

ARTICLE 2(4)

CONTENTS

	<i>Paragraphs</i>
Text of Article 2(4)	
Introductory note	1-11
I. General survey.	12-42
II. Analytical summary of practice.	43-97
A. The question of the scope and limits of the phrase “threat or use of force against the territorial integrity or political independence of any State”	43-96
1. In the Security Council.	44-91
(a) Decision of 15 January 1979 in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea	44-47
(i) Precis of proceedings	44-46
(ii) Precis of relevant constitutional discussion.	47
(b) Decisions of 14 June 1979 and 21 July 1981 in connection with the situation in the Middle East	48-53
(i) Precis of proceedings	48-52
(ii) Precis of relevant constitutional discussion.	53
(c) Decision of 7 January 1980 in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan	54-56
(i) Precis of proceedings	54-55
(ii) Precis of relevant constitutional discussion.	56
(d) Decision of 19 June 1981 in connection with the complaint by Iraq	57-59
(i) Precis of proceedings	57-58
(ii) Precis of relevant constitutional discussion.	59
(e) Decisions of 31 August 1981, 20 December 1983 and 6 January 1984 in connection with the complaint by Angola against South Africa	60-66
(i) Precis of proceedings	60-65
(ii) Precis of relevant constitutional discussion.	66
(f) Decisions of 15 December 1981 and 28 May 1982 in connection with the complaint by Seychelles	67-71
(i) Precis of proceedings	67-70
(ii) Precis of relevant constitutional discussion.	71
(g) Decisions of 17 December 1981 and 20 January 1982 in connection with the situation in the occupied Arab territories.	72-77
(i) Precis of proceedings	72-75
(ii) Precis of relevant constitutional discussion.	76-77
(h) Decision of 3 April 1982 in connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom	78-82
(i) Precis of proceedings	78-81
(ii) Precis of relevant constitutional discussion.	82

Paragraphs

(i) Decisions of 15 December 1982 and 29 June 1983 in connection with the complaint by Lesotho against South Africa	83-86
(i) Precis of proceedings	83-85
(ii) Precis of relevant constitutional discussion.	86
(j) Decision of 27 October 1983 in connection with the situation in Grenada.	87-91
(i) Precis of proceedings	87-88
(ii) Precis of relevant constitutional discussion.	89-91
2. In the General Assembly.	92-96
Decision of 15 November 1982 in connection with the item: Peaceful settlement of disputes between States.	92-96
(i) Precis of proceedings	92-95
(ii) Precis of relevant constitutional discussion.	96
**B. The question of the scope and limits of the phrase "in any other manner inconsistent with the Purposes of the United Nations"	
C. The question of the bearing of the injunction in Article 2(4) on the right of self-defence	97

ARTICLE 2(4)

TEXT OF ARTICLE 2(4)

The Organization and its Members, in pursuit of the Purposes stated in Article I, shall act in accordance with the following Principles:

...

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

INTRODUCTORY NOTE

1. As in the four previous *Supplements*, covering the periods from 1 September 1956 to 31 August 1959,¹ 1 September 1959 to 31 August 1966,² 1 September 1966 to 31 December 1969³ and 1 January 1970 to 31 December 1978,⁴ Article 2(4) requires treatment in a separate study since there were a number of decisions of the Security Council and the General Assembly bearing on its provisions and giving rise to extensive constitutional discussions.

2. The general survey gives an overview of the decisions of the Security Council and the General Assembly that explicitly or implicitly referred to Article 2(4) and accords further treatment to: (a) certain decisions of both organs which referred implicitly to the provisions of Article 2(4) but were not preceded by a constitutional discussion; (b) some general legal questions considered by the General Assembly; and (c) other decisions of the General Assembly which involved a constitutional discussion very similar to that which had previously taken place in the Security Council.

3. The analytical summary of practice contains a detailed account of several decisions of the Security Council and one of the General Assembly which have a direct bearing on the interpretation and application of Article 2(4) and were preceded by an extensive constitutional discussion.

4. While the constitutional discussion in the Security Council was related to specific situations under consideration, there were five instances in the General Assembly where the consideration of an item of a general nature gave rise to constitutional discussion concerning the interpretation of Article 2(4). One of these instances, relating to the Manila Declaration on the Peaceful Settlement of International Disputes adopted by the General Assembly at

its thirty-seventh session, is considered in the analytical summary of practice.⁵

5. In the other four instances, the provisions of Article 2(4) were considered in general terms in connection with the items entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations"⁶ during the thirty-fourth to thirty-ninth sessions of the General Assembly; "Drafting of an international convention against activities of mercenaries"⁷ during the same period; "Report of the International Law Commission", particularly the consideration of the draft on responsibility of States for internationally wrongful acts, during the thirty-fifth session; and "Draft Code of Offences against the Peace and Security of Mankind",⁸ during the thirty-sixth to thirty-ninth sessions. As the General Assembly did not make final recommendations on these matters during the period under review, the relevant proceedings are briefly reviewed in the general survey.

6. The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, which was adopted by the General Assembly during the thirty-sixth session, is also reviewed in the general survey. The discussions of the General Assembly and its First Committee that led to the adoption of the Declaration

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

²*Repertory, Supplement No. 3*, vol. I, pp. 132-173.

³*Repertory, Supplement No. 4*, vol. I, pp. 36-70.

⁴*Repertory, Supplement No. 5*, vol. I, pp. 28-48.

⁵For the detailed presentation and evaluation of this instance in the General Assembly, see paras. 92-96.

⁶For prior consideration of this item by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), paras. 32-36. For consideration during the present period under review, see paras. 27 and 28.

⁷This item, which was introduced by Nigeria during the thirty-fourth session, gave rise to deliberations in the Sixth Committee of the General Assembly and the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. See paras. 29 and 30.

⁸For prior consideration of the draft Code by the General Assembly, see *Repertory, Supplement No. 2*, under Article 2(4), para. 15. For consideration during the present period under review, see para. 32.

touched on the provisions of Article 2(4) but did not involve substantive constitutional discussion.⁹

7. The proceedings and constitutional discussions in the Security Council and the General Assembly relating to questions treated in the present study shed light on the meaning and scope of the terms of Article 2(4) as understood by the members of those two organs. In some instances, references to Article 2(4) were accompanied by references to other Articles of the Charter or to the provisions of other paragraphs of Articles 1 and 2, which set forth the purposes and principles of the United Nations. On occasion, the objections raised against the threat or use of force were answered by references to Article 2(7), which prohibits the United Nations from intervening in matters which are essentially within the domestic jurisdiction of any State. The threat or use of force was also frequently defended with references to Articles 51 and 53.

8. Except as described in paragraph 2 above, the general structure of this study follows that developed in the last four *Supplements* of the *Repertory*. The material in the analytical summary of practice is again organized under the broad subheadings: A. The question of the scope and limits of the phrase "threat or use of force against the territorial integrity or political independence of any State"; and C. The question of the bearing of the injunction in Article 2(4) on the right of self-defence. No material was found for inclusion under subheading B (The question of the scope and limits of the phrase "in any other manner inconsistent with the Purposes of the United Nations").

⁹For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), para. 31. For consideration during the present period under review, see paras. 33 and 34.

I. GENERAL SURVEY

12. During the period under review, the Security Council adopted two resolutions, concerning a complaint by Iraq¹⁰ and a complaint by Angola against South Africa,¹¹ which contained explicit references to Article 2(4) of the Charter. In addition, the Council adopted one resolution on the situation between Iran and Iraq¹² which explicitly invoked Article 2 as a whole and recalled that the establishment of peace and security in that region required strict adherence to the provisions of that Article. The General Assembly also adopted two resolutions, regarding the situation in Grenada¹³ and armed Israeli aggression against the Iraqi nuclear installations,¹⁴ which contained explicit references to Article 2(4).

¹⁰S C resolution 487 (1981) (preamb. para. 9).

¹¹S C resolution 545 (1983) (preamb. para. 5).

¹²S C resolution 514 (1982) (preamb. para. 3).

¹³G A resolution 38/7 (preamb. para. 6).

¹⁴G A resolution 38/9 (preamb. para. 7). The full title of the resolution reads as follows: "Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of

9. One of the questions which arose in the proceedings of the Security Council and the General Assembly was whether the use of force in certain specific circumstances, as claimed, could be considered legitimate within the provisions of Article 2(4). The categories of such claims listed below were formulated merely in order to enable the reader to obtain an overall view of the cases related to the interpretation and application of the provisions of Article 2(4). No constitutional significance should be attached to them.

(a) The use of force by one State:

(i) Against acts of violence perpetrated from the territory of another State or for the purpose of reprisals;

(ii) For the prevention of a threat to its peace and security and/or to the regional peace and security;

(iii) For the protection of its nationals in another State;

(iv) For the recovery of its national sovereignty.

(b) The use of force pursuant to the request of a State, on the basis of Article 51 of the Charter.

(c) The use of force by, or in support of, peoples under colonial, racist or foreign domination to achieve their right to self-determination, freedom and independence.

10. Another issue which arose in the discussions concerning the interpretation and application of Article 2(4) was whether the use of force to overthrow a Government that had committed gross and massive human rights violations contravened Article 2(4).

11. In the analytical summary of practice and, where applicable, in the general survey, some indication is offered as to the instances in which those specific topics were discussed in the Security Council or in the General Assembly and its committees.

13. Several resolutions of the Security Council,¹⁵ without referring explicitly to Article 2(4), cited the text of that provision in the preambular parts. Similarly, the General Assembly adopted a number of resolutions quoting the text¹⁶

nuclear energy, the non-proliferation of nuclear weapons and international peace and security".

¹⁵S C resolutions 457 (1979) (preamb. para. 6): Letter dated 25 November 1979 from the Secretary-General to the President of the Security Council; 461 (1979) (preamb. para. 9): Letter dated 22 December 1979 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council; 479 (1980) (preamb. para. 3): The situation between Iran and Iraq; 496 (1981) (preamb. para. 3): Complaint by Seychelles; 527 (1982) (preamb. para. 3): Complaint by Lesotho against South Africa; 552 (1984) (preamb. para. 4): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council.

¹⁶G A resolutions ES-6/2 (preamb. para. 4), 35/37 (preamb. para. 3), 36/34 (preamb. para. 3), 37/37 (preamb. para. 3), 38/29 (preamb. para. 3), 39/13 (preamb. para. 3): The situation in Afghanistan and its implications for international peace and security; 36/103, annex (preamb. para. 2): Declaration on the Inadmissibility of Intervention

of Article 2(4) or the basic principle¹⁷ enshrined in that provision without referring to it explicitly.

14. During the period under review, both the Security Council and the General Assembly adopted numerous resolutions which contained what might be considered implicit references to Article 2(4). In several resolutions, adopted by both organs, they condemned, deplored, or expressed concern about acts of aggression or armed intervention.¹⁸ A number of resolutions contained calls for a

and Interference in the Internal Affairs of States; 37/10, annex (preamb. para. 4); Manila Declaration on the Peaceful Settlement of International Disputes; 37/119 (preamb. para. 2), 38/191 (preamb. para. 3); Implementation of the collective security provisions of the Charter of the United Nations for the maintenance of international peace and security; 38/10 (preamb. para. 2); The situation in Central America: threats to international peace and security and peace initiatives; 39/159 (preamb. para. 1); Inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States.

¹⁷G A resolutions 34/13 (preamb. para. 6), 35/50 (preamb. para. 7), 36/31 (preamb. para. 7), 37/105 (preamb. para. 7), 38/133 (preamb. para. 8), 39/181 (preamb. para. 7); Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations; 34/22 (preamb. para. 9), 35/6 (preamb. para. 13), 36/5 (preamb. para. 14), 37/6 (preamb. para. 14), 38/3 (preamb. para. 14), 39/5 (preamb. para. 14); The situation in Kampuchea; 34/84 (preamb. para. 2), 35/154 (preamb. para. 2), 36/94 (preamb. para. 2), 37/80 (preamb. para. 2), 38/67 (preamb. para. 2), 39/57 (preamb. para. 2); Conclusion of an international convention on the strengthening of the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/85 (preamb. para. 5), 35/155 (preamb. para. 5), 36/95 (preamb. para. 5), 37/81 (preamb. para. 5), 38/68 (preamb. para. 5), 39/58 (preamb. para. 5); Conclusion of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/100 (preamb. para. 4, paras. 3, 4 and 5), 35/158 (preamb. para. 4, paras. 4 and 5), 36/102 (preamb. para. 3, para. 14), 37/118 (para. 15) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 37/9 (preamb. para. 7), 38/12 (preamb. para. 10), 39/6 (preamb. para. 3); Question of the Falkland Islands (Malvinas); 37/18 (preamb. para. 6); Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security; 38/189 (para. 1(c)), 39/153 (para. 1(c)); Strengthening of security and cooperation in the Mediterranean region; 39/11, annex (para. 3); Declaration on the Right of Peoples to Peace.

¹⁸S C resolutions 445 (1979) (preamb. para. 5, para. 1); Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 6, para. 1), 454 (1979) (preamb. para. 4, para. 1), 475 (1980) (preamb. para. 4, para. 1), 546 (1984) (preamb. para. 3, para. 1); Complaint by Angola against South Africa; 455 (1979) (preamb. para. 3, para. 1); Complaint by Zambia; 466 (1980) (preamb. para. 3); Complaint by Zambia against South Africa; 459 (1979) (preamb. para. 4), 467 (1980) (para. 2(b) and (c)), 517 (1982) (preamb. para. 1), 518 (1982) (preamb. para. 2), 520 (1982) (para. 2); The situation in the Middle East; 487 (1981) (para. 1); Complaint by Iraq; 496 (1981) (para. 2), 507 (1982) (preamb. para. 4, para. 2); Complaint by Seychelles; 502 (1982) (preamb. para. 2); Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 527 (1982) (preamb. paras. 4 and 6, para. 1), 535 (1983) (preamb. para. 3); Complaint by Lesotho against South Africa; 552 (1984) (preamb. para. 6); Letter dated 21 May 1984 from the

ceasefire,¹⁹ for a refrain from the threat or use of force,²⁰ for

representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council; G A resolutions 34/22 (preamb. para. 2), 35/6 (preamb. paras. 3 and 4), 36/5 (preamb. para. 6), 37/6 (preamb. para. 5), 38/3 (preamb. para. 5), 39/5 (preamb. para. 5); The situation in Kampuchea; 34/92 G (preamb. para. 18, para. 16), 35/227 A (preamb. para. 19, para. 21) and J (para. 9), ES-8/2 (para. 5), 36/121 A (preamb. para. 16, paras. 12 and 16), 37/223 A (preamb. para. 17, paras. 18 and 19), 38/36 A (preamb. para. 19, paras. 29, 30 and 31), 39/50 A (preamb. paras. 17 and 18, paras. 40, 42 and 43); Question of Namibia; 34/93 O (preamb. para. 5), 35/206 A (para. 3), 36/172 A (para. 2) and C (preamb. para. 3, para. 1), 37/69 A (para. 2), 38/39 A (para. 10) and C (preamb. paras. 2 and 6, paras. 1 and 5), 39/72 A (preamb. para. 5, para. 3) and G (para. 3); Policies of apartheid of the Government of South Africa; 34/103 (paras. 3, 4 and 5); Inadmissibility of the policy of hegemonism in international relations; 34/192 (para. 5); Question of Southern Rhodesia; ES-6/2 (para. 2), 35/37 (preamb. para. 5), 36/34 (preamb. para. 5), 37/37 (preamb. para. 5), 38/29 (preamb. para. 5), 39/13 (preamb. para. 5); The situation in Afghanistan and its implications for international peace and security; 35/33 (preamb. para. 5, para. 3), 36/8 (preamb. para. 6, para. 5), 37/40 (para. 5), 38/14, annex (para. 9) concerning racism and racial discrimination; 35/207 (para. 7), 36/226 A (paras. 7 and 9), 37/123 F (para. 7), 38/180 D (para. 8), 39/146 A (para. 8); The situation in the Middle East; 36/9 (preamb. para. 6, paras. 7, 8 and 19), 37/43 (preamb. para. 6, paras. 7, 10 and 22), 38/17 (preamb. para. 15, paras. 9, 11, 13, 16 and 30), 39/17 (preamb. para. 16, paras. 10 and 16); Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 36/27 (preamb. para. 2, para. 1), 37/18 (para. 2); Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security; 36/86 A (preamb. para. 10), 37/74 B (preamb. para. 8), 38/181 B (preamb. para. 8), 39/61 B (preamb. para. 8); Implementation of the Declaration on the Denuclearization of South Africa; ES-7/5 (preamb. para. 3), ES-7/6 (preamb. para. 6), ES-7/7 (preamb. para. 2); Question of Palestine; 37/101 (preamb. para. 2, para. 1); Invasion of Lesotho by South Africa; 38/7 (preamb. para. 7, para. 1); The situation in Grenada; 38/10 (preamb. paras. 5, 7, 8 and 9, para. 3); The situation in Central America: threats to international peace and security and peace initiatives; 38/181 B (preamb. para. 8), 39/61 B (preamb. para. 8); Implementation of the Declaration on the Denuclearization of Africa; 39/2 (para. 4); Situation in South Africa.

