

# ARTICLE 2(7)

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Notes

## 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 four *Supplements*. Pursuant to the recommendation of the Committee for Programme and Co-ordination<sup>1</sup> only actions of principal organs, that bear directly on the interpretation of the provisions of the Charter, have been recorded in this *Supplement*. 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 five previous studies, those in which discussion resulted from objections to United Nations action raised on the basis of Article 2(7).
3. None of the resolutions adopted in any of the cases referred 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).
4. 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.

5. Two cases dealt with in the previous studies on Article 2(7) in the *Repertory* and its four *Supplements* 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 apartheid of the Government of the Republic of South Africa ...	6-30, 57	General Assembly
Case No. 36: The question of Oman .....	31-33, 67	General Assembly
Case No. 54: The question of the Comorian Island of Mayotte .....	34-37, 62, 66	General Assembly
Case No. 55: The colonial case of Puerto Rico .....	38-39, 54	General Assembly
Case No. 56: The question of Palestine Refugees in the Near East .....	40-42, 55-56	General Assembly
Case No. 57: The question of Cambodia .....	43-46, 53	General Assembly
Case No. 58: The question of Greece .....	47-49, 58-60	Economic and Social Council
Case No. 59: The question of Chile .....	50-52, 65	Security Council

### I. GENERAL SURVEY

#### A. General Assembly

- \*\*Case No. 1: *Relations of Member States with Spain*
- \*\*Case No. 2: *Treatment of people of Indian origin in the Union [Republic] of South Africa*
- \*\*Case No. 3: *The question of convening conferences of representatives of Non-Self-Governing Territories*
- \*\*Case No. 4: *The question of the establishment of committees on information transmitted under Article 73e*
- \*\*Case No. 5: *The question of the competence of the General Assembly to determine the Territories to which Article 73e applies*
- \*\*Case No. 6: *Threats to the political independence and territorial integrity of Greece*
- \*\*Case No. 7: *Observance of human rights in the Union of Soviet Socialist Republics*
- \*\*Case No. 8: *Observance of human rights in Bulgaria, Hungary and Romania*

- \*\*Case No. 9: *The question of Morocco*
- \*\*Case No. 10: *The Tunisian question*
- \*\*Case No. 11: *The question of race conflict in the Union [Republic] of South Africa*
- \*\*Case No. 24: *The question of Cyprus*
- \*\*Case No. 25: *The question of West Irian*
- \*\*Case No. 26: *Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement*
- \*\*Case No. 27: *The question of Algeria*
- \*\*Case No. 30: *The question of Hungary*
- Case No. 34: *The Policies of apartheid of the Government of the Republic of South Africa*

6. At its twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second and thirty-third sessions, the General Assembly included in its

agenda an item under the general heading "Policies of *apartheid* of the Government of South Africa".<sup>2</sup>

7. At the twenty-fifth, twenty-sixth and twenty-ninth sessions the representative of the Republic of South Africa reiterated his reservations to the inclusion of the item on the agenda on the basis of Article 2(7) of the Charter. He stated that the reasons for his objecting to the inclusion of the item were well known and that he made the statement for the record. No other representative spoke on the question. Despite the objections raised on the ground of Article 2(7), the General Assembly, without a vote, placed the item on its agenda for the three sessions.<sup>3</sup>

a. *Action taken at the twenty-fifth session: resolutions 2624 (XXV) and 2671 (XXV)*

8. On 13 October 1970 the General Assembly, at its 2864th plenary meeting, on the recommendation of the Special Political Committee, adopted<sup>4</sup> resolution 2624 (XX) by 98 votes to 2, with 9 abstentions. In the preamble, the Assembly, in particular, taking note of the report of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa, recalled its own and Security Council resolutions on the question, expressed grave concern about the continued build-up and the consequent aggravation of the situation in southern Africa. In the operative part, the Assembly called upon all States to take immediate steps to implement the provisions of Security Council resolution 282 (1970) fully; requested the Secretary-General to follow closely the implementation of the present resolution, as he had been doing with regard to Security Council resolution 282 (1970), and to report to the General Assembly.

9. On 8 December 1970 the General Assembly, on the recommendation of the Special Political Committee, adopted resolution 2671 A (XXV)<sup>5</sup> by 105 votes to 2, with 6 abstentions. Resolution B under the same number was adopted by 111 votes to 2 with 1 abstention; resolution C by 107 votes to 2 with 6 abstentions; resolution D by 106 votes to 2 with 7 abstentions; and resolution E by 111 votes to 2 with 1 abstention.

10. In the preamble of resolution A the Assembly, in particular, considered it essential to intensify United Nations efforts to promote concerted international action for the elimination of *apartheid* in South Africa and recognized the need for greater co-ordination of efforts by the United Nations towards this end. In the operative part the Assembly requested the Special Committee on *Apartheid* to review constantly all aspects of the policies of *apartheid* in South Africa and their international repercussions, including (i) legislative, administrative and other racially discriminatory measures in South Africa and their effects; (ii) repression of opponents of *apartheid*; (iii) efforts by the Government of South Africa to extend its inhuman policies of *apartheid* beyond the borders of South Africa; and (iv) ways and means of promoting concerted international action to secure the elimination of *apartheid*; and to report from time to time to the General Assembly or the Security Council, or both.

11. In the preamble of resolution B, the Assembly, in particular, recalled its appeals for moral, political and material assistance to the national movement of the oppressed people of South Africa in their legitimate struggle against *apartheid*; considered the need to take steps to increase such assistance in view of the intensification of social oppression by the Government of South Africa in defiance of the Charter of the United Nations and the resolutions of the Security Council and the General Assembly. In the operative part, the Assembly requested the Secretary-General, in co-operation with the Organization of African Unity, to take all appropriate steps to promote assistance in the economic, social and humanitarian fields by Governments, organizations and individuals to the

oppressed people of South Africa in their legitimate struggle against *apartheid*; appealed to Governments, organizations and individuals to contribute generously, in consultation with the Organization of African Unity, towards such assistance.

