

## ARTICLE 2 (6)

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## ARTICLE 2 (6)

### TEXT OF ARTICLE 2 (6)

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

### INTRODUCTORY NOTE

1. The general structure of this study follows that of Article 2(6) in *Repertory Supplement No. 3*.

### I. GENERAL SURVEY

2. During the period under review, Article 2(6) was invoked by the Security Council in resolution 232 (1966) and resolution 253(1968), both adopted in connexion with the question of Southern Rhodesia.

3. A resolution<sup>1</sup> adopted by the General Assembly at its twenty-fourth session on the question of the strengthening of international security may be said to bear on Article 2(6) inasmuch as in its preamble it refers to "the strict observance by all States without exception of the principles of the United Nations".

4. Resolutions<sup>2</sup> adopted by the General Assembly in con-

nexion with the question of Korea may be said to bear upon Article 2(6) since they concerned a non-member State. Other resolutions may likewise be said to bear upon Article 2(6) inasmuch as the recommendations thereof were addressed to "all States" and not merely to States Members of the United Nations. In the proceedings which led to the adoption of one of these resolutions,<sup>3</sup> namely "Strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination", references were made to Article 2(6).

<sup>1</sup> G A resolution 2606 (XXIV).

<sup>2</sup> G A resolutions 2224 (XXI), 2269 (XXII), 2466 (XXIII), 2516 (XXIV).

<sup>3</sup> G A resolution 2160 (XXI).

### II. ANALYTICAL SUMMARY OF PRACTICE

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

##### 1. RECOMMENDATIONS TO, OR IN RESPECT OF, SPECIFIC NON-MEMBER STATES

5. The question of Korea<sup>4</sup> was again included in the agenda of the General Assembly at its twenty-first, twenty-second, twenty-third and twenty-fourth sessions. In four resolutions,<sup>5</sup> the General Assembly reiterated that the United Nations was fully and rightfully empowered under

<sup>4</sup> Recommendations relating to the question of Korea were placed under the heading of "Recommendations to non-member States in general", in *Supplements Nos. 2 and 3* of the *Repertory*. In the present *Supplement*, it is placed under "Recommendations to, or in respect of, specific non-member States".

<sup>5</sup> G A resolutions 2224 (XXI), 2269 (XXII), 2466 (XXIII) and 2516 (XXIV).

the Charter to take collective action to maintain peace and security and to extend its good offices in seeking a peaceful settlement in Korea in accordance with the purposes and principles of the Charter. These resolutions likewise reaffirmed that the objectives of the United Nations in Korea were to bring about, by peaceful means, the establishment of a unified, independent and democratic Korea under a representative form of government, and the full restoration of international peace and security in the area; called for co-operation in the easing of tensions in the area; noted with approval the efforts made by the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK), in pursuit of its mandate; and requested UNCURK to pursue efforts to achieve the objectives of the United Nations, to carry out the tasks previously assigned to it by the General Assembly, and to keep Members of the Assembly informed of the situation in the area.

## 2. RECOMMENDATIONS TO NON-MEMBER STATES IN GENERAL

- \*\*a. Recommendations involving the Principles of the Charter in general**
- b. Recommendations involving specific Principles of the Charter**

6. At the twenty-first session of the General Assembly, the question of "strict observance of the prohibition of the threat or use of force in international relations and of the right of peoples to self-determination" was included in its agenda. In the course of the discussion, one representative<sup>6</sup> stated that, by virtue of Article 2(6), paragraph 4 of the same Article was applicable also to States which were not Members of the United Nations. Thus, all States, whether or not they were Members of the United Nations, were protected by that guarantee inasmuch as paragraph 4 of Article 2 referred to the "territorial integrity" or the "political independence" of "any State". Another representative<sup>7</sup> stated that, apart from the Members of the United Nations, the principle of the prohibition of the threat or use of force in international relations should also be respected by countries that had not yet subscribed to the obligations of the Charter. In fact, that was a general and universal principle and any civilized State which did not wish to take advantage of the rule of force should submit to the rules of law and justice that must govern inter-State relations. That principle was referred to in Article 2(6) of the Charter.