¹⁹S C resolutions 498 (1981) (para. 4), 516 (1982) (para. 1), 517 (1982) (para. 2), 542 (1983) (para. 3); The situation in the Middle East; 505 (1982) (para. 4); Question concerning the situation in the Falkland Islands (Islas Malvinas); 514 (1982) (para. 1), 522 (1982) (para. 1); The situation between Iran and Iraq; G A resolutions 36/46 (para. 5), 37/28 (para. 4), 38/40 (para. 1), 39/40 (para. 3); Question of Western Sahara; 37/3 (para. 2); Consequences of the prolongation of the armed conflict between Iran and Iraq.

²⁰S C resolutions 530 (1983) (preamb. para. 4); Letter dated 5 May 1983 from the representative of Nicaragua on the Security Council addressed to the President of the Security Council; 542 (1983) (para. 4); The situation in the Middle East; G A resolutions 34/38 (para. 4), 35/20 (para. 4); Question of Belize; 34/88 (II, para. b); Declaration on International Cooperation for Disarmament; 36/25 (para. 7); Report of the International Atomic Energy Agency; 36/102 (para. 3(a)), 37/118 (para. 2(a)), 38/190 (para. 6(a)), 39/155 (para. 2(a)) concerning the implementation of the Declaration on the Strengthening of International Security and its review.

the withdrawal of troops from foreign territory²¹ or for the cessation of hostilities or armed attacks.²² In addition, some resolutions²³ contained a paraphrase of the basic provision in Article 2(4), that is, the prohibition of the threat or use of force.²⁴ The Security Council²⁵ and the General Assembly²⁶

²¹S C resolutions 454 (1979) (para. 2), 475 (1980) (para. 3), 545 (1983) (para. 3), 546 (1984) (para. 3): Complaint by Angola against South Africa; 466 (1980) (para. 2): Complaint by Zambia against South Africa; 502 (1982) (para. 2): Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 509 (1982) (para. 1), 517 (1982) (paras. 2 and 4), 520 (1982) (para. 3): The situation in the Middle East; 514 (1982) (para. 2), 522 (1982) (para. 2): The situation between Iran and Iraq; G A resolutions 34/22 (para. 7), 35/6 (para. 3(a)), 36/5 (para. 2), 37/6 (para. 2), 38/3 (para. 2), 39/5 (para. 2): The situation in Kampuchea; 34/30 (para. 5), 37/253 (para. 8): Question of Cyprus; 34/103 (para. 7): Inadmissibility of the policy of hegemonism in international relations; 34/192 (para. 7): Question of Southern Rhodesia; ES-6/2 (para. 4), 35/37 (para. 3), 36/34 (para. 3), 37/37 (para. 3), 38/29 (para. 3): The situation in Afghanistan and its implications for international peace and security; 36/172 C (para. 3), 37/69 A (para. 7), 38/39 C (para. 2), 39/72 A (para. 7) and G (para. 4(e)): Policies of apartheid of the Government of South Africa; 37/3 (para. 2): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/7 (para. 4): The situation in Grenada; 38/181 B (preamb. para. 9), 39/61 B (preamb. para. 9): Implementation of the Declaration on the Denuclearization of Africa.

²²S C resolutions 450 (1979) (para. 2), 490 (1981) (preamb. para. 1, para. 1), 508 (1982) (para. 1), 509 (1982) (para. 2), 516 (1982) (para. 1), 518 (1982) (para. 1): The situation in the Middle East; 447 (1979) (para. 3), 454 (1979) (para. 2), 546 (1984) (para. 3): Complaint by Angola against South Africa; 502 (1982) (para. 1): Letter dated 1 April 1982 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council; 505 (1982) (para. 3): Question concerning the situation in the Falkland Islands (Islas Malvinas); 540 (1983) (paras. 2 and 3): The situation between Iran and Iraq; 552 (1984) (para. 5): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council; G A resolution 34/22 (para. 6): The situation in Kampuchea; 36/27 (para. 2): Armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security.

²³S C resolutions 454 (1979) (para. 4): Complaint by Angola against South Africa; 455 (1979) (para. 4): Complaint by Zambia; 473 (1980) (para. 9): The question of South Africa; 487 (1981) (para. 2): Complaint by Iraq; 512 (1982) (para. 1): The situation in the Middle East; 527 (1982) (para. 7): Complaint by Lesotho against South Africa; G A resolutions 34/22 (para. 7): The situation in Kampuchea; 34/103: Inadmissibility of the policy of hegemonism in international relations; 34/145 (para. 7), 38/130 (para. 4) concerning measures to prevent international terrorism; 36/102 (para. 3(a)), 37/118 (paras. 2(a) and 5), 38/190 (paras. 6(a) and 7), 39/155 (paras. 2(a) and 4) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 38/10 (para. 4): The situation in Central America: threats to international peace and security and peace initiatives; 39/159 (para. 2): Inadmissibility of the policy of State terrorism and any actions by States aimed at undermining the socio-political system in other sovereign States.

²⁴The paraphrases of the principle included formulations such as

also condemned acts of violence against civilian populations and deplored the loss of life resulting from such acts.

15. In a number of other cases that could be considered to have a bearing on the provisions of Article 2(4), the General Assembly condemned acts of violence against diplomatic and consular missions and urged States to ensure their protection,²⁷ called upon States to suspend any type of military assistance to Governments accused of human rights violations²⁸ and declared that the continued occupation of a territory constituted aggression under the provisions of Article 39 of the Charter and General Assembly resolution 3314 (XXIX) on the Definition of Aggression.²⁹

16. Throughout the period under review, the Security Council³⁰

to refrain from "military, political, economic or other forms of coercion" or to desist from "terrorist attacks".

²⁵S C resolutions 447 (1979) (preamb. para. 8), 454 (1979) (preamb. para. 6), 475 (1980) (preamb. para. 6), 545 (1983) (preamb. para. 3), 546 (1984) (preamb. para. 4): Complaint by Angola against South Africa; 455 (1979) (preamb. para. 5): Complaint by Zambia; 466 (1980) (preamb. para. 5): Complaint by Zambia against South Africa; 450 (1979) (para. 1), 513 (1982) (para. 1), 520 (1982) (para. 5), 521 (1982) (preamb. para. 1, paras. 1 and 2), 542 (1983) (preamb. para. 3, para. 1): The situation in the Middle East; 507 (1982) (preamb. para. 3): Complaint by Seychelles; 514 (1982) (preamb. para. 2), 522 (1982) (preamb. para. 2), 540 (1983) (preamb. para. 5): The situation between Iran and Iraq; 527 (1982) (preamb. para. 7): Complaint by Lesotho against South Africa.

²⁶G A resolutions 34/44 (para. 14), 35/35 A (para. 12), 36/9 (para. 18), 37/43 (paras. 20 and 21), 38/17 (para. 30), 39/17 (para. 28): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 35/207 (para. 7), 36/226 A (para. 7), 37/123 D (para. 1): The situation in the Middle East; ES-7/8 (preamb. para. 2), ES-7/9 (preamb. para. 4, para. 1): Question of Palestine; 37/101 (preamb. para. 3): Invasion of Lesotho by South Africa; 38/7 (para. 2): The situation in Grenada; 38/10 (para. 3(b)): The situation in Central America: threats to international peace and security and peace initiatives.

²⁷G A resolutions 35/168 (paras. 2 and 4), 36/33 (paras. 2 and 3), 37/108 (paras. 2 and 3), 38/136 (paras. 2 and 4), 39/83 (paras. 2 and 4): Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives; 34/148 (paras. 2 and 3), 35/165 (para. 2), 36/115 (para. 2), 37/113 (paras. 2 and 3), 38/140 (paras. 2 and 3), 39/87 (paras. 2 and 3): Report of the Committee on Relations with the Host Country.

²⁸G A resolutions 35/192 (para. 5), 36/155 (para. 5), 37/185 (para. 8), 38/101 (para. 7), 39/119 (para. 6): Situation of human rights and fundamental freedoms in El Salvador; 37/184 (para. 5), 38/100 (para. 8), 39/120 (para. 11): Situation of human rights and fundamental freedoms in Guatemala.

²⁹G A resolutions ES-9/1 (para. 1): The situation in the occupied Arab territories; 37/123 A (para. 2), 38/180 A (para. 2), 39/146 B (para. 2): The situation in the Middle East.

³⁰S C resolutions 444 (1979) (preamb. para. 8), 450 (1979) (preamb. para. 5), 459 (1979) (preamb. para. 7), 467 (1980) (para. 2(a)), 474 (1980) (preamb. para. 5), 483 (1980) (preamb. para. 5), 488 (1981) (para. 1), 490 (1981) (para. 2), 498 (1981) (para. 2), 508 (1982) (preamb. para. 4), 509 (1982) (preamb. para. 3), 520 (1982) (para. 4), 536 (1983) (preamb. para. 4), 538 (1983) (preamb. para. 4), 542 (1983) (para. 2), 549 (1984) (para. 2), 555 (1984) (para. 2):

and the General Assembly³¹ adopted a large number of resolutions which contained implicit references to Article

The situation in the Middle East; 445 (1979) (para. 1): Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 6, paras. 1 and 3), 454 (1979) (preamb. para. 4, para. 3), 475 (1980) (preamb. para. 4, paras. 1 and 3), 545 (1983) (paras. 1, 3 and 5), 546 (1984) (preamb. para. 3, paras. 1 and 3): Complaint by Angola against South Africa; 455 (1979) (preamb. para. 3, para. 1): Complaint by Zambia; 466 (1980) (preamb. para. 3, paras. 1 and 2): Complaint by Zambia against South Africa; 496 (1981) (para. 1), 507 (1982) (preamb. para. 2, para. 5): Complaint by Seychelles; 514 (1982) (para. 4), 540 (1983) (para. 3): The situation between Iran and Iraq; 527 (1982) (preamb. para. 4, para. 1), 535 (1983) (preamb. para. 3): Complaint by Lesotho against South Africa; 541 (1983) (paras. 1 and 6), 550 (1984) (preamb. para. 6, paras. 2 and 4): The situation in Cyprus; 552 (1984) (para. 3): Letter dated 21 May 1984 from the representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates addressed to the President of the Security Council.

³¹G A resolutions 34/22 (para. 9), 35/6 (preamb. paras. 4 and 13, para. 3f), 36/5 (preamb. para. 14, para. 2), 37/6 (preamb. para. 14, para. 2), 38/14 (preamb. para. 14, para. 2), 39/5 (preamb. para. 14, para. 2): The situation in Kampuchea; 34/30 (paras. 1 and 3), 37/253 (paras. 1, 2 and 14): Question of Cyprus; 34/44 (preamb. para. 12), 35/35 A (preamb. para. 12), 36/9 (preamb. para. 15), 37/43 (preamb. para. 16), 38/17 (preamb. para. 18), 39/17 (preamb. para. 20): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 34/69 (preamb. para. 4, para. 1), 35/43 (preamb. para. 5, para. 1), 36/105 (preamb. para. 5, paras. 1 and 2), 37/65 (preamb. para. 5, paras. 1 and 2), 38/13 (preamb. para. 5, paras. 1 and 2), 39/48 (preamb. para. 5, paras. 1 and 2): Question of the Comorian island of Mayotte; 34/85 (preamb. para. 7), 35/155 (preamb. para. 7), 36/95 (preamb. para. 7), 37/81 (preamb. para. 7), 38/68 (preamb. para. 7), 39/58 (preamb. para. 7): Conclusion of an international convention to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; 34/91 (paras. 1 and 4): Question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India; 34/100 (paras. 3, 4 and 12), 35/158 (paras. 2 and 11), 36/102 (paras. 3(a) and 14), 37/118 (para. 15), 38/190 (preamb. para. 6(a) concerning the implementation of the Declaration on the Strengthening of International Security and its review; 34/103 (preamb. paras. 1 and 2, para. 6): Inadmissibility of the policy of hegemonism in international relations; 34/146, annex (article 14): International Convention against the Taking of Hostages; ES-6/2 (paras. 1 and 3), 35/37 (para. 1), 36/34 (para. 1), 37/37 (para. 1), 38/29 (para. 1), 39/13 (para. 1): The situation in Afghanistan and its implications for international peace and security; 35/48 (preamb. paras. 1 and 4), 36/76 (preamb. paras. 1 and 5), 37/109 (preamb. paras. 1 and 5), 38/137 (preamb. paras. 1 and 5), 39/84 (preamb. paras. 1 and 5) concerning the drafting of an international convention against the recruitment, use, financing and training of mercenaries and the report of the Ad Hoc Committee on the subject; 35/207 (para. 8), 36/226 A (para. 10), 37/123 E (para. 1): The situation in the Middle East; ES-7/5 (para. 2), ES-7/9 (para. 4): Question of Palestine; 36/172 C (para. 3), 37/69 A (para. 7), 38/39 C (para. 2), 39/72 A (para. 7): Policies of apartheid of the Government of South Africa; 37/3 (preamb. para. 3): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/7 (paras. 1 and 3): The situation in Grenada; 38/10 (paras. 2 and 3): The situation in Central America: threats to international peace and security and peace initiatives; 38/83 I (preamb. para. 7), 39/99 I (preamb. para. 8): United Nations Relief and Works Agency for Palestine Refugees in the Near East; 38/181 B (preamb. para. 9), 39/61 B (preamb. para. 9): Implementation of the Declaration on the Denuclearization

2(4) in that they affirmed the principle of territorial integrity and political independence of States or deplored their violation and asked that they be fully respected. The Council³² and the Assembly,³³ also by reference to Article 2(4), reaffirmed the inadmissibility of territorial acquisition through the use of force.

