembly and the Security Council which may be said to bear upon the provisions of Article 2 (6) involved action or cessation of action (1) by Member States toward non-member States (2) by specific non-member States, or (3) by non-member States in general. These decisions affecting non-member States were made in connexion with questions of the peaceful settlement of disputes, the determination of threats to the peace and, in one case, the observance of human rights and fundamental freedoms. The decisions were based on those Articles which conferred specific powers on the two principal organs. In some cases, the Principles of the Charter were invoked. The action or cessation of action thus required of non-member States varied from case to case. The terminology used to identify the addressees of such decisions included the following: 3/ (1) "all Member and all other States"; (2) "all nations"; (3) "all States"; (4) "all States and all authorities"; (5) "all governments and authorities"; (6) "every State"; (7) "a State"; (8) "the States concerned"; (9) "the governments concerned" and (10) "the parties concerned".

2/ For instance, Article 2 (6) was mentioned by certain delegations in the course of the discussions on the question of admission of new Members. Thus, in connexion with a proposal for simultaneous admission of all applicants to membership, it was argued that such a proposal was not only incompatible with the terms of Article 4, but was also contrary to the principle of universality, which implied equal treatment for all; such a proposal would actually apply more lenient conditions to candidates for membership than would be applied under Article 2 (6) to non-member States not candidates for membership or, under Article 6, to Members of the United Nations. On the other hand, it was thought that where there was doubt merely as to the qualifications of a State, it would be better to vote in favour of admission, because admission to the United Nations might help to make that State conform to the Charter in its actions. Moreover, from a reading of Article 2 (6) dealing with non-member States, it could be inferred that the authors of the Charter had been aware of the disadvantages to the United Nations as a result of the absence from membership of some of the States of the world.

S C, 6th yr., 573rd mtg., Greece, p. 7.

G A, (III/2), Ad Hoc Pol. Com., 476th mtg., Uruguay, p. 299.

G A, (V), Plen., 318th mtg., Syria, p. 567.

G A, (VI), 1st Com., 496th mtg., Yugoslavia, p. 227.

G A, (VII), Annexes, a.i. 22, A/2400, Greece, p. 14.

G A, (VIII), Ad Hoc Pol. Com., 94th mtg., Bolivia, p. 40.

For other references to Article 2 (6), see paras. 13, 17, 23, 27 and 30 below.

3/ For examples of General Assembly resolutions, in addition to those treated in the Analytical Summary of Practice below, see in this Repertory under Articles 10 and 11.

For examples of Security Council decisions, in addition to those treated in the Analytical Summary of Practice below, see decisions taken on the Palestine question in connexion with which Jordan was one of the parties concerned. Appropriate references to these decisions taken up to the end of 1951 may be found in the Repertoire of the Practice of the Security Council 1946-1951, pp. 325-344. United Nations Publication, Sales No.: 1954.VII.1.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Decisions taken by the Organization affecting non-member States with respect to the maintenance of international peace and security

1. Recommendations to, or in respect of, specific non-member States

a. THE SPANISH QUESTION 4/

12. The Spanish question was placed on the agenda of the Security Council at the request of the representative of Poland (see paragraph 9 above). The Council considered this question at its 34th to 39th and 44th to 49th meetings between 17 April and 26 June 1946.

13. The first phase of discussion centred on the question whether the activities of the Franco régime in Spain endangered international peace and security. In this connexion, draft resolutions were submitted which invoked Articles 39 and 41 or Article 34 as grounds for action by the Security Council. One of the arguments advanced was that Article 2 (6) imposed an obligation on the Organization to take appropriate steps. 5/ Against this argument, it was contended 6/ that Article 2 (6) was limited by Article 2 (7) which followed it immediately with the provision that nothing contained in the Charter authorized the United Nations to intervene in matters essentially within the domestic jurisdiction of any State; the nature of the régime in any given country was such a matter.

14. At the 39th meeting on 29 April 1946, the Council adopted a resolution under which it would

"make further studies in order to determine whether the situation in Spain has led to international friction and does endanger international peace and security, and if it so finds, then to determine what practical measures the United Nations may take."

To this end, the Council established a Sub-Committee on the Spanish question. In its report, 7/ the Sub-Committee stated that (1) in its opinion the Security Council could not, on the present evidence, make the determination required by Article 39 and (2) the present situation in Spain was a situation the continuance of which was in fact likely to endanger the maintenance of international peace and security. The Sub-Committee concluded that the Security Council was empowered by Article 36 (1) to recommend appropriate procedures or methods of adjustment, and recommended that, unless certain conditions were satisfied, the General Assembly adopt a resolution recommending that each Member of the United Nations terminate forthwith diplomatic relations with the Franco régime.

