

ARTICLE 2 (7)

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ARTICLE 2 (7)

TEXT OF ARTICLE 2 (7)

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

INTRODUCTORY NOTE

1. This study is organized in the same manner as the previous studies of Article 2(7) in the *Repertory* and its *Supplements Nos. 1, 2 and 3*. Some new headings have been added to cover new material. A description of the method of treating the material may be found in the Introductory Note to the study on Article 2(7) in the *Repertory*.

2. The cases dealt with are, as in the four previous studies, those in which discussion resulted from objections to United Nations action raised on the basis of Article 2(7).

3. In addition, Case No. 41: Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, is dealt with here, as it was in *Supplement No. 3*, because it gave rise to significant discussion of Article 2(7).

4. None of the resolutions adopted in any of the cases re-

ferred specifically to Article 2(7) but many incorporated, as grounds for action, some of the considerations advanced during the discussions as excepting a question from the application of Article 2(7).

5. Questions on which resolutions were adopted over objections raised on the grounds of Article 2(7), but without discussion of that provision, are listed in the annex. The study does not cover decisions in connexion with which no objections based on Article 2(7) were raised, although such decisions constitute, at least by implication, an affirmation of the competence of the United Nations and may therefore have a bearing on the problem of domestic jurisdiction.

6. Four cases dealt with in the previous studies on Article 2(7) in the *Repertory* and its *Supplements Nos. 1, 2 and 3* are also dealt with here, as indicated in the following table:

Case number and title	Relevant paragraphs of study	Organ
Case No. 34: The policies of <i>apartheid</i> of the Government of the Republic of South Africa	7-25, 103, 105, 120	General Assembly
Case No. 36: The question of Oman	26-42, 108, 111, 119	General Assembly
Case No. 37: The question of Southern Rhodesia	43-48, 101, 104	General Assembly
Case No. 41: Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations	49-50, 99, 102, 107, 121-125	General Assembly
Case No. 52: The Korean question	51-95, 100, 109, 110, 120	General Assembly
Case No. 53: The situation in Northern Ireland	96-100, 106	Security Council

I. GENERAL SURVEY

A. General Assembly

Case No. 34: *The policies of apartheid of the Government of the Republic of South Africa*

7. At its twenty-first, twenty-second, twenty-third and twenty-fourth sessions the General Assembly included in its agenda an item under the general heading "The policies

of *apartheid* of the Government of the Republic of South Africa".¹

¹ An item entitled "The policies of *apartheid* of the Government of the Republic of South Africa: Report of the Special Committee on the Poli-

8. Discussion of Article 2(7) took place during the twenty-first, twenty-third and twenty-fourth sessions, at which the inclusion of the item on the agenda was opposed by the representative of the Republic of South Africa, who held that the discussion of the item would be in violation of Article 2(7) of the Charter. Other representatives maintained the opposite view.

9. Despite the objections raised on the grounds of Article 2(7), the General Assembly, without a vote, placed the item on its agenda for the three sessions.²

10. The arguments submitted for³ and against⁴ the position of South Africa related to the following questions:

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraphs 105 and 107);

Effect of previous decisions by the General Assembly or the Security Council to deal with the question (paragraph 122).

a. *Action taken at the twenty-first session: resolution 2202A (XXI)*

11. On 16 December 1966, at its 1496th plenary meeting, the General Assembly, on the recommendation of the Special Political Committee, adopted⁵ resolution 2202 A(XXI) by 84 votes to 2, with 13 abstentions.

12. In the preamble, the Assembly recalled, in particular, its own and Security Council resolutions on the question, expressed grave concern at the intensification of the policies of *apartheid* in South Africa and the direct support given by the Government of South Africa to the colonialist and racist régimes on its borders and noted with concern that the policies of that Government aimed at perpetuating *apartheid* in South Africa, strengthened the colonialist and racist régimes on its borders and threatened the integrity and sovereignty of the neighbouring independent States.

13. In the operative part, the Assembly, *inter alia*, condemned the policies of *apartheid* practised by the South African Government as a crime against humanity; reaffirmed that the situation in South Africa and the resulting explosive situation in southern Africa continued to pose a grave threat to international peace and security; deplored the attitudes of the main trading partners of South Africa, including three permanent members of the Security Council, which, by their non-co-operation in implementing resolutions of the Assembly, by their refusal to join the Special Committee and by their increasing collaboration with the South African Government, had encouraged the latter to persist in its racial policies; drew the attention of the main

trading partners of South Africa to the fact that their increasing collaboration with the South African Government had encouraged the latter to persist in its racial policies and had aggravated the danger of a violent conflict, and requested them to take urgent steps towards disengagement from South Africa and to facilitate effective action, under the auspices of the United Nations, to secure the elimination of *apartheid*; appealed to all States: (a) to comply fully with the decisions duly taken by the Security Council solemnly calling on them to cease forthwith the sale and delivery to South Africa of arms, ammunition of all types, military vehicles and equipment and materials intended for their manufacture and maintenance; (b) to discourage immediately the establishment of closer economic and financial relations with South Africa, particularly in investment and trade, as well as loans by banks in their countries to the South African Government or South African companies and to report to the Secretary-General on steps taken in that respect, such reports to be transmitted by the Secretary-General to the General Assembly and the Special Committee; (c) to consider effective political, moral and material assistance to all those combating the policies of *apartheid*, in the light of the recommendations of the Seminar on *Apartheid*; (d) to make adequate and generous contributions to humanitarian programmes designed to assist the victims of *apartheid*; (e) to endeavour to grant asylum and extend travel facilities and educational and employment opportunities to refugees from South Africa; requested the Secretary-General: (a) to organize as soon as possible, in consultation with the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, an international conference or seminar on the problems of *apartheid*, racial discrimination and colonialism in Southern Africa, and to transmit the report of that conference or seminar to the General Assembly at its twenty-second session; (b) to take steps, in consultation with the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, for the periodic publication of statistics on South Africa's international trade; (c) to provide all the necessary assistance to the Special Committee in publicizing and reporting on any tightening of economic and financial relations between other States and South Africa; (d) to consult with the International Bank for Reconstruction and Development in order to obtain its compliance with the provisions of General Assembly resolutions 2105(XX) and 2107(XX), as well as those of the present resolution, and to report to the General Assembly at its twenty-second session; drew the attention of the Security Council once again to the fact that the situation in South Africa constituted a threat to international peace and security, that action under Chapter VII of the Charter was essential in order to solve the problem of *apartheid* and that universally applied mandatory economic sanctions were the only means of achieving a peaceful solution.

b. *Action taken at the twenty-second session: resolution 2307(XXII)*

14. On 13 December 1967, at its 1629th plenary meeting, the General Assembly, on the report of the Special

cies of *Apartheid* of the Government of the Republic of South Africa" was included by the Secretary-General in the provisional agendas of the twenty-first, twenty-third and twenty-fourth sessions of the General Assembly in accordance with resolution 1978(XVIII). In accordance with the same resolution, an item entitled "The policies of *apartheid* of the Government of the Republic of South Africa. (a) Report of the Special Committee on the Policies of *apartheid* of the Government of the Republic of South Africa; (b) Report of the Secretary-General", was included by the Secretary-General in the provisional agenda of the twenty-second session.

² G A (XXI), Plen., 1415th mtg., para. 70; G A (XXIII), 1676th mtg., para. 102; G A (XXIV), Plen., 1758th mtg., para. 101.

³ G A (XXI), Gen. Com., 162nd mtg., para. 17.

⁴ *Ibid.*, paras. 17-18.

⁵ *Ibid.*, Plen., 1496th mtg., para. 158.

Committee, adopted⁶ resolution 2307(XXII) by 89 votes to 2, with 12 abstentions.

15. In the preamble of the resolution, the Assembly, in particular, noted with grave concern that the racial policies of the Government of South Africa had led to violent conflict and an explosive situation, expressed its conviction that the situation in the Republic of South Africa and southern Africa in general continued to pose a grave threat to international peace and security and deemed it essential to promote a greater and closer co-ordination of international efforts to eliminate *apartheid*, racial discrimination and colonialism in Southern Africa.