12. In the preamble of resolution C, the Assembly, in particular, declared itself convinced of the importance of keeping world public opinion fully informed of the evils and dangers of *apartheid* in South Africa and of United Nations efforts to secure the elimination of that policy; took note, in particular, of the recommendation of the Special Committee that the United Nations should co-operate with the Organization of African Unity in undertaking regular broadcasts on *apartheid*; recognized the need for special studies on *apartheid* to be made available to the international community; and considered that those efforts should be intensified during 1971, the International Year for Action to Combat Racism and Racial Discrimination. In the operative part, the Assembly requested the Secretary-General to take appropriate steps to ensure the widest dissemination of information on the evils and dangers of *apartheid*; invited Member States to lend their co-operation to the Secretary-General in the dissemination of such information in their countries and territories under their administration; invited specialized agencies, regional organizations, anti-*apartheid* movements and other non-governmental organizations to help the United Nations information campaign against *apartheid*; welcomed the readiness of the Organization of African Unity to undertake, in co-operation with the United Nations, weekly broadcasts of United Nations material to southern Africa; authorized the Secretary-General to encourage and assist anti-*apartheid* movements, United Nations associations and other non-governmental organizations to publish and widely disseminate information provided by the United Nations on the evils and dangers of *apartheid* and on international efforts against *apartheid*.

13. In the preamble of resolution D, the Assembly, in particular, noted with grave concern that the racist Government of South Africa had intensified its inhuman and aggressive policies of *apartheid*; recognized the need for the implementation of more effective measures to secure the speedy elimination of *apartheid* in South Africa and the valuable role which non-governmental organizations could play in the international campaign against *apartheid*; believed that it would be desirable to hold an international conference of trade unions to promote concerted action by trade unions against *apartheid*. In the operative part, the Assembly requested the Secretary-General to take appropriate steps, in consultation with the Special Committee on *Apartheid*, to promote the widest possible campaign against *apartheid* during the International Year for Action to Combat Racism and Racial Discrimination; requested and authorized the Special Committee to hold consultations with experts and representatives of the oppressed people of South Africa; urged all States and organizations to observe the International Year for Action to Combat Racism and Racial Discrimination in solidarity with the legitimate struggle of the oppressed people of South Africa.

14. In the preamble of resolution E, the Assembly, in particular, considered it essential to continue and increase humanitarian assistance to the victims of the policies of *apartheid* of the Government of South Africa. In the operative part, the Assembly expressed its appreciation to the Governments, organizations and individuals that had contributed to the United Nations Trust Fund for South Africa and appealed to all States, organizations and individuals for generous contributions to the United Nations Trust Fund for South Africa.

15. In the preamble of resolution F, the Assembly, in particular, expressed its grave concern over the aggravation of the situation in South Africa and in southern Africa as a whole,

because of the inhuman and aggressive policies of *apartheid* pursued by the Government of South Africa in defiance of United Nations resolutions, in violation of the Universal Declaration of Human Rights and in contravention of its obligations under the Charter of the United Nations; noted with indignation the continued persecution and torture of African patriots and other opponents of *apartheid* by the Government of South Africa under the Terrorism Act of 1967 and other ruthless repressive legislation; declared itself convinced that the establishment of "Bantustans" in South Africa was designed to deprive the majority of the people of their inalienable rights and to destroy the unity of the South African people. In the operative part, the Assembly declared that the policies of *apartheid* of the Government of South Africa were a negation of the Charter of the United Nations and constituted a crime against humanity; reaffirmed its recognition of the legitimacy of the struggle of the people of South Africa to eliminate, by all means at their disposal, *apartheid* and racial discrimination and to attain majority rule in the country as a whole, based on universal suffrage; condemned the establishment by the racist minority Government of South Africa of "Bantustans" in so-called African reserves as fraudulent, a violation of the principle of self-determination and prejudicial to the territorial integrity of the State and the unity of its people; strongly deplored the continued co-operation by certain States and foreign economic interests in South Africa in the military, economic, political and other fields, as such co-operation encouraged the Government of South Africa in the pursuit of its inhuman policies; urged all States (i) to terminate diplomatic, consular and other relations with the Government of South Africa; (ii) to terminate all military, economic, technical and other co-operation with South Africa; (iii) to end tariff and other preferences to South African exports and facilities for investment in South Africa; (iv) to ensure that companies registered in Member countries and nationals of those States complied with the United Nations resolutions on that question; 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 practiced *apartheid*; and requested the Special Committee on *Apartheid* to prepare reports for the General Assembly, at its twenty-sixth session, on continued collaboration by States with the Government of South Africa, with particular reference to the requests contained in paragraph 5 of General Assembly resolution 2506 (XXIV) of 21 November 1969.

b. *Action taken at the twenty-sixth session: resolution 2775 (XXVI) (A, B, C, D, E, F, G, H)*

16. On 29 November 1971 the General Assembly, on the recommendation of the Special Political Committee, adopted<sup>6</sup> resolution 2775 A (XXVI) by 107 votes to 2 with 5 abstentions; resolution B under the same number was adopted by 112 votes to 1 with 3 abstentions; resolution C by 108 votes to 1 with 5 abstentions; resolution D by 106 votes to 2 with 7 abstentions; resolution E by 110 votes to 2 with 2 abstentions; resolution F by 86 votes to 6 with 22 abstentions; resolution G by 108 votes to 2 with 6 abstentions; and resolution H by 104 votes to 1 with 9 abstentions.

