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Volume I

ARTICLE 2(4)

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ARTICLE 2(4)

TEXT OF ARTICLE 2(4)

The Organization and its Members, in pursuit of the Purposes stated in Article 1, 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 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 previous Supplements,¹ Article 2(4) requires treatment in a separate study since there were a number of decisions of the Security Council and of the General Assembly with bearing on this provision, which preceded or followed by extensive constitutional discussions.

2. The general survey briefly summarizes all those decisions of the Security Council and of the General Assembly, which referred explicitly or implicitly to the provision of Article 2(4).

3. The analytical summary of practice contains a detailed account of a number of decisions of the Security Council and of the General Assembly, which have direct

¹ Repertory of Practice of United Nations Organs, Supplement No. 2, vol. I, pp. 69-116, covering the period from 1 September 1956 to 31 August 1959; Repertory of Practice of United Nations Organs, Supplement No. 3, vol. I, pp. 132-173, covering the period from 1 September 1959 to 31 August 1966; Repertory of Practice of United Nations Organs, Supplement No. 4, vol. I, pp. 36-70, covering the period from 1 September 1966 to 31 December 1969; Repertory of Practice of United Nations Organs, Supplement No. 5, vol. I, pp. 28-48, covering the period from 1 January 1970 to 31 December 1978; Repertory of Practice of United Nations Organs, Supplement No. 6, vol. I, pp. 68-89, covering the period from 1 January 1979 to 31 December 1984; Repertory of Practice of United Nations Organs, Supplement No. 7, vol. I, pp. [...], covering the period from 1 January 1985 to 31 December 1988.

bearing on the interpretation and application of Article 2(4) and were preceded or followed by constitutional discussion. The material in this section is organized under four subheadings. Subsection D has been added to reflect new developments in the practice of the Security Council in the period under consideration.

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”;

B. The question of the scope and limits of the phrase “in any other manner inconsistent with the purpose of the United Nations”;

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

D. The question of the bearing of the injunction in Article 2(4) on the delegation of powers by the Security Council to use force.

I. GENERAL SURVEY

4. During the period under review, the Security Council and the General Assembly, each, adopted one resolution which contained explicit references to article 2(4).²

5. At the same period, the General Assembly adopted a number of resolutions, in which it quoted the text of Article 2(4) in their preambular paragraphs,³ or cited the basic principle enshrined in that provision without referring to it explicitly.⁴

² S/RES/748 (1992) (the preamble), concerning Libyan Arab Jamahiriya; A/RES/44/240 (the preamble), concerning the effects of the military intervention by the United States of America in Panama on the situation in Central America.

³ A/RES/44/116 [P] (the preamble), concerning general and complete disarmament; A/RES/44/240 (the preamble), concerning the effects of the military intervention by the United States of America in Panama on the situation in Central America; A/RES/45/58 [O] (the preamble), concerning general and complete disarmament.

⁴ A/RES/44/15 (the preamble), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/44/21 (paragraph 2), concerning the item entitled “Enhancing international peace, security and international co-operation in all its aspects in accordance with the Charter of the United Nations”; A/RES/44/22 (the preamble), concerning the situation in Kampuchea; A/RES/44/81 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”;

6. 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). They employed various terms to condemn “threat or

A/RES/44/111 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/44/112 (the preamble), concerning the prevention of an arms race in outer space; A/RES/44/125 (operative paragraph 1 (b)), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/44/126 (the preamble), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/12 (the preamble), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/45/14 (operative paragraph 3), concerning the implementation of the Declaration on the Right of Peoples to Peace; A/RES/45/54 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/45/55 [A] (the preamble), concerning the prevention of an arms race in outer space; A/RES/45/79 (operative paragraph 8), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/45/80 (the preamble), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/132 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/45/147 (the preamble and operative paragraph 1), concerning the item entitled “Respect for the principles enshrined in the Charter of the United Nations and international law in the fight against drug abuse and illicit trafficking”; A/RES/46/23 (the preamble), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/46/32 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/46/33 (the preamble), concerning the prevention of an arms race in outer space; A/RES/46/42 (operative paragraph 3), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/46/89 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/46/101 (the preamble and operative paragraph 1), concerning the item entitled “Respect for the principles enshrined in the Charter of the United Nations and international law in the fight against drug abuse and illicit trafficking”; A/RES/47/50 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/47/51 (the preamble), concerning the item entitled “Prevention of an arms race in outer space”; A/RES/47/58 (operative paragraph 2), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/47/60 [A] (the preamble and operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/47/84 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/47/98 (the preamble and operative paragraph 1), concerning the item entitled “Respect for the principles enshrined in the Charter of the United Nations and international law in the fight against drug abuse and illicit trafficking”; A/RES/48/73 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/48/74 [A] (the preamble), concerning the item entitled “Prevention of an arms race in outer space”; A/RES/48/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/48/83 (the preamble), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/48/92 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/48/112 I. (operative paragraph 1), concerning the item entitled “International action to combat drug abuse and illicit production and trafficking”; A/RES/49/73 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/49/74 (the preamble), concerning the item entitled “Prevention of an arms race in outer space”; A/RES/49/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/49/150 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/49/168 [I.] (operative paragraph 1), concerning the item entitled “International action to combat drug abuse and illicit production and trafficking”.

use of force”⁵ or, specifically, “*aggression*”⁶ or “*armed/military intervention*”,⁷

⁵ S/RES/884 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/949 (1994) (the preamble), concerning the withdrawal of all Iraqi military from southern Iraq; A/RES/44/147 (operative paragraph 6), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/45/151 (operative paragraph 6), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/46/130 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/47/130 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/48/124 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/49/180 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”.

⁶ S/RES/667(1990) (operative paragraph 1), concerning the situation between Iraq and Kuwait; A/RES/44/27 [A] (the preamble), concerning the policies of apartheid of the Government of South Africa; A/RES/44/27 [K] (the preamble and operative paragraph 3), concerning the policies of apartheid of the Government of South Africa; A/RES/44/40 [A] (operative paragraph 8), concerning the situation in the Middle East; A/RES/44/40 [B] (operative paragraph 2), concerning the situation in the Middle East; A/RES/44/79 (the preamble and operative paragraph 28), concerning the item entitled “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”; A/RES/44/80 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/44/113 [B] (the preamble), concerning the implementation of the Declaration on the Denuclearization of Africa; A/RES/44/136 (the preamble), concerning the International Conference on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa; A/RES/44/168 (the preamble), concerning the international assistance for the economic rehabilitation of Angola; A/RES/44/181 (the preamble), concerning the special assistance to the front-line States; A/RES/44/221 (operative paragraph 4), concerning the co-operation between the United Nations and the Southern African Development Co-ordination Conference; A/RES/45/18 (the preamble), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/56 [B] (the preamble), concerning the implementation of the Declaration on the Denuclearization of Africa; A/RES/45/73 [I] (the preamble), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/45/83 [A] (operative paragraph 8), concerning the situation in the Middle East; A/RES/45/83 [B] (operative paragraph 2), concerning the situation in the Middle East; A/RES/45/130 (the preamble and operative paragraph 21), concerning the item entitled “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”; A/RES/45/137 (the preamble), concerning the International Conference on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa; A/RES/45/151 (operative paragraph 6), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/45/176 (the preamble), concerning the policies of apartheid of the Government of South Africa; A/RES/45/224 (operative paragraph 3), concerning the special assistance to the front-line States; A/RES/45/233 (the preamble), concerning the international assistance for the economic rehabilitation of Angola; A/RES/46/43 (the preamble), concerning the protection and security of small States; A/RES/46/46 (I) (the preamble), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/46/65 (the preamble), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/46/79 [A] (the preamble), concerning the policies of apartheid of the Government of South Africa; A/RES/46/87 (the preamble), concerning the item entitled “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”; A/RES/46/88 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/46/130 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/46/172 (operative paragraph 3), concerning the special assistance to the front-line States; A/RES/47/16 (the preamble), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/47/69 (I) (the preamble), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/47/82 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/47/83 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/47/130 (operative paragraph 7),

“invasion”⁸, “occupation”⁹, “annexation”¹⁰. In a number of resolutions adopted by the Security Council and the General Assembly, annexation, occupation and taking of

concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/47/163 (operative paragraph 4), concerning the special assistance to the front-line States; A/RES/48/40 [H] (the preamble), concerning the protection of Palestinian Refugees; A/RES/48/47 (the preamble), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/48/88 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/48/93 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/48/124 (operative paragraph 7), concerning the “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/49/10 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/49/31 (the preamble), concerning the protection and security of small states; A/RES/49/148 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/49/180 (operative paragraph 7), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”.

