

## ARTICLE 2(7)

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## ARTICLE 2(7)

### TEXT OF ARTICLE 2(7)

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

### INTRODUCTORY NOTE

1. The present study is organized in the same manner as the previous studies of Article 2 (7) in the *Repertory* and its five Supplements. Pursuant to the recommendation of the Committee for Programme and Coordination,<sup>1</sup> only actions of principal organs that bear directly on the interpretation of the provisions of the Charter have been recorded in this *Supplement*.<sup>1</sup> A description of the method of treating the material is found in the introductory note to the study on Article 2 (7) in the *Repertory*.

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

3. None of the resolutions adopted in any of the cases referred specifically to Article 2 (7), but many incorporated, as grounds for action, some of the considerations advanced during the discussions as excepting a question from the application of Article 2 (7).

4. The study does not cover decisions in connection with which no objections based on Article 2 (7) were raised, although such decisions constitute, at least by implication, an affirmation of the competence of the United Nations, and may therefore have a bearing on the problem of domestic jurisdiction.

5. Two cases dealt with in the previous studies on Article 2 (7) in the *Repertory* and its five Supplements are also dealt with here, as indicated in the following table:

<i>Case number and title</i>	<i>Relevant paragraphs of study</i>	<i>Organ</i>
Case No. 54: Question of the Comorian island of Mayotte	7-17, 66-67, 73-74, 79-80	General Assembly
Case No. 55: Question of Puerto Rico	18-21, 66-67, 73, 75	General Assembly

6. In addition, the present study deals with five new cases, as indicated in the following table:

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

<i>Case number and title</i>	<i>Relevant paragraphs of study</i>	<i>Organ</i>
<i>Case No. 60:</i> Complaint by Democratic Kampuchea	53-59, 66-67, 73	Security Council
<i>Case No. 61:</i> Question of Kampuchea	22-32, 66-69, 71, 73, 76-80	General Assembly
<i>Case No. 62:</i> Question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India	33-41, 66-67, 77-80	General Assembly
<i>Case No. 63:</i> The Afghanistan situation	60-68, 70, 72, 77-78	Security Council
<i>Case No. 64:</i> The situation in Afghanistan and its implications for international peace and security	42-52, 67, 72-73, 77-78, 80	General Assembly

## I. GENERAL SURVEY

### A. General Assembly

- \*\*Case No. 1:**  
RELATIONS OF MEMBER STATES WITH SPAIN
- \*\*Case No. 2:**  
TREATMENT OF PEOPLE OF INDIAN ORIGIN IN THE  
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QUESTION OF CONVENING CONFERENCES OF  
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TERRITORIES
- \*\*Case No. 4:**  
QUESTION OF THE ESTABLISHMENT OF COMMITTEES  
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QUESTION OF THE COMPETENCE OF THE GENERAL  
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WHICH ARTICLE 73e APPLIES
- \*\*Case No. 6:**  
THREATS TO THE POLITICAL INDEPENDENCE AND  
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- \*\*Case No. 7:**  
OBSERVANCE OF HUMAN RIGHTS IN THE UNION OF  
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- \*\*Case No. 8:**  
OBSERVANCE OF HUMAN RIGHTS IN BULGARIA,  
HUNGARY AND ROMANIA
- \*\*Case No. 9:**  
QUESTION OF MOROCCO

- \*\*Case No. 10:**  
THE TUNISIAN QUESTION
- \*\*Case No. 11:**  
QUESTION OF RACE CONFLICT IN THE UNION  
[REPUBLIC] OF SOUTH AFRICA
- \*\*Case No. 24:**  
QUESTION OF CYPRUS
- \*\*Case No. 25:**  
QUESTION OF WEST IRIAN
- \*\*Case No. 26:**  
COMPLAINT OF DETENTION AND IMPRISONMENT OF  
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VIOLATION OF THE KOREAN ARMISTICE AGREEMENT
- \*\*Case No. 27:**  
QUESTION OF ALGERIA
- \*\*Case No. 30:**  
QUESTION OF HUNGARY
- \*\*Case No. 34:**  
POLICIES OF APARTHEID OF THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH AFRICA
- \*\*Case No. 35:**  
QUESTION OF TIBET
- \*\*Case No. 36:**  
QUESTION OF OMAN
- \*\*Case No. 37:**  
QUESTION OF SOUTHERN RHODESIA

**\*\*Case No. 38:**

STATUS OF THE GERMAN-SPEAKING ELEMENT IN THE PROVINCE OF BOLZANO (BOZEN)

**\*\*Case No. 39:**

THE SITUATION IN ANGOLA

**\*\*Case No. 40:**

THE SITUATION IN ADEN

**\*\*Case No. 41:**

CONSIDERATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS

**\*\*Case No. 42:**

DECLARATION ON THE INADMISSIBILITY OF INTERVENTION IN THE DOMESTIC AFFAIRS OF STATES AND THE PROTECTION OF THEIR INDEPENDENCE AND SOVEREIGNTY

**\*\*Case No. 52:**

THE KOREAN QUESTION

**Case No. 54:**

QUESTION OF THE COMORIAN ISLAND OF MAYOTTE

7. The question of the Comorian island of Mayotte was further considered by the General Assembly at its thirty-fourth to thirty-ninth sessions.

8. During the discussion on the adoption of the agenda at each of the sessions,<sup>2</sup> the representative of France contended that the island of Mayotte was an integral part of the French Republic and that the inclusion of the item in the agenda would constitute a violation of Article 2 (7) of the Charter.<sup>3</sup> The arguments submitted for and against the French position are contained in the analytical summary of practice. They relate to the question of whether the inclusion of an item in the agenda constitutes intervention (see paras. 66-67 below).

9. Despite the objections raised on the grounds of Article 2 (7), the General Assembly placed the item on its agenda at each session.<sup>4</sup>

10. During the discussion of the item, the representative of France expressed the view that the matter essentially fell within the domestic jurisdiction of France. The arguments submitted for and against the position taken by the Government of France are given in the analytical summary

<sup>2</sup>The item was included in the provisional agenda of each session of the General Assembly during the period under review, in accordance with the terms of G A decision 33/435 and resolutions 32/7, 34/69, 35/43, 36/105, 37/65, 38/13 and 39/48, respectively.

<sup>3</sup>G A (34), Gen. Comm., 1st mtg., para. 68; G A (35), Gen. Comm., 1st mtg., paras. 56, 57; G A (36), Gen. Comm., 1st mtg., para. 50; G A (37), Gen. Comm., 1st mtg., para. 46; G A (38), Gen. Comm., 1st mtg., para. 66; G A (39), Gen. Comm., 1st mtg., para. 42.

<sup>4</sup>G A (34), Plen., 4th mtg., para. 362; G A (35), Plen., 3rd mtg., para. 20; G A (36), Plen., 4th mtg., a.i., 27; G A (37), Plen., 4th mtg., a.i., 30; G A (38), Plen., 3rd mtg., a.i., 30; G A (39), Plen., 3rd mtg., a.i., 27.

of practice. They relate to the following question: whether a matter governed by Charter provisions on decolonization and self-determination can fall essentially within domestic jurisdiction (see paras. 73-74).

11. Following discussion of the item, the General Assembly took the actions described in the following sections.

(a) *Action taken at the thirty-fourth session:*  
*resolution 34/69*

12. On 6 December 1979, the General Assembly adopted resolution 34/69, by 112 votes to 1, with 23 abstentions.<sup>5</sup> In the preamble, the Assembly recalled its resolutions 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and 2621 (XXV) of 12 October 1970, containing the programme of action for the full implementation of the Declaration, and declared itself convinced that a just and lasting solution to the question of Mayotte was to be found in respect of the sovereignty, unity and territorial integrity of the Comoro Archipelago. In the operative part of the resolution, the General Assembly reaffirmed the sovereignty of the Islamic Federal Republic of the Comoros over the island of Mayotte; appealed to the Government of France to begin negotiations with the Government of the Comoros as soon as possible with a view to implementing the relevant resolutions of the United Nations on the Comorian island of Mayotte; requested the Secretary-General of the United Nations, in liaison with the Administrative Secretary-General of the Organization of African Unity, to provide the two parties with all necessary assistance and to report to the General Assembly at its thirty-fifth session on developments relating to this question; and decided to include in the provisional agenda of its thirty-fifth session the item entitled "Question of the Comorian island of Mayotte".

(b) *Action taken at the thirty-fifth session:*  
*resolution 35/43*

13. On 28 November 1980, the General Assembly adopted resolution 35/43, by 100 votes to 1, with 26 abstentions.<sup>6</sup> In the preamble, the Assembly took note of the talks opened between the Government of the Islamic Federal Republic of the Comoros and the Government of the French Republic. In the operative part of the resolution, the Assembly reaffirmed the sovereignty of the Islamic Federal Republic of the Comoros over the island of Mayotte; invited the Governments of the Comoros and France to continue the talks, with a view to rapidly finding for the question of the Comorian island of Mayotte a just solution in conformity with the relevant resolutions of the United Nations; welcomed the initiative taken at Freetown by the Organization of African Unity to convene at Moroni before the thirty-seventh ordinary session of the OAU Council of Ministers its Committee of Seven charged with the question, with a view to discussing with the Comorian Government appropriate measures likely to speed up the settlement of the question of Mayotte; requested the Secretary-General of the

<sup>5</sup>G A (34), Plen., 92nd mtg., a.i., 29, para. 77.

<sup>6</sup>G A (35), Plen., 74th mtg., a.i., 25, para. 72.

United Nations to follow developments concerning the question, in conjunction with the Secretary-General of the Organization of African Unity, and to report thereon to the General Assembly at its thirty-sixth session; and decided to include in the provisional agenda of its thirty-sixth session the item entitled "Question of the Comorian island of Mayotte".