17. In the preambular paragraph of resolution A the Assembly, in particular, declared itself gravely concerned with the continued build-up of the South African military and police forces and noted that South Africa continued to receive military equipment and technical and other assistance for the manufacture of such equipment, from certain Member States in contravention of the arms embargo. In the operative part, the Assembly declared that the arms embargo against South Africa made no distinction between arms for external defence and arms for internal repression; deplored the actions of those Governments which, in contravention of the

arms embargo, had provided or had allowed companies registered in their countries to provide assistance for the build-up of the military and police forces in South Africa; and called upon all Governments to implement fully the arms embargo against South Africa.

18. In the preambular part of resolution B, the Assembly, in particular, commended the activities of the United Nations Educational, Scientific and Cultural Organization in disseminating information on *apartheid*, with special reference to its effects on education, science and culture. In the operative part of the resolution, the Assembly requested the United Nations Educational, Scientific and Cultural Organization to consider the production of films and audio-visual material on *apartheid*.

19. In the operative part of resolution C, the Assembly authorized the Special Committee on *Apartheid* to hold consultations with experts and representatives of the oppressed people of South Africa, as well as anti-*apartheid* movements and non-governmental organizations concerned with the campaign against *apartheid*.

20. In the operative part of resolution D, the Assembly declared its unqualified support of the Olympic principle that no discrimination be allowed on the grounds of race, religion or political affiliation; called upon individual sportsmen to refuse to participate in any sports activity in a country in which there was an official policy of racial discrimination or *apartheid* in the field of sports; requested national and international sports organizations and the public to deny any form of recognition to any sports activity from which persons were debarred or in which they were subjected to any discrimination on the basis of race, religion or political affiliation; condemned the actions of the Government of South Africa in enforcing racial discrimination and segregation in sports; and noted with regret that some national and international sports organizations had continued exchanges with teams from South Africa.

21. In the preambular paragraph of resolution E, the Assembly, in particular, noted that the Government of South Africa, while treating the white inhabitants of that country, irrespective of their national origins, as constituting one nation, sought artificially to divide the African people into "nations" according to their tribal origins and justified the establishment of non-contiguous Bantu homelands (Bantustans) on that basis; recognized that the real purpose of the establishment of Bantustans was to divide the Africans, setting one tribe against the other with a view to weakening the African front in its struggle for its inalienable and just rights. In the operative part, the Assembly condemned again the establishment by the Government of South Africa of Bantu homelands and the forcible removal of the African people of South Africa and Namibia to those areas as a violation of their inalienable rights, contrary to the principle of self-determination and prejudicial to the territorial integrity of the countries and the unity of their people.

22. In the operative part of resolution F, the Assembly declared that the tactics of the racist Government of South Africa in pursuance of its so-called "outward policy" were designed primarily to obtain acquiescence in its racial policies, to confuse world public opinion, to counter international isolation, to hinder assistance to the liberation movements by the international community and to consolidate white minority rule in southern Africa; condemned the continued and increasing co-operation of certain States and foreign economic interests with South Africa in the military, economic, political and other fields, as such co-operation encouraged the Government of South Africa in the pursuit of its inhuman policies; reaffirmed the legitimacy of the struggle of the oppressed people of South Africa to eliminate, by all means at their disposal, *apartheid*, racial discrimination and similar ideologies and to attain majority rule in the coun-

try as a whole, based on universal adult suffrage; requested all States to take steps to dissuade their nationals from emigrating to South Africa so long as the Government of South Africa pursued the policies of *apartheid*; commended the activities of States, organizations and individuals engaged in dissuading economic interests from increasing collaboration with South Africa and profiting from racial discrimination and exploitation of African and other non-white workers; recommended that the Security Council should consider urgently the situation in South Africa and in southern Africa as a whole with a view to the adoption of effective measures against South Africa, including those under chapter VII of the Charter.

23. In the operative part of resolution G, the Assembly invited Governments, specialized agencies and regional organizations, as well as non-governmental organizations, information media and educational institutions, to co-operate with the United Nations in disseminating information on *apartheid*; and invited the specialized agencies to contribute to the campaign against *apartheid* in the light of recommendations contained in paragraphs 282 to 284 of the report of the Special Committee on *Apartheid*.

24. In the operative part of resolution H, the Assembly requested and authorized the Special Committee on *Apartheid* to send a mission to hold consultative meetings with the workers' representatives to the fifty-seventh session of the International Labour Conference, to consider lines of action which the trade union movement might take against *apartheid*, including the holding of the international trade union conference, and to invite representatives of international and regional trade union federations to those consultative meetings.

c. *Action taken at the twenty-ninth session: resolution 3324 (XXIX) (A, B, C, D, E)*

25. On 16 December 1974 the General Assembly, on the recommendation of the Special Political Committee, adopted<sup>7</sup> resolution 3324 A (XXIX). It also adopted resolution B under the same number by 109 votes to 1 with 9 abstentions; resolution C by 118 votes to none with 2 abstentions; resolution D by 111 votes to none with 10 abstentions; and resolution E by 95 votes to 13 with 14 abstentions.

26. In the preambular part of resolution A the Assembly, in particular, declared itself gravely concerned over the continued and increasing persecution of persons under the repressive and discriminatory legislation enforced by the Government of South Africa and by the illegal administrations in Namibia and Southern Rhodesia, and the consequent hardships faced by numerous families. In the operative part of the resolution, the Assembly expressed its appreciation to Governments, organizations and individuals that had contributed to the United Nations Trust Fund for South Africa and appealed to them to make more generous annual contributions.

27. In the operative part of resolution B, the Assembly requested the Security Council urgently to resume consideration of the item entitled "The question of race conflict in South Africa resulting from the policies of *apartheid* of the Government of the Republic of South Africa" with a view to taking action under Chapter VII of the Charter to ensure the complete cessation by all States of the supply of arms, ammunition, military vehicles, spare parts thereof, and any other military equipment whatsoever to South Africa, as well as any military co-operation with South Africa.