⁷ A/RES/45/73 [I] (the preamble), concerning the Palestinian Refugees in the Middle East; A/RES/44/80 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/44/240 (the preamble and operative paragraph 1), concerning the effects of the military intervention by the United States of America in Panama; A/RES/45/131 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/46/88 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/47/83 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/48/93 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/49/148 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; S/RES/836 (1993) (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/44/125 (the preamble), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/45/79 (the preamble), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/46/42 (the preamble), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/47/58 (the preamble), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”; A/RES/48/81 (the preamble), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/49/10 (operative paragraph 5), concerning the situation in Bosnia and Herzegovina; A/RES/49/81 (the preamble), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; S/RES/757 (1992) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/758 (1992) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/764 (1992) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/822 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/836 (1993) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/853 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; A/RES/44/22 (the preamble), concerning the situation in Kampuchea.

⁸ S/RES/660 (1990) (the preamble and operative paragraph 1), concerning the situation between Iraq and Kuwait; S/RES/661 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/822 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; A/RES/45/170 (the preamble), concerning the situation of human rights in the occupied Kuwait.

⁹ S/RES/670 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/674 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/677 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/884 (1993) (operative paragraph 1), concerning the situation between Armenia and Azerbaijan; A/RES/44/2 (the preamble), concerning the uprising (intifadah) of the Palestinian people; A/RES/44/22 (the preamble), concerning the situation in Kampuchea; A/RES/44/40 [A] (the preamble and operative paragraph 5, 8), concerning the situation in the Middle East; A/RES/44/40 [B] (operative paragraph 7), concerning the situation in the Middle East; A/RES/44/48 [A, C, F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”; A/RES/44/80 (the preamble, operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/45/69 (the preamble), concerning the uprising (intifadah) of the Palestinian people; A/RES/45/74 [A, C, F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/45/80 (the preamble), concerning the item entitled

territories by force were declared “unlawful”, “illegal” or “null and void”.¹¹ In several resolutions, the Security Council and the General Assembly called for the cessation of

“Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/83 [A] (the preamble and operative paragraph 5), concerning the situation in the Middle East; A/RES/45/83 [B] (operative paragraph 7), concerning the situation in the Middle East; A/RES/45/130 (the preamble), concerning the item entitled “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”; A/RES/45/131 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/46/47 [A, C, F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/46/76 (the preamble), concerning the uprising (intifadah) of the Palestinian people; A/RES/46/82 [A] (the preamble, operative paragraph 5), concerning the situation in the Middle East; A/RES/46/87 (the preamble), concerning the item entitled “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”; A/RES/46/88 (operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/46/162 (operative paragraph 3), concerning the item entitled “Living conditions of the Palestinian people in the occupied Palestinian territory”; A/RES/47/63 [A] (the preamble, operative paragraph 7), concerning the situation in the Middle East; A/RES/47/64 [E] (the preamble), concerning the question of Palestine; A/RES/47/70 [A, C, F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/47/82 (the preamble), concerning the item entitled “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”; A/RES/47/83 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/48/41 [D] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/48/59 [B] (the preamble, operative paragraph 7), concerning the situation in the Middle East; A/RES/48/93 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination; A/RES/48/94 (the preamble), concerning the item entitled “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”; A/RES/49/10 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/49/36 [D] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/49/43 (the preamble), concerning the situation in the occupied territories of Croatia; A/RES/49/87 [B] (the preamble), concerning the situation in the Middle East; A/RES/49/148 (the preamble and operative paragraph 2), concerning the universal realization of the right of peoples to self-determination.

¹⁰ A/RES/44/40 [A] (operative paragraph 8), concerning the situation in the Middle East; A/RES/44/48 [A] (operative paragraph 8), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”; A/RES/45/74 [A] (operative paragraph 8), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/45/83 [A] (operative paragraph 8), concerning the situation in the Middle East; A/RES/46/47 [A] (operative paragraph 8), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/46/82 [A] (operative paragraph 8), concerning the situation in the Middle East.

¹¹ S/RES/662 (1990) (operative paragraph 1), concerning the situation between Iraq and Kuwait; S/RES/674 (1990) [A] (operative paragraph 8), concerning the situation between Iraq and Kuwait; S/RES/686 (1991) (operative paragraph 2 (b)), concerning the situation between Iraq and Kuwait; S/RES/787 (1992) (operative paragraph 2), concerning the situation in Bosnia and Herzegovina; A/RES/44/40 [A] (operative paragraph 9), concerning the situation in the Middle East; A/RES/44/48 [A] (operative paragraph 14), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”; A/RES/44/174 (the preamble), concerning the living conditions of the Palestinian people in the occupied Palestinian territory; A/RES/45/74 [A] (operative paragraph 14), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/45/83 [A] (operative paragraphs 7 and 9), concerning the situation in the Middle East; A/RES/46/47 [A] (operative paragraph 14), concerning

“use or threat of use of force”,¹² “*aggression*”,¹³ “military intervention”,¹⁴ “invasion”,¹⁵ “occupation”¹⁶ and “annexation”.¹⁷

the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories” ; A/RES/46/82 [A] (operative paragraphs 7 and 9), concerning the situation in the Middle East; A/RES/47/70 [F] (operative paragraph 3), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/48/59 [B] (operative paragraph 4), concerning the situation in the Middle East; A/RES/49/10 (operative paragraph 15), concerning the situation in Bosnia and Herzegovina; A/RES/49/43 (operative paragraph 2), concerning the situation in the occupied territories of Croatia; A/RES/49/87 [B] (operative paragraph 2), concerning the situation in the Middle East.

¹² A/RES/44/126 (operative paragraph 4); A/RES/45/80 (operative paragraph 4); A/RES/47/60 [A] (operative paragraph 4); A/RES/48/83 (operative paragraph 4). The resolutions adopted on the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”.

¹³ A/RES/44/126 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/44/147 (operative paragraph 6), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/45/73 [I] (operative paragraph 5), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/45/80 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/46/46 [I] (operative paragraph 5), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/46/82 [A] (operative paragraph 8), concerning the situation in the Middle East; A/RES/47/60 [A] (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/47/69 [I] (operative paragraph 5), United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/48/40 [H] (operative paragraph 5), concerning the United Nations Relief and Works Agency for Palestine Refugees in the Near East; A/RES/48/83 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on Strengthening of International Security”.

¹⁴ S/RES/764 (1992) (operative paragraph 3), concerning the situation in Bosnia and Herzegovina; S/RES/874 (1993) (operative paragraph 10), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (operative paragraph 6), concerning the situation between Armenia and Azerbaijan; A/RES/44/80 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/44/116 [S] (operative paragraph 5), concerning general and complete disarmament; A/RES/44/126 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/44/240 (operative paragraph 2), concerning the effects of the military intervention by the United States of America in Panama on the situation in Central America.; A/RES/45/80 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/131 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/46/88 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/47/60 [A] (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on Strengthening of International Security”; A/RES/47/83 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/48/83 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/48/93 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/49/148 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/49/10 (operative paragraph 5), concerning the situation in Bosnia and Herzegovina.

