

ARTICLE 2 (4)

CONTENTS

	<i>Paragraphs</i>
Text of Article 2 (4)	
Introductory Note	1-12
I. General Survey	13-44
II. Analytical Summary of Practice	45-177
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"	45-164
1. In the Security Council	46-136
a. Decisions of 4 November 1966 and 25 November 1966 in connexion with the Palestine question	46-59
(i) Decision of 4 November 1966	46-52
(a) Précis of proceedings	46-49
(b) Précis of relevant constitutional discussion	50-52
(ii) Decision of 25 November 1966	53-59
(a) Précis of proceedings	53-55
(b) Précis of relevant constitutional discussion	56-59
b. Decisions of 24 March, 16 August, 31 December 1968 and 1 April and 26 August 1969 in connexion with the situation in the Middle East	60-100
(i) Decision of 24 March 1968	60-69
(a) Précis of proceedings	60-64
(b) Précis of relevant constitutional discussion	65-69
(ii) Decision of 16 August 1968	70-76
(a) Précis of proceedings	70-73
(b) Précis of relevant constitutional discussion	74-76
(iii) Decision of 31 December 1968	77-83
(a) Précis of proceedings	77-80
(b) Précis of relevant constitutional discussion	81-83
(iv) Decision of 1 April 1969	84-92
(a) Précis of proceedings	84-87
(b) Précis of relevant constitutional discussion	88-92
(v) Decision of 26 August 1969	93-100
(a) Précis of proceedings	93-96
(b) Précis of relevant constitutional discussion	97-100
c. Decision of 22/23 August 1968 in connexion with the question concerning Czechoslovakia	101-108
(a) Précis of proceedings	101-103
(b) Précis of relevant constitutional discussion	104-108
d. Decision of 28 July 1969 in connexion with the complaint by Zambia	109-117
(a) Précis of proceedings	109-112
(b) Précis of relevant constitutional discussion	113-117
e. Decision of 9 December 1969 in connexion with the complaint by Senegal	118-127
(a) Précis of proceedings	118-123
(b) Précis of relevant constitutional discussion	124-127
f. Decision of 22 December 1969 in connexion with the complaint by Guinea	128-136
(a) Précis of proceedings	128-131
(b) Précis of relevant constitutional discussion	132-136
2. In the General Assmebly	137-164
a. Decision of 30 November 1966 in connexion with the item: "Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self determination"	137-153

	<i>Paragraphs</i>
(a) Précis of proceedings	137-143
(b) Précis of relevant constitutional discussion	144-153
b. Decision of 19 December 1966 in connexion with the item: "Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty"	154-164
(a) Précis of proceedings	154-160
(b) Précis of relevant constitutional discussion	161-164
B. The question of the scope and limits of the phrase "in any other manner inconsistent with the Purposes of the United Nations"	165-168
C. The question of the bearing of the injunction in Article 2 (4) on the right of self-defence ..	169-177

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 previous two *Supplements* covering the periods from 1 September 1956 to 31 August 1959¹ and from 1 September 1959 to 31 August 1966² respectively, Article 2(4) requires treatment in this *Supplement* in a separate study since there were a number of decisions of the Security Council and of the General Assembly bearing on its provisions or preceded by extensive constitutional discussions.

2. The General Survey contains a brief recapitulation of the decisions of the Security Council and of the General Assembly and indicates the items in connexion with which the provisions of Article 2(4) were considered from a constitutional point of view.

3. The Analytical Summary of Practice presents an account of the discussion in the Security Council and the General Assembly of questions concerning the interpretation and application of Article 2(4) that arose in connexion with various decisions.

4. The Security Council did not discuss Article 2(4) in a general way during the period under review. There were five instances of constitutional discussion dealing with Article 2(4) in connexion with the consideration of items of a general nature by the General Assembly. Two such instances, relating respectively to (a) the strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination, and (b) the status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty,³ are treated in the Analytical Summary of Practice.

5. The third instance relates to the examination by the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States

and the Sixth Committee, in 1967, 1968 and 1969, of the agenda item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations".⁴ Inasmuch as the General Assembly did not take a final decision on the matter, the presentation of the relevant material is limited to a brief review of the proceedings.

6. In the fourth instance the terms of Article 2(4) were the subject of extensive consideration by the Sixth Committee at the twenty-third and twenty-fourth sessions of the General Assembly in connexion with the question of defining aggression,⁵ and by the Special Committee on the Question of Defining Aggression at its 1968 and 1969 sessions. Since no final decision was taken by the General Assembly regarding this question, only the proceedings and interim decisions of the General Assembly connected with the consideration of this question are briefly reviewed in the General Survey of the present study.

7. The fifth instance relates to the consideration by the First Committee, at the twenty-fourth session of the General Assembly, of Article 2(4) in the context of territorial inviolability of each State and the inadmissibility of the acquisition of territory by the use of force, in connexion with the item: "The strengthening of international security".⁶ Since the General Assembly did not take a final decision on the matter, only the relevant proceedings in the First Committee are briefly reviewed in the General Survey.

8. The proceedings and constitutional discussions in the Security Council and the General Assembly in the cases

¹ *Repertory, Supplement No. 2*, vol. I, under Article 2(4), pp. 69-116. For the relationship of Article 2(4) to other Charter Articles, see: *ibid.*, paras. 2-7.

² *Repertory, Supplement No. 3*, vol. I, under Article 2(4), pp. 134-173.

³ See paras. 137-153 and 154-164 below.

⁴ G A (XXI), Annexes, a.i. 87; G A (XXII), Annexes, a.i. 87; G A (XXIII), Annexes, a.i. 87; G A (XXIV), Annexes, a.i. 89; see also *Repertory, Supplement No. 3*, vol. I, under Article 2(4), paras. 34-42.

⁵ G A (XXII), Annexes, a.i. 95; G A (XXIII), Annexes, a.i. 86; G A (XXIV), Annexes, a.i. 88. For the background of the question, see: *Repertory, Supplement No. 1*, vol. I, under Article 2(4), p. 14, footnote 22; *Repertory, Supplement No. 2*, vol. I, under Article 2(4), p. 73, footnote 3. See also this Supplement under Article 13 (I) (a) below.

⁶ See paras. 40-42 below.

dealt with in the Analytical Summary of Practice shed light on the meaning and scope of the terms of Article 2(4) as interpreted by the members of those two principal organs of the United Nations. In both of them, Article 2(4) was repeatedly invoked as a standard for governmental conduct. Whereas the discussions in the General Assembly did offer general interpretation of the provisions of Article 2(4), there was no such analysis of that Article in the debates of the Security Council which centred, for the most part, on concrete descriptions of particular incidents involving alleged unilateral use of coercive measures. Although the degree and type of violations of the provisions of Article 2(4) were outlined in terms relating to the actual behaviour of the party which was deemed to have violated them, the issues arising from the allegations in the Council debates relating to shortcomings in the conduct of States with regard to the requirements of Article 2(4), can be considered to have a bearing on the interpretation and application of that Article.

9. The general structure of this study follows that of Article 2(4) in *Supplements Nos. 2 and 3 of the Repertory*. Consequently, the material in the Analytical Summary of Practice is organized under the following 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";
- 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.

10. Indicated below are some of the more specific categories of questions on which the material presented in the Analytical Summary of Practice appears to throw light. These categories were formulated, however, merely to enable the reader to have an over-all view of the cases relating to the interpretation and application of the provisions of Article 2(4) so that no special constitutional significance should be attached to them:

1. The use of force:
 - (a) by one State against acts of violence perpetrated from the territory of another State;
 - (b) for the purpose of reprisals;
 - (c) for the purpose of prevention of the development of a threat to the security of the State concerned;
 - (d) by individuals or organizations in sporadic acts of national resistance within occupied territories.
2. The use of force in response to an alleged request on the basis of a collective defence treaty in order to dispel an alleged threat to the existing political system of a State signatory of the treaty;
3. The use of force, in connexion with the process of decolonization:
 - (a) in support of the Declaration on the Granting of Independence to Colonial Countries and Peoples;
 - (b) in compliance with the resolutions of the General Assembly appealing to all Member States to render moral and material assistance in support of the exercise of the right of self-determination of peoples under a colonial regime;
 - (c) in order to repress national liberation movements perpetrating violent acts from third countries;

(d) in support of wars of liberation or national liberation movements.

11. Another issue which arose in the discussions concerning the interpretation and applications of the provisions of Article 2(4) was whether acts of subversive interference in the domestic or external affairs of States, even when undertaken without the direct use of armed force, constituted indirect aggression with offensive intentions against another State and therefore fell within the prohibition of Article 2(4).

12. In the Analytical Summary of Practice introductory paragraphs under the heading "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'" offer some indication as to which of the more specific questions were involved in the discussions treated in the case histories.⁷

I. GENERAL SURVEY

13. During the period under review, none of the resolutions adopted by the Security Council contained an explicit reference to Article 2(4).⁸ That paragraph was explicitly mentioned and the injunction contained therein cited, in the text of a resolution⁹ of the General Assembly regarding the celebration of the twenty-fifth anniversary of the United Nations. The same resolution also referred to the non-use of force, among other Principles of the Charter to be reaffirmed by Governments and peoples on the occasion of the twenty-fifth anniversary of the Organization.¹⁰

14. Certain other resolutions of the General Assembly, as well as some of the Security Council resolutions adopted during the period under review, may be regarded as having a bearing on Article 2(4) on the basis of the issues raised in the proceedings and discussions leading to their adoption and on the basis of certain of their provisions referring, expressly or tacitly, to the use or threat of use of force.

15. These resolutions were:

- (a) Security Council resolutions 226 (1966), 239 (1967) and 241 (1967) on the question concerning the Democratic Republic of the Congo;
- (b) Security Council resolution 228 (1966) on the Palestine question;
- (c) Security Council resolutions 242 (1967), 248 (1968), 252 (1968), 256 (1968), 258 (1968), 262 (1968), 265 (1969), 267 (1969), 270 (1969) and 271 (1969) on the situation in the Middle East;
- (d) Security Council resolution 268 (1969) on the complaint by Zambia;
- (e) Security Council resolution 273 (1969) on the complaint by Senegal;

⁷ See para. 45 below.

⁸ Article 2 as a whole was explicitly invoked in three decisions of the Security Council; resolution 232 (1966) of 16 December 1966 and resolution 253 (1968) of 29 May 1968 concerning the situation in Southern Rhodesia, paras. 7 and 14 respectively, and resolution 242 (1967) of 22 November 1967 on the situation in the Middle East, third preamb. para. In the three instances Article 2 was cited in the context of obligations incumbent upon Member States to act in accordance with the principles contained therein.

⁹ G A resolution 2499 (XXIV) of 31 October 1969, third preamb. para.

¹⁰ *Ibid.*, second preamb. para.

- (f) Security Council resolution 275 (1969) on the complaint by Guinea;
- (g) General Assembly resolution 2160 (XXI) on the strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination;
- (h) General Assembly resolution 2225 (XXI) on the status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty;
- (i) General Assembly resolution 2270 (XXII) on the question of Territories under Portuguese administration;
- (j) General Assembly resolutions 2383 (XXIII) and 2508 (XXIV) on the question of Southern Rhodesia;
- (k) General Assembly resolution 2606 (XXIV) on the strengthening of international security.

16. Among these, the following resolutions are treated in the Analytical Summary of Practice: Security Council resolutions 228 (1966)¹¹; 248 (1968)¹²; 256 (1968)¹³; 262 (1968)¹⁴; 265 (1969)¹⁵; 270 (1969)¹⁶; 268 (1969)¹⁷; 273 (1969)¹⁸ and 275 (1969)¹⁹; and General Assembly resolutions 2160 (XXI)²⁰ and 2225 (XXI)²¹.

17. Of these resolutions, four²² reproduced the provisions of Article 2(4), in full or in part, in their preambular and/or operative paragraphs. In two²³ of these resolutions, as well as in seven others,²⁴ the Security Council, and in one instance, the General Assembly²⁵ concerned itself with the violation of the principle of the prohibition of the threat or use of force. In six instances,²⁶ the Security Council condemned a particular State for its premeditated military action against another State. In three²⁷ of these six instances, the Council declared that actions of military reprisal could not be tolerated, while in two²⁸ it considered premeditated acts of violence as endangering international

peace and security. In three other cases²⁹ the Council called upon a given State to desist from violating the sovereignty and territorial integrity of other States. In one instance,³⁰ the General Assembly expressed concern about all forms of intervention in the domestic or external affairs of States and called upon all States to refrain from armed intervention or other indirect forms of intervention for the purpose of changing by violence the existing system in another State or interfering in civil strife in another State.

18. Three of the Security Council resolutions listed in paragraph 15 were recalled in subsequent resolutions.³¹ Another one of those resolutions referred to earlier Council resolutions.³² Both of the General Assembly resolutions considered in the Analytical Summary of Practice referred to an earlier Assembly resolution.³³

19. With regard to resolutions not dealt with in the Analytical Summary of Practice, no constitutional discussion took place in the proceedings leading to their adoption. Their bearing on Article 2(4) may be considered to derive from certain of their provisions which are indicated below.

20. In its resolution 226 (1966) of 14 October 1966 on the question concerning the Democratic Republic of the Congo, the Security Council urged,³⁴ the Government of Portugal not to allow foreign mercenaries to use Angola as a base of operations for interfering in the domestic affairs of the Democratic Republic of the Congo and called upon³⁵ all States to refrain or desist from intervening in the domestic affairs of the Democratic Republic of the Congo. This resolution was reaffirmed³⁶ by the Security Council in resolution 239 (1967) of 10 July 1967 by which the Council, concerned³⁷ by the threat posed by foreign interference to the independence and territorial integrity of the Democratic Republic of the Congo, condemned³⁸ any State which persisted in permitting or tolerating the recruitment of mercenaries, and the provision of facilities to them, with the objective of overthrowing the Governments of States Members of the United Nations, and called upon³⁹

¹¹ See paras 53-59 below.

¹² See paras. 60-76 below.

¹³ See paras. 70-76 below.

¹⁴ See paras. 77-83 below.

¹⁵ See paras. 84-92 below.

¹⁶ See paras. 93-100 below.

¹⁷ See paras. 109-117 below.

¹⁸ See paras. 118-127 below.

¹⁹ See paras. 128-136 below.

²⁰ See paras. 137-153 below.

²¹ See paras. 154-164 below.

²² S C resolution 268 (1969), third preamb. para.; S C resolution 273 (1969), third preamb. para.; S C resolution 275 (1969), third preamb. para.; G A resolution 2160 (XXI), first preamb. para. and para. 1(a).

²³ S C resolutions 268 (1969) and 275 (1969).

²⁴ S C resolutions 228 (1966), 248 (1968), 256 (1968), 262 (1968), 265 (1969), 270 (1969) and 273 (1969).

²⁵ G A resolution 2225 (XXI).

²⁶ S C resolution 228 (1966), third preamb. para. and para. 2; S C resolution 248 (1968), fifth preamb. para. and para. 2; S C resolution 256 (1968), fifth preamb. para. and para. 4; S C resolution 262 (1968), fifth preamb. para. and para. 1; S C resolution 265 (1969), fifth preamb. para. and para. 3; S C resolution 270 (1969), para. 1.

²⁷ S C resolution 228 (1966), fourth preamb. para. and para. 3; S C resolution 248 (1968), para. 3; S C resolution 270 (1969), para. 4.

²⁸ S C resolution 256 (1968), para. 3; S C resolution 262 (1968), para. 2.

²⁹ S C resolution 268 (1969), para. 2; S C resolution 273 (1969), para. 2; S C resolution 275 (1969), para. 2.

³⁰ G A resolution 2225 (XXI), first preamb. para. and sub-para. (a), (b) and (c).

³¹ S C resolution 248 (1968) was recalled in Council resolution 256 (1968), para. 1 and both of those resolutions were recalled in resolution 265 (1969), para. 1. S C resolution 262 (1968) was recalled in Council resolution 270 (1969), seventh preamb. para.

³² S C resolution 273 (1969), in its seventh preamb. para., recalled earlier Council resolutions 178 (1963) and 204 (1965) on the complaint by Senegal. For references to these resolutions see also *Repertory, Supplement No. 3*, vol. 1, under Article 2(4), para. 18 (b).

³³ G A resolution 2131 (XX) of 21 December 1965 containing a "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty" was recalled in the sixth preamb. para. of G A resolution 2160 I (XXI); it was reaffirmed in paragraph 1(b) of that resolution and also in the second preamb. para., and in paragraph (c) of resolution 2225 (XXI) adopted by the General Assembly in connexion with the item "Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty". See *Repertory, Supplement No. 3*, vol. 1, under Article 2(4), paras. 237-252.

³⁴ S C resolution 226 (1966), para. 1.

³⁵ *Ibid.*, para. 2.

³⁶ S C resolution 239 (1967), para. 1.

³⁷ *Ibid.*, third preamb. para.

³⁸ *Ibid.*, para. 2.

³⁹ *Ibid.*, para. 3.

Governments to ensure that their territory and other territories under their control, as well as their nationals, were not used for the planning of subversion and the recruitment, training and transit of mercenaries designed to overthrow the Government of the Democratic Republic of the Congo. Both of these resolutions were reaffirmed⁴⁰ by the Security Council in its subsequent resolution 241 (1967) of 15 November 1967. Under the terms of that resolution, the Security Council, concerned⁴¹ by the serious situation created in the Democratic Republic of the Congo following the armed attacks committed against that country by foreign forces of mercenaries, further concerned⁴² that Portugal allowed those mercenaries to use the territory of Angola under its administration as a base for their armed attacks against the Democratic Republic of the Congo, taking into consideration⁴³ the support and assistance that those mercenaries continued to receive from some foreign sources with regard to recruitment and training, as well as transport and supply of arms, and concerned⁴⁴ at the threat which the organization of such forces posed to the territorial integrity and independence of States; condemned⁴⁵ any act of interference in the internal affairs of the Democratic Republic of the Congo; condemned⁴⁶ in particular, the failure of Portugal, in violation of the above-mentioned Security Council resolutions, to prevent the mercenaries from using the territory of Angola under its administration as a base of operations for armed attacks against the Democratic Republic of the Congo; called upon⁴⁷ Portugal to put an end immediately to the provision to the mercenaries of any assistance whatsoever; called upon⁴⁸ all countries receiving mercenaries who had participated in the armed attacks against the Democratic Republic of the Congo to take appropriate measures to prevent them from renewing their activities against any State.

21. By its resolution 242 (1967) of 22 November 1967, in connexion with the situation in the Middle East the Council emphasized⁴⁹ the inadmissibility of the acquisition of territory by war; affirmed⁵⁰ that the fulfilment of Charter principles required the establishment of a just and lasting peace in the Middle East which had to include the application of (a) the principle of withdrawal of Israel armed forces from territories occupied in the recent conflict, and (b) the principle of termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force; and affirmed⁵¹ further the necessity *inter alia* for guaranteeing the territorial inviolability and political independence of every State in the area through measures including the establishment of demilitarized zones.

This resolution was reaffirmed⁵² by the Security Council in its resolution 258 (1968) of 18 September 1968. Also reaffirmed⁵³ by the Security Council in subsequent resolutions, namely, resolutions 252 (1968) of 21 May 1968, 267 (1969) of 3 July 1969 and 271 (1969) of 15 September 1969, was the principle that acquisition of territory by military conquest was inadmissible. Furthermore, resolution 252 (1968) was reaffirmed⁵⁴ in resolution 267 (1969) and both of those resolutions were reaffirmed⁵⁵ in Council resolution 271 (1969).

22. Resolutions adopted by the General Assembly on the question of Territories under Portuguese administration appeared to have a bearing on the provisions of Article 2(4). In the first instance, the General Assembly, in resolution 2270 (XXII) of 17 November 1967, reaffirmed⁵⁶ the legitimacy of the struggle of the peoples of the Territories under Portuguese domination to achieve freedom and independence, condemned⁵⁷ the policies of Portugal for using the Territories under its domination for violations of the territorial integrity and sovereignty of independent African States, in particular the Democratic Republic of the Congo; and drew the urgent attention⁵⁸ of the Security Council to the continued deterioration of the situation in the Territories under Portuguese domination, as well as to the consequences of these violations by Portugal of the territorial integrity and sovereignty of the neighbouring independent African States that bordered its colonies. In resolution 2395 (XXIII) of 29 November 1968, the General Assembly, gravely concerned⁵⁹ at the Portuguese Government's constant threats against and violations of the sovereignty and territorial integrity of the independent African States that bordered the Territories under its domination, reaffirmed⁶⁰ the legitimacy of the struggle by the peoples of those Territories to achieve their right to self-determination, freedom and independence, urgently appealed⁶¹ to all States to take all measures to prevent the recruitment or training in their territories of any persons as mercenaries for the colonial war being waged in the Territories under Portuguese domination and for violations of the territorial integrity and sovereignty of the independent African States. In its subsequent resolution 2507 (XXIV) of 21 November 1969, the General Assembly, having reaffirmed⁶² the inalienable right of the peoples of Territories under Portuguese domination to self-determination and independence, condemned⁶³ Portugal's policy of using the Territories under its domination for violations of the territorial integrity and sovereignty of independent African States.

23. During the period under review, Security Council

⁴⁰ S C resolution 241 (1967), fifth preamb. para.

⁴¹ *Ibid.*, first preamb. para.

⁴² *Ibid.*, second preamb. para.

⁴³ *Ibid.*, third preamb. para.

⁴⁴ *Ibid.*, fourth preamb. para.

⁴⁵ *Ibid.*, para. 1.

⁴⁶ *Ibid.*, para. 2.

⁴⁷ *Ibid.*, para. 3.

⁴⁸ *Ibid.*, para. 4.

⁴⁹ S C resolution 242 (1967), second preamb. para.

⁵⁰ *Ibid.*, para. 1.

⁵¹ *Ibid.*, para. 2(c).

⁵² S C resolution 258 (1968), para. 2.

⁵³ S C resolution 252 (1968), sixth preamb. para.; S C resolution 267 (1969), fourth preamb. para.; S C resolution 271 (1969), fifth preamb. para.

⁵⁴ S C resolution 267 (1969), para. 1.

⁵⁵ S C resolution 271 (1969), para. 1.

⁵⁶ G A resolution 2270 (XXII), para. 1.

⁵⁷ *Ibid.*, para. 9.

⁵⁸ *Ibid.*, para. 10.

⁵⁹ G A resolution, 2395 (XXIII), ninth preamb. para.

⁶⁰ *Ibid.*, para. 1.

⁶¹ *Ibid.*, para. 9.

⁶² G A resolution 2507 (XXIV), para. 1.

