

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 the *Repertory, Supplements Nos. 3 and 4*.

I. GENERAL SURVEY

2. During the period under review, Article 2(6) was invoked in resolutions 314 (1972), 320 (1972), 388 (1976) and 409 (1977) adopted by the Security Council in connexion with the question of Southern Rhodesia.

3. Resolutions¹ adopted by the General Assembly, during the period under review, on the question of the strengthening of international security may be said to bear upon Article 2(6) inasmuch as they refer to "the strict observance of all States of the principles of the United Nations".

4. Resolution 3333 (XXIX) adopted by the General Assembly in connexion with the question of Korea may be said to bear upon Article 2(6) since it 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.

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 was again included in the agenda of the General Assembly at its twenty-ninth session. Resolution 3333 (XXIX) reiterated that, in accordance with the purposes and principles of the Charter of the United Nations regarding the maintenance of international peace and security, the United Nations had a continued responsibility to ensure the attainment of that goal on the Korean peninsula. It likewise reaffirmed the wishes of its members, as expressed in the consensus statement adopted by the General Assembly on 28 November 1973, and urged both the South and the North of Korea to continue their dialogue to expedite the peaceful reunification of Korea; it expressed the hope that the Security Council would in due course give consideration to those aspects of the Korean question which fell within its responsibilities.

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-seventh and twenty-eighth sessions of the General Assembly, the question of the "Strengthening of the role of the United Nations with regard to the maintenance and

consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States" was included in its agenda.

7. At its 2090th plenary meeting, during its twenty-seventh session, on 27 November 1972, the General Assembly adopted resolution 2925 (XXVII) on the strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States. The text, which by its terms refers to "all States" and "all nations", reads as follows:

"The General Assembly,

"Having considered the item entitled 'Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States',

"Aware that the United Nations is duty bound to act persistently for the observance in relations between all States of the principles of refraining from the threat or use of force against the territorial integrity or political independence of any State, the settlement of international disputes by peaceful means, non-interference in domestic affairs, the sovereign equality of all States, the equal rights and self-determination of peoples, and co-operation between States,

"Convinced of the need to bring about further improvements in the activities of the United Nations and its organs, taking into account the new realities of the world, thus making the United Nations an efficient forum of the inter-

national community as a whole, capable of ensuring the participation of all States in the solution of the problems facing mankind,

"1. *Recognizes* that it is imperative that the Organization should become a more effective instrument in safeguarding and strengthening the independence and sovereignty of all States, as well as the inalienable right of every people to decide its own fate without any outside interference, and that it should take firm action, in accordance with the Charter of the United Nations, for the prevention and suppression of acts of aggression or any other acts which may jeopardize international peace and security;

"2. *Expresses the conviction* that it is necessary to strengthen the role of the United Nations so that it may bring an increased contribution to the settlement of international issues in the interest of all peoples and of general peace and security;

"3. *Urges* all Member States to fulfil their obligations under the Charter and, in accordance with its provisions, to implement the resolutions of United Nations organs;

"4. *Strongly appeals* to all Member States to take full advantage of the framework and means provided by the United Nations for the solution of international issues of common interest and to contribute to the identification of ways and means of bringing about the strengthening of the capacity for action and an increase in the effectiveness of the Organization for the attainment of the ideals of peace, freedom and progress of peoples;

"5. *Invites* Member States to communicate to the Secretary-General, not later than 30 June 1973, their views and suggestions on the ways and means of contributing to the strengthening of the role of the United Nations in international life, including proposals for enhancing the effectiveness of the decisions and resolutions adopted by United Nations organs;

"6. *Requests* the Secretary-General to prepare a report on the basis of the views and suggestions received under paragraph 5 above, and of the debates on this item, and to submit that report to the General Assembly at its twenty-eighth session;

"7. *Decides* to include in the provisional agenda of its twenty-eighth session the item entitled 'Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States'."

