

## ARTICLE 51

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## ARTICLE 51

### TEXT OF ARTICLE 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

### INTRODUCTORY NOTE

1. Article 51 is conceptually related to Article 2(4), which provides that 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. As previously, the question of the bearing of the injunction contained in Article 2(4) on the right of self-defence provided for in Article 51 is examined in the study under Article 2(4) in the present *Supplement*.

2. The general survey provides a brief overview of the cases when the Security Council and the General Assembly explicitly or implicitly referred to Article 51, without giving rise to any constitutional argument. It also accords treatment to three general legal questions considered by the General Assembly in which explicit references were made to Article 51.

3. In view of the constitutional discussions relevant to the application and interpretation of the provisions of Article 51 that arose in the proceedings of the Security Council during the consideration of various items, an analytical summary of practice was added to this study to include seven case studies under a sub-heading entitled "Question of the scope of the right of self-defence under Article 51".

### I. GENERAL SURVEY

4. During the period under review, Article 51 was explicitly invoked in one Security Council resolution<sup>1</sup> in connection with the complaint by Angola against South Africa.

5. Additionally, in the deliberations of the Council, questions concerning the interpretation and application of the provisions of Article 51 arose during the consideration of seven items, including the above. The respective case histories are presented in the analytical summary of practice.

6. There were occasional explicit references to Article 51 during other Council proceedings without giving rise to a constitutional discussion.<sup>2</sup>

7. Article 51 was also explicitly invoked in communications to the Council in connection with the United States Embassy personnel detained by Iran;<sup>3</sup> the Israeli attack against the Iraqi nuclear installations;<sup>4</sup> the situation in the

region of the Falkland Islands (Islas Malvinas);<sup>5</sup> the situation between Iran and Iraq;<sup>6</sup> the Libyan military operation against Chad;<sup>7</sup> and the situation in Namibia.<sup>8</sup>

8. The General Assembly adopted one resolution that contained an explicit reference to Article 51. In connection with the policies of apartheid of the Government of South Africa, the Assembly, on 5 December 1983, adopted resolution 38/39, by which it fully supported, inter alia, "the right of the Government of Angola to take measures in ac-

<sup>1</sup> S C resolution 546 (1984), para. 5.

<sup>2</sup> See S C (34), 2109<sup>th</sup> mtg.: German Democratic Republic, para. 71; S C (35), 2226<sup>th</sup> mtg.: Israel, para. 146; S C (37) 2322<sup>nd</sup> mtg.: Syrian Arab Republic, para. 69; 2346<sup>th</sup> mtg.: United Kingdom of Great Britain and Northern Ireland, para. 6; 2465<sup>th</sup> mtg.: France; S C (39) 2558<sup>th</sup> mtg.: Lao People's Democratic Republic.

<sup>3</sup> (S C (35), Suppl. for April-June 1980, S/13908.

<sup>4</sup> (S C (36), Suppl. for April-June 1981, S/14576.

<sup>5</sup> Letters from Argentina included those dated 9 April 1982 (S C (37), Suppl. for April-June 1982, S/14961), 16 April 1982 (ibid., S/14984), 24 April 1982 (ibid., S/14998), 28 April 1982 (ibid., S/15009), 29 April 1982 (ibid., S/15014), 30 April 1982 (ibid., S/15018), 30 April 1982 (ibid., S/15021), 8 May 1982 (ibid., S/15059) and 11 May 1982 (ibid., S/15069). Letters from the United Kingdom included those dated 9 April 1982 (ibid., S/14963), 11 April 1982 (ibid., S/14964), 13 April 1982 (ibid., S/14973), 13 April 1982 (ibid., S/14974), 24 April 1982 (ibid., S/14997), 28 April 1982 (ibid., S/15006), 29 April 1982 (ibid., S/15010), 30 April 1982 (ibid., S/15016), 2 May 1982 (ibid., S/15027), 3 May 1982 (ibid., S/15031), 4 May 1982 (ibid., S/15040), 4 May 1982 (ibid., S/15041), 8 May 1982 (ibid., S/15058) and 13 May 1982 (ibid., S/15081). The letter dated 14 April 1982 from Panama (ibid., S/14978) also contained an explicit reference to Article 51.