⁶³ *Ibid.*, para. 4.

resolution 186 (1964) of 4 March 1964 which, in its third preambular paragraph, had reproduced the text of Article 2(4), was reaffirmed in a number of resolutions⁶⁴ adopted by the Security Council on the question of Cyprus; hence, those resolutions might be considered as having a bearing on Article 2(4). During the period under review, a number of resolutions⁶⁵ adopted by the Security Council and by the General Assembly in connexion with the situation in Namibia, a Territory under the direct responsibility of the United Nations,⁶⁶ employed, in certain of their operative paragraphs, terminology closely resembling the language of Article 2(4).⁶⁷

24. In connexion with the question concerning the situation in the Territory of Southern Rhodesia,⁶⁸ the General Assembly, by its resolutions 2383 (XXIII) of 7 November 1968 and 2508 (XXIV) of 21 November 1969, expressed concern about the threat to the sovereignty and territorial integrity of neighbouring African States resulting from the

⁶⁴ S C resolutions 231 (1966) of 15 December 1966, para. 1; 238 (1967) of 19 June 1967, para. 1; 244 (1967) of 22 December 1967, para. 1; 247 (1968) of 18 March 1968, para. 1; 254 (1968) of 18 June 1968, para. 1; 266 (1969) of 10 June 1969, para. 1; 274 (1969) of 11 December 1969, para. 1. The decision of 24 November 1967 (S C, 22nd yr., Resolutions and Decisions of the Security Council 1967, pp. 10—11) also made reference to S C resolution 186 (1964).

⁶⁵ S C resolution 269 (1969) of 12 August 1969 and G A resolutions 2325 (XXII) of 16 December 1967; 2372 (XXII) of 12 June 1968; 2403 (XXIII) of 16 December 1968; and 2517 (XXIV) of 1 December 1969.

⁶⁶ By its resolution 2145 (XXI) of 27 October 1966, the General Assembly, having declared that South Africa had failed to fulfill its obligations under its Mandate over South West Africa, decided to terminate the Mandate, placed the Territory under the direct responsibility of the United Nations, and reaffirmed that South West Africa should maintain its international status until the achievement of independence. By resolution 2248 II (S-V) of 19 May 1967, the General Assembly established a United Nations Council for South West Africa to administer the territory until its independence. Subsequently, by resolution 2372 (XXII) of 12 June 1968, the Assembly proclaimed that, in accordance with the desires of its people, South West Africa would henceforth be known as Namibia and changed the name of the Council to the United Nations Council for Namibia. (See: G A resolutions 2145 (XXI), paras. 2 and 3; 2248 (S-V) part I; and part II, para. 1; and, 2372 (XXII), paras. 1, 3 and 11.)

⁶⁷ The Security Council, by resolution 269 (1969), para. 3, decided that the continued occupation of the Territory of Namibia by the South African authorities constituted an aggressive encroachment on the authority of the United Nations, a violation of the territorial integrity and a denial of the political sovereignty of the people of Namibia. By resolution 2325 (XXII), para. 4, the General Assembly declared that the continued presence of South African authorities in South West Africa was a flagrant violation of its territorial integrity and international status as determined by the General Assembly. In resolution 2372 (XXII), para. 7, the General Assembly condemned the action of the Government of South Africa designed to consolidate its illegal control over Namibia and to destroy the unity of the people and the territorial integrity of Namibia. By resolution 2403 (XXIII), para. 2, the General Assembly reiterated its condemnation of the Government of South Africa, *inter alia*, for its policy and actions designed to destroy the national unity and territorial integrity of Namibia. In resolution 2517 (XXIV), para. 3, the Assembly again condemned the Government of South Africa for its policies and actions designed to destroy the national unity and territorial integrity of Namibia, thus persistently violating the principles and obligations of the Charter of the United Nations. No implication is intended, however, as to whether these resolutions may or may not be considered to have a bearing on the interpretation and application of Article 2(4).

⁶⁸ The unilateral declaration of independence made on 11 November 1965 by the minority régime in power in Southern Rhodesia was looked upon as an act of rebellion by the Administering Power, namely the United Kingdom (S C resolution 217 (1965) of 20 November 1965, second preamb. para.), and condemned by both the Security Council and the General Assembly in their respective resolutions of 11 November 1965 and 12 November 1965 (S C resolution 216 (1965), para. 1; G A resolution 2024 (XX), para. 1.).

presence of South African forces in the Territory of Southern Rhodesia.⁶⁹

25. In connexion with the following questions, draft resolutions bearing on Article 2(4) were not adopted by the Security Council:

- (a) The Palestine question (decision of 4 November 1966)⁷⁰
- (b) The Palestine question (decision of 25 November 1966)⁷¹
- (c) The situation in the Middle East (decision of 22 November 1967)⁷²

⁶⁹ G A resolution 2383 (XXIII), fifth preamb. para.; G A resolution 2508 (XXIV), seventh preamb. para. In the latter resolution, the existing situation in Southern Rhodesia was also mentioned as a threat to the sovereignty and territorial integrity of independent African States.

⁷⁰ See paras. 46-52 below.

⁷¹ See paras. 53-59 below.

⁷² Three of the draft resolutions submitted but not pressed to the vote during the consideration of this item by the Security Council at its 1373rd through 1382nd meetings, contained provisions having a bearing on Article 2(4). In the first instance, a joint draft resolution by India, Mali and Nigeria (S/8227, incorporated in the record of SC, 22nd yr., 1373rd mtg., para. 91.) would, in paragraph 1, have had the Security Council affirm that peace in the Middle East must be achieved within the framework of the following Charter principles:

“(i) Occupation or acquisition of territory by military conquest is inadmissible under the Charter of the United Nations and consequently Israel’s armed forces should withdraw from all the territories occupied as a result of the recent conflict;

“(ii) Likewise, every State has the right to live in peace and complete security free from threats or acts of war and consequently all States in the area should terminate the state or claim of belligerency and settle their international disputes by peaceful means;

“(iii) Likewise, every State of the area has the right to be secure within its borders and it is obligatory on all Member States of the area to respect the sovereignty, territorial integrity and political independence of one another;”.

In the second instance, under the fifth preambular paragraph, and paragraphs 1 and 2(c) of a United States draft resolution (S C, 22nd yr., Suppl. for Oct. – Dec., S/8229), the Security Council, emphasizing that all Member States in their acceptance of the Charter had undertaken a commitment to act in accordance with Article 2 of the Charter, would have affirmed that the fulfilment of the above Charter principles required the achievement of a state of just and lasting peace in the Middle East embracing withdrawal of armed forces from occupied territories, termination of claims or states of belligerency, and mutual recognition and respect for the right of every State in the area to sovereign existence, territorial integrity, political independence, secure and recognized boundaries, and freedom from the threat or use of force; and would further have affirmed the necessity for guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones.

In the third instance, under paragraphs 1 and 2(a) and (b) of a USSR draft resolution (S/8253, incorporated in the record of S C, 22nd yr., 1381st mtg., para. 7) the Security Council would have urged the parties to the conflict to withdraw their forces to the positions held before 5 June 1967 in keeping with the principle that the seizure of territory by means of war was inadmissible, and would have urged all States Members of the United Nations in the area to recognize that each had the right to exist as an independent national State and to live in peace and security and to renounce all claims and desist from all acts inconsistent with the foregoing. It would have deemed it necessary in that connexion to continue its consideration of the situation in the Middle East, working directly with the parties concerned and making use of the presence of the United Nations, with a view to achieving an appropriate and just solution of all aspects of the problem on the basis of the principle that the use or threat of force in relations between States was incompatible with the Charter of the United Nations; and the principle that every State had to respect the political independence and territorial integrity of all other States in the area. These draft resolutions were not pressed to the vote; the Security Council adopted instead resolution 242 (1967). See S C, 22nd yr., 1382nd mtg., paras. 54, 63, 67 and 68.

(d) The situation in the Middle East (decision of 24 March 1968)⁷³

(e) The question concerning Czechoslovakia.⁷⁴

26. These draft resolutions, except for those indicated in footnote 72, evoked constitutional discussions which could be considered as having a bearing on the provisions of Article 2(4).

27. At its twenty-first session, the General Assembly, in connexion with the item "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" adopted resolution 2181 (XXI) of 12 December 1966 by which it *inter alia* requested⁷⁵ the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States,⁷⁶ in the light of the debate which had taken place in the Sixth Committee during the seventeenth, eighteenth, twentieth and twenty-first sessions of the General Assembly and in the 1964 and 1966 sessions of the Special Committee, to complete the formulation of the principle that States should refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. The Assembly had also requested⁷⁷ the Special Committee to consider, as a matter of priority, proposals regarding the principle of non-intervention in matters within the domestic jurisdiction of any State, in accordance with the Charter, with the aim of widening the area of agreement already expressed in General Assembly resolution 2131 (XX) of 21 December 1965.⁷⁸

28. At its 1967 session, the Special Committee, which had before it certain proposals and an amendment in written form⁷⁹ in regard to the principle concerning the prohibition of the threat or use of force, referred the principle to its Drafting Committee.⁸⁰ The Drafting Committee, having referred this principle to a working group, transmitted to the Special Committee the report of the working group in which points of agreement and points of disagreement were listed.⁸¹ The Special Committee took note of the report of the Drafting Committee and transmitted it to the General Assembly.⁸²

29. At the same session, the Special Committee also referred the principle concerning non-intervention in matters within the domestic jurisdiction of any State to its Drafting Committee. The latter referred the principle to a working group, subsequently took note that no report had been received from the working group and so reported to the Special Committee.⁸³ The Special Committee, having taken

note of the 1967 Drafting Committee's report, transmitted it to the General Assembly.⁸⁴

30. By resolution 2327 (XXII) of 18 December 1967, the General Assembly requested⁸⁵ the Special Committee, in the light of the debate which had taken place in the Sixth Committee during the previous and current sessions of the General Assembly and in the 1964, 1966 and 1967 sessions of the Special Committee, to complete, at its 1968 session, the formulation of the principle concerning the prohibition of the threat or use of force. In the same resolution, the General Assembly also requested⁸⁶ the Special Committee to consider proposals compatible with General Assembly resolution 2131 (XX) of 21 December 1965 on the principle of non-intervention with the aim of widening the area of agreement already expressed in that resolution. The Assembly further requested⁸⁷ the Special Committee to submit to the twenty-third session of the General Assembly a comprehensive report on the principles entrusted to it.

31. At its 1968 session, the Special Committee referred the principle concerning the prohibition of the threat or use of force to the 1968 Drafting Committee.⁸⁸ The Drafting Committee's report extended the points of agreement contained in the report of the working group at the 1967 session,⁸⁹ listed the points on which no agreement had yet been reached and also included a number of proposals which had been submitted as a basis for further negotiations.⁹⁰ The Special Committee adopted⁹¹ the report of the 1968 Drafting Committee on the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity and political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

32. At the same session (1968), the Special Committee decided that, for lack of time, it had been unable to consider the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State.⁹²

33. By resolution 2463 (XXIII) of 20 December 1968, the General Assembly took note⁹³ of the report of the Special Committee at its 1968 session and requested⁹⁴ the Special Committee, in the light of the debate which had taken place in the Sixth Committee during the previous and current sessions of the General Assembly and in the 1964, 1966, 1967 and 1968 sessions of the Special Committee, to endeavour to resolve all relevant questions relating to the formulation of the seven principles of international law concerning friendly relations and co-operation among States which had been set forth in General Assembly resolution 1815 (XVII) of 18 December 1962.⁹⁵

⁷³ See paras. 60-69 below.

⁷⁴ See paras. 101-108 below.

⁷⁵ G A resolution 2181 (XXI), para. 5.

⁷⁶ See: *Repertory, Supplement No. 3*, under Article 2(4), paras. 34-42.

⁷⁷ G A resolution 2181 (XXI), paras. 6 and 7.

⁷⁸ See: *Repertory, Supplement No. 3*, under Article 2(4), paras 237-252.

⁷⁹ G A (XXII), Annexes, a.i. 87, A/6799, para. 21-27.

⁸⁰ *Ibid.*, para. 107.

⁸¹ *Ibid.*, paras. 21-27.

⁸² *Ibid.*, para. 474.

⁸³ *Ibid.*, para. 365.

⁸⁴ *Ibid.*, para. 474.

⁸⁵ G A resolution 2327 (XXII), para. 4.

⁸⁶ *Ibid.*, para. 5.

⁸⁷ *Ibid.*, para. 7.

⁸⁸ G A (XXIII), a.i. 87, A/7326 para. 20.

⁸⁹ G A (XXII), Annexes, a.i. 87, A/6799, para. 107.

⁹⁰ G A (XXIII), a.i. 87, A/7326, para. 111.

⁹¹ *Ibid.*, para. 134.

⁹² *Ibid.*, para. 204.

⁹³ G A resolution 2463 (XXIII), para. 1.

⁹⁴ *Ibid.*, para. 4.

⁹⁵ See *Repertory, Supplement No. 3*, under Article 2(4), paras. 34 and 35.

34. At the 1969 session of the Special Committee, the principle concerning the prohibition of the threat or use of force was one of the two principles on which the Committee agreed to concentrate for the duration of that session.⁹⁶ The principle was referred by the Special Committee to the 1969 Drafting Committee.⁹⁷ The Drafting Committee took as a basis for its work the report of the 1968 Drafting Committee which, as noted above, had been adopted by the Special Committee.⁹⁸ It submitted a report⁹⁹ to the Special Committee listing points of agreement on various components of the principle, including some on which previously there had been no consensus, points on which no agreement had yet been reached and a number of proposals to be considered at a later stage of the work on the principle. The Drafting Committee's report was adopted¹⁰⁰ by the Special Committee.

35. During its 1969 session, the Special Committee, having agreed to give priority to completing its work on the formulation of the principle concerning the prohibition of the threat or use of force and the principle of equal rights and self-determination of peoples,¹⁰¹ did not consider any questions relating to the formulation of the principle of non-intervention.

36. By its resolution 2533 (XXIV) of 8 December 1969, the General Assembly took note¹⁰² of the report of the Special Committee at its 1969 session and requested¹⁰³ the Special Committee, in the light of the debate which had taken place in the Sixth Committee during the current and previous sessions of the General Assembly and at the 1964, 1966, 1967, 1968 and 1969 sessions of the Special Committee, to endeavour to resolve the remaining questions relating to the formulation of the seven principles, in order to complete its work, and to submit to the Assembly at its twenty-fifth session a comprehensive report containing a draft declaration on all of the seven principles.

37. At its twenty-second session the General Assembly actively resumed the consideration of the question of a definition of aggression¹⁰⁴ and, on 18 December 1967, adopted¹⁰⁵ resolution 2330 (XXII) entitled "Need to expedite the drafting of a definition of aggression in the light of the present international situation." By this resolution, citing the text of Article 2(4),¹⁰⁶ the General Assembly *inter alia* recognized the need to expedite the definition of aggression and established a Special Committee on the Question of Defining Aggression.¹⁰⁷

38. During 1968 and 1969, the Special Committee on the Question of Defining Aggression examined the question

and considered points of view and proposals presented.¹⁰⁸ In order to study the various suggestions in greater detail, the Special Committee, at its 1969 session, set up a working group of the whole.¹⁰⁹

39. The Special Committee submitted reports¹¹⁰ to the twenty-third and twenty-fourth sessions of the General Assembly. Since the Special Committee had not been able to conclude its deliberations, the General Assembly; in resolutions 2420 (XXIII) of 18 December 1968 and 2549 (XXIV) of 12 December 1969, instructed the Special Committee to resume its task and to report to it at its twenty-fourth session.¹¹¹

40. At its twenty-fourth session, the General Assembly included in its agenda, at the request of the USSR,¹¹² an item entitled "The strengthening of international security". Attached to the USSR letter requesting inclusion of the item was a draft "Appeal to all States of the world"¹¹³ on the strengthening of international security which, *inter alia*, would have had the Assembly refer to the provisions of Article 2(4);¹¹⁴ declare that international security required the withdrawal of troops from territories occupied as a result of armed conflict, the cessation of all measures to suppress liberation movements,¹¹⁵ and that it was necessary for all States strictly to abide in their international relations by the principles of peaceful co-existence, including the principle of territorial inviolability of each State and non-interference in the internal affairs of States.¹¹⁶ The Assembly was also asked¹¹⁷ to reaffirm among other things the importance of formulating a generally acceptable definition of aggression.

41. The USSR draft appeal, together with three other draft resolutions and amendments thereto,¹¹⁸ was discussed¹¹⁹ in the First Committee but not acted upon.

42. At its 1836th meeting on 16 December 1969, the

¹⁰⁸ For the draft proposals submitted during the 1968 session of the Special Committee, see G A (XXIII), a.i. 86, A/7185/Rev.1, paras. 7-10. For the draft proposals submitted during the 1969 session, see G A (XXIV), Suppl. No. 20, paras. 9-12.

¹⁰⁹ *Ibid.*, para. 7.

¹¹⁰ G A (XXIII), a.i. 86, A/7185/Rev.1 for 1968; G A (XXIV), Suppl. No. 20, for 1969.

¹¹¹ G A resolution 2420 (XXIII), paras. 1 and 3; and G A resolution 2549 (XXIV), paras. 1 and 3.

¹¹² G A (XXIV), Annexes, a.i. 103, A/7654.

¹¹³ *Ibid.*, A/7903, para. 7.

¹¹⁴ *Ibid.*, fourth preamb. para. of the draft appeal.

¹¹⁵ *Ibid.*, part II, para. 1 of the draft appeal.

¹¹⁶ *Ibid.*, part III of the draft appeal.

¹¹⁷ *Ibid.*, part VI of the draft appeal.

¹¹⁸ G A (XXIV), Annexes, a.i. 103, A/7903, paras. 8, 9 and 10 contain sequentially the draft resolution of Finland (A/C.1/L.505) and an amendment thereto by Kuwait, Morocco and Tunisia (A/C.1/L.507), a twenty-Power draft resolution (A/C.1/L.506) and an amendment thereto by Kuwait, Morocco and Tunisia (A/C.1/L.508), and a twenty-four-Power draft resolution (A/C.1/L.511) and an oral amendment thereto by Iraq which was later withdrawn.

¹¹⁹ For explicit and/or implied references to Article 2(4), see: G A (XXIV), 1st Com., 1653rd mtg.: Brazil, Poland; 1654th mtg.: Hungary; 1655th mtg.: Canada, Yugoslavia; 1656th mtg.: Ireland, Ukrainian SSR, United Kingdom, United States; 1657th mtg.: France, United Arab Republic; 1658th mtg.: Barbados, Peru; 1659th mtg.: Jordan, Spain; 1660th mtg.: Cyprus, Sudan; 1661st mtg.: Mexico; 1662nd mtg.: Japan, Madagascar; 1663rd mtg.: Burma, Turkey; 1664th mtg.: Austria, Byelorussian SSR, Pakistan; 1665th mtg.: Congo (Brazzaville), Romania, Syria; 1666th mtg.: Argentina, Venezuela; 1667th mtg.: Colombia, India, Morocco, Yemen; 1668th mtg.: USSR; 1720th mtg.: Kuwait.

⁹⁶ G A (XXIV), Suppl. No. 19, paras. 20 and 23.

⁹⁷ *Ibid.*, para. 25.

⁹⁸ *Ibid.*, para. 117.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*, para. 136.

¹⁰¹ *Ibid.*, paras. 20 and 23.

¹⁰² G A resolution 2533 (XXIV), para. 1.

¹⁰³ *Ibid.*, para. 4.

¹⁰⁴ For a brief note on the prior consideration of this item by the General Assembly, see *Repertory, Supplement No. 2*, under Article 2(4), para. 15 and footnote 3.

¹⁰⁵ G A (XXII), Plen., 1638th mtg., para. 6.

¹⁰⁶ G A resolution 2330 (XXII), first preamb. para.

¹⁰⁷ *Ibid.*, paras. 1 and 2.

General Assembly adopted¹²⁰ the draft resolution recommended by the First Committee as its resolution 2606 (XXIV) whereby it invited¹²¹ Members to study the proposals and statements made during the consideration of the item on the strengthening of international security, requested¹²² them to make their views and proposals on the subject known to the Secretary-General by 1 May 1970, and decided¹²³ to include the item in the provisional agenda of its twenty-fifth session.

43. During the period under review the United Nations Conference on the Law of Treaties, for which provision had been made in General Assembly resolution 2166 (XXI) of 5 December 1966,¹²⁴ adopted¹²⁵ the Vienna Convention on the Law of Treaties,¹²⁶ together with a Final Act¹²⁷ containing a number of declarations and resolutions, on the basis of the draft articles on the law of treaties set forth in chapter II of the report¹²⁸ of the International Law Commission on the work of its eighteenth session; these draft articles had been submitted to the General Assembly at its twenty-first session and referred to the future international conference as the basic proposal for its consideration.

44. The threat or use of force is cited in Article 52 of the Vienna Convention on the Law of Treaties as a basis for the invalidity of treaties.¹²⁹ The Final Act contains, *inter alia*, a "Declaration on the Prohibition of Military, Political or Economic Coercion in the Conclusion of Treaties" by which the United Nations Conference on the Law of Treaties condemns the threat or use of pressure in any form by any State in order to coerce another to perform any act relating to the conclusion of a treaty.¹³⁰

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"

45. During the period under review, reference was made to Article 2(4) in the deliberations of both the Security Council and the General Assembly. In the former organ, Article 2(4) was referred to on numerous occasions in connexion with the consideration of questions which involved allegations of the threat or use of force against the territo-

rial integrity or political independence of a State. In the latter organ, Article 2(4) was cited during consideration of items in the nature of a general constitutional discussion dealing with problems related to the interpretation of the provisions of that Article. In the course of these discussions the following questions arose concerning the scope and limits of the threat or use of force contrary to the provisions of Article 2(4).

I. In the Security Council:

- a. In connexion with the Palestine question (decision of 4 November 1966) and in connexion with the situation in the Middle East (decision of 26 August 1969), the question whether failure by one State to prevent certain elements such as para-military refugee organizations present in the territory under its control from using that territory for hostile activities against another State constituted a violation of the prohibition in Article 2(4);
- b. In connexion with the Palestine question (decision of 25 November 1966) and in connexion with the situation in the Middle East (decisions of 24 March, 16 August, 31 December 1968 and 1 April 1969), the question whether the use of force by one State intended to serve as a warning and a deterrent against future acts of violence perpetrated by individuals or armed groups operating from the territory of another State was compatible with the prohibition of Article 2(4);
- c. In connexion with the situation in the Middle East (decision of 24 March 1968), the question whether sporadic violent acts of national resistance within occupied territories against foreign military occupation constituted a lawful exception to the prohibition of Article 2(4);
- d. In connexion with the question concerning Czechoslovakia, the question whether armed intervention by some members of a collective defence treaty in the territory of another signatory State, without its request or permission and against its will, for the purpose of dispelling an alleged threat to the existing political system in that State and in allied States with similar political systems fell within the prohibition of Article 2(4);
- e. In connexion with the complaint by Zambia, the complaint by Senegal and the complaint by Guinea, the question whether the use of force in direct or indirect support of resistance or liberation movements in territories under colonial rule, contributing to the implementation of General Assembly resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, was permitted under Article 2(4);
- f. In connexion with the complaint by Senegal and the complaint by Guinea, the question whether, in instances of non-compliance by an administering Power with the Declaration on the Granting of Independence to Colonial Countries and Peoples, resolutions adopted by the General Assembly or the Security Council appealing to, or urging, all Member States to render material and moral assistance to the peoples of those colonial

¹²⁰ G A (XXIV), Plen. 1836th mtg., para. 58.