¹⁵ S/RES/661 (1990) (the preamble, operative paragraph 11), concerning the situation between Iraq and Kuwait; S/RES/665 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/674 (1990) (the preamble), concerning the situation between Iraq and Kuwait; A/RES/44/240 (operative paragraph 2), concerning the effects of the military intervention by the United States of America in Panama.

¹⁶ S/RES/661 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/662 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/665 (1990) (the preamble), concerning the situation between Iraq and Kuwait; A/RES/44/126 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/80 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/131

7. In a number of resolutions adopted by the Security Council and the General Assembly, they called for ceasefire¹⁸ or withdrawal of troops from foreign territories.¹⁹

8. Throughout the period under review, the Security Council and the General Assembly adopted many resolutions, which contained implicit references to Article 2(4).

In a number of resolutions adopted by both organs, they affirmed the principle of territorial integrity and political independence of States or deplored their violations and

(operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/46/88 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/47/60 [A] (operative paragraph 4), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/47/83 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/48/83 (operative paragraph 4), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/48/93 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination; A/RES/49/148 (operative paragraph 3), concerning the universal realization of the right of peoples to self-determination.

¹⁷ S/RES/662 (1990) (operative paragraph 2), concerning the situation between Iraq and Kuwait; S/RES/686 (1991) (operative paragraph 2), concerning the situation between Iraq and Kuwait.

¹⁸ S/RES/752 (1992) (operative paragraph 1), concerning the situation in Bosnia and Herzegovina; S/RES/758 (1992) (operative paragraphs 5 and 6), concerning the situation in Bosnia and Herzegovina; S/RES/761 (1992) (operative paragraph 2), concerning the situation in Bosnia and Herzegovina; S/RES/822 (1993) (operative paragraph 1), concerning the situation between Armenia and Azerbaijan; S/RES/853 (1993) (operative paragraph 4), concerning the situation between Armenia and Azerbaijan; S/RES/874 (1993) (operative paragraph 1), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (the preamble and operative paragraphs 1 and 5), concerning the situation between Armenia and Azerbaijan; A/RES/949 (1994) (the preamble), concerning the withdrawal of all Iraqi military units from southern Iraq; A/RES/49/43 (operative paragraph 10), concerning the situation in the occupied territories of Croatia.

¹⁹ S/RES/660 (1990) operative paragraph 2, concerning the situation between Iraq and Kuwait; S/RES/662 (1990), the preamble, concerning the situation between Iraq and Kuwait; S/RES/696 (1991) (the preamble), concerning the situation in Angola; S/RES/752 (1992) (operative paragraph 4), concerning the situation in Bosnia and Herzegovina; S/RES/762 (1992) (operative paragraph 4), concerning the situation in Former Yugoslavia; S/RES/779 (1992) (operative paragraph 4), concerning the situation in Croatia; S/RES/822 (1993) (operative paragraph 1), concerning the situation between Armenia and Azerbaijan; S/RES/850 (1993) (the preamble), concerning the situation in Mozambique; S/RES/853 (1993) (operative paragraph 3), concerning the situation between Armenia and Azerbaijan; S/RES/874 (1993) (operative paragraph 5), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (operative paragraph 4), concerning the situation between Armenia and Azerbaijan; A/RES/44/15 (operative paragraph 2), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/44/22 (operative paragraph 2), concerning the situation in Kampuchea; A/RES/44/40 [A] (the preamble and operative paragraphs 1 and 5), concerning the situation in the Middle East; A/RES/44/40 [B] (operative paragraph 11), concerning the situation in the Middle East; A/RES/44/101 (operative paragraph 9), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/34 (operative paragraph 10), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/83 [A] (the preamble and operative paragraph 1 and 5), concerning the situation in the Middle East; A/RES/45/83 [B] (operative paragraph 11), concerning the situation in the Middle East; A/RES/46/82 [A] (the preamble and operative paragraph 1 and 5), concerning the situation in the Middle East; A/RES/47/63 [A] (the preamble and operative paragraph 9), concerning the situation in the Middle East; A/RES/47/121 (operative paragraphs 4 and 5), concerning the situation in Bosnia and Herzegovina; A/RES/48/59 [B] (the preamble and operative paragraph 9), concerning the situation in the Middle East; A/RES/48/81 (operative paragraph 2), concerning the item entitled "Strengthening of security and cooperation in the Mediterranean region"; A/RES/49/62 [D] (the preamble and operative paragraph 4), concerning the question of Palestine; A/RES/49/81 (operative paragraph 2), concerning the item entitled "Strengthening of security and cooperation in the Mediterranean region"; A/RES/49/87 [B] (the preamble and operative paragraph 5), concerning the situation in the Middle East.

sought full respect for the said principles.²⁰ Numerous resolutions adopted by the Council and the Assembly reaffirmed the inadmissibility of the acquisition of territory by force²¹ and the inviolability of international borders.²²

²⁰ S/RES/649 (1990) (operative paragraph 1), concerning the situation in Cyprus; S/RES/661 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/662 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/665 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/674 (1990) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/686 (1991) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/687 (1991) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/688 (1991) (the preamble), concerning the situation between Iraq and Kuwait; S/RES/696 (1991) (the preamble), concerning the situation in Angola; S/RES/752 (1992) (operative paragraph 3), concerning the situation in Bosnia and Herzegovina; S/RES/770 (1992) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/787 (1992) (the preamble and operative paragraph 3), concerning the situation in Bosnia and Herzegovina; S/RES/822 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/836 (1993) (the preamble and operative paragraph 3), concerning the situation in Bosnia and Herzegovina; S/RES/853 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/855 (1993) (the preamble), concerning the situation in the Federal Republic of Yugoslavia; S/RES/874 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/880 (1993) (operative paragraph 4), concerning the situation in Cambodia; S/RES/884 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/943 (1994) (the preamble), concerning the closure of the border between the Federal Republic of Yugoslavia and Bosnia and Herzegovina; S/RES/947 (1994) (the preamble), concerning the extension of the mandate of the UNPROFOR; S/RES/958 (1994) (the preamble), concerning the decision that the authorization given in paragraph 10 of resolution 836 (1993) to assist the UN Protection Force in carrying out its mandate in Bosnia and Herzegovina shall apply also to such measures taken in Croatia; S/RES/949 (1994) (the preamble), concerning the withdrawal of Iraqi military units deployed to southern Iraq; A/RES/44/15 (the preamble and operative paragraph 5), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/44/21 (operative paragraph 2), concerning the item entitled “Enhancing international peace, security and international co-operation in all its aspects in accordance with the Charter of the United Nations”; A/RES/44/22 (the preamble and operative paragraphs 2 and 5), concerning the situation in Kampuchea; A/RES/44/48 [A] (operative paragraph 7), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”; A/RES/44/51 (the preamble and operative paragraph 2), concerning the protection and security of small States; A/RES/44/81 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/44/111 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/45/12 (the preamble and operative paragraph 4), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/45/54 (the preamble), concerning the item entitled “Conclusion of effective international agreements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons”; A/RES/45/74 [A] (operative paragraph 7), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/45/80 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/45/132 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/46/23 (the preamble and operative paragraph 5), concerning the situation in Afghanistan and its implications for international peace and security; A/RES/46/42 (operative paragraph 3), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/46/43 (the preamble and operative paragraph 3), concerning the protection and security of small States; A/RES/46/89 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/47/50 (the preamble), concerning the conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of use of nuclear weapons; A/RES/47/60 [A] (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/47/84 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/47/121 (the preamble and operative paragraphs 1 and 2), concerning the situation in Bosnia and Herzegovina; A/RES/48/73 (the preamble), concerning the conclusion of effective international arrangements to assure non-nuclear-

weapon States against the use or threat of nuclear weapons; A/RES/48/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/48/83 (operative paragraph 4), concerning the item entitled “Review of the implementation of the Declaration on the Strengthening of International Security”; A/RES/48/88 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/48/92 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/49/10 (the preamble and operative paragraph 15 and 21), concerning the situation in Bosnia and Herzegovina; A/RES/49/31 (the preamble and operative paragraph 3), concerning the protection and security of small States; A/RES/49/43 (the preamble and operative paragraphs 1 and 2), concerning the situation in the occupied territories of Croatia; A/RES/49/73 (the preamble), concerning the item entitled “Conclusion of effective international arrangements to assure non-nuclear-weapon States against the use or threat of nuclear weapons”; A/RES/49/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/49/140 (operative paragraph 4), concerning the item entitled “Emergency international assistance for peace, normalcy and reconstruction of war-stricken Afghanistan”; A/RES/49/150 (the preamble), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”.