16. In the operative part, the Assembly, *inter alia*, reiterated its condemnation of the policies of *apartheid* practised by the Government of South Africa as a crime against humanity; reaffirmed its recognition of the legitimacy of the struggle of the peoples of South Africa for human rights and fundamental freedoms for all the people of South Africa irrespective of race, colour or creed; strongly reiterated its conviction that the situation in South Africa constituted a threat to international peace and security, that action under Chapter VII of the Charter was essential in order to solve the problem of *apartheid* and that universally applied mandatory economic sanctions were the only means of achieving a peaceful solution; drew the attention of the Security Council once again to the grave situation in South Africa and in southern Africa as a whole and requested it to resume consideration of the question of *apartheid* with a view to ensuring the full implementation of its resolutions and the adoption of more effective measures to secure an end to the South African Government's policies of *apartheid*; condemned the actions of those States, particularly the main trading partners of South Africa, and the activities of foreign financial and other interests which, through their political, economic and military collaboration with the South African Government and contrary to relevant General Assembly and Security Council resolutions were encouraging that Government to persist in its racial policies; requested all States, particularly the main trading partners of South Africa, to comply fully with the resolutions of the Security Council on the question, to take urgent steps towards disengagement from South Africa, and to take all appropriate measures to facilitate more effective action, under the auspices of the United Nations, to secure the elimination of *apartheid*; reiterated its request to the International Bank for Reconstruction and Development to deny financial, economic and technical assistance to the Government of South Africa and, in that connexion, expressed the hope that the Bank would stand by its assurance to avoid any action that might run counter to the fulfilment of the great purposes of the United Nations; appealed to all States and organizations to provide appropriate moral, political and material assistance to the people of South Africa in their legitimate struggle for the right recognized in the Charter; invited all States to encourage the establishment of national organizations for the purpose of enlightening public opinion further on the evils of *apartheid* and to report annually to the Secretary-General on the progress and activities of such organizations; requested all States to commemorate the International Day for the Elimination of Racial Discrimination (21 March) with appropriate solemnity, in solidarity with the op-

pressed people of South Africa; commended to the attention of all United Nations organs the report of the Seminar on *Apartheid* held at Brasilia and that of the International Seminar on *Apartheid*, Racial Discrimination and Colonialism in Southern Africa, held at Kitwe, Zambia; requested the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa to continue to discharge its mandate and to intensify its efforts to promote an international campaign against *apartheid*; requested the Secretary-General to intensify the dissemination of information on the evils of *apartheid* and to publish periodically information on economic and financial relations between South Africa and other States; and invited States, specialized agencies, regional organizations and non-governmental organizations to co-operate with the Secretary-General and the Special Committee in the accomplishment of their tasks under the resolution.

c. Action taken at the twenty-third session: resolution 2396(XXIII)

17. At its 1731st plenary meeting on 2 December 1968, the General Assembly, on the recommendation of the Special Political Committee, adopted⁷ resolution 2396(XXIII) by 85 votes to 2, with 14 abstentions.

18. In the preamble, the Assembly, *inter alia*, recalled its own and Security Council resolutions on the question, stated that it had considered the report of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa and the report of the Subcommittee on Information annexed thereto, noted with concern that the Government continued to intensify and extend beyond the borders of South Africa its inhuman and aggressive policies of *apartheid* and that those policies had led to a violent conflict, creating a situation in the whole of southern Africa which constituted a grave threat to international peace and security, recognized that the policies and actions of the Government of South Africa constituted a serious obstacle to the exercise of the right of self-determination by the oppressed people of southern Africa, expressed the conviction that the international campaign against *apartheid* should be intensified urgently in order to assist in securing the elimination of those inhuman policies and considered that effective action for a solution of the situation in South Africa was imperative in order to eliminate the grave threat to the peace in southern Africa as a whole.

19. In the operative part, the Assembly, *inter alia*, reiterated its condemnation of the policies of *apartheid* practised by the Government of South Africa as a crime against humanity; condemned the Government of South Africa for its illegal occupation of Namibia and its military intervention and for its assistance to the racist minority régime in Southern Rhodesia in violation of United Nations resolutions; reaffirmed the urgent necessity of eliminating the policies of *apartheid* so that the people of South Africa as a whole could exercise their right to self-determination and attain majority rule based on universal suffrage; drew the attention of the Security Council to the grave situation in South Africa, and in southern Africa as a whole, and requested the Council to resume urgently the consideration of the question of *apartheid* with a view to

⁶ G A (XXII), Plen., 1629th mtg., para. 49.

⁷ G A (XXIII), Plen., 1731st mtg., para. 50.

adopting, under Chapter VII of the Charter, effective measures to ensure the full implementation of comprehensive mandatory sanctions against South Africa; condemned the actions of those States, particularly the main trading partners of South Africa, and the activities of those foreign financial and other interests, all of which, through their political, economic and military collaboration with the Government of South Africa and contrary to the relevant General Assembly and Security Council resolutions, were encouraging that Government to persist in its racial policies; reaffirmed its recognition of the legitimacy of the struggle of the people of South Africa for all human rights and, in particular, political rights and fundamental freedoms for all the people of South Africa irrespective of race, colour or creed; called upon all States and organizations to provide greater moral, political and material assistance to the South African liberation movement in its legitimate struggle; expressed its grave concern over the ruthless persecution of opponents of *apartheid* under arbitrary laws and the treatment of freedom fighters who were taken prisoners during the legitimate struggle for liberation. It also condemned the Government of South Africa for its cruel, inhuman and degrading treatment of political prisoners; called once again for the release of all persons imprisoned or restricted for their opposition to *apartheid* and appealed to all Governments, organizations and individuals to intensify their efforts in order to induce the Government of South Africa to release all such persons and to stop the persecution and ill-treatment of opponents of *apartheid*; declared that such freedom fighters should be treated as prisoners of war under international law, particularly the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; requested the Secretary-General to establish and publicize as widely as possible: a register of persons who had been executed, imprisoned, placed under house arrest or banning orders or deported for their opposition to *apartheid* and a register of all available information on acts of brutality committed in prisons by the Government of South Africa and its officials against opponents of *apartheid*; commended the activities of anti-*apartheid* movements and other organizations engaged in providing assistance to the victims of *apartheid* and in promoting their cause, and invited all States, organizations and individuals to make generous contributions in support of their endeavours; urged the Governments of all States to discourage in their territories, by legislative or other acts, all activities and organizations which supported the policies of *apartheid* as well as any propaganda in favour of the policies of *apartheid* and racial discrimination; requested all States to discourage the flow of immigrants, particularly skilled and technical personnel, to South Africa; requested all States and organizations to suspend cultural, educational, sporting and other exchanges with the racist régime and with organizations or institutions in South Africa which practised *apartheid*; invited all States and organizations to commemorate as widely as possible the International Day for the Elimination of Racial Discrimination in 1969 in order to express their solidarity with the oppressed people of South Africa; requested the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa to intensify its efforts to promote the international campaign against *apartheid*; requested all States, specialized agencies and other organizations to intensify the dissemination of information on the evils of *apartheid* in the light of the report of the Special

Committee and, in that respect, reiterated its request to those States which had not yet done so to encourage urgently the establishment of national committees as provided in paragraph 9 of General Assembly resolution 2307(XXII) of 13 December 1967; requested the Secretary-General, in the light of the proposals of the Special Committee for the widest dissemination of information on *apartheid*; (a) to ensure that the Unit on *Apartheid*, established in pursuance of General Assembly resolution 2144A (XXI) of 26 October 1966, discharged its increased functions in the light of the proposals outlined in paragraph 146 of the report of the Special Committee; (b) to take other appropriate steps to assist all States, specialized agencies and other organizations to intensify the dissemination of information.

d. *Action taken at the twenty-fourth session: resolutions 2506A (XXIV) and 2506B (XXIV)*

20. At its 1816th meeting on 21 November 1969, the Assembly, on the recommendation of the Special Political Committee, adopted⁸ resolution 2506A (XXIV) by 101 votes to 2, with 6 abstentions.

21. In the preamble of the resolution the Assembly recalled, in particular, its resolutions calling on the Government of South Africa to liberate all persons imprisoned, interned or subjected to other restrictions for their opposition to *apartheid*, noted with grave concern that that Government had continued to persecute the opponents of *apartheid*, that detainees were subjected to brutal treatment, several such persons having died following this inhuman treatment, and expressed its conviction that such actions further aggravated the deteriorating situation in South Africa.

22. In the operative part, the Assembly condemned the Government of South Africa for its refusal to comply with the resolutions of the General Assembly and the Security Council calling for an end to the oppression and persecution of all persons opposing the policies of *apartheid*; further condemned that Government for its repressive acts against the political movement of the oppressed people of South Africa and, in particular, for its enactment of the Terrorism Act, 1967; urged all States and organizations to exert every appropriate effort to secure the unconditional release of all political prisoners and persons subjected to restrictions for opposing *apartheid*; reiterated that freedom fighters taken prisoner in the course of their legitimate struggle for liberation should be extended humane treatment in accordance with the humanitarian principles laid down in the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; and expressed solidarity with all those persecuted in South Africa for their opposition to *apartheid*.

23. At its 1816th meeting on 21 November 1969, the Assembly, on the recommendation of the Special Political Committee, adopted⁹ resolution 2506B (XXIV) by 80 votes to 5, with 23 abstentions.

24. In the preamble of the resolution, the Assembly, *inter alia*, expressed its conviction that the policies and actions of the Government of South Africa were contrary

⁸ G A (XXIV), Plen., 1816th mtg., para. 27

⁹ G A (XXIV), Plen., 1816th mtg., para. 29

to the obligations of a Member State and constituted a grave threat to international peace and security.