(c) *Action taken at the thirty-sixth session:*  
*resolution 36/105*

14. On 10 December 1981, the General Assembly adopted resolution 36/105, by 117 votes to 1, with 20 abstentions.<sup>7</sup> In the preamble to the resolution, the Assembly took note of the talks opened between the Government of the Islamic Federal Republic of the Comoros and the Government of the French Republic. In the operative part, the Assembly reaffirmed the sovereignty of the Islamic Federal Republic of the Comoros over the island of Mayotte; invited the Government of France to honour the commitments entered into prior to the referendum on the self-determination of the Comoro Archipelago of 22 December 1974 concerning respect for the unity and territorial integrity of the Comoros; invited the Government of France to resume and actively pursue the negotiations with the Government of the Comoros with a view to ensuring the effective return of the island of Mayotte to the Comoros as soon as possible; requested the Secretary-General of the United Nations to follow developments concerning the question, in conjunction with the Secretary-General of the Organization of African Unity, and to report thereon to the General Assembly at its thirty-seventh session; and decided to include in the provisional agenda of its thirty-seventh session the item entitled "Question of the Comorian island of Mayotte".

(d) *Action taken at the thirty-seventh session:*  
*resolution 37/65*

15. On 3 December 1982, the General Assembly adopted resolution 37/65, by 112 votes to 1, with 22 abstentions.<sup>8</sup> In the preamble, the General Assembly stated that it bore in mind the wish expressed by the President of the French Republic to actively seek a just solution to the problem and took note of the talks opened between the Government of the Islamic Federal Republic of the Comoros and the Government of the French Republic. In the operative part, the General Assembly reaffirmed the sovereignty of the Islamic Federal Republic of the Comoros over the island of Mayotte; invited the Government of France to honour the commitments entered into prior to the referendum on the self-determination of the Comoro Archipelago of 22 December 1974 concerning respect for the unity and territorial integrity of the Comoros; called for the translation into practice of the wish expressed by the President of the French Republic to see a just solution to the question of Mayotte adopted as soon as possible; invited the Government of France to pursue actively the negotiations with the Government of the Comoros with a view to

ensuring the effective and prompt return of the island of Mayotte to the Comoros; requested the Secretary-General of the United Nations to follow developments concerning the question, in conjunction with the Secretary-General of the Organization of African Unity, and to report thereon to the General Assembly at its thirty-eighth session; and decided to include in the provisional agenda of its thirty-eighth session the item entitled "Question of the Comorian island of Mayotte".

(e) *Action taken at the thirty-eighth session:*  
*resolution 38/13*

16. Resolution 38/13 was adopted by the General Assembly on 21 November 1983, by 115 votes to 1, with 24 abstentions.<sup>9</sup> The text of the resolution is similar to that of resolution 37/65, including the Assembly's decision to include in the provisional agenda of its thirty-ninth session the item entitled "Question of the Comorian island of Mayotte".

(f) *Action taken at the thirty-ninth session:*  
*resolution 39/48*

17. Resolution 39/48 was adopted by the General Assembly on 11 December 1984, by 122 votes to 1, with 21 abstentions.<sup>10</sup> The text of the resolution follows that of resolutions 37/65 and 38/13. The General Assembly also decided in the resolution to include in the provisional agenda of its fortieth session the item entitled "Question of the Comorian island of Mayotte".

Case No. 55:  
QUESTION OF PUERTO RICO<sup>11</sup>

18. At the thirty-seventh session of the General Assembly, the General Committee considered a request by Cuba for the inclusion of an item entitled "Question of Puerto Rico".<sup>12</sup>

19. During the debate in the General Committee on the adoption of the agenda, the representative of the United States of America and several other representatives opposed the inclusion of the item in the agenda for the thirty-seventh session on the grounds that it constituted intervention in the internal affairs of the United States.<sup>13</sup> Accordingly, the Committee decided by 11 votes to 7, with 8 abstentions, not

<sup>7</sup>G A (36), Plen., 92nd mtg., a.i., 27, para. 84.

<sup>8</sup>G A (37), Plen., 91st mtg., a.i., 30, para. 79.

<sup>9</sup>G A (38), Plen., 65th mtg., a.i., 30, para. 46.

<sup>10</sup>G A (39), Plen., 94th mtg., a.i., 27.

<sup>11</sup>Formally entitled "The colonial case of Puerto Rico".

<sup>12</sup>Letter dated 17 August 1982 from Cuba addressed to the Secretary-General of the United Nations (A/37/194). The explanatory memorandum annexed to the letter stated that the competence of the United Nations to consider the question of Puerto Rico had been established, inter alia, by the resolutions of 20 August 1981 and 4 August 1982 adopted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, in which the Committee had recommended that "the General Assembly should examine the question of Puerto Rico as a separate item at its thirty-seventh session", in conformity with General Assembly resolution 1514 (XV) of 14 December 1960.

<sup>13</sup>G A (37), Gen. Comm., 2nd mtg., paras. 56, 62, 64 and 67.



to recommend to the General Assembly the inclusion of the item in the agenda.

20. At its 4th plenary meeting, the General Assembly considered the above recommendation of the General Committee. The representative of Cuba proposed orally that the Assembly should vote against the recommendation and thereby include the item in the agenda. The representative of the United States again opposed the proposal on the grounds of domestic jurisdiction.<sup>14</sup> After discussion, the Assembly rejected the proposal by 70 votes to 30, with 43 abstentions.

21. The arguments advanced for and against the view that the matter was essentially within the domestic jurisdiction of a State are given in the analytical summary of practice. They relate to the following questions: (a) whether the inclusion of an item in the agenda constitutes intervention (paras. 66-67 below); and (b) whether a matter governed by the Charter provisions on the self-determination of peoples can fall essentially within the domestic jurisdiction of a State (paras. 73, 75 below).

**\*\*Case No. 56:**

QUESTION OF PALESTINE REFUGEES IN THE NEAR EAST

**\*\*Case No. 57:**

QUESTION OF CAMBODIA

**Case No. 61:**

THE SITUATION IN KAMPUCHEA<sup>15</sup>

22. The General Assembly considered the situation in Kampuchea at its thirty-fourth to thirty-ninth sessions.

23. During the discussion on the adoption of the agenda at each of the sessions, several representatives expressed the view that the item fell essentially within the domestic jurisdiction of the Government of Kampuchea.<sup>16</sup> Some of these representatives referred specifically to Article 2 (7).<sup>17</sup> The arguments submitted for and against this contention are examined in the analytical summary of practice. They relate to the question whether the inclusion of an item in the agenda constitutes intervention in the internal affairs of a State in violation of Article 2 (7) (see paras. 66-67 below).

<sup>14</sup>G A (37), Plen., 4th mtg., a.i., 8, United States, paras. 9 and 42.

<sup>15</sup>The item was included in the agenda of the General Assembly at its thirty-fourth session on the basis of the request of the Member States of the Association of South-East Asian Nations (ASEAN), submitted in a letter dated 17 August 1979 addressed to the Secretary-General (A/34/191). The explanatory memorandum annexed to the letter referred to the grave concern of the Member States at the situation in Indo-China arising out of the armed intervention against the independence, sovereignty and territorial integrity of Kampuchea.

<sup>16</sup>G A (34), Gen. Comm., 2nd mtg.: Viet Nam, para. 21, and Lao People's Democratic Republic, paras. 28-30; G A (35), Gen. Comm., 1st mtg.: USSR, para. 37; Mongolia, para. 40; Bulgaria, para. 43; G A (36), Gen. Comm., 1st mtg.: USSR, paras. 28 and 35; G A (37), Gen. Comm., 1st mtg.: USSR, para. 27; G A (38), Gen. Comm., 1st mtg.: USSR, para. 45; Czechoslovakia, para. 48; G A (39), Gen. Comm., 1st mtg.: USSR, para. 30; Cuba, para. 33; Bulgaria, para. 34.

<sup>17</sup>G A (34), Gen. Comm., 2nd mtg.: Lao People's Democratic Republic, paras. 28-30; G A (36), Gen. Comm., 1st mtg.: USSR, para. 28; G A (37), Gen. Comm., 1st mtg.: USSR, para. 27.

24. Despite the objections raised on the grounds of Article 2 (7), the General Assembly placed the item on its agenda at each session.<sup>18</sup>

25. During the discussion of the item itself, those representatives who had objected to the inclusion of the item in the agenda continued to argue that the General Assembly lacked the competence to discuss the matter on the basis that it concerned an internal affair of a sovereign State, and relied on the provisions of Article 2 (7). The arguments submitted on the question are given in the analytical summary of practice. They relate to the following questions: (a) whether a matter governed by international law can fall essentially within the domestic jurisdiction of a State (see paras. 68-69 below); (b) whether a matter governed by the Charter in general can fall essentially within domestic jurisdiction (paras. 71-78 below); and (c) whether a matter governed by the Charter provisions on the maintenance of peace can fall essentially within national jurisdiction (paras. 77-78 below).

26. Following discussion of the item, the General Assembly took the actions described in the following sections.

(a) *Action taken at the thirty-fourth session:*  
*resolution 34/22*

27. On 14 November 1979, the General Assembly adopted resolution 34/22, by 91 votes to 21, with 29 abstentions.<sup>19</sup> In the preamble to this resolution, the Assembly, inter alia, expressed deep regret at the armed intervention by outside forces in the internal affairs of Kampuchea; declared itself gravely alarmed that the conflict might spill over to neighbouring countries and increase the danger of further involvement by outside Powers; reaffirmed the right of all peoples to determine their own future free from outside interference; and emphasized that all States should refrain, in their international relations, from the threat or use of force against the sovereignty, territorial integrity or independence of any State and strictly adhere to the principles of peaceful settlement of disputes and non-interference in the internal affairs of other States. In the operative part of the resolution, the General Assembly, inter alia, called upon all parties to the conflict to cease all hostilities forthwith; called for the immediate withdrawal of all foreign forces in Kampuchea and called upon all States to refrain from all acts or threats of aggression and all forms of interference in the internal affairs of States in South-East Asia; urged all parties to the conflict to settle their disputes by peaceful means in accordance with the Charter of the United Nations; appealed to all States to refrain from any interference in the internal affairs of Kampuchea in order to enable its people to decide their own future and destiny free from outside interference, subversion or coercion, and to respect scrupulously the sovereignty, territorial integrity and independence of Kampuchea; and decided to include in the

<sup>18</sup>G A (34), Plen., 4th mtg.: para. 369; G A (35), Plen., 3rd mtg.: para. 29; G A (36), Plen., 4th mtg., a.i., 22; G A (37), Plen., 3rd mtg., a.i., 20; G A (38), Plen., 3rd mtg., a.i., 23; G A (39), Plen., 3rd mtg., a.i., 20.