²¹ S/RES/681 (1990) (the preamble), concerning the territories occupied by Israel; S/RES/787 (1992) (operative paragraph 2), concerning the situation in Bosnia and Herzegovina; S/RES/822 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/836 (1993) (the preamble and operative paragraph 3), concerning the situation in Bosnia and Herzegovina; S/RES/853 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/874 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; A/RES/44/40 [A] (the preamble), concerning the situation in the Middle East; A/RES/44/40[B] (the preamble), concerning the situation in the Middle East; A/RES/44/48 [F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories”; A/RES/45/74 [F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/45/83 [A and B] (the preamble), concerning the situation in the Middle East; A/RES/46/42 (operative paragraph 3), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/46/47 [F] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/46/82 [A] (the preamble), concerning the situation in the Middle East; A/RES/46/199 (the preamble), concerning the item entitled “Adverse economic effects of Israeli settlements in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied since 1967”; A/RES/47/63 [A] (the preamble), concerning the situation in the Middle East; A/RES/48/41 [C and D] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/48/59 [B] (the preamble), concerning the situation in the Middle East; A/RES/48/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/48/88 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/48/212 (the preamble), concerning the economic and social repercussions of the Israeli settlements; A/RES/49/10 (the preamble), concerning the situation in Bosnia and Herzegovina; A/RES/49/36 [C and D] (the preamble), concerning the item entitled “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”; A/RES/49/43 (the preamble), concerning the situation in the occupied territories of Croatia; A/RES/49/62 [D] (the preamble), concerning the question of Palestine; A/RES/49/81 (operative paragraph 2), concerning the item entitled “Strengthening of security and cooperation in the Mediterranean region”; A/RES/49/87 [B] (the preamble), concerning the situation in the Middle East; A/RES/49/132 (the preamble), concerning the economic and social repercussions of the Israeli settlements.

²² S/RES/687 [A] (1991) (operative paragraphs 2 and 4), concerning the situation between Iraq and Kuwait; S/RES/757 (1992) (the preamble), concerning the situation in Bosnia and Herzegovina; S/RES/773 (1992) (operative paragraph 4), concerning the situation between Iraq and Kuwait; S/RES/806 (1993) (operative paragraph 1), concerning the situation between Iraq and Kuwait; S/RES/822 (1993) (the preamble), concerning the situation in Mozambique; S/RES/833 (1993) (operative paragraphs 5 and 6), concerning the situation between Iraq and Kuwait; S/RES/853 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/874 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/884 (1993) (the preamble), concerning the situation between Armenia and Azerbaijan; S/RES/959 (1994) (operative paragraph 2), concerning the efforts of the UNPROFOR to ensure implementation of Security Council resolutions on safe areas in Bosnia and Herzegovina; A/RES/44/125 (operative paragraph 1(b)), concerning the item entitled “Strengthening of security and co-operation in the Mediterranean region”.

9. The General Assembly affirmed, in a number of resolutions, the inalienable right to self-determination and independence of all peoples under colonial and racist regimes and other forms of alien domination and foreign occupation, and upholding the legitimacy of their struggle, in particular the struggle of national liberation movements, by all available means, including armed struggle.²³ Moreover, the General Assembly adopted a number of resolutions, in which it called upon States to render support to the peoples in their struggle for the self-determination and national independence in

²³ A/RES/44/29 (the preamble and operative paragraph 17), concerning measures to eliminate international terrorism; A/RES/44/69 (the preamble), concerning the Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid; A/RES/44/79 (operative paragraph 2), concerning the item entitled "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"; A/RES/44/81 (the preamble), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/44/101 (operative paragraph 4), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/44/126 (operative paragraph 14), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/44/147 (the preamble and operative paragraph 8), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes"; A/RES/45/33 (the preamble), concerning the thirtieth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/34 (operative paragraph 4), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/80 (operative paragraph 12), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/45/130 (operative paragraph 2), concerning the item entitled "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"; A/RES/45/132 (the preamble), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/45/151 (the preamble, operative paragraph 8), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes"; A/RES/46/51 (the preamble and operative paragraph 15), concerning measures to eliminate international terrorism; A/RES/46/71 (operative paragraph 4), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/46/87 (operative paragraph 2), concerning the item entitled "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"; A/RES/46/89 (the preamble), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/47/23 (operative paragraph 4), concerning the implementation of the Declaration on the Denuclearization of Africa; A/RES/47/60 (operative paragraph 11), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/47/82 (operative paragraph 2), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/47/84 (the preamble), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/47/130 (the preamble and operative paragraph 9), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes"; A/RES/48/83 (operative paragraph 11), concerning the item entitled "Review of the implementation of the Declaration on the Strengthening of International Security"; A/RES/48/92 (the preamble), concerning the item entitled "Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination"; A/RES/48/94 (operative paragraph 2), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes"; A/RES/48/124 (the preamble and operative paragraph 9), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes"; A/RES/49/180 (the preamble and operative paragraph 8), concerning the item entitled "Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes".

accordance with the Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples.²⁴

10 During the period under consideration, the Security Council also considered one draft resolution, which explicitly referred to Article 2 (4) and cited its text,²⁵ but failed adoption.²⁶

11. Most of the decisions of the Security Council and of the General Assembly, which contain explicit or implicit references to Article 2(4), as listed above, did not give rise to a constitutional discussion regarding its interpretation and application. The decisions of the above organs, which preceded or followed by constitutional discussions, are covered in the analytical summary. However, a number of other resolutions of the said organs with bearings on Article 2(4), which is not covered in the Analytical summary, merit a special reference.

12. In its resolution 731 of 21 January 1992, which was adopted pursuant to the requests made by the United States,²⁷ United Kingdom²⁸ and France,²⁹ in connection

²⁴ A/RES/44/79 (operative paragraphs 7, 13 and 42), concerning the item entitled “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”; A/RES/44/101 (operative paragraph 10), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/33 (operative paragraph 7), concerning the thirtieth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/34 (operative paragraph 11), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/45/130 (operative paragraphs 7 and 35), concerning the item entitled “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”; A/RES/46/65 (operative paragraph 4), concerning the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples; A/RES/46/87 (operative paragraphs 6 and 28), concerning the item entitled “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”; A/RES/47/82 (operative paragraphs 6 and 29), concerning the item entitled “Use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination”; A/RES/48/94 (operative paragraphs 6 and 27), concerning the item entitled “Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes”; A/RES/49/151 (operative paragraph 10), concerning the agenda item entitled “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”.

²⁵ S/21048, dated 22 December 1989, regarding the invasion of Panama, the preamble.

²⁶ S/PV 2902, pp. 18-20.

²⁷ Letter dated 20 December 1991, S/23309; letter dated 20 December 1991, S/23308; letter dated 23 December 1991, S/23317.