7. At its 1482nd meeting the General Assembly adopted 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. The text by its terms addressed itself to "States"; it read as follows:

"The General Assembly,

"I

"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 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".

8. By a letter<sup>8</sup> dated 19 September 1969, the Minister for Foreign Affairs of the USSR requested the inclusion in the agenda of the twenty-fourth session of the General Assembly of an item entitled, "The strengthening of international security". In the explanatory memorandum attached to the letter, it was emphasized that, in view of the increasing need for strengthening international security, the General Assembly should determine the requirements, the fulfilment of which would effectively promote the strengthening of peace and that any such decision should be addressed to all States, whether Members of the United Nations or States which for one reason or another did not take part in its activities but which were obliged to act in conformity with the principles of the United Nations. The item was included in the agenda and allocated to the First Committee. When, at its 1652nd meeting, the First Committee took up the question, the representative of the USSR submitted a draft appeal<sup>9</sup> on the strengthening of international security

<sup>6</sup> G A (XXI), Plen., 1463rd mtg., para. 17.

<sup>7</sup> G A (XXII), Plen., 1482nd mtg., para. 59.

<sup>8</sup> G A (XXIV), Annexes, a.i. 103, A/7654.

<sup>9</sup> G A (XXIV), Annexes, a.i. 103, A/7903, para. 7.

entitled, "Appeal to all States of the world". The relevant part of the text read as follows:

"The General Assembly appeals to all States of the world, both Members of the United Nations and those which are not Members of the Organization or which for one reason or another do not take part in its activities.

"II

"The General Assembly

"1. *Firmly and resolutely* declares that in order to strengthen international security it is necessary, above all, to ensure without delay:

"*observance* by States of the decisions of the Security Council on the withdrawal of occupation troops from foreign territories;

"2. *Declares* that the actions of States which do not observe the requirements laid down in paragraph 1 above constitute a gross violation of the Charter of the United Nations.

"III

"The General Assembly

"*Declares further* that in the interest of strengthening international security it is necessary for all the States of the world:

"*to be guided* in their foreign policies by the vital interests of all peoples in preserving peace and strengthening international security;

"*strictly to abide* in their international relations by the principles of peaceful coexistence of States irrespective of their social system — the principles of sovereignty, equality, territorial inviolability of each State, non-interference in internal affairs and respect for the rights of all peoples freely to choose their social system;

"*to settle* all disputes between them exclusively through peaceful means without the use or threat of force.

"IV

"The General Assembly

"1. *Expresses the conviction* that regional security systems in the various parts of the world, based on the joint efforts of all States of the areas concerned, set up and acting in accordance with the provisions of the Charter of the United Nations, can promote the strengthening of international security;

"2. *Calls upon* all States to study the question of such effective regional security systems with a view to adopting measures for their establishment.

"VII

"The General Assembly

"1. *Calls upon* all States of the world to inform the General Assembly and the Security Council of the steps which they will undertake in connexion with this appeal for the strengthening of international security.

"3. Requests the Secretary-General to transmit this appeal to the Governments of all States of the world."

9. The representative of the USSR stated that the appeal

should be addressed not only to the Governments of the States Members of the United Nations but also to the Governments of all States of the world, including those that were not Members of the United Nations or did not take part in its activities. That approach was based directly on the Charter whose Article 2(6) provided that the United Nations should ensure that States which were not Members of the United Nations acted in accordance with United Nations principles so far as might be necessary for the maintenance of international peace and security. This argument and in particular the references to Article 2(6) of the Charter were supported by several other representatives.<sup>10</sup>

10. The draft appeal was not pressed to a vote. The First Committee, however, recommended for adoption by the General Assembly a draft resolution submitted by twenty-five States. In its preamble, the draft resolution, which was adopted without change by the General Assembly,<sup>11</sup> expressed the belief that international security was dependent upon the development of a world legal order based on justice and the strict observance by all States without exception of the principles of the United Nations.