17. Both organs affirmed in a number of resolutions³⁴ the legitimacy of the struggle of peoples under colonial, racist or

of Africa; 38/189 (para. 1(b)), 39/153 (para. 1(b)): Strengthening of security and cooperation in the Mediterranean region.

³²S C resolutions 476 (1980) (preamb. para. 2), 478 (1980) (preamb. para. 2), 497 (1981) (preamb. para. 2): The situation in the Middle East.

³³G A resolutions 34/30 (preamb. para. 3), 37/253 (preamb. para. 4): Question of Cyprus; 34/70 (preamb. para. 6), 35/207 (preamb. para. 4), 36/226 A (preamb. para. 6), B (preamb. para. 2), 37/123 A (preamb. para. 6) and F (preamb. para. 8), 38/180 A (preamb. para. 6) and D (preamb. para. 8), 39/146 A (preamb. para. 8) and B (preamb. para. 6): The situation in the Middle East; 34/90 A (para. 5(a) and (d)), 35/122 C (para. 5(a) and (d)) and E (preamb. para. 4), 36/147 C (preamb. para. 7(a) and (d)) and E (preamb. para. 5), 37/88 C (para. 7(a) and (e)) and E (preamb. para. 5), 38/79 D (para. 7(a) and (e)) and F (preamb. para. 5), 39/95 D (para. 7(a) and (f)) and F (preamb. para. 6): Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories; ES-7/2 (para. 6), 35/169 A (para. 8), annex (I, para. 62) and E (preamb. para. 3), 36/120 D (preamb. para. 5) and E (preamb. para. 3), ES-7/4 (para. 2), ES-7/5 (para. 1), ES-7/6 (para. 1), ES-7/9 (para. 5), 37/86 D (preamb. para. 2) and E (para. 3), 38/58 C (para. 3(c)): Question of Palestine; ES-9/1 (preamb. para. 8): The situation in the occupied Arab territories; 37/3 (preamb. para. 3): Consequences of the prolongation of the armed conflict between Iran and Iraq; 38/189 (para. 1(b)), 39/153 (para. 1(b)): Strengthening of security and cooperation in the Mediterranean region.

³⁴S C resolutions 445 (1979) (preamb. para. 8), 448 (1979) (preamb. para. 7): Question concerning the situation in Southern Rhodesia; 447 (1979) (preamb. para. 9): Complaint by Angola against South Africa; 473 (1980) (preamb. para. 7, para. 4), 554 (1984) (preamb. para. 6), 556 (1984) (preamb. para. 7): The question of South Africa; G A resolutions 34/24 (para. 3), 35/33 (para. 4), 36/8 (para. 3), 37/40 (para. 3), 38/14, annex (A, para. 3), 39/16 (para. 2) concerning racism and racial discrimination; 34/37 (para. 1), 35/19 (para. 1): Question of Western Sahara; 34/44 (para. 2), 35/35 A (para. 2), 36/9 (para. 2), 37/43 (para. 2), 38/17 (para. 2), 39/17 (para. 2): Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights; 34/88 (IV, para. 2): Declaration on International Cooperation for Disarmament; 34/92 G (preamb. para. 14, paras. 4 and 12), 35/227 A (preamb. para. 14, paras. 3 and 5), ES-8/2 (paras. 3 and 6), 36/121 A (preamb. para. 12, paras. 3 and 7), 37/233 A (preamb. para. 10, paras. 3 and 7), 38/36 A (preamb. para. 12, paras. 4 and 10), 39/50 A (preamb. para. 12, paras. 5 and 10): Question of Namibia; 34/93 A (para. 3), I (preamb. para. 2) and O (paras. 1 and 2), 35/206 A (para. 1), 36/172 A (para. 13) and J (preamb. para. 7), 37/69 A (para. 16), 38/39 A (para. 4), 39/72 A (preamb. paras. 9, 19 and 20) and G (para. 10): Policies of apartheid of the Government of South Africa; 34/94 (para. 4), 35/119 (para. 4), 36/68 (para. 4), 37/35 (para. 4), 38/54 (para. 4), 39/91 (para. 4) concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and 35/118 (para. 4) concerning its Plan of Action; 34/100 (para. 7), 35/158 (para. 8), 36/102 (para. 10), 37/118 (para. 11), 38/190 (para. 10), 39/155 (para. 12) concerning the implementation of the Declaration on the Strengthening of

foreign domination to achieve their right to self-determination, freedom and independence. In one instance, the General Assembly adopted resolutions³⁵ calling, among other things, for increased and sustained support as well as military assistance to enable a liberation movement to intensify its struggle. Both organs also supported the right of certain States to defend their territorial integrity against aggression and called for assistance in that regard.³⁶

18. During the period under review, the Security Council also considered several draft resolutions which contained explicit³⁷ or implicit³⁸ references to Article 2(4) but failed of adoption.

19. Most of the decisions of the Security Council and the General Assembly which contain explicit or implicit

International Security and its review; 34/145 (preamb. para. 5), 36/109 (preamb. para. 6), 38/130 (preamb. para. 6) concerning measures to prevent international terrorism; 34/192 (para. 1): Question of Southern Rhodesia; 38/11 (preamb. para. 8): Proposed new racial constitution of South Africa. In several of the resolutions mentioned above, the General Assembly also expressed its support for the struggle of such peoples by "all means", including armed struggle.

³⁵G A resolutions 34/92 G (para. 13), 35/227 A (para. 6) and J (para. 7), ES-8/2 (para. 6), 36/121 A (para. 9), 37/233 A (para. 16), 38/36 A (para. 22), 39/50 (para. 29): Question of Namibia.

³⁶S C resolutions 445 (1979) (para. 3): Question concerning the situation in Southern Rhodesia; 447 (1979) (para. 5), 454 (1979) (para. 5), 475 (1980) (para. 5), 546 (1984) (paras. 5 and 6): Complaint by Angola against South Africa; 507 (1982) (para. 3): Complaint by Seychelles; 38/39 C (paras. 3 and 7): Policies of apartheid of the Government of South Africa; G A resolutions ES-8/2 (para. 7), 36/121 A (para. 28), 37/233 (para. 20), 38/36 A (para. 35), 39/50 A (para. 24): Question of Namibia.

³⁷S C (37), Suppl. for April-June 1982, S/14941, in connection with the letter dated 19 March 1982 from the representative of Nicaragua; S C (38), Suppl. for Oct.-Dec. 1983, S/16077/Rev.1, in connection with the situation in Grenada.

³⁸S C (34), Suppl. for Jan.-March 1979, S/13027, in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea; S C (34), Suppl. for Jan.-March 1979, S/13162, in connection with the situation in South-East Asia and its implications for international peace and security; S C (35), Suppl. for Jan.-March 1980, S/13729, in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan; S C (35), Suppl. for Jan.-March 1980, S/13735, in connection with the letter dated 25 November 1979 from the Secretary-General; S C (35), Suppl. for April-June 1980, S/13911, in connection with the question of the exercise by the Palestinian people of its inalienable rights; S C (36), Suppl. for April-June 1981, S/14459, S/14460/Rev.1 and S/14462, in connection with the situation in Namibia; S C (36), Suppl. for July-Sept. 1981, S/14664/Rev.2, in connection with the complaint by Angola against South Africa; S C (37), Suppl. for Jan.-March 1982, S/14832/Rev.1, in connection with the situation in the Middle East; S C (37), Suppl. for April-June 1982, S/15156/Rev.2, in connection with the question concerning the situation in the region of the Falkland Islands (Islas Malvinas); S C (38), Suppl. for July-Sept. 1983, S/15185 and S/15255/Rev.2, S C (39), Suppl. for Jan.-March 1984, S/16351/Rev.2, and S C (39), Suppl. for July-Sept. 1984, S/16732, in connection with the situation in the Middle East including the occupied Arab territories; S C (38), Suppl. for July-Sept. 1983, S/15966/Rev.1, in connection with the Korean airliner incident; S C (39), Suppl. for April-June 1984, S/16463, in connection with the letter dated 3 February 1984 from the representative of Nicaragua.

references to Article 2(4), as listed above, did not give rise to a constitutional discussion regarding its interpretation and application. The decisions which involved relevant and extensive constitutional discussions have been included in the analytical summary of practice.

20. A number of other resolutions or draft resolutions also merit special attention. During the period under review, the Security Council considered three questions³⁹ of a political nature that have a bearing on Article 2(4). Similarly, the General Assembly considered two questions⁴⁰ that brought out significant aspects of the principle of non-use of force.

21. At the 2178th meeting of the Security Council, during the consideration of the detention of United States diplomatic personnel in Tehran under the agenda item entitled "Letter dated 25 November 1979 from the Secretary-General addressed to the President of the Council", the Council unanimously adopted resolution 457 (1979)⁴¹ in which, *inter alia*, it cited the basic principle of Article 2(4) in full; reaffirmed the solemn obligation of all States parties to both the Vienna Convention on Diplomatic Relations of 1961 and the Vienna Convention on Consular Relations of 1963 to respect the inviolability of diplomatic personnel and premises of their missions; urgently called upon the Government of the Islamic Republic of Iran to release immediately the personnel of the Embassy of the United States of America being held at Tehran, to provide them with protection and to allow them to leave the country; and called upon the Governments of the Islamic Republic of Iran and the United States of America to resolve the remaining issues between them peacefully and to their mutual satisfaction in accordance with the purposes and principles of the Charter. During the Council's deliberations,⁴² a number of Charter principles were invoked, particularly the principle of the peaceful settlement of disputes and the prohibition of the threat or use of force under Article 2(4).

22. At the 2347th meeting of the Security Council, a draft resolution⁴³ submitted on the situation in Central America under the agenda item entitled "Letter dated 19 March 1982 from the Permanent Representative of Nicaragua to the United Nations addressed to the Secretary-General" failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Council would have, *inter alia*, taken into account Article 2(4) of the Charter and other relevant provisions concerning the peaceful settlement of disputes; reminded all Member States of their obligations to respect the principles of the Charter, in particular those relating to the non-use or threat of force and the territorial integrity and political independence of States; and appealed to all Member States to refrain from the direct, indirect, overt or covert use of force against any country of Central America and the Caribbean. During the Council's deliberations⁴⁴ on the

³⁹See paras. 21-23 below.

⁴⁰See paras. 24 and 25 below.

⁴¹Preamb. paras. 6 and 7, paras. 1 and 2.

⁴²S C (34), 2172nd and 2175th-2178th mtgs.

⁴³S C (37), Suppl. for April-June 1982, S/14941.

⁴⁴S C (37), 2335th-2337th, 2339th, 2341st-2343rd and 2347th mtgs.

subject several implicit references were made to Article 2(4) of the Charter, along with the other Charter principles of non-interference in the internal affairs of States and the peaceful settlement of disputes. It was charged, on the one hand, that Nicaragua was under the threat of an imminent military intervention by the United States, which, in addition to providing military support to the Salvadoran army, had for long conducted covert operations and other more open acts of hostility against Nicaragua, including the use of Honduran territory to train and dispatch forces against the Sandinista Government. On the other hand, it was asserted that the repressive regime in Nicaragua was attempting to export its violent revolution to other countries in Central America, especially El Salvador, and building up a massive military arsenal that was a major source of destabilization for the region.

23. At its 2383rd, 2399th and 2493rd meetings, the Security Council considered the situation between Iran and Iraq and adopted resolutions 514 (1982),⁴⁵ 522 (1982)⁴⁶ and 540 (1983),⁴⁷ respectively, in which the Council, inter alia, called for a ceasefire, an immediate end to all military operations between the parties and the withdrawal of forces to internationally recognized boundaries. During the Council's deliberations,⁴⁸ concern was expressed about the prolongation of the armed hostilities between Iran and Iraq despite numerous international initiatives and intensive efforts aimed at ending the fighting. The importance of settling the issues underlying the conflict on the basis of the principles of the Charter, in particular the principle of peaceful settlement of disputes and the prohibition of the use of force under Article 2(4), was underscored.

24. During its thirty-seventh session, the General Assembly considered the agenda item entitled "Consequences of the prolongation of the armed conflict between Iran and Iraq" and adopted resolution 37/3⁴⁹ in which, inter alia, it reaffirmed the principles that no State should acquire or occupy territories by force, that whatever territories had been so acquired should be returned, that no act of aggression should be committed against any State and that the territorial integrity and the sovereignty of all States should be respected.⁵⁰

25. The General Assembly considered the item entitled "The situation in Central America: threats to international peace and security and peace initiatives" during its thirty-eighth session and adopted resolution 38/10⁵¹ in which, inter alia, it cited the text of Article 2(4) in part and condemned the acts of aggression against the sovereignty, independence and territorial integrity of the States of the region. Especially serious in this context were the attacks launched from outside Nicaragua against the country's strategic installations, the continued loss of human life in El Salvador and Honduras and the resultant refugee flows. In addition,

⁴⁵Paras. 1 and 2.

⁴⁶Paras. 1 and 2.

⁴⁷Preamb. para. 2.

⁴⁸S C (37), 2383rd and 2399th mtgs.; S C (38), 2493rd mtg.

⁴⁹Preamb. para. 3; see also discussion in para. 23 above.

⁵⁰For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (37), Annexes, a.i. 134.

⁵¹Preamb. para. 2, paras. 3 (a) to (c) and 4.

the General Assembly urged the States of the region and other States to desist or refrain from initiating military operations intended to exert political pressure.⁵² The deliberations⁵³ concerning the item continued to focus on the claim that the United States was conducting an "undeclared war" on Nicaragua and the counterclaim that Nicaragua was repressing its own people and threatening the stability of the region. Regarding the assertion by some countries that there was an exemption from the Charter prohibition on the use of force for wars of national liberation, it was maintained that "either there [were] no exemptions from the prohibition against the use of force, or one exemption pave[d] the way for another". It was argued that, if one side in a struggle violated international law, as in the use of violence on behalf of national liberation movements, then the victim might use force to compel the violator to comply with the provisions of international law.⁵⁴

26. During the period under review, the General Assembly considered five legal questions of a general nature that have a bearing on the interpretation and application of Article 2(4) but have not been included in the analytical summary of practice either because their consideration was not completed by the end of the thirty-ninth session or because the deliberations concerning the item did not lead to a substantive constitutional debate. These questions are discussed briefly in the following paragraphs.⁵⁵

27. At the thirty-fourth session and in subsequent years, the General Assembly continued its consideration of a draft world treaty on the non-use of force in international relations under the agenda item entitled "Report of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations".⁵⁶ By its resolutions⁵⁷ adopted in connection with the item, the General Assembly, inter alia, reaffirmed the need for universal and effective application of the principle of non-use of force; took note of the reports of the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations,⁵⁸ and extended its mandate to allow the completion of a draft world treaty on the subject.⁵⁹ In addition, by the

⁵²For the proceedings in the plenary regarding the draft resolutions concerning this item, see G A (38), Annexes, a.i. 142.