25. In the operative part, the Assembly reaffirmed resolution 2396(XXIII) and other General Assembly resolutions on the question of *apartheid*; reiterated its condemnation of the policies of *apartheid* practised by the Government of South Africa as a crime against humanity; reaffirmed its recognition of the legitimacy of the struggle of the oppressed people of South Africa for the exercise of their inalienable right of self-determination, and thus to obtain majority rule based on universal suffrage; urged all States and organizations to provide increased assistance to the national movement of the oppressed people of South Africa against the policies of *apartheid* in the light of the recommendations contained in the report of the Special Committee; invited all States, in recognition of their obligations under the United Nations Charter and in support of the legitimate struggle of the oppressed people of South Africa: (a) to desist from collaborating with the South African Government by taking steps to prohibit financial and economic interests under their national jurisdiction from co-operating with the South African Government and companies registered in South Africa; (b) to prohibit airlines and shipping lines registered in their countries from providing services to and from South Africa and to deny all facilities to air flights and shipping services to and from South Africa; (c) to refrain from extending loans, investments and technical assistance to the South African Government and companies registered in South Africa; (d) to take appropriate measures to dissuade the main trading partners of South Africa and economic and financial interests from collaborating with the South African Government and companies registered in South Africa; called upon all States to implement fully and scrupulously the provisions of the Security Council resolutions concerning the embargo on the supplying of arms and other military equipment to the South African Government; called upon all States to desist from providing the Government of South Africa with technical and other assistance for the manufacture of arms, ammunition and military vehicles; called upon all organs of the United Nations, the specialized agencies, as well as other international organizations, to refrain from extending facilities to banks and other financial institutions which provided assistance to the South African Government and to companies registered in South Africa; drew the attention of the Security Council to the grave situation in South Africa, and in southern Africa as a whole; recommended to the Council to resume urgently the consideration of the question of *apartheid* with a view to adopting effective measures, including those under Chapter VII of the Charter, to eliminate the threat to international peace and security posed by the situation; urged all specialized agencies of the United Nations and other international organizations to withhold the benefits of international co-operation from the South African Government so long as it persisted in its policies of *apartheid*; invited all States and organizations to observe with appropriate ceremonies the International Day for the Elimination of Racial Discrimination on 21 March 1970—the tenth anniversary of the Sharpeville massacre—in solidarity with the oppressed people of South Africa, and make special contributions on that day in support of the struggle against *apartheid*; requested the Special Committee; (a) to take additional steps to promote assistance to the national

movement of the oppressed people of South Africa against the policies of *apartheid*, in consultation with the Secretary-General of the United Nations and the Organization of African Unity; (b) to hold consultations with representatives of that movement on various aspects of the question; (c) to take further steps, including the holding of joint meetings with other appropriate United Nations organs, to increase its co-operation and co-ordinate its efforts with such organs; (d) to continue its co-operation with the specialized agencies and non-governmental organizations concerned with the problems of southern Africa; and requested the Secretary-General and Member States to intensify dissemination of information on the policy of *apartheid* of the Government of South Africa, in the light of the recommendations in paragraphs 155 to 160 of the report of the Special Committee.

Case No. 36

The question of Oman

26. The question of Oman was considered by the General Assembly at its twenty-first, twenty-second, twenty-third and twenty-fourth sessions.¹⁰

27. In the course of the debate in the General Committee during the Assembly's twenty-first and twenty-second sessions on the inclusion of this item on the agenda, the representative of the United Kingdom opposed its inclusion on grounds related to Article 2(7). The position of the United Kingdom was opposed by other representatives in the General Committee.

28. At the twenty-first¹¹ and twenty-second¹² sessions the General Committee decided without a vote to recommend the inclusion of the item in the agenda of the General Assembly. At both sessions the General Assembly included the item on its agenda without a vote.¹³

29. In the discussion of the item itself during the General Assembly's twenty-first and twenty-second sessions, the representative of the United Kingdom again contended that the United Nations was not competent to discuss the item and that view was opposed by certain other representatives.

30. The arguments advanced for¹⁴ and against¹⁵ the position of the United Kingdom related to the following questions:

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraph 110);

Whether the domestic jurisdiction of a State extends over all its territories (paragraph 113);

Effect of previous decisions by the General Assembly or the Security Council to deal with the question (paragraph 122).

a. Action taken at the twenty-first session: resolution 2238 (XXI)

31. At its 1500th plenary meeting on 20 December 1966, the General Assembly, on the recommendation of the

¹⁰ The item was included by the Secretary-General, with minor variations in wording, in the provisional agenda of each of these four sessions.

¹¹ G A (XXI), Gen. Com., 162nd mtg., para. 29.

¹² G A (XXII), Gen. Com., 165th mtg., para. 67.

¹³ G A (XXI), Plen 1415th mtg., para. 70.

¹⁴ See foot-notes 103 and 121.

¹⁵ See foot-notes 104 and 122.

Fourth Committee, adopted¹⁶ resolution 2238(XXI) by 70 votes to 18, with 28 abstentions.

32. By that resolution, the General Assembly reaffirmed the inalienable right of the people of the Territory as a whole to self-determination and independence and recognized the legitimacy of their struggle; deplored the refusal of the United Kingdom to implement General Assembly resolutions 1514(XV) and 2073(XX), as well as that Government's policies in installing and supporting any unrepresentative régime in the Territory in contravention of the relevant General Assembly resolutions; recognized that the natural resources of the Territory belonged to the people of Oman and that the concessions given to foreign monopolies without the consent of the people constituted a violation of the rights of the people; considered that the maintenance of military bases, depots and troops in the Territory constituted a major hindrance to the exercise by the people of their right to self-determination and independence and was prejudicial to the peace and security of the region, and that their immediate removal was therefore essential. The Assembly also called upon the United Kingdom to cease all repressive action against the people; to withdraw its troops; to release political prisoners and detainees and allow the return of political exiles to the Territory; and to eliminate its domination in any form.

b. Action taken at the twenty-second session: resolution 2302(XXII)

33. At its 1627th plenary meeting on 12 December 1967, the General Assembly, on the recommendation of the Fourth Committee, adopted¹⁷ resolution 2302(XXII) by 72 votes to 18, with 19 abstentions.

34. In the preamble of the resolution, the General Assembly, in particular, recalled its resolution 2238(XXI) and expressed deep concern at the serious and critical situation arising from the colonial policies pursued by the Government of the United Kingdom.

35. In the operative part, the General Assembly reaffirmed the inalienable right of the people of the Territory as a whole to self-determination and independence and recognized the legitimacy of their struggle; deplored the refusal of the United Kingdom to implement General Assembly resolutions 1514(XV), 2073(XX) and 2238(XXI), as well as that Government's policies which, by installing and strengthening unrepresentative régimes in the Territory without regard for the basic rights of the people, was contravening the relevant General Assembly resolutions; reaffirmed that the natural resources of the Territory of Oman belonged to the indigenous population and that the concessions granted to foreign enterprises without the consent of the people constituted a violation of the rights of the people of the Territory; considered that the military presence of the United Kingdom and the existence of military bases in the Territory constituted a major hindrance to the exercise by the people of their right to self-determination and independence and were prejudicial to peace and security in the region; called upon the Government of the United Kingdom to implement without delay the provisions of resolution 1514(XV) and all other relevant General Assembly resolutions. The Assembly further called upon the Govern-

ment of the United Kingdom to remove British troops and military bases; to cease all repressive action against the people of the Territory; and to release political prisoners and political detainees and allow the return of political exiles to the Territory. It appealed to all Member States to render all necessary assistance to the people of the Territory in their struggle to obtain freedom and independence and requested the Special Committee to continue its examination of the situation in the Territory and to consider the establishment of a sub-committee on Oman.

c. Action taken at the twenty-third session: resolution 2424(XXIII)

36. At its 1747th plenary meeting on 18 December 1968, the General Assembly, on the recommendation of the Fourth Committee, adopted¹⁸ resolution 2424(XXIII) by 66 votes to 18, with 26 abstentions. The United Kingdom did not participate in the vote.

37. After deploring, in the preamble, the refusal of the Government of the United Kingdom to implement the relevant General Assembly resolutions concerning Oman, the Assembly reaffirmed its resolutions 2238(XXI) and 2302(XXII), called upon the Government of the United Kingdom to implement fully resolution 1514(XV) and other relevant resolutions, and requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to follow developments in the Territory of Oman and report thereon to the Assembly at its twenty-fourth session.

d. Action taken at the twenty-fourth session: resolution 2559(XXIV)

38. At its 1831st plenary meeting on 12 December 1969, the General Assembly, on the recommendation of the Fourth Committee, adopted¹⁹ resolution 2559(XXIV) by 64 votes to 17, with 24 abstentions.

39. In the preamble of the resolution, the Assembly expressed concern about the situation in Oman and deplored the refusal of the Government of the United Kingdom to implement the relevant General Assembly resolutions concerning the Territory.

40. In the operative part, the Assembly reaffirmed the inalienable right of the people of Oman to self-determination and to the natural resources of their Territory as well as their right to dispose of those resources in their best interests. It urged the Government of the United Kingdom to implement fully General Assembly resolution 1514(XV) and other relevant resolutions; recommended that the specialized agencies and international institutions concerned should study, in co-operation with the regional organization concerned, the possibilities of extending assistance to meet the educational, technical and health requirements of the people of the Territory; and requested the Secretary-General to intensify, in consultation with the Special Committee, the wide dissemination of information concerning conditions in the Territory. Finally, the General Assembly requested the Special Committee to follow developments

¹⁶ G A (XXI), Plen. 1500th mtg., para. 152.

¹⁷ G A (XXII), Plen., 1627th mtg., para. 124.

¹⁸ G A (XXIII), Plen., 1747th mtg., para. 26.