4/ For the submission of, and the main proceedings connected with, this question in the Security Council and in the General Assembly, see in this Repertory under Articles 34 and 11.

For the discussion of other aspects of this question, see in this Repertory under Articles 2 (7), 4, 12, 35, 36, 39, 40 and 41.

5/ S C, 1st yr., 1st Series, No. 2, 34th mtg., pp. 167 and 169.

6/ *Ibid.*, p. 181.

7/ S C, 1st yr., 1st Series, Special Suppl., pp. 1-11, S/75.

15. At the 49th meeting on 26 June 1946, the Security Council, having examined the Sub-Committee's report, decided

"to keep the situation in Spain under continuous observation and maintain it upon the list of matters of which it is seized in order that it will be at all times ready to take such measures as may become necessary to maintain international peace and security".

16. At the request of the delegations of Belgium, Czechoslovakia, Denmark, Norway and Venezuela, 8/ the item "Relations between Spain and the United Nations" was included in the agenda of the second part of the first session of the General Assembly. 9/

17. In the debate in First Committee, to which the item had been referred, Article 2 (6) was mentioned 10/ by a few delegations as a ground on which the Organization could take action with regard to Spain. There was also discussion on whether or not international peace and security was involved. Among the draft resolutions and amendments considered by a drafting sub-committee was an amendment offered by Colombia to a draft resolution submitted by Poland; the amendment was subsequently rejected by the Sub-Committee. It proposed 11/ that the General Assembly

"express its wish that the Government and people of Spain should seek and find the method of bringing into being, by peaceful means, within the shortest possible time and in accordance with the principles and purposes of the Charter of the United Nations, the new social and political conditions necessary to enable Spain to be admitted as a Member of the Organization".

18. Upon the recommendation of the First Committee, the General Assembly adopted, on 12 December 1946, resolution 39 (I), the operative part of which read:

"The General Assembly,

"Convinced that the Franco Fascist Government of Spain, which was imposed by force upon the Spanish people with the aid of the Axis Powers and which gave material assistance to the Axis Powers in the war, does not represent the Spanish people, and by its continued control of Spain is making impossible the participation of the Spanish people with the peoples of the United Nations in international affairs;

"Recommends that the Franco Government of Spain be debarred from membership in international agencies established by or brought into relationship with the United Nations, and from participation in conferences or other activities which may be arranged by the United Nations or by these agencies, until a new and acceptable government is formed in Spain.

8/ G A (I/2), 1st Com., pp. 351 and 352, annex 11 (A/BUR/45).

9/ At its 79th meeting on 4 November 1946, the Security Council resolved to remove the Spanish question from the list of matters of which the Council was seized and to place all the records and documents of the case at the disposal of the General Assembly. See in this Repertory under Article 12.

10/ G A (I/2), 1st Com., 35th mtg., p. 233; 36th mtg., p. 241.

11/ G A (I/2), 1st Com., p. 356, annex 11 e (A/C.1/102).

"The General Assembly,

"Further desiring to secure the participation of all peace-loving peoples, including the people of Spain, in the community of nations,

"Recommends that if, within a reasonable time, there is not established a government which derives its authority from the consent of the governed, committed to respect freedom of speech, religion and assembly and to the prompt holding of an election in which the Spanish people, free from force and intimidation and regardless of party, may express their will, the Security Council consider the adequate measures to be taken in order to remedy the situation;

"Recommends that all Members of the United Nations immediately recall from Madrid their Ambassadors and Ministers Plenipotentiary accredited there.

"The General Assembly further recommends that the States Members of the Organization report to the Secretary-General and to the next session of the Assembly what action they have taken in accordance with this recommendation."

19. At the second session of the General Assembly when the agenda item entitled "Relations of Members of the United Nations with Spain" was under consideration, a draft resolution 12/ submitted by Poland under which the Assembly would have recommended that the Security Council consider the Spanish question within one month and take adequate measures in conformity with Article 41 of the Charter was not put to the vote. The General Assembly, however, adopted resolution 114 (II), by which it expressed its confidence

"that the Security Council will exercise its responsibilities under the Charter as soon as it considers that the situation in regard to Spain so requires".

b. THE GREEK FRONTIER INCIDENTS QUESTION

i. Action taken by the Security Council 13/

20. The Greek frontier incidents question was first brought 14/ to the attention of the Security Council under Articles 34 and 35 (1) of the Charter by Greece.