28. In the operative part of resolution C, the Assembly called upon the Government of South Africa: (i) to grant unconditional amnesty to all persons imprisoned or restricted for their opposition to *apartheid* or acts arising from such opposition as well as to political refugees from South Africa;

(ii) to reject all repressive laws and regulations restricting the right of the people to strive for an end to racial discrimination, including the Unlawful Organizations Act of 1960; and (iii) to enable the people of South Africa as a whole to exercise their right to self-determination in accordance with the principles of the Charter of the United Nations.

29. In the operative part of resolution D, the Assembly requested the Special Committee to continue its efforts to encourage and promote co-ordinated international campaigns for: (i) a total embargo on the supply of arms to South Africa and the cessation of any form of military co-operation with South Africa; (ii) ending of collaboration by banks and national and transnational corporations with the South African régime and with companies registered in South Africa; (iii) cessation of emigration to South Africa; (iv) release of political prisoners in South Africa, as well as those subjected to restrictions for their opposition to *apartheid*; (v) ending of all cultural, educational, scientific, sporting and other contacts with the racist régime and with organizations or institutions in South Africa which practice *apartheid*; invited all Governments to take steps to discourage and to counter attempts by the South African régime to disseminate propaganda in their countries.

30. In the operative part of resolution E, the Assembly condemned the strengthening of political, economic, military and other relations between Israel and South Africa; called upon the Government of France to cease all military collaboration with South Africa and to stop the supply of arms and other military equipment to the South African régime; called upon the Government of the United Kingdom of Great Britain and Northern Ireland to cease all military collaboration with the South African régime and for that purpose to abrogate the "Simonstown Agreement"; recommended that the South African régime should be totally excluded from participation in all international organizations and conferences under the auspices of the United Nations so long as it continued to practice *apartheid* and failed to abide by United Nations resolutions concerning Namibia and Southern Rhodesia; requested all Governments: (i) to sign and ratify the International Convention on the Suppression and Punishment of the Crime of *Apartheid*; (ii) to prohibit South African immigration offices from operating in their territories; (iii) to prohibit all cultural, educational, scientific, sporting and other contacts with the racist régime and with organizations and institutions in South Africa which practiced *apartheid*; (iv) to end any exchange of military, naval or air attachés with South Africa; (v) to prohibit visits of any military personnel or officials of the Department of Defence and related agencies of South Africa; (vi) to cease all co-operation with South Africa in nuclear and other modern technological research, particularly research with military applications; condemned the policy of "bantustans" imposed by the South African régime and called upon all Governments and organizations not to accord any form of recognition to any institution or authority created thereby.

\*\*Case No. 35: *The question of Tibet*

Case No. 36: *The question of Oman*

31. The question of Oman was considered by the General Assembly at its twenty-fifth and twenty-sixth sessions. In the course of the debate in the General Committee during the twenty-fifth session on the inclusion of this item on the agenda, the representative of the United Kingdom made an express reservation to the inclusion of the item in the agenda. The position of the United Kingdom was opposed by one representative in the General Committee. At the twenty-fifth<sup>8</sup> and twenty-sixth<sup>9</sup> 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.

32. In the discussions of the item itself during the General Assembly's twenty-fifth session the representative of the United Kingdom contended that the United Nations was not competent to discuss the item because Oman was a sovereign State.<sup>10</sup>

a. *Action taken at the twenty-fifth session: resolution 2702 (XXV)*

33. At its 1928th plenary meeting, on 14 December 1970, the General Assembly, on the recommendation of the Fourth Committee, adopted resolution 2702 (XXV) by 70 votes to 17, with 22 abstentions. By this resolution, the General Assembly reaffirmed the inalienable right of the people of Oman to self-determination and to the natural resources of their territory and urged the Government of the United Kingdom of Great Britain and Northern Ireland to implement fully General Assembly resolution 1514 (XV) and other relevant resolutions.

**\*\*Case No. 37:** *The question of Southern Rhodesia*

**\*\*Case No. 38:** *The status of the German-speaking element in the Province of Bolzano (Bozen)*

**\*\*Case No. 39:** *The situation in Angola*

**\*\*Case No. 40:** *The situation in Aden*

**\*\*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*

**\*\*Case No. 42:** *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty*

**\*\*Case No. 52:** *The Korean question*

**Case No. 54:** *The question of the Comorian island of Mayotte*

34. The question of the Comorian island of Mayotte was considered by the General Assembly at its thirty-first, thirty-second and thirty-third sessions. The item was included in the agenda of the thirty-first session pursuant to a letter dated 30 August 1976 by the representative of Madagascar<sup>11</sup> and in the agenda of the thirty-second session pursuant to a letter dated 16 August 1977 by the representative of Swaziland.<sup>12</sup> In the course of the debate in the General Committee during the Assembly's thirty-first<sup>13</sup> and thirty-second<sup>14</sup> sessions on the inclusion of this item on the agenda, the representative of France contended that the United Nations was not competent to discuss the item and opposed its inclusion on grounds related to Article 2(7) of the Charter. The position of France was opposed by other representatives in the General Committee. At the thirty-first<sup>15</sup> and thirty-second<sup>16</sup> sessions the Committee decided to recommend that the General Assembly should include the item in the agenda. At both sessions the General Assembly included the item on its agenda.<sup>17</sup>

35. The arguments advanced for<sup>18</sup> and against<sup>19</sup> the position of France 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, with particular reference to (i) Article 2(7) and the Charter provisions regarding Non-Self-Governing Territo-

ries (see paragraph 62 below); (ii) Article 2(7) and the Charter provisions on the self-determination of people (see paragraph 63 below).