¹⁹ G A (XXIV), Plen., 1831st mtg., para. 124.

in the Territory of Oman and to report thereon to the General Assembly at its twenty-fifth session.

Case No. 37

The question of Southern Rhodesia

41. During the period under review, the question of Southern Rhodesia was considered by the General Assembly at its twenty-first, twenty-second, twenty-third and twenty-fourth sessions.²⁰

42. In the discussion of the question in the Fourth Committee at the twenty-first session, two representatives contended on the grounds of Article 2(7) that the United Nations was not competent to concern itself with the question. This contention was opposed by two representatives.

43. The arguments submitted for²¹ and against²² the contention are given in the Analytical Summary of Practice. They relate to the following questions:

The term "to intervene" in Article 2(7) (paragraph 103).

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraph 106).

a. Action taken at the twenty-first session:²³ resolutions 2138(XXI) and 2151(XXI)

44. Two resolutions were adopted on the question of Southern Rhodesia. At its 1450th plenary meeting on 22 October 1966, the General Assembly, on the recommendation of the Fourth Committee, adopted²⁴ resolution 2138(XXI) by 86 votes to 2, with 18 abstentions. At its 1468th plenary meeting on 17 November 1966, the Assembly, on the recommendation of the Fourth Committee, adopted²⁵ resolution 2151(XXI) by 89 votes to 2, with 17 abstentions.

45. In the preamble of resolution 2138(XXI), the Assembly recalled, in particular, its previous resolutions on the question and noted with grave concern that the "talks about talks" between the Government of the United Kingdom and the illegal racist minority régime further jeopardized the inalienable rights of the African people of Zimbabwe. In the operative part, the Assembly condemned any arrangement between the administering Power and the illegal régime which did not recognize the inalienable right of the people of Zimbabwe to self-determination and independence in accordance with General Assembly resolution 1514(XV), and reaffirmed the obligation of the administering Power to transfer power to the people of Zimbabwe on the basis of universal adult suffrage, in accordance with the principle of "one man, one vote".

46. In the preamble of resolution 2151(XXI), the Assembly recalled, in particular, its previous resolutions on the

question, recalled further that the Government of the United Kingdom had, on several occasions, declared that the racist minority régime in Southern Rhodesia was illegal and that it would not negotiate with it on the future of Southern Rhodesia, reiterated its serious concern about the implications which the *pourparlers* between the administering Power and the representatives of the illegal racist minority régime had for the right of the African people of Zimbabwe to freedom and independence and noted with deep regret that the administering Power had failed to take effective and concrete measures to bring down the aforementioned régime and to grant independence to the people of Zimbabwe in accordance with General Assembly resolution 1514(XV) and other relevant resolutions. In the operative part of the resolution, the Assembly, *inter alia*, deplored the failure of the United Kingdom to put an end to the illegal régime; condemned any arrangement which would transfer power to the illegal régime on any basis; condemned the Governments of Portugal and South Africa for their support of the illegal régime; condemned the foreign financial and other interests which supported the illegal régime and called upon the Governments of the States concerned to bring an end to such activities; drew the attention of the Security Council to the grave situation prevailing in Southern Rhodesia so that it might decide to apply the enforcement measures envisaged under Chapter VII of the Charter; called upon the Government of the United Kingdom to take measures to prevent any supplies, including oil and petroleum products, from reaching Southern Rhodesia; called upon the United Kingdom to take all measures, including in particular the use of force, to put an end to the illegal racist minority régime; called upon all States to extend all moral and material support to the people of Zimbabwe.

Case No. 41

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

47. At the twenty-first, twenty-second, twenty-third and twenty-fourth sessions of the General Assembly, some aspects of Article 2(7) were examined in the Sixth Committee²⁶ during discussion of the principle of non-intervention under the item entitled "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations". At each of those sessions the Sixth Committee had before it a report²⁷ of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, which formed the basis of the debate.

48. The arguments²⁸ are given in the Analytical Summary of Practice and related to the following questions:

The term "to intervene" in Article 2(7) (paragraph 101).

²⁰ See also para. 101 below.

²¹ See foot-note 89.

²² See foot-notes 90, 104 and 122.

²³ At the remaining three of the four sessions covered in this *Supplement*, the General Assembly adopted the following resolutions on the question of Southern Rhodesia: 2262 (XXII), 2379 (XXIII), 2383 (XXIII) and 2508 (XXIV).

²⁴ G A (XXI), Plen., 1450th mtg., para. 162.

²⁵ G A (XXI), Plen., 1468th mtg., para. 83.

²⁶ See G A (XXI), Annexes, a.i. 87, A/6547, paras. 13-88; G A (XXII), Annexes, a.i. 87, A/6955, paras. 19-126; G A (XXIII), Annexes, a.i. 87, A/7429, paras. 6-73; G A (XXIV), Annexes, a.i. 89, A/7809, paras. 6-40.

²⁷ G A (XXI), Annexes, a.i. 87, A/6230; G A (XXII), Annexes, a.i. 87, A/6799, A/7326 (report considered at the twenty-third session) and A/7619 (report considered at the twenty-fourth session).

²⁸ See foot-notes 86, 95, 127-132.

Whether a matter governed by international law can fall essentially within domestic jurisdiction (paragraph 104).

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraph 109).

Article 2(7) and the principle of non-intervention (paragraphs 122-126).

Case No. 52

The Korean question

49. The Korean question was considered by the General Assembly at its twenty-first, twenty-second, twenty-third and twenty-fourth sessions.²⁹

50. At its 1415th plenary meeting on 24 September 1966, the General Assembly decided to include item 31—“The Korean Question: Report of the United Nations Commission for the Reunification and Rehabilitation of Korea”—and item 93—“Withdrawal of all United States and other foreign forces occupying South Korea under the flag of the United Nations and dissolution of the United Nations Commission for the Unification and Rehabilitation of Korea”—in the agenda of the twenty-first session.

51. During the debates on the adoption of the agenda at the twenty-second session, the representative of the USSR opposed the inclusion of the Korean item on the grounds that discussion by the Assembly would contravene the terms of Article 2(7). Despite those objections, the General Assembly, without a vote, placed the item on its agenda at that session.³⁰ Also at its 1564th meeting, the General Assembly decided that the two items proposed on the Korean question should be combined as agenda item 33 reading: “The Korean Question: (a) Report of the United Nations Commission for the Unification and Rehabilitation of Korea; (b) Withdrawal of United States and all other foreign forces occupying South Korea under the flag of the United Nations”. At its 1583rd meeting on 6 October 1967, the General Assembly decided to include a further item, entitled “Dissolution of the United Nations Commission for the Unification and Rehabilitation of Korea” as sub-item (c) of item 33.

52. At its 1676th meeting on 27 September 1968, the General Assembly decided to include in the agenda of its twenty-third session an item (item 25) under a single heading reading: “The Korean question: (a) Report of the United Nations Commission for the Unification and Rehabilitation of Korea; (b) Dissolution of the United Nations Commission for the Unification and Rehabilitation of Korea; (c) Withdrawal of the United States and all other foreign forces occupying South Korea under the flag of the United Nations”. At its 1737th plenary meeting on 10 December 1968, the General Assembly decided to include an additional item entitled “Need to put an end to the discus-

sion in the United Nations on the Unification and Rehabilitation of Korea” as sub-item (d) of item 25.

53. At its 1758th plenary meeting on 20 September 1969, the General Assembly decided to include in the agenda an item (agenda item 99) reading as follows: “Question of Korea: (a) Withdrawal of United States and all other foreign forces occupying South Korea under the flag of the United Nations; (b) Dissolution of the United Nations Commission for the Unification and Rehabilitation of Korea; (c) Report of the United Nations Commission for the Unification and Rehabilitation of Korea”. At its 1808th plenary meeting on 11 November 1969, the General Assembly decided to include an additional item entitled “Need to put an end to the discussion in the United Nations on the unification of Korea” as sub-item (d) of agenda item 99.

54. During the discussion of the item itself, it was again contended that the matter fell essentially within the domestic jurisdiction of Korea.

55. The arguments submitted for³¹ and against³² that contention as well as against³³ and for³⁴ the inclusion of the item in the agenda are given in the Analytical Summary of Practice. They related to the following questions:

The term “to intervene” in Article 2(7) (paragraph 102).

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraphs 111 and 112);

The effect of previous decisions by the General Assembly or the Security Council to deal with the question (paragraph 122).

a. Action taken at the twenty-first session: resolution 2224(XXI)

56. On 13 December 1966, when the First Committee began to discuss the substance of the Korean question, it had before it two draft resolutions.

57. By the first, submitted under agenda item 93 by fourteen countries,³⁵ the General Assembly would decide that United States and all other foreign military personnel deployed in South Korea under the title of “United Nations forces” or in any other guise should be withdrawn in their entirety, with their weapons and equipment, within a period of (six) months following the adoption of the resolution; that the United Nations Commission for the Unification and Rehabilitation of Korea (UNCURK) should be dissolved immediately; and that the Korean question should not be discussed in the United Nations.