⁵³G A (38), Plen., 47th-53rd mtgs.; see also discussion in para. 22 above.

⁵⁴Ibid., 48th mtg.: United States, para. 158.

⁵⁵See paras. 27-34 below.

⁵⁶For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), paras. 32-36.

⁵⁷G A resolutions 34/13 (preamb. para. 6, paras. 1, 2 and 5); 35/50 (preamb. para. 7, paras. 1, 2 and 6); 36/31 (preamb. para. 7, paras. 1, 2 and 8); 37/105 (preamb. para. 7, paras. 1, 2 and 7); 38/133 (preamb. para. 8, paras. 1, 2 and 9); 39/81 (preamb. para. 7, paras. 1, 2 and 9).

⁵⁸For the reports of the Special Committee, see G A (34), Suppl. No. 41, A/34/41; G A (35), Suppl. No. 41, A/35/41; G A (36), Suppl. 41, A/36/41; G A (37), Suppl. No. 41, A/37/41; G A (38), Suppl. No. 41, A/38/41; G A (39), Suppl. No. 41, A/39/41.

⁵⁹For the proceedings in the Sixth Committee regarding the draft resolutions concerning this item, see G A (34), Annexes, a.i. 116; G A (35), Annexes, a.i. 105; G A (36), Annexes, a.i. 116; G A (37), Annexes, a.i. 118; G A (38), Annexes, a.i. 126; G A (39), Annexes, a.i. 126.

resolutions⁶⁰ adopted on the subject at its thirty-seventh to thirty-ninth sessions, the General Assembly, inter alia, requested the Special Committee to focus on the elaboration of the formulas of the working paper containing the main elements of the principle of non-use of force, as put forward by its Chairman in 1982, taking duly into account the proposals submitted to it. That paper,⁶¹ which was further elaborated upon by the Special Committee in 1984,⁶² contained proposals and suggestions grouped under the headings: Manifestations, scope and dimensions of the threat or use of force; General prohibition of the threat or use of force; Consequences of the threat or use of force; Legitimate use of force; Peaceful settlement of disputes; Role of the United Nations; and Disarmament and confidence-building measures.

28. The deliberations concerning this item in the Sixth Committee⁶³ and the Special Committee⁶⁴ contained numerous explicit references to Article 2(4) and the arguments presented were similar to those described in the previous *Supplement*.⁶⁵

29. During the thirty-fourth session, the General Assembly began its examination of the agenda item entitled "Drafting of an international convention against activities of mercenaries", which had been proposed for inclusion in the agenda by Nigeria.⁶⁶ In the following year, the General Assembly continued its consideration of that item and adopted resolution 35/48⁶⁷ in which, inter alia, it bore in mind the need for strict observance of the principles of sovereign equality, political independence, territorial integrity of States and self-determination of peoples; recognized that the activities of mercenaries were contrary to fundamental principles of international law, such as non-interference in the internal affairs of States, territorial integrity and independence, and seriously impeded the process of self-determination of peoples struggling against colonialism, racism and apartheid and all forms of foreign domination; and decided to establish an Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries. In

⁶⁰G A resolutions 37/105 (para. 3); 38/133 (para. 3); 39/81 (para. 3).

⁶¹G A (37), Suppl. No. 41, A/37/41 and Corr.1, para. 372.

⁶²G A (39), Suppl. No. 41, A/39/41, para. 123.

⁶³For the deliberations in the Sixth Committee regarding the item, see G A (34), 6th Comm., 16th-25th mtgs.; G A (35), 6th Comm., 26th-33rd, 37th, 40th and 47th mtgs.; G A (36), 6th Comm., 2nd, 7th-16th, 21st and 27th-29th mtgs.; G A (37), 6th Comm., 31st-40th, 51st and 57th mtgs.; G A (38), 6th Comm., 12th-20th and 57th mtgs.; G A (39), 6th Comm., 12th-19th, 58th, 60th, 61st and 63rd mtgs.

⁶⁴For the summary of statements regarding the item, see the reports of the Special Committee cited in footnote 58.

⁶⁵See *Repertory, Supplement No. 5*, under Article 2(4), para. 35.

⁶⁶See G A (34), Annexes, a.i. 129, A/34/247, for the text of the letter dated 5 December 1979 from the Permanent Representative of Nigeria to the United Nations addressed to the Secretary-General. An explanatory memorandum and a draft resolution were attached to the letter as annexes I and II. The General Assembly adopted the draft as resolution 34/140.

⁶⁷Preamb. paras. 1 and 4, para. 1.

subsequent resolutions⁶⁸ on the subject, the General Assembly renewed the mandate of the Ad Hoc Committee.⁶⁹

30. During the deliberations concerning the item in the Sixth Committee⁷⁰ and the Ad Hoc Committee,⁷¹ mercenarism was described as a gross violation of fundamental principles of international law, including the principles of political independence and territorial integrity of States and the non-use of force in international relations. Frequent mention was made of the use of mercenarism to deny peoples their inalienable right to self-determination and, in this regard, a distinction was drawn between mercenarism and the use of force by, and/or in support of, peoples struggling for self-determination.

31. During the thirty-fifth session, by its resolution 35/163⁷² on the report of the International Law Commission, the General Assembly, inter alia, noted the completion of the first reading of the set of articles constituting part one of the draft on responsibility of States for internationally wrongful acts.⁷³ A detailed account of the issues considered by the International Law Commission in connection with this item, some of which may have a bearing on Article 2(4), is included in the report⁷⁴ of the Commission submitted to the General Assembly at its thirty-fifth session.

32. During the thirty-sixth session, by its resolution 36/106⁷⁵ on the Draft Code of Offences against the Peace and Security of Mankind, the General Assembly, inter alia, invited the International Law Commission to resume its work on the draft Code.⁷⁶ A detailed account of the issues considered by the International Law Commission in connection with the item, several of which may have a bearing on Article 2(4), is included in the report⁷⁷ of the

⁶⁸G A resolutions 36/76 (preamb. paras. 1 and 5, para. 2); 37/109 (preamb. paras. 1 and 5, para. 2); 38/137 (preamb. paras. 1 and 5, para. 2); 39/84 (preamb. paras. 1 and 5, para. 2).

⁶⁹For the proceedings in the Sixth Committee regarding the draft resolutions concerning the item, see G A (35), Annexes, a.i. 29; G A (36), Annexes, a.i. 115; G A (37), Annexes, a.i. 121; G A (38), Annexes, a.i. 129; G A (39), Annexes, a.i. 129.

⁷⁰For the deliberations in the Sixth Committee regarding the item, see G A (35), 6th Comm., 20th-24th, 51st-54th and 56th mtgs.; G A (36) 6th Comm., 16th-24th and 57th mtgs.; G A (37), 6th Comm., 9th-15th, 45th, 53rd and 56th mtgs.; G A (38), 6th Comm., 19th, 21st-29th, 49th-51st, 54th, 57th, 60th and 61st mtgs.; G A (39), 6th Comm., 49th-57th and 64th mtgs.

⁷¹For the summary of statements regarding the item, see the reports of the Ad Hoc Committee: G A (36), Suppl. No. 43, A/36/43; G A (37), Suppl. No. 43, A/37/43 and Corr.1; G A (38), Suppl. No. 43, A/38/43; G A (39), Suppl. No. 43, A/39/43 and Corr.1.

⁷²Preamb. para. 3.

⁷³This was in accordance with G A resolution 34/141 (para. 4(b)), adopted on the same subject, during the thirty-fourth session of the General Assembly.

⁷⁴G A (35), Suppl. No. 10, A/35/10, chap. III. See, in particular, the commentaries relating to articles 33 (State of necessity) and 34 (Self-defence), which fall under chapter V (Circumstances precluding wrongfulness) of the draft.

⁷⁵Para. 1.

⁷⁶For prior consideration of the draft Code by the General Assembly, see *Repertory, Supplement No. 2*, under Article 2(4), para. 15.

⁷⁷G A (39), Suppl. No. 10, A/39/10, chap. II.

Commission to the General Assembly at its thirty-ninth session.

33. In the course of the thirty-sixth session the General Assembly also adopted resolution 36/103,⁷⁸ the annex to which contains the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States. In the Declaration the General Assembly proclaimed that the principle of non-intervention and non-interference in the internal and external affairs of States comprehended a number of rights and duties, many of which may have a bearing on Article 2(4). These rights and duties include the duty to refrain from: the threat or use of force; violations of the sovereignty, political independence and territorial integrity of other States, including those Territories yet to attain self-determination and independence; armed intervention, subversion, military occupation, in overt or covert forms, including acts of reprisal involving the use of force; forcible action which deprived people under colonial domination or foreign occupation of their right to self-determination, freedom and independence; engaging in destabilizing activities; promoting rebellious or secessionist activities; strengthening or creating new military blocs and alliances; using terrorist practices as State policy; organizing, training, financing and arming political ethnic groups or mercenaries; and conducting military and other activity in the territory of another State without its consent. They also include the right and duty of States to support the right of peoples under colonial domination, foreign occupation or racist regimes to wage political and armed struggle in accordance with the purposes and principles of the Charter and to observe, promote and defend human rights.⁷⁹ The Declaration was elaborated in the Ad Hoc Working Group of the First Committee on Inadmissibility of Intervention and Interference in the Internal Affairs of States,⁸⁰ which presented an oral report to the First Committee during the thirty-fifth session.⁸¹

34. During the deliberations on this item in the First Committee⁸² and the plenary,⁸³ in explanation of their votes, some delegations expressed reservations with regard to the provisions of the Declaration that affirmed a State's right and duty to support the right of peoples under colonial, foreign or racist domination to wage both political and armed struggle for self-determination, freedom and independence. The view

⁷⁸See G A resolution 36/103, annex II, paras. (a)-(g), (i), (k), (m)-(o); III, paras. (b) and (c).

⁷⁹For the proceedings in the First Committee regarding the draft resolution on the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, see G A (36), Annexes, a.i. 58(b).

⁸⁰The Ad Hoc Working Group was established by the General Assembly in resolution 34/101, entitled "Non-interference in the internal affairs of States", which was considered under the agenda item entitled "Implementation of the Declaration on the Strengthening of International Security". For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, under Article 2(4), para. 31.

⁸¹For the oral report by the Chairman of the Ad Hoc Working Group, see G A (35), 1st Comm., 52nd mtg. No meeting records of the discussion in the Working Group were issued.

⁸²G A (36), 1st Comm., 51st mtg.: Ireland, p. 61; Fiji, p. 62.

⁸³G A (36), Plen., 91st mtg.: Uruguay, para. 276.

was held that any attempt to institutionalize recourse to armed force for the attainment of an objective, however noble, was unacceptable.⁸⁴

35. During the period under review, the General Assembly also considered a number of questions that had previously given rise to substantive constitutional discussion in the Security Council. Since similar arguments were used in both organs, the discussion in the Council has been included in the analytical summary of practice, whereas the relevant provisions of the General Assembly resolutions are presented in the following paragraphs.⁸⁵

36. At its thirty-fourth to thirty-ninth sessions, the General Assembly considered the situation in Kampuchea. During the thirty-fourth session, the Assembly adopted resolution 34/22,⁸⁶ in which, inter alia, it cited the text of Article 2(4) in part; deeply regretted the armed intervention by outside forces into the internal affairs of Kampuchea; called for the immediate withdrawal of all foreign forces from Kampuchea and called upon all States to refrain from all acts or threats of aggression; and appealed to all States to respect scrupulously the sovereignty, territorial integrity and independence of Kampuchea.⁸⁷ In resolutions⁸⁸ adopted on the subject during the subsequent five years, the General Assembly made implicit references to Article 2(4) by paraphrasing its basic provisions.

37. At its sixth emergency special session, the General Assembly considered the situation in Afghanistan under the agenda item entitled "Question considered by the Security Council at its 2185th to 2190th meetings, from 5 to 9 January 1980" and adopted resolution ES-6/2⁸⁹ in which, inter alia, it cited the text of Article 2(4) in full; recognized the urgent need for immediate termination of foreign armed intervention in Afghanistan so as to enable its people to determine their own destiny without outside interference or coercion; reaffirmed that respect for the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter of the United Nations; strongly deplored the recent armed intervention in Afghanistan, which was inconsistent with that principle; appealed to all States to respect the sovereignty, territorial integrity, political independence and non-aligned character of Afghanistan and to refrain from any interference in the internal affairs of that country; and called for the immediate, unconditional and total withdrawal of the foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, subversion, coercion or constraint of any kind whatsoever.⁹⁰

⁸⁴Ibid.

⁸⁵See paras. 36-41 below.

⁸⁶Preamb. paras. 2 and 9, paras. 7 and 9.

⁸⁷For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (34), Annexes, a.i. 123.

⁸⁸G A resolutions 35/6 (preamb. paras. 3, 4, 11 and 13, para. 3(e) and (f)); 36/5 (preamb. paras. 6, 12 and 14, para. 2); 37/6 (preamb. paras. 5, 11 and 13, para. 2); 38/3 (preamb. paras. 5, 12 and 14, para. 2); 39/5 (preamb. paras. 5, 12 and 14, para. 2).

⁸⁹Preamb. paras. 4 and 5, paras. 1 to 4.

⁹⁰For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (ES-6), Annexes, a.i. 5.

In its subsequent resolutions⁹¹ on Afghanistan, the General Assembly made frequent implicit references to Article 2(4) by paraphrasing its core provisions.

38. At its ninth emergency special session, the General Assembly considered the situation in the occupied Arab territories and adopted resolution ES-9/1⁹² in which, inter alia, it recalled specific provisions of its resolution 3314 (XXIX) of 14 December 1974, containing the Definition of Aggression; reaffirmed the fundamental principle of the inadmissibility of the acquisition of territory by force; and declared that Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan Heights constituted an act of aggression under the provisions of Article 39 of the Charter of the United Nations and resolution 3314 (XXIX).⁹³ Similar provisions were included in resolutions⁹⁴ adopted on the situation in the Middle East in subsequent regular sessions of the General Assembly.

39. During the thirty-eighth session, the General Assembly considered the situation in Grenada and adopted resolution 38/7⁹⁵ in which, inter alia, it explicitly referred to Article 2(4) and cited the text of the principle in full; deeply deplored the armed intervention in Grenada which constituted a flagrant violation of international law and of the independence, sovereignty and territorial integrity of that State; deplored the death of innocent civilians resulting from the armed intervention; called upon States to show the strictest respect for the sovereignty, independence and territorial integrity of Grenada; and called for an immediate cessation of the armed intervention and the immediate withdrawal of the foreign troops from Grenada.⁹⁶

⁹¹G A resolutions 35/37 (preamb. paras. 3 and 5, paras. 1, 3 and 6); 36/34 (preamb. paras. 3 and 5, paras. 1, 3 and 6); 37/37 (preamb. paras. 3 and 5, paras. 1, 3 and 7); 38/29 (preamb. paras. 3 and 5, paras. 1, 3 and 7); 39/13 preamb. paras. 3 and 5, paras. 1, 3 and 7).