21. By its resolution adopted at the 87th meeting on 19 December 1946, the Security Council established a Commission of Investigation under Article 34 of the Charter "to ascertain the facts relating to the alleged border violations along the frontier between Greece on the one hand and Albania, Bulgaria and Yugoslavia on the other". The Commission was empowered to call upon the Governments, officials and nationals of those countries for information relevant to its investigation. Later the Council set up a Subsidiary Group of the Commission to fulfil such functions as the Commission might prescribe. 15/

22. After the Commission of Investigation had submitted its report which contained recommendations stated to have been framed in the spirit of Chapter VI of the

12/ G A (II), 1st Com., p. 626, annex 20 a (A/C.1/259); G A (II), Plen., vol. II, pp. 1610-1612, annex 25 (A/479).

13/ See also in this Repertory under Articles 32, 34, 35, 36, 39 and 40.

14/ S C, 1st yr., 2nd Series, Suppl. No. 10, p. 169, annex 16 (S/203).

15/ S C resolution of 18 April 1947, S C, 2nd yr., No. 37, 131st mtg., pp. 799 and 800.

Charter, a number of draft resolutions 16/ were submitted to the Security Council, providing for such recommendations as those for the establishment of normal diplomatic relations between the Governments concerned, the settlement of controversies by the peaceful means mentioned in Article 33, the recall of foreign troops and military personnel from Greece, the conclusion by the Governments concerned of bilateral frontier conventions et cetera. These draft resolutions were rejected by the Council.

23. During the discussion, the argument was advanced 17/ that, in accordance with Article 2 (6), the Security Council must treat alike every State using force against the territorial integrity of another and that the main responsibility for ensuring that all States Members or non-members of the United Nations refrained from all threats to, and all breaches of, the peace rested with the Council.

24. After Greece had formally charged that there existed a "threat to the peace, breach of the peace or act of aggression" and had requested 18/ the Security Council to take this charge into consideration, the following draft resolutions were submitted to the Council. (1) An amended draft resolution 19/ submitted by Australia under which the Security Council would have determined that the situation on the northern borders of Greece constituted a threat to peace under Article 39, would have called upon the parties involved to cease all acts of provocation and would have directed, in accordance with Article 40, that the Governments concerned should at once enter into direct negotiations; (2) a draft resolution 20/ submitted by the United States under which the Security Council would have determined that support and assistance given by Albania, Bulgaria and Yugoslavia to the guerrillas fighting against the Greek Government constituted a threat to the peace within the meaning of Chapter VII, would have called upon the three States to cease and desist from rendering any further assistance to the guerrillas and to co-operate with Greece in the settlement of their disputes by peaceful means, and would have directed the Subsidiary Group to report to the Council on the compliance of Albania, Bulgaria and Yugoslavia with the above-mentioned provisions. These draft resolutions failed of adoption.

ii. Action taken by the General Assembly 21/

25. At the request of the delegation of the United States, the item entitled "Threats to the political independence and territorial integrity of Greece" was included in the agenda of the second session of the General Assembly. 22/ The General Assembly considered the item from the second to the sixth sessions inclusive and adopted the following resolutions thereon: 109 (II), 193 (III), 288 (IV), 382 (V) and 517 (VI). The provisions of resolutions 109 (II), 193 (III) and 288 (IV)

16/ S C, 2nd yr., No. 51, 147th mtg., S/391, pp. 1124-1126; No. 55, 153rd mtg., S/404, pp. 1254 and 1255; No. 69, 174th mtg., S/464, pp. 1731 and 1732.

17/ For texts of relevant statements, see S C, 2nd yr., No. 51, 147th mtg., Greece, p. 1126; United States, p. 1121.

18/ S C, 2nd yr., Suppl. No. 17, pp. 151-153, annex 42 (S/451).

19/ S C, 2nd yr., No. 79, 188th mtg., S/471, pp. 2093 and 2094.

20/ S C, 2nd yr., No. 74, 180th mtg., pp. 1910 and 1911, footnote S/486.

21/ See also in this Repertory under Articles 11 and 12.

22/ By a resolution adopted on 15 September 1947, the Security Council removed the Greek frontier incidents question from the list of matters of which the Council was seized and placed all records and documents in the case at the disposal of the General Assembly (S C, 2nd yr., No. 89, 202nd mtg., pp. 2401 and 2405).

are conveniently summarized in this Repertory under Article 11, annex II under the following headings: (1) Provisions recommending means for the settlement of questions relating to the maintenance of international peace and security, and (2) Provisions recommending the taking of specific measures.