<sup>19</sup>G A (34), Plen., 67th mtg., para. 196.

provisional agenda of its thirty-fifth session the item entitled "The situation in Kampuchea".

(b) *Action taken at the thirty-fifth session:  
resolution 35/6*

28. On 22 October 1980, the General Assembly adopted resolution 35/6, by 97 votes to 23, with 22 abstentions.<sup>20</sup> In the preamble to this resolution, the Assembly, inter alia, expressed deep regret that the foreign armed intervention continued and that the foreign forces had not been withdrawn from Kampuchea; declared itself greatly concerned that the deployment of more foreign troops and weapons in Kampuchea near the Thai-Kampuchean border had heightened tension in the region; stated that there was an urgent need for a comprehensive political solution to the Kampuchean problem which would ensure the sovereignty and independence of Kampuchea and the right of the Kampuchean people to determine their future free from outside interference; and reaffirmed the need for all States to adhere strictly to the principles of the Charter of the United Nations. In the operative part of the resolution, the General Assembly, inter alia, decided, taking into account paragraph 12 of resolution 34/22, to convene early in 1981 an international conference on Kampuchea which should involve the participation of all conflicting parties in Kampuchea and others concerned, with the aim of finding a comprehensive political settlement of the Kampuchean problem; called for: (a) the stationing of a United Nations observer team on the Thai side of the border in order to observe the situation along the border and to verify that only civilian Kampuchean obtained international relief aid, and (b) the establishment of safe areas under United Nations supervision in western Kampuchea for the uprooted civilian Kampuchean encamped near the Thai-Kampuchean border and those in Thailand who wished to return to their homeland; urged the countries of South-East Asia, once a comprehensive political solution to the Kampuchean conflict was achieved, to exert renewed efforts to establish a zone of peace, freedom and neutrality in South-East Asia; requested the Secretary-General to follow the situation closely and to exercise his good offices in order to contribute to a peaceful solution of the problem; requested the Secretary-General to submit to the General Assembly at its thirty-sixth session a report on the implementation of the resolution; and decided to include in the provisional agenda of its thirty-sixth session the item entitled "The situation in Kampuchea".

(c) *Action taken at the thirty-sixth session:  
resolution 36/5*

29. On 21 October 1981, the General Assembly adopted resolution 36/5, by 100 votes to 25, with 19 abstentions.<sup>21</sup> In the preamble to the resolution, the Assembly, inter alia, welcomed the convening of the International Conference on Kampuchea, held at United Nations Headquarters from 13 to 17 July 1981, as a step forward towards a comprehensive political settlement of the Kampuchean problem. In the operative part of the resolution, the Assembly, inter alia,

adopted: (a) the Declaration on Kampuchea, which included four elements of negotiations for a comprehensive political settlement of the Kampuchean problem, and (b) resolution 1 (I), in which the Conference had established the Ad Hoc Committee of the International Conference on Kampuchea; authorized the Ad Hoc Committee to convene during regular sessions of the General Assembly in order to carry out its tasks; and requested the Secretary-General to undertake a preliminary study of the possible future role of the United Nations, taking into account the mandate of the Ad Hoc Committee and the elements of negotiations for a comprehensive political settlement as set out in paragraph 10 of the Declaration on Kampuchea; requested the Secretary-General to follow the situation closely and to exercise his good offices in order to contribute to a comprehensive political settlement; urged the countries of South-East Asia, once a comprehensive political solution to the Kampuchean conflict was achieved, to exert renewed efforts to establish a zone of peace, freedom and neutrality in South-East Asia; requested the Secretary-General to submit to the General Assembly at its thirty-seventh session a report on the implementation of the resolution; and decided to include in the provisional agenda of its thirty-seventh session the item entitled "The situation in Kampuchea".

(d) *Action taken at the thirty-seventh session:  
resolution 37/6*

30. On 28 October 1982, the General Assembly adopted resolution 37/6, by 105 votes to 23, with 20 abstentions.<sup>22</sup> In the operative part of the resolution, the Assembly, inter alia, reiterated its conviction that the withdrawal of all foreign forces from Kampuchea, the restoration and preservation of its independence, sovereignty and territorial integrity, the right of the Kampuchean people to determine their own destiny and the commitment by all States to non-interference and non-intervention in the internal affairs of Kampuchea were the principal components of any just and lasting resolution to the Kampuchean problem; took note with appreciation of the report of the Ad Hoc Committee of the International Conference on Kampuchea and requested that the Committee continue its work, pending the reconvening of the Conference; authorized the Ad Hoc Committee to convene when necessary and to carry out the tasks entrusted to it in its mandate; urged the countries of South-East Asia, once a comprehensive political solution to the Kampuchean conflict was achieved, to exert renewed efforts to establish a zone of peace, freedom and neutrality in South-East Asia; expressed its appreciation to the Secretary-General for taking appropriate steps in following the situation closely and requested him to continue to do so and to exercise his good offices in order to contribute to a comprehensive political settlement; requested the Secretary-General to submit to the General Assembly at its thirty-eighth session a report on the implementation of the resolution; and decided to include in the provisional agenda of its thirty-eighth session the item entitled "The situation in Kampuchea".

<sup>20</sup>G A (35), Plen., 44th mtg., para. 121.

<sup>21</sup>G A (36), Plen., 40th mtg., a.i. 22.

<sup>22</sup>G A (37), Plen., 48th mtg., a.i. 20.

(e) *Action taken at the thirty-eighth session:*  
*resolution 38/3*

31. On 27 October 1983, the General Assembly adopted resolution 38/3, by 105 votes to 23, with 19 abstentions, in which it reiterated the recommendations contained in resolution 37/6 and decided to include in the provisional agenda of its thirty-ninth session the item entitled "The situation in Kampuchea".<sup>23</sup>

(f) *Action taken at the thirty-ninth session:*  
*resolution 39/5*

32. On 30 October 1984, the General Assembly adopted resolution 39/5, by 110 votes to 22, with 18 abstentions.<sup>24</sup> In the resolution, the Assembly reiterated the recommendations contained in resolutions 37/6 and 38/3 and decided to include in the provisional agenda of its fortieth session the item entitled "The situation in Kampuchea".

Case No. 62:

QUESTION OF THE ISLANDS OF GLORIEUSES, JUAN DE NOVA, EUROPA AND BASSAS DA INDIA

33. The question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India was considered by the General Assembly at its thirty-fourth to thirty-ninth sessions.

34. During the discussion on the adoption of the agenda at each of the sessions,<sup>25</sup> the representative of France opposed the inclusion of the item in the agenda on the grounds that the islands were under French sovereignty and that the current and future status of the islands could not be discussed in the General Assembly without infringing upon Article 2 (7) of the Charter.<sup>26</sup> The arguments advanced for and against the position of France are contained in the analytical summary of practice of the present study. They relate to the following question: whether the inclusion of an item in the agenda constitutes intervention (see paras. 66-67 below).

<sup>23</sup>G A (38), Plen., 38th mtg., a.i. 23, para. 149.

<sup>24</sup>G A (39), Plen., 43rd mtg., a.i. 20.

<sup>25</sup>At the thirty-fourth session, the inclusion of the item in the agenda was requested by the representative of Madagascar by a letter dated 12 November 1979 (A/34/245). The representative informed the General Assembly that the negotiations held between his Government and the Government of France on the question of Madagascar's claim to the islands had produced no results. It was the opinion of the Government of Madagascar that the problem of the Malagasy islands had acquired a new international dimension following the decisions of the Organization of African Unity and the Movement of Non-Aligned Countries concerning the reintegration of those islands in the Democratic Republic of Madagascar, and that the General Assembly was the body which could most appropriately assist the parties in finding a solution to the dispute, in accordance with the relevant principles of international law and the Charter of the United Nations.

<sup>26</sup>G A (34), Plen., 99th mtg.: France, paras. 134-137, S P C., 37th mtg., para. 18; G A (35), Plen., 92nd mtg., para. 374, S P C., 42nd mtg., para. 32, and Gen. Comm., 1st mtg., para. 76; G A (36), Gen. Comm., 1st mtg., para. 88; G A (37), Gen. Comm., 2nd mtg., para. 14; G A (38), Gen. Comm., 2nd mtg., para. 5; G A (39), Gen. Comm., 1st mtg., para. 64.

35. Despite the objections raised on the grounds of Article 2 (7), the General Assembly placed the item on its agenda at each session.<sup>27</sup>

36. During the discussion of the item itself, the representative of France contended that the matter fell essentially within the domestic jurisdiction of his country. The arguments are given in the analytical summary of practice.