⁹²Preamb. paras. 7 and 8, para. 2.

⁹³For the proceedings in the plenary regarding the draft resolution concerning this item, see G A (ES-9), Annexes, a.i. 5.

⁹⁴G A resolutions 37/123 A (preamb. paras. 5 and 6, para. 2); 38/180 A (preamb. paras. 5 and 6, para. 2); 39/146 B (preamb. paras. 5 and 6, para. 2).

⁹⁵Preamb. para. 6, paras. 1 to 4.

⁹⁶For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (38), Annexes, a.i. 145.

40. At its thirty-eighth session, the General Assembly also adopted resolution 38/9⁹⁷ on the armed Israeli aggression against the Iraqi nuclear installations and its grave consequences for the established international system concerning the peaceful uses of nuclear energy, the non-proliferation of nuclear weapons and international peace and security, which, inter alia, made an explicit reference to Article 2(4) and included the full text of that Article in its preamble.⁹⁸ In previous resolutions⁹⁹ on the subject, the General Assembly had strongly condemned Israel for its acts of aggression in violation of the Charter of the United Nations and the norms of international conduct.

41. In its resolution 38/39 C¹⁰⁰ on the policies of apartheid of the Government of South Africa, also adopted at the thirty-eighth session, the General Assembly, inter alia, condemned the acts of aggression by the apartheid regime of South Africa against Angola, Lesotho and Mozambique; demanded that South Africa respect fully the independence, sovereignty and territorial integrity of independent African States; and fully supported the right of the Government of Angola to take measures in accordance with Article 51 of the Charter of the United Nations in order to guarantee and safeguard the territorial integrity and national sovereignty of Angola.¹⁰¹

42. During the period under review, frequent explicit and implicit references were made to Article 2(4) in the deliberations of the Security Council and General Assembly. Many of those references are identified in connection with the case material in the analytical summary of practice and the general survey. Such references also occurred in other instances; most of them only involved incidental remarks and are too numerous to be listed here.

⁹⁷Preamb. para. 7.

⁹⁸For the proceedings in the plenary regarding the draft resolution concerning the item, see G A (38), Annexes, a.i. 28.

⁹⁹G A resolution 36/27 (para. 1); 37/18 (para. 2).

¹⁰⁰Paras. 1-3.

¹⁰¹For the proceedings in the plenary regarding the draft resolutions concerning the item, see G A (38), Annexes, a.i. 32.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The question of the scope and limits of the phrase "threat or use of force against the territorial integrity or political independence of any State"

43. Article 2(4) was referred to in the Security Council in connection with questions that involved allegations of the threat or use of force against the territorial integrity or political independence of a State. It was also invoked in the General Assembly in connection with one basic legal instrument which focused, among other things, on the principles of the non-use of force and the peaceful settlement of disputes and their applicability to peoples struggling for

their right to self-determination. In the course of the discussion of those issues, questions arose concerning the interpretation and application of the principle of Article 2(4). The following items entailed such relevant constitutional material:

In the Security Council:

(a) In connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea, the issue under discussion was whether the actions taken by Viet Nam violated the territorial integrity and political independence of Democratic

Kampuchea and constituted a use of force as prohibited by Article 2(4);

(b) In connection with the situation in the Middle East, the question was discussed whether the so-called "acts of reprisal" and "pre-emptive" strikes by Israel against the territory of Lebanon fell under Article 51 or violated Article 2(4);

(c) In connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan, the discussion focused on whether the intervention of foreign troops in Afghanistan constituted a violation of the principles contained in Article 2(4);

(d) In connection with the complaint by Iraq, the question arose whether Israel had attacked the Iraqi nuclear installations in the exercise of its inherent right of self-defence or in violation of Article 2(4);

(e) In connection with the complaint by Angola against South Africa, the question was discussed whether the military intervention by South Africa in the territory of Angola constituted an act of aggression in violation of the principles of Article 2(4), or whether South Africa had exercised its right to self-defence;

(f) In connection with the complaint by Seychelles, the discussion focused on the use of mercenaries in an armed attack against the Republic of Seychelles and the assertion that the recruitment, use, financing and training of mercenaries was in direct violation of Article 2(4);

(g) In connection with the situation in the occupied Arab territories, the discussion focused on the inadmissibility of the acquisition of territory by force and on whether Israel's decision to apply its laws, jurisdiction and administration to the Golan Heights constituted an act of aggression;

(h) In connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom, the question was discussed whether Argentina had legitimately used force to reclaim national sovereignty over the Falkland Islands or violated Article 2(4);

(i) In connection with the complaint by Lesotho against South Africa, the attack on Lesotho's capital city, Maseru, by the South African Defence Force (SADF) was condemned as a blatant violation of the principles of Article 2(4), notwithstanding South Africa's attempt to justify the attack as a pre-emptive defensive measure;

(j) In connection with the situation in Grenada, the question was discussed whether the military intervention in Grenada constituted a violation of the sovereignty, territorial integrity and political independence of the island, given that the member Governments of the Organization of Eastern Caribbean States (OECS) and their partners in the Caribbean Community (CARICOM) had acted in conformity with a regional defence pact and at the request of the sole legitimate authority remaining in Grenada. In addition, the question of the use of force to protect foreign nationals abroad was also discussed.

In the General Assembly:

In connection with the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes, the

applicability of the Charter principles of non-use of force and peaceful settlement of disputes to struggles for self-determination was discussed.

I. IN THE SECURITY COUNCIL

(a) *Decision of 15 January 1979 in connection with the telegram dated 3 January 1979 from the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea*¹⁰²

(i) *Precis of proceedings*

44. By telegram¹⁰³ dated 3 January 1979 addressed to the President of the Security Council, the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea reported that Viet Nam had further intensified its war of aggression against Democratic Kampuchea and requested an urgent meeting of the Security Council to condemn the Vietnamese aggression and to take necessary measures to ensure that Viet Nam ceased its aggression and respected the independence, sovereignty and territorial integrity of Democratic Kampuchea.

45. At the 2108th meeting, on 11 January 1979, a draft resolution¹⁰⁴ submitted in connection with the item was not put to the vote. Under the draft text, the Council would have, inter alia, restated the provisions of Article 2(4); expressed its grave concern about Viet Nam's military invasion of Democratic Kampuchea in violation of the Charter; and, in the operative part, stressed that the independence, sovereignty and territorial integrity of Democratic Kampuchea had to be strictly respected in accordance with the purposes and principles of the Charter; and strongly condemned Viet Nam for its acts of armed invasion and aggression against Democratic Kampuchea, acts that constituted a flagrant violation of the independence, sovereignty and territorial integrity of Democratic Kampuchea and caused serious damage to the lives and property of the Kampuchean people.

46. At the 2111th meeting, on 15 January 1979, another draft resolution¹⁰⁵ submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Council would have, inter alia, reaffirmed anew its conviction that the preservation of the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter, any violation of which was inconsistent with its aims and purposes.

(ii) *Precis of relevant constitutional discussion*

47. During the Security Council's deliberations regarding the charges brought by the Government of Democratic Kampuchea against Viet Nam, one side viewed the actions

¹⁰²For the consideration of this issue by the General Assembly, see para. 36.

¹⁰³S C (34), Suppl. for Jan.-March 1979, S/13003.

¹⁰⁴The draft resolution (S/13022) was sponsored by China and not voted upon.

¹⁰⁵The draft resolution (S/13027) was sponsored by Bangladesh, Bolivia, Gabon, Jamaica, Kuwait, Nigeria and Zambia, and received 13 votes to 2, with no abstentions.

taken by the Government of Viet Nam as constituting use of force as prohibited by Article 2(4) of the Charter and alleged that the political independence and territorial integrity of Democratic Kampuchea had been violated. It was further argued that the Vietnamese intervention amounted to interference in the internal affairs of Democratic Kampuchea, which was also prohibited under the Charter. The other side suggested that the charges by the no longer functioning Pol Pot regime were unfounded in that the Kampuchean people, with the help of their Vietnamese neighbours, had thrown off the yoke of the brutal and inhuman clique and had begun to resume a new existence in security and tranquillity. The appeal to the Council was described as unwarranted, and the concern shown by the Council and the international community was dismissed as interference in strictly domestic matters of the new Kampuchean society.¹⁰⁶

(b) *Decisions of 14 June 1979 and 21 July 1981 in connection with the situation in the Middle East*

(i) *Precis of proceedings*

48. By letter¹⁰⁷ dated 30 May 1979 addressed to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Security Council to discuss the rapidly deteriorating situation in southern Lebanon resulting from the escalation of Israeli attacks and the adverse effect this might have on the implementation of Council resolutions 425 (1978)¹⁰⁸ and 444 (1979).¹⁰⁹

¹⁰⁶For the texts of relevant statements, see S C (34), 2108th mtg.: USSR, paras. 9-15, 34, 35, 40-45, 69, 146-170; China, paras. 17-22 and 97-109; Democratic Kampuchea, paras. 73-92; Viet Nam, paras. 113-145; Cuba, paras. 173-193; 2109th mtg.: Kuwait, paras. 6-13; Norway, paras. 16-19; Czechoslovakia, paras. 20-27; France, paras. 33-37; Bangladesh, paras. 43-51; Bolivia, paras. 55-63; German Democratic Republic, paras. 66-76; Sudan, paras. 90-94; 2110th mtg.: Zambia, paras. 8-11; Gabon, paras. 15-18; Portugal, paras. 22-32; Malaysia, paras. 36-44; New Zealand, paras. 57-60; United Kingdom, paras. 63-68; United States, paras. 72-84; 2111th mtg.: Japan, paras. 16-21; Australia, paras. 24-29; Nigeria, paras. 31-37; Thailand, paras. 40-46; Indonesia, paras. 66-74; Poland, paras. 77-89; Philippines, paras. 92-105; Yugoslavia, paras. 124-135; Jamaica, paras. 144-150; USSR, paras. 151-154; Viet Nam, paras. 163-178.

¹⁰⁷S C (34), Suppl. for April-June 1979, S/13356.

¹⁰⁸For prior consideration of S C resolution 425 (1978), see *Repertory, Supplement No. 5*, under Article 2(4), para. 55.

¹⁰⁹S C resolution 444 (1979) was primarily concerned with the United Nations Interim Force in Lebanon (UNIFIL) and its inability to fulfil its mandate. The relevant provisions read as follows: "The Security Council, ... reaffirming the necessity for the strict respect for the sovereignty, territorial integrity and political independence of Lebanon within its internationally recognized boundaries, ... 1. Deplores the lack of cooperation, particularly on the part of Israel, with the efforts of the United Nations Interim Force in Lebanon fully to implement its mandate, including assistance lent by Israel to irregular armed groups in Southern Lebanon ..." (preamb. para. 8, para. 1).

49. At the 2149th meeting, on 14 June 1979, the Security Council adopted¹¹⁰ resolution 450 (1979) which read in part as follows:

"The Security Council,

"...

"Reaffirming its call for the strict respect for the territorial integrity, unity, sovereignty and political independence of Lebanon within its internationally recognized boundaries,

"...

"1. Strongly deplores acts of violence against Lebanon that have led to the displacement of civilians, including Palestinians, and brought about destruction and loss of innocent lives;

"2. Calls upon Israel to cease forthwith its acts against the territorial integrity, unity, sovereignty and political independence of Lebanon, in particular its incursions into Lebanon and the assistance it continues to lend to irresponsible armed groups;

"...

"6. Reaffirms the validity of the General Armistice Agreement between Israel and Lebanon in accordance with its relevant decisions and resolutions and calls upon the parties to take the necessary steps to reactivate the Mixed Armistice Commission and to ensure full respect for the safety and freedom of action of the United Nations Truce Supervision Organization".

50. By letter¹¹¹ dated 17 July 1981 addressed to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Council to discuss the deteriorating situation in southern Lebanon and the attacks committed by Israel against civilian targets in the city of Beirut.

51. At the conclusion of the 2292nd meeting, on 17 July 1981, the President of the Council issued a statement¹¹² on behalf of the Council which contained an urgent appeal for an immediate end to all armed attacks and for the greatest restraint so that peace and quiet might be established in Lebanon and a just and lasting peace in the Middle East as a whole.

52. At the 2293rd meeting, on 21 July 1981, the Security Council unanimously adopted¹¹³ resolution 490 (1981), which read in part as follows:

"The Security Council,

"Reaffirming the urgent appeal made by the President and the members of the Security Council on 17 July 1981,

"...

¹¹⁰The draft resolution (S/13392) was adopted by 12 votes to none, with 2 abstentions. One member of the Council did not participate in the voting.

¹¹¹S C (36), Suppl. for July-Sept. 1981, S/14596.

¹¹²S/14599.

¹¹³The draft resolution (S/14604) was sponsored by Ireland, Japan and Spain and adopted without discussion.

"1. Calls for an immediate cessation of all armed attacks;

"2. Reaffirms its commitment to the sovereignty, territorial integrity and independence of Lebanon within its internationally recognized boundaries".

(ii) *Precis of relevant constitutional discussion*

53. In the discussions that were held prior to the adoption of Security Council resolutions 450 (1979) and 490 (1981), the provisions of Article 2(4) were explicitly or implicitly invoked. On the one hand, it was declared that the use of force against the territorial integrity or political independence of another State was inadmissible. In addition, Israel's policy of pre-emptive strikes and its claim to a right of reprisal against terrorist attacks were rejected as unjustified by any interpretation of Article 51 of the Charter and contrary to General Assembly resolution 2625 (XXV)¹¹⁴ and resolutions of the Security Council. The view was expressed that the Government of Lebanon could not be held accountable for the movements and actions of Palestinians resisting the Israeli occupation of their native land.¹¹⁵ On the other hand, it was contended that the PLO had launched attacks against Israel from Lebanon that had resulted in loss of life and considerable damage to property and that the PLO had plans to escalate such attacks in kind and size. Consequently, and in the absence of Security Council action, Israel had no choice but to stand up to the PLO. It was further contended that the Israeli actions, which had been specifically targeted at the PLO and not at Lebanon's territorial integrity, were in exercise of the inherent right of self-defence as preserved under Article 51 of the Charter.¹¹⁶

¹¹⁴Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted on 24 October 1970.

¹¹⁵For the texts of relevant statements, see S C (34), 2146th mtg.: Lebanon, paras. 20-35; 2147th mtg.: Kuwait, paras. 30-57, 102-121; Libyan Arab Jamahiriya, paras. 126-150; 2148th mtg.: Egypt, paras. 6-17; United Kingdom, paras. 30-39; France, paras. 52-57; Jordan, paras. 73-80; Iran, paras. 83-91; Syrian Arab Republic, paras. 95-113; 2149th mtg.: United States, paras. 78-89; USSR, paras. 126-146; Bolivia, paras. 162-167; S C (36), 2292nd mtg.: Lebanon, paras. 23-35; Jordan, paras. 66-75; PLO, paras. 77-102; USSR, paras. 103-116; 2293rd mtg.: Tunisia, paras. 23-38; France, paras. 40-44; United Kingdom, paras. 46-54; Egypt, paras. 63-82; Syrian Arab Republic, paras. 143-166; Democratic Yemen, paras. 172-181; Yemen, paras. 184-196; S C (37) 2374th mtg.: France, paras. 92-98; 2375th mtg.: Poland, paras. 121 and 122; 2379th mtg.: United Kingdom, paras. 54-56; Syrian Arab Republic, paras. 178 and 179; 2384th mtg.: France, paras. 22-24; Egypt, paras. 35 and 36; 2386th mtg.: Lebanon, para. 12.