26. The recommendations of the General Assembly to the Government of Greece on the one hand and the Governments of Albania, Bulgaria and Yugoslavia on the other, included provisions concerning the peaceful settlement of their disputes, establishment of normal diplomatic relations, conclusion or renewal of frontier conventions, voluntary repatriation of the refugees, etc. Albania, Bulgaria and Yugoslavia were asked to refrain from furnishing aid and assistance to the guerrillas fighting against the Greek Government. The General Assembly also recommended the taking of certain action by "all Members of the United Nations and all other States". 23/ In addition, a special committee was established to observe the compliance with the recommendations of the General Assembly by the four Governments concerned.

27. When, at the second session of the General Assembly, the item was referred to the First Committee for consideration, Albania 24/ and Bulgaria 25/ requested to be heard. A draft resolution was adopted 26/ by which the Committee inquired "of the representatives of Albania and Bulgaria if their Governments are prepared to agree to apply the principles and rules of the Charter in the settlement of the Greek question". In this connexion it was pointed out 27/ that non-member States which had asked to be heard would be enjoying an additional privilege if they were not bound by the same obligations as the Members of the United Nations.

28. After replies 28/ had been received from the two Governments concerned, the representatives of Czechoslovakia and the USSR submitted proposals providing for the participation of Albania and Bulgaria in the discussion of the Greek question. After rejection of these proposals, the First Committee adopted a resolution submitted by Belgium which, stated: 29/

23/ This wording appears only in G A resolution 193 (III). In resolutions adopted at subsequent sessions the following phrases appeared:

288 (IV): "Calls upon all States harbouring Greek nationals";

382 (V): "Urges all States harbouring the Greek children";

517 (VI): "Urges all countries harbouring Greek children".

24/ G A (II), 1st Com., p. 592, annex 15 c (A/C.1/192).

25/ G A (II), 1st Com., p. 590, annex 15 a (A/C.1/190).

26/ G A (II), 1st Com., 60th mtg., p. 12.

27/ Ibid., p. 10. For other references to Article 2 (6) in connexion with the obligations of Albania and Bulgaria, see G A (III/1), 1st Com., 181st mtg., pp. 368 and 369; G A (IV), 1st Com., 308th mtg., p. 117. It is to be noted that during the discussion it was also pointed out that no provision was made either in the Charter or in the rules of procedure of the Assembly for issuing an invitation to a non-member State. Some representatives considered that the Assembly should be guided by the spirit of Articles 32 and 35 because the Assembly and the Security Council should be guided by the same principles. G A (II), 1st Com., 60th mtg., p. 10.

28/ G A (II), 1st Com., pp. 594 and 595, annexes 15 f (A/C.1/197) and 15 g (A/C.1/198).

29/ G A (II), 1st Com., 62nd mtg., p. 31.

"The Governments of Albania and Bulgaria having failed to furnish a satisfactory reply to the request made to them by the First Committee, the latter has decided to hear the statements of the Bulgarian and Albanian delegations on the Greek question and requests them to place themselves at the disposal of the Committee in order to reply to any questions which may be put to them."

In response to this resolution, the representatives of Albania and Bulgaria informed 30/ the Committee that they accepted the invitation and were ready to state their views on the Greek question. Accordingly, the representatives of Albania and Bulgaria were invited to state their views at the 64th meeting of the Committee.

c. THE CORFU CHANNEL QUESTION 31/

29. By letter dated 10 January 1947, 32/ the United Kingdom submitted as a dispute under Article 35 the incidents in the Corfu Channel involving damage to two British ships by mines for which the United Kingdom alleged that the People's Republic of Albania was responsible.

30. The representative of the United Kingdom, when introducing the question before the Security Council 33/ invited the Council to consider also the wider implication of the case because, in his opinion, international peace and security could not be maintained for long where incidents threatened death to innocent men and destruction to property of friendly nations. He invoked Article 2 (6) and suggested that the Security Council should retain watchful interest in the negotiations for settlement of the dispute. The representative of Albania, having been invited by the Council to participate in its proceedings, 34/ stated that his Government had not laid the mines and had no knowledge of the laying of mines.

31. At its 114th meeting on 27 February, the Security Council adopted a resolution establishing a sub-committee to examine all the available evidence concerning the incidents and to make a report to the Council on the facts of the case as disclosed by such evidence. The resolution further provided that: 35/

"The sub-committee is empowered to request further information as it deems necessary from the parties to the dispute, and the representatives of the United Kingdom and Albania are requested to give every assistance to the sub-committee in its work."