¹²¹ G A resolution 2606 (XXIV), para. 2.

¹²² *Ibid.*, para. 3.

¹²³ *Ibid.*, para. 4.

¹²⁴ G A resolution 2166 (XXI), paras. 2 and 7.

¹²⁵ G A (XXIV), Annexes, a.1 94 (a) and (c), A/7592, paras. 1-3.

¹²⁶ United Nations Conference on the Law of Treaties, first and second sessions 1968 and 1969; Documents of the Conference. A/CONF.39/11/Add.2, pp. 287-301, A/CONF.39/27 and Corr.1. See also *United Nations Juridical Yearbook 1969*, pp. 140-163.

¹²⁷ A/CONF.39/11/Add.2, pp. 281-285, A/CONF.39/26 and Corr. 2. (United Nations publication, Sales No.: E.70.V.5).

¹²⁸ G A (XXI), Suppl. No. 9. See also *Repertory, Supplement No. 3*, under Article 2(4), para. 7.

¹²⁹ The text of Article 52 reads as follows: "Coercion of a State by the threat or use of force—A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations." See *United Nations Juridical Yearbook 1969*, p. 153.

¹³⁰ *United Nations Juridical Yearbook 1969*, p. 163.

Territories in their struggles for self-determination and independence, were in conformity with Article 2(4);

- g. In connexion with the complaint by Senegal and the complaint by Guinea, the question whether resort to force in order to repress national liberation movements may be justified on the part of an administering Power responding to violence organized in third countries and launched against Territories under its rule for the purpose of forcing a change in its colonial policies.

2. In the General Assembly:

- a. In connexion with the item: "Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination", the question of the scope of the obligation ensuing from the provisions of Article 2(4);
- b. In connexion with the item: "Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty", the question whether intervention, in other than armed forms, in internal or external matters of States, was in contravention of the provisions of Article 2(4).

1. IN THE SECURITY COUNCIL

a. *Decisions of 4 November 1966 and 25 November 1966 in connexion with the Palestine question*

(i) *Decision of 4 November 1966*

(a) *Précis of proceedings*

46. In a letter¹³¹ dated 12 October 1966 to the President of the Security Council, the representative of Israel requested an urgent meeting of the Security Council to consider Israel's complaints against Syria regarding acts of aggression committed by armed groups operating from Syrian territory against the citizens and territory of Israel, in violation of the United Nations Charter and the Israel-Syria General Armistice Agreement, in particular the sabotage and mine-laying incidents of 7 to 9 October 1966; and threats by Syria against the territorial integrity and political independence of Israel.

47. At its 1305th meeting on 14 October 1966, the Security Council decided¹³² to include the item in the agenda.

48. At the 1310th meeting on 28 October 1966, the Security Council had before it a draft resolution¹³³ submitted on 27 October 1966¹³⁴ jointly by the United Kingdom and the United States, under which the Security Council, having recognized the imperative need for the Governments concerned to observe strictly their obligations under the Charter and the provisions of the General Armistice Agreements, would: deplore the incidents under consideration; remind the Government of Syria to fulfil its obligations by taking all measures to prevent the use of its territory as a

base of operations for acts constituting a violation of the General Armistice Agreement; and call for strict adherence to Article III, paragraph 3, of the Syria-Israel General Armistice Agreement providing that no warlike act or act of hostility shall be conducted from the territory of one of the parties against other parties.

49. At the 1316th meeting on 3 November 1966, another draft resolution,¹³⁵ jointly sponsored by Argentina, Japan, Netherlands, New Zealand, Nigeria and Uganda, was introduced¹³⁶ by the representative of Uganda, under which the Security Council would, among other things, deplore the incidents under consideration and invite the Government of Syria to strengthen its measures for preventing incidents that constituted a violation of the General Armistice Agreement.

Decision

At the 1319th meeting, on 4 November 1966, the six-Power draft resolution was voted upon. The result of the vote was 10 in favour, 4 against, with 1 abstention. The draft resolution was not adopted,¹³⁷ one of the negative votes being that of a permanent member of the Council.

The sponsors of the two-Power draft resolution did not press it to the vote.¹³⁸

(b) *Précis of relevant constitutional discussion*

50. In his opening statement, the representative of Israel maintained that Syria was responsible for acts of violence perpetrated by groups of saboteurs operating from Syrian territory and that Syria's refusal to recognize its obligation to prevent the use of its territory by guerilla groups for the mounting of activities, the aim of which was violence against Israel, was contrary to Syria's general obligations under the Charter, in particular the provisions of Article 2(4), its specific commitments under the 1949 Armistice Agreement, and also the provisions contained in General Assembly resolution 2131 (XX) of 21 December 1965, entitled "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty."

51. The representative of Syria referred to his letter¹³⁹ of 13 October 1966 to the President of the Security Council and reiterated the position of his Government that Syria fully respected its obligations and responsibilities under the Charter and the Armistice Agreement but that it could not be held responsible for the behaviour of Arab refugees of Palestine and for the activities of Palestinian organizations, namely El-Fatah and El-Assefa, with which the Government of Syria had no association and over which it had no authority.

52. During the debate, it was stated that, as Members of the United Nations, both parties had undertaken, in Article 2(4) of the Charter, the obligation to abstain from the threat or use of force against the territorial integrity or political independence of another State. Furthermore, the parties concerned had assumed a contractual obligation, under Article III, paragraph 3, of the 1949 General Armistice

¹³¹ S C, 21st yr., Suppl. for Oct.-Dec., pp. 28 and 29, S/7540.

¹³² S C, 21st yr., 1305th mtg., para. 131.

¹³³ S C, 21st yr., Suppl. for Oct.-Dec., pp. 58 and 59, S/7568.

¹³⁴ S C, 21st yr., 1310th mtg., para. 5.

¹³⁵ S C, 21st yr., Suppl. for Oct.-Dec., p. 69, S/7575/Rev.1.

¹³⁶ S C, 21st yr., 1316th mtg., para. 24.

¹³⁷ S C, 21st yr., 1319th mtg., para. 55.

¹³⁸ *Ibid.*, para. 56.

¹³⁹ S C, 21st yr., Suppl. for Oct.-Dec., pp. 31 and 32, S/7544.

stice Agreement¹⁴⁰ between Syria and Israel that no war-like act or act of hostility should be conducted from the territory controlled by one of the parties against the other party or against civilians in territory under control of that party. The principle of the prohibition of the threat or use of force and the relevant provisions of the 1949 Armistice Agreement were reflected in General Assembly resolution 2131 (XX) of 21 December 1965 on the inadmissibility of intervention in the domestic affairs of States, which stipulated, *inter alia*, that armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements were condemned and that no State should organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards another State.¹⁴¹ It was emphasized that, under the provisions of the Charter and of the General Armistice Agreements, as well as those of resolution 2131 (XX), Syria and Israel were both under the obligation to respect each other's territory, to refrain from the threat or use of force and from supporting any terrorist activities.¹⁴²

(ii) *Decision of 25 November 1966*

(a) *Précis of proceedings*

53. In a letter¹⁴³ dated 15 November 1966 addressed to the President of the Security Council, the representative of Jordan requested an urgent meeting of the Council to consider "the act of aggression committed by the Israel armed forces against the citizens and territory of Jordan on 13 November 1966."

54. At its 1320th meeting on 16 November 1966, the Security Council decided¹⁴⁴ to include the item in the agenda.

55. At the 1327th meeting on 24 November 1966, the representative of Nigeria introduced¹⁴⁵ a draft resolution,¹⁴⁶ submitted jointly with Mali, which read as follows:

"The Security Council,

"Having heard the statements of the representatives of Jordan and Israel concerning the grave Israel military action which took place in the Southern Hebron area on 13 November 1966,

"Having noted the information provided by the Secretary-General concerning this military action in his statement of 16 November and also in his report of 18 November 1966,

"Observing that this incident constituted a large-scale and carefully planned military action on the territory of Jordan by the armed forces of Israel,

"Reaffirming the previous resolutions of the Security Council condemning past incidents of reprisal in breach of the General Armistice Agreement between Israel and Jordan and of the United Nations Charter,

"Recalling the repeated resolutions of the Security Council asking for the cessation of violent incidents across the demarcation line, and not overlooking past incidents of this nature,

“ . . . ”

"2. Censures Israel for this large-scale military action in violation of the United Nations Charter and of the General Armistice Agreement between Israel and Jordan;

"3. Emphasizes to Israel that actions of military reprisal cannot be tolerated and that, if they are repeated, the Security Council will have to consider further and more effective steps as envisaged in the Charter to ensure against the repetition of such acts."

Decision

At the 1328th meeting on 25 November 1966, the joint draft resolution of Mali and Nigeria was adopted¹⁴⁷ by 14 votes to none, with 1 abstention.

(b) *Précis of relevant constitutional discussion*

56. At the beginning of the discussion, the President called upon the Secretary-General to report to the Security Council on certain information received by him from the United Nations Military Observers, regarding the incident under consideration, namely a raid, on 13 November 1966, by the armed forces of Israel into Jordan with the support of tanks, armoured vehicles, heavy weapons and aircraft.

57. In his opening statement, the representative of Jordan contended that the incident before the Council constituted a deliberate act of aggression by Israel against Jordan.

58. The representative of Israel, having observed that each neighbouring Arab State had to be held to its commitment under the Charter and the Armistice Agreements to prevent any attack or incursion into Israel territory, maintained that Jordan had failed to fulfil this obligation; an Israel army vehicle on a regular patrol had been blown up by a mine in the border area adjacent to Jordan and it was evident that the perpetrators had come from and returned to certain Jordanian villages. Noting that his Government was particularly concerned about the organization, training and use of para-military guerilla and terrorist forces operating against Israel and that it had reason to believe that this incident was the first in a fresh series of attacks planned to take place in the locality, the representative of Israel stated that his Government had decided to carry out a local action, directed at the Jordanian villages involved and intended to serve as a warning and a deterrent. This limited defensive action, which had been carried out by a mobile task force, had been undertaken reluctantly and only as a last resort.

59. In the course of the discussion, it was maintained that the Israel military operation could not be justified by the incidents which had preceded it and in which the Government of Jordan had not been implicated. Even if it could be demonstrated that Jordan had any direct responsibility for the mining incident, the Israel attack could not be

¹⁴⁰ United Nations, *Treaty Series*, vol. 42 (1949), No. 657, p. 330.

¹⁴¹ G A resolution 2131 (XX), paras. 1 and 2.

¹⁴² For texts of relevant statements, see S C, 21st yr., 1307th mtg.: France, paras. 100-101; Israel, paras. 31, 34, 38, 43 and 51-53; New Zealand, para. 134; Syria, paras. 66-68; United Kingdom, paras. 105 and 106; 1308th mtg.: China, para. 41; Israel, paras. 185 and 192-195; Netherlands, paras. 48-53; Uruguay, paras. 84, 99, 103, 105; 1309th mtg.: New Zealand, paras. 96-98; Nigeria, para. 93; Syria, paras. 149-152; Uganda, paras. 112 and 113; 1310th mtg.: Mali, paras. 120 and 121; New Zealand, para. 104; Jordan, paras. 40-42; United States, paras. 80-83; 1312th mtg.: Japan, para. 17; 1316th mtg.: Netherlands, paras. 68 and 72; 1317th mtg.: Syria, para. 16; 1319th mtg.: Bulgaria, para. 5; Mali, para. 115; Syria, para. 101.

¹⁴³ S C, 21st yr., Suppl. for Oct.-Dec., p. 78, S/7587.

¹⁴⁴ S C, 21st yr., 1320th mtg., preceding para. 1.

¹⁴⁵ S C, 21st yr., 1327th mtg., para. 39.

¹⁴⁶ S/7598, adopted without change as S C resolution 228 (1966).

¹⁴⁷ S C, 21st yr., 1328th mtg., para. 35.

condoned, for it was a calculated, admitted and wholly disproportionate act of military reprisal. The policy of retaliation constituted a violation of the obligations undertaken by Israel in the Israel-Jordan Armistice Agreement and was also contrary to the Charter requirement to refrain from the use of force against the territorial integrity and political independence of any State. In this connexion references were made to Security Council resolutions 111 (1956) of 19 January 1956, 171 (1962) of 9 April 1962 in which the Council had condemned military action in breach of the General Armistice Agreements, whether or not undertaken by way of retaliation, and also to Council resolution 188 (1964) of 9 April 1964, wherein the Council had condemned reprisals as incompatible with the purposes and principles of the United Nations. It was maintained further that such a military reprisal as the operation carried out by Israel was, in its character, both different from, and out of proportion to, the incidents which had allegedly provoked it. While incidents of terrorism were not to be underestimated, a unilateral exercise of force in retaliation could, under no circumstances, be condoned. Under the obligations imposed by the United Nations Charter, in particular Article 2, there existed a clear difference between a mere act of armed reprisal and the exercise of the right of self-defence.¹⁴⁸

b. *Decisions of 24 March, 16 August, 31 December 1968, and 1 April and 26 August 1969 in connexion with the situation in the Middle East*

(i) *Decision of 24 March 1968*

(a) *Précis of proceedings*

60. By letter¹⁴⁹ dated 21 March 1968, the representative of Jordan requested the President of the Security Council to convene the Council urgently for the purpose of considering the serious situation resulting from an act of aggression, namely, a mass armed attack committed by Israel against the east bank of Jordan.

61. By letter¹⁵⁰ dated 21 March 1968, the representative of Israel brought to the attention of the President of the Security Council the localized and limited preventive measures which the Israel Defence Forces had taken, on the basis of information received that an increased large-scale campaign of raids was about to be launched from Jordan, against the training centres and staging bases of the raiders situated on the east bank of the Jordan River, and requested the Council be urgently convened in order to deal with the continuous acts of aggression and violations of the cease-fire by Jordan.

¹⁴⁸ For texts of relevant statements, see S C, 21st yr., 1320th mtg.: President (United States), para. 3; Israel, paras. 53, 58, 59 and 63-65; Jordan paras. 22-26, 28, 29 and 34; United Kingdom, paras. 79, 80 and 82; United States, paras. 89-91 and 97; Secretary-General, paras. 6-12; 1321st mtg.: France, paras. 3 and 4; USSR, paras. 11-15, 19 and 23; Jordan, para. 31; 1322nd mtg.: Argentina, paras. 2-8; Japan, paras. 9-14; New Zealand, paras. 18-21; 1323rd mtg.: China, paras. 15-18; Israel, para. 51; Jordan, para. 59; Netherlands, paras. 5-9; 1324th mtg.: Israel, paras. 90-92; Jordan, paras. 30 and 31; Uruguay, paras. 65-80; 1325th mtg.: Bulgaria, paras. 4-7; 1327th mtg.: Nigeria, paras. 39 and 42-44; Uganda, paras. 15 and 16; 1328th mtg.: Bulgaria, para. 31; Netherlands, para. 17; New Zealand, paras. 7 and 11; USSR, para. 22.

¹⁴⁹ S C, 23rd yr., Suppl. for Jan -March, pp. 278 and 279, S/8484.

¹⁵⁰ *Ibid.*, pp. 280 and 281, S/8486.

62. At the 1401st meeting on 21 March 1968, the Security Council decided to include¹⁵¹ the Jordanian and the Israel letters in the agenda.

63. On 23 March 1968, a draft resolution¹⁵² was submitted jointly by India, Pakistan and Senegal,¹⁵³ providing *inter alia*, that:

“The Security Council,

“ . . .

“Observing that this military action by the armed forces of Israel on the territory of Jordan was of a large-scale and carefully planned nature,

“ . . .

“1. Condemns this military action launched by Israel in flagrant violation of the United Nations Charter and the cease-fire resolutions;

“2. Warns Israel that actions of military reprisals cannot be tolerated and that the Security Council would have to consider such measures as are envisaged in the Charter to ensure against repetition of such acts”.

64. At the 1407th meeting on 24 March 1968, the President of the Security Council announced that negotiations among the members of the Council had resulted in a draft resolution¹⁵⁴ whereby:

“The Security Council,

“ . . .

“Observing that the military action by the armed forces of Israel on the territory of Jordan was of a large-scale and carefully planned nature,

“ . . .

“2. Condemns the military action launched by Israel in flagrant violation of the United Nations Charter and the cease-fire resolutions;

“3. Deplores all violent incidents in violation of the cease-fire and declares that such actions of military reprisal and other grave violations of the cease-fire cannot be tolerated and that the Security Council would have to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such acts”.

Decision

At the 1407th meeting on 24 March 1968, the above-mentioned draft resolution was adopted¹⁵⁵ unanimously. The joint draft resolution of India, Pakistan and Senegal was not pressed to the vote.¹⁵⁶

(b) *Précis of relevant constitutional discussion*

65. In his opening statement, the representative of Jordan maintained that Israel had committed an act of aggression by launching a mass armed attack against Jordanian territory. Having noted that his Government had informed the Security Council¹⁵⁷ of the attack being contemplated by Israel, the representative of Jordan stated that the operation had been larger than the usual retaliatory raid with the in-

¹⁵¹ S C, 23rd yr., 1401st mtg., para. 1.

¹⁵² S C, 23rd yr., Suppl. for Jan -March, p. 288, S/8498.

¹⁵³ S C, 23rd yr., 1407th mtg., para. 56.

¹⁵⁴ Adopted without change as S C resolution 248 (1968).

¹⁵⁵ S C, 23rd yr., 1407th mtg., para. 5.

¹⁵⁶ *Ibid.*, paras. 55-57.

¹⁵⁷ S C, 23rd yr., Suppl. for Jan.-March, pp. 274 and 275, S/8478.

tention to terrorize, intimidate and expel the inhabitants of a refugee camp, together with the other citizens and soldiers in the neighbouring areas. Recalling the provisions of Security Council resolution 228 (1966), in the third paragraph of which the Council had emphasized to Israel that actions of military reprisals could not be tolerated and that, if repeated, the Council would have to consider further and more effective steps as envisaged in the Charter to ensure against the repetition of such acts, he asked the Security Council to respond to the violation by Israel of the Charter and the above-cited Council resolution by applying sanctions under Chapter VII of the Charter.

66. The representative of Israel referred to the two letters of 18 March 1968¹⁵⁸ by which he had informed the Security Council of the hostile acts being perpetrated from Jordanian territory and directed against Israel. He also referred to his letter of 21 March 1968¹⁵⁹ in which he had stated that the Israel defence force had been compelled to take limited, preventive measures to put an end to acts of aggression and to avert their increase and spread. He quoted certain passages from a statement by the Prime Minister of Israel which, *inter alia*, stated that Israel, having authoritative information that a new wave of terror was about to take place and aggravate the security situation, had acted in self-defence to avert the dangers and that Israel would continue to abide by the cease-fire agreement. Further, the Prime Minister, having noted that observance of the cease-fire required not only the abstention from military activities by regular armies but also the prevention of any acts of aggression and terrorism on the part of any element present within the territory of those States which had agreed to the cease-fire, had demanded that Jordan should also respect the cease-fire agreement.

67. In the course of the discussion, it was maintained that the Israel operation could not be considered as a preventive, localized and limited measure; it was a premeditated act of large-scale military reprisal out of proportion to the events alleged to have preceded it. Acts of retaliation were not permissible under the Charter; further, the Security Council had, on previous occasions, condemned Israel for the carrying out of reprisals of a military nature.

68. It was observed, on the one hand, that the Security Council had to consider the situation as a whole and that it could not condone the use of force under any form whatsoever. While the major military action by Israel could not be tolerated by the Council, violent incidents, such as the series of armed attacks launched from Jordanian territory, were also intolerable. Reference was made to Security Council resolution 56 (1948) of 19 August 1948 by which the Council had declared that each party had the obligation to use all means at its disposal to prevent action violating the truce by individuals or groups who were subject to its authority or who were in territory under its control; further, no party was permitted to violate the truce on the ground that it was undertaking reprisals or retaliation against the other party. Both military counter-actions, such as the Israel operation, and the preceding acts of terrorism constituted violations of the Israel-Jordan cease-fire resolution of June 1967.

¹⁵⁸ S C, 23rd yr., Suppl. for Jan.-March, pp. 267, 268, 272 and 273, S/8470 and S/8475 respectively.

¹⁵⁹ See footnote 150 above.

69. It was contended, on the other hand, that a distinction had to be drawn between military operations waged deliberately and planned thoroughly by Governments and sporadic acts perpetrated by individuals or groups of individuals under military occupation. Civilian populations in occupied areas could not be denied the right to resist occupation and to fight in legitimate self-defence against the occupiers. In the given instance, the so-called acts of terrorism were a manifestation of an inevitable Arab resistance movement against occupation by Israel subsequent to the hostilities of June 1967.¹⁶⁰

(ii) *Decision of 16 August 1968*

(a) *Précis of proceedings*

70. By letter¹⁶¹ dated 5 August 1968 to the President of the Security Council, the representative of Jordan requested an urgent meeting of the Security Council to consider the grave situation resulting from the continued Israel acts of aggression against Jordan.

71. By letter¹⁶² dated 5 August 1968, the representative of Israel requested the President of the Security Council to convene an urgent meeting to resume consideration¹⁶³ of the Israel complaint of grave and continued violations of the cease-fire by Jordan, including firing across the cease-fire lines and armed infiltration and terrorist acts from Jordan territory, with the connivance, aid and encouragement of the Jordanian Government and armed forces.

72. At its 1434th meeting on 5 August 1968, the Security Council decided to include the Jordanian and Israel letters¹⁶⁴ in the agenda.

73. At the 1440th meeting on 16 August 1968, the President announced¹⁶⁵ that as a result of consultations a draft resolution¹⁶⁶ had emerged reflecting the views of the Council members on the course to be adopted by that organ on the item under consideration. The draft resolution, *inter alia*, provided:

“The Security Council,

“ . . .

“Recalling its previous resolution 248 (1968) condemning the military action launched by Israel in flagrant violation of the United Nations Charter and the cease-fire resolutions and deploring all violent incidents in violation of the cease-fire,

¹⁶⁰ For texts of relevant statements, see: S C, 23rd yr., 1401st mtg.: Israel, Jordan; 1402nd mtg.: Algeria, Ethiopia, France, Hungary, India, Iraq, Morocco, Pakistan, USSR, United States; 1403rd mtg.: Brazil, Canada, China, Paraguay, United Arab Republic, United Kingdom; 1404th mtg.: Jordan, Israel, Syria; 1405th mtg.: Iraq, Israel, Morocco; 1406th mtg.: Israel, Jordan; 1407th mtg.: Algeria, Brazil, Canada, Denmark, France, Hungary, Iraq, Israel, Jordan, Morocco, Pakistan, President (Senegal), USSR, United Kingdom, United States.

¹⁶¹ S C, 23rd yr., Suppl. for July-Aug., p. 113, S/8721.

¹⁶² *Ibid.*, pp. 115 and 116, S/8724.

¹⁶³ Both the Jordanian and the Israel requests for an urgent meeting of the Security Council to consider their above-presented complaints had been made by their respective letters of 5 June 1968. (S C, 23rd yr., Suppl. for Apr.-June, pp. 186 and 187, S/8616 and S/8617 respectively). These letters had been placed on the provisional agenda of the 1429th meeting of the Security Council on 5 June 1968; the provisional agenda of that meeting was not adopted as the Council decided to adjourn in view of the attempt made on the life of Senator Robert Kennedy. (S C, 23rd yr., 1429th mtg., paras. 46 and 50).