¹¹⁶S C (36), 2292nd mtg.: Israel, paras. 40-63; S C (37), 2374th mtg.: Israel, paras. 74-78; 2379th mtg.: Israel, para. 126.

(c) *Decision of 7 January 1980 in connection with the letter dated 3 January 1980 from 52 Member States regarding Afghanistan*¹¹⁷

(i) *Precis of proceedings*

54. By letter¹¹⁸ dated 3 January 1980 addressed to the President of the Security Council, 52 Member States requested an urgent meeting of the Security Council to consider the situation in Afghanistan and its implications for international peace and security.

55. At the 2190th meeting, on 7 January 1980, a draft resolution¹¹⁹ submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the draft text, the Security Council, mindful of the obligations of Member States to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, would have, inter alia, reaffirmed anew its conviction that the preservation of the sovereignty, territorial integrity and political independence of every State was a fundamental principle of the Charter of the United Nations, any violation of which on any pretext whatsoever was contrary to its aims and purposes; deeply deplored the armed intervention in Afghanistan, which was inconsistent with that principle; affirmed that the sovereignty, territorial integrity, political independence and non-aligned status of Afghanistan must be fully respected; and called for the immediate and unconditional withdrawal of all foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, coercion or constraint of any kind whatsoever.

(ii) *Precis of relevant constitutional discussion*

56. During the discussion of the developments in Afghanistan, one side condemned the intervention by foreign troops in an internal political conflict in Afghanistan as a grave violation of Article 2(4) and other pertinent provisions of the Charter and called for an end to foreign interference and the withdrawal of all foreign troops from Afghan soil. The other side rejected these assertions, by claiming that the Afghan authorities had requested the assistance of foreign troops in accordance with both Article 51 of the Charter and the Treaty of Friendship, Good-Neighbourliness and Cooperation of 5 December 1978 between the Democratic Republic of Afghanistan and the Soviet Union.¹²⁰

¹¹⁷For the consideration of this issue by the General Assembly, see para. 37.

¹¹⁸S C (35), Suppl. for Jan.-March 1980, S/13724 and Add.1 and 2.

¹¹⁹The draft resolution (S/13729) was sponsored by Bangladesh, Jamaica, Niger, the Philippines, Tunisia and Zambia, and received 13 votes to 2, with no abstentions.

¹²⁰For the texts of relevant statements, see S C (35), 2187th mtg.: United States, paras. 6-27; Australia, paras. 30-35; Singapore, paras. 38-48; Norway, paras. 52-56; Spain, paras. 59-68; Somalia, paras. 72-80; Costa Rica, paras. 92-100; Italy, paras. 104-110; Liberia, paras. 112-133; 2188th mtg.: German Democratic Republic, paras.

(d) *Decision of 19 June 1981 in connection with the complaint by Iraq.*¹²¹

(i) *Precis of proceedings*

57. By letter¹²² dated 8 June 1981 addressed to the President of the Security Council, the representative of Iraq transmitted the text of a letter from the Minister for Foreign Affairs of Iraq, requesting the convening of an immediate meeting of the Council to deal with an act of aggression by Israel against Iraq with far-reaching consequences for international peace and security.

58. At the 2288th meeting, on 19 June 1981, the Security Council unanimously adopted¹²³ resolution 487 (1981), which read in part as follows:

"The Security Council,

"...

"Deeply concerned about the danger to international peace and security created by the premeditated Israeli air attack on Iraqi nuclear installations on 7 June 1981, which could at any time explode the situation in the area, with grave consequences for the vital interests of all States,

"Considering that, under the terms of Article 2, paragraph 4, of the Charter of the United Nations, 'all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations',

"1. Strongly condemns the military attack by Israel in clear violation of the Charter of the United Nations and the norms of international conduct;

"2. Calls upon Israel to refrain in the future from any such acts or threats thereof;

"3. Further considers that the said attack constitutes a serious threat to the entire safeguards regime of the International Atomic Energy Agency, which is the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons;

"4. Fully recognizes the inalienable sovereign right of Iraq and all other States, especially the developing countries, to establish programmes of technological and

5-21; Portugal, paras. 24-27; Venezuela, paras. 30-38; Netherlands, paras. 51-59; Viet Nam, paras. 62-93; Jamaica, paras. 97-102; 2189th mtg.: Zambia, paras. 6-17; Mongolia, paras. 21-37; Bangladesh, paras. 41-49; Federal Republic of Germany, paras. 63-75; Yugoslavia, paras. 80-97; Lao People's Democratic Republic, paras. 101-112; 2190th mtg.: Panama, paras. 10-34; Zaire, paras. 39-59; Canada, paras. 62-72; Chile, paras. 75-84; Afghanistan, paras. 87-102; USSR, paras. 110-123; France, paras. 125-131; German Democratic Republic, paras. 135-139; Philippines, paras. 145-156; Mexico, paras. 160-165. There were numerous invocations of Articles 2(7) and 51 in addition to references to Article 2(4).

¹²¹For the consideration of this issue by the General Assembly, see para. 40.

¹²²S C (36), Suppl. for April-June 1981, S/14509.

¹²³The draft resolution (S/14556) was prepared in the course of the Security Council's consultations.

nuclear development to develop their economy and industry for peaceful purposes in accordance with their present and future needs and consistent with the internationally accepted objectives of preventing nuclear-weapons proliferation;

"5. Calls upon Israel urgently to place its nuclear facilities under the safeguards of the International Atomic Energy Agency;

"6. Considers that Iraq is entitled to appropriate redress for the destruction it has suffered, responsibility for which has been acknowledged by Israel".

(ii) *Precis of relevant constitutional discussion*

59. During the deliberations of the Security Council, Article 2(4) and relevant provisions of the Definition of Aggression¹²⁴ were frequently invoked and said to have been clearly violated by the attack carried out by the Israel Air Force against the Iraqi nuclear installations located in the vicinity of Baghdad. It was maintained, on the other hand, that Israel had acted in the exercise of its inherent right of self-defence as "understood in general international law" and as preserved in Article 51 of the Charter, in order to counter a threat of nuclear obliteration which had been made against it by Iraq.¹²⁵ However, the self-defence contention was rejected by others, who asserted that the Charter recognized the right of self-defence only against an armed attack, pending action by the Council to restore peace, and did not provide for a right to "preventive attack" under which a State could act to eliminate a subjectively assessed potential danger. Furthermore, it was stressed that Iraq was a party to the Treaty on the Non-Proliferation of Nuclear Weapons,¹²⁶ pursuant to which it had accepted and implemented the safeguards of the International Atomic Energy Agency; that the Agency had testified that Iraq had satisfactorily complied with the safeguards regime; and that Israel, by its armed attack, had not only violated the fundamental principle of Article 2(4) but dangerously challenged the international system under the Treaty and the right of all States to develop nuclear energy for peaceful purposes.¹²⁷

¹²⁴G A resolution 3314 (XXIX), annex.

¹²⁵S C (36), 2280th mtg.: Israel, paras. 57-117; 2288th mtg.: Israel, paras. 38-98.

¹²⁶G A resolution 2373 (XXII), annex.

¹²⁷For the texts of relevant statements, see S C (36), 2280th mtg.: Iraq, paras. 20-53; Tunisia, paras. 118-140; Algeria, paras. 145-173; Sudan, paras. 176-184; 2282nd mtg.: Uganda, paras. 7-38; France, paras. 41-59; Spain, paras. 75-86; 2283rd mtg.: Ireland, paras. 4-39; Sierra Leone, paras. 144-157; 2284th mtg.: Syrian Arab Republic, paras. 62-81; 2285th mtg.: Morocco, paras. 7-23; Bangladesh, paras. 110-130; 2287th mtg.: Sri Lanka, paras. 39-47; and 2288th mtg.: Mexico, paras. 105-132; Iraq, paras. 181-186 and 198-203.

(e) *Decisions of 31 August 1981, 20 December 1983 and 6 January 1984 in connection with the complaint by Angola against South Africa*¹²⁸

(i) *Precis of proceedings*

60. By letter¹²⁹ dated 26 August 1981 addressed to the Secretary-General, the representative of Angola transmitted a letter from the President of Angola reporting that South Africa had intensified its aggression against Angola and requested the urgent convening of the Security Council in order to take the necessary steps to stop the situation from escalating and to demand the immediate and unconditional withdrawal of all South African troops from Angolan territory.

61. At the 2300th meeting, on 31 August 1981, a revised draft resolution¹³⁰ submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Council would have, *inter alia*, condemned South Africa for its armed invasion perpetrated against the people and the territory of Angola as well as for its utilization of the illegally occupied Territory of Namibia as a springboard for such invasions; declared that such armed invasion was a violation of the sovereignty and territorial integrity of Angola and constituted a danger to international peace and security; and demanded the immediate withdrawal of all South African troops from Angolan territory.

62. By letter¹³¹ dated 14 December 1983 addressed to the President of the Security Council, the representative of Angola requested an urgent meeting of the Security Council to deal with the situation in Angola in view of the South African armed forces' continued occupation of southern Angola and the increased acts of aggression and violence by the South African regime against the Angolan people.

63. At the 2508th meeting, on 20 December 1983, the Security Council adopted¹³² resolution 545 (1983), which read in part as follows:

"The Security Council,

"...

"Deeply concerned at the continued occupation of parts of southern Angola by the South African military forces in flagrant violation of the principles and objectives of the Charter of the United Nations and of international law,

"...

"Bearing in mind that in accordance with Article 2, paragraph 4, of the Charter, all Member States shall

¹²⁸For the consideration of this issue by the General Assembly, see para. 41.

¹²⁹S C (36), Suppl. for July-Sept. 1981, S/14647.

¹³⁰The revised draft resolution (S/14664/Rev.2) was sponsored by Mexico, Niger, Panama, Philippines, Tunisia and Uganda and received 13 votes to 1, with 1 abstention.

¹³¹S C (38), Suppl. for Oct.-Dec. 1983, S/16216.

¹³²The draft resolution (S/16226) was sponsored by Angola, Botswana, Guyana, Jordan, Malta, Mozambique, Nicaragua, Pakistan, Togo, the United Republic of Tanzania, Zaire, Zambia and Zimbabwe, and received 14 votes to none, with 1 abstention.

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,

"...

"1. Strongly condemns South Africa's continued military occupation of the territory of southern Angola which constitutes a flagrant violation of international law and of the independence, sovereignty and territorial integrity of Angola;

"2. Declares that the continued illegal military occupation of the territory of Angola is a flagrant violation of the sovereignty, independence and territorial integrity of Angola and endangers international peace and security;

"3. Demands that South Africa should unconditionally withdraw forthwith all its occupation forces from the territory of Angola and cease all violations against that State and henceforth scrupulously respect the sovereignty and territorial integrity of Angola;

"4. Considers, moreover, that Angola is entitled to appropriate redress for any material damage it has suffered;

"5. Calls upon all Member States to desist from any action which would undermine the independence, territorial integrity and sovereignty of Angola".

64. By letter¹³³ dated 1 January 1984 addressed to the President of the Security Council, the representative of Angola transmitted an urgent message from the President of the People's Republic of Angola, reporting the worsening military situation in southern Angola created by the advancement of the South African military forces and requesting that the Security Council be urgently convened to take the necessary action.

65. At the 2511th meeting, on 6 January 1984, the Security Council adopted¹³⁴ resolution 546 (1984), which read in part as follows:

"The Security Council,

"...

"Gravely concerned at the renewed escalation of unprovoked bombing and persistent acts of aggression, including the continued military occupation, committed by the racist regime of South Africa in violation of the sovereignty, airspace and territorial integrity of Angola,

"...

"Indignant at the continued military occupation of parts of the territory of Angola by South Africa in contravention of the Charter of the United Nations and relevant Security Council resolutions,

"...

¹³³S C (39), Suppl. for Jan.-March 1984, S/16244.

¹³⁴The revised draft resolution (S/16247/Rev.1) was sponsored by Angola, Egypt, India, Malta, Mozambique, Nicaragua, Pakistan, Peru, the United Republic of Tanzania, Upper Volta, Zambia and Zimbabwe, and received 13 votes to none, with 2 abstentions.

"1. *Strongly condemns* South Africa for its renewed, intensified, premeditated and unprovoked bombing, as well as the continuing occupation of parts of the territory of Angola, which constitute a flagrant violation of the sovereignty and territorial integrity of that country and endanger seriously international peace and security;

"2. *Further strongly condemns* South Africa for its utilization of the international Territory of Namibia as a springboard for perpetrating the armed attacks as well as sustaining its occupation of parts of the territory of Angola;

"3. *Demands* that South Africa should cease immediately all bombing and other acts of aggression and unconditionally withdraw forthwith all its military forces occupying Angolan territory as well as undertake scrupulously to respect the sovereignty, airspace, territorial integrity and independence of Angola;

"...

"5. *Reaffirms* the right of Angola, in accordance with the relevant provisions of the Charter of the United Nations and, in particular, Article 51, to take all measures necessary to defend and safeguard its sovereignty, territorial integrity and independence;

"6. *Renews* its request to Member States to extend all necessary assistance to Angola, in order that Angola may defend itself against the escalating military attacks by South Africa as well as the continuing occupation of parts of Angola by South Africa;

"7. *Reaffirms further* that Angola is entitled to prompt and adequate compensation for the damage to life and property consequent upon these acts of aggression and the continuing occupation of parts of its territory by the South African military forces".