32. After the Sub-Committee had submitted its report 36/ to the Council, a draft resolution 37/ submitted by the United Kingdom concerning the settlement of the dispute was not adopted and another draft resolution 38/ submitted by Poland, invoking Article 33, was later withdrawn. 39/

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- 30/ G A (II), 1st Com., p. 597, annexes 15 k (A/C.1/203) and 15 l (A/C.1/204).
31/ See also in this Repertory under Articles 27, 32, 33, 34, 35, 36, 39 and 40.
32/ S C, 2nd yr., Suppl. No. 3, pp. 36-46, annex 8 (S/247).
33/ S C, 2nd yr., No. 15, 107th mtg., p. 306.
34/ See also in this Repertory under Article 32.
35/ S C, 2nd yr., No. 18, 111th mtg., pp. 364 and 365.
36/ S C, 2nd yr., Suppl. No. 10, p. 77, annex 22 (S/300).
37/ S C, 2nd yr., No. 29, 122nd mtg., pp. 608 and 609.
38/ *Ibid.*, p. 600.
39/ For discussion of these draft resolutions, see in this Repertory under Article 33.

33. At the 127th meeting of the Council on 9 April 1947, the President, in connexion with the question of referring the dispute to the International Court of Justice 40/ stated: 41/

"as Albania is not a Member of the United Nations, it could not be compelled to appear before the International Court of Justice. However, since its acceptance of the obligations of Members of the United Nations, as contained in the Council's invitation to it to participate in a discussion of this case, Albania is now, like any Member of the United Nations, obliged to comply with the provisions both of the Charter and of the Statute of the International Court of Justice."

At the same meeting, the Council decided, by 8 votes to none, with 2 abstentions, to recommend "that the United Kingdom and the Albanian Governments should immediately refer the dispute to the International Court of Justice in accordance with the provisions of the Statute of the Court." 42/

34. By letter dated 22 May 1947, the Government of the United Kingdom presented to the International Court of Justice an application against the Government of Albania in regard to the incidents in the Corfu Channel. On 25 March 1948, the Court gave its decision 43/ on the Preliminary Objection filed by the Albanian Government. Immediately after the delivery of the decision, the Court was notified of a Special Agreement entered into by the two Governments concerned and "drawn up as a result of the Resolution of the Security Council of the 9th April, 1947, for the purpose of submitting to the International Court of Justice" 44/ certain questions relating to the Corfu Channel incidents. On 9 April 1949, the Court delivered its judgement on the merits of the Corfu Channel case. 45/

d. COMPLAINT OF HOSTILE ACTIVITIES OF THE GOVERNMENT OF THE UNION OF SOVIET
SOCIALIST REPUBLICS AND THE GOVERNMENTS OF BULGARIA, HUNGARY, ROMANIA
AND ALBANIA, AS WELL AS THE GOVERNMENTS OF CZECHOSLOVAKIA AND
POLAND, AGAINST YUGOSLAVIA 46/

35. The delegation of Yugoslavia, in its explanatory memorandum, 47/ dated 19 November 1951, accompanying the request for the inclusion of the above-mentioned item in the agenda of the sixth session of the General Assembly, invoked Article 10 and stated that the hostile activities of the named seven Governments against Yugoslavia were creating a situation endangering the maintenance of international peace.

40/ A draft resolution to this effect was submitted by the United Kingdom (S C, 2nd yr., No. 32, 125th mtg., pp. 685 and 686).

41/ S C, 2nd yr., No. 34, 127th mtg., p. 726.

42/ Ibid., pp. 726 and 727.

43/ Corfu Channel Case, I C J, Reports 1947, p. 15 et seqq.

44/ Corfu Channel Case, I C J, Reports 1948, p. 54.

45/ Ibid., p. 4, et seqq.

46/ See also in this Repertory under Articles 10, 11 and 14.

47/ G A (VI), annexes, a.i. 68, pp. 1 and 2, A/1946.

36. In the Ad Hoc Political Committee to which the item was referred, Yugoslavia submitted a draft resolution 48/ concerning the settlement of the question. During the discussion 49/ it was maintained, on the one hand, that the General Assembly had the right and duty under Articles 10, 11 and 14 to consider the Yugoslav complaint and that no Government could refuse to act in accordance with the spirit of the Charter. On the other hand, it was stated that the draft resolution submitted by Yugoslavia should be rejected since the complaint was groundless; that the action of the delegation of Yugoslavia should be condemned as being contrary to peace and security in the Balkans.