¹⁶⁴ S C, 23rd yr., 1434th mtg., para. 18.

¹⁶⁵ S C, 23rd yr., 1440th mtg., para. 2.

¹⁶⁶ *Ibid.*, p. 6. Oral draft resolution adopted without change as S C resolution 256 (1968).

“ . . .
 “Observing that both massive air attacks by Israel on Jordanian territory were of a large-scale and carefully planned nature in violation of resolution 248 (1968).
 “ . . .

“1. Reaffirms its resolution 248 (1968) which, *inter alia*, declares that ‘grave violations of the cease-fire cannot be tolerated and that the Council would have to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such acts’;
 “ . . .

“3. Considers that premeditated and repeated military attacks endanger the maintenance of the peace;

“4. Condemns the further military attacks launched by Israel in flagrant violation of the United Nations Charter and resolution 248 (1968) and warns that if such attacks were to be repeated the Council would duly take account of the failure to comply with the present resolution.”

Decision

At the same meeting, the draft resolution was put to the vote and adopted unanimously.¹⁶⁷

(b) *Précis of relevant constitutional discussion*

74. In his opening statement, the representative of Jordan charged that Israel forces had launched a premeditated attack, involving shelling and bombing by military aircraft, against the unarmed civilian population of a Jordanian city and its surrounding areas, which could not be dismissed as an isolated military operation. Having recalled that the Security Council had time and again emphasized to Israel that actions of military reprisal could not be tolerated and that if repeated the Council would have to consider further and more effective steps as envisaged in the Charter to ensure against the repetition of such acts, the representative of Jordan maintained that it was incumbent upon the Security Council to take more effective measures as envisaged in Chapter VII of the Charter in response to continued acts of aggression by Israel.

75. The representative of Israel maintained that, although in its resolution 248 (1968) of 24 March 1968 the Security Council had deplored all violent incidents in violation of the cease-fire and had declared such acts to be intolerable, Jordan had interpreted this resolution as non-applicable to Arab acts of hostility against Israel. Contending that Jordan had become the principal base for continued Arab aggression against his country, the representative of Israel stated that terror raids and armed incursions from Jordanian territory primarily against civilians and civilian localities in Israel were being continued. As regards the incident under consideration, he noted that Israel aircraft had taken action against and had destroyed the terror bases in Jordan from which the attacks against Israel had emanated. The representative of Israel appealed to the Security Council to impress on Jordan the necessity to abide by the cease-fire obligations and to terminate all acts of aggression from its territory directed against Israel.

76. During the debate, it was stated that Israel's action could not be considered as an act of self-defence within the meaning of Article 51 of the Charter. A pre-planned military attack undertaken by one country against another,

whether under a cease-fire régime or otherwise, constituted a case of aggression. The so-called terror raids and sabotage activities, on the other hand, were direct consequences of occupation and were manifestations of resistance: there could not be aggression on behalf of the indigenous population against the occupying country. While acts of violence were to be deplored, an exercise of force in the nature of retaliatory action, even under extreme provocation, was contrary to the spirit of the Charter. Further, acts of military reprisal, whatever the alleged provocation, had repeatedly incurred the censure of the Security Council, the most recent instance being Council resolution 248 (1968) of 24 March 1968. The view was expressed also that in so far as the Israel action fell within the scope of resolution 248 (1968) by which the Council had considered that acts of military reprisal could not be tolerated and that it would have to consider further and more effective steps against the repetition of such acts,¹⁶⁸ the time had come for the Council to take the effective steps provided for in the Charter.¹⁶⁹

(iii) *Decision of 31 December 1968*

(a) *Précis of proceedings*

77. By a letter¹⁷⁰ dated 29 December 1968 to the President of the Security Council, the representative of Lebanon charged that Israel had committed an act of aggression against Lebanon on 28 December 1968 by the premeditated attack of the Israel air force against the civilian international airport of Beirut and requested an urgent meeting of the Council.

78. By a letter¹⁷¹ dated 29 December 1968, the representative of Israel requested the President of the Security Council to convene an urgent meeting to consider the constant violation by Lebanon of the United Nations Charter and the cease-fire resolutions of the Security Council, by assisting and abetting acts of warfare, violence and terror by irregular forces and organizations operating from Lebanon against Israel territory, citizens and property and in particular with regard to attacks upon Israel civil aviation.

79. At the 1460th meeting on 29 December 1968, the Security Council decided to include¹⁷² the Lebanese and Israel letters in the agenda.

80. At the 1462nd meeting on 31 December 1968, the President of the Security Council announced¹⁷³ that, after consultations, the members of the Security Council had reached agreement on the text of a draft resolution¹⁷⁴ which, *inter alia*, would provide: !

¹⁶⁸ S C, resolution 248 (1968), para. 3. See paras. 60-69 above.

¹⁶⁹ For texts of relevant statements, see S C, 23rd yr., 1434th mtg.: Algeria, paras. 148-158; Iraq, paras. 127-147; Israel, paras. 57-125; 219-230; Jordan, paras. 22-55; 206-216; USSR, paras. 159-185; United Kingdom, paras. 198-203; United States, paras. 187-196, 1435th mtg.: France, paras. 23-31; Pakistan, paras. 62-76; United Arab Republic, paras. 6-22; 1436th mtg.: Hungary, paras. 120-122; Iraq, paras. 105-116; Senegal, paras. 128-138; 1437th mtg.: China, paras. 20-25; India, paras. 30-34; 1439th mtg.: Ethiopia, paras. 8-20; 1440th mtg.: President (Brazil), paras. 80-83.

¹⁷⁰ S C, 23rd yr., Suppl. for Oct.-Dec., p. 180, S/8945.

¹⁷¹ *Ibid.*, S/8946.

¹⁷² S C, 23rd yr., 1460th mtg., para. 2.

¹⁷³ *Ibid.*, 1462nd mtg., para. 3.

¹⁷⁴ S C, 23rd yr., 1462nd mtg., para. 5. The draft resolution was adopted without change as S C resolution 262 (1968).

¹⁶⁷ S C, 23rd yr., 1440th mtg., para. 5.

“The Security Council,

“ . . .

“Having heard the statements of the representative of Lebanon and of the representative of Israel concerning the grave attack committed against the civil International Airport of Beirut,

“Observing that the military action by the armed forces of Israel against the civil International Airport of Beirut was premeditated and of a large scale and carefully planned nature,

“Gravely concerned about the deteriorating situation resulting from this violation of the Security Council resolutions,

“ . . .

“1. Condemns Israel for its premeditated military action in violation of its obligations under the Charter and the cease-fire resolutions;

“2. Considers that such premeditated acts of violence endanger the maintenance of the peace;

“3. Issues a solemn warning to Israel that if such acts were to be repeated, the Council would have to consider further steps to give effect to its decisions”.

Decision

At the same meeting the draft resolution was put to the vote and adopted¹⁷⁵ unanimously.

(b) *Précis of relevant constitutional discussion*

81. In his opening statement, the representative of Lebanon, having stated that on 28 December 1968 the Israel air force had staged a surprise attack, involving explosive and incendiary bombs and rockets, on the civilian and defenceless international airport of Beirut, maintained that this aggressive act was a flagrant violation of the principles and objectives of the United Nations Charter and asked the Council to take effective measures under Chapter VII of the Charter.

82. The representative of Israel stated, in turn, that on 26 December 1968 an Israel civil airliner on a regular scheduled commercial flight had been attacked by bombs and machine guns in the Athens international airport by assailants that had been trained and equipped by a terrorist organization operating out of Beirut. He held that insofar as the major Arab terrorist organizations had established their headquarters and set up their international networks in Beirut, wherefrom they were directing their acts of sabotage against Israel, the Government of Lebanon had direct responsibilities. The representative of Israel contended that any attack against an Israel civil aircraft, wherever it might be, was as much a violation of the cease-fire between Israel and Lebanon as any attack on Israel territory and entitled the Government of Israel to exercise its right of self-defence. On the occasion of the incident of 26 December 1968, his Government had been duty bound to take appropriate action in self-defence designed to prevent repetition of such incidents. That action had to be seen in the broader context of the continuation by Arab States, including Lebanon, of active belligerency and warfare against Israel, in violation of the United Nations Charter, and of the cease-fire régime, through the instrumentality of irregular forces and organizations armed, trained and financed by the Arab Governments, including the Government of Lebanon.

83. During the discussion, it was argued that the use of subversive violence, which was no less aggression than open attack, could not be condoned by the Security Council and that the action of 28 December 1968 was the consequence of the prior action of 26 December 1968 and of the failure of the Lebanese Government to take measures to prevent any repetition thereof. It was maintained on the other hand that, while violent acts, such as the incident of 26 December 1968, could not be condoned by the Council, no responsibility of the Lebanese Government, direct or indirect, had been established in that connexion and that therefore Israel's action of 28 December 1968 was unjustifiable and in violation of the United Nations Charter and the relevant Security Council resolutions. Further, it was emphasized that no Government, even under extreme provocation, should resort to the unilateral use of force in the nature of retaliation or reprisal contrary to the provisions of the United Nations Charter prohibiting the use of force.¹⁷⁶

(iv) *Decision of 1 April 1969*

(a) *Précis of proceedings*

84. By a letter¹⁷⁷ dated 26 March 1969 to the President of the Security Council, the representative of Jordan requested an urgent meeting to consider continuous and grave violations of the United Nations cease-fire resolutions by Israel and to adopt more adequate and effective measures to check Israel acts of aggression and restore international peace and security.

85. By a letter¹⁷⁸ dated 27 March 1969, the representative of Israel also requested the President of the Security Council to convene an urgent meeting to consider the complaint of grave and continual violations by Jordan of the cease-fire, the provisions of the United Nations Charter, and of international law, including: (a) armed attacks, armed infiltration and violence by terrorist groups operating from Jordan territory with the official support, aid and encouragement of the Jordanian Government and armed forces; (b) firing across the cease-fire lines by Jordanian forces.

86. At its 1466th meeting on 27 March 1969 the Security Council decided¹⁷⁹ to include the Jordanian and Israel letters in the agenda.

87. At the 1472nd meeting on 1 April 1969, the representative of Pakistan introduced¹⁸⁰ a draft resolution,¹⁸¹ jointly sponsored with Senegal and Zambia. At the 1473rd meeting held on the same day, the representative of Paki-

¹⁷⁶ For texts of relevant statements, see S C, 23rd yr., 1460th mtg.: Algeria, paras. 122-134; Brazil, paras. 141-147; France, paras. 85-90; Hungary, paras. 110-121; India, paras. 103-108; Israel, paras. 27-30; 38-68; 156-160; Lebanon, paras. 14-23; Senegal, paras. 135-139; USSR, paras. 91-100; United Kingdom, paras. 80-83; United States, paras. 71-77; 1461st mtg.: Canada, paras. 34-40; China, paras. 59-65; Denmark, paras. 30-32; Israel, paras. 95-131; 197-200; Lebanon, paras. 11-23; 156-163; Pakistan, paras. 70-81; Paraguay, paras. 85-90; USSR, paras. 132-153; United Kingdom, paras. 42-57; 1462nd mtg.: Brazil, paras. 13-19; Denmark, paras. 22 and 23; France, paras. 26-34; USSR, paras. 46-73.

¹⁷⁷ S C, 24th yr., Suppl. for Jan.-March, pp. 142 and 143, S/9113.

¹⁷⁸ S C, 24th yr., Suppl. for Jan.-March, p. 143, S/9114.

¹⁷⁹ S C, 24th yr., 1466th mtg., para. 23.

¹⁸⁰ S C, 24th yr., 1472nd mtg., para. 8.

¹⁸¹ S/9120 replaced by S/9120/Rev.1 which was adopted without change as S C resolution 265 (1969).

¹⁷⁵ S C, 23rd yr., 1462nd mtg., para. 6

stan, on behalf of the sponsors, introduced¹⁸² a revised text,¹⁸³ whereby:

“The Security Council,

“ . . .

“Viewing with deep concern that the recent air attacks on Jordanian villages and other populated areas were of a pre-planned nature, in violation of resolutions 248 (1968) of 24 March 1968 and 256 (1968) of 16 August 1968,

“Gravely concerned about the deteriorating situation which endangers peace and security in the area,

“1. Reaffirms resolutions 248 (1968) and 256 (1968);

“ . . .

“3. Condemns the recent premeditated air attacks launched by Israel on Jordanian villages and populated areas in flagrant violation of the United Nations Charter and the cease-fire resolutions, and warns once again that if such attacks were to be repeated the Security Council would have to meet to consider further and more effective steps as envisaged in the Charter to ensure against repetition of such attacks.”

Decision

At the 1473rd meeting on 1 April 1969, the revised draft resolution was adopted¹⁸⁴ by 11 votes to none, with 4 abstentions.

(b) *Précis of relevant constitutional discussion*

88. In his opening statement, the representative of Jordan, having noted that acts of aggression committed by Israel aircraft against civilian centres and means of communication deep inside Jordan territory had not been continuing in direct violation of the cease-fire resolutions and the Armistice Agreement but had also intensified,¹⁸⁵ complained of an air raid by Israel jet fighters on civilian areas between the East Bank and the West Bank of the Jordan River where there were no military installations and where no anti-aircraft fire had been directed against Israel planes. He held that the incident was a clear-cut act of aggression and that the so-called Israel policy of “active self-defence” in fact constituted an offensive policy of aggression. Referring to Security Council resolution 262 (1968) of 31 December 1968 in which the Council had condemned Israel for its premeditated military action and had issued a warning that if such acts were to be repeated, the Council would have to consider further steps to give effect to its decision,¹⁸⁶ he asked the Council to take adequate and effective action under Chapter VII of the Charter.

89. The representative of Israel, noting that the Arab war against Israel was continuing and being pursued in particular by the method of terror warfare, referred to Security Council resolution 56 (1948) of 19 August 1948 and stated that terror attacks were violations of the cease-fire and that the Governments from whose territory these attacks were

launched were responsible regardless of the extent of their direct involvement in the terrorist operations, especially when they directly engaged in sponsoring, organizing and assisting such warfare. He held that Jordan's role in warfare by terror against the people of Israel was a major one since that country was the central base for operations by the terror organizations which maintained headquarters, branches and bases there. In the incidents under consideration, Israel had acted in self-defence: the target of its action had been terror bases and centres of armed elements hostile to Israel. He emphasized that until an end was put to Arab terror warfare and the Arab States maintained the cease-fire to which they had pledged themselves, Israel's right to self-defence would remain inalienable. It could not be questioned or curtailed by labeling Israel defence counteractions as reprisals, a concept which had no application to the present situation in the Middle East.

90. During the debate, it was stated that the air attack carried out by the Israel air force was in breach of the United Nations Charter, in particular the prohibition of the use or threat of use of force, and the previous Council resolutions condemning reprisals and violations of the cease-fire established in the area. It was emphasized that the Security Council could not accept as valid any arguments of active self-defence put forth to justify unilateral military action, premeditated and deliberately executed by the regular forces of one country against the people and territory of another. Primitive attacks of this sort were wholly inconsistent with the requirements of self-defence; rather, they formed part of a tactic of reprisal contrary to the mandates of the Charter. Also, it was contended that, in trying to defend its present borders which included Jordanian territory occupied through the use of force, Israel was in fact interfering in alien, namely, Jordanian territory. In this connexion, it was noted that the Security Council had to uphold the sovereignty of nations, the inviolability of the provisions of the Charter, the inadmissibility of acquisition of territory by the use of force and the validity of previous Council decisions applying these principles to the situation in the Middle East.

91. It was maintained, on the other hand, that the given incident could not be treated in isolation and that the Middle East situation as a whole had to be taken into account. Reference was made to Council resolution 242 (1967) of 22 November 1967 the provisions and principles of which contained the essential elements of a solution to the problem in the Middle East and which, if implemented, would have prevented the occurrence of incidents such as the one under consideration. It was also maintained that Arab countries could not escape responsibility for acts of terrorism and sabotage: all acts of violence and the breaches of the cease-fire were to be condemned, whatever their source.

92. It was stated, in response, that premeditated large-scale attacks launched by a Government could not be equated with sporadic violent acts of national resistance within occupied territories against foreign military occupation. Furthermore, it was held that in so far as the occupying Power did not exercise jurisdiction over occupied territories, the occupied State could not be accused of aggression for individual acts of violence against the forces of occupation in those territories. The Security Council was asked to condemn the aggression committed against Jordan and to envisage taking the necessary measures in

¹⁸² S C, 24th yr., 1473rd mtg., paras. 2-6.

¹⁸³ S/9120/Rev. I adopted without change as S C resolution 265 (1969).

¹⁸⁴ S C, 24th yr., 1473rd mtg., para. 92.

¹⁸⁵ Reference was made to incidents reported to the Security Council by the following communications from the representative of Jordan: S C, 23rd yr., Suppl. for Oct.-Dec., pp. 133, 134 and 158, S/8911 and S/8916 respectively; S C, 24th yr., Suppl. for Jan.-March, pp. 97-100 and 124, S/9039, S/9083 and S/9085 respectively.

¹⁸⁶ S C resolution 262 (1968), paras. 1 and 3.

conformity with the Charter so as to put an end to repeated aggressions by the advocates of the use of force.¹⁸⁷

(v) *Decision of 26 August 1969*

(a) *Précis of proceedings*

93. By a letter¹⁸⁸ dated 12 August 1969, the representative of Lebanon requested the President of the Security Council to convene an urgent meeting of the Council to consider the situation resulting from the premeditated and unprovoked aggression committed by Israel against civilian villages in Lebanon and endangering the peace and security of that country.

94. By letter dated 12 August 1969,¹⁸⁹ the representative of Israel also requested the President of the Security Council to convene an urgent meeting of that organ in order to consider the situation created by the intensification of armed attacks perpetrated against Israel from Lebanese territory.

95. At the 1498th meeting on 13 August 1969, the Security Council decided to include¹⁹⁰ the Lebanese and Israel letters in the agenda.

96. At the 1504th meeting on 26 August 1969, the President announced¹⁹¹ that, as a result of intensive consultations among the members of the Security Council, an agreement had been reached on a draft resolution which represented a consensus among the Council members. That draft resolution,¹⁹² *inter alia*, read as follows:

“The Security Council,

“ . . .

“Gravely concerned about the deteriorating situation resulting from the violation of Security Council resolutions,

“Recalling the General Armistice Agreement between Israel and Lebanon of 23 March 1949, and the cease-fire established pursuant to resolutions 233 (1967) and 234 (1967) of 6 and 7 June 1967, respectively,

“Recalling its resolution 262 (1968) of 31 December 1968,

“Mindful of its responsibility under the relevant provisions of the Charter of the United Nations,

“1. *Condemns* the premeditated air attack by Israel on villages in southern Lebanon in violation of its obligations under the Charter and Security Council resolutions;

“2. *Deplores* all violent incidents in violation of the cease-fire;”

“ . . .

“4. *Declares* that such actions of military reprisal and other grave violations of the cease-fire cannot be tolerated and that the Security Council would have to consider further and more effective steps envisaged in the Charter to ensure against repetition of such acts.”

Decision

At the same meeting, the President of the Security Council declared that, in the absence of objections, the draft resolution had been unanimously adopted.¹⁹³

(b) *Précis of relevant constitutional discussion*

97. In his opening statement the representative of Lebanon maintained that Israel had committed an act of aggression against Lebanon by the sudden and unprovoked massive air strike, including the use of napalm bombs, on civilian settlements in southern Lebanon. Referring to the argument that the strike by the Israel air force was in retaliation for attacks on Israel alleged to have been launched from Lebanese territory by the Palestinian commandos, he stated that in so far as Israel refused to resort to the Mixed Commission established under the Armistice Agreement to allow any investigation on its territory, these allegations remained unsubstantiated. Furthermore, he held that Lebanon could not be held responsible for the actions of Palestinians who, in self-defence to regain their right to self-determination, were fighting against the occupier. Having recalled the provisions of Council resolution 262 (1968) of 31 December 1968, the representative of Lebanon requested the Security Council to take prompt and effective action in the form of sanctions provided for in the Charter so that attacks similar to the one under consideration could be forestalled in the future.

98. The representative of Israel held that the Government of Lebanon could not be absolved of its responsibility for the use of its territory as a base of terror warfare against Israel. Noting that shelling and mining raids from Lebanese territory had been continuing in disregard of the cease-fire and that the Lebanese authorities seemed unable or unwilling to curtail these attacks, he contended that Israel had had no alternative but to resort to self-defence.

99. During the debate, it was stated that a Government could not be justified, in the name of self-defence, in launching air attacks on alleged hostile encampments in a foreign State whose official participation in the hostile activities had not been established. It was maintained that the premeditated and unprovoked attack by Israel on Lebanon constituted an act of aggression in violation of Israel's obligations under the Charter and also under the Armistice Agreement with Lebanon and the decision of the United Nations on the cease-fire. It was noted that the provisions of Article 2(4) had to be regarded as prohibiting reprisals or retaliation of the kind under consideration and that the past instances of retaliatory action had repeatedly been censured by the Council. It was observed further that in so far as the Security Council, by its resolution 262 (1968), had issued a warning to Israel that, if its premeditated acts against Lebanon were to be repeated, the Council would have to consider further steps to give effect to its decisions, it should, now that it was confronted with a repetition of such acts, consider suitable further steps.

100. It was contended, on the other hand, that Governments could not claim immunity from responsibility for the

¹⁸⁷ For texts of relevant statements, see S C, 24th yr., 1466th mtg.: Israel, paras. 57-114; 135-139; Jordan, paras. 27-55; 116-133; 1467th mtg.: Nepal, paras. 32-46; USSR, paras. 4-31; United States, paras. 47-54; 1468th mtg.: Algeria, paras. 2-17; Finland, paras. 18-23; France, paras. 32-40; Pakistan, paras. 41-56; United Kingdom, paras. 24-31; 1469th mtg.: Colombia, paras. 73-89; Hungary (President), paras. 130-138; Spain, paras. 52-68; Zambia, paras. 122-128; 1470th mtg.: China, paras. 48-52; Paraguay, paras. 34-45; 1472nd mtg.: Pakistan, paras. 6-19; United Kingdom, paras. 49-55; United States, paras. 39-45; 1473rd mtg.: Finland, paras. 79-83; Pakistan, paras. 2-5.

¹⁸⁸ S C, 24th yr., Suppl. for July-Sept., p. 153, S/9385. See also: *Ibid.*, p. 152, S/9383.

¹⁸⁹ S C, 24th yr., Suppl. for July-Sept., p. 156, S/9387

¹⁹⁰ S C, 24th yr., 1498th mtg., para. 9.

¹⁹¹ *Ibid.*, 1504th mtg., para. 2.