a. *Action taken at the thirty-first session: resolution 31/4*

36. On 21 October 1976 the General Assembly adopted<sup>20</sup> resolution 31/4 by 102 votes to 1, with 28 abstentions. By this resolution, the General Assembly condemned and considered null and void the referenda of 8 February and 11 April 1976 organized in the Comorian island of Mayotte by the Government of France, and rejected: (i) any other form of referendum or consultation which might be organized on Comorian territory in Mayotte by France; (ii) any foreign legislation purporting to legalize any French colonial presence on Comorian territory in Mayotte, which constituted a violation of the national unity, territorial integrity and sovereignty of the independent Republic of Comoros; called upon the Government of France to withdraw immediately from the Comorian island of Mayotte and to enter into negotiations immediately with the Government of the Comoros.

b. *Action taken at the thirty-second session: resolution 32/7*

37. On 1 November 1977 the General Assembly adopted<sup>21</sup> resolution 32/7 by 112 votes to none, with 17 abstentions. By this resolution, the General Assembly called upon the Government of the Comoros and the Government of France to work out a just and equitable settlement for the problem of the Comorian island of Mayotte which respected the political unity and territorial integrity of the Comoros and mandated the Secretary-General to take, in close consultation with the Government of France, any initiative in favour of negotiations between the two Governments.

**Case No. 55:** *The colonial case of Puerto Rico*

38. At the twenty-sixth session of the General Assembly the General Committee<sup>22</sup> considered a request by the delegation of Cuba<sup>23</sup> for the inclusion of an item entitled "The colonial case of Puerto Rico". During the debates in the General Committee, the delegation of the United States opposed the inclusion of the item proposed by Cuba in the agenda for the twenty-sixth or any future session of the General Assembly as it constituted an act of interference in the internal affairs of the United States and Puerto Rico.<sup>24</sup> The delegate of Ireland stated that the General Assembly should be permitted freely to discuss any question related to the purposes and principles of the Charter. He did not consider that the inclusion of the item under consideration would constitute a violation of Article 2(7), of the Charter.<sup>25</sup> The Committee decided by 10 votes to 5, with 8 abstentions, to recommend to the General Assembly that the item should not be included in the agenda.

39. The arguments submitted on the question are given in the Analytical Summary of Practice. They related to the term "to intervene" in Article 2(7) when inclusion of an item in the agenda constituted interference in the internal affairs of a State in violation of Article 2(7) of the Charter (see paragraph 54 below).

**Case No. 56:** *The question of Palestine Refugees in the Near East*

40. The question of Palestine Refugees in the Near East was considered by the General Assembly at its twenty-fifth through thirty-third sessions. Resolutions were adopted at each session under the title: "United Nations Relief and Works Agency for Palestine Refugees in the Near East".<sup>26</sup> In the course of the debates in the Special Political Committee at



the twenty-fifth session,<sup>27</sup> the delegation of the United States, on the grounds of Article 2(7) of the Charter, voted against draft resolution A/SPC/L.198. During the discussions in the plenary meetings of the General Assembly<sup>28</sup> the delegation of the United States of America reiterated its reservations about draft resolution C.<sup>29</sup>

41. The arguments advanced for<sup>30</sup> and against<sup>31</sup> the position of the United States related to the following questions: (i) whether a matter governed by international agreements falls essentially within domestic jurisdiction (see paragraphs 55-56 below); and (ii) whether a matter dealt with by the Charter can fall essentially within domestic jurisdiction when that matter is related to the Charter provisions on the self-determination of peoples (paragraph 63).

a. *Action taken at the twenty-fifth session: resolution 2672 (XXV)*

42. On 8 December 1970 the General Assembly, on the recommendation of the Special Political Committee, adopted<sup>32</sup> resolution 2672 C (XXV) by 47 votes to 22, with 50 abstentions. By this resolution, the General Assembly recalled the principle of equal rights and self-determination of peoples enshrined in Articles 1 and 55 of the Charter which had more recently been reaffirmed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; it recognized that the people of Palestine were entitled to equal rights and self-determination, in accordance with the Charter of the United Nations; and declared that full respect for the inalienable rights of the people of Palestine was an indispensable element in the establishment of a just and lasting peace in the Middle East.

Case No. 57: *The question of Cambodia*

43. The question of Cambodia was considered by the General Assembly at its twenty-eighth and twenty-ninth sessions under the item entitled: "Restoration of the lawful rights of the Royal Government of National Union of Cambodia in the United Nations".

44. In the course of the debate in the General Committee<sup>33</sup> during the Assembly's twenty-eighth session, the representative of the Khmer Republic opposed the inclusion of the item in the agenda and invoked Article 2(7) of the Charter. At the twenty-eighth session the General Committee decided by 11 votes to 2, with 10 abstentions, to recommend to the General Assembly that the item should be included in the agenda.<sup>34</sup> At its 2191st plenary meeting, on 5 December 1973, the General Assembly decided to adjourn the debate on the item until the twenty-ninth session.

45. At its twenty-ninth session the General Assembly adopted resolution 3238 (XXIX) by which it recognized that the situation in Cambodia was of concern to all Member States. In the operative part of the resolution the Assembly requested the Secretary-General, after due consultation, to lend appropriate assistance to the two contending parties claiming lawful rights in Cambodia.

46. The arguments submitted on the question are given in the Analytical Summary of Practice. They relate to the following questions: (i) the term "to intervene" in Article 2(7); and (ii) whether inclusion of an item in the agenda constitutes interference in the internal affairs of a State in violation of Article 2(7) of the Charter (see paragraph 53 below).