<sup>6</sup> S C (38), Suppl. for April-June 1983, S/15826.

<sup>7</sup> Ibid., Suppl. for July-Sept. 1983, S/15897.

<sup>8</sup> S C (39), Suppl. for Oct.-Dec. 1984, S/16838.

cordance with Article 51 of the Charter of the United Nations in order to guarantee and safeguard the territorial integrity and national sovereignty of Angola".<sup>9</sup>

9. On three occasions, Article 51 was explicitly invoked in the proceedings of the General Assembly during the consideration of the reports of its subsidiary bodies.<sup>10</sup>

10. In accordance with the mandate given to it by the General Assembly,<sup>11</sup> the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations<sup>12</sup> continued its work towards the completion of a draft world treaty<sup>13</sup> on the non-use of force in international relations<sup>14</sup> and the elaboration of a working paper<sup>15</sup> containing the main elements of the principle of non-use of force. In the course of the deliberations in the Sixth Committee<sup>16</sup> and the Special Committee on the provisions of the working paper<sup>17</sup> concerning the legitimate use of force explicitly provided for by the Charter, numerous references to Article 51 were made. Several delegates held that a reaffirmation in the draft treaty of the principle of self-defence, as embodied in Article 51, offered an opportunity to examine specific questions of interpretation relevant to the Article, i.e., its scope, the concept of proportionality, the requirement of an "armed attack", the reporting obligation and the extent to which the Council had the power to ascertain through fact-finding the legitimacy of a plea of self-defence.<sup>18</sup> However, during the period under review, none of these questions became the subject of a substantive constitutional debate on Article 51.

<sup>9</sup> G A resolution 38/39 C, para. 3.

<sup>10</sup> See paras. 11-13 below.

<sup>11</sup> G A resolutions 34/13, paras. 2 and 5; 35/50, paras. 2 and 3; 36/31, paras. 2 and 3; 37/105, paras. 2 and 3; 38/133, paras. 2 and 3; 39/81, paras. 2 and 3.

<sup>12</sup> For the reports of the Special Committee, see G A (34), Suppl. No. 41; G A (35), Suppl. No. 41; G A (36), Suppl. No. 41; G A (37), Suppl. No. 41; G A (38), Suppl. No. 41; G A (39), Suppl. No. 41.

<sup>13</sup> For the text of the Draft World Treaty on the Non-Use of Force in International Relations, see G A (34), Suppl. No. 41, annex, pp. 64-66.

<sup>14</sup> For the proceedings in the Sixth Committee regarding the draft resolutions concerning this item, see G A (34), Annexes, a.i. 116; G A (35), Annexes, a.i. 105; G A (36), Annexes, a.i. 116; G A (37), Annexes, a.i. 118; G A (38), Annexes, a.i. 126; G A (39), Annexes, a.i. 126.

<sup>15</sup> For prior consideration of this subject by the General Assembly, see *Repertory, Supplement No. 5*, (vol. II), under Article 51, paras. 24 and 25.

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

<sup>17</sup> G A (37), Suppl. No. 41, para. 372. See also G A (39), Suppl. No. 41, para. 123.

<sup>18</sup> For the enumeration of contentious questions on this item, see G A (34) Suppl. No. 41, para. 113, and G A (36), Suppl. No. 41, para. 250.

11. During its thirty-fifth session, by its resolution 35/163 on the report of the International Law Commission,<sup>19</sup> the General Assembly, inter alia, noted the completion of the first reading of the set of articles constituting part one of the draft on the responsibility of States for internationally wrongful acts<sup>20</sup> and recommended that the Commission continue its work on State responsibility, bearing in mind the need for a second reading of the draft articles. The Commission, however, did not conclude its work on the item during the period under review. A detailed account of the issues considered by the International Law Commission in connection with the item, some of which may have a bearing on Article 51, is included in the report<sup>21</sup> of the Commission submitted to the General Assembly at its thirty-fifth session.