¹⁹² S/9410 adopted without change as S C resolution 270 (1969)

¹⁹³ S C, 24th yr., 1504th mtg., para. 3.

hostile armed activities carried out from their territories against neighbouring States: all acts of violence and counter-violence were to be deplored regardless of their source or origin. The incident under consideration had to be viewed in the broader context of the general situation in the Middle East. In this connexion, emphasis was placed on the need to implement Security Council resolution 242 (1967) containing guidelines for the solution of the broader problem.¹⁹⁴

c. *Decision of 22/23 August 1968 in connexion with the question concerning Czechoslovakia*

(a) *Précis of proceedings*

101. By a letter¹⁹⁵ dated 21 August 1968 to the President of the Security Council, the representatives of Canada, Denmark, France, Paraguay, the United Kingdom and the United States requested an immediate meeting of that organ to consider the serious situation in the Czechoslovak Socialist Republic.

102. At its 1441st meeting on 21 August 1968, the Security Council decided¹⁹⁶ to include the item in the agenda by 13 votes in favour and 2 against.

103. At the 1442nd meeting on 22 August 1968, the representative of Denmark introduced,¹⁹⁷ on behalf of the delegations of Brazil, Canada, Denmark, France, Paraguay, the United Kingdom and the United States,¹⁹⁸ a draft resolution¹⁹⁹ under which the Security Council, being gravely concerned that as announced by the Presidium of the Central Committee of the Communist Party of Czechoslovakia, troops of the Union of Soviet Socialist Republics and other members of the Warsaw Pact had entered that country without the knowledge and against the wishes of the Government of Czechoslovakia; considering that the action taken by the Government of the Union of Soviet Socialist Republics and other members of the Warsaw Pact in invading the Czechoslovak Socialist Republic was a violation of the United Nations Charter and, in particular, of the principle that 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; being gravely concerned also by risks of violence and reprisals as well as by threats to individual liberty and human rights which could not fail to result from imposed military occupation, would: affirm that the sovereignty, political independence and territorial integrity of the

Czechoslovak Socialist Republic must be fully respected; and condemn the armed intervention of the Union of Soviet Socialist Republics and other members of the Warsaw Pact in the internal affairs of the Czechoslovak Socialist Republic and call upon them to take no action of violence or reprisal that could result in further suffering or loss of life, forthwith to withdraw their forces, and to cease all other forms of intervention in Czechoslovakia's internal affairs.

Decision

At the 1443rd meeting, on 22 August 1968, the eight-Power draft resolution was voted upon.²⁰⁰ The result of the vote was 10 in favour, 2 against, with 3 abstentions. The draft resolution was not adopted, one of the negative votes being that of a permanent member of the Council.

(b) *Précis of relevant constitutional discussion*

104. At the beginning of the debate, those members of the Security Council which had requested the meeting stated that the armed intervention in Czechoslovakia of the Warsaw Pact forces from Bulgaria, the German Democratic Republic, Hungary, Poland and the Union of Soviet Socialist Republics, undertaken without the knowledge and/or consent of the lawful authorities of that country, constituted a violation of the provisions of Articles 1(2), 2(1) and 2(4) of the Charter and General Assembly resolution 2131 (XX) of 21 December 1965 containing a Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States for the Protection of Their Independence and Sovereignty. The Security Council must therefore call upon the Government of the Union of Soviet Socialist Republics and the Governments of the allied countries in the Warsaw Pact to withdraw their forces from Czechoslovakia and to respect the sovereignty of an independent member nation of the United Nations.

105. The representative of the USSR held that in view of the threat created by foreign and domestic reaction to the socialist system in Czechoslovakia and the attendant threat to the collective security of all socialist countries, the measures taken by the five members of the Warsaw Pact, in response to an appeal for military assistance by the lawful legitimate authorities in Czechoslovakia and on the basis of mutual treaty obligations, as well as the relevant provisions of the United Nations Charter, did not fall within the purview of the prohibitions of Article 2(4) of the Charter.

106. The representative of Czechoslovakia stated that the armed intervention in Czechoslovakia by the five members of the Warsaw Pact was an act of use of force that could not be justified. It had not taken place upon request or demand of the Government of Czechoslovakia nor of any other constitutional organs of that State and, to the knowledge of the Czechoslovak Government, no such demand had ever been made by any constitutional political representatives of Czechoslovakia. Further, the military occupation could not be justified by concern for the external security of Czechoslovakia or for the fulfilment of obligations arising from the joint defence of the countries of the Warsaw Pact as there had not been a danger of military aggression from abroad at the time of the occupation. Noting also that arguments about the alleged danger of counter-revolution were juridically not valid, the representative of Czechoslovakia expressed the demand of his Government

¹⁹⁴ For texts of relevant statements, see S C, 24th yr., 1498th mtg.: Israel, paras. 44-87; Lebanon, paras. 15-39; 1499th mtg.: Algeria, paras. 3-18; France, paras. 42-48; Israel, paras. 60-65; Pakistan, paras. 49-58; USSR, paras. 19-48; 1500th mtg.: Hungary, paras. 27-30, Senegal, paras. 20-22; United States, paras. 4-19; 1501st mtg.: Finland, paras. 9-13; Nepal, paras. 14-26; United Kingdom, paras. 4-8; 1502nd mtg.: China, paras. 27-34; Lebanon, paras. 36-55; Paraguay, paras. 9-26; Spain (President), paras. 71-77; 1504th mtg.: Colombia, paras. 19-21; Finland, paras. 22-24; Israel, paras. 65-83; Lebanon, paras. 49-62; Pakistan, paras. 36-40; Paraguay, paras. 25-32.

¹⁹⁵ S C, 23rd yr., Suppl. for July-Sept., p. 136, S/8758.

¹⁹⁶ S C, 23rd yr., 1441st mtg., para. 121.

¹⁹⁷ S C, 23rd yr., 1442nd mtg., para. 29.

¹⁹⁸ The name of Senegal was added to the names of the sponsors of the draft resolution at the subsequent meeting of the Security Council. See S C, 23rd yr., 1443rd mtg., paras. 21 and 283

¹⁹⁹ S/8761 and Add.1, incorporated in the record of S C, 23rd yr., 1442nd mtg., para. 30. For the change in para. 1 of the text, see: *Ibid.*, 1443rd mtg., para. 282.

²⁰⁰ S C, 23rd yr., 1443rd mtg., para. 284.

for complete and immediate termination of the occupation, the withdrawal of all occupation forces from the territory of the Czechoslovak Socialist Republic and the full restitution of the sovereignty and territorial integrity of that country.

107. During the debate, it was maintained that invasion and occupation by foreign troops of a country, undertaken without the knowledge and without the consent of the lawful authorities of that country, was a matter which was international in character and which constituted an act of use of force in violation of, *inter alia*, Article 2(4) and could not be justified as being the exercise of the right of individual and collective self-defence.

108. It was argued, on the other hand, that the decision of socialist countries to give military assistance to an allied socialist State in conformity with mutual treaty obligations and for the purpose of dispelling an existing threat to socialism in that country and the corollary threat to the security of the socialist States, was consonant with Article 51 of the Charter which allowed States to take collective and individual measures of self-defence. Accordingly, the granting of such assistance could not juridically be considered interference in the internal affairs of that country; nor could it be considered to constitute a matter falling within the purview of Article 2(4).²⁰¹

d. *Decision of 28 July 1969 in connexion with the complaint by Zambia*

(a) *Précis of proceedings*

109. In a letter²⁰² dated 15 July 1969 to the President of the Security Council, the representative of Zambia requested an early meeting of the Security Council to discuss the calculated Portuguese violations of the territorial integrity of Zambia, in particular the bombing, on 30 June 1969, of a village situated along the border of the Republic of Zambia and the Portuguese colony of Mozambique. Expressing his Government's concern that, in its application of the right of self-defence recognized in Article 51 of the Charter a more serious situation might arise, he held it to be incumbent upon the Security Council to envisage corrective measures to bring an end to acts which constituted a threat to international peace and security.

110. By a letter²⁰³ dated 18 July 1969, the African States,²⁰⁴ acting on behalf of the Organization of African Unity and on the basis of the Charter of that Organization

which obliged all member States to promote the unity and solidarity of the African States and to eradicate all forms of colonialism in Africa, supported the Zambian request for a meeting of the Security Council. Noting that the Organization of African Unity had been and still was preoccupied by the threats and acts of aggression perpetrated by Portugal against the African States bordering on the territories under Portuguese domination, the African States expressed the hope that the Security Council, acting in accordance with Chapter VII of the Charter, would take the necessary measures to put an end to such aggressions.

111. At its 1486th meeting on 18 July 1969, the Security Council decided²⁰⁵ to include the item on the agenda.

112. At the 1491st meeting on 28 July 1969, the representative of Pakistan introduced,²⁰⁶ on behalf of the delegations of Algeria, Nepal, Pakistan and Senegal, a draft resolution²⁰⁷ which, *inter alia*, would provide as follows:

"The Security Council,

" . . .

"*Bearing in mind* that all States should 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,

"*Concerned* about the grave situation created by the Portuguese bombing of Lote village in the Katete District of the Eastern Province of Zambia bordering the Territory of Mozambique,

"*Gravely concerned* that incidents of this nature endanger international peace and security,

"1. *Strongly censures* the Portuguese attacks on Lote village in the Katete District of the Eastern Province of Zambia resulting in the loss of Zambian civilian life and property;

"2. *Calls upon* Portugal to desist forthwith from violating the territorial integrity of, and from carrying out unprovoked raids against, Zambia;

" . . .

"5. *Declares* that in the event of failure on the part of Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider further measures".

Decision

At the same meeting, the four-power draft resolution was adopted²⁰⁸ by 11 votes to none, with 4 abstentions.

(b) *Précis of relevant constitutional discussion*

113. In his opening statement, the representative of Zambia, having recalled past incidents of alleged aggression by Portugal against Zambia, cited Article 2(4) of the Charter, charged Portugal with unprovoked and premeditated violation of Zambia's territorial integrity, in particular the bombing incident of 30 June 1969, and stated that, in so far as his Government's policy of seeking to settle the matter through bilateral negotiations had not been successful due to a lack of co-operation by Portugal, Zambia had decided to bring the matter before the Security Council while

²⁰¹ For the texts of relevant statements, see S C, 23rd yr., 1441st mtg.: Canada, paras. 48-54; 169-172; Czechoslovakia, paras. 134-143; 259-266; Denmark, paras. 68-71; 181-189; France, paras. 173-180; Paraguay, paras. 107-111; USSR, paras. 3; 19-24; 72-105; 197-245; United Kingdom, paras. 55-66; 253-256; United States, paras. 8-12; 17; 27-46; 144-168; 1442nd mtg.: Brazil, paras. 63-67; Canada, paras. 34-42; China, paras. 14-24; Denmark, paras. 25-33; Ethiopia, paras. 4-8; United States, paras. 43-56; 1443rd mtg.: Algeria, paras. 256-270; Czechoslovakia, paras. 5-14; Poland, paras. 38-44; Senegal, paras. 15-22; USSR, paras. 77-86; 143-208; 1444th mtg.: Yugoslavia, paras. 102-114; 1445th mtg.: Czechoslovakia, paras. 159-182; Pakistan, paras. 188-198; President (Brazil), paras. 128-130, 183.

²⁰² S C, 24th yr., Suppl. for July-Sept., p. 127, S/9331.

²⁰³ *Ibid.*, p. 131, S/9340 and Add.1-3.

²⁰⁴ Algeria, Burundi, Cameroon, Central African Republic, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Zambia.

²⁰⁵ S C, 24th yr., 1486th mtg., preceding para 1.

²⁰⁶ S C, 24th yr., 1491st mtg., para. 4.

²⁰⁷ S/9360 adopted without change as S C resolution 268 (1969)

²⁰⁸ S C, 24th yr., 1491st mtg., para 26

reserving its inherent right of self-defence under Article 51 of the Charter.

114. The representative of Portugal categorically rejected the charges brought by Zambia and observed that Portuguese territories were being violated by Zambian armed forces and the Zambian air force. He maintained that in so far as the Zambian Government had authorized in its territory the establishment of training and supply bases for armed attacks on the adjoining Portuguese territories of Angola and Mozambique, that Government could not disclaim responsibility for the unlawful, violent activities against the Portuguese security forces in such frontier areas. When fired upon by hostile elements, those security forces had had to react in self-defence. Referring to Article 2(4) of the Charter, the representative of Portugal held that the Zambian Government had the obligation not to permit its territory to be used for hostile actions against foreign territories. He also noted that a Mixed Luso-Zambian Commission existed to investigate, on the spot, all allegations made by either side and that, as a result of bilateral talks between the two countries, all the past incidents, whether they had actually taken place or not, had been considered as settled. The representative of Portugal contended that, in the present instance, Zambia had bypassed the talks between the two countries on all the recent allegations by bringing the alleged incident of 30 June 1969 to the Security Council and stated that his Government remained willing to continue the bilateral talks.

115. During the debate, it was contended, on the one hand, that the Security Council should condemn Portugal for committing repeated acts of aggression against Zambia and should take the necessary decisions to enable Zambia to defend the integrity of its territory and its political independence. The view was expressed also that assistance rendered to a resistance movement in Non-Self-Governing Territories, such as Angola, Mozambique and Guinea (Bissau), when the right of a people to self-determination, as recognized in the Charter, was being denied and suppressed, should not expose the country which accorded it to reprisals.

116. It was maintained, on the other hand, that the facts regarding the complaint under consideration had not been substantiated and that, without a complete and impartial investigation, the Security Council should not proceed to assessments and findings. Rather, the Council had to encourage and assist the two parties to settle the question through bilateral negotiation and conciliation.

117. It was also noted that the incident of alleged aggression before the Council should be considered in the context of the developments in the whole of Africa and that the situation in that continent caused by the presence of Portugal on the basis of armed force required a comprehensive examination by the Council.²⁰⁹

²⁰⁹ For texts of relevant statements, see S C, 24th yr., 1486th mtg.: Algeria, paras. 96-106; Portugal, paras. 61-93; 117-122; Zambia, paras. 6-58; 108-115; 1487th mtg.: Hungary, paras. 17-26, Somalia, paras. 29-42; United Republic of Tanzania, paras. 44-72; 1488th mtg.: Finland, paras. 83-88; France, paras. 91-98, Nepal, paras. 59-67; Pakistan, paras. 69-81; Portugal, paras. 24-43; USSR, paras. 7-22; United Arab Republic, paras. 100-109; 1489th mtg.: Gabon, paras. 5-13; Liberia, paras. 35-46; Madagascar, paras. 15-30, Paraguay, paras. 79-84; Sierra Leone, paras. 66-74; Tunisia, paras. 50-63; 1490th mtg.: Colombia, paras. 3 and 4, Congo (Democratic Republic of), paras. 10-27; Portugal, paras. 29-36, 1491st mtg.: Spain, paras. 15-19; United Kingdom, paras. 8-13; United States, paras. 28-30.

e. *Decision of 9 December 1969 in connexion with the complaint by Senegal*

(a) *Précis of proceedings*

118. By a letter²¹⁰ dated 27 November 1969, the representative of Senegal requested the President of the Security Council to convene a meeting as quickly as possible to consider the question regarding the systematic and deliberate violation of Senegalese national territory by Portugal, in particular the incident of 25 November 1969 whereby a village in the southern part of Senegal had been shelled by the regular Portuguese army.

119. By a letter²¹¹ dated 2 December 1969 to the President of the Security Council thirty-six African States²¹² supported the request for the convening of the Security Council made by the representative of Senegal following deliberate violations of the territorial integrity of the Republic of Senegal by Portugal. Noting that their request for the convening of the Security Council was made in accordance with the Charter of the Organization of African Unity which obliged all member States to promote the solidarity of the African States and to eradicate all forms of colonialism from Africa, the thirty-six African States stated that that Organization continued to be concerned at the threats and acts of aggression committed by Portugal against the African States bordering on the Territories under Portuguese domination and expressed hope that the Security Council, acting under Chapter VII of the Charter, would take the necessary action to put an end to these acts of aggression.

120. At the 1516th meeting of 4 December 1969, the Security Council decided²¹³ to include the letter of Senegal in the agenda.

121. By a letter²¹⁴ dated 7 December 1969 to the President of the Security Council, the representative of Senegal requested an urgent meeting of the Security Council to consider a further complaint by Senegal against Portugal as a result of a new incident, namely, renewed shelling of the Senegalese village subject of the complaint already under consideration by the Council and the announced Portuguese intention to shell the capital of the southern region of the Casamance (province bordering on Senegal, Guinea and Guinea (Bissau)).

122. At the 1518th meeting on 8 December 1969, the Security Council decided²¹⁵ to include the second Senegalese complaint in the agenda and to consider it together with the previous one.

123. At the 1519th meeting held on the same day, the representative of Pakistan, on behalf of the delegations of Algeria, Nepal, Pakistan and Zambia, introduced²¹⁶ a draft

²¹⁰ S C, 24th yr., Suppl. for Oct.-Dec., p. 117, S/9513.

²¹¹ *Ibid.*, p. 144, S/9524 and Add. 1.

²¹² Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta, Zambia.

²¹³ S C, 24th yr., 1516th mtg., preceding para. 40.

²¹⁴ S C, 24th yr., Suppl. for Oct.-Dec., p. 151, S/9541.

²¹⁵ S C, 24th yr., 1518th mtg., preceding para. 1, and para. 4.

²¹⁶ S C, 24th yr., 1519th mtg., para. 23.

resolution that was later revised. The revised text²¹⁷ read *inter alia*, as follows:

“The Security Council,

“ . . .

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

“ . . .

“*Bearing in mind* its resolutions 178 (1963) of 24 April 1963 and 204 (1965) of 19 May 1965,

“1. *Strongly condemns* the Portuguese authorities for the shelling of the village of Samine, which (1) on 25 November 1969 caused one death and seriously wounded eight persons, struck a building of the Senegalese gendarmerie and completely destroyed two houses in the village of Samine, and (2) on 7 December 1969 caused five deaths and seriously wounded one woman;

“2. *Again calls upon* Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal;

“3. *Declares* that in the event of failure by Portugal to comply with paragraph 2 of the present resolution, the Security Council will meet to consider other measures”.

Decision

At the 1520th meeting, on 9 December 1969, the revised four-power draft resolution, as amended, was adopted²¹⁸ by 13 votes to none, with 2 abstentions.

(b) *Précis of relevant constitutional discussion*

124. In his opening statement, the representative of Senegal charged Portugal with deliberate violation of the sovereignty and territorial integrity of Senegal. Having recalled past incidents of deliberate provocation undertaken by the regular Portuguese forces based in Guinea (Bissau) and having further noted that the frequency of such acts of provocation had increased during 1969, he complained in particular of the incident of 25 November 1969 in which it was alleged that the regular Portuguese army based in Guinea (Bissau) had shelled a Senegalese village. Stating that, if Portugal were to continue its provocations, then Senegal would have no choice but to resort to force in order to impose respect for its territorial sovereignty and integrity, the representative of Senegal asked the Security Council to condemn, in accordance with the Charter, the acts of aggression committed by Portugal.

125. The representative of Portugal contended that Senegal had to bear the responsibility for the consequences of allowing hostile elements to use its territory for armed attacks which had, as their objective, the violation of Portuguese territorial integrity and sovereignty and in which the Senegalese armed forces were also known to participate. He maintained that Senegal was among certain countries which were officially aiding and encouraging, directly and

indirectly, violence against Portuguese territories in Africa which in turn created incidents at the frontiers forcing Portugal to exercise its right of self-defence. Noting that dislike for the internal policy of another country did not justify the use of violence to force that country to change its policy, the representative of Portugal recalled that the Charter explicitly condemned the use of violence, whatever might be the political differences. Regarding the Senegalese complaint, he held that incidents such as the one under consideration resulted from the fact that armed attacks against Portuguese Guinea were allowed to be initiated from Senegalese territory where anti-Portuguese organizations had been given bases and where they took refuge when pursued by Portuguese security forces in defensive action. Alleging that the village in question was one of such bases, the representative of Portugal maintained that his country's right of self-defence could not be contested; it had to be taken into consideration in the assessment of the Senegalese complaint. In that connexion, he pointed out that the Government of Senegal had not contacted the Portuguese Government on the subject of its present complaint before notifying the Security Council so as to have the matter investigated by a mixed commission with a view towards a settlement through conciliation; he expressed the willingness of his Government to comply with such a course.

126. During the discussion, the view was expressed that repeated incidents along the borders between African Territories under Portuguese administration and neighbouring independent African States had to be seen against a background of colonialism and non-compliance of Portugal with the United Nations resolutions calling on the administering Power to implement forthwith the provisions of General Assembly resolution 1514 (XV) containing a Declaration on the Granting of Independence to Colonial Countries and Peoples. It was stated that, while the right of any State to self-defence could not be challenged, that right pertained to the national territory of the given State. In the specific circumstances of the case under consideration, there could be no argument of self-defence on the part of Portugal because Senegal had neither attacked nor permitted attacks to be initiated from its territory against the territory of Portugal. It was emphasized that regardless of what the Portuguese municipal law might decree, the African Territories, under Portuguese administration, namely, Angola, Mozambique and Guinea (Bissau), were not an integral part of metropolitan Portugal wherein that country's sovereignty existed; rather, these were Non-Self-Governing Territories within the meaning of Chapter XI of the Charter, as substantiated by General Assembly resolution 1542 (XV) of 15 December 1960.²¹⁹ In this connexion reference was made also to the following General Assembly resolutions: 2105 (XX) of 20 December 1965 in which the General Assembly had recognized²²⁰ the legitimacy of the struggle by the peoples under colonial rule to exercise their right to self-determination and independence, and had invited all States to provide material and moral assistance to the national liberation movements in colonial Territories; 2107 (XX) of 21 December 1965 in which the Assembly had appealed²²¹ to all States, in co-operation with

²¹⁷ S/9542/Rev. 1, as amended, adopted without change as S C resolution 273 (1969). At the 1520th meeting on 9 December 1969, S/9542/Rev. 1 was amended as follows: in paragraph 1 the word “colonial” after the word “Portuguese” was deleted. See: S C, 24th yr., 1520th mtg., para. 3.

²¹⁸ S C, 24th yr., 1520th mtg., para. 56.

²¹⁹ G A resolution 1542 (XV), para. 1.

²²⁰ G A resolution 2105 (XX), para. 10.

²²¹ G A resolution 2107 (XX), para. 3.

the Organization of African Unity, to render the people of the Territories under Portuguese administration the moral and material support necessary for the restoration of their inalienable rights; 2395 (XXIII) of 29 November 1968 in which the General Assembly had repeated that appeal²²² and had condemned²²³ the violations by the Government of Portugal of the territorial integrity and sovereignty of independent African States; and 2507 (XXIV) of 21 November 1969 in which the General Assembly had condemned²²⁴ Portugal's policy of using the Territories under its domination for violations of the territorial integrity and sovereignty of independent African States. In this context, reference was made also to Security Council resolution 253 (1968) of 29 May 1968 on the question concerning the situation in Southern Rhodesia by which the Council had similarly urged²²⁵ all States Members of the United Nations to render moral and material assistance to the people of that territory in their struggle to achieve their freedom and independence. In view of these resolutions, it was maintained that rendering of assistance, in full observance of United Nations resolutions pertaining thereto, to national liberation movements in territories under colonial rule, such as Guinea (Bissau), to further their legitimate struggles for self-determination and independence could not be considered an act of provocation; nor could repression of movements of national liberation in such territories be classified among acts of legitimate self-defence. Accordingly, it was maintained that the action of the Portuguese armed forces, alleged to have been taken in response to the provocation of armed bands which found refuge in the territory of Senegal, was contrary to Article 2 of the Charter which called upon Member States to settle their international disputes by peaceful means, and in their international relations to refrain from the threat or use of force against the territorial integrity and political independence of any State. Reference having been made to non-implementation by Portugal of earlier Council resolutions²²⁶ requesting that country to ensure the prevention of any violation of Senegal's sovereignty and territorial integrity, the Council was asked to censure Portugal in the present instance and to envisage measures to ensure prevention of similar incidents in the future.