**B. General Assembly and Economic and Social Council**

\*\*Case No. 12: *Draft International Covenants on Human Rights*

\*\*Case No. 13: *Recommendations concerning international respect for the self-determination of peoples*

Case No. 58: *The question of Greece*

47. By a letter dated 9 May 1973, the representative of Greece protested against the language used in the report of the Commission on Human Rights on its twenty-ninth session<sup>35</sup> on the grounds that it violated the spirit and the letter of Article 2(7) of the Charter.

48. During the debate on the report of the Commission on Human Rights in the Economic and Social Council,<sup>36</sup> the representative of Greece opposed, on grounds related to Article 2(7) of the Charter, inclusion of paragraph 262 of the report. The position of Greece was opposed by other representatives.

49. The arguments advanced for<sup>37</sup> and against<sup>38</sup> the position of Greece are given in the Analytical Summary of Practice. They relate to the question of Article 2(7) and the Charter provisions on human rights (see paragraphs 59-60 below).

**C. Security Council**

\*\*Case No. 14: *The Spanish question*

\*\*Case No. 15: *The Greek question (I)*

\*\*Case No. 16: *The Greek question (II)*

\*\*Case No. 17: *The Indonesian question*

\*\*Case No. 18: *The Czechoslovakian question*

\*\*Case No. 19: *The Greek question (III)*

\*\*Case No. 20: *The Anglo-Iranian Oil Company question*

\*\*Case No. 21: *The question of Morocco*

\*\*Case No. 28: *The question of Algeria*

\*\*Case No. 31: *The question of Hungary*

\*\*Case No. 32: *The question of Oman*

\*\*Case No. 43: *The situation in the Republic of the Congo*

\*\*Case No. 44: *The question of race conflict in South Africa (I)*

\*\*Case No. 45: *The question of race conflict in South Africa (II)*

\*\*Case No. 46: *The situation in Angola (I)*

\*\*Case No. 47: *The situation in Angola (II)*

\*\*Case No. 48: *The situation in Southern Rhodesia*

\*\*Case No. 49: *The situation in the Dominican Republic*

\*\*Case No. 53: *The situation in Northern Ireland*

Case No. 59: *The situation in Chile*

50. By two letters, dated 12 and 13 September 1973 respectively, to the President of the Security Council,<sup>39</sup> the Chargé d'affaires of the Permanent Mission of Cuba to the United Nations complained about certain incidents which had occurred in the territory of Chile due to the situation prevailing there after the military coup of 11 September.

51. During the debate on the item in the Security Council,<sup>40</sup> the representative of Chile stated that neither the Security

Council nor any other organ of the United Nations should take up matters falling within the domestic jurisdiction of the State of Chile and quoted Article 2(7) of the Charter. The position of Chile was opposed by other representatives.

52. The arguments<sup>41</sup> are given in the Analytical Summary of Practice. They relate to the question of Article 2(7) and the Charter provisions on the maintenance of international peace (see paragraph 65 below).

#### D. International Court of Justice

**\*\*Case No. 22:** *Interpretation of peace treaties with Bulgaria, Hungary and Romania*

**\*\*Case No. 23:** *The Anglo-Iranian Oil Company case*

**\*\*Case No. 29:** *The Nottebohm case*

**\*\*Case No. 33:** *The case of certain Norwegian loans*

**\*\*Case No. 50:** *The Interhandel case*

**\*\*Case No. 51:** *The case concerning right of passage over Indian territory*

## II. ANALYTICAL SUMMARY OF PRACTICE

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

#### 1. WHETHER INCLUSION OF AN ITEM IN THE AGENDA CONSTITUTES INTERFERENCE IN THE INTERNAL AFFAIRS OF A STATE IN VIOLATION OF ARTICLE 2, PARAGRAPH 7, OF THE CHARTER

53. During the debates on *Case No. 57*, one representative, referring to Article 2(7) of the Charter, said that neither another State nor the United Nations itself could impose a choice of government on a people. In that regard he stated that to accept a request to include in the agenda an item which related to the legitimacy of a Government would be tantamount to accepting the principle that member States were authorized to discuss a country's choice of government. That action, the representative explained, would amount to inadmissible interference in the internal affairs of a Member State and a flagrant violation of the spirit and letter of the Charter.<sup>42</sup>

54. During the debates on *Case No. 55* the representative of the United States stated that inclusion of the item of Puerto Rico in the agenda would have constituted an act of interference in the internal affairs of the United States and Puerto Rico.<sup>43</sup>

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

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

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

55. In the debates in the Special Political Committee on *Case No. 56* relating to the question of Palestine Refugees at the General Assembly's twenty-fifth session, the representative of the United States<sup>44</sup> expressed the view that the right of self-determination could not be claimed in contravention of the provisions of Article 2(7) of the Charter and that, while account must be taken of the legitimate rights and aspirations of the Palestinians, account must nevertheless be taken of Article 2(7) of the Charter.

56. At the 1921st plenary meeting of the General Assembly, on 8 December 1970, the representative of Jordan<sup>45</sup> stated that Israel was estopped from invoking Article 2(7) of the Charter. According to him, the history of the question in the United Nations showed that Israel recognized, as a precondition to its admission to the United Nations, the restoration of the rights of the people of Palestine. He recalled that, prior to the admission of Israel to the United Nations, the representative of Israel, when asked whether Israel would invoke

Article 2(7) of the Charter said: ". . . I do not think that Article 2, paragraph 7, of the Charter which relates to domestic jurisdiction, could possibly affect the Jerusalem problem, since the legal status of Jerusalem is different from that of the territory in which Israel is sovereign." The representative of Jordan also quoted resolution 273 (III) on the admission of Israel in which the General Assembly, in the preambular part, took note of the declarations and explanations made by the representative of Israel before the *Ad Hoc* Political Committee.