²⁸ Letter dated 20 December 1991, S/23309; letter dated 20 December 1991, S/23306.

with the legal procedures related to the attacks carried out against Pan Am flight 103 and Union de transports aériens flight 772, the Security Council urged the Libyan Government to immediately provide full and effective response to the requests made and to cooperate fully in establishing responsibility for the terrorist acts.³⁰ In its resolution 748, the Security Council, with explicit reference to Article 2, paragraph 4, of the Charter, reaffirmed that “every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force”.³¹

13. During the period under review, the General Assembly adopted two instruments, which might be considered as having bearing on Article 2(4), which have not been included in the analytical summary because the deliberations concerning those items did not lead to substantive constitutional discussions. Also at the same period the Assembly requested an advisory opinion from the International Court of Justice, which was also relevant to Article 2(4). These questions are discussed briefly in the following paragraphs.

14. On 4 December 1989, the General Assembly adopted the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,³² in which the Assembly, *inter alia*, recognized that the activities of mercenaries were contrary to the “principles of international law, such as those of sovereign equality, political independence and territorial integrity of States and self-determination of peoples”.³³

15. On 11 December 1994, the General Assembly adopted the “Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or

²⁹ Letter dated 20 December 1991, S/23309; letter dated 20 December 1991, S/23307.

³⁰ S/RES/731 (1992), operative paragraph 2.

³¹ S/RES/748 (1992), the preamble.

³² A/RES/44/34, dated 4 December 1989.

³³ *Ibid.*, the preamble.

Agencies in the Maintenance of International Peace and Security”,³⁴ which, *inter alia*, emphasized that “respect for the principles of sovereignty, territorial integrity and political independence of States and non-intervention in matters which are essentially within the domestic jurisdiction of any State is crucial to any common endeavor to promote international peace and security”.³⁵

16. On 15 December 1994, the General Assembly adopted its resolution 49/75 K, in which it requested the International Court of Justice to render its advisory opinion on the following question: “Is the threat or use of nuclear weapons in any circumstance permitted under international law?”.³⁶

17. During the period under review, the International Law Commission continued³⁷ its consideration of the agenda item entitled “draft code of crimes against peace and security of mankind” and discussed several points with bearing on Article 2(4).³⁸ At its forty-first session, in 1989, the Commission provisionally approved the inclusion of the “threat of aggression”³⁹ among the crimes against peace in the draft code.⁴⁰ At its forty-sixth session, in 1994, the Commission, in compliance with the request made by the General Assembly,⁴¹ adopted the “draft statute for an international criminal court”,⁴² which included the crime of aggression among the crimes within the jurisdiction of the court.⁴³ The commentary to article 20 of the draft statute, provides some explanations on the General Assembly resolution 3314 (XXIX) of 14 December 1974, concerning the

³⁴ A/RES/49/57, dated 9 December 1994.

³⁵ Ibid., annex, the preamble.

³⁶ A/RES/49/75 K, dated 15 December 1994, the last paragraph.

³⁷ See the Repertory of Practice of United Nations Organs, Supplement No. 7, vol. I, separate study on Article 2 (4), p. 13.

³⁸ Report of the International Law Commission, Supplement No. 10(A/44/10), pp. 127-186.

³⁹ The crime of aggression had earlier been included among the crimes against peace in the draft code, in the fortieth session of the Commission.

⁴⁰ The Report of the International Law Commission on the work of its forty-first session, Supplement No. 10(A/44/10), pp. 132 and 178.

⁴¹ A/RES/47/33, dated 25 November 1992, operative paragraph 6.

⁴² The Report of the International Law Commission on the work of its forty-sixth session, Supplement No. 10(A/49/10), p. 43, paragraph 88.

⁴³ Ibid., p. 70.

definition of aggression in connection with Article 2 (4) of the Charter.⁴⁴ The commentary, *inter alia*, read as follows:

“General Assembly resolution 3314 (XXIX) of 14 December 1974 deals with aggression by States, not with the crimes of individuals, and is designed as a guide for the Security Council, not as a definition for judicial use. But, given the provisions of Article 2 (4) of the Charter of the United Nations, that resolution offers some guidance, and a court must, today, be in a better position to define the customary law crime of aggression than was the Nürnberg Tribunal in 1946”.⁴⁵

⁴⁴ Ibid., p. 72, paragraph 6.

⁴⁵ Ibid.

II. ANALYTICAL SUMMARY

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”

18. 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 an item entitled “Effects of the military intervention by the United States of America in Panama on the situation in Central America”. In the course of the discussion of those issues, questions arose concerning the interpretation and application of the principle included in Article 2(4). The following items entailed such relevant constitutional discussion:

In the Security Council:

(a) In connection with the letters dated 2 August 2005 from the Permanent Representative of the United States and the Permanent Representative of Kuwait, the question under discussion was whether the use of force by Iraq against Kuwait was an act of aggression or it was in response to a request made by the “free provisional Government of Kuwait”.

(b) In connection with several letters by the Permanent Representative of Azerbaijan addressed to the President of the Security Council,⁴⁶ the question under discussion was whether the conflict in the Nagorny-Karabakh region was the result of an act of aggression by Armenia or it was a conflict between Azerbaijan and Nagorny-Karabakh Armenians.

⁴⁶ S/26164, S/26194, S/26647.

(c) In connection with several letters by the Permanent Representative of Bosnia and Herzegovina addressed to the President of the Security Council,⁴⁷ the question under discussion was whether the conflict in Bosnia and Herzegovina was the result of acts of aggression committed by the Republic of Serbia and Montenegro or it was an internal conflict within the territory of Bosnia and Herzegovina.

In the General Assembly:

(d) In connection with the letter 20 December 1989 from the Permanent Representatives of Cuba and Nicaragua to the United Nations addressed to the President of the General Assembly, the question under consideration was whether the military intervention by the United States in Panama constituted an invasion in contravention of Charter Article 2 (4) or it was an action to exercise the right to self-defense.

1. IN THE SECURITY COUNCIL

(a) Decisions of the Security Council regarding the situation between Iraq and Kuwait

(i) Precis of proceedings

19. The Permanent Representative of Kuwait and the Permanent Representative of the United States of America to the United Nations, by separate letters dated 2 August 1990 addressed to the President of the Security Council, requested an immediate meeting of the Security Council to consider the Iraqi invasion of Kuwait at the same day.⁴⁸

⁴⁷ S/24024, dated 27 May 1992; S/24616, dated 5 October 1992; S/24640, dated 8 October 1992; S/24750, dated 2 November 1992; S/24761, dated 5 November 1992; S/24777, dated 9 November 1992; S/25434, dated 18 March 1993; S/25459, dated 22 March 1993; S/25624, dated 19 April 1993; S/25670, dated 27 April 1993; S/25718, dated 4 May 1993; S/25728, dated 5 May 1993; S/25872, dated 1 June 1993; S/25877, dated 2 June 1993; S/25878, dated 2 June 1993; S/1994/1037, dated 8 September 1994; S/1994/1038, dated 8 September 1994; S/1994/1044, dated 10 September 1994; S/1994/1079, dated 21 September 1994.

⁴⁸ S/21423, dated 2 August 1990; S/21424, dated 2 August 1990.