58. The second draft resolution, submitted under agenda item 31 by fifteen countries,³⁶ would provide that the General Assembly would: reaffirm that the objectives of the United Nations in Korea were to bring about, by peaceful

²⁹ The Secretary-General included in the provisional agendas for the General Assembly’s twenty-first, twenty-second and twenty-third sessions an item entitled “Report of the United Nations Commission for the Unification and Rehabilitation of Korea”. Such action was taken, as regards the twenty-first session, pursuant to General Assembly resolution 2053 (XX). As regards the twenty-second and twenty-third sessions, the Secretary-General acted pursuant to General Assembly resolutions 2224 (XXI) and 2269 (XXII), respectively.

³⁰ G A (XXII), Plen., 1564th mtg., para. 52, and 1583rd mtg., para. 218.

³¹ See foot-notes 82, 100 and 124.

³² See foot-notes 83, 101, 102 and 123.

³³ See foot-note 98.

³⁴ See foot-note 99.

³⁵ G A (XXI), Annexes, a.i. 31 and 93, A/6618, para. 6(b) (A/C.1/L.389).

³⁶ *Ibid.*, para. 6(e) (A/C.1/L.392).

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; express the belief that arrangements should be made to achieve those objectives through genuinely free elections held in accordance with the relevant resolutions of the General Assembly; request UNCURK to intensify its efforts to achieve those objectives and to continue to carry out the tasks previously assigned to it by the General Assembly; and note that the United Nations forces which had been sent to Korea in accordance with the United Nations resolutions had in great part already been withdrawn; that the sole objective of the United Nations forces currently in Korea was to preserve the peace and security of the area; and that the Governments concerned were prepared to withdraw their remaining forces from Korea whenever such action was requested by the Republic of Korea or whenever the conditions for a lasting settlement formulated by the General Assembly had been fulfilled.

59. On 16 December, the First Committee rejected the fourteen-Power draft resolution by 61 votes to 21, with 25 abstentions.³⁷

60. Following this vote, the representative of Cuba introduced an oral proposal under item 93, by which the General Assembly would decide to remove the Korean question from the agenda and not to discuss it in the United Nations in the future.³⁸ This proposal was not voted upon because the Committee decided, by 65 votes to 16, with 13 abstentions, that it had concluded its consideration of item 93.³⁹

61. On 16 December, the First Committee adopted the fifteen-Power draft resolution by 66 votes to 19, with 24 abstentions.⁴⁰

62. On 19 December, the General Assembly considered and voted on a series of amendments submitted by ten countries⁴¹ to the draft resolution recommended by the First Committee. In addition to several changes in the preamble, the amendments would replace the operative part by a single paragraph calling for the removal of the Korean question from the agenda.

63. On 19 December 1966, the General Assembly, after rejecting the ten-Power amendments,⁴² adopted⁴³ the draft resolution recommended by the First Committee by 67 votes to 19, with 32 abstentions, as resolution 2224(XXI).

b. *Action taken at the twenty-second session:
resolution 2269(XXII)*

64. Under the operative part of a draft resolution submitted on 20 October 1967 to the First Committee and eventually sponsored by fourteen countries,⁴⁴ the Assembly would have decided that all United States and other foreign military personnel deployed in South Korea under the title

of "United Nations Forces" should be withdrawn within a period of six months and that there should be no further discussion of the "Korean question" in the United Nations.

65. On 6 November, Albania submitted an amendment⁴⁵ to the above draft resolution which would have replaced the sixth preambular paragraph—under which the Assembly would confirm that, at the meetings of the Security Council in June and July 1950, no unanimous agreement had been reached among the five permanent members in the discussion of the Korean question—by the following: "Bearing in mind that the United Nations has no right to consider the Korean question".

66. A second draft resolution was submitted on 25 October, sponsored by fifteen countries,⁴⁶ under which the Assembly, considering that the question of the unification of Korea should be settled by the Korean people themselves, in conformity with the principle of self-determination, and that UNCURK could make no practical contribution to its solution, would decide to dissolve the Commission within a minimum period of two months.

67. A third draft resolution, also submitted on 25 October⁴⁷ and sponsored by fifteen countries, was nearly identical with resolution 2224(XXI).

68. Amendments⁴⁸ to this draft resolution were submitted by seven States under which the General Assembly, recognizing the best means of solving the Korean question to be the convening of a meeting attended by South Korea and North Korea and representatives of other interested States designated in equal numbers by the South Korean and the North Korean authorities respectively, would decide that the Korean question should be withdrawn from the agenda and not in future be considered by the United Nations.

69. On 7 November, the First Committee voted on the three draft resolutions and the amendments to those resolutions.

70. Voting first on the fourteen-Power draft resolution, the Committee rejected⁴⁹ the Albanian amendment to its sixth preambular paragraph by a roll-call vote of 65 to 5, with 43 abstentions. It then rejected⁵⁰ the eight preambular paragraphs of that draft resolution by separate roll-call votes; it also rejected⁵¹ the operative part of the draft by a roll-call vote of 59 to 24, with 29 abstentions.

71. Voting next on the fifteen-Power draft resolution providing for the dissolution of UNCURK, the Committee rejected⁵² it by a roll-call vote of 60 to 24, with 29 abstentions.

72. Proceeding to vote on the second fifteen-Power draft resolution, the Committee rejected⁵³ the seven-Power amendments by a roll-call vote of 61 to 22, with 28 abstentions. It then adopted⁵⁴ the draft resolution by a roll-call vote of 67 to 23, with 23 abstentions.

³⁷ *Ibid.*, para. 13.

³⁸ *Ibid.*, para. 14.

³⁹ *Ibid.*, para. 15.

⁴⁰ *Ibid.*, para. 16.

⁴¹ G A(XXI), Plen., 1499th mtg., paras. 286-292.

⁴² *Ibid.*, paras. 286-292 (A/C.1/L.514).

⁴³ *Ibid.*, para. 293.

⁴⁴ G A(XXII), Annexes, a.i. 33, A/6906, para. 10(c) (A/C.1/L.401 and Add.1-2).

⁴⁵ *Ibid.*, para. 10(g) (A/C.1/L.408).

⁴⁶ *Ibid.*, para. 10(d) (A/C.1/L.404 and Add.1-3).

⁴⁷ *Ibid.*, para. 10(e) (A/C.1/L.405 and Add.1).

⁴⁸ *Ibid.*, para. 10(f) (A/C.1/L.407).

⁴⁹ *Ibid.*, para. 14(f).

⁵⁰ *Ibid.*, para. 14(a-i).

⁵¹ *Ibid.*, para. 14(j).

⁵² *Ibid.*, para. 15.

⁵³ *Ibid.*, para. 16.

⁵⁴ *Ibid.*, para. 17.

73. On 16 November the General Assembly considered the draft resolution recommended by the First Committee. A separate vote was requested by the United Republic of Tanzania on paragraph 4, which was adopted⁵⁵ by 66 votes to 24, with 23 abstentions. The Assembly then adopted⁵⁶ the draft resolution as a whole by 68 votes to 23, with 26 abstentions, as resolution 2269(XXII).

*c. Action taken at the twenty-third session:
resolution 2466(XXIII)*

74. In connexion with the consideration of the substance of the Korean question the First Committee had before it four draft resolutions.

75. A draft resolution sponsored by fifteen States⁵⁷ repeated the provisions of resolution 2269(XXII), adding thereto certain new provisions as follows: in the preamble, the Assembly would express its anxiety that progress be made towards creating conditions which would facilitate the reunification of Korea on the basis of the freely expressed will of the Korean people and its concern at reports of recent events in Korea which, if continued, could hamper efforts to create the peaceful conditions which were one of the prerequisites for the establishment of a unified and independent Korea; in the operative part, the Assembly would call for co-operation in the easing of tensions in the area and, in particular, for the avoidance of incidents and activities in violation of the Armistice Agreement of 1953; would note with approval the efforts made by UNCURK, in pursuit of its mandate, to encourage the exercise of restraint and the easing of tensions in the area; would request UNCURK to intensify its efforts to achieve the United Nations objectives in Korea and to continue the tasks previously assigned to it, and to keep members of the General Assembly informed of its efforts and of the situation in the area through regular reports submitted to the Secretary-General and to the Assembly, as appropriate, the first report to be submitted to the Secretary-General no later than four months after the adoption of the resolution.

76. A second draft resolution⁵⁸ was also submitted on 6 December 1968 under sub-item (c), and eventually sponsored by fifteen countries, under which the General Assembly, confirming that, at the meetings of the Security Council held on 25 and 27 June and 7 July 1950, no unanimous agreement had been reached among the permanent members of the Security Council in the discussion of the Korean question, considering that the occupation of South Korea by United States forces was an obstacle to the peaceful unification of Korea, and considering it necessary that action should be taken to preserve peace and security in the Far East and Asia, would decide that all United States and other foreign military personnel deployed in South Korea under the title of "United Nations Forces" should be withdrawn in their entirety, with their weapons and equipment, within six months after adoption of the resolution.

77. A third draft resolution⁵⁹ was submitted on 9 Decem-

ber 1968 under sub-item (b) and was eventually sponsored by the same fifteen countries as the second draft. Under that draft, the Assembly, considering that the question of the unification of Korea should be settled by the Korean people themselves in conformity with the principle of self-determination, and noting that UNCURK could make no practical contribution to its solution but was creating obstacles to such a solution, would decide to dissolve the Commission within a minimum period of two months from the date of adoption of the draft resolution.