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

57. In the debates on *Case No. 34* the contention made by the representative of South Africa that the inclusion in the agenda of the General Assembly of an item on the policies of *apartheid* of the Government of South Africa would be in violation of Article 2(7) of the Charter was disputed on the grounds that South Africa's policies in this respect were repugnant to the spirit and letter of the Charter.<sup>46</sup>

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

58. In the debates in the Economic and Social Council on the report of the Commission on Human Rights, the representative of the Netherlands stated that neither Article 2(7) of the Charter nor Council resolutions could be interpreted as precluding Member States from referring to situations in which human rights were at stake. He also stated that United Nations practice followed that view.<sup>47</sup>

59. By a letter dated 9 May 1973<sup>48</sup> the representative of Greece protested that an official United Nations document included "abusive and unwarranted characterisations regarding the form of government of a Member, in violation of both the spirit and the letter of Article 2, paragraph 7 of the Charter."

60. During the discussions on the report of the Commission on Human Rights in the Economic and Social Council, the representative of Norway<sup>49</sup> pointed out that Norway, as a member of the Commission, had referred to well-documented evidence of continued violations of human rights and fundamental freedoms in Greece with the hope that Greece would rectify the situation. It had no more been a violation of Article 2(7) of the Charter than had been the condemnation of the practice of *apartheid* in South Africa.

61. During the debates on *Case No. 34* in the Security Council the representative of Barbados<sup>50</sup> stated that the international community had never felt that it was in violation of

the provisions of Article 2(7) of the Charter whenever the United Nations discussed the *apartheid* system of government in South Africa. He also pointed out that *apartheid* was a singular phenomenon that had brought singular distress and pain to all civilized men. During discussions of the same item in the Security Council the representative of Ghana<sup>51</sup> stated that a policy the application of which meant doing violence to the rights of all non-white peoples in the world could not possibly be a simple domestic affair.

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

62. During the discussion of *Case No. 54* in the General Committee of the General Assembly at its thirty-second session, the representative of France opposed the inclusion of the item of the Island of Mayotte in the agenda of the Assembly. He stated that, in accordance with the freely expressed wishes of its people, the Island of Mayotte was an integral part of the French Republic and any discussion by the General Assembly of the island's affairs would be inconsistent with Article 2(7) of the Charter. The reason was that the people of Mayotte had, in the course of several popular consultations, freely expressed their wish to remain within the French Republic and the French Government was constitutionally unable to force them to leave the French community if they wanted to remain within it.<sup>52</sup>

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

63. In the debates on *Case No. 54* on the consideration of the question of the Island of Mayotte at the General Assembly's thirty-second session, the representative of India stated<sup>53</sup> that the principle of self-determination and independence could not be applied indiscriminately to parts of the territory of a Member State. He also stated that it was for that reason that General Assembly resolution 1514 (XV), which contained the Declaration on decolonization, had stressed the concept of national unity and territorial integrity for colonies evolving towards independence. This view was opposed on the grounds of France's current actions and attitudes.<sup>54</sup>

64. In the debates in the Special Political Committee on *Case No. 56* relating to the question of Palestine Refugees in the Near East at the twenty-fifth session of the General Assembly, the representative of the United States, in explaining his vote against a resolution,<sup>55</sup> invoked Article 2(7) of the Charter. He stated<sup>56</sup> that there was an obvious difference between the "principle of equal rights and self-determination of peoples" when applied to a territory which was at present non-self-governing and the same principle when applied to a sovereign State that was recognized by the United Nations, since in the latter case self-determination was in accordance with the provisions of Article 2(7) of the Charter. He also pointed out that, in nearly every Member State, there was some region or some minority which could, by similar reasoning, claim the right to self-determination, in contravention of the provisions of Article 2(7) of the Charter.

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

65. In the debates in the Security Council in 1973 following a letter of complaint by Cuba to the President of the Security Council, the representative of Chile stated that discussion of the item was in violation of Article 2(7) of the Charter.<sup>57</sup> He stated that Article 34 of the Charter called upon the Council to investigate any dispute or any situation which, if continued, would be likely to endanger the maintenance of international peace and security. Two conditions had therefore to be fulfilled at the same time for the Council to be allowed to

carry out an investigation. An incident such as the one complained of by Cuba was a matter which was over and finished; it could not possibly continue and could not therefore threaten international peace and security.<sup>58</sup>

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

66. In the debates on *Case No. 54* on the question of the Island of Mayotte in the General Committee at the thirty-second session of the General Assembly, the representative of France stated that, in accordance with the freely expressed wishes of its people, the Island of Mayotte was an integral part of the French Republic and any discussion by the General Assembly of the island's affairs would be inconsistent with Article 2(7) of the Charter.<sup>59</sup> Conversely some representatives expressed the view that it was the rule of international law that a territory retained the frontiers that it had as a colony and that, as a result, it was inconceivable for any of the four islands constituting the Comoro archipelago to have a statute different from that of the others.<sup>60</sup>

67. In the debate on the substance of the *Case No. 36*, the contention that the United Nations was incompetent to deal with the matter because the Sultanate of Muscat and Oman was a sovereign state was as before<sup>61</sup> disputed on the grounds that the situation in Oman was enough in itself to illustrate all the features of a colonial situation.<sup>62</sup>

\*\*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**

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

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

NOTES

<sup>1</sup> G A (33), Suppl. No. 38, para. 57

<sup>2</sup> Pursuant to G A resolution 2506 (XXIV) the Secretary-General included in the provisional agenda of the twenty-fifth session an item entitled "the policies of *apartheid* of the Government of South Africa: report of the Special Committee on the Policies of *Apartheid* of the Government of the Republic of South Africa"; the item "*Policies of Apartheid* of the Government of South Africa" was thereafter included in the agenda of the twenty-sixth through thirty-third sessions pursuant to GA resolutions 2671 (XXV), 2764 (XXVI), 2923 (XXVII), 3151 (XXVIII), 3324 (XXIX), 3411 (XXX), 31/6, 32/105, respectively.