127. In response, the representative of Portugal stated that Portugal had been admitted as a State Member of the United Nations with all its territories as defined in the Portuguese Constitution: it did not lie within the competence of the United Nations to question the territorial integrity of the Portuguese State. Regarding assistance rendered to national liberation movements in territories under colonial rule, he contended that violence organized in third countries and launched across frontiers in order to force a country to change its internal policy was contrary to the Charter of the United Nations. As regards the resolutions of the General Assembly inviting all States to render such assistance, he held that these resolutions were recommendations which Member States could accept or reject in the exercise of their sovereign judgement, and further that no resolution

of the General Assembly, nor even of the Security Council, could legitimize violence as a political instrument.²²⁷

f. *Decision of 22 December 1969 in connexion with the complaint by Guinea*

(a) *Précis of proceedings*

128. In a letter²²⁸ dated 2 December 1969 to the President of the Security Council, the representative of Guinea charged that the regular Portuguese army had committed yet another act of aggression against the national sovereignty of the Republic of Guinea by the repeated shelling of two Guinean frontier villages. By a subsequent letter²²⁹ of 4 December 1969, the representative of Guinea requested the President of the Security Council to convene a meeting to consider the Portuguese aggression against the territorial integrity of the Republic of Guinea. In a further letter dated 12 December 1969,²³⁰ the representative of Guinea informed the Security Council of incidents of aerial bombing, penetration of Guinean territorial waters and abduction of a Guinean boat, detentions of Guinean citizens, mortar shelling, destruction of life and property committed by Portugal between April and November 1969 and stated that the Government of Guinea felt itself obliged to bring these matters before the Council in order to denounce the systematic policy of provocation and violations which the Portuguese Government was imposing on the inhabitants of a certain part of Guinean national territory.

129. By a letter²³¹ dated 5 December 1969, the representatives of forty African States²³² supported, on the basis of the Charter of the Organization of African Unity which required all member States to promote the unity and solidarity of the African States and to eradicate all forms of colonialism from Africa, the Guinean request for the convening of a meeting of the Security Council. The African States expressed the hope that the Council, acting under Chapter VII of the Charter, would take the necessary steps to put an end to acts of aggression, such as the one which was the subject of the Guinean complaint.

130. At the 1522nd meeting on 15 December 1969, the Security Council decided²³³ to include the item in the agenda.

131. At the 1525th meeting on 19 December 1969, the

²²⁷ For texts of relevant statements, see S C, 24th yr., 1516th mtg.: Algeria, paras. 70-86; 145-153; Portugal, paras. 89-93; 101-135; Senegal, paras. 44-69; 95-98; 1517th mtg.: France, paras. 9-13; Hungary, paras. 60-67; Liberia, paras. 36-45; Morocco, paras. 48-58; Sierra Leone, paras. 17-33; 1518th mtg.: Madagascar, paras. 15-31; Mali, paras. 72-78; Mauritania, paras. 127-140; Nepal, paras. 116-122; Senegal, paras. 5-13; Tunisia, paras. 35-47; USSR, paras. 99-114; United Arab Republic, paras. 50-69; Yemen, paras. 81-97; 1519th mtg.: Colombia, paras. 53 and 54; Finland, paras. 32-37; Pakistan, paras. 6-29; Syria, paras. 48-50; Zambia, (President), paras. 63-75; 1520th mtg.: China, paras. 32 and 33; France, paras. 40 and 41; Paraguay, paras. 25-29; Portugal, paras. 7-19; Spain, paras. 53-55; United Kingdom, paras. 42-52; United States, paras. 35-39.

²²⁸ S C, 24th yr., Suppl. for Oct.-Dec., p. 145, S/9525.

²²⁹ *Ibid.*, p. 147, S/9528.

²³⁰ *Ibid.*, pp. 155-157, S/9554.

²³¹ S C, 24th yr., Suppl. for Oct.-Dec., p. 154, S/9549.

²³² Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia.

²³³ S C, 24th yr., 1522nd mtg., para. 2.

²²² G A resolution 2395 (XXIII), para. 5.

²²³ *Ibid.*, para. 8.

²²⁴ G A resolution 2507 (XXIV), para. 4.

²²⁵ S C resolution 253 (1968), para. 13.

²²⁶ S C resolution 178 (1963) of 24 April 1963, para. 2; and S C resolution 204 (1965) of 19 May 1965, para. 3.

representative of Nepal presented,²³⁴ on behalf of the delegations of Algeria, Nepal, Pakistan, Senegal and Zambia, a joint draft resolution²³⁵ which, *inter alia*, would provide:

“The Security Council,

“

“Observing that incidents of this nature jeopardize international peace and security,

“Mindful that no State should act in any manner inconsistent with the principles and purposes of the Charter of the United Nations,

“Gravely concerned with any and all such attacks by Portugal directed against independent African States,

“Grieved at the extensive damage caused by the Portuguese shelling of Guinean villages from positions in the Territory of Guinea (Bissau),

“1. Deeply deplores the loss of life and heavy damage to several Guinean villages inflicted by the Portuguese military authorities operating from bases in Guinea (Bissau);

“2. Call upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of the Republic of Guinea;

“

“5. Solemnly warns Portugal that if such acts were to be repeated in future, the Council would have to seriously consider further steps to give effect to this decision.”

Decision

At the 1526th meeting on 22 December 1969, the five-Power draft resolution was adopted²³⁶ by 9 votes to none, with 6 absences.

(b) *Précis of relevant constitutional discussion*

132. In his opening statement, the representative of Guinea noted that the complaint of his Government against Portugal was a “standing complaint” in so far as the acts of provocation and systematic violations of the sovereignty and territorial integrity of Guinea by Portugal had been continuing on a daily basis over a period of several years. He maintained that, in so far as the facts and circumstances which existed on the borders between the Republic of Guinea and Guinea (Bissau) were the same as those which existed between the Republic of Senegal and Guinea (Bissau), Security Council resolution 273 (1969) of 9 December 1969²³⁷ condemning Portugal for attacks against Senegal would constitute a condemnation also of similar offences committed by Portugal against Guinea. However, the most recent provocations by Portugal against Guinea and other similar Portuguese provocations undertaken simultaneously against other African States, had convinced his Government of the necessity to bring to the attention of the Security Council the serious threat to the peace and security of the African continent posed by the constant provocations by Portugal. Having detailed the particulars of the incidents under consideration, the representative of Guinea asked the Security Council to condemn Portugal for its acts of aggression against Guinea and also for maintaining control over Mozambique, Angola and Guinea (Bissau).

133. The representative of Portugal rejected the Guinean allegations and contended that the Guinean complaint of constant and continuing aggression by Portugal against that country was an inversion of facts: it was Guinea (Bissau) which, for several years, had been the subject of constant attacks launched from the Republic of Guinea. In that connexion, he charged that the Government of the Republic of Guinea had authorized the organization in its territory of violent movements to operate against Guinea (Bissau) and had officially aided and abetted these movements. He stated that Portugal held the Republic of Guinea responsible for the consequences of attacks launched from its territory against Guinea (Bissau). Having charged further that the military personnel of certain foreign Powers extraneous to the African continent were present in the Republic of Guinea and were participating actively in armed raids against Guinea (Bissau), the representative of Portugal held that an equitable Council decision on the complaint under consideration required an investigation to determine who organized, aided and launched violence against whom.

134. During the discussion, it was maintained that the continued presence of a colonial Power, such as Portugal, by force and against the wishes of the people of a Territory, such as Guinea (Bissau), to which Chapter XI of the Charter and the Declaration on decolonization²³⁸ applied, was in itself a permanent act of aggression. It was recalled that the Security Council, by resolution 180 (1963) of 31 July 1963,²³⁹ had affirmed that the policies of Portugal in claiming the Territories under its administration, namely Angola, Mozambique and Guinea (Bissau), as “overseas territories” and as integral parts of metropolitan Portugal were contrary to the principles of the Charter and the relevant resolutions of the General Assembly and the Security Council. It was noted that Portuguese acts of violence, such as those under consideration, could not be regarded as isolated incidents; rather, they were deliberate acts of policy. Through the use of force, Portugal was attempting to intimidate independent States whose territories adjoined those of Guinea (Bissau), Angola and Mozambique, namely, African Territories under Portuguese rule, and to prevent African populations of those Territories from fighting for their inalienable rights to self-determination and independence and from fleeing Portuguese oppression by seeking refuge in neighbouring independent African States. It was contended that violations by Portugal of the territorial integrity of those independent African States adjacent to the African Territories under its administration were contrary to the provisions of Article 2 of the Charter and could not be justified by the argument of self-defence. The right of self-defence, recognized by the Charter, had to be exercised within the limits imposed by the Charter and not for the purpose of flouting the obligations set forth in Chapter XI of the Charter and also in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV). In this connexion, reference was made to General Assembly resolution 2507 (XXIV) of 21 November 1969 which had recommended that the Security Council, with a view to the immediate implementation of Assembly resolution 1514 (XV) in the Territories under Portuguese domination, should take effective steps in conformity with the

²³⁴ *Ibid.*, 1525th mtg., para. 9.

²³⁵ S/9574 adopted without change as S C resolution 275 (1969).

²³⁶ S C, 24th yr., 1526th mtg., para. 48.

²³⁷ See para. 123 of the present study.

²³⁸ G A resolution 1514 (XV) of 14 December 1960.

²³⁹ S C resolution 180 (1963), para. 2.

Charter, and had asked the Security Council to take such steps, as well as the necessary measures to halt, and prevent the recurrence of, aggressive acts by Portugal against independent African States.

135. The view was expressed also that, if colonies could not be liberated through the peaceful efforts of sovereign States, then there was no alternative but to drive the colonial Power out by force. In this context, it was noted that the General Assembly, in a number of resolutions,²⁴⁰ had enjoined all States, including African States, to afford moral and material assistance to the peoples of the Territories under Portuguese rule in their struggle to attain self-determination and national independence. Accordingly, it was held that rendering of assistance to the liberation movements in Territories under Portuguese rule, was fully in accord with the obligations set forth in the Charter and the relevant Assembly resolutions.

136. In response, the representative of Portugal stated that, no matter what action it might take against attacks launched on Guinea (Bissau), it was always on its own territory and its actions were of a defensive nature. He observed that Portugal's sovereignty in Africa had been internationally recognized for nearly 500 years and that it was on that basis that Portugal had been admitted to the United Nations. He maintained that it was beyond the competence of the United Nations to question the territorial composition of the Portuguese State or its sovereignty in any part of its territory. He held that there could be no doubt as to the legitimacy of Portuguese sovereignty in Guinea (Bissau), as in other parts of its territory, and that no doctrinal considerations could make Portugal abdicate or compromise its lawful and sovereign right to defend itself, under Article 51 of the Charter, against all violence from outside its frontiers, whatever its form and whatever the motives that might be set forth in order to justify it. The representative of Portugal emphasized that the Charter did not condone, either directly or by implication, violence as a political instrument: under the most incontrovertible principles of the Charter, it was not permissible to impose through the use of armed force and by aggressive action the solution of any question, particularly a change in the internal policies of another State.²⁴¹

2. IN THE GENERAL ASSEMBLY

a. *Decision of 30 November 1966 in connexion with the item:*

"Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination"

(a) *Précis of proceedings*

137. By a letter²⁴² dated 19 September 1966 to the Secre-

²⁴⁰ See, for example, G A resolutions 2105 (XX), para. 10; 2107 (XX), para. 3; 2395 (XXIII), para. 5; 2507 (XXIV), para. 11

²⁴¹ For texts of relevant statements, see S C, 24th yr., 1522nd mtg.: Guinea, paras. 9-39; Portugal, paras. 45-66; 1523rd mtg.: Algeria, paras. 5-13; Congo (Brazzaville), paras. 19-24; Lesotho, paras. 66-73; Madagascar, paras. 30-45; 1524th mtg.: Guinea, paras. 106-116; India, paras. 91-101; Liberia, paras. 17-25; Libya, paras. 31-46; Mali, paras. 49-60; Portugal, paras. 62-85; Syria, paras. 5-14; 1525th mtg.: Bulgaria, paras. 53-62; Hungary, paras. 16-27; Nepal, paras. 6-13; Mauritius, paras. 97-102; Pakistan, paras. 40-49; Sierra Leone, paras. 108-113; USSR, paras. 66-92; Yemen, paras. 31-38; Zambia (President), paras. 122-127, 1526th mtg.: France, paras. 21-25.

²⁴² G A (XXI), Annexes, a.i. 92, pp. 1-2, A/6393.

tary-General, the representative of Czechoslovakia requested the inclusion in the agenda of the twenty-first session of the General Assembly of an additional item of an urgent and important character entitled: "Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination." In the explanatory memorandum, attached to the letter, it was stated that, in view of the situation currently prevailing in the world, it was desirable that the General Assembly should solemnly affirm the prohibition of the threat or use of force in international relations as well as the right of peoples to self-determination; should condemn any violation of these principles and should call upon all States to observe them strictly and unconditionally.

138. At the 1415th plenary meeting on 24 September 1966 the General Assembly decided²⁴³ to include the item in its agenda and to allocate it to plenary meetings.

139. On 11 November 1966 the representatives of Algeria, Congo (Brazzaville), Czechoslovakia, Guinea, India, Iraq, Mali, Mauritania, Poland, Singapore, Sudan, United Arab Republic, Yemen and Yugoslavia submitted²⁴⁴ a joint draft resolution,²⁴⁵ hereafter referred to as the fourteen-Power draft resolution, which read:

"The General Assembly,

"Drawing the attention of States to the fundamental obligations incumbent upon them in accordance with the Charter of the United Nations to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

"Deeply concerned at the existence of dangerous situations in the world constituting a direct threat to universal peace and security due to the arbitrary use of force in international relations,

"Reaffirming the legitimacy of the struggle by the peoples under colonial rule to exercise their right to self-determination and independence and the right of every nation, large or small, to choose freely and without any external interference its political, social and economic system,

"Recognizing that peoples subjected to colonial oppression are entitled to seek and receive support and assistance in their legitimate struggle,

"Firmly convinced that it is within the power and in the vital interest of the nations of the world to establish genuinely sound relations between States, based on justice, equality, mutual understanding and co-operation,

"Recalling the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, contained in General Assembly resolution 2131 (XX) of 21 December 1965,

"I

"Solemnly declares:

"1. All States are in duty bound strictly to observe,

²⁴³ G A (XXI), Plen., 1415th mtg., paras. 98 and 102.

²⁴⁴ G A (XXI), Plen., 1461st mtg., para. 27.

²⁴⁵ G A (XXI), Annexes, a.i. 92, p. 2, A/L.493 and Add. 1 and 2.

in their international relations, the prohibition of 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. Accordingly, an armed attack by one State against another or the use of force in any other form, including military, political or economic pressure, is contrary to the Charter of the United Nations and constitutes a gross violation of international law giving rise to international responsibility;

"2. Any forcible action, direct or indirect, against peoples struggling against colonialism for their right to freedom and self-determination, which hinders the exercise of their right to determine freely their political status and pursue their economic, social and cultural development is illegal and constitutes a flagrant violation of the Charter of the United Nations. Accordingly, the use of force to deprive peoples of their national identity, as prohibited by the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, contained in General Assembly resolution 2131 (XX), constitutes a violation of their inalienable right to freedom;

"II

"*Urgently appeals* to all States Members of the United Nations:

"1. To renounce and to refrain from any action contrary to the above-stated fundamental principles and to bring their policy into full harmony with the interests of international peace and security;

"2. To exert every effort and to undertake all necessary measures with a view to lessening international tension, strengthening peace and promoting peaceful coexistence among States irrespective of their social systems."

140. On 16 November 1966 Costa Rica and the United States submitted²⁴⁶ the following joint draft resolution:²⁴⁷

"*The General Assembly,*

"*Drawing the attention* of all countries to their obligations under the Charter of the United Nations 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, to settle their international disputes in such a manner that international peace and security and justice are not endangered, and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

"*Deeply concerned* at the existence of dangerous situations in the world constituting a direct threat to universal peace and security due to the arbitrary use of force in international relations,

"*Concerned also* at the continued use of force in violation both of the Charter and of other treaties in force, and at the deprivation of, or external interference with, the right of all peoples to self-determination and freedom,

"*Recalling* the principles set forth in General Assembly resolution 1514 (XV), of 14 December 1960, that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development, and that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter, and is an impediment to the promotion of world peace and co-operation,

"*Recalling also* the principles set forth in General Assembly resolution 2131 (XX) of 21 December 1965 that all States shall respect the right of self-determination and independence of peoples and nations, to be freely exercised without any foreign pressure and with absolute respect for human rights and fundamental freedoms, that the use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention, and that all States shall contribute to the complete elimination of racial discrimination and colonialism in all its forms and manifestations,

"1. *Calls upon* all countries to facilitate the exercise of the right of self-determination by the peoples concerned and to refrain from employing armed force to deny or otherwise interfere with this right;

"2. *Further calls upon* all countries to renounce any doctrines advocating the use of overt armed force, subversion or terrorism directed towards the violent overthrow of the Governments of other States, or interference in civil strife;

"3. *Urgently appeals* to all countries;

"(a) To renounce and to refrain from any action contrary to the above-stated fundamental principles;

(b) To exert every effort to lessen international tension, strengthen peace and promote friendly relations among nations irrespective of their social systems;

"(c) To give fullest support to the principles of the Charter of the United Nations and to all organs of the United Nations so that the Organization will be better able to discharge the responsibility assigned to it by the Charter for the maintenance of international peace and security."

141. On 16 November 1961, the representative of the Congo (Democratic Republic of) submitted²⁴⁸ the following amendments²⁴⁹ to the fourteen-Power draft resolution:

"1. In the second sentence of paragraph 1 of section I, replace the words 'an armed attack' by the words 'armed attack'.

"2. In the same sentence, replace the words 'or the use of force in any other form' by the words, 'the use of threat or coercion in any form,'.

"3. In the same sentence, insert the following after the words 'economic pressure,': 'in order to interfere with the exercise by a State of legitimate rights inherent in its sovereignty,'.

"4. Delete the second sentence of paragraph 2 of section I.

"In view of amendments 1 to 3 above, the second

²⁴⁶ G A (XXI), Plen., 1466th mtg., para. 1.

²⁴⁷ G A (XXI), Annexes, a.i. 92, pp. 2 and 3, A/L.495.

²⁴⁸ G A (XXI), Plen., 1467th mtg., para. 115.

²⁴⁹ G A (XXI), Annexes, a.i. 92, p. 3, A/L.497.

sentence of paragraph 1 of section I would then read as follows:

“Accordingly, armed attack by one State against another, the use of threat or coercion in any form, including military, political or economic pressure, in order to interfere with the exercise by a State of legitimate rights inherent in its sovereignty, are contrary to the Charter of the United Nations and constitute a gross violation of international law giving rise to international responsibility.”

142. On the same day the representatives of Canada, Chile, Denmark, Iceland, Italy, Japan, Madagascar and Norway submitted²⁵⁰ a joint draft resolution²⁵¹ which read, *inter alia*, as follows:

“The General Assembly,

“ . . .

“Considering that it is imperative that the principles of the prohibition of the threat or use of force and of the self-determination of independent peoples be solemnly reaffirmed and elaborated by the United Nations at the earliest possible date in order to ensure full compliance by all states, (fifth preambular paragraph)

“Considering that the above principles, together with the other five principles of friendly relations and co-operation among States, have been the object of a study in depth on the part of the 1964 and 1966 Special Committees on the Principles of International Law concerning Friendly Relations and Co-operation among States on the basis of General Assembly resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963 and 2103 (XX) of 20 December 1965, (sixth preambular paragraph)

“ . . .

“1. Recommends that the principles of the prohibition of the threat or use of force and of the self-determination of dependent peoples should receive priority in the further study and elaboration of the seven principles of international law concerning friendly relations and co-operation among States;

“2. Requests the Secretary-General to include the records of the debate on the item entitled ‘Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination’, together with the proposals and suggestions made during the debate, among the documentation to be considered in the further study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, with a view to the early adoption of a declaration containing an enunciation of these principles.”

143. At the 1482nd plenary meeting of the General Assembly, on 30 November 1966, the representatives of Algeria, Austria, Canada, Chile, Congo (Brazzaville), Costa Rica, Czechoslovakia, Denmark, Guinea, Iceland, India, Iraq, Madagascar, Mali, Mauritania, Norway, Poland, Singapore, Sudan, United Arab Republic, Yemen and Yugoslavia submitted²⁵² the following joint draft resolution²⁵³

as a text agreeable to the co-sponsors of the previous three draft resolutions (A/L.493 and Add. 1-2, A/L.495 and A/L.498):

“The General Assembly,

“1

“Drawing the attention of States to the fundamental obligations incumbent upon them in accordance with the Charter of the United Nations 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 and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

“Deeply concerned at the existence of dangerous situations in the world constituting a direct threat to universal peace and security, due to the arbitrary use of force in international relations,

“Reaffirming the right of peoples under colonial rule to exercise their right to self-determination and independence and the right of every nation, large or small, to choose freely and without any external interference its political, social and economic system,

“Recognizing that peoples subjected to colonial oppression are entitled to seek and receive all support in their struggle which is in accordance with the purposes and principles of the Charter,

“Firmly convinced that it is within the power and in the vital interest of the nations of the world to establish genuinely sound relations between States, based on justice, equality, mutual understanding and co-operation,

“Recalling the declarations contained in its resolutions 1514 (XV) of 14 December 1960 and 2131 (XX) of 21 December 1965,

“1. Reaffirms that:

“(a) States shall strictly observe, in their international relations, the prohibition of 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. Accordingly, armed attack by one State against another or the use of force in any other form contrary to the Charter of the United Nations constitutes a violation of international law giving rise to international responsibility;

“(b) Any forcible action, direct or indirect, which deprives peoples under foreign domination of their right to self-determination and freedom and independence and of their right to determine freely their political status and pursue their economic, social and cultural development constitutes a violation of the Charter of the United Nations. Accordingly, the use of force to deprive peoples of their national identity, as prohibited by the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty contained in General Assembly resolution 2131 (XX), constitutes a violation of their inalienable rights and of the principle of non-intervention;

“2. Urgently appeals to States:

“(a) To renounce and to refrain from any action contrary to the above-stated fundamental principles and to assure that their activities in international relations are in

²⁵⁰ G A (XXI), Plen., 1467th mtg., para. 115.