8. At the 2186th plenary meeting, during its twenty-eighth session, on 30 November 1973, the General Assembly adopted resolution 3073 (XXVIII) which also referred by its terms to "all States" and "all nations". It reads as follows:

"*The General Assembly,*

"*Having further considered* the item entitled 'Strengthening of the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States',

"*Recalling* its resolution 2925 (XXVII) of 27 November 1972,

"*Taking note* of the report of the Secretary-General prepared on the basis of that resolution, as well as of the views and suggestions expressed in the debate on this item,

"*Considering* that the new steps taken towards achieving universality of the United Nations are likely to contribute to an increase in the capacity of the Organization to take effective action for the strengthening of international

peace and security and for the development of international co-operation,

"*Aware* that the affirmation of a new course in international life, aimed at the establishment of an atmosphere of confidence and understanding between States and at the settlement of international problems of general interest with the broadest possible participation of States, requires an adequate strengthening of the role of the United Nations as a centre for harmonizing the actions of nations,

"*Concerned* about the insufficient use of the framework provided by the United Nations for the settlement of problems affecting the interests of all Member States,

"1. *Reaffirms* that it is imperative that the United Nations should become a more effective instrument in safeguarding and strengthening the independence and sovereign equality of all States, as well as the inalienable right of every people to decide its own fate without any outside interference, and that it should take firm action, in accordance with the Charter of the United Nations, to oppose foreign domination and to prevent and suppress acts of aggression or any other acts which, in violating the Charter, may jeopardize international peace and security;

"2. *Reiterates* its appeal to all Member States to take full advantage of the framework and means provided by the United Nations in order to prevent the perpetuation of situations of tension, crisis and conflict, avert the creation of such new situations which endanger international peace and security, and settle international problems exclusively by peaceful means;

"3. *Believes* that the United Nations can bring an increased contribution to the strengthening of general peace and security by taking actions aimed at establishing the relations between all States on the basis of the principles of the Charter, and at using more actively the machinery and possibilities provided by the Charter with a view to preventing conflicts and encouraging the peaceful settlement of disputes between States;

"4. *Considers* that the strengthening of the role of the United Nations requires continuous improvement of the functioning and effectiveness of its principal organs in the exercise of their responsibilities under the Charter;

"5. *Considers further* that, in the context of endeavours to strengthen the role of the United Nations, it is important to study ways and agree upon ways and means of enhancing, in accordance with the Charter, the effectiveness of the resolutions of the General Assembly and other organs of the United Nations, *inter alia*, by actively promoting the method of consultation among all Member States interested in their elaboration and adoption, and by evaluating, as appropriate, their practical effects;

"6. *Emphasizes* that the active participation of all Member States in the efforts aimed at strengthening the United Nations and enhancing its role in contemporary international relations is essential for the success of these efforts;

"7. *Urges* all Member States, in furtherance of these efforts, to fulfil their obligations under the Charter and, in accordance with its provisions, to implement the resolutions of the General Assembly and the Security Council;

"8. *Invites* all Member States to communicate and further elaborate on their views, suggestions and proposals concerning the strengthening of the role of the United Nations, not later than 30 April 1974;

"9. *Believes* that the efforts aimed at strengthening the role of the United Nations will be greatly assisted by grouping the views, suggestions and proposals made on this subject by Member States, so as to facilitate their consideration by the appropriate existing organs of the United Nations;

"10. *Requests* the Secretary-General to prepare a report presenting, in a systematized manner, those views, suggestions and proposals formulated at the twenty-seventh and twenty-eighth sessions of the General Assembly, as well as in the relevant communications received from Member States, and to submit the report to the Assembly at its twenty-ninth session;

"11. *Decides* to include in the provisional agenda of its twenty-ninth session the item entitled 'Strengthening the role of the United Nations with regard to the maintenance and consolidation of international peace and security, the development of co-operation among all nations and the promotion of the rules of international law in relations between States'."

9. At its twenty-fifth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth and thirty-third sessions, the General Assembly included in its agenda the item entitled "The strengthening of international security". During the course of the discussions in the First Committee on that item at the twenty-fifth session, one representative expressed the view that the Charter nowhere speaks of the principle of universality. On the contrary, Article 4 specifies conditions under which States may or may not be admitted to the United Nations. Articles 5 and 6 even provided for the suspension of membership and for the expulsion of Members under certain circumstances. All those provisions testified to the principle of selectivity rather than universality of the United Nations. The Charter did not envisage universal membership for the maintenance of peace and security. As a principle of the Charter, Article 2(6) called upon the Organization to ensure that States which were not members of the United Nations to act in accordance with the principles of the Charter.² Another representative stated that all countries, great and small, had to abide by the fundamental principles of the Charter, as defined in the Declaration on the United Nations adopted by the Heads of State of Non-Aligned Countries when they met at Lusaka. His Government was convinced that the concept of international security depended on the validity and universal application of those principles. Since Article 2 of the Charter mentioned those principles, the Non-Aligned Countries wanted to see them made a reality.³

10. At its 1932nd plenary meeting, during its twenty-fifth session, the General Assembly adopted resolution 2734 (XXV) entitled Declaration on the Strengthening of International Security. In its relevant parts, that resolution reads as follows:

"*The General Assembly,*

" . . .