78. A fourth draft resolution⁶⁰ was submitted on 13 December 1968, under sub-item (d), sponsored by thirteen countries. Under that draft, the Assembly, bearing in mind that the ineffectual discussion of the Korean question affected the prestige of the United Nations and convinced that the Korean people could achieve the peaceful unification of their country by their own means, would decide that the Korean question should no longer be discussed in the United Nations. In paragraph 4 of the draft resolution, the Assembly would have recalled "that Article 2(7) of the Charter prohibits the Organization from intervening in matters which are within the domestic jurisdiction of States and does not require Member States to submit such matters for consideration by the Organization."

79. On 16 December the First Committee voted on the four draft resolutions.

80. The Committee voted first on the fifteen-Power draft resolution submitted under sub-item (a) of agenda item 25. The Committee adopted⁶¹ the draft resolution as a whole by a roll-call vote of 72 to 23, with 26 abstentions.

81. The Committee voted next on the fifteen-Power draft resolution submitted under sub-item (c), calling for the withdrawal of the United States and all other foreign forces occupying South Korea under the flag of the United Nations. The draft resolution was rejected⁶² by the Committee by a roll-call vote of 67 to 25, with 29 abstentions.

82. Proceeding to vote on the fifteen-Power draft resolution submitted under sub-item (b), providing for the dissolution of UNCURK, the Committee rejected⁶³ it by a roll-call vote of 68 to 27, with 27 abstentions.

83. Finally, the Committee voted on the draft resolution submitted under sub-item (d), providing for an end to discussions in the United Nations dealing with the Korean question. The Committee rejected⁶⁴ this draft resolution by a vote of 70 to 24, with 28 abstentions.

84. On 20 December the General Assembly considered the draft resolution recommended by the First Committee. A separate vote was requested on paragraph 3, which was adopted by 73 votes to 15, with 28 abstentions, as well as on paragraph 5, which was adopted by 71 votes to 26, with 19 abstentions.⁶⁵ The Assembly then adopted⁶⁶ the draft resolution as a whole by 71 votes to 25, with 20 abstentions, as resolution 2466 (XXIII).

⁵⁵ *Ibid.*, para. 19(d) (A/C.1/L.461).

⁵⁶ *Ibid.*, para. 20(c).

⁵⁷ *Ibid.*, para. 21(b).

⁵⁸ *Ibid.*, para. 22.

⁵⁹ *Ibid.*, para. 23.

⁶⁰ G A(XXIII), Plen., 1751st mtg., paras. 244 and 245.

⁶¹ *Ibid.*, para. 246.

⁵⁵ G A(XXII), Plen., 1598th mtg., para. 91.

⁵⁶ *Ibid.*, para. 92.

⁵⁷ G A (XXIII), Annexes, a.i. 25, A/7460, para. 19(a), (A/C.1/L.453 and Add.1).

⁵⁸ *Ibid.*, para. 19(b) (A/C.1/L.454 and Add.1).

⁵⁹ *Ibid.*, para. 19(c) (A/C.1/L.455 and Add.1-2).

d. *Action taken at the twenty-fourth session:
resolution 2516(XXIV)*

85. In connexion with the consideration of the substance of the Korean question, the First Committee had before it four draft resolutions.

86. A draft resolution,⁶⁷ eventually sponsored by twenty-four countries, was submitted on 21 October 1969 under sub-item (a). In the preamble of this draft resolution, the General Assembly would confirm that, at the meetings of the Security Council held on 25 and 27 June and 7 July 1950, no unanimous agreement had been reached among the permanent members of the Security Council in the discussion of the Korean question, that the occupation of South Korea by United States forces was an obstacle to the peaceful unification of Korea, and that it was necessary that action should be taken to preserve peace and security in the Far East and Asia. Under the operative part, it would decide that all United States and other foreign military personnel deployed in South Korea under the title of "United Nations Forces" should be withdrawn in their entirety, with their weapons and equipment, within six months after the adoption of the resolution.

87. A second draft resolution,⁶⁸ eventually sponsored by twenty-two States, repeated the provisions of resolution 2466(XXIII) subject to a minor change in paragraph 5.

88. A third draft resolution,⁶⁹ eventually sponsored by twenty countries, was submitted on 28 October under sub-item (b). Under this draft resolution, the Assembly, considering that the question of the unification of Korea should be settled by the Korean people themselves in conformity with the principle of self-determination, and noting that UNCURK could make no practical contribution to its solution but was creating obstacles to such a solution,

⁶⁷ G A(XXIV), Annexes, a.i 99, A/7781, para. 17(a) (A/C.1/L.470 and Add.1 and 2).

⁶⁸ *Ibid.*, para. 17(b) (A/C.1/L.471 and Add.1 and 2).

⁶⁹ *Ibid.*, para. 17(c) (A/C.1/L.472 and Add.1)

would decide to dissolve the Commission within a minimum period of two months from the date of adoption of the resolution.

89. A fourth draft resolution,⁷⁰ sponsored by twenty countries, was submitted on 12 November under sub-item (d). Under this draft resolution, the Assembly, bearing in mind that the ineffectual discussion of the Korean question affected the prestige of the United Nations and convinced that the Korean people could achieve the peaceful unification of their country by their own means, would decide that the Korean question should no longer be discussed in the United Nations.

90. On 17 November the First Committee voted on the four draft resolutions.

91. The twenty-four-Power draft resolution, calling for the withdrawal of United States and other foreign forces in Korea serving under the flag of the United Nations, was rejected⁷¹ by 61 votes to 29, with 32 abstentions.

92. The draft resolution referred to in paragraph 87 above was adopted⁷² by 71 votes to 29, with 22 abstentions.

93. The twenty-Power draft resolution, providing for the dissolution of UNCURK, was rejected⁷³ by 65 votes to 30, with 27 abstentions.

94. Finally, the other twenty-Power draft resolution, providing for an end to discussion of the Korean question, was rejected⁷⁴ by 65 votes to 29, with 28 abstentions.

95. On 25 November the General Assembly considered the draft resolution recommended by the First Committee and adopted it⁷⁵ by a vote of 70 to 26, with 21 abstentions, as resolution 2516(XXIV).

⁷⁰ *Ibid.*, para. 17(d) (A/C.1/L.483 and Add.1)

⁷¹ *Ibid.*, para. 19.

⁷² *Ibid.*, para. 20.

⁷³ *Ibid.*, para. 21.

⁷⁴ *Ibid.*, para. 22.

⁷⁵ G A(XXIV), Plen., 1818th mtg., para. 70.

** B. General Assembly and Economic and Social Council

C. Security Council

Case No. 53

The situation in Northern Ireland

96. By a letter⁷⁶ dated 17 August 1969, Ireland, invoking Article 35 of the Charter, requested an urgent meeting of the Security Council in connexion with the situation in Northern Ireland.

97. During the discussion, the representative of the United Kingdom maintained that the despatch of a United Nations peace-keeping force to Northern Ireland, which had been requested in the letter, would be a violation of Article 2(7) of the Charter if carried out against the wishes of the United Kingdom. This view was disputed by the representative of Ireland, who had been invited to make a statement in the Council.

98. The arguments advanced for⁷⁷ and against⁷⁸ the posi-

⁷⁶ S C, 24th yr., Suppl. for July-Sept., p. 159, S/9394.

⁷⁷ See foot-note 93.

⁷⁸ See foot-note 94.

tion of the United Kingdom are given in the Analytical Summary of Practice. They related to the following question:

Whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction (paragraph 108).

99. Following a statement by the United Kingdom,⁷⁹ a motion by the representative of Zambia to adjourn the meeting at which the question was being discussed was adopted without objection,⁸⁰ no formal action having been taken.

100. The question was not given further consideration by the Council during the remainder of the period under review.

⁷⁹ S C, 24th yr., 1503rd mtg., paras. 48-66.

⁸⁰ *Ibid.*, para. 70.

** D. International Court of Justice

II. ANALYTICAL SUMMARY OF PRACTICE

A. The term "to intervene" in Article 2(7)

101. In the debates in case No. 41, on the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, one representative spelled out his views on the differences between interference in the domestic affairs of a State in violation of Article 2(7) of the Charter and collective measures taken within the framework of an international organization.⁸¹

102. In the debates in case No. 52, on the Korean question, some representatives opposed the contention⁸² that the United Nations was debarred by Article 2(7) from intervening in Korea by observing that the United Nations was doing so at the invitation of the Korean Government.⁸³

103. In case No. 37, concerning Southern Rhodesia, a representative observed, in refuting the view expressed by two representatives⁸⁴ that the United Nations was not competent to deal with the question at issue, that the United Nations was dealing with the question because the United Kingdom had had recourse to the United Nations.⁸⁵

B. The expression in Article 2(7): "matters which are essentially within the domestic jurisdiction of any state"

1. WHETHER A MATTER GOVERNED BY INTERNATIONAL LAW CAN FALL ESSENTIALLY WITHIN DOMESTIC JURISDICTION

104. In the deliberations relating to case No. 41 one representative expressed the view that, in Article 2(7) of the Charter, the important word "essentially" meant "such matters as, according to the present legal order, could only be within the sole competence of States".⁸⁶

****2. WHETHER A MATTER GOVERNED BY INTERNATIONAL AGREEMENTS CAN FALL ESSENTIALLY WITHIN DOMESTIC JURISDICTION**

3. WHETHER A MATTER DEALT WITH BY THE CHARTER CAN FALL ESSENTIALLY WITHIN DOMESTIC JURISDICTION

105. In the debates on case No. 34, the contention made by the representative of South Africa that the inclusion in the agenda of the Assembly's twenty-first session of an item on the policies of *apartheid* of the Government of South Africa would be in violation of Article 2(7) of the Charter⁸⁷ was disputed on the grounds that South Africa's policies in this respect were repugnant to the spirit and letter of the Charter.⁸⁸

⁸¹ G A(XXI), 6th Com., 934th mtg., para. 5.