20. At its 2932th meeting, on 2 August 1990, the Security Council adopted resolution 660 (1990), by which it condemned the Iraqi invasion of Kuwait and demanded “that Iraq withdraw, immediately and unconditionally, all its forces to the positions in which they were located on 1 August 1990”.⁴⁹ It further called upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences.⁵⁰ In its resolution 662 (1990), the Security Council decided that “annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void”.⁵¹ The adoption of the above resolutions preceded or followed by constitutional discussions relating to Article 2, paragraph 4 of the United Nations Charter, which are summarized in paragraphs 21 and 22. The Council also adopted several other resolutions on the question to follow up, *inter alia*, the implementation of the above resolutions. These resolutions contained, *inter alia*, paragraphs along the following lines:

- Stressed the need for immediate and unconditional withdrawal of all Iraqi forces from Kuwait;⁵²
- Condemned the continued occupation of Kuwait by Iraq, its failure to rescind its actions and to end its purported annexation;⁵³
- Expressed its determination to bring the invasion and occupation of Kuwait by Iraq to an end, and to restore the sovereignty, independence and territorial integrity of Kuwait.⁵⁴

(ii) Precis of relevant constitutional discussion

21. During the discussions of the above questions in the Security Council, one side viewed the Iraqi invasion of Kuwait as an act of aggression, which represented a flagrant

⁴⁹ S/RES/660 (1990) (operative paragraph 1 and 2). The resolution was adopted unanimously by the Security Council. Yemen did not participate in the vote.

⁵⁰ Ibid., operative paragraph 3.

⁵¹ S/RES/662 (1990) (operative paragraph 1).

⁵² S/RES/662 (1990) (the preamble), S/RES/674 (1990) (the preamble).

⁵³ S/RES/662 (1990) (operative paragraph 3), S/RES/670 (1990) (the preamble).

⁵⁴ S/RES/661 (1990) (the preamble), S/RES/662 (1990) (the preamble), S/RES/665 (1990) (the preamble), S/RES/ 674 (1990) (the preamble).

violation of the territorial integrity and sovereignty of Kuwait.⁵⁵ Iraq stated that it had deployed its forces to Kuwait in response to a request made by the “Free Provisional Government of Kuwait” to provide assistance to establish the security and order in Kuwait.⁵⁶ It further argued that “the events taking place in Kuwait are internal matters which have no relation to Iraq”.⁵⁷

22. The continued occupation of the territory of Kuwait by Iraqi forces and the measures imposed by the occupying power were viewed, by one side, as annexation, which violated the provision of Article 2, paragraph 4 of the United Nations Charter.⁵⁸ Iraq claimed that it had historical right to “re-establish the eternal and indestructible unity” of Iraq and Kuwait, which represented one part of “the Arab nation”.⁵⁹

*(b) Decisions of the Security Council regarding the situation
between Azerbaijan and Armenia*

(i) Precis of proceedings

23. During the period under consideration, the Permanent Representative of Azerbaijan, in several letters addressed to the President of the Security Council, had complained that Armenian forces had attacked and occupied Azerbaijani districts.⁶⁰ The representative of Azerbaijan had repeatedly requested the Security Council to condemn the aggression by Armenia against Azerbaijan and to adopt measures, including the imposition of sanctions against Armenia under chapter VII of the United Nations Charter.⁶¹

⁵⁵ Argument advanced by all the Security Council. S/PV.2932, pp. 4-10, 12-27.

⁵⁶ Argument advance by Iraq, which was invited in accordance with the relevant provisions of the UN Charter and Rule 37 of the Security Council Provisional Rules of procedure to participate in the discussions. S/PV.2932, p. 11.

⁵⁷ Ibid.

⁵⁸ S/PV.2934, pp. 7-17, 19-21, 32-36, 38-42 and 47-48.

⁵⁹ S/PV.2934, p. 46.

⁶⁰ Letter dated 28 April 1993 (S/25701); letter dated 24 July 1993 (S/26164); letter dated 13 October 1993 (S/26577); letter dated 26 October 1993 (S/26647).

⁶¹ S/26557, 13 October 1993; S/26164, 26 July 1993, p. 3; S/26647, 27 October 1993.

24. In response to the complaints made by Azerbaijan, the Security Council adopted four resolutions, in 1993 (822, 853, 874 and 884), in which it condemned armed hostilities in the region, the seizure of occupied areas in Azerbaijan and demanded immediate, complete and unconditional withdrawal of the occupying forces.⁶² The resolutions of the Council contained, *inter alia*, paragraphs along the following lines:

- reaffirmed the respect for the sovereignty and territorial integrity of Azerbaijan and all other States in the region;⁶³
- reaffirmed the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory;⁶⁴
- condemned the seizure and/or occupation of Azerbaijani districts;⁶⁵
- demanded the immediate cessation of all hostilities and immediate withdrawal of the occupying forces from Azerbaijani districts.⁶⁶

(ii) Precipitous constitutional discussion

25. During the discussions of the above question in the Security Council, there were divergences of views concerning parties to conflict. One side viewed the armed hostilities as a conflict between Armenia and Azerbaijan resulted from repeated acts of aggression, which constituted the violation of the territorial integrity and political independence of Azerbaijan.⁶⁷ The other side considered it a conflict between Azerbaijan and Nagorny-Karabakh Armenians.⁶⁸ In the course of the discussions, some States referred to “parties involved in the Nagorny-Karabakh conflict” and “occupying forces” in general, with no specification.⁶⁹

⁶² S/RES/822 (1993), S/RES/853 (1993), S/RES/874 (1993), S/RES/884 (1993).

⁶³ S/RES/822 (1993), the preamble; S/RES/853 (1993), the preamble; S/RES/874 (1993), the preamble; S/RES/884 (1993), the preamble.

⁶⁴ *Ibid.*

⁶⁵ S/RES/853 (1993), operative paragraph 1; S/RES/884 (1993), operative paragraph 1.

⁶⁶ S/RES/822 (1993), operative paragraph 1; S/RES/853 (1993), operative paragraph 3; S/RES/884 (1993), operative paragraph 4.

⁶⁷ S/PV.3205, pp. 7-8, 19 and 21; S/PV.3259, pp. 7, 9-10 and 18; S/PV.3313, pp. 4-5.

⁶⁸ S/PV.3259, pp. 8-13 and 18; S/PV. 3313, pp.7-8 and 13.

⁶⁹ S/PV.3205, p. 12; S/PV.3259, pp.16-17, S/PV.3292, pp. 3-6; S/PV. 3313, pp. 6-7, 10-11.

(c) Decisions of the Security Council regarding the situation in Bosnia and Herzegovina

(i) Precis of proceedings

26. During the period under consideration, the Permanent Representative of Bosnia and Herzegovina to the United Nations, in several letters addressed to the President of the Security Council, had complained that Serbian forces had attacked a number of targets in Bosnia and Herzegovina and had violated the territorial integrity and sovereignty of the country.⁷⁰ The representative of Bosnia and Herzegovina had repeatedly requested the Security Council to condemn the acts of aggression by the Republic of Serbia and Montenegro against Bosnia and Herzegovina and to adopt appropriate measures under Chapter VII of the United Nations Charter against the Republic of Serbia and Montenegro.⁷¹

27. At the same period, the Chargé d'affaires a.i. of the Permanent Mission of the Federal Republic of Yugoslavia to the United Nations, in a number of letters addressed to the President of the Security Council, indicated that Yugoslavia had withdrawn its forces from Bosnia and Herzegovina on 19 May 1992,⁷² that it was not a party to the conflict in Bosnia and Herzegovina,⁷³ and that allegations of involvement of Yugoslavia in the conflict was unfounded.⁷⁴

28. In response to the complaints made by Bosnia and Herzegovina, the Security Council adopted several resolutions in which it deplored the continuation of fighting in

⁷⁰ S/24024, dated 27 May 1992; S/24616, dated 5 October 1992; S/24640, dated 8 October 1992; S/24750, dated 2 November 1992; S/24761, dated 5 November 1992; S/24777, dated 9 November 1992; S/25434, dated 18 March 1993; S/25459, dated 22 March 1993; S/25624, dated 19 April 1993; S/25670, dated 27 April 1993; S/25718, dated 4 May 1993; S/25728, dated 5 May 1993; S/25872, dated 1 June 1993; S/25877, dated 2 June 1993; S/25878, dated 2 June 1993; S/1994/1037, dated 8 September 1994; S/1994/1038, dated 8 September 1994; S/1994/1044, dated 10 September 1994; S/1994/1079, dated 21 September 1994.