(ii) *Precis of relevant constitutional discussion*

66. During the Council's consideration of complaints by Angola, South Africa's aggressive acts were condemned as violations of the principles of Article 2(4) and related Charter provisions. It was maintained that South Africa had sent its troops into Angola to eliminate the patriots of the South West African People's Organization (SWAPO); to consolidate its illegal occupation of the Territory of Namibia; and to destabilize the front-line States. The policy of "pre-emptive strikes" was rejected, especially considering that the attacks were being undertaken from a Territory that was legally subject to United Nations authority and that South African territory was not in any danger.¹³⁵ On the

¹³⁵For the texts of relevant statements, see S C (36), 2296th mtg.: Angola, paras. 7-25; United Kingdom, paras. 26-30; Spain, paras. 31-38; German Democratic Republic, paras. 40-56; Zimbabwe, paras. 58-63; USSR, paras. 64-69, 75-81; Japan, paras. 86-91; Cuba, paras. 120-134; United States, paras. 144-148; President, paras. 158 and 159; 2297th mtg.: France, paras. 38-47; Libyan Arab Jamahiriya, paras. 58-65; Yugoslavia, paras. 68-77; 2298th mtg.: Federal Republic of Germany, paras. 5-10; Kenya, paras. 49-58; S C (38), 2504th mtg.: Botswana, paras. 77-91; 2505th mtg.: Brazil, paras. 16-20; 2506th mtg.: United Republic of Tanzania, paras. 119-136; 2507th mtg.: Zambia, paras. 5-11.

other hand, it was stressed that peaceful coexistence with neighbouring States could only come about if those States did not allow their territories to be used as sanctuaries from which attacks could be launched against the civilian population of South West Africa/Namibia. It was further held that SWAPO had recently escalated its premeditated attacks from Angola, leaving South Africa no alternative but to defend the civilian population of South West Africa/Namibia and to pursue the attackers wherever they could be found. The allegation of aggression against Angola was denied, on the grounds that any action on the part of South African security forces was aimed solely at SWAPO and not at Angola and its people.¹³⁶

(f) *Decisions of 15 December 1981 and 28 May 1982 in connection with the complaint by Seychelles*

(i) *Precis of proceedings*

67. By letter¹³⁷ dated 8 December 1981 addressed to the President of the Security Council, the representative of Seychelles informed the Council that on 25 November 1981 the Republic of Seychelles had been invaded by 45 mercenaries who had landed at the Seychelles international airport. The invaders, who had come from South Africa, had immediately launched an attack at the airport, inflicting heavy damage and taking hostages. Those invaders who had not been captured and detained had fled in panic by hijacking an Air India aircraft, which they had commandeered to South Africa. In view of the threat to international peace and security resulting from the situation, the representative of Seychelles requested that the Security Council should be convened urgently to consider the matter and take appropriate action.

68. At the 2314th meeting, on 15 December 1981, the Security Council unanimously adopted¹³⁸ resolution 496 (1981), which read in part as follows:

"The Security Council,

"...

"*Bearing in mind* that all Member States must 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,

"1. *Affirms* that the territorial integrity and political independence of the Republic of Seychelles must be respected;

"2. *Condemns* the recent mercenary aggression against the Republic of Seychelles and the subsequent hijacking;

"3. *Decides* to send a commission of inquiry composed of three members of the Security Council in order to investigate the origin, background and financing of the mercenary aggression of 25 November 1981 against the Republic of Seychelles, as well as assess and

¹³⁶S C (36), 2298th mtg.: South Africa, paras. 13-39.

¹³⁷S C (36), Suppl. for Oct.-Dec. 1981, S/14783.

¹³⁸The draft resolution (S/14793) was prepared in the course of the Security Council's consultations.

evaluate economic damages, and to report to the Council with recommendations no later than 31 January 1982”.

69. At its 2359th meeting, on 20 May 1982, the Security Council included the report of the Commission of Inquiry¹³⁹ in its agenda and resumed consideration of the issue.

70. At the 2370th meeting, on 28 May 1982, the Security Council unanimously adopted¹⁴⁰ resolution 507 (1982). The resolution read in part as follows:

“The Security Council,

“...

“Gravely concerned at the violation of the territorial integrity, independence and sovereignty of the Republic of Seychelles,

“Deeply grieved at the loss of life and substantial damage to property caused by the mercenary invading force during its attack on the Republic of Seychelles on 25 November 1981,

“Gravely concerned at the mercenary aggression against the Republic of Seychelles, prepared in and executed from South Africa,

“Deeply concerned at the danger which mercenaries represent for all States, particularly the small and weak ones, and for the stability and independence of African States,

“Concerned at the long-term effects of the mercenary aggression of 25 November 1981 on the economy of the Republic of Seychelles,

“Reiterating resolution 496 (1981), by which it affirms that the territorial integrity and political independence of the Republic of Seychelles must be respected,

“...

“2. Strongly condemns the mercenary aggression against the Republic of Seychelles;

“3. Commends the Republic of Seychelles for successfully repulsing the mercenary aggression and defending its territorial integrity and independence;

“4. Reaffirms its resolution 239 (1967) by which, inter alia, it condemns any State which persists in permitting or tolerating the recruitment of mercenaries and the provision of facilities to them, with the objective of overthrowing the Governments of Member States;

“5. Condemns all forms of external interference in the internal affairs of Member States, including the use of mercenaries to destabilize States and/or to violate the territorial integrity, sovereignty and independence of States;

“6. Further condemns the illegal acts against the security and safety of civil aviation committed in the Republic of Seychelles on 25 November 1981”.

¹³⁹S C (37), Special Suppl. No. 2, S/14905/Rev.1.

¹⁴⁰The draft resolution (S/15127) was sponsored by Guyana, Jordan, Panama, Togo, Uganda and Zaire.

(ii) *Precis of relevant constitutional discussion*

71. During the discussions regarding the complaint by Seychelles, all forms of mercenary activity were condemned as a direct violation of the principle of respect for the territorial integrity and political independence of States regardless of their size and geographical location. It was underlined that international law prohibited any State from allowing its territory to be used for purposes that threatened the independence and sovereignty of other States; that it was the duty of all States to refrain from financing, encouraging or tolerating armed subversive activities aimed at destabilizing or overthrowing by violence the established Government of another State; and that the mercenary aggression against Seychelles had once again demonstrated the urgent need for an international instrument prohibiting all acts pertaining to the recruitment, use, financing and training of mercenaries.¹⁴¹

(g) *Decisions of 17 December 1981 and 20 January 1982 in connection with the situation in the occupied Arab territories*¹⁴²

(i) *Precis of proceedings*

72. By letter¹⁴³ dated 14 December 1981 addressed to the President of the Security Council, the representative of the Syrian Arab Republic requested an urgent meeting of the Security Council to discuss the decision of the Government of Israel to apply Israeli laws to the occupied Golan Heights.

73. At the 2319th meeting, on 17 December 1981, the Security Council unanimously adopted¹⁴⁴ resolution 497 (1981), which read in part as follows:

“The Security Council,

“...

“Reaffirming that the acquisition of territory by force is inadmissible, in accordance with the Charter of the United Nations, the principles of international law and relevant Security Council resolutions,

“1. Decides that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect;

“2. Demands that Israel, the occupying Power, should rescind forthwith its decision;

¹⁴¹For the texts of relevant statements, see S C (36), 2314th mtg.: Seychelles, paras. 8-18; Japan, paras. 37-43; Niger, paras. 94 and 95; Ireland, paras. 98-101; Spain, paras. 104-106; Tunisia, paras. 110-117; Uganda, paras. 119-126; S C (37), 2359th mtg.: Panama, paras. 11-39; Seychelles, paras. 46-52; France, paras. 55-64; Jordan, paras. 67-74; Argentina, paras. 150-162; Czechoslovakia, paras. 210-215; 2365th mtg.: Poland, paras. 10-22; United Republic of Tanzania, paras. 27-40; Botswana, paras. 42-56; Yugoslavia, paras. 91-101; Mozambique, paras. 190-206; 2370th mtg.: United States, paras. 28-36.

¹⁴²For the consideration of this issue by the General Assembly, see para. 38.

¹⁴³S C (36), Suppl. for Oct.-Dec. 1981, S/14791.

¹⁴⁴The draft resolution (S/14798) was prepared in the course of the Security Council's consultations.

"3. *Determines* that all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, continue to apply to the Syrian territory occupied by Israel since June 1967;

"4. *Requests* the Secretary-General to report to the Security Council on the implementation of the present resolution within two weeks and decides that, in the event of non-compliance by Israel, the Council would meet urgently, and not later than 5 January 1982, to consider taking appropriate measures in accordance with the Charter of the United Nations".

74. At the 2322nd meeting, on 6 January 1982, following the submission by the Secretary-General of a report¹⁴⁵ informing the Council of Israel's refusal to comply with resolution 497 (1981), the Security Council resumed its consideration of the issue.

75. At the 2329th meeting, on 20 January 1982, a revised draft resolution¹⁴⁶ submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Council would have, inter alia, recalled General Assembly resolution 3314 (XXIX) of 14 December 1974, in which the Assembly defined an act of aggression as "the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof"; and determined that Israeli measures in the occupied Syrian Golan Heights, culminating in Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration, constituted an act of aggression under the provision of Article 39 of the Charter.

(ii) *Precis of relevant constitutional discussion*

76. During the deliberations preceding the adoption of Security Council resolution 497 (1981), Israel's decision to change the status of a territory occupied by war since 1967 was viewed as tantamount to annexation and contrary to the principles of international law and of the Charter of the United Nations, particularly the principle of the inadmissibility of the acquisition of territory by force. It was argued that Article 2(4) of the Charter, in providing against the threat or use of force against the territorial integrity of States, precluded the annexation of territories. It was also contended that the Geneva Convention for the Protection of Civilian Persons in Time of War applied to the territory, rather than Israeli law.¹⁴⁷ Moreover, it was underscored that the Israeli decision was a violation of the Israeli-Syrian ceasefire, thus constituting an act of war against the Syrian

Arab Republic.¹⁴⁸ On the other hand, it was maintained that in view of the need to administer everyday activities on the Golan Heights, occupied since 1967, Israel had decided to regularize the situation by applying Israeli law, jurisdiction and administration to the area. An account of Syrian "harassment and aggression" between 1948 and 1967 and of the refusal of the Syrian Arab Republic to make peace with Israel was given to justify Israel's vital interest in seeking protection against strikes from the Golan Heights. It was also claimed that if a State violated the fundamental principle of non-use of force, as the Syrian Arab Republic had done without interruption since 1948 by using or threatening force against Israel, such violations did not create any rights for the violating State.¹⁴⁹

77. During the Security Council's deliberations on the issue in the wake of non-compliance by Israel with the implementation of resolution 497 (1981), in addition to arguments similar to those mentioned above, the discussion revolved, on the one hand, around the assertion that Israel's action constituted aggression under Article 39 of the Charter and within the meaning of articles 3 and 5 of the annex to General Assembly resolution 3314 (XXIX), containing the Definition of Aggression.¹⁵⁰ The view was also expressed that, if the Council failed to impose sanctions against Israel, the Syrian Arab Republic reserved its right under Article 51 of the Charter to deal with the Israeli aggression.¹⁵¹ On the other hand, it was charged that the past acts of hostility by the Syrian Arab Republic were in violation of articles 1 and 2 of resolution 3314 (XXIX).¹⁵²

¹⁴⁸Ibid., 2316th mtg.: Syrian Arab Republic, para. 14.

¹⁴⁹Ibid., 2316th mtg.: Israel, paras. 20-46; 2319th mtg.: Israel, paras. 37-40 and 51-53.

¹⁵⁰For the text of relevant statements, see S C (37), 2322nd mtg.: Syrian Arab Republic, paras. 32-70 and 173-82; Jordan, paras. 77-99; 2328th mtg.: Syrian Arab Republic, paras. 166-70. The representatives quoted from article 3(a) of the Definition of Aggression, which defines an act of aggression, inter alia, as: "The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof"; and article 5(1), which reads as follows: "No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression".

¹⁵¹S C (37), 2322nd mtg.: Syrian Arab Republic, para. 69.

¹⁵²S C (37), 2322nd mtg.: Israel, para. 157. The representative cited article 1 of the Definition of Aggression, which reads as follows: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition. *Explanatory note:* In this Definition the term 'State': (a) is used without prejudice to questions of recognition or to whether a State is a Member of the United Nations". The representative also quoted from article 2, which reads: "The first use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression ..."

¹⁴⁵S C (36), Suppl. for Oct.-Dec. 1981, S/14821.

¹⁴⁶The revised draft resolution (S/14832/Rev.1) was sponsored by Jordan and received 9 votes to 1, with 5 abstentions.

¹⁴⁷For the text of relevant statements, see S C (36), 2316th mtg.: Syrian Arab Republic, paras. 7-17; Kuwait, paras. 50-58; Egypt, paras. 62-72; United Kingdom, paras. 73-77; 2317th mtg.: Cuba, paras. 5-12; India, paras. 151-155; 2318th mtg.: Zaire, paras. 20-44; Yugoslavia, paras. 47-55; Niger, paras. 56-63; Philippines, paras. 65-69; Mexico, paras. 70-84; Pakistan, paras. 87-94; 2319th mtg.: Indonesia, paras. 6-11; Uganda, paras. 20-27; Syrian Arab Republic, paras. 42-49.

(h) *Decision of 3 April 1982 in connection with the letter dated 1 April 1982 from the Permanent Representative of the United Kingdom*

(i) *Precis of proceedings*

78. By letter¹⁵³ dated 1 April 1982 addressed to the President of the Security Council, the Permanent Representative of the United Kingdom requested an immediate meeting of the Council as his Government had good reason to believe that the armed forces of the Argentine Republic were about to attempt to invade the Falkland Islands.

79. At the 2345th meeting, on 1 April 1982, after holding consultations with Council members, the President made a statement¹⁵⁴ on behalf of the Security Council, in which he called upon the Governments of Argentina and the United Kingdom to refrain from the use or threat of force in the region of the Falkland Islands (Islas Malvinas) and to continue the search for a diplomatic solution to the dispute.

80. At the 2346th meeting, on 2 April 1982, the representative of the United Kingdom informed the Council that Argentina was invading the Falkland Islands.

81. At the 2350th meeting, on 3 April 1982, the Security Council adopted¹⁵⁵ resolution 502 (1982), which read in part as follows:

"The Security Council,

"Recalling the statement made by the President of the Security Council at the 2345th meeting of the Council on 1 April 1982 calling on the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to refrain from the use or threat of force in the region of the Falkland Islands (Islas Malvinas),

"Deeply disturbed at reports of an invasion on 2 April 1982 by armed forces of Argentina,

"Determining that there exists a breach of the peace in the region of the Falkland Islands (Islas Malvinas),

"1. Demands an immediate cessation of hostilities;

"2. Demands an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas);

"3. Calls on the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to seek a diplomatic solution to their differences and to respect fully the purposes and principles of the Charter of the United Nations".

(ii) *Precis of relevant constitutional discussion*

82. During the deliberations in the Council, which focused mainly on the issues of sovereignty, decolonization and self-determination,¹⁵⁶ there was some discussion of the nature of the armed intervention in the Falkland Islands. On

¹⁵³S C (37), Suppl. for April-June 1982, S/14942.

¹⁵⁴S/14944.

¹⁵⁵The draft resolution (S/14947/Rev.1) was sponsored by the United Kingdom, and received 10 votes to 1, with 4 abstentions.

¹⁵⁶See the present *Supplement*, under Article 1(2).

the one hand, the invasion was viewed as an attempt to impose by force a foreign and an unwanted control and was described as a blatant violation of international law and the Charter, in particular Article 2(4).¹⁵⁷ On the other hand, it was argued that the Government of Argentina had merely recovered its national sovereignty over the territories of the Malvinas, South Georgia and South Sandwich Islands. It was an act that was based on a just Argentine claim, an act of legitimate defence in response to the acts of aggression by the United Kingdom, which had occurred episodically since 1833 when the United Kingdom had taken possession of the islands by force. In that regard, it was asserted that Article 2(3) and (4) of the Charter could not be taken to legitimize situations that had their origin in wrongful acts carried out before the Charter had come into force.¹⁵⁸

(i) *Decisions of 15 December 1982 and 29 June 1983 in connection with the complaint by Lesotho against South Africa*

(i) *Precis of proceedings*

83. By letter¹⁵⁹ dated 9 December 1982 addressed to the President of the Security Council, the representative of Lesotho transmitted the text of a telegram from the Minister for Foreign Affairs of his country, in which it was charged that SADF had launched an attack that day on the capital of Lesotho, Maseru, and requested an urgent meeting of the Council to address the issue.