37. Upon the recommendation of the Ad Hoc Political Committee 50/ the General Assembly adopted resolution 509 (VI) under which, after quoting the provisions of Articles 1 (2) and 14, the Assembly recommended that the Governments concerned (Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, the USSR and Yugoslavia)

"(a) Conduct their relations and settle their disputes in accordance with the spirit of the United Nations Charter;

"(b) Conform in their diplomatic intercourse with the rules and practices which are customary in international relations;

"(c) Settle frontier dispute by means of mixed frontier commissions or other peaceful means of their choice."

e. THE PALESTINE QUESTION 51/

38. Of the resolutions adopted by the Security Council and the General Assembly in connexion with the Palestine question, the following resolution, under which a non-member, Jordan, was called upon to take certain actions, is one of several.

39. At the 642nd meeting on 24 November 1953, the Security Council adopted a resolution which provided, inter alia, that the Council

"Takes note of the fact that there is substantial evidence of crossing of the demarcation line by unauthorized persons, often resulting in acts of violence, and requests the Government of Jordan to continue and strengthen the measures which it is already taking to prevent such crossings;

"Recalls to the Governments of Israel and Jordan their obligations under Security Council resolutions and the General Armistice Agreement to prevent all acts of violence on either side of the demarcation line;

"Calls upon the Governments of Israel and Jordan to ensure the effective co-operation of local security forces;

"Reaffirms that it is essential, in order to achieve progress by peaceful means towards a lasting settlement of the issues outstanding between them, that the parties abide by their obligations under the General Armistice Agreement and the resolutions of the Security Council;

48/ G A (VI), annexes, a.i. 68, p. 3, A/AC.53/L.10/Rev.1.

49/ For texts of relevant statements, see G A (VI), Ad Hoc Pol. Com., 8th to 14th mtgs. inclusive, pp. 39-73.

50/ G A (VI), annexes, a.i. 68, pp. 3 and 4, A/1997.

51/ See also in this Repertory under Articles 12, 32, 33, 35, 39 and 40.

"Emphasizes the obligation of the Governments of Israel and Jordan to co-operate fully with the Chief of Staff of the Truce Supervision Organization;"

2. Recommendations to non-member States in general 52/

a. RECOMMENDATIONS INVOLVING THE PRINCIPLES OF THE CHARTER IN GENERAL:
GENERAL ASSEMBLY RESOLUTIONS 290 (IV), 377 (V),
503 (VI) AND 703 (VII)

40. The General Assembly has adopted a number of resolutions which made recommendations to both Member and non-member States concerning the maintenance of international peace and security and referred explicitly to the Principles of the Charter.

41. In its resolution 290 (IV), entitled "Essentials of peace", the General Assembly addressed certain recommendations to "every nation" and others to "every Member"; declaring that disregard of the Principles of the Charter was primarily responsible for the continuance of international tension, it called upon "every nation",

"2. To refrain from threatening or using force contrary to the Charter;

"3. To refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State;

"4. To carry out in good faith its international agreements;

"5. To afford all the United Nations bodies full co-operation and free access in the performance of the tasks assigned to them under the Charter;

"6. To promote, in recognition of the paramount importance of preserving the dignity and worth of the human person, full freedom for the peaceful expression of political opposition, full opportunity for the exercise of religious freedom and full respect for all the other fundamental rights expressed in the Universal Declaration of Human Rights;

"7. To promote nationally and through international co-operation, efforts to achieve and sustain higher standards of living for all peoples;

"8. To remove the barriers which deny to peoples the free exchange of information and ideas essential to international understanding and peace;

".....

"11. To settle international disputes by peaceful means and to co-operate in supporting United Nations efforts to resolve outstanding problems;

"12. To co-operate to attain the effective international regulation of conventional armaments; and

52/ See also in this Repertory under Article 11, annex IV.

. "13. To agree to the exercise of national sovereignty jointly with other nations to the extent necessary to attain international control of atomic energy which would make effective the prohibition of atomic weapons and assure the use of atomic energy for peaceful purposes only."

42. By resolution 377 (V), entitled "Uniting for peace", the General Assembly recalled resolution 290 (IV), established a Peace Observation Commission to "observe and report on the situation in any area where there exists international tension the continuance of which is likely to endanger the maintenance of international peace and security", and recommended "to all governments and authorities that they co-operate with the Commission and assist it in the performance of its functions;". Under the same resolution the Assembly also established a Collective Measures Committee to study and make a report to the Security Council and to the General Assembly on methods which might be used to strengthen international peace and security in accordance with the Purposes and Principles of the Charter, taking account of collective self-defence and regional arrangements.

43. At both its sixth and seventh sessions, the General Assembly adopted resolutions on the methods which might be used to maintain and strengthen international peace and security in accordance with the Purposes and Principles of the Charter. By resolution 503 (VI), the General Assembly, reaffirming its desire expressed in resolution 377 A (V), invited

"States not Members of the United Nations to take note of the report of the Collective Measures Committee and consider ways and means in the economic as well as in other fields whereby they could contribute most effectively to collective measures undertaken by the United Nations in accordance with the Purposes and Principles of the Charter;".