⁷¹ S/24024, dated 27 May 1992; S/24401, dated 10 August 1992; S/24777, dated 9 November 1992; S/25728, dated 5 May 1993; S/25434, dated 18 March 1993; S/25872, dated 1 June 1993; S/25878, dated 2 June 1993; S/1994/1037, dated 8 September 1994; S/1994/1044, dated 10 September 1994; S/1994/1079, dated 21 September 1994.

⁷² S/25467, dated 24 March 1993, paragraph 3.

⁷³ S/25467, dated 24 March 1993.

⁷⁴ S/25467, dated 24 March 1993; S/25710, dated 3 May 1993; S/1994/1060, dated 16 September 1994, p. 2.

the region⁷⁵ and demanded cessation of all forms of interference from outside Bosnia and Herzegovina⁷⁶ and the immediate, complete and unconditional withdrawal of foreign forces.⁷⁷ The resolutions of the Council contained, *inter alia*, paragraphs along the following lines:

- reaffirmed the respect for the sovereignty, territorial integrity and political independence of Bosnia and Herzegovina and all States in the region;⁷⁸
- reaffirmed the inviolability of international borders and/or the inadmissibility of the use of force for the acquisition of territory;⁷⁹
- demanded the immediate cessation of all hostilities and called for cease-fire.⁸⁰

(ii) Precis of relevant constitutional discussion

29. During the discussions of the above question in the Security Council, there was a divergence of views concerning parties to the conflict. One side viewed the armed hostilities as a conflict between the Republic of Serbia and Montenegro and Bosnia and Herzegovina, resulted from repeated acts of aggression and support rendered by the Serbian armed forces to the local Serbian armed units in violation of the territorial integrity and political independence of Bosnia and Herzegovina.⁸¹ The other side considered it as an internal conflict between the Bosnian Serbs and Bosnia and

⁷⁵ S/RES/752 (1992), operative paragraph 1; S/RES/757 (1992), the preamble; S/RES/824 (1993), the preamble; S/RES/838 (1993), the preamble.

⁷⁶ S/RES/752 (1992), operative paragraph 3; S/RES/757 (1992), the preamble; S/RES/787 (1992), operative paragraph 5; S/RES/819 (1993), operative paragraph 3.

⁷⁷ S/RES/787 (1992), operative paragraph 5.

⁷⁸ S/RES/752 (1992), operative paragraph 3; S/RES/757 (1992), the preamble; S/RES/770 (1992), the preamble; S/RES/787 (1992), the preamble and operative paragraph 3; S/RES/819 (1993), the preamble; S/RES/824 (1993), the preamble; S/RES/838 (1993), the preamble; S/RES/859 (1993), the preamble; S/RES/859 (1993), operative paragraph 6 (a); S/RES/838 (1993), the preamble; S/RES/900 (1994), the preamble; S/RES/913 (1994), the preamble; S/RES/959 (1994), the preamble.

⁷⁹ S/RES/752 (1992), operative paragraph 3; S/RES/757 (1992), the preamble; S/RES/787 (1992), operative paragraph 2; S/RES/819 (1993), the preamble; S/RES/824, operative paragraph 2; S/RES/838 (1993), operative paragraph 3; S/RES/959 (1994), operative paragraph 2.

⁸⁰ S/RES/787 (1992), operative paragraph 6; S/RES/758 (1992), operative paragraph 6; S/RES/764 (1992), operative paragraph 3; S/RES/770 (1992), operative paragraph 1; S/RES/819 (1993), the preamble; S/RES/838 (1993), the preamble; S/RES/859 (1993), operative paragraph 2.

⁸¹ S/PV.3082, pp. 14-17, 33-36 and 43; S/PV. 3106, pp. 24-25 and 32-32; S/PV. 3137, pp. 37-43; S/PV. 3228, p. 7; S/PV. 3428, pp. 3-4.

Herzegovina within its territory and rejected its involvement in the conflict.⁸² Some States referred to “all parties and others concerned in Bosnia and Herzegovina” in general, with no specifications.⁸³

2. IN THE GENERAL ASSEMBLY

Resolution of the General Assembly concerning “Effects of the military intervention by the United States of America in Panama on the situation in Central America”

(i) Precis of proceedings

30. On 29 December 1989, the General Assembly adopted its resolution 44/240, entitled “Effects of the military intervention by the United States of America in Panama on the situation in Central America”,⁸⁴ which was presented under agenda item 34, entitled “The situation in Central America, threats to international peace and security and peace initiatives”.⁸⁵ The resolution recalled, in its preamble, that “in accordance with Article 2, paragraph 4, of the Charter of the United Nations, all Member States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations”.⁸⁶ The relevant operative paragraphs of the resolution read as follows:

“1. Strongly deplores the intervention in Panama by the armed forces of the United States of America, which constitutes a flagrant violation of international law and of the independence, sovereignty and territorial integrity of States;”

“2. Demands the immediate cessation of the intervention and the withdrawal from Panama of the armed invasion forces of the United States;”

⁸² S/PV. 3137, p. 72.

⁸³ S/PV.3082, pp. 9-10 and 38; S/PV. 3106, pp. 29-30; S/PV. 3137, p. 119.

⁸⁴ General Assembly resolution 44/240 adopted by 75 votes to 20 with 40 abstentions. A/44/PV. 88, p.44.

⁸⁵ UN document A/44/L. 63.

⁸⁶ A/RES/44/240, the preamble.

...

“4. Calls upon all States to uphold and respect the sovereignty, independence and territorial integrity of Panama;”

(ii) Precis of relevant constitutional discussion

31. During the debate in the General Assembly prior to the adoption of the resolution, divergent views were expressed concerning the military intervention of the United States in Panama. Some representatives stated that the United States by military intervention in Panama had violated its obligations under Article 2 (4) of the Charter, which prohibits the threat or use of force against the territorial integrity or political independence of any State.⁸⁷ In accordance with the opposing view, the ruler of Panama had declared the state of war with the United States, on 15 December 1989, and had publicly threatened lives of Americans.⁸⁸ The argument was also advanced that “the Charter provides that in those cases where all else fails States have the right to defend themselves when force is being used against them and their citizens”, that “[t]hat right cannot be read out of the Charter”⁸⁹ and that the United States had acted for legitimate reasons of self-defense and defence of the integrity of the Panama Canal.⁹⁰

****B. The question of the scope and limits of the phrase “in any other manner inconsistent with the purpose of the United Nations”**

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

⁸⁷ A/44/PV. 86, pp. 17-18; A/44/PV. 87, pp. 12, 14-15, 22, 26 and 42; A/44/PV. 88, pp. 2-5 and 7.

⁸⁸ A/44/PV. 88, p. 21.

⁸⁹ Ibid., p. 22.

⁹⁰ Ibid.

32. During the period under review, constitutional discussion concerning the right to self-defense and its relationship with the injunction in Article 2, paragraph 4, occurred on a number of occasions.

33. Following the Iraqi invasion of Kuwait on 2 August 1990, the Security Council, in its resolution 661 (1990), affirmed “the inherent right of individual or collective self-defense, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter”.⁹¹

34. Following the adoption of the above resolution, Kuwait informed the Security Council that “[i]n the exercise of its inherent right of individual and collective self-defense and pursuant to Article 51 of the Charter of the United Nations”, Kuwait had “requested some nations to take such military or other steps as are necessary to ensure the effective and prompt implementation of Security Council resolution 661 (1990)”.⁹² The League of Arab States supported the measures taken by the Arab States of the Gulf in the exercise of their legitimate right to self-defense.⁹³ The United Kingdom and the United States informed the President of the Security Council that they had deployed military forces to the Persian Gulf region, in accordance with Article 51 of the Charter and “in response to developments and requests from Governments in the region, including requests from Kuwait and Saudi Arabia, for assistance”.⁹⁴ The Libyan Arab Jamahiriya indicated that there was “no justification for invoking Article 51 of the Charter in the current situation, given that that Article is aimed only at the repulsing an act of aggression against the territory of the States calling for the implementation of that Article”.⁹⁵

35. During the discussions of the Security Council prior to and following the adoption of its resolutions 662 (1990), 665 (1990) and 678 (1990), the above arguments were repeated. Some States indicated that they had deployed military forces to the region

⁹¹ S/RES/661 (1990), the preamble.