²⁵¹ G A (XXI), Annexes, a.i. 92, pp. 3 and 4, A/L.498

²⁵² G A (XXI), Plen., 1482nd mtg., para. 1.

²⁵³ G A (XXI), Annexes, a.i. 92, p. 4, A/L.501 and Corr. 1.

full harmony with the interests of international peace and security;

“(b) To exert every effort and to undertake all necessary measures with a view to facilitating the exercise of the right of self-determination of peoples under colonial rule, lessening international tension, strengthening peace and promoting friendly relations and co-operation among States;

“3. *Reminds* all Members of their duty to give their fullest support to the endeavours of the United Nations to ensure respect for and the observance of the principles enshrined in the Charter and to assist the Organization in discharging its responsibilities as assigned to it by the Charter for the maintenance of international peace and security;

“II

“*Considering* that the above principles, together with the other five principles of friendly relations and co-operation among States, have been the object of a study with a view to their progressive development and codification on the basis of General Assembly resolutions 1815 (XVII) of 18 December 1962, 1966 (XVIII) of 16 December 1963 and 2103 (XX) of 20 December 1965.

“*Requests* the Secretary-General to include the present resolution and the records of the debate on the item entitled “Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination” in the documentation to be considered in the further study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, with a view to the early adoption of a declaration containing an enunciation of these principles.”

Decision

At the 1482nd plenary meeting, the twenty-two-Power draft resolution was adopted²⁵⁴ by 98 votes to 2, with 8 abstentions, as resolution 2160 (XXI).

(b) *Précis of constitutional discussion*

144. In his introductory statement, the representative of Czechoslovakia maintained that the obligations deriving from the principles of the Charter were indivisible. For this reason, the requirement to abstain from a policy of force in international relations constituted the fundamental basis for international co-operation and progress in solving the current important problems. The recognition of the general responsibility of Member States of the United Nations for world peace and security made it incumbent on the General Assembly to remind States of their duty to observe the principle of the prohibition of the threat or use of force in international relations. The illegal use of force assumed different forms: for example, the form of an armed attack against the territory of another State, including bombing, the use of armed repression, and so on. The use of force against peoples endeavouring to exercise their rights to self-determination and independence as stated in General Assembly resolution 2105 (XX) of 20 December 1965, en-

itled “Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples”, constituted a direct threat to international peace and security. The General Assembly should therefore proclaim the obligation to abstain from the use of force and forcible actions against peoples struggling for their freedom and independence.

145. The representative of the Democratic Republic of the Congo, referring to his amendment²⁵⁵ to the fourteen-Power draft resolution by which he proposed to revise the second sentence of paragraph 1 of section I of the draft resolution, said that the purpose of the amendment was to make the meaning of the phrase “manner inconsistent with the purpose of the United Nations”, used in the first sentence, clearer and to bring out the link between the two sentences.

146. The representative of the United States, referring to the fourteen-Power draft resolution, said that the prohibition against the illegitimate use of armed force had so deep a meaning for all States that great care was required in purporting further to declare the law without a careful analysis of the language used. In introducing the draft resolution submitted jointly with Costa Rica, he stated that the second preambular paragraph was borrowed from the fourteen-Power draft. However, another thought which was of the utmost importance had been added, namely, concern over continued use of force in violation not only of the Charter but also of other treaties in force. With respect to the meaning of the second sentence of paragraph 1 of section I of that draft,²⁵⁶ the representative pointed out that he could agree that armed attacks were illegal. Article 51 of the Charter, however, expressly preserved the inherent right of self-defence against armed attack. He queried what situations the sponsor of that draft had in mind in the rest of the characterization in the paragraph cited.

147. The representative of Costa Rica, referring to the same sentence, stated that it was in disagreement with the provisions of the Charter, which did not prohibit or proscribe the use of force; it sought rather to regulate and govern it in the sole interest of the international community. Thus, the Preamble of the Charter declared that the peoples of the United Nations were determined that “armed force shall not be used, save in the common interest”; Article 51 explicitly recognized the right of all States to come to the help of any other State using force in the exercise of its inherent right of self-defence; and Articles 42 and 49 contained provisions relating to the armed action to be taken by any or all Member States when the Security Council so decided in accordance with the provisions of the Charter. Since the use of force was envisaged in the Articles referred to, the statement in the second sentence of paragraph 1 of section I of the draft resolution in question was contrary to the Charter and must be corrected or amended so that its terms did not conflict with those of the Charter. The draft resolution submitted by Costa Rica and the United States incorporated the fundamental ideas of the fourteen-Power draft resolution and omitted those which were not in accordance with the Charter.

²⁵⁵ See above, para. 141.

²⁵⁶ The sentence read: “. . . Accordingly, an armed attack by one State against another or the use of force in any other form, including military, political, economic pressure, is contrary to the Charter of the United Nations and constitutes a gross violation of international law giving rise to international responsibility.”

²⁵⁴ G A (XXI), Plen., 1482nd mtg., para 199.

148. The representative of Italy stated that it could not be denied that the United Nations had in a number of instances been unable to ensure compliance by Member States or by all States with the prohibition set forth in Article 2(4). The observance of the principle under discussion by all States, particularly by Member States, could be pursued by the United Nations in two ways. One was the functional, or institutional, approach; the other was the normative approach. The functional approach consisted of the *ad hoc* intervention of United Nations organs in international conflicts or disputes involving the principle under discussion, and of attempts by the Organization to strengthen its ability to exercise its essential functions, particularly the maintenance of international peace and security, by collective action. The normative approach consisted of the restatement and development of the principle itself, namely of its codification as a norm of inter-State conduct, considered *per se*, distinctly from, although concurrently with, the development of the institutional action on the part of the competent United Nations organs. The first method had been, and was, pursued by the Organization, leaving aside the more or less effective action taken in individual instances involving Article 2(4). In the field of the prohibition of the threat or use of force, initiatives might be recalled ranging from the various proposals, recommendations and decisions concerning the organization of peace-keeping operations, or peaceful settlement, to the establishment of the Disarmament and Atomic Energy Commission, and to the current efforts of the Eighteen-Nation Disarmament Commissions in the direction of both general and complete disarmament and arms control. The second, normative method, was mainly being pursued under the item: "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations." The fourteen-Power draft resolution, as well as the draft resolution submitted by Costa Rica and the United States, fell within the framework of the normative approach; thus they fell entirely within the purview of the work undertaken by the General Assembly for the codification and progressive development of the law of friendly relations. The outcome of the current debate should be for the General Assembly to maintain that the text of the declaration on the principle under discussion should be prepared not by the Assembly itself but by the appropriate technical organ, namely, the Special Committee on Friendly Relations. With this in mind, Italy, with seven other sponsors, had submitted a draft resolution (A/L.498).²⁵⁷

149. One representative stated that Article 2(4) was very broad in scope because it did not speak of the prohibition of the recourse to war, as had the Covenant of the League of Nations, but unequivocally provided that States "shall refrain from the threat or use of force against the territorial integrity or political independence of any State." One of the first implications, therefore, was that although the Charter spoke of force in general, there could be no doubt that, in its context and particularly in that of the preamble, the reference was to armed force. The Charter took a further step forward by prohibiting not only physical force as an instrument of international policy, but also the threat of such force. Despite the interpretations which had been

placed upon the expressions "force" and "threat of force", it could not be denied that the use of armed force in whatever form was prohibited in the international community and that this prohibition included armed reprisals, which it had formerly been the tradition to condone. The principle further implied that force or the threat of force might not be used "against the territorial integrity or political independence of any State". Those tenets, which had been included in the Charter in order to afford better protection for small States, had nevertheless been given tendentious interpretations. The fact was that it had always been the powerful countries having limitless forces and means at their disposal which had enforced their will. The representative stated further that, in analysing the terms "territorial integrity" and "political independence", concepts which were bound up with the notion of sovereignty, it had been said that as the latter was restricted by contemporary international law certain measures of armed self-protection were permissible. However, the territory of a State was inviolable and there could be no justification at all for a violation of this right which was inherent in the very existence of the State. Similarly, "political independence would be violated if one State compelled another, through the threat or use of force, to take measures which it would not otherwise have adopted. In this connexion, it would be opportune to undertake a juridical study to determine whether or not Article 2(4) was violated if foreign troops occupied the territory of a State at the invitation or request of its Government. This was a subject which had to be of concern to the United Nations, since this type of procedure had frequently been adopted so that it could be maintained that the presence of such troops served the purposes and principles of the Charter. Nevertheless, in undertaking such a study and in fixing the scope of the obligation involved in Article 2(4), it had to be borne in mind that the obligation was not only to refrain from the threat or use of force against "territorial integrity" and "political independence" but also "in any other manner inconsistent with the purposes of the Charter." All States, by virtue of Article 2(6), whether or not they were Members of the United Nations, were protected by this guarantee inasmuch as Article 2(4) referred to the "territorial integrity" or to the political independence of "any state." It should also be noted that, according to the wording of Article 2(4), the prohibition referred to "international relations". "International relations" were, without doubt, those relations governed by international law, which, in the generally accepted view, meant that the Charter did not prohibit the threat or use of force in situation arising within the concept of domestic jurisdiction of States. But, even in these cases, a State might not use force or the threat of force in situations which, although they were internal, had international repercussions or affected interests or rights which it was the duty of the international community to protect. Likewise, a State violated the prohibition in the Charter when it used force or resorted to the threat of force to suppress genuine movements trying to secure liberation of oppressed peoples, in other words, when force was used to maintain a colonial régime. The use of force in situations of this kind had to be subject to the provisions of the Charter and had to take into account the aims of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

150. The representative then enumerated several aspects

²⁵⁷ See para. 142 above.

which had been the subject of study or commentary by the United Nations: (a) whether acts which were directed against the political independence of a State, but which did not involve the actual use of armed force, were prohibited by Article 2(4); (b) in what circumstances the use of force at the request of a Government was compatible with the territorial or political independence of the State making the request; (c) whether the use of force in furtherance of the purposes of the United Nations, but without the Organization's authorization, was exempt from that prohibition; (d) whether the use of force in support of the exercise of the right of self-determination by a people subject to a colonial régime was prohibited by Article 2(4). The examination of these questions would undoubtedly lead to a conclusion that the study on the definition of aggression must be pursued and that such a definition would be the basis for the precise determination of the circumstances in which a State failed to comply with its obligations under Article 2(4). The representative maintained further that it followed from the above that, under the Charter, the only exceptions to the negative obligations stated in Article 2(4) were those established in the Charter itself, namely the use of force under Chapter VII, which included the "inherent right of self-defence" and, with the exceptions pointed out earlier, its use in matters of a domestic nature. Arguments which sought to justify measures of self-protection that were distinct from those mentioned in Article 51 had to be rejected. In conclusion the representative reaffirmed the view that: (a) the Charter prohibited not only war but also any other act of force or hostility; (b) any use of force, other than that of collective measures, is prohibited by the Charter because the collective security established by the Charter is characterized by the centralized monopoly of the force of the Organization itself; (c) the Charter prohibited the use of force as a means of settling disputes or international problems; the contention that one war might be a way of preventing another, bigger war, was inadmissible; (d) a State might use force in its international relations only in the exercise of the right of self-defence or in participating in a collective military action decided upon by the United Nations. Unauthorized international police action was contrary to the fundamental principles of the Charter and was a unilateral measure of force alien to the United Nations. The maintenance of international peace and security was not the function of any country or particular group of countries; it was the exclusive responsibility of the international community.

151. In the course of the discussion it was maintained that the necessity for the General Assembly to consider the item before it was dictated not by the inadequacy of the definition of the duties of States with regard to the prohibition of the threat or use of force in international relations but by the fact that some Powers did not wish to abide by the principles of the Charter and resorted to force in order to interfere in the internal affairs of States and to suppress the struggle of peoples for freedom and independence. The principle of the prohibition of the threat or use of force in international relations which was unequivocally and categorically enshrined in the Charter and in contemporary international law was the cornerstone for the maintenance of normal relations among States. The General Assembly had stated its position especially in resolution 380 (V) "Peace through deeds" of 17 November 1950, in which it had solemnly reaffirmed that "whatever the weapons used, any

aggression, whether committed openly, or by fermenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world." There could be no more categorical condemnation of the use of force in all its forms, since it was therein defined as a crime against peace. The condemnation of the doctrine that might makes right found universal recognition in Article 2 (4) of the Charter. However, it was not realistic or accurate to restrict the definition of the term "force" to armed force alone; the term covered a considerably wide range of actions: from the recourse to military, political, economic and other pressures or their threats, the abuse of economic power and coercive devices to the use of armed forces in overt or disguised aggression which might take a number of forms, including bombarding or occupation of the territory of another State. Furthermore, into the category of "force" belonged its use, or threat, by terrorist organizations, compelling a nation to act contrary to its own will, or contrary to the will of the majority of its people, which constituted a clear-cut aggression, and also the dislocation and eviction of peoples from their homelands. The exception from the principle of prohibition of the threat or use of force was contained in the provisions of Article 51 which formally recognized the right of inherent individual or collective self-defence against armed attack: any State had the right to call on the United Nations, regional organizations or friendly Powers for help in resisting any attack directed against it.

152. One representative contended that, with the establishment of the United Nations, the power of coercion which had previously been entrusted to individual States had been transferred to it. The use of force, which had been considered as an essential attribute of statehood and which still was so preserved for domestic purposes, had been restricted or ruled out in international relations because of the creation of an organization which was to take over the task of collective security. The use of force had not been made legitimate except for purposes of self-defence according to Article 51. This exception proved the rule since the Article provided: "Measures taken by Members in the exercise of this right of self-defence shall be reported immediately to the Security Council." To make these principles of the prohibition of the threat or use of force in international relations and of the right of self-defence effective, the legal structure of the Organization set up by the Charter had been made up of the General Assembly, which would watch over the peace and the enunciation and observance of those principles, and of the Security Council, which had been given the primary responsibility of maintaining international peace and the powers laid down in Chapters VI and VII of the Charter, dealing with the peaceful settlement of disputes and coercive measures.

153. It was further contended that the prohibition of the threat or use of force should not apply to Territories still under foreign domination, for in such cases the basic principle of the right of peoples to self-determination must prevail. On the other hand, the right of colonial peoples to resort to the use of force against colonial domination and oppression, as the ultimate means of achieving their independence, had to be considered a legitimate right which could not be denied. The right to self-determination would be meaningless if the colonial Powers used violence to

keep their domination and if the colonial peoples were not entitled to defend themselves against their oppressors. Therefore, any form of resort to force against the exercise of the right to self-determination had to be considered as an infringement of international law. This had been so proclaimed by the Declaration on the Granting of Independence to Colonial Countries and Peoples. It had to be reaffirmed by the General Assembly that aggression and interventionist activities directed against peoples fighting against colonialism for self-determination and independence, as well as the use of force against States and peoples defending these rights, and the employment against them of repressive measures of a military, economic, political or other nature were unlawful and inconsistent with the provisions of the Charter. The General Assembly should take effective steps to prohibit the threat or use of force against the peoples in their struggles for self-determination. It was also observed that, just as the provisions of Article 2 (4) did not apply in the case of the exercise of the right to self-defence as provided for in Article 51, they also did not apply to the legitimate struggle of oppressed peoples and peoples which had become victims of foreign aggression: these had the right to take up arms in defence of freedom and independence of their countries.²⁵⁸

b. *Decision of 19 December 1966 in connexion with the item: "Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty"*

(a) *Précis of proceedings*

154. By letter²⁵⁹ dated 23 September 1966 to the President of the General Assembly, the Minister for Foreign Affairs of the USSR requested the inclusion in the agenda of the twenty-first session of the General Assembly, as an important and urgent question, of the item entitled: "Status of the implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty."²⁶⁰ In the letter it was stated that the Government of the USSR considered that it was the duty of the United Nations and of its Members to make every effort to achieve implementation of one of the most important principles of

²⁵⁸ For texts of relevant statements, see: G A (XXI), Plen., 1459th mtg., Czechoslovakia, paras. 15, 21, 23-26 and 28; 1461st mtg., Guinea, para. 30; USSR, paras. 47-49 and 68; 1463rd mtg., Bulgaria, paras. 73, 76, 93 and 94; Ecuador, paras. 2-23 and 26; Liberia, paras. 29 and 38; Ukrainian SSR, paras. 45, 64 and 68; 1465th mtg., Algeria, paras. 15, 18 and 20; Mongolia, paras. 33-35, 39 and 50; Pakistan, paras. 3, 6 and 8-10; Romania, paras. 70, 73 and 74; 1466th mtg., Hungary, para. 5; Laos, para. 49; Peru, paras. 81 and 84-86; Tunisia, paras. 65, 71 and 75-77; 1467th mtg., Congo (Democratic Republic of), paras. 26-31, Costa Rica, paras. 80-86 and 95; India, paras. 7-9; Syria, paras. 35 and 44; United States, paras. 56, 60, 61, 65 and 67; 1468th mtg., Colombia, paras. 171 and 177; Italy, paras. 155, 156, 159-163, 165, 166 and 168; Nigeria, para. 150; 1469th mtg., Cyprus, para. 161; Czechoslovakia, paras. 190 and 191; Finland, paras. 99 and 101; France, paras. 131 and 133; Somalia, paras. 116 and 124-126; United Kingdom, paras. 143 and 152; 1482nd mtg., Algeria, paras. 22-25; Australia, paras. 89-95, Austria, paras. 5 and 7-13; Bulgaria, para. 157; Canada, paras. 43 and 46; Costa Rica, para. 33; Iran, paras. 53 and 59; Lebanon, para. 221; Nepal, paras. 108 and 109; New Zealand, para. 133; Portugal, paras. 203 and 205; United States, paras. 74-77 and 79.

²⁵⁹ G A (XXI), Annexes, a.i. 96, pp. 1 and 2, A/6397.

²⁶⁰ For the consideration of the item: "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty", see *Repertory, Supplement No. 3, vol. I*, under Article 2(4) paras. 237-252.

the United Nations Charter, consolidated in the Declaration, the principle of non-intervention in the domestic affairs of other States.

155. A draft resolution²⁶¹ was attached to the request, whereby the Assembly: deeply concerned at the evidence of unceasing armed intervention by certain States in the domestic affairs of other States in different parts of the world, resulting in increased international tension; reaffirming the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, adopted at its twentieth session, would deem it to be its duty: (a) to urge the immediate cessation of intervention, in any form whatever, in the domestic affairs of States and peoples; (b) to call upon all States to carry out faithfully their obligations under the United Nations Charter and the provisions of the Declaration contained in resolution 2131 (XX); (c) to condemn all forms of intervention in the domestic affairs of States and peoples, as a basic source of danger to the cause of world peace; (d) to warn those States which, in violation of the Charter and the Declaration engaged in armed intervention in the domestic affairs of other States and peoples that by doing so they assumed responsibility for all the consequences which might ensue, including consequences to themselves.

156. At its 1415th plenary meeting on 24 September 1966, the General Assembly decided²⁶² to include the item in its agenda and allocated it to the First Committee for consideration and report.

157. On 30 November 1966, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela submitted amendments²⁶³ to the USSR draft resolution.

158. On 9 December, revised amendments were submitted by the same sponsors, subsequently joined by Burma, Cyprus, Guinea, India, Indonesia, Iraq, Kenya, Kuwait, Libya, Mali, Mauritania, Nigeria, Somalia, Syria, Tunisia, the United Arab Republic, the United Republic of Tanzania and Yugoslavia and by Burundi, the Congo (Democratic Republic of), Iran and Togo.²⁶⁴

159. At the 1483rd meeting of the First Committee, on 12 December 1966, the revised amendments, as a whole, were adopted²⁶⁵ by 100 votes to none, with 1 abstention.

160. At the same meeting the USSR draft resolution, as amended, was adopted²⁶⁶ by 99 votes to none, with 2 abstentions.

Decision

At the 1499th plenary meeting, on 19 December 1966, the draft resolution recommended by the First Committee was adopted,²⁶⁷ by 114 votes to none, with 2 abstentions, as General Assembly resolution 2225 (XXI). The resolution read:

²⁶¹ Subsequently distributed as document A/C.1/L.367, for the text see G A (XXI), Annexes, a.i. 96, pp. 3 and 4, A/6598, para. 5.

²⁶² G A (XXI), Plenary, 1415th mtg., para. 122.

²⁶³ G A (XXI), Annexes, a.i. 96, pp. 3 and 4, A/6598, para. 6.

²⁶⁴ *Ibid.*, para. 7.

²⁶⁵ G A (XXI), 1st Com., 1483rd mtg., para. 36.

²⁶⁶ *Ibid.*, para. 37.

²⁶⁷ G A (XXI), Plen., 1499th mtg., para. 327.

“The General Assembly,

“Deeply concerned at the evidence of unceasing armed intervention by certain States in the domestic affairs of other States in different parts of the world and at other forms of direct or indirect interference committed against the sovereign personality and political independence of States, resulting in increased international tension,

“Reaffirming all the principles and rules embodied in the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, contained in its resolution 2131 (XX) of 21 December 1965.

“Deems it to be its bounden duty:

“(a) To urge the immediate cessation of intervention, in any form whatever, in the domestic or external affairs of States;

“(b) To condemn all forms of intervention in the domestic or external affairs of States as a basic source of danger to the cause of world peace;

“(c) To call upon all States to carry out faithfully their obligations under the Charter of the United Nations and the provisions of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty and to urge them to refrain from armed intervention or the promotion or organization of subversion, terrorism or other indirect forms of intervention for the purpose of changing by violence the existing system in another State or interfering in civil strife in another State.”

(b) *Précis of constitutional discussion*

161. In the course of the discussion in the First Committee, it was maintained that the traditional idea that only the threat or use of armed force constituted intervention was too restrictive for the present time. It overlooked other types of interference practices of some Governments in recent decades: economic pressure; diplomatic proposals accompanied by political threats; subversive activities and incitement to rebellion; allowing traffic in weapons and military equipment in order to assist a rebel band in another State; supplying government-made or government-owned weapons for the same purpose; and allowing persons under the jurisdiction of the intervening State to take part in the preparation, organization and execution of a military enterprise designed to initiate, promote or assist rebellion and sedition within another State. The basic criterion for determining whether there was an intervention in a particular case was whether there was any open or disguised coercion to make a State do something contrary to its desires or interests or to prevent it from doing something which it could legitimately do otherwise. It was also observed that the Council of the Organization of American States, in its resolution of 22 February 1966, had declared that a State was responsible not only for the open use of force against another State but also for giving support to any form of indirect aggression, such as the promotion of civil strife in another State or the organizing, equipping and financing of armed bands with offensive intentions against another State.