"1. *Solemnly reaffirms* the universal and unconditional validity of the purposes and principles of the Charter of the United Nations as the basis of relations among States irrespective of their size, geographical location, level of development or political, economic and social systems and declares that the breach of these principles cannot be justified in any circumstances whatsoever;

"2. *Calls upon* all States to adhere strictly in their international relations to the purposes and principles of the Charter, including the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations; the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter; the duty of States to co-operate with one another in accordance with the Charter; the principle of equal rights and self-determination of peoples; the principle of sovereign equality of States; and the

principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

" . . .

"5. *Solemnly reaffirms* that every State has the duty to refrain from the threat or use of force against the territorial integrity and political independence of any other State, and that the territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter, that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, that no territorial acquisition resulting from the threat or use of force shall be recognized as legal and that every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State;

" . . .

"11. *Recommends* that all States contribute to the efforts to ensure peace and security for all nations and to establish, in accordance with the Charter, an effective system of universal collective security without military alliances;

" . . .

"18. *Calls upon* all States to desist from any forcible or other action which deprives peoples, in particular those still under colonial or any other form of external domination, of their inalienable right to self-determination, freedom and independence and to refrain from military and repressive measures aimed at preventing the attainment of independence by all dependent peoples in accordance with the Charter and in furtherance of the objective of General Assembly resolution 1514 (XV) of 14 December 1960, and render assistance to the United Nations and, in accordance with the Charter, to the oppressed peoples in their legitimate struggle in order to bring about the speedy elimination of colonialism or any other form of external domination;

" . . .

"20. *Urges* all States, particularly the nuclear-weapon States, to make urgent and concerted efforts within the framework of the Disarmament Decade and through other means for the cessation and reversal of the nuclear and conventional arms race at an early date, the elimination of nuclear weapons and other weapons of mass destruction and the conclusion of a treaty on general and complete disarmament under effective international control, as well as to ensure that the benefits of the technology of the peaceful use of nuclear energy shall be available to all States, to the maximum extent possible, without discrimination."

11. During the debate in the Security Council on the question of Southern Rhodesia in 1976 a draft resolution, sponsored by 15 countries⁴ was submitted to the Security Council. That draft resolution was approved by the Security Council which, on 6 April 1976, adopted unanimously resolution 388 (1976) which read as follows:

"*The Security Council,*

"*Reaffirming* its resolutions 216 (1965) of 12 November and 217 (1965) of 20 November 1965, 221 (1966) of 9 April and 232 (1966) of 16 December 1966, 253 (1968) of 29 May 1968 and 277 (1970) of 18 March 1970,

"*Reaffirming* that the measures provided for in those resolutions, as well as the measures initiated by Member States in pursuance thereof, shall continue in effect,

"*Taking into account* the recommendations made by the Security Council Committee established in pursuance of resolution 253 (1968) concerning the question of Southern Rhodesia in its special report of 15 December 1975,

"Reaffirming that the present situation in Southern Rhodesia constitutes a threat to international peace and security,

"Acting under Chapter VII of the Charter of the United Nations,

"1. Decides that all Member States shall take appropriate measures to ensure that their nationals and persons in their territories do not insure:

"(a) Any commodities or products exported from Southern Rhodesia after the date of the present resolution in contravention of Security Council resolution 253 (1968) which they know or have reasonable cause to believe to have been so exported;

"(b) Any commodities or products which they know or have reasonable cause to believe to be destined or intended for importation into Southern Rhodesia after the date of the present resolution in contravention of resolution 253 (1968);

"(c) Commodities, products or other property in Southern Rhodesia of any commercial, industrial or public utility undertaking in Southern Rhodesia, in contravention of resolution 253 (1968);

"2. Decides that all Member States shall take appropriate measures to prevent their nationals and persons in their Territories from granting to any commercial, industrial or public utility undertaking in Southern Rhodesia the right to use any trade name or from entering into any franchising agreement involving the use of any trade name, trade mark or registered design in connexion with the sale or distribution of any products, commodities or services of such an undertaking;

"3. Urges States not Members of the United Nations, having regard to the principle stated in Article 2 of the Charter of the United Nations, to act in accordance with the provisions of the present resolution."