37. Following discussion of the item, the General Assembly took the action described in the following sections.

(a) *Action taken at the thirty-fourth session:*  
*resolution 34/91*

38. On 12 December 1979, the General Assembly adopted resolution 34/91, by 93 votes to 7, with 36 abstentions.<sup>28</sup> In the preamble to the resolution, the Assembly recalled its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples; noted the request of Madagascar for the reintegration of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India; and considered that the Government of Madagascar had repeatedly signified its willingness to enter into negotiations with the Government of France with a view to finding a solution to the question in conformity with the purposes and principles of the Charter of the United Nations. In the operative part of the resolution, the Assembly reaffirmed the necessity of scrupulously respecting the national unity and territorial integrity of a colonial Territory at the time of its accession to independence; took note of the resolution on the islands of Glorieuses, Juan de Nova, Europa and Bassas da India adopted by the Council of Ministers of the Organization of African Unity at its thirty-third ordinary session; invited the Government of France to initiate negotiations without further delay with the Government of Madagascar for the reintegration of the above-mentioned islands, which had been arbitrarily separated from Madagascar; called upon the Government of France to repeal the measures which infringed the sovereignty and territorial integrity of Madagascar and to refrain from taking other measures that would have had the same effect and could hinder the search for a just solution to the dispute; requested the Secretary-General to follow the implementation of the resolution and to report thereon to the General Assembly at its thirty-fifth session; and decided to include in the provisional agenda of its thirty-fifth session an item entitled "Question of the Malagasy islands of Glorieuses, Juan de Nova, Europa and Bassas da India".

(b) *Action taken at the thirty-fifth session:*  
*resolution 35/123*

39. On 11 December 1980, the General Assembly adopted resolution 35/123, by 81 votes to 13, with 37

<sup>27</sup>G A (34), Plen., 70th mtg., para. 1; G A (35), Plen., 3rd mtg., para. 22; G A (36), Plen., 4th mtg., a.i. 8; G A (37), Plen., 4th mtg., a.i. 8; G A (38), Plen., 3rd mtg., a.i. 8; G A (39), Plen., 3rd mtg., a.i. 8.

<sup>28</sup>G A (34), Plen., 99th mtg., para. 138.

abstentions.<sup>29</sup> In the preamble to the resolution, the Assembly recalled its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, in particular the provisions concerning the preservation of the national unity and the territorial integrity of a country at the time of its attainment of independence. In the operative section it took note of the report of the Secretary-General on the question of the Malagasy islands of Glorieuses, Juan de Nova, Europa and Bassas da India; as well as resolution CM/Res.784 (XXXV) on the same question, adopted by the Council of Ministers of the Organization of African Unity at its thirty-fifth ordinary session; reaffirmed its resolution 34/91 of 12 December 1979; invited the Government of France to initiate with the Government of Madagascar, as a matter of urgency, the negotiations provided for in resolution 34/91, with a view to settling the question in accordance with the purposes and principles of the Charter of the United Nations; requested the Secretary-General to monitor the implementation of the resolution and to report thereon to the General Assembly at its thirty-sixth session; and decided to include in the provisional agenda of its thirty-sixth session the item entitled "Question of the Malagasy islands of Glorieuses, Juan de Nova, Europa and Bassas da India".

(c) *Action taken at the thirty-sixth, thirty-seventh, thirty-eighth and thirty-ninth sessions: decisions 36/432, 37/424, 38/422 and 39/421*

40. On 16 December 1981, the General Assembly considered the report of the Special Political Committee on the item.<sup>30</sup> In the report the Special Political Committee, upon the request of the representative of Madagascar, had recommended that consideration of the item should be deferred to the thirty-seventh session of the General Assembly. The Assembly adopted the recommendation by consensus in its decision 36/432.<sup>31</sup>

41. Similar action, to defer consideration of the item until the very next session of the General Assembly, was taken by the Assembly in its decisions 37/424,<sup>32</sup> 38/422<sup>33</sup> and 39/421,<sup>34</sup> adopted at its thirty-seventh, thirty-eighth and thirty-ninth sessions, respectively.

Case No. 64:

THE SITUATION IN AFGHANISTAN AND ITS IMPLICATIONS FOR INTERNATIONAL PEACE AND SECURITY

42. The question of the situation in Afghanistan and its implications for international peace and security was considered by the General Assembly at its sixth emergency special session and at the thirty-fifth to thirty-ninth regular sessions.<sup>35</sup>

<sup>29</sup>G A (35), Plen., 92nd mtg., a.i. 58, para. 378.

<sup>30</sup>A/36/813-40. G A (36), Plen., 100th mtg., a.i. 65, para. 69.

<sup>31</sup>G A (36), Plen., 100th mtg., a.i. 65.

<sup>32</sup>G A (37), Plen., 100th mtg., a.i. 69.

<sup>33</sup>G A (38), Plen., 9th mtg., a.i. 76.

<sup>34</sup>G A (39), Plen., 100th mtg., a.i. 78.

<sup>35</sup>The item "The situation in Afghanistan and its implications for international peace and security" was included in the provisional agenda of the sixth emergency special session of the General

43. During the discussion on the adoption of the agenda at each of the sessions, the representatives of Afghanistan and the USSR objected to the inclusion of the item on the basis of Article 2 (7).<sup>36</sup> The arguments submitted on the question are given in the analytical summary of practice. They relate to the question whether the inclusion of the item in the agenda constitutes intervention (see paras. 66-67 below).

44. Despite the objections raised on the grounds of Article 2 (7), the General Assembly placed the item on its agenda at each session.<sup>37</sup>

45. During the discussion pertaining to the item, several representatives held that the matter fell essentially within the domestic jurisdiction of a Member State. The arguments submitted for and against this position are given in the analytical summary of practice. They relate to the following questions: (a) whether a matter governed by international law can fall essentially within the domestic jurisdiction of a State (see para. 68 below); (b) whether a matter governed by the Charter can fall essentially within the domestic jurisdiction of a State (paras. 72-73 below); and (c) whether a matter governed by the Charter provisions on the maintenance of international peace and security can fall essentially within the domestic jurisdiction of a State (paras. 77-78 below).

46. Following discussion of the item, the General Assembly took the actions described in the following sections.

(a) *Action taken at the sixth emergency special session: resolution ES-6/2*

47. Resolution ES-6/2 was adopted on 14 January 1980, by 104 votes to 18, with 18 abstentions.<sup>38</sup> In the preamble to the resolution, the General Assembly, inter alia, recognized the urgent need for the immediate termination of foreign armed intervention in Afghanistan so as to enable its people to determine their own destiny without outside interference or coercion; recalled its resolutions on the strengthening of international security, on the inadmissibility of intervention in the domestic affairs of States and the protection of their independence and sovereignty and on the principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations; expressed concern at the dangerous

Assembly, pursuant to Security Council resolution 462 (1980) of 9 January 1980. The same item was included again in the provisional agenda of the thirty-fifth to thirty-ninth regular sessions of the General Assembly in accordance with its resolutions ES-6/2, 35/37, 36/34, 37/37 and 38/29, respectively. For the requests of inclusion by government representatives, see A/35/144/Add.1.

<sup>36</sup>G A (ES-6), Plen., 1st mtg.: Afghanistan, para. 18; G A (35), Plen., 3rd mtg.: Afghanistan, paras. 44-46; G A (36), Gen. Comm., 1st mtg., para. 40; G A (37), Gen. Comm., 1st mtg.: Afghanistan, para. 38; USSR, para. 41; G A (38), Plen., 3rd mtg.: (USSR) and Gen. Comm., 1st mtg.: Afghanistan, para. 53; USSR, para. 60; G A (39), Gen. Comm., 1st mtg.: Afghanistan, para. 46.

<sup>37</sup>G A (ES-6), 1st mtg., para. 31; G A (35), Plen., 3rd mtg., a.i. 116, para. 100; G A (36), 4th mtg., a.i. 26; G A (37), 4th mtg., a.i. 25; G A (38), 3rd mtg., a.i. 29; G A (39), Plen., 3rd mtg., a.i. 28.

<sup>38</sup>G A (ES-6), Plen., 7th mtg., para. 173.

escalation of tension, intensification of rivalry and increased recourse to military intervention and interference in the internal affairs of States; and declared itself mindful of the purposes and principles of the Charter and of the responsibility of the General Assembly under the relevant provisions of the Charter and of Assembly resolution 377 A (V) of 3 November 1950. In the operative part of the resolution, the Assembly, inter alia, 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 the country; and called for the immediate, unconditional and total withdrawal of 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.

(b) *Action taken at the thirty-fifth session:  
resolution 35/37*

48. General Assembly resolution 35/37 was adopted on 20 November 1980, by 111 votes to 22, with 12 abstentions.<sup>39</sup> In the preamble, the Assembly, inter alia, reaffirmed further the inalienable right of all peoples to determine their own form of government and to choose their own economic, political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever; and declared itself gravely concerned at the continuing foreign armed intervention in Afghanistan, in contravention of the above principles, and its serious implications for international peace and security. In the operative part of the resolution, the Assembly, inter alia, reaffirmed the right of the Afghan people to determine their own form of government and to choose their economic, political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever; expressed its appreciation of the efforts of the Secretary-General in the search for a solution to the problem and hoped that he would continue to extend assistance, including the appointment of a special representative, with a view to promoting a political solution in accordance with the provisions of the resolution, and the exploration of securing appropriate guarantees for the non-use of force, or threat of use of force, against the political independence, sovereignty, territorial integrity and security of all neighbouring States on the basis of mutual guarantees and strict non-interference in each other's internal affairs and with full regard for the principles of the Charter of the United Nations; called for the immediate withdrawal of foreign troops from Afghanistan; and decided to include in the provisional agenda of its thirty-sixth session the item entitled "The situation in Afghanistan and its implications for international peace and security".

(c) *Action taken at the thirty-sixth session:  
resolution 36/34*

49. In its resolution 36/34, adopted on 18 November 1981, by 116 votes to 23, with 12 abstentions, the General Assembly reiterated the recommendations contained in

resolution 35/37.<sup>40</sup> The Assembly decided to include in the provisional agenda of its thirty-seventh session the item entitled "The situation in Afghanistan and its implications for international peace and security".