<sup>3</sup> G A (25), Plen., 1843rd mtg., para. 108; G A (26), Plen., 1939th mtg., para. 184; G A (29), Plen., 2236th mtg.

<sup>4</sup> G A (25), Plen., 1864th mtg., para. 123.

<sup>5</sup> G A (25), Plen., 1921st mtg., para. 70.

<sup>6</sup> G A (26), Plen., 1997th mtg., paras. 65-76.

<sup>7</sup> G A (29), Plen., 2320th mtg.

<sup>8</sup> G A (25), Gen. Com., 187th mtg., paras. 32-34.

<sup>9</sup> G A (26), Gen. Com., 191st mtg., paras. 28-29.

<sup>10</sup> G A (25), 4th Com., 1909th mtg., para. 19.

<sup>11</sup> A/31/241 (mimeographed).

<sup>12</sup> A/32/191 (mimeographed).

<sup>13</sup> A/BUR/31/SR.1, para. 73.

<sup>14</sup> A/BUR/32/SR.1, para. 48

- <sup>15</sup> G A (31), Gen. Com., 1st mtg., para. 89.  
<sup>16</sup> G A (32), Gen. Com., 1st mtg., para. 51.  
<sup>17</sup> G A (31) Plen., 4th mtg., para. 30; G A (32), Plen., 5th mtg., para. 30.
- <sup>18</sup> See notes 52, 53, 59.  
<sup>19</sup> See notes 54, 60.  
<sup>20</sup> G A (31), Plen., 39th mtg., para. 50.  
<sup>21</sup> G A (32), Plen., 55th mtg., para. 106.  
<sup>22</sup> G A (26), Gen. Com., 192nd mtg., paras. 1-22.  
<sup>23</sup> A/8441 and Add.1 (mimeographed).  
<sup>24</sup> G A (26), Gen. Com., 192nd mtg., paras. 8-10.  
<sup>25</sup> *Ibid.*, para. 22.  
<sup>26</sup> G A resolutions 2672 (XXV), A, B, C, D; 2792 (XXVI), A, B, C, D, E; 2963 (XXVII), A, B, C, D, E, F; 3089 (XXVIII) A, B, C, D, E; 3331 (XXIX), A, B, C, D; 3419 (XXX) A, B, C, D; 31/15 A, B, C, D, E; 32/90 A, B, C, D, E, F; 33/112 A, B, C, D, E, F.  
<sup>27</sup> G A (25), Spec. Pol. Com., 743rd mtg., paras. 38-41.  
<sup>28</sup> G A (25), Plen., 1921st mtg., paras. 87-91.  
<sup>29</sup> For the text, see G A (25), Annexes, a.i. 35, A/8204/Add.1, para. 9.  
<sup>30</sup> See note 44.  
<sup>31</sup> See note 45.  
<sup>32</sup> G A (25), Plen., 1921st mtg., para. 122.  
<sup>33</sup> G A (28), Gen. Com., 212th mtg., para. 67.  
<sup>34</sup> *Ibid.*, para. 95.  
<sup>35</sup> E S C (LIV), Suppl. No. 6, E/5265, paras. 261-262; E/CN.4/1127, Commission on Human Rights, Report on the 29th session.  
<sup>36</sup> E S C (LIV), 1858th mtg.
- <sup>37</sup> See note 48.  
<sup>38</sup> See notes 47 and 49.  
<sup>39</sup> S C (28), Suppl. for July-Sept. 1973, S/10993 and S/10995.  
<sup>40</sup> S C (28), 1741st mtg., 17 Sept. 1973 and 1742nd mtg., 18 Sept. 1973.  
<sup>41</sup> See notes 57 and 58.  
<sup>42</sup> G A (28), Gen. Com., 212th mtg., para. 67.  
<sup>43</sup> G A (26), Gen. Com., 192nd mtg., para. 8.  
<sup>44</sup> G A (25), Spec. Pol. Com., 743rd mtg., paras. 38-41. See also *ibid.*, Plen., 1921st mtg., paras. 85, 92.  
<sup>45</sup> *Ibid.*, Plen., 1921st mtg., paras. 96-103.  
<sup>46</sup> See, for instance, S C (29), 1801st mtg., 24 Oct. 1974.  
<sup>47</sup> E C S (LIV), 1858th mtg., para. 171.  
<sup>48</sup> E/5333 (mimeographed).  
<sup>49</sup> E C S (LIV), 1858th mtg., paras. 174-175.  
<sup>50</sup> S C (29), 1802nd mtg., para. 114.  
<sup>51</sup> *Ibid.*, 1801st mtg., pp. 18-20.  
<sup>52</sup> G A (32), Gen. Com., 1st mtg.  
<sup>53</sup> *Ibid.*, Plen., 54th mtg., para. 20.  
<sup>54</sup> *Ibid.*, Plen., 55th mtg., para. 8.  
<sup>55</sup> See note 29 above.  
<sup>56</sup> G A (25), Spec. Pol. Com., 743rd mtg., para. 41.  
<sup>57</sup> S C (28), 1741st mtg., para. 73.  
<sup>58</sup> *Ibid.*, para. 74.  
<sup>59</sup> G A (32), Gen. Com., 1st mtg., para. 1.  
<sup>60</sup> *Ibid.*, Plen., 55th mtg., para. 4. See also *ibid.*, paras. 99-101.  
<sup>61</sup> See: *Repertory, Supplement No. 4*, under Article 2(7), para. 113.  
<sup>62</sup> G A (25), 4th Com., 1909 mtg., para. 8.

**Chapter II**  
**MEMBERSHIP**