162. It was further contended that the terms “intervention” and “aggression” were widely used to support charges and counter charges in disputes and conflicts

among States. Although no general agreement had been reached on the definition of the two concepts in international law, it was neither true nor logical to say that the international community had no legal standard for making a distinction between the aggressors and their victims, or between those who intervened in the internal affairs of another State and those who were the objects of such unlawful intervention. There could be no doubt, for example, that an attack by armed force, or armed attacks by “unofficial” agents, including irregular forces, armed bands and volunteers should fall within the purview of the term “aggression”, except for operations carried out by virtue of the Charter or undertaken under the authority of the competent organs of the United Nations. Thus, the aim of subversion and infiltration was not essentially different from the aim of aggression: namely, the overthrow of a lawful and established Government in order to set the stage for some form of external authority, direct or otherwise. There was still resort to violence but the form that violence took changed considerably. Since the Second World War there had been only a few instances of direct, overt, undisguised military invasion across international frontiers or demarcation lines. What was more frequent was disguised attacks in which invaders worked with dissidents, stirring up dissension, distributing weapons, creating false political fronts and masterminding a strategy of terrorism and guerrilla warfare. That sort of intervention had been condemned by the General Assembly in its resolution 290 (IV) (“Essentials of peace”) and resolution 2131 (XX).

163. It was also observed that the principle of non-intervention in the domestic affairs of States obviously included first of all the prohibition of the threat or use of force to settle conflicts and disputes arising between sovereign States. Also prohibited was the use of any means of duress against another State with the objective of forcing it to accept any form of political or economic subjugation.

164. One representative stated that the USSR draft resolution²⁶⁸ submitted at the twentieth session of the General Assembly spoke of deep concern “at the evidence of increasing armed intervention by certain States in the domestic affairs of other States”. Many States, however, were concerned not only about armed intervention but about other forms of interference in the domestic or external affairs of States in violation of the legitimate right of every State to establish its own personality. Another representative pointed out that the original USSR draft resolution before the Committee concentrated on “armed intervention” and no mention was made of certain other forms of intervention, such as subversion. The original draft of the Declaration before the twentieth session had however been amended and its paragraph 2, for instance, contained a solemn condemnation of the use of economic, political and other types of coercion and of subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State. All those provisions contained in the Declaration adopted at the twentieth session had been ignored in the current USSR draft resolution. Some of the amendments²⁶⁹ dealt with forms of intervention

²⁶⁸ Draft resolution A/C.1/L.367 submitted in connexion with the item: “Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty.” For relevant excerpts, see, *Repertory, Supplement No. 3*, vol. 1, under Article 2(4), paras. 237-252 and 260.

²⁶⁹ See para. 157-159 above

which were of immediate and practical concern. If adopted, they would improve the USSR draft resolution considerably.²⁷⁰

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

165. In connexion with the consideration by the Security Council of the complaints by Zambia,²⁷¹ Senegal,²⁷² and Guinea²⁷³ against Portugal, it was contended that assistance rendered to national liberation movements in territories under colonial rule could not be considered a violation of Article 2(4) but was fully consistent with the purposes, principles and obligations set forth in the Charter and the relevant Assembly resolutions in which all States were enjoined to afford moral and material assistance to the peoples of the territories under Portuguese rule in their struggle to attain self-determination and independence.²⁷⁴ Peoples in Non-Self-Governing territories, prevented by force from achieving their right to self-determination, were entitled to use all means necessary, including the use of force, to obtain their independence, and to seek and receive the necessary support from all States in their struggle in accordance with the purposes and principles of the Charter.

166. In opposition to this view, it was maintained that violence organized in, and aided and abetted by, third countries and launched across frontiers in order to force another State to change its internal policies was contrary to the provisions of Article 2(4) and inconsistent with the purposes of the United Nations: nowhere in the Charter was violence condoned, either directly or by implication, as a political instrument and no resolution of the General Assembly, nor even of the Security Council,²⁷⁵ could legitimize it as such.

²⁷⁰ For texts of relevant statements, see: G A (XXI), 1st Com., 1474th mtg., Honduras, paras. 2, 3 and 15; 1475th mtg., Argentina, paras. 2-5; Hungary, para. 32; United Kingdom, paras. 19, 20 and 22; 1476th mtg., Colombia, para. 5; 1477th mtg., Chile, para. 24; France, para. 10; Nepal, para. 39; Thailand, para. 2; 1478th mtg., Congo (Democratic Republic of), para. 18; Dominican Republic, para. 25; Guinea, para. 11; 1479th mtg., United States, paras. 36, 40 and 41; 1480th mtg., Burma, para. 40; Cyprus, para. 13; Malawi, para. 49; Belgium, para. 21; 1481st mtg., Kuwait, para. 55; USSR, para. 64.

²⁷¹ See paras. 109-117 above.

²⁷² See paras. 118-127 above.

²⁷³ See paras. 128-136 above.

²⁷⁴ See footnote 240 above.

²⁷⁵ During the consideration by the Security Council of the question concerning the situation in Southern Rhodesia at its 1475th to 1481st meetings held between 13 June and 24 June 1969, a draft resolution (S C, 24th yr., Suppl. for Apr.-June, p. 338, S/9270/Rev 1) was submitted under the second paragraph of which the Security Council would urge the United Kingdom, as the administering Power, "to take urgently all necessary measures, including the use of force, to bring an end to the rebellion in Southern Rhodesia and enable the people of Zimbabwe (Southern Rhodesia) to exercise their right to self-determination and independence in accordance with General Assembly resolution 1514 (XV)". The eventual "use of force" by the United Kingdom under the terms of that paragraph would constitute a lawful measure which implicitly would be deemed as consistent with the purposes of the United Nations. At the 1481st meeting on 24 June 1969, the draft resolution was put to the vote and not adopted, having failed to obtain the required majority: there were 8 votes in favour, none against and 7 abstentions. (S C, 24th yr., 1481st mtg., para. 78). Previously, a draft resolution had been adopted by the Security Council as its resolution 221 (1966) on the same question, in

167. In connexion with the consideration by the General Assembly of the item concerning strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination,²⁷⁶ an amendment²⁷⁷ was submitted to one²⁷⁸ of the draft resolutions before the Assembly for the purpose²⁷⁹ of making the meaning of the phrase "manner inconsistent with the purposes of the United Nations", used in the first paragraph of the first part of that draft resolution, clearer. In its amended form, that paragraph would have read as follows: "All States are in duty bound strictly to observe, in their international relations, the prohibition of 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. Accordingly, armed attack by one State against another, the use of threat or coercion in any form, including military, political or economic pressure, in order to interfere with the exercise by a State of legitimate rights inherent in its sovereignty, are contrary to the Charter of the United Nations and constitute a gross violation of international law giving rise to international responsibility."

168. Neither the amendment nor the draft resolution was voted upon in the General Assembly. The resolution²⁸⁰ which the General Assembly adopted and which had been arrived at on the basis of consultations among the sponsors of the various draft resolutions, did not elaborate on the meaning 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

169. During the period under review, neither the Security Council nor the General Assembly engaged in extensive constitutional discussion regarding the relation of Article 2 (4) to Article 51. However, statements which may be considered as having a bearing on this question,²⁸¹ as well as incidental references thereto,²⁸² were made in both

which the United Kingdom had been empowered to use force, if necessary, in the specific circumstances stated in that resolution. (See: *Repertory, Supplement No. 3*, under Article 42, paras. 32-38). For consideration of the question concerning the situation in Southern Rhodesia, see in this *Supplement* under Article 39, paras. 5 and 6; Article 41, paras. 16-27; Article 42, paras. 2 and 3

²⁷⁶ See paras. 137-153 above.

²⁷⁷ G A (XXI), Annexes, a.i. 92, p. 3, A/L.497. See also para. 141 above.

²⁷⁸ *Ibid.*, p. 2, A/L.493 and Add. 1 and 2. See also para. 139 above.

²⁷⁹ G A (XXI), Plen., 1467th mtg.: Congo (Democratic Republic of), paras. 30 and 31.

²⁸⁰ G A resolution 2160 (XXI).

²⁸¹ See footnotes 283, 285-303 and 305-307 below.

²⁸² In the Security Council, see: in connexion with the Palestine question, S C, 21st yr., 1307th mtg.: Israel, para. 51; 1310th mtg.: Jordan, para. 41. In connexion with the situation in the Middle East see: S C, 22nd yr., 1342nd mtg.: United Arab Republic, para. 58; 1344th mtg.: Lebanon, para. 35; Syria, para. 50; 1345th mtg.: Jordan, para. 56; S C, 23rd yr., 1438th mtg.: Jordan, paras. 3-21; 1448th mtg.: United Arab Republic, paras. 47-52; S C, 24th yr., 1468th mtg.: Israel, paras. 58-65; Pakistan, paras. 41-55; 1470th mtg.: China, para. 50; 1501st mtg.: Nepal, paras. 15-25. In connexion with the complaint by Zambia, see: S C, 24th yr., 1468th mtg.: Zambia, paras. 52 and 57. In connexion with the complaint by Senegal, see S C, 24th yr., 1518th mtg.: Mauritania, paras. 127-140; Nepal, paras. 117-122; Tunisia, paras. 37-46; 1519th mtg.: Finland, paras. 34-36; 1520th mtg.: France, para. 41. In connexion with the

the Security Council and the General Assembly in connexion with various items.

170. In the Security Council, such statements were made in connexion with: the Palestine question; the situation in the Middle East; the question concerning Czechoslovakia; the complaint by Zambia; the complaint by Senegal; and the complaint by Guinea.

171. In the first instance, it was maintained that a limited local action carried out by a mobile task force of one State against the border villages of another State, which had allegedly served as bases of operation for acts of terrorism directed against the former State, constituted defensive action intended to serve as a warning and deterrent not only to the inhabitants of those villages and the perpetrators of terrorism, but also to the Government concerned, whose duty and responsibility it was to prevent its territory from being used by individuals and organizations as a base for acts of violence against a neighbouring State. It was contended, on the one hand, that the exercise of the right of self-defence, under Article 51 of the Charter, could not be regarded as suspended in situations of indirect aggression and undeclared guerrilla wars. It was noted, on the other, that there was a difference between a mere act of reprisal, which was an unlawful, illegal act under the norms of general international law and also under the Charter, and the exercise of the right of legitimate self-defence as provided for in Article 51 of the Charter.²⁸³

172. In the second instance,²⁸⁴ the inherent right of individual and collective self-defence under the provisions of Article 51 was invoked to support the following claims:

complaint by Guinea, see, S C, 24th yr., 1524th mtg.: Libya, paras. 39-45; Mali, paras. 53-59

In the General Assembly see: in connexion with the item regarding strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination: G A (XXI), Plen., 1463rd mtg.: Ecuador, paras. 23 and 26; 1466th mtg.: Peru, para. 85; Tunisia, para. 77; 1467th mtg.: Costa Rica, para. 85; United States, para. 67; 1469th mtg.: United Kingdom, para. 152. 1482nd mtg.: New Zealand, para. 133; Pakistan, para. 114; United States, para. 75. In connexion with the item entitled "Elimination of foreign military bases in the countries of Asia, Africa and Latin America" see: G A (XXI), First Com., 1465th mtg.: United States, para. 39. In connexion with the item entitled "Status of the Implementation of the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty" see: G A (XXI), First Com., 1473rd mtg.: Brazil, para. 51; 1480th mtg.: Thailand, para. 60; Venezuela, para. 37. In connexion with the comprehensive review of the whole question of peace-keeping operations in all their aspects, see: G A (XXII), Spec. Pol. Com., 573rd mtg.: France, para. 35. In connexion with the question of South West Africa, see: G A (XXII), Plen., 1650th mtg.: Trinidad and Tobago, para. 51. In connexion with the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East see: G A (XXIII), Spec. Pol. Com., 631st mtg.: Iraq, paras. 6-20, G A (XXIV), Spec. Pol. Com., 669th mtg.: Jordan, paras. 1-9; 676th mtg.: Israel, para. 27; USSR, paras. 11-18. In connexion with the item entitled: "Strengthening of international security" see: G A (XXIV), 1st Com., 1653rd mtg.: Brazil, paras. 11 and 12; 1656th mtg.: Ukrainian SSR, para. 23; United Kingdom, paras. 60-78; 1658th mtg.: Nepal, para. 75; Peru, para. 92; 1665th mtg.: Romania, paras. 129-138; 1666th mtg.: Argentina, paras. 11, 20 and 21; Venezuela, paras. 44-60.

²⁸³ For texts of relevant statements, see: S C, 21st yr., 1320th mtg.: Israel, para. 65; 1322nd mtg.: Argentina, para. 5; 1323rd mtg.: Israel, paras. 34-36, 1324th mtg.: Israel, para. 92; Uruguay, para. 79. See also paras. 53-59 above for the proceedings on this question.

²⁸⁴ See paras. 60-100 above for the proceedings on the situation in the Middle East.

that in the exercise of its sovereign rights, a coastal State could initiate certain defensive measures and impose restrictions on navigation within the limits of what it claimed to be its territorial waters in a given strait used for international navigation, with respect to shipping of a State with which it was in a state of war;²⁸⁵ that interference, by armed force, with ships of a given State exercising free and innocent passage in international waterways would be regarded by that State as an attack entitling it to exercise its inherent right of self-defence and take all such measures as are necessary to ensure free and innocent passage of its ships;²⁸⁶ that the use of force to break a so-called naval blockade could not be considered an exercise of the legitimate use of the right of self-defence which the Charter permitted only in cases of armed attack and only until such time as the necessary measures were taken by the Security Council to maintain or restore international peace and security;²⁸⁷ that a State had the right to respond defensively by all means at its disposal to the premeditated military action on land and in the air initiated by one or more States;²⁸⁸ that each country had the right to oppose aggression, individually or collectively, as long as adequate measures had not been taken by the Security Council for the cessation of that aggression;²⁸⁹ that States victims of aggression had the right to take defensive measures against an occupying State as long as the latter refused to end its military activities and to withdraw its forces from conquered areas;²⁹⁰ that Article 51 of the Charter would have little meaning if, in instances of outbreak of hostilities, the Security Council did not link its call for a cease-fire with withdrawal of the respective armed forces to their positions prior to the outbreak of hostilities, particularly in such circumstances as invasion and occupation by one State of the territory of other States in order to establish a new *status quo* more favourable to its claims;²⁹¹ that the right of self-defence could not be exercised by a State while occupying another State's territory;²⁹² that completion of a mutual defence pact between two countries, and its application, against the use and the threat of use of force by another State was in accordance with Article 51 of the Charter;²⁹³ that the sinking of the destroyer of one State by the naval forces of another State in the latter's territorial waters, in view of the destroyer's previous record of aggression in the same area, was a legitimate measure of self-defence;²⁹⁴ that mopping-up operations by the defence forces of one State, directed against terrorist bases on the territory of an-

²⁸⁵ S C, 22nd yr., 1343rd mtg.: United Arab Republic, paras. 106, 109 and 116; 1344th mtg.: United Arab Republic, para. 97; 1345th mtg.: Iraq, para. 8; 1346th mtg.: Saudi Arabia, para. 142.

²⁸⁶ S C, 22nd yr., 1342nd mtg.: Israel, para. 66; 1343rd mtg.: Israel, para. 170.

²⁸⁷ S C, 22nd yr., 1360th mtg.: Pakistan, para. 51.

²⁸⁸ S C, 22nd yr., 1347th mtg.: Israel, para. 32; United Arab Republic, para. 53; President (Denmark), paras. 4-6; 1348th mtg.: Israel, paras. 155, 157 and 161; 1353rd mtg.: Israel, paras. 37 and 88, 1358th mtg.: Israel, para. 205; S C, 23rd yr., 1405th mtg.: Iraq, paras. 64 and 65.

²⁸⁹ S C, 22nd yr., 1350th mtg.: Bulgaria, paras. 66 and 67.

²⁹⁰ S C, 22nd yr., 1351st mtg.: USSR, para. 41.

²⁹¹ S C, 22nd yr., 1352nd mtg.: India, paras. 89, 93 and 99.

²⁹² S C, 22nd yr., 1352nd mtg.: Syria, para. 240; 1353rd mtg.: Bulgaria, para. 158; Syria, paras. 67 and 68; S C, 23rd yr., 1411th mtg.: UAR, paras. 93-96.

²⁹³ S C, 22nd yr., 1353rd mtg.: Syria, paras. 136 and 137.

²⁹⁴ S C, 22nd yr., 1369th mtg.: United Arab Republic, paras. 17-19.

other State, in view of authoritative information that a new wave of terrorist raids was about to take place against its territory and population, constituted an act of self-defence;²⁹⁵ that the resistance of the population of territories under occupation against the occupying Power constituted lawful self-defence in conformity with the Charter;²⁹⁶ that a State from whose territory armed organizations carried out acts of terrorism, sabotage and violence against another State was responsible for those aggressive activities and that the latter State was entitled to take all necessary measures in the exercise of its right to self-defence;²⁹⁷ that the right to self-defence could be invoked in those instances when the victim of aggression, in order to defend itself, responded immediately and on the same location as the aggressor to the given attack with proportionate means in keeping with those that were used by the aggressor;²⁹⁸ that a State was responsible for the security of its population and the population of territories under its control, which responsibility had to be discharged in accordance with the State's rights and duties, including the right to self-defence;²⁹⁹ that the right of self-defence applied to attacks by irregular military forces and terror warfare organizations, as well as those by regular military forces;³⁰⁰ that reprisals, as a means of self-defence against illegal action taken by another State, would be admissible only if they were conducted within a very limited scope and were not undertaken with the use of military or armed force;³⁰¹ that preventive wars and reprisals could not be placed within the framework of the concept of self-defence.³⁰²

173. In the third instance, against claims that armed intervention by foreign troops in an allied State, without the invitation and/or authorization of that State's Government or any other constitutional organ, constituted a violation of the prohibition of the threat or use of force in Article 2 (4), Article 51, with its reference to the inherent right of collective self-defence, was invoked to support military action undertaken by a number of socialist States parties to a treaty of alliance, upon the territory of another allied socialist State, in view of an alleged threat to the collective security of all socialist States.³⁰³

174. In the fourth, fifth and sixth instances,³⁰⁴ views were expressed with regard to the circumstances under which the right of self-defence could be exercised, as well

as those under which that right could not be claimed, subject to such limitations as were contained in the Charter. It was maintained, on the one hand, that Governments had the responsibility and the obligation not to permit their territories to be used as a springboard for hostile actions against the territory of a neighbouring State and that failure to do so obliged the State object of such violence to exercise its inherent right of self-defence.³⁰⁵

175. It was contended, on the other hand, that in so far as the population of territories under foreign rule, colonial or otherwise, had every right to self-defence and/or resistance against the intruding State, repression of movements of resistance and/or national liberation could not be classified among acts of legitimate self-defence. Accordingly assistance rendered to such movements should not expose the country that accorded it to reprisals in the assertion of the so-called right of pursuit under the pretext of self-defence.³⁰⁶

176. In the General Assembly, statements of the same nature were made in connexion with: the item regarding strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination; the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East; and the item regarding the strengthening of international security.

177. In all these instances, it was maintained that peoples under colonial or alien rule, prevented by force from achieving their right to self-determination, were entitled to resort to any means necessary, including the use of force, in the exercise of their right to self-defence. It was maintained further that these peoples were entitled to demand and obtain aid and support in their legitimate struggle for repatriation and/or liberation against forces of aggression and/or colonialism. In this connexion, it was noted that resort to the threat or use of force in order to suppress resistance or liberation movements could not be considered an exercise of the right of self-defence.³⁰⁷

²⁹⁵ S C, 23rd yr., 1401st mtg.: Israel, paras. 47-49, 1404th mtg.: Israel, para. 58; 1406th mtg.: Israel, paras. 6-8, 1407th mtg.: Israel, paras. 126 and 129; S C, 24th yr., 1466th mtg.: Israel, para. 87.

²⁹⁶ S C, 23rd yr., 1402nd mtg.: Hungary, para. 154; 1407th mtg.: Hungary, para. 81; Iraq, para. 96; 1409th mtg.: Hungary, para. 121, S C, 24th yr., 1469th mtg.: Hungary, paras. 130-138; 1500th mtg.: Hungary, paras. 23-27.

²⁹⁷ S C, 23rd yr., 1409th mtg.: Israel, para. 54; 1434th mtg.: Israel, para. 74; S C, 24th yr., 1498th mtg.: Israel, paras. 47-87.

²⁹⁸ S C, 23rd yr., 1436th mtg.: Senegal, paras. 132 and 133.

²⁹⁹ S C, 23rd yr., 1440th mtg.: Israel, para. 106.

³⁰⁰ S C, 23rd yr., 1461st mtg.: Israel, para. 128; S C, 24th yr., 1501st mtg.: Israel, paras. 40 and 41.

³⁰¹ S C, 23rd yr., 1462nd mtg.: USSR, paras. 47-49.

³⁰² S C, 24th yr., 1502nd mtg.: Spain (President), paras. 73 and 74.

³⁰³ S C, 23rd yr., 1441st mtg.: Canada, paras. 49-54; Denmark, para. 70, USSR, para. 3, 90; 1442nd mtg.: Ethiopia, para. 7; 1443rd mtg.: Poland, paras. 41 and 42; Senegal, paras. 19 and 20; USSR, paras. 169-171; 1445th mtg.: Czechoslovakia, paras. 160-182. See also paras. 101-108 above for the proceedings on this question.

³⁰⁴ For the proceedings on the complaints by Zambia, Senegal and Guinea, see respectively paras. 109-117, 118-127 and 128-136 above.

³⁰⁵ See, in connexion with the complaint by Zambia: S C, 24th yr., 1486th mtg.: Portugal, paras. 68-72. In connexion with the complaint by Senegal, S C, 24th yr., 1516th mtg.: Portugal, paras. 126 and 133; 1520th mtg.: Portugal, paras. 12 and 14. In connexion with the complaint by Guinea, S C, 24th yr., 1524th mtg.: Portugal, paras. 73, 76 and 81. For the statement of the same position made in connexion with the Palestine question and the situation in the Middle East, see respectively paras. 171 and 172 and footnotes 283, 295 and 300 above.

³⁰⁶ See, in connexion with the complaint by Zambia, S C, 24th yr., 1488th mtg.: Pakistan, paras. 76-78. In connexion with the complaint by Senegal, S C, 24th yr., 1517th mtg.: Sierra Leone, para. 27; 1518th mtg.: Madagascar, para. 18; USSR, paras. 105 and 106; United Arab Republic, paras. 54-57. In connexion with the complaint by Guinea, S C, 24th yr., 1525th mtg.: Hungary, paras. 22 and 25; USSR, paras. 83-86. For similar statements of position, see, in connexion with the situation in the Middle East, footnote 296 above.

³⁰⁷ See, in connexion with the item regarding strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination: G A (XXI), Plen., 1459th mtg.: Czechoslovakia, para. 18; 1463rd mtg.: Bulgaria, para. 93; Ecuador, para. 19; 1465th mtg.: Algeria, para. 20, Mongolia, para. 35; Pakistan, paras. 3, 6 and 8; Romania, paras. 73 and 74; 1469th mtg.: Czechoslovakia, para. 191. In connexion with the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East: G A (XXI), Spec. Pol. Com., 512th mtg.: Jordan, para. 7; G A (XXIII), Spec. Pol. Com. 631st mtg.: Jordan. In connexion with the item entitled "Strengthening of international security": G A (XXIV), 1st Com., 1653rd mtg.: Poland, paras. 45, 48 and 63-65.