(d) *Action taken at the thirty-seventh session:  
resolution 37/37*

50. In its resolution 37/37, adopted on 29 November 1982, by 114 votes to 21, with 13 abstentions, the General Assembly largely reiterated the recommendations contained in its resolutions 35/37 and 36/34.<sup>41</sup> It decided to include in the provisional agenda of its thirty-eighth session the item entitled "The situation in Afghanistan and its implications for international peace and security".

(e) *Action taken at the thirty-eighth session:  
resolution 38/29*

51. In its resolution 38/29, adopted on 23 November 1983, by 116 votes to 20, with 17 abstentions, the General Assembly reiterated the recommendations contained in its resolutions 35/37, 36/34 and 37/37. The Assembly decided to include in the provisional agenda of its thirty-ninth session the item entitled "The situation in Afghanistan and its implications for international peace and security".<sup>42</sup>

(f) *Action taken at the thirty-ninth session:  
resolution 39/13*

52. In its resolution 39/13, adopted on 15 November 1984, by 119 votes to 20, with 14 abstentions, the General Assembly reiterated the recommendations contained in its resolutions 35/37, 36/34, 37/37 and 38/29.<sup>43</sup> The Assembly decided to include in the provisional agenda of its fortieth session the item entitled "The situation in Afghanistan and its implications for international peace and security".

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

**\*\*Case No. 12:**

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

**\*\*Case No. 13:**

RECOMMENDATIONS CONCERNING INTERNATIONAL  
RESPECT FOR THE SELF-DETERMINATION OF PEOPLES

**\*\*Case No. 58:**

QUESTION OF GREECE

**C. Security Council**

**\*\*Case No. 14:**

THE SPANISH QUESTION

**\*\*Case No. 15:**

THE GREEK QUESTION (I)

<sup>39</sup>G A (35), Plen., 70th mtg., para. 145.

<sup>40</sup>G A (36), Plen., 62nd mtg., a.i. 26.

<sup>41</sup>G A (37), Plen., 82nd mtg., a.i. 25, para. 68.

<sup>42</sup>G A (38), Plen., 69th mtg., a.i. 29, para. 98.

<sup>43</sup>G A (39), Plen., 63rd mtg., a.i. 28.

- \*\*Case No. 16:**  
THE GREEK QUESTION (II)
- \*\*Case No. 17:**  
THE INDONESIAN QUESTION
- \*\*Case No. 18:**  
THE CZECHOSLOVAK QUESTION
- \*\*Case No. 19:**  
THE GREEK QUESTION (III)
- \*\*Case No. 20:**  
THE ANGLO-IRANIAN OIL COMPANY QUESTION
- \*\*Case No. 21:**  
THE QUESTION OF MOROCCO
- \*\*Case No. 28:**  
THE QUESTION OF ALGERIA
- \*\*Case No. 31:**  
THE QUESTION OF HUNGARY
- \*\*Case No. 32:**  
THE QUESTION OF OMAN
- \*\*Case No. 43:**  
THE SITUATION IN THE REPUBLIC OF THE CONGO
- \*\*Case No. 44:**  
THE QUESTION OF RACE CONFLICT IN SOUTH AFRICA (I)
- \*\*Case No. 45:**  
THE QUESTION OF RACE CONFLICT IN SOUTH AFRICA (II)
- \*\*Case No. 46:**  
THE SITUATION IN ANGOLA (I)
- \*\*Case No. 47:**  
THE SITUATION IN ANGOLA (II)
- \*\*Case No. 48:**  
THE SITUATION IN SOUTHERN RHODESIA
- \*\*Case No. 49:**  
THE SITUATION IN THE DOMINICAN REPUBLIC
- \*\*Case No. 53:**  
THE SITUATION IN NORTHERN IRELAND
- \*\*Case No. 59:**  
THE SITUATION IN CHILE
- Case No. 60:**  
COMPLAINT BY DEMOCRATIC KAMPUCHEA

53. In a telegram<sup>44</sup> dated 3 January 1979 addressed to the President of the Security Council, the Deputy Prime Minister in charge of Foreign Affairs of Democratic Kampuchea registered a complaint about the acts of aggression by Viet Nam against Democratic Kampuchea and requested an urgent meeting of the Security Council to condemn the acts and to take "such measures as may be necessary to ensure

that Viet Nam ceases its aggression and respects the independence, sovereignty and territorial integrity of Democratic Kampuchea".

54. This request of the representative of Democratic Kampuchea was opposed by the Chairman of the Kampuchean People's Revolutionary Council in his telegram<sup>45</sup> dispatched to the President of the Security Council on 8 January 1979, in which it was stated that any meeting of the Security Council for the purpose of hearing the "non-existent" government of the Pol Pot regime would constitute "flagrant intervention in the internal affairs of the Kampuchean people and a violation of the principles of the Charter of the United Nations".

55. The request for the placement of the complaint by Democratic Kampuchea on the agenda of the Security Council was considered by the Council at its 2108th meeting, on 11 January 1979.<sup>46</sup> The request was opposed by the representative of the USSR,<sup>47</sup> who stated that the People's Revolutionary Council, the genuine representative of the people of Kampuchea, had not requested the Council to consider the question of the situation prevailing in Kampuchea, which was a purely internal question of concern only to the people of that country, and drew the attention of the Security Council to the above-cited communication of the People's Revolutionary Council of Kampuchea.

56. Despite these objections, the Security Council, after informal consultations, included the item in its agenda without a vote.<sup>48</sup>

57. The Security Council considered the item at its 2108th to 2114th meetings. During the discussion, the representative of Viet Nam expressed the view that the consideration of the item, without the presence of the legally authentic representative of the Kampuchean people and without proper regard to their right to self-determination, constituted a violation of the principles of the Charter, in particular of Article 2 (7).<sup>49</sup> The arguments for and against the position of Viet Nam are set out in the analytical summary of practice. They relate to the following question: whether a matter governed by the Charter provisions on the maintenance of peace and security can fall essentially within the domestic jurisdiction of a State (see paras. 77-78 below).

58. At the 2108th meeting of the Security Council, on 11 January 1979, the representative of the Soviet Union proposed that the meeting should be adjourned until 15 January 1979, in order to allow the representative of the People's Revolutionary Council to come to New York and participate in the discussion of the Security Council.<sup>50</sup> The proposal was put to the vote at the same meeting. The proposal received 2 votes in favour and 13 against and was not adopted.<sup>51</sup>

<sup>45</sup>S/13013, annex II.

<sup>46</sup>S/Agenda/2108.

<sup>47</sup>SC (34), 2108th mtg., para. 13.

<sup>48</sup>Ibid., para. 30.

<sup>49</sup>Ibid., para. 113.

<sup>50</sup>Ibid., para. 35.

<sup>51</sup>Ibid., para. 39.

<sup>44</sup>S/13003.

59. At its 2112th meeting on 15 January 1979, the Security Council considered a draft resolution,<sup>52</sup> by which the Council would call upon all foreign forces involved in the situation in Democratic Kampuchea to observe an immediate ceasefire. The draft resolution received 13 votes in favour and 2 against and was not adopted due to the negative vote of a permanent member.<sup>53</sup>

Case No. 63:  
THE AFGHANISTAN SITUATION

60. In letters<sup>54</sup> dated 3, 4 and 5 January 1980 addressed to the President of the Security Council, the representatives of Australia and 51 other States requested an urgent meeting of the Council to consider the situation in Afghanistan and its implications for international peace and security.

61. In a telegram<sup>55</sup> dated 3 January 1980 addressed to the President of the Security Council, the Minister for Foreign Affairs of the Democratic Republic of Afghanistan expressed strong opposition to the discussion of such a matter by the Council, which would be considered by his Government a "direct and clear interference in its internal affairs".

62. The request for the placement of the Afghanistan question on the agenda of the Security Council was considered by the Council at its 2185th meeting, on 5 January 1980.<sup>56</sup> The request was opposed by the representative of the USSR, who stated that the events in Afghanistan were the internal affair of Afghanistan.<sup>57</sup> He argued that the military presence of the USSR in Afghanistan was based on the Treaty of Friendship, Good Neighbourliness and Cooperation that had been signed between the two States on 5 December 1978 and that the request of the Government of Afghanistan for military intervention by the USSR and the decision of the USSR to meet that request were fully in keeping with the right to self-defence under Article 51 of the Charter of the United Nations. It was argued that the proposal to involve the Security Council in the consideration of the events occurring in Afghanistan was inadmissible, as it would be tantamount to intervention on the part of the United Nations in questions relating exclusively to the domestic competence of the people and the Government of that country. Other representatives, however, maintained that the situation in Afghanistan posed a serious threat to international peace and security and that the consideration of the matter by the Security Council was both urgent and necessary.<sup>58</sup>

63. Following an exchange of views and consultations, the item was included in the agenda of the Security Council without a vote.<sup>59</sup>

64. The Security Council considered the item at its 2185th to 2190th meetings. During the discussion, the

representative of Afghanistan contended that the events in Afghanistan were domestic issues which were not of the nature of those covered by Article 34 of the Charter and that the convening of the Security Council meeting constituted "open interference in the internal affairs of Afghanistan", contrary to the provisions of Article 2 (7) of the Charter.<sup>60</sup> The arguments submitted for and against that contention are set out in the analytical summary of practice. They relate to the following question: whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within the domestic jurisdiction of a State (see paras. 77-78 below).