By resolution 703 (VII), the General Assembly recommended to State Members, and invited States not Members of the United Nations:

"(a) To give careful consideration to the reports of the Collective Measures Committee;

"(b) To continue and intensify their efforts to carry out the recommendations of the 'Uniting for peace' resolution and of resolution 503 (VI);

"(c) To keep the Collective Measures Committee currently informed of the progress they are making in this respect;".

**b. RECOMMENDATIONS INVOLVING SPECIFIC PRINCIPLES OF THE CHARTER: GENERAL ASSEMBLY
RESOLUTIONS 291 (IV), 378 (V), 498 (V), 500 (V) AND 707 (VII)**

44. The Principles of the Charter referred to in the following resolutions are those stated in Article 2 (4-5).

45. By resolution 291 (IV), entitled "Promotion of the stability of international relations in the Far East", the General Assembly, after citing the provisions of Article 2 (4) in the preamble, called upon all States

"1. To respect the political independence of China and to be guided by the Principles of the United Nations in their relations with China;

"2. To respect the right of the people of China, now and in the future, to choose freely their political institutions and to maintain a government independent of foreign control;

"3. To respect existing treaties relating to China;

"4. To refrain from (a) seeking to acquire spheres of influence or to create foreign-controlled régimes within the territory of China; (b) seeking to obtain special rights or privileges within the territory of China."

46. By resolution 378 (V), entitled "Duties of States in the event of the outbreak of hostilities", the General Assembly, having affirmed "the Principles embodied in the Charter which require that the force of arms... shall not be used against the territorial integrity or political independence of any State", recommended that a State which had become engaged in armed conflict with another State or States take certain actions such as "to bring the armed conflict to an end at the earliest possible moment", to proclaim its readiness "to discontinue all military operations and withdraw its military forces which have invaded the territory or territorial water of another State or crossed a demarcation line", etc.

47. By resolution 498 (V), entitled "Intervention of the Central People's Government of the People's Republic of China in Korea", the General Assembly called upon "all States and authorities to continue to lend every assistance to the United Nations action in Korea;" and further called upon "all States and authorities to refrain from giving any assistance to the aggressors in Korea;".

48. By resolution 500 (V), entitled "Additional measures to be employed to meet the aggression in Korea", the General Assembly recommended that every State:

"(a) Apply an embargo on the shipment to areas under the control of the Central People's Government of the People's Republic of China and of the North Korean authorities of arms, ammunition and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items useful in the production of arms, ammunition and implements of war;

"(b) Determine which commodities exported from its territory fall within the embargo, and apply controls to give effect to embargo;

"(c) Prevent by all means within its jurisdiction the circumvention of controls on shipments applied by other States pursuant to the present resolution;

"(d) Co-operate with other States in carrying out the purposes of this embargo;

"(e) Report to the Additional Measures Committee, within thirty days and thereafter at the request of the Committee, on the measures taken in accordance with the present resolution;".

49. In resolution 707 (VII), entitled "Complaint by the Union of Burma regarding aggression against it by the Government of the Republic of China", 53/ the General Assembly used the following wording:

53/ See also resolution 717 (VIII).

"3. Requests all States to respect the territorial integrity and political independence of the Union of Burma in accordance with the Principles of the Charter;

".....

"5. Urges all States:

"(a) To afford the Government of the Union of Burma on its request all the assistance in their power to facilitate by peaceful means the evacuation of these foreign forces from Burma; and

"(b) To refrain from furnishing any assistance to these forces which may enable them to remain in the territory of the Union of Burma or to continue their hostile acts against that country;"

B. The discussion of Article 2 (6) in connexion with the agenda item on the observance in Bulgaria and Hungary of human rights and fundamental freedoms 54/

50. During the consideration of the agenda item on the observance of human rights and fundamental freedoms in Bulgaria and Hungary at the second part of the third session of the General Assembly, several delegations invoked Article 2 (6) and other relevant provisions of the Charter in a debate on the competence or lack of competence of the Organization to discuss the question and on the obligations of non-member States under the Charter. 55/

51. The arguments relating to the provisions of Article 2 (6) advanced in support of the contention that the Organization was competent to discuss the question were as follows:

(1) In dealing with the item under consideration, the (Ad Hoc Political) Committee should take into consideration Article 2 (6) which proclaimed that the Organization should ensure that States which were not Members of the United Nations act in accordance with its principles, thus establishing the moral obligation and legal right of the United Nations to ensure the observance of these principles.