11. During the debate in the Security Council on the question of Southern Rhodesia in 1966, a draft resolution<sup>12</sup> was submitted by the United Kingdom under which the Security Council would take certain sanctions against the Government of Southern Rhodesia. One representative<sup>13</sup> stated that those sanctions would be effective only if they could be applied and if they were applied universally. If the draft resolution was to be adopted by the Council, all States would, he stated, co-operate loyally to ensure its full implementation on the basis of the obligations of Article 2(6) of the Charter. Another representative<sup>14</sup> considered that the sanctions provided for under Article 41 were binding not only upon all Members of the United Nations, as stated in Article 25, but were also obligatory for non-member States in accordance with Article 2(6). The draft resolution was adopted by the Security Council on 16 December 1966.<sup>15</sup> In this resolution, after requiring all States Members of the United Nations to impose specified sanctions on Southern Rhodesia, the Security Council, in paragraph 7: "urges, having regard to the principles stated in Article 2 of the United Nations Charter, States not Members of the United Nations to act in accordance with the provisions of paragraph 2 of the present resolution".

12. The question of Southern Rhodesia was again considered by the Security Council in 1968.<sup>16</sup> On 29 May 1968 the Security Council unanimously adopted a resolution,<sup>17</sup> in paragraph 14 of which the Security Council, "having regard to the principles stated in Article 2 of the Charter of the United Nations", urged States not Members of the United Nations to act in accordance "with the provisions of the resolution".<sup>18</sup>

<sup>10</sup> See G A (XXIV), 1st Com., 1652nd mtg., para. 63; 1653rd mtg., para. 81; 1654th mtg., para. 49; and 1661st mtg.

<sup>11</sup> G A resolution 2606 (XXIV).

<sup>12</sup> S C, 21st yr., Suppl. for Oct.-Dec., p. 169, S/7621/Rev. 1.

<sup>13</sup> S C, 21st yr., 1337th mtg., para. 91.

<sup>14</sup> S C, 21st yr., 1340th mtg., para. 38.

<sup>15</sup> S C resolution 232 (1966).

<sup>16</sup> S C, 23rd yr., 1399th, 1400th, 1408th, 1413th, 1415th and 1428th mtgs.

<sup>17</sup> S C resolution 253 (1968).

<sup>18</sup> For the text of the most relevant parts of the resolution, see in this Supplement under Article 41, paras. 19 and 20.

13. During the period under review, many resolutions were adopted by the General Assembly which were addressed to "all States" and not merely to States Members of the United Nations.<sup>19</sup> They dealt with a variety of subjects, including South West Africa, granting of independence to colonial countries and peoples, non-proliferation of nuclear weapons, disarmament, nuclear and thermo-nuclear tests, non-intervention, the policies of *apartheid* of the Government of the Republic of South Africa.

14. Several resolutions of the Security Council were also addressed to "all States". They related to the Democratic Republic of the Congo, Southern Rhodesia and South West Africa.<sup>20</sup>

<sup>19</sup> See, for example: G A resolutions 2145 (XXI), 2149 (XXI), 2153 (XXI), 2162 (XXI), 2163 (XXI), 2189 (XXI), 2202 (XXI), 2225 (XXI), 2248 (S-V), 2286 (XXII), 2289 (XXII), 2307 (XXII), 2324 (XXII), 2326 (XXII), 2342 (XXII), 2343 (XXII), 2372 (XXII), 2396 (XXIII), 2455 (XXIII), 2465 (XXIII), 2506 (XXIV), 2602 (XXIV).

<sup>20</sup> See, for example: S C resolutions 226 (1966), 239 (1967), 241 (1967), 245 (1968), 253 (1968), 264 (1969), 269 (1969).

15. It may be noted that during the period under review a complaint against North Korea was submitted to the Security Council by the United States. In a letter<sup>21</sup> dated 25 January 1968, addressed to the President of the Security Council, the representative of the United States requested that an urgent meeting be held by the Council to consider the grave threat to peace brought about by North Korea in connection with the incident involving the *USS Pueblo*. The letter was placed on the agenda of the Security Council at its 1388th meeting. During the discussion, the representative of Ethiopia suggested that an invitation be extended to North Korea to take full part in carrying out the investigation and to present its case before the Council.<sup>22</sup> However, the Security Council did not take any decision on this suggestion or on any other aspect of the matter.

<sup>21</sup> S C, 23rd yr., Suppl. for Jan.-March, p. 140, S/8360.

<sup>22</sup> S C, 23rd yr., 1389th mtg., para. 22.