⁸² G A(XXIV), Plen., 1808th mtg., paras. 4 and 5; 1818th mtg., paras. 8, 21, 23 and 49.

⁸³ G A(XXIV), Plen., 1818th mtg., para. 67, 1st Com., 1689th mtg., para. 44.

⁸⁴ G A(XXI), 4th Com., 1615th mtg., paras. 74 and 87; 1621st mtg., para. 16.

⁸⁵ *Ibid.*, 1621st mtg., para. 37.

⁸⁶ G A(XXII), 6th Com., 1000th mtg., para. 66.

⁸⁷ G A(XXI), Gen. Com., 162nd mtg., para. 17.

⁸⁸ *Ibid.*, paras. 17 and 18.

a. Article 2(7) and the Charter provisions on human rights

106. In the debates on case No. 37 concerning Southern Rhodesia, the contention⁸⁹ that discussion of the question was in violation of Article 2(7) of the Charter was countered by arguing that the rebellion in Southern Rhodesia was directed against the fundamental principles of humanity.⁹⁰

107. In the debates on case No. 34, concerning the policies of *apartheid* of the Government of the Republic of South Africa, the United Nations' competence to deal with this question was upheld against contrary arguments based on Article 2(7) of the Charter⁹¹ by pointing out that the South African régime violated the human rights of the indigenous peoples of South Africa.⁹²

108. In the debates on case No. 53, concerning the situation in Northern Ireland, one of the grounds upon which the representative of Ireland opposed the United Kingdom's contention⁹³ that Article 2(7) of the Charter precluded the United Nations from discussing that question was that the human rights of the citizens of a country are not an exclusively domestic matter.⁹⁴

****b. Article 2(7) and the Charter provisions regarding Non-Self-Governing Territories**

c. Article 2(7) and the Charter provisions on the self-determination of peoples

109. In the debates on case No. 41, on the consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations, at the General Assembly's twenty-second session, one representative stated that the failure of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States was due to two reasons, one of which was the fact that the term "all peoples" was used in various formulations of the right to self-determination without any qualifications, whereas the proper term would be, in his opinion, "all subject peoples". He went on to say that to use the term "all peoples" would be to encourage secessionist movements in multinational States and to endanger the territorial integrity and political independence of certain States, thus intervening in matters within the domestic jurisdiction of States in violation of Article 2(7) of the Charter.⁹⁵

110. In the debates on case No. 36, concerning Oman, it

⁸⁹ G A(XXI), 4th Com., 1615th mtg., paras. 74 and 87; 1621st mtg., para. 16.

⁹⁰ *Ibid.*, 1621st mtg., paras. 16 and 30.

⁹¹ G A(XXIV), Plen., 1758th mtg., para. 96.

⁹² *Ibid.*, para. 99.

⁹³ S C, 24th yr., 1503rd mtg., paras. 2-6.

⁹⁴ *Ibid.*, para. 42.

⁹⁵ G A(XXII), 6th Com., 996th mtg., para. 28.

was stated, in reply to objections based on Article 2(7),⁹⁶ that the issue was one of decolonization.⁹⁷

d. *Article 2(7) and the Charter provisions on the maintenance of international peace*

111. In the debates on case No. 52, on the Korean question, and objection⁹⁸ to the inclusion of the corresponding item in the agenda of the General Assembly for its twenty-second session was countered by observing that interference in the domestic affairs of a State was permissible in situations that threatened international peace and security.⁹⁹

112. In the same case, the contention¹⁰⁰ that Article 2(7) debarred the United Nations from taking action, made in the course of the debate on the item itself, was disputed on the grounds that the United Nations played "a unifying role"¹⁰¹ and that the situation in Korea involved the peace and security of the area and, potentially, the whole world.¹⁰²

4. WHETHER THE DOMESTIC JURISDICTION OF A STATE EXTENDS OVER ALL ITS TERRITORIES

113. As before, in the debate on the substance of case No. 36, the contention¹⁰³ that the United Nations was not competent to deal with the matter because the Sultanate of Muscat and Oman was a sovereign State was disputed on the grounds that the latter proposition was inaccurate.¹⁰⁴

**5. WHETHER CIVIL STRIFE IN CERTAIN SITUATIONS IS NOT A MATTER FALLING ESSENTIALLY WITHIN DOMESTIC JURISDICTION

**6. WHETHER MINORITY QUESTIONS CAN FALL ESSENTIALLY WITHIN DOMESTIC JURISDICTION

****C. The last phrase of Article 2(7): "but this principle shall not prejudice the application of enforcement measures under Chapter VII"**

D. Procedures by which Article 2(7) was invoked

114. The explanatory memoranda¹⁰⁵ attached to the requests submitted by several Member States for inclusion in the agendas of the General Assembly's twenty-first, twenty-second, twenty-third and twenty-fourth sessions of

items on the withdrawal of United States and other foreign forces occupying South Korea under the flag of the United Nations and the dissolution of UNCURK contained a number of allegations that United Nations action in respect of Korea was not consistent with the principle enunciated in Article 2(7) of the Charter. The explanatory memoranda¹⁰⁶ attached to the requests submitted by Member States for inclusion in the agendas of the General Assembly's twenty-third and twenty-fourth sessions of an item entitled "Need to put an end to the discussion in the United Nations on the Unification and Rehabilitation of Korea" stated that the annual repetition of the debate on Korea was damaging to the prestige of the United Nations, "especially in view of the fact that the United Nations Charter itself in Article 2(7) especially prohibited intervention in the internal affairs of States". During the relevant debates in the General Committee at the Assembly's twenty-fourth session, several representatives who were in favour of the inclusion of the item on the agenda based their position on Article 2(7) of the Charter.¹⁰⁷

115. As noted above,¹⁰⁸ during the discussion of the Korean question by the First Committee at the twenty-third session, a draft resolution¹⁰⁹ submitted by thirteen States in which the Assembly would have decided "that the Korean question shall no longer be discussed in the United Nations" contained paragraph 4 by which the Assembly would have recalled "that Article 2(7) of the Charter of the United Nations prohibits the Organization from intervening in matters which are within the domestic jurisdiction of States and does not require Member States to submit such matters for consideration by the Organization."¹¹⁰

116. Except for objections to the inclusion of an item on the agenda or to the discussion of an item, no other proposals to declare that an item or prior United Nations action were outside the competence of the United Nations because of Article 2(7) were submitted to the General Assembly or the Security Council during the period under review.

117. In all cases representatives of States raising objections on the grounds of Article 2(7) participated in the debates and in the voting on the items themselves with the following exceptions.

118. In case No. 34, on the policies of *apartheid* of the Government of the Republic of South Africa, South Africa did not participate in the discussion of the item by the Special Political Committee at the twenty-first session of the General Assembly. Nor did it participate in the voting in that Committee on the draft resolution that eventually became General Assembly resolution 2202A(XXI).¹¹¹ At the plenary meetings of the twenty-first session, South Africa did not take part in the debates on the item but participated in the voting.¹¹²

119. At the twenty-second and twenty-third sessions, South Africa did not participate in the discussion of the

⁹⁶ G A(XXI), 4th Com., 1668th mtg., para. 75; G A(XXII), 4th Com., 1742nd mtg., paras. 8 and 25.

⁹⁷ G A(XXI), 4th Com., 1678th mtg., para. 64; 1679th mtg., paras. 25-27; G A(XXII), 4th Com., 1727th mtg., para. 5, 1734th mtg., paras. 10, 11 and 32; 1737th mtg., paras. 36, 38 and 45.

⁹⁸ G A(XXII), Gen. Com., 165th mtg., paras. 9 and 13.

⁹⁹ *Ibid.*, para. 13.

¹⁰⁰ G A(XXIII), 1st Com., 1618th mtg., para. 26, 1620th mtg., paras. 41 and 42.

¹⁰¹ *Ibid.*, 1638th mtg., para. 38.

¹⁰² *Ibid.*, 1639th mtg., para. 7.

¹⁰³ G A(XXI), 4th Com., 1668th mtg., para. 75; and 1679th mtg., para. 50; G A(XXII), 4th Com., 1742nd mtg., paras. 8 and 25.

¹⁰⁴ G A(XXI), 4th Com., 1678th mtg., para. 64; 1679th mtg., paras. 57, 58 and 64; G A(XXII), 4th Com., 1727th mtg., para. 5; 1734th mtg., paras. 10-13, 32; 1737th mtg., paras. 36 and 38.

¹⁰⁵ See foot-note 29 above.