⁹² S/21498, 13 August 1990.

⁹³ S/21500, p. 3, paragraph 5.

⁹⁴ S/21492, 10 August 1990; S/21501, 13 August 1990.

⁹⁵ S/21529, 15 August 1990, p. 2.

under Article 51 of the Charter and in response to the requests made by Saudi Arabia and other States in the region.⁹⁶ Others viewed that position as an “arbitrary interpretation of the right to self-defense”.⁹⁷ Reservations were also made to the application of Article 51 “once the Security Council is seized of the matter”.⁹⁸

D. The question of the bearing of the ban in Article 2(4) on the authorization by the Security Council to use force

36. During the period under review, the Security Council adopted nine resolutions, in which it explicitly or implicitly authorized States and/or the Secretary-General to use force nationally or through regional agencies or arrangements for various objectives.⁹⁹ Relevant paragraphs of the resolutions read as follows:

(a) Situation between Iraq and Kuwait

Resolution 665 (1990)

“1. *Calls upon* those Member States co-operating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)”.

Resolution 678 (1990)

“2. *Authorizes* Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area”.

⁹⁶ S/PV. 2934, pp. 7, 8, 18 and 47; S/PV. 2938, pp. 29-30.

⁹⁷ S/PV. 2934, p. 23; S/PV. 2938, p. 76; S/PV. 2963, p. 76.

⁹⁸ S/PV. 2963, p. 76.

⁹⁹ S/RES/678 (1990), concerning the situation between Iraq and Kuwait; S/RES/837 (1993), concerning the situation in Somalia; S/RES/836 (1993), concerning the situation in Bosnia, to implement a naval blockade; S/RES/665 (1990), concerning the situation between Iraq and Kuwait; S/RES/875 (1993), concerning the situation in Haiti, to achieve humanitarian objectives; S/RES/794 (1992), concerning the situation in Somalia; S/RES/770 (1992), concerning the situation in Bosnia; S/RES/929 (1994), concerning the situation in Rwanda; S/RES/940 (1994), concerning the situation in Haiti.

(b) Situation in Bosnia and Herzegovina

Resolution 770 (1992)

“2. *Calls upon* States to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina”.

Resolution 836 (1993)

“10. *Decides* that, [...] Member States acting nationally or through regional organizations or arrangements, may take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina, to support UNPROFOR in the performance of its mandate set out in paragraphs 5 and 9 above”.

(c) Situation in Somalia

Resolution 794 (1992)

“10. *Acting* under Chapter VII of the Charter of the United Nations, *authorizes* the Secretary-General and Member States cooperating to implement the offer referred to in paragraph 8 above to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia”.

Resolution 837 (1993)

“5. *Reaffirms* that the Secretary-General is authorized under resolution 814 (1993) to take all necessary measures against all those responsible for the armed attacks referred to in paragraph 1 above, including against those responsible for publicly inciting such attacks, to establish the effective authority of UNOSOM II throughout Somalia, including to secure the investigation of their actions and their arrest and detention for prosecution, trial and punishment”.

“8. *Urges* Member States to contribute, on an emergency basis, military support and transportation, including armored personnel carriers, tanks and attack helicopters, to provide UNOSOM II the capability appropriately to confront and deter armed attacks directed against it in the accomplishment of its mandate”.

(d) Situation in Haiti

Resolution 875 (1993)

“Acting under Chapters VII and VIII of the Charter of the United Nations,

“1. *Calls upon* Member States, acting nationally or through regional agencies or arrangements, cooperating with the legitimate Government of Haiti, to use such measures commensurate with the specific circumstances as may be necessary under the authority of the Security Council to ensure strict implementation of the provisions of resolution 841 (1993) and 873 (1993) relating to the supply of petroleum or petroleum products or arms and related *matériel* of all types, and in particular to halt inward maritime shipping as necessary in order to inspect and verify their cargoes and destinations”.

Resolution 940 (1994)

“4. *Acting* under Chapter VII of the Charter of the United Nations, *authorizes* Member States to form a multinational forces under unified command and control and, in this framework, to use all necessary means to facilitate the departure from Haiti of the military leadership, consistent with Governors Island agreement, the prompt return of the legitimately elected President and the restoration of the legitimate authorities of the Government of Haiti, and to establish and maintain a secure and stable environment that will permit implementation of the Governors Island Agreement, on the understanding that the cost of implementing this temporary operation will be born by the participating Member States”.

(e) Situation in Rwanda

Resolution 929 (1994)

“3. *Acting* under Chapter VII of the Charter of the United Nations, *authorizes* the Member States cooperating with the Secretary-General to conduct the operation referred to in paragraph 2 above using all necessary means to achieve the humanitarian objectives set out in subparagraph 4 (a) and (b) of resolution 925 (1994)”.

37. The adoption by the Security Council of resolutions 665 (1990) and 678 (1990), preceded or followed by constitutional discussions concerning the legal justification for the authorization to use force in connection with the injunction in Article 2, paragraph 4. The other resolutions did not invoke any further discussion on this matter.

38. During the discussions prior to and following the adoption of resolution 665, one side advanced the argument that the Charter empowered the Security Council to act in this regard, which included “the authority to decide to use armed force”.¹⁰⁰ The other side stated that the “Security Council has no right to deprive itself of its authority, or to

¹⁰⁰ S/PV. 2938, p. 26.

delegate that authority to a number of States”.¹⁰¹ Moreover, the expression “to use such measures commensurate to the specific circumstances as may be necessary”, contained in paragraph 1 of the resolution, interpreted differently by States. Some States felt that is was inclusive of the use of force;¹⁰² while others thought it did not include the use of force.¹⁰³

39. During the discussions in the Security Council, prior to and after the adoption of resolution 678, one side viewed the authorization given by the Security Council to States to use force as “one last invitation to implement [its] resolutions, coupled with a warning which itself opens the way to the use of direct means of action”,¹⁰⁴ and to “put an end to the aggression and make it clear to the world that aggression cannot be rewarded”.¹⁰⁵ The other side argued that the Council acted “beyond its jurisdiction, and its action should be deemed null and void”.¹⁰⁶ The argument was also advanced that the resolution violated “the Charter of the United Nations by authorizing some States to use military force in total disregard of the procedures established by the Charter”.¹⁰⁷ It was further argued that the authorization to use force “can only be taken under the terms of the Charter of the United Nations”, and that in case the security council provides “the authorization for countries to use force, these countries are fully accountable for their actions to the Council through a clear system of reporting and accountability, which is not adequately covered in resolution 678 (1990)”.¹⁰⁸ The point was also made that the wording “use all necessary means” permitted “the use of military action”.¹⁰⁹

¹⁰¹ Ibid., p. 71.

¹⁰² Ibid., pp 26 and 48.

¹⁰³ S/PV.2938, pp. 54-55 and 67-70.

¹⁰⁴ S/PV.2963, p. 67.

¹⁰⁵ S/PV.2963, p. 94-95.

¹⁰⁶ Ibid., p. 19-21.

¹⁰⁷ Ibid., p.58.

¹⁰⁸ Ibid., p. 76.

¹⁰⁹ Ibid., p. 62.