65. At its 2190th meeting, on 7 January 1980, the Security Council considered a draft resolution<sup>61</sup> submitted by the representatives of the Philippines and four other States in which the Council would call for the withdrawal of all foreign troops from Afghanistan. The draft resolution was put to the vote and received 13 votes in favour and 2 against. Since one of the negative votes had been cast by the representative of the USSR, a permanent member of the Council, the draft resolution was not adopted. At the resumed 2190th meeting, on 9 January 1980, the Council considered a draft resolution<sup>62</sup> submitted by the representatives of the Philippines and Mexico, in which the Council would call for an emergency special session of the General Assembly to examine the question of Afghanistan. The draft resolution having been put to the vote, there were 12 votes in favour and 2 against, with 1 abstention. Since the decision involved was of a procedural nature, it was adopted as resolution 462 (1980). In this resolution, the Security Council stated that it had considered the item on the agenda of its 2185th meeting, as contained in document S/Agenda/2185; that it had taken into account the fact that the lack of unanimity of its permanent members at the 2190th meeting had prevented it from exercising its primary responsibility for the maintenance of international peace and security; and that it had decided to call an emergency special session of the General Assembly to examine the question contained in document S/Agenda/2185.

**\*\*D. International Court of Justice**

**\*\*Case No. 22:**

INTERPRETATION OF PEACE TREATIES WITH BULGARIA,  
HUNGARY AND ROMANIA

**\*\*Case No. 23:**

THE ANGLO-IRANIAN OIL COMPANY CASE

**\*\*Case No. 29:**

THE NOTTEBOHM CASE

**\*\*Case No. 33:**

THE CASE OF CERTAIN NORWEGIAN LOANS

<sup>52</sup>S/13027.

<sup>53</sup>S C (34), 2112th mtg., para. 4.

<sup>54</sup>S/13724 and Add.1 and 2.

<sup>55</sup>S/13725, annex.

<sup>56</sup>S/Agenda/2185.

<sup>57</sup>S C (35), 2185th mtg., paras. 11, 13, 16, 17 and 19.

<sup>58</sup>Ibid., para. 38.

<sup>59</sup>Ibid., paras. 35-37.

<sup>60</sup>Ibid., paras. 87 and 88.

<sup>61</sup>S/13729.

<sup>62</sup>S/13731.

**\*\*Case No. 50:  
THE INTERHANDEL CASE**

**\*\*Case No. 51:  
THE CASE CONCERNING RIGHT OF PASSAGE OVER  
INDIAN TERRITORY**

**II. ANALYTICAL SUMMARY OF PRACTICE**

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

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

66. The question whether the inclusion of an item in the agenda constitutes intervention in the internal affairs of a State arose in the debates on the adoption of the agenda in cases Nos. 54, 55, 60, 61, 62, 63 and 64, relating respectively to the question of the Comorian island of Mayotte, the question of Puerto Rico, the complaint by Democratic Kampuchea, the question of Kampuchea, the question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India, the Afghanistan situation, and the situation in Afghanistan and its implications for international peace and security.

67. In each of the cases, the inclusion of the item in the agenda was opposed by representatives who stated that the item fell essentially within the domestic jurisdiction of a State, and maintained that the United Nations was debarred by Article 2(7) from discussing it and, hence, from including it in the agenda.<sup>63</sup> The representatives who supported the inclusion of the item either denied that the matter fell essentially within the domestic jurisdiction of a State,<sup>64</sup> or

<sup>63</sup>Case No. 54: see footnote 3 above.

Case No. 55: see footnote 13 above.

Case No. 60: see footnote 47 above.

Case No. 61: see footnotes 16-17 above.

Case No. 62: see footnote 26 above.

Case No. 63: see footnote 57 above.

Case No. 64: see footnote 36 above.

<sup>64</sup>Case No. 55: G A (37), Plen., 4th mtg., a.i. 8: Cuba, para. 25; Gen. Comm., 2nd mtg.: Cuba, paras. 52-54; Libyan Arab Jamahiriya, para. 57; Nicaragua, para. 59; USSR, para. 65; Poland, para. 66.

Case No. 60: S C (34), 2108th mtg., paras. 17-22.

Case No. 61: G A (34), Gen. Comm., 2nd mtg.: Thailand, para. 18; Costa Rica, para. 31; Singapore, para. 37; United States, para. 38; United Kingdom, para. 40; Papua New Guinea, para. 41; G A (35), Gen. Comm., 1st mtg.: China, para. 39; Malaysia, para. 41; Thailand, para. 42; G A (36), Gen. Comm., 1st mtg.: Philippines, para. 29; China, para. 30; G A (37), Gen. Comm., 1st mtg.: China, para. 30; G A (38), Gen. Comm., 1st mtg.: Thailand, para. 46; China, para. 47; G A (39), Gen. Comm., 1st mtg.: Malaysia, paras. 31-32; China, para. 35.

Case No. 62: G A (34), Gen. Comm., 5th mtg.: Madagascar, paras. 5, 7; Mozambique, para. 11; Libyan Arab Jamahiriya, para. 16.

Case No. 63: S C (35), 2185th mtg., paras. 35 and 37.

Case No. 64: GA (35), Plen., 3rd mtg., paras. 82, 84-86, 90, 92 and 96; Gen. Comm., 1st mtg.: Pakistan, para. 113; Madagascar, para. 119; G A (36), Plen., 4th mtg., a.i., 8: Pakistan, 6th and 7th paras.; Australia, 3rd para.; and China, 2nd para.; Gen. Comm., 1st mtg., paras. 44 and 46; G A (37), Plen., 4th mtg., a.i. 8: Pakistan, 1st and 2nd paras., and China, 1st and 3rd paras.; Gen. Comm., 1st

contended that the inclusion of an item in the agenda did not constitute intervention within the meaning of Article 2(7).<sup>65</sup> In some cases, it was argued that the General Assembly was competent to discuss the matter on the basis that it had done so in the past and adopted resolutions which needed implementation, and furthermore, that the inclusion of the item in the agenda had been specifically requested in a resolution adopted at the preceding session of the General Assembly.<sup>66</sup>

**\*\*2. WHETHER A RECOMMENDATION CONSTITUTES "INTERVENTION"**

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

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

68. References to international law were made in the debates on cases Nos. 61 and 63 relating respectively to the question of Kampuchea, and the Afghanistan situation.

69. In case No. 61, several representatives maintained that the armed occupation of Kampuchea by Viet Nam constituted a grave violation of the basic principles of international law, notably respect for the sovereignty, independence and territorial integrity of States, non-intervention in the internal affairs of other States, respect for the self-determination of peoples, the non-use of force in

mtg., paras. 57-59 and 62; G A (39), Gen. Comm., 1st mtg.: Pakistan, para. 50; China, paras. 55 and 57.

<sup>65</sup>Case No. 55: G A (37), Plen., 4th mtg., a.i. 8: Democratic Yemen, 2nd para.; Argentina and Nicaragua, 1st para.

<sup>66</sup>Case No. 54: G A (34), Gen. Comm., 1st mtg., para. 72.  
Case No. 61: G A (35), Gen. Comm., 1st mtg.: China, para. 39; Malaysia, para. 41; G A (36), Gen. Comm., 1st mtg.: Philippines, para. 29; China, para. 31; Papua New Guinea, para. 34; G A (37), Gen. Comm., 1st mtg.: Philippines, para. 28; China, para. 29; G A (38), Gen. Comm., 1st mtg.: Thailand, para. 46; China, para. 47; G A (39), Gen. Comm., 1st mtg.: USSR, para. 32; China, para. 35.  
Case No. 64: G A (35), Plen., 3rd mtg.: paras. 83, 87, 91 and 94-97; Gen. Comm., 1st mtg.: paras. 113 and 118; G A (36), Plen., 4th mtg., a.i. 8: Pakistan, 1st and 4th paras.; Australia, 2nd para. and China, 2nd para.; Gen. Comm., 1st mtg.: Pakistan, para. 44; China, para. 46; G A (37), Plen., 4th mtg., a.i. 8: Pakistan, 1st and 3rd paras.; China, 2nd para.; G A (38), Plen., 3rd mtg., a.i. 8: Pakistan, 2nd-4th paras.; China, 2nd para.; Gen. Comm., 1st mtg.: Pakistan, para. 57; China, para. 62; G A (39), Gen. Comm., 1st mtg.: paras. 50 and 55.

Case No. 62: G A (37), Gen. Comm., 2nd mtg.: para. 17; G A (38), Gen. Comm., 2nd mtg.: Madagascar, para. 4; G A (39), Gen. Comm., 1st mtg.: Madagascar, para. 63.



international relations and the settlement of disputes by peaceful means.<sup>67</sup>

70. In case No. 63, several representatives supported the call for a meeting of the Security Council on the basis that the armed intervention of the Soviet Union in Afghanistan and the presence of forces of occupation in that country were a gross violation of fundamental principles of international law.<sup>68</sup>

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

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

71. In the debates on case No. 61, the competence of the General Assembly to deal with the situation in Kampuchea was upheld, over arguments to the contrary based on Article 2 (7),<sup>69</sup> on the grounds that Viet Nam had violated the basic principles of the Charter.<sup>70</sup>

72. Similar arguments<sup>71</sup> referring specifically to the violation of Charter principles as a basis for United Nations action were made in cases Nos. 60, 63 and 64 relating respectively to the complaint by Democratic Kampuchea, the Afghanistan situation and the situation in Afghanistan and its implications for international peace and security.

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

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

<sup>67</sup>G A (35), Plen., 39th mtg.: Canada, para. 43; G A (36), Plen., 39th mtg.: Norway, para. 58; G A (38), Plen., 35th mtg.: Japan, para. 61; and G A (39), Plen., 41st mtg.: Colombia, para. 83.

<sup>68</sup>S C (35), 2185th mtg.: Egypt, para. 127; 2187th mtg.: United States, paras. 8, 20 and 23; 2188th mtg.: Portugal, para. 24.

<sup>69</sup>See footnote 68 above, and also G A (34), 63rd mtg., para. 19, 66th mtg., para. 45; G A (35), Plen., 39th mtg., para. 50; G A (37), Plen., 48th mtg.: Afghanistan, para. 31; G A (38), Plen., 36th mtg.: Poland, para. 62.