¹⁰⁶ *Ibid.*

¹⁰⁷ G A(XXIV), Gen. Com., 185th mtg., paras. 4, 5, 8 and 13.

¹⁰⁸ See para. 78 above.

¹⁰⁹ A/C.1/L.461 (mimeographed).

¹¹⁰ This draft resolution was rejected by the Committee (see paragraph 83 above).

¹¹¹ G A(XXI), Spec. Pol. Com., 542nd mtg., para. 34.

¹¹² G A(XXI), Plen., 1496th mtg., paras. 158 and 159.

item in the Special Political Committee.¹¹³ Nor did it participate in the discussion of the item in plenary.¹¹⁴

120. At the twenty-fourth session South Africa did not participate in the debates nor in the voting on the item in the Special Political Committee.¹¹⁵ Nor did it participate in the discussion of the item in plenary.¹¹⁶

121. In case No. 36, on the question of Oman, the United Kingdom refrained from participating in the discussion and the voting on the item in the Fourth Committee¹¹⁷ at the twenty-fourth session of the General Assembly. At the plenary meetings of the Assembly's twenty-third and twenty-fourth sessions, the United Kingdom refrained from participating in the discussion and the voting on the item.¹¹⁸

E. Effect of previous decisions by the General Assembly or the Security Council to deal with the question

122. In case No. 34, a representative opposed the contention¹¹⁹ that the General Assembly was not competent to include the item on its agenda on the grounds of Article 2(7) by pointing out that it had done so in the past.¹²⁰ In case No. 36, contentions¹²¹ made in the General Committee that consideration of the question by the General Assembly was contrary to Article 2(7) were similarly opposed by arguing that the Assembly had in the past already included the item in its agenda.¹²² The same argument¹²³ was relied upon in case No. 52 against the contention that the General Assembly was precluded by Article 2(7) of the Charter from including the corresponding item in its agenda.¹²⁴ In the same case, the effect of previous decisions by the General Assembly and the Security Council was relied upon¹²⁵ to uphold the General Assembly's competence to deal with the question against contrary contentions¹²⁶ based on Article 2(7).

¹¹³ Individual voting in the final vote was not recorded. The records show, however, that South Africa did not participate in the voting. (See G A(XXII), Spec. Pol. Com., 569th mtg., paras. 49-55 and G A(XXIII), Spec. Pol. Com., 615th mtg., paras. 106-109).

¹¹⁴ Individual voting is not recorded.

¹¹⁵ G A(XXIV), Spec. Pol. Com., 645th to 664th mtgs. inclusive.

¹¹⁶ G A(XXIV), Plen., 1816th mtg.; individual voting is not recorded.

¹¹⁷ G A(XXIV), 4th Com., 1844th, 1850th, 1851st, 1853rd, 1856th to 1859th inclusive, 1861st, 1866th, 1868th and 1869th mtgs.

¹¹⁸ G A(XXIII), Plen., 1747th mtg.; G A(XXIV), Plen., 1831st mtg.

¹¹⁹ G A(XXIII), Plen., 1676th mtg., para. 98.

¹²⁰ *Ibid.*, paras. 100 and 101.

¹²¹ G A(XXI), Gen. Com., 162nd mtg.

¹²² *Ibid.*, para. 29; G A(XXII), Gen. Com., 165th mtg., para. 67.

¹²³ G A(XXII), Gen. Com., 165th mtg., para. 9.

¹²⁴ *Ibid.*, 165th mtg., para. 13; G A(XXII), Plen., 1564th mtg., para. 50.

¹²⁵ G A(XXIII), 1st Com., 1618th mtg., para. 26; 1620th mtg., paras. 41 and 42.

¹²⁶ *Ibid.*, 1621st mtg., para. 10; 1638th mtg., para. 14.

F. Article 2(7) and the principle of non-intervention

123. In case No. 41, regarding the principles of international law concerning friendly relations and co-operation among States, it was stated that the legal duty not to intervene in matters within the domestic jurisdiction of any State rested not only on the United Nations by virtue of Article 2(7) of the Charter but, by implication, upon individual States as well¹²⁷ and that the right of intervention traditionally tolerated by international law had become inadmissible under the United Nations Charter.¹²⁸

124. It was further observed that Article 2(7) had replaced the old rule to the effect that an international dispute existed when a norm of international law was applicable—a rule favoured by most jurists—by the rule that if there was an international dispute, then international law must be applied.¹²⁹

125. It was also stated that the expression "United Nations" in Article 2(7) of the Charter meant either the United Nations itself or any of its Member States and that the principle in Article 2(7) established the minimum which was required to maintain normal or, in other words, peaceful relations among States, for it was essentially a question of forbearance.¹³⁰

126. Another of the views expressed on the question of the relation between Article 2(7) and the principle of "non-intervention" was that, although there existed a tendency to use the term "non-intervention" to cover non-intervention in matters within the national jurisdiction of a State, as embodied in Article 2(7) of the Charter, that was only one aspect of non-intervention, which, in that restricted sense, should more accurately be referred to as non-interference (*non-ingérence*), for the concept of intervention in international law covered a much wider field than "immixtion" in the internal affairs of another State, including also the unlawful use of force against another State, which was prohibited under Article 2(4) of the Charter.¹³¹

127. It was also held that General Assembly resolution 2131(XX) was the firmest expression of the principle embodied in Article 2(7).¹³² Another view bearing on the relations between the Charter provision in question and the principle of non-intervention in international law was the following: Article 2(4) and Article 2(7) were the two provisions of the Charter from which the principle of non-intervention could be legally deduced and, if the Charter decreed such a prohibition for the Organization itself, it followed *a fortiori* that the provision also applied to its Member States.¹³³

¹²⁷ G A(XXI), 6th Com., 935th mtg., para. 6.

¹²⁸ *Ibid.*, 936th mtg., para. 40.

¹²⁹ *Ibid.*, 939th mtg., para. 15.

¹³⁰ G A(XXII), 6th Com., 1000th mtg., para. 66.

¹³¹ G A(XXII), 6th Com., 1001st mtg., para. 34.

¹³² *Ibid.*, 1002nd mtg., para. 16.

¹³³ G A(XXIII), 6th Com., 1095th mtg., para. 49.

ANNEX

List of resolutions adopted over objections raised on the grounds of Article 2(7), without discussion of that provision, in cases not dealt with in the present study

<i>Organ</i>	<i>Resolution number</i>	<i>Title of resolution</i>
General Assembly	2151(XXI) ^a	Question of Southern Rhodesia
General Assembly	2224(XXI) ^b	The Korean Question
General Assembly	2307(XXII) ^c	The policies of <i>apartheid</i> of the Government of the Republic of South Africa
General Assembly	2324(XXII) ^d	Question of South West Africa
General Assembly	2236(XXI) ^e	Special education and training programmes for South West Africa
General Assembly	2238(XXI) ^f	Question of Oman
General Assembly	2269(XXII) ^g	The Korean Question
General Assembly	2465(XXIII) ^h	Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples
General Assembly	2466(XXIII) ⁱ	The Korean Question
General Assembly	2379(XXIII) ^j	Question of Southern Rhodesia
General Assembly	2383(XXIII) ^k	Question of Southern Rhodesia
General Assembly	2395(XXIII) ^l	Question of territories under Portuguese administration
General Assembly	2547B(XXIV) ^m	Measures for effectively combating racial discrimination and the policies of <i>apartheid</i> and segregation in southern Africa

^a For objections raised on the grounds of Article 2(7), see G A(XXI), Fourth Committee, 1615th mtg., para. 87 and 1621st mtg., para. 16.

^b For objections raised on the grounds of Article 2(7), see G A(XXI), Plenary, 1499th mtg., para. 214.

^c For objections raised on the grounds of Article 2(7), see G A(XXII), Plenary, 1629th mtg., para. 79.

^d For objections raised on the grounds of Article 2(7), see G A(XXII), Plenary, 1625th mtg., paras. 89 and 93.

^e For objections raised on the grounds of Article 2(7), see G A(XXI), Fourth Committee, 1677th mtg., para. 11.

^f For objections raised on the grounds of Article 2(7), see G A(XXI), Fourth Committee, 1679th mtg., para. 50.

^g For objections raised on the grounds of Article 2(7), see G A(XXII), First Committee, 1511th mtg., paras. 122-125 and G A(XXII), Plenary, 1598th mtg., paras. 33 and 72.

^h For objections raised on the grounds of Article 2(7), see G A(XXIII), Plenary, 1751st mtg., para. 168.

ⁱ For objections raised on the grounds of Article 2(7), see G A(XXIII), Plenary, 1751st mtg., paras. 209, 216, 217 and 220.

^j For objections raised on the grounds of Article 2(7), see G A(XXIII), Fourth Committee, 1772nd mtg., para. 7.

^k For objections raised on the grounds of Article 2(7), see G A(XXIII), Fourth Committee, 1779th mtg., para. 30.

^l For objections raised on the grounds of Article 2(7), see G A(XXIII), Fourth Committee, 1793rd mtg., paras. 28 and 38.

^m For objections raised on the grounds of Article 2(7), see G A(XXIV), Plenary, 1834th mtg., para. 156.

Chapter II
MEMBERSHIP