12. In 1977 the Security Council again discussed the question of Southern Rhodesia. A draft proposal sponsored by 16 countries⁵ was approved on 27 May 1977 by the Security Council which adopted resolution 409 (1977). That resolution, in its paragraph 2, urged States not members of the United Nations to act in accordance with the provisions of the resolution.

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.⁶ They dealt with a variety of subjects, including Namibia, the granting of independence to colonial countries and peoples, disarmament, nuclear and thermo-nuclear tests, question of chemical, bacteriological weapons, 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 Southern Rhodesia, South Africa and Namibia.⁷

15. At its 1529th meeting, on 30 January 1970, the Security Council adopted resolution 276 (1970) under its responsibility for the maintenance of international peace and security. Resolution 276 (1970) read as follows:

"The Security Council,

" . . .

"1. Strongly condemns the refusal of the Government of South Africa to comply with the resolutions of the General Assembly and Security Council pertaining to Namibia;

"2. Declares that the continued presence of the South African authorities in Namibia is illegal and that consequently all acts taken by the Government of South Africa

on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid;

"3. Declares further that the defiant attitude of the Government of South Africa towards the Council's decisions undermines the authority of the United Nations;

"4. Considers that the continued occupation of Namibia by the Government of South Africa in defiance of the relevant United Nations resolutions and of the Charter of the United Nations has grave consequences for the rights and interests of the people of Namibia;

"5. Calls upon all States, particularly those which have economic and other interests in Namibia, to refrain from any dealings with the Government of South Africa which are inconsistent with paragraph 2 of the present resolution."

16. In its advisory opinion on Legal Consequences for States of the continued presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970),⁸ the International Court of Justice made a statement which, although not invoking Article 2(6) explicitly, has some bearing on it. The Court said:⁹

"As to non-member States, although not bound by Articles 24 and 25 of the Charter, they have been called upon in paragraphs 2 and 5 of resolution 276 (1970) to give assistance in the action which has been taken by the United Nations with regard to Namibia. In the view of the Court, the termination of the Mandate and the declaration of the illegality of South Africa's presence in Namibia are opposable to all States in the sense of barring *erga omnes* the legality of a situation which is maintained in violation of international law: in particular, no State which enters into relations with South Africa concerning Namibia may expect the United Nations or its Members to recognize the validity or effects of such relationship, or of the consequences thereof. The Mandate having been terminated by decision of the international organization in which the supervisory authority over its administration was vested, and South Africa's continued presence in Namibia having been declared illegal, it is for non-member States to act in accordance with those decisions.

"As to the general consequences resulting from the illegal presence of South Africa in Namibia, all States should bear in mind that the injured entity is a people which must look to the international community for assistance in its progress towards the goals for which the sacred trust was instituted."

NOTES

¹ G A resolutions 2925 (XXVII), 2993 (XXVII), 3185 (XXVIII), 3389 (XXX), 33/75.

² G A (25), 1st Com., 1729th mtg.

³ *Ibid.*, 1737th mtg.

⁴ S C (31), Suppl. for April-June 1976, S/12037 (Benin, China, France, Guyana, Italy, Japan, Libyan Arab Republic, Pakistan, Panama, Romania, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and United States of America).

⁵ S C (32), Suppl. for April-June 1977, S/12339 (Benin, Canada, China, France, Germany, Federal Republic of, India, Libyan Arab Jamahiriya, Mauritius, Pakistan, Panama, Romania, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela).

⁶ See, for example: General Assembly resolutions 2708 (XXV), 2663 (XXV), 2671 (XXV), 2787 (XXVI), 2878 (XXVI), 2827 (XXVI), 3031 (XXVII), 2908 (XXVII), 2917 (XXVII), 2934 (XXVII), 2923 (XXVII), 2933 (XXVII), 3112 (XXVIII), 3163 (XXVIII), 3151 (XXVIII), 3077 (XXVIII), 3295 (XXIX), 3257 (XXIX), 3260 (XXIX), 3077 (XXVIII), 3256 (XXIX), 3398 (XXX), 3466 (XXX), 3411 (XXX), 3465 (XXX), 31/146, 31/151, 31/66, 31/68, 31/6, 31/65, 32/9, 32/42, 32/87, 32/77, 32/153, 33/40, 33/71, 33/183, 33/59, 33/74.

⁷ See, for example: S C resolutions: 276 (1970), 283 (1970), 288 (1970), 310 (1972), 314 (1972), 318 (1972), 320 (1972), 402 (1976), 386 (1976), 418 (1977).

⁸ *ICJ Reports* 1971, p. 16.

⁹ *Ibid.*, p. 56, paras. 126-127.