<sup>70</sup>G A (34), Plen., 62nd mtg., paras. 8, 90 and 134; G A (35), Plen., 39th mtg., para. 15; G A (36), Plen., 36th mtg.: Austria, para. 28; United States, para. 89; 37th mtg.: Chile, para. 82; 40th mtg.: Senegal, para. 35; G A (37), Plen., 45th mtg.: Australia, para. 67; Austria, para. 89; G A (38), Plen., 35th mtg.: Thailand, para. 79; 37th mtg.: Sudan, para. 88; 38th mtg.: United States, para. 29; G A (39), Plen., 40th mtg.: Malaysia, 1st para.

<sup>71</sup>Case No. 60: S C (34), 2109th mtg., para. 17; 2110th mtg., paras. 58 and 72; 2111th mtg., paras. 96-98.

Case No. 63: S C (35), 2185th mtg., para. 37; 2186th mtg., paras. 52, 109-110 and 132; 2187th mtg., paras. 8, 20, 44, 52-53, 62, 73 and 86; 2188th mtg., paras. 26, 37 and 55; 2189th mtg., paras. 46 and 56; 2190th mtg., paras. 21, 39, 63, 77-78 and 127.

Case No. 64: G A (ES-6), Plen., 1st mtg., para. 115; 2nd mtg., paras. 19 and 51; 5th mtg., para. 69 and 7th mtg., para. 31; G A (35), Plen., 3rd mtg., paras. 82, 90 and 96; G A (36), Plen., 4th mtg., a.i. 8: Pakistan, 6th para.; Australia, 3rd para. and China, 2nd para.; Gen. Comm., 1st mtg.: China; G A (37), Plen., 4th mtg., a.i. 8: Pakistan, 1st para.; China, Gen. Comm., 1st mtg., para. 62; G A (38), Plen., 3rd mtg., a.i. 8: Pakistan, para. 178.

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

73. References to the Charter and to General Assembly resolutions on self-determination were made during the debates on cases Nos. 54, 55, 61 and 64 relating respectively to the question of the Comorian island of Mayotte, the question of Puerto Rico, the question of Kampuchea and the situation in Afghanistan and its implications for international peace and security.

74. During the discussion of case No. 54 on the question of the Comorian island of Mayotte, the representative of France expressed the view that, in accordance with the freely expressed wishes of its people, the island of Mayotte was an integral part of the French Republic and that any discussion by the General Assembly on the status of the island was inconsistent with Article 2 (7) of the Charter.<sup>72</sup> Several representatives disagreed with this argument, stating that the question before the General Assembly was whether the principle of self-determination should apply to the population of a colonial entity as a whole or to the populations of parts of such an entity, such as the island of Mayotte.<sup>73</sup> It was submitted that General Assembly resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples clearly maintained that the principle of self-determination should apply to a colonial entity as a whole and that the dismemberment of the Comoros, if tolerated by the General Assembly, could constitute a dangerous precedent.

75. In the debates on case No. 55, the representative of the United States maintained that Puerto Rico had exercised the right to self-determination by a democratic process and freely agreed to its association with the United States; hence consideration by the General Assembly of the question of Puerto Rico would constitute interference in the internal affairs of the United States.<sup>74</sup> This view was supported by several additional representatives.<sup>75</sup> Other representatives, however, considered that the conditions for Puerto Rico to exercise its right to self-determination had not been fulfilled and that the General Assembly had the competence to discuss the question of Puerto Rico as a question of decolonization.<sup>76</sup>

76. In the debates on case No. 61, several representatives referred to the obstruction of the right of self-determination

<sup>72</sup>G A (34), Plen., 90th mtg., a.i. 29: France, para. 29; G A (35), Plen., 74th mtg.: France, para. 45; G A (36), Plen., 92nd mtg., a.i. 27: France, paras. 77 and 80; G A (37), Plen., 91st mtg., a.i. 30: France, para. 70; G A (38), Plen., 65th mtg., a.i. 30: France, para. 40; G A (39), Plen., 94th mtg., a.i. 27: France, 1st para.

<sup>73</sup>G A (35), Plen., 74th mtg.: Singapore, paras. 57 and 58; G A (36), Plen., 94th mtg.: Singapore, para. 68; G A (39), Plen., 94th mtg., a.i. 27: Pakistan, 5th para.

<sup>74</sup>G A (37), Plen., 4th mtg.: United States, paras. 38-40.

<sup>75</sup>G A (37), Plen., 4th mtg.: Chile, paras. 60-61; Uruguay, paras. 70-75; Brazil, para. 79; Japan, paras. 81-83; Australia, paras. 105-107; Senegal, paras. 125-126; and Zaire, paras. 132-134.

<sup>76</sup>G A (37), Plen., 4th mtg.: Cuba, paras. 25 and 27; Democratic Yemen, para. 97; USSR, para. 100; Czechoslovakia, para. 111; Bulgaria, para. 115; Libyan Arab Jamahiriya, para. 118; Argentina, para. 119; Nicaragua, paras. 120, 121 and 123; and Viet Nam, para. 129.

of the Kampuchean people by foreign military intervention as a basis for United Nations action.<sup>77</sup>

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

77. Arguments referring specifically to the Charter provisions on the maintenance of international peace and security were made in cases Nos. 60, 61, 62, 63 and 64, relating respectively to the complaint by Democratic Kampuchea, the question of Kampuchea, the question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India, the Afghanistan situation and the situation in Afghanistan and its implications for international peace and security.<sup>78</sup>

78. During the respective debates on the above cases, several representatives maintained that the political situation existing in a particular Member State had been caused by the armed intervention of another Member State in violation of the principles of the Charter of the United Nations, notably Article 2, paragraph 4, that the situation constituted a threat

<sup>77</sup>G A (36), Plen., 37th mtg.: Thailand, para. 59; 36th mtg.: United States, para. 106; G A (38), Plen., 35th mtg.: Japan, 8th para.; G A (39), Plen., 42nd mtg.: United States, 1st para.

<sup>78</sup>Case No. 60: S C (34), 2108th mtg.: China, para. 107; 2109th mtg.: Norway, para. 17; France, para. 43; and Bolivia, para. 55; 2110th mtg.: Gabon, para. 15; Portugal, para. 25; United Kingdom, para. 63; and United States, para. 72; 2111th mtg.: Japan, para. 15; Philippines, paras. 96-98.

Case No. 61: G A (34), Plen., 62nd mtg.: Viet Nam, para. 61; Democratic Kampuchea, paras. 89 and 90-93; G A (35), Plen., 36th mtg.: Malaysia, para. 94; 37th mtg.: China, para. 23; 38th mtg.: Samoa, paras. 99-100; 39th mtg.: Canada, para. 43; 40th mtg.: Nepal, paras. 7-8; G A (36), Plen., 36th mtg.: Philippines, paras. 3 and 4; 37th mtg.: Pakistan, para. 51; Chile, paras. 80 and 82; and China, 2nd penultimate para.; G A (37), Plen., 47th mtg.: Pakistan, paras. 1 and 4; and United States, paras. 14 and 44; G A (38), Plen., 37th mtg.: Sudan, para. 88.

Case No. 62: G A (34), Gen. Comm., 5th mtg.: paras. 3-8.

Case No. 63: S C (35), 2185th mtg.: Bangladesh, para. 35; China, para. 37; and Egypt, para. 126; 2186th mtg.: China, para. 35; United Kingdom, paras. 52 and 54; Democratic Kampuchea, para. 105; Saudi Arabia, paras. 109-110; and New Zealand, para. 132; 2187th mtg.: United States, paras. 8, 20 and 25; Australia, para. 30; Singapore, para. 44; Norway, para. 52; Spain, para. 62; Somalia, para. 73; Malaysia, para. 86; Liberia, paras. 115 and 116; 2188th mtg.: Portugal, paras. 24 and 26; Venezuela, para. 37; Netherlands, paras. 55 and 56; and Jamaica, para. 98; 2189th mtg.: Bangladesh, para. 46; Niger, para. 56; Federal Republic of Germany, para. 63; and Yugoslavia, para. 80; 2190th mtg.: Panama, paras. 19 and 21; Zaire, para. 39; Canada, para. 63; Chile, paras. 77-79 and 84; and France, para. 127.

Case No. 64: G A (ES-6), Plen., 2nd mtg.: Canada, paras. 14-15; Sweden, para. 51; Ecuador, paras. 95 and 96; Nigeria, para. 120; Spain, paras. 154 and 155; 3rd mtg.: Albania, para. 4; Austria, para. 25; Venezuela, paras. 81, 94 and 96; and France, para. 105; 4th mtg.: United States, paras. 78-80; Federal Republic of Germany, paras. 120 and 123; Turkey, paras. 130 and 131; 5th mtg.: Egypt, paras. 27 and 28; Zaire, paras. 56-66; New Zealand, para. 88; USSR, paras. 8 and 93; Chile, paras. 98, 102 and 109; Singapore, para. 185; 6th mtg.: Democratic Kampuchea, paras. 52 and 53; and 7th mtg.: Sierra Leone, para. 49; G A (35), Plen., 65th mtg.: Pakistan, paras. 22 and 23; 67th mtg.: Saudi Arabia, paras. 52 and 53; 68th mtg.: Bangladesh, paras. 60 and 61; G A (36), Plen., 58th mtg.: Malaysia, paras. 78 and 88.

to international peace and security and that the matter therefore properly fell within the competence of the Security Council or, in cases where the Council was unable to act because of lack of unanimity on the part of its permanent members, that of the General Assembly. Some other representatives, however, expressed the view that the political situation in question was the internal affair of the particular State concerned, and as such, any action by the Organization would be a direct violation of Article 2 (7).<sup>79</sup> It was argued that the armed intervention had been legitimate, as it had taken place at the express request of that State, in

<sup>79</sup>Case No. 60: S C (34), 2108th mtg.: Viet Nam, para. 113; see also S C (34), 2108th mtg.: USSR, paras. 10, 42 and 146; 2109th mtg.: Czechoslovakia, para. 20; German Democratic Republic, para. 66; and Sudan, para. 91; 2111th mtg.: Mongolia, para. 50; and Bulgaria, para. 109; 2112th mtg.: USSR, para. 25; and Czechoslovakia, para. 37.