84. At the 2407th meeting, on 15 December 1982, the Security Council adopted¹⁶⁰ resolution 527 (1982) which read in part as follows:

"The Security Council,

"...

"Bearing in mind that all Member States must 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,

"Gravely concerned at the recent premeditated aggressive act by South Africa, in violation of the sovereignty, airspace and territorial integrity of the Kingdom of Lesotho, and its consequences for peace and security in southern Africa,

"Gravely concerned that this wanton aggressive act by South Africa is aimed at weakening the humanitarian support given by Lesotho to South African refugees,

"...

¹⁵⁷For the texts of relevant statements, see S C (37), 2346th mtg.: United Kingdom, paras. 4-8; 2349th mtg.: France, paras. 5-9; Australia, paras. 21-24; Canada, paras. 27-30; New Zealand, paras. 33-36; 2350th mtg.: Japan, paras. 66-70.

¹⁵⁸S C (37), 2346th mtg.: Argentina, paras. 10-17; 2350th mtg.: Argentina, paras. 5-45.

¹⁵⁹S C (37), Suppl. for Oct.-Dec. 1982, S/15515.

¹⁶⁰The draft resolution (S/15524) was prepared in the course of the Security Council's consultations and received 12 votes to none, with 2 abstentions. One member of the Council did not participate in the voting.

"1. *Strongly condemns* the apartheid regime of South Africa for its premeditated aggressive act against the Kingdom of Lesotho which constitutes a flagrant violation of the sovereignty and territorial integrity of that country;

"2. *Demands* the payment by South Africa of full and adequate compensation to the Kingdom of Lesotho for the damage to life and property resulting from this aggressive act;

"3. *Reaffirms* the right of Lesotho to receive and give sanctuary to the victims of apartheid in accordance with its traditional practice, humanitarian principles and its international obligations;

"...

"6. *Declares* that there are peaceful means to resolve international problems and that, in accordance with the Charter of the United Nations, only these should be employed;

"7. *Calls upon* South Africa to declare publicly that it will, in the future, comply with provisions of the Charter and that it will not commit aggressive acts against Lesotho either directly or through its proxies".

85. At the 2455th meeting, on 29 June 1983, when the Council resumed consideration of the item, it included in its agenda the report¹⁶¹ of the Secretary-General recommending assistance to Lesotho to ensure the protection of refugees. At the same meeting, the Security Council unanimously adopted¹⁶² resolution 535 (1983), which read in part as follows:

"*The Security Council,*

"...

"*Having heard* the statement of the Chargé d'affaires of the Permanent Mission of the Kingdom of Lesotho expressing the deep concern of his Government at the frequent aggressive acts by South Africa against the territorial integrity and independence of Lesotho,

"*Reaffirming* its opposition to the system of apartheid and the right of all countries to receive refugees fleeing from apartheid oppression,

"...

"1. *Commends* the Government of Lesotho for its steadfast opposition to apartheid and its generosity to the South African refugees;

"...

"4. *Requests* Member States, international organizations and financial institutions to assist Lesotho in the fields identified in the report of the mission to Lesotho".

¹⁶¹S/15600.

¹⁶²The draft resolution (S/15846) was prepared in the course of the Security Council's consultations.

(ii) *Precis of relevant constitutional discussion*

86. During the Council's deliberations regarding the complaint by Lesotho, South Africa's aggressive acts against defenceless and vulnerable Lesotho were condemned as blatant violations of the principles of international law and of the Charter, particularly the principle of the non-use of force against the territorial integrity or political independence of any State. It was underlined that the apartheid policies of South Africa were the only source of conflict in the region; and South Africa's attempts to justify the attack on Maseru as a pre-emptive defensive measure were rejected as untenable and dangerous to the maintenance of international peace and security. Lesotho's right to receive and provide humanitarian support to South African refugees was reaffirmed.¹⁶³ On the other hand, it was pointed out that South Africa's pre-emptive action was aimed exclusively at the African National Congress (ANC) and its bases, to prevent the escalation of terrorist activity, and was not intended to be hostile to the people of Lesotho.¹⁶⁴

(j) *Decision of 27 October 1983 in connection with the situation in Grenada*¹⁶⁵

(i) *Precis of proceedings*

87. By letter¹⁶⁶ dated 25 October 1983 addressed to the President of the Security Council, the Deputy Minister for External Relations of Nicaragua requested an urgent meeting of the Council to consider the invasion of Grenada by troops of the United States of America.

88. At the 2491st meeting, on 27 October 1983, a revised draft resolution¹⁶⁷ submitted in connection with the item failed of adoption due to the negative vote of a permanent member of the Council. Under the revised draft text, the Security Council, bearing in mind that, in accordance with Article 2(4) of the Charter, all Member States were obliged to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State or to act in any other manner inconsistent with the principles of the Charter, would have, *inter alia*, deplored the armed intervention in Grenada; and called for the immediate cessation of the intervention and the withdrawal of the foreign troops from that State.

¹⁶³For the texts of relevant statements, see S C (37), 2406th mtg.: Lesotho, paras. 15-37; 2407th mtg.: Libyan Arab Jamahiriya, paras. 6-17; Zaire, paras. 19-32; United Kingdom, paras. 50-68; France, paras. 71-80; Japan, paras. 99-107; Spain, paras. 165-169; 2408th mtg.: Guyana, paras. 7-16; United States, paras. 19-26; Yugoslavia, paras. 60-70; Sierra Leone, paras. 73-83; Swaziland, paras. 110-127; Egypt, paras. 130-135; 2409th mtg.: Panama, paras. 7-15; Botswana, paras. 18-29; Grenada, paras. 77-84; Zimbabwe, paras. 88-91; Yemen, paras. 105-112; Mr. Makatini, paras. 167-205; Poland, paras. 207-216.

¹⁶⁴S C (37), 2409th mtg.: South Africa, paras. 137 and 146.

¹⁶⁵For the consideration of this issue by the General Assembly, see para. 39.

¹⁶⁶S C (38), Suppl. for Oct-Dec. 1983, S/16067.

¹⁶⁷The revised draft resolution (S/16077/Rev.1) was sponsored by Guyana, Nicaragua and Zimbabwe and received 11 votes to 1, with 3 abstentions.

(ii) *Precis of relevant constitutional discussion*

89. During the Council's deliberations regarding the situation in Grenada, where a multinational force had disembarked following the assassination of the Prime Minister of Grenada, several cabinet ministers and other citizens, a considerable constitutional discussion arose involving the provisions of Article 2(4) and Chapter VIII of the Charter relating to regional arrangements.

90. On the one hand, it was argued that the events that had taken place, however deplorable, were the internal affair of Grenada and provided no justification for an invasion by forces, including United States troops, in clear violation of Grenada's sovereignty, territorial integrity and political independence. It was charged that the attempts at justifying the invasion on whatever grounds were inadmissible pretexts advanced for the purpose of imposing political models in direct violation of the basic principles of the United Nations, in particular Article 2(4) of the Charter. Furthermore, it was maintained that under the Charter the use of force was permissible only in response to a request from the legitimate authorities of a country for assistance in individual and collective self-defence against armed external aggression, or upon a decision of the Council acting under Chapter VII of the Charter. It was stressed that no regional or subregional instrument contradicted the principle of non-intervention in the internal affairs of another State, and in the particular case of the Organization of Eastern Caribbean States (OECS), collective defensive measures were authorized against external aggression only.¹⁶⁸ Moreover, it was emphasized that the prohibition of the use of force could not be subject to interpretation since that would allow "subjective policies to be marketed as objective realities", thereby legitimizing the use of force and permitting intervention with the consequence being the reversal of the whole jurisprudence of the Charter.¹⁶⁹

91. On the other hand, it was held that, following the violent events in which Cuban-trained armed officers had seized power in Grenada, which had undergone an extensive and disproportionate military build-up in recent years, the member Governments of the OECS had sought assistance from countries within the region and subsequently from the United States, whose nationals on the island were endangered, to form a multinational task force for the purpose of undertaking the pre-emptive defensive strike required to remove the threat to peace and security in the subregion and to restore a situation of normalcy in Grenada. The action had been undertaken in accordance with the regional defence pact of OECS, to which Grenada was a party, and at the request of the island's Governor-General, who was the only remaining legitimate authority. It was also maintained that, while military action to protect nationals in real and compelling danger would not be justified under normal circumstances, it was permitted by international law in a situation where anarchy prevailed. Moreover, it was asserted that the Charter prohibition against the use of force was contextual and not absolute; that the use of force against force was justified in pursuit of other values also inscribed in

¹⁶⁸S C (38), 2487th mtg.: Mexico, para. 14.

¹⁶⁹Ibid., 2491st mtg.: Mr. Maksoud, para. 295.

the Charter such as freedom, democracy and peace; and that the Charter did not require peoples to submit supinely to terror, nor that their neighbours should be indifferent to their terrorization. The action taken by the task force, it was declared, was legal and within the letter and spirit of the Charter.¹⁷⁰

2. IN THE GENERAL ASSEMBLY

Decision of 15 November 1982 in connection with the item: Peaceful settlement of disputes between States(i) *Precis of proceedings*

92. At its thirty-fourth to thirty-sixth sessions, the General Assembly adopted resolutions¹⁷¹ endorsing the preparation of a declaration on the peaceful settlement of disputes between States, which had been suggested within the context of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization as a topic on which general agreement might be possible.¹⁷²

93. At its thirty-seventh session, at its 4th plenary meeting, on 24 September 1982, the General Assembly decided to include the item entitled "Peaceful settlement of disputes between States" in its agenda, in accordance with the resolution¹⁷³ adopted on the subject at its previous session, and allocated it to the Sixth Committee for consideration and report.

94. The Sixth Committee considered the item at its 20th to 30th meetings on the basis of, among other things, the report of the 1982 session of the Special Committee.¹⁷⁴ At the 29th meeting, a draft resolution¹⁷⁵ on the subject was adopted by consensus, together with the draft declaration annexed thereto.

95. At its 68th plenary meeting, on 15 November 1982, the General Assembly adopted by consensus the draft¹⁷⁶ submitted by the Sixth Committee as resolution 37/10. Among the provisions of the Manila Declaration on the

¹⁷⁰For the texts of relevant statements, see S C (38), 2487th mtg.: Mexico, paras. 9-19; Nicaragua, paras. 20-41; Guyana, paras. 68-86; Grenada, paras. 88-110; Cuba, paras. 114-125; USSR, paras. 158-161 and 168; United States, paras. 188-196; 2489th mtg.: Dominica, paras. 6-14; Viet Nam, paras. 21-30; Nigeria, paras. 32-34; Poland, paras. 36-43; Jamaica, paras. 45-58; China, paras. 65-69; Argentina, paras. 71-77; Algeria, para. 93-102; France, para. 146; Antigua and Barbuda, 156 and 157; 2491st mtg.: Saint Lucia, paras. 13-29; Zimbabwe, paras. 31-41; Ecuador, paras. 44-50; United States, paras. 51-77; Benin, para. 91; Barbados, paras. 141-149; Sao Tome and Principe, paras. 175 and 177; Guinea-Bissau, para. 245; Mr. Maksoud, paras. 293-295; Saint Vincent and the Grenadines, paras. 327-331; United Republic of Tanzania, paras. 382-384; Jordan, paras. 412-414.

¹⁷¹G A resolutions 34/102, 35/160 and 36/110.

¹⁷²G A (34), Suppl. No. 33, A/34/33, para. 13.

¹⁷³G A resolution 36/110 (para. 6).

¹⁷⁴G A (37), Suppl. No. 33, A/37/33.

¹⁷⁵The draft resolution (A/C.6/37/L.2) was sponsored by 40 Member States.

¹⁷⁶The draft resolution was submitted by the Sixth Committee in its report (A/37/590, para. 10).

Peaceful Settlement of International Disputes, which was contained in the annex to the resolution, were the following:

"The General Assembly,

"...

"Reaffirming the principle of the Charter of the United Nations that all 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 manner inconsistent with the purposes of the United Nations,

"...

"Stressing the need for all States to desist from any forcible action that deprives peoples, particularly peoples under colonial and racist regimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

"...

"Solemnly declares that:

I

"...

"4. States parties to a dispute shall continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning sovereignty, independence and territorial integrity of States, as well as other generally recognized principles and rules of contemporary international law.

"...

"12. In order to facilitate the exercise by the peoples concerned of their right to self-determination as referred to in the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the parties to a dispute may have the possibility, if they agree to do so and as appropriate, to have recourse to the relevant procedures mentioned in the present Declaration, for the peaceful settlement of disputes.

"13. Neither the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat of force by any of the States party to the dispute.

"...

"Declares that nothing in the present Declaration shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes;

"Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter,

of peoples forcibly deprived of that right and referred to in the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration".

(ii) *Precis of relevant constitutional discussion*

96. During the debates that took place in the Sixth Committee, the close relationship between the Charter principles of peaceful settlement of disputes and of the non-use of force was emphasized. However, the applicability of those principles to peoples struggling for their right to self-determination, as defined in the final draft of the Manila Declaration, gave rise to opposing views. On the one hand, caution was expressed that the relevant provisions of the Declaration could be interpreted to mean that the parties to a conflict involving the exercise of the right to self-determination were not obliged to settle that conflict by peaceful means, and were free to resort to other means such as armed force.¹⁷⁷ On the other hand, support was expressed for the struggle of peoples exercising their right to self-determination. It was emphasized that nothing in the Declaration should be construed as undermining or diminishing that right, which included recourse to armed struggle if necessary.¹⁷⁸ The view was also expressed that the procedures for the peaceful settlement of disputes referred to in the Declaration would advance the rights of such peoples and that, in order to be effective, the Declaration would require the support of national liberation movements recognized by the United Nations.¹⁷⁹

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

C. The question of the bearing of the injunction in Article 2(4) on the right of self-defence

97. During the period under review, there were numerous occasions when some constitutional discussion regarding the right to self-defence and its interrelationship with the injunction in Article 2(4) arose. Those instances are dealt with above in part A of the analytical summary of practice.¹⁸⁰ In the current period, no other cases requiring separate analysis were found.¹⁸¹

¹⁷⁷G A (37), 6th Comm., 25th mtg.: Netherlands, para. 16.

¹⁷⁸Ibid., 20th mtg.: Egypt, para. 36; 24th mtg.: Viet Nam, para. 67; 28th mtg.: Zambia, para. 3; 28th mtg.: Burundi, para. 32.

¹⁷⁹Ibid., 21st mtg.: Algeria, para. 12; 25th mtg.: Tunisia, para. 49; 27th mtg.: Democratic Yemen, para. 35.

¹⁸⁰See cases (b), (c), (d), (e), (g), (h), (i) and (j) in the Security Council (paras. 48-53, 54-56, 57-59, 60-66, 72-77, 78-82, 83-86 and 87-91 above). The references to statements bearing on those cases include the relevant material regarding self-defence and threat or use of force.

¹⁸¹See also the present *Supplement*, under Article 51.