(2) Article 2 (6) could not be implemented unless the United Nations were permitted to watch over the actions and conduct of governments, and no State could hide behind the concept of absolute national sovereignty as though that were an insuperable barrier.

54/ For historical background and discussion of the various aspects of the item, see in this Repertory under Article 2 (7), 11, 55 and 56.

55/ For texts of relevant statements, see G A (III/2), Plen., 189th mtg.: Bolivia, pp. 17 and 18; Poland, p. 15; 190th mtg.: Uruguay, p. 26; 202nd mtg.: Cuba, pp. 247 and 248.

G A (III/2), General Com., 58th mtg.; Poland, pp. 11 and 37; 59th mtg.: Bolivia, pp. 25 and 26.

G A (III/2), Ad Hoc Pol. Com., 34th mtg.: Philippines, p. 61; Poland, p. 62; 35th mtg.: Cuba, p. 78; Poland, p. 80; 38th mtg.: Chile, p. 131; Yugoslavia, pp. 126 and 127; 41st mtg.: Argentina, pp. 164 and 165.

For reference to similar arguments advanced in the Economic and Social Council in regard to the item concerning the infringement of trade union rights, see in this Repertory under Article 62 (2).

(3) Respect for obligations under international treaties was one of the fundamental principles of the Organization and essential for peace and security in relations between States. ^{56/}

(4) Articles 1 (2) and 55 required all nations to establish "peaceful and friendly relations ... based on respect of the principle of equal rights and self-determination of peoples". That principle was one of the foundations of world peace and those who encroached upon it were in fact guilty of endangering the peace.

52. Against the foregoing arguments, the following contentions were made:

(1) Under Article 2 (6), the Organization had to ensure that non-member States act in accordance with its principles so far as might be necessary for the maintenance of international peace and security. It could not be claimed that international peace and security were threatened by the alleged violations of human rights and of the provisions of the peace treaties by the Governments of Bulgaria and Hungary. It was, therefore, perfectly clear that the Organization was not bound to apply the provisions of Article 2 (6) in the case of Bulgaria and Hungary.

(2) Since the Charter was a multilateral treaty, the absence of an obligation on the part of a State which was not a Member of the Organization derived not only from the legal principle that no State could be bound by a treaty concluded by other States but also from a comparison between Article 2 (6) of the Charter and Article 17 of the Covenant of the League of Nations which contained a similar provision. It had been possible to maintain that Article 17 of the Covenant was worded in such a way that it imposed on States not Members of the League of Nations the legal obligation not to resort to war; on the other hand, Article 2 (6) of the Charter had obviously been worded in such a way that it did not impose any legal obligation on non-member States, even with respect to international peace and security.

53. When the item was under consideration in the Ad Hoc Political Committee, Cuba submitted a draft resolution ^{57/} proposing the establishment of a special committee "to elucidate the acts alleged to have been committed in Bulgaria and Hungary against human rights and the fundamental freedoms". This draft resolution contained the following provisions:

"5. Considering that the violation of the principles set forth in the Preamble and in the Purposes of the United Nations Charter referred to above, not only tends to destroy the dignity of the human person which the United Nations has undertaken to respect and promote, but by unleashing religious persecution, destroys the freedom of the human person to worship God in accordance with his conscience - without discrimination as to religion - which by rousing religious hatred has in the past given rise to bloody wars and has already led to a situation which, if it continues, may endanger international peace.

^{56/} An amendment to a draft resolution submitted by Bolivia was offered containing provisions to this effect. The amendment was rejected by the Ad Hoc Political Committee by 10 votes to 10, with 32 abstentions. See G A (III/2), Ad Hoc Pol. Com., Annexes, p. 8, A/AC.24/53; ibid., 41st mtg., p. 173.

^{57/} G A (III/2), Ad Hoc Pol. Com., Annexes, pp. 2 and 3, A/AC.24/48 and Corr.1.

"The General Assembly,

"Exercising the powers invested in it by Articles 10, 11, 13, 14, 34 and 35 of the Charter of the United Nations, and

"Bearing in mind the provisions of Article 2 paragraphs 5, 6 and 7 and Article 103 of the same text,".

The later submission by Cuba and Australia of a joint amendment to a Bolivian draft resolution 58/ entailed the withdrawal of the draft resolution submitted by Cuba.

54. The text of resolution 272 (III), entitled "Observance in Bulgaria and Hungary of human rights and fundamental freedoms", as finally adopted by the General Assembly made no mention of international peace and security or of Article 2 (6).

58/ Ibid., p. 7, A/AC.24/51/Corr.1.