Case No. 61: G A (34), Plen., 63rd mtg.: USSR, para. 19; 64th mtg.: German Democratic Republic, para. 44; 65th mtg.: Czechoslovakia, para. 119; 66th mtg.: Mongolia, paras. 45 and 60; 67th mtg.: Hungary, para. 14; G A (35), Plen., 36th mtg.: Democratic Kampuchea, para. 130; and 39th mtg.: Bulgaria, para. 50; and USSR, para. 86; G A (36), Plen., 37th mtg.: Viet Nam, para. 1; and Czechoslovakia, para. 80; 38th mtg.: German Democratic Republic, para. 68; 39th mtg.: Mongolia, para. 1; and Byelorussian SSR, 2nd para.; G A (37), Plen., 4th mtg.: Viet Nam, 1st para.; 47th mtg.: Bulgaria, 2nd para.; Byelorussian SSR, 1st para.; and Czechoslovakia, 1st, 2nd and 5th paras.; 48th mtg.: Mongolia, para. 21; and Afghanistan, para. 34; G A (38), Plen., 36th mtg.: Poland, 3rd para.; and Cuba, 1st para.; Bulgaria, 2nd para.; 38th mtg.: USSR, para. 50; and Viet Nam, para. 119.

Case No. 63: S C (35), 2186th mtg.: Bulgaria, paras. 67-68; and Poland, paras. 118-119; 2189th mtg.: Mongolia, para. 21; and Lao People's Democratic Republic, para. 102; see also S C (35), 2185th mtg.: USSR, para. 11; and German Democratic Republic, para. 33; 2186th mtg.: USSR, paras. 3 and 32; 2188th mtg.: Viet Nam, para. 64.

Case No. 64: G A (ES-6), Plen., 1st mtg.: Afghanistan, para. 18; Byelorussian SSR, paras. 24, 26 and 27; and Poland, para. 122; 4th mtg.: Bulgaria, para. 3; Hungary, para. 30; and Lao People's Democratic Republic, paras. 69 and 70; 5th mtg.: Ukrainian SSR, para. 1; and Hungary, para. 147; G A (35), Plen., 65th mtg.: paras. 63 and 64; 65th mtg.: para. 60; 66th mtg.: Sweden, paras. 87 and 89; 67th mtg.: German Democratic Republic, para. 21; 68th mtg.: Poland, paras. 17 and 92; G A (36), Plen., 58th mtg.: Afghanistan, para. 34; and USSR, para. 90; 59th mtg.: Bulgaria, para. 11; and Czechoslovakia, para. 87; 60th mtg.: Viet Nam, para. 1; German Democratic Republic, para. 46; and Byelorussian SSR, para. 92; 61st mtg.: Mongolia, para. 42; Lao People's Democratic Republic, 1st para.; G A (37), Plen., 78th mtg.: Afghanistan, para. 31; Viet Nam, 2nd para.; Czechoslovakia, 2nd para.; 80th mtg.: Byelorussian SSR, para. 12; German Democratic Republic, para. 30; Poland, para. 50; Bulgaria, para. 111; and Ukrainian SSR, para. 121; 81st mtg.: Lao People's Democratic Republic, para. 26; Mongolia, para. 94; G A (38), Plen., 66th mtg.: Afghanistan, para. 92; 67th mtg.: Hungary, para. 17; Poland, para. 43; USSR, para. 65; Byelorussian SSR, para. 101; Mongolia, para. 118; Bulgaria, para. 143; and Czechoslovakia, para. 312; 68th mtg.: German Democratic Republic, para. 131; and Lao People's Democratic Republic, para. 145; G A (39), Plen., 60th mtg.: Afghanistan, 1st para.; 61st mtg.: USSR, 1st para.; Viet Nam, 1st para.; 62nd mtg.: Hungary, 1st para., Poland, 1st para.; Ukrainian SSR, 1st para.; Czechoslovakia, 2nd para.; and Lao People's Democratic Republic, 1st para.

accordance with special treaty provisions.<sup>80</sup> Article 51 of the Charter was also relied upon to support this argument.<sup>81</sup>

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

79. In the debates on cases Nos. 54 and 62, the representatives of France maintained that the island of Mayotte and the islands of Glorieuses, Juan de Nova, Europa and Bassas da India were integral parts of the French Republic and consequently the discussion of those items by the General Assembly constituted a violation of Article 2 (7).<sup>82</sup> This view was disputed by several representatives on

<sup>80</sup>Case No. 60: S C (34), 2108th mtg.: para. 126.

Case No. 61: G A (34), Plen., 62nd mtg.: Viet Nam, paras. 53-55; G A (36), Plen., 37th mtg.: Viet Nam, para. 27.

Case No. 63: S C (35), 2185th mtg.: USSR, paras. 16-17; 2186th mtg.: Poland, para. 120; 2187th mtg.: Hungary, para. 142; 2188th mtg.: German Democratic Republic, para. 11; and Viet Nam, para. 79; 2189th mtg.: Mongolia, para. 33; and Lao People's Democratic Republic, para. 110; 2190th mtg.: Afghanistan, para. 89; and USSR, para. 110.

Case No. 64: G A (ES-6), Plen., 1st mtg.: Afghanistan, paras. 19 and 50; Mongolia, para. 28; 2nd mtg.: USSR, paras. 75-78; German Democratic Republic, para. 109; 4th mtg.: Lao People's Democratic Republic, para. 62; 5th mtg.: Ukrainian SSR, para. 16; G A (35), Plen., 65th mtg.: USSR, para. 151; G A (36), Plen., Afghanistan, 19th penultimate para.; G A (37), Plen., 80th mtg.: Ukrainian SSR, para. 124.

<sup>81</sup>Case No. 54: G A 90th mtg., a.i. 29: Comoros, paras. 2-20; Liberia, paras. 21-26; Papua New Guinea, paras. 37-47; Senegal, 3rd para.; Gabon, 2nd-5th paras.; Morocco, 5th para.; Zambia, 2nd para.; and Cuba, 3rd para.; G A (37), 91st mtg., a.i. 30: Comoros, paras. 3-11 and Zambia, para. 47; G A (38), Plen., 64th mtg.: Comoros, 3rd-24th paras.; 65th mtg.: China, 2nd para.; Gabon, 5th para.; Morocco, last para.; and United Republic of Tanzania, 1st and penultimate paras.; G A (39), 94th mtg., a.i. 27: Comoros, 2nd-9th paras.; Malaysia, 1st para.; and Pakistan, 1st para.

Case No. 60: S C (34), 2110th mtg.: para. 87; 2111th mtg.: para. 169.

Case No. 61: G A (38), Plen., 35th mtg.: Lao People's Democratic Republic, para. 119.

Case No. 62: G A (34), Plen., 90th mtg., a.i. 127: France, paras. 134-137; S P C, 37th mtg.: paras. 15 and 18; and G A (35), Plen., 92nd mtg.: para. 374; S P C, 42nd mtg., paras. 31 and 32.

Case No. 63: S C (35), 2185th mtg.: USSR, para. 17; 2186th mtg.: United Kingdom, para. 51; 2188th mtg.: German Democratic Republic, para. 13; 2190th mtg.: USSR, para. 111.

Case No. 64: G A (ES-6), Plen., 1st mtg.: Mongolia, para. 28; Afghanistan, para. 50; 4th mtg.: Lao People's Democratic Republic, para. 62; G A (37), Plen., 80th mtg.: Ukrainian SSR, para. 124.

<sup>82</sup>Case No. 54: G A 90th mtg., a.i. 29: Comoros, paras. 2-20; Liberia, paras. 21-26; Papua New Guinea, paras. 37-47; Senegal, 3rd para.; Gabon, 2nd-5th paras.; Morocco, 5th para.; Zambia, 2nd para.; and Cuba, 3rd para.; G A (37), 91st mtg., a.i. 30: Comoros, paras. 3-11; and Zambia, para. 47; G A (38), Plen., 64th mtg.: Comoros, 3rd-24th paras.; 65th mtg.: China, 2nd para.; Gabon, 5th para.; Morocco, last para.; United Republic of Tanzania, 1st and penultimate paras.; G A (39), 94th mtg., a.i. 27: Comoros, 2nd-9th paras.; Malaysia, 1st para.; and Pakistan, 1st para.

the grounds that the principle of decolonization should apply to the population of a colonial entity as a whole and that the wishes of Comoros and Madagascar regarding their independence, unity and territorial integrity must be respected.<sup>83</sup>

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

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

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

#### \*\*D. Procedure by which Article 2(7) was invoked

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

80. In the respective debates on cases Nos. 54, 61, 62 and 64, relating respectively to the question of the Comorian island of Mayotte, the question of Kampuchea, the question of the islands of Glorieuses, Juan de Nova, Europa and Bassas da India, and the situation in Afghanistan and its implications for international peace and security, the contention that the discussion of the item by the General Assembly constituted a violation of Article 2 (7) was opposed by several representatives, who held that the General Assembly was competent to discuss them on the basis that it had done so in the past.<sup>84</sup>

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

<sup>83</sup>Case No. 62: G A (34), S P C, 37th mtg.: Libyan Arab Jamahiriya, paras. 19 and 20; Cuba, paras. 21 and 22; G A (35), S P C, 42nd mtg.: Algeria, paras. 3-6; Seychelles, para. 13; Libyan Arab Jamahiriya, para. 17; and Benin, paras. 21-23.

<sup>84</sup>Supra., para. 66.

**Chapter II**  
**MEMBERSHIP**