12. At its sessions held from 1979 through 1984,<sup>22</sup> in accordance with the mandate given to it by the General Assembly,<sup>23</sup> the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization<sup>24</sup> examined various proposals on the maintenance of international peace and security, some of which contained references to provisions of Article 51.<sup>25</sup> In the course of the discussion of a working paper,<sup>26</sup> the obligation of States to report promptly to the Security Council all measures taken under Article 51 was touched upon. It was argued that more efforts should be made to keep the Security Council informed of all the facts relating to particular

<sup>19</sup> Preamb. para. 3 and para. 4 (c).

<sup>20</sup> This was in accordance with G A resolution 34/141 (para. 4(b)), adopted on the same subject, at the thirty-fourth session of the General Assembly.

<sup>21</sup> G A (35), Suppl. No. 10, chap. III. See, in particular, the commentaries relating to articles 33 (State of necessity) and 34 (Self-defence), which fall under chapter V (Circumstances precluding wrongfulness) of the draft.

<sup>22</sup> For the proceedings in the Special Committee on the Charter, see G A (33), Suppl. No. 33; G A (34), Suppl. No. 33; G A (35), Suppl. No. 33; G A (36), Suppl. No. 33; G A (37), Suppl. No. 33; G A (38), Suppl. No. 33.

<sup>23</sup> See G A resolutions 33/194 (para. 3(b)), 34/147 (para. 3 (a)), 35/122 (para. 3(a)), 36/122 (para. 4(a)), 37/114 (para. 5(a)) and 38/141 (para. 3(a)).

<sup>24</sup> For the proceedings in the Sixth Committee concerning this item, see G A (34), a.i. 114, 30<sup>th</sup>-37<sup>th</sup>, 39<sup>th</sup>-41<sup>st</sup>, 44<sup>th</sup>, 47<sup>th</sup>, 49<sup>th</sup>-51<sup>st</sup> and 54<sup>th</sup>-55<sup>th</sup> mtgs.; G A (35), a.i. 108, 30<sup>th</sup>, 33<sup>rd</sup>-43<sup>rd</sup>, 48<sup>th</sup>, 52, 64<sup>th</sup> and 68<sup>th</sup> mtgs.; G A (36), a.i. 122, 26<sup>th</sup>, 28<sup>th</sup>-35<sup>th</sup>, 37<sup>th</sup>-38<sup>th</sup>, 56<sup>th</sup>, 59<sup>th</sup> and 62<sup>nd</sup>-64<sup>th</sup> mtgs.; G A (37), a.i. 127, 20<sup>th</sup>-29<sup>th</sup> and 50<sup>th</sup>-60<sup>th</sup> mtgs.; G A (38), a.i. 134, 51<sup>st</sup>, 57<sup>th</sup>-62<sup>nd</sup>, 64<sup>th</sup>-66<sup>th</sup>, 68<sup>th</sup>, and 72<sup>nd</sup>-73<sup>rd</sup> mtgs.; G A (39), a.i. 133, 23<sup>rd</sup>-31<sup>st</sup> and 64<sup>th</sup> mtgs.

<sup>25</sup> For examples of such proposals, see G A (34), Suppl. No. 33, para. 25 (proposal para. 1.a.ix) (A/C.6/437); working paper submitted by Algeria and 14 other countries, see G A (35), Suppl. No. 33, para. 76, subpara. XVIII (A/AC.182/WG/46/Rev.1); see also the informal compilation of proposals submitted by the Chairman in G A (35), Suppl. No. 33, para. 152, sect. V.

<sup>26</sup> G A (34), Suppl. No. 33, para. 51, and G A (35), Suppl. No. 33, para. 23 (A/AC.182/WG/33); working paper submitted by the United States of America. See also *ibid.*, para. 152, sect. V, proposal 54.

situations in which a dispute between States had arisen under Article 51<sup>27</sup> in order to limit possible abuses of the right of self-defence and to clarify and investigate the facts.<sup>28</sup> The propensity to rely on Article 51 as a justification for any act of force might be mitigated if the reporting requirement of that Article was scrupulously honoured and considered an inherent element of the plea of self-

<sup>27</sup> G A (34), 6<sup>th</sup> Comm., 34<sup>th</sup> mtg., para. 13.

<sup>28</sup> G A (35), Suppl. No. 33, para. 34.

defence.<sup>29</sup> The purpose of the reporting obligation was also to give the Council the opportunity of reviewing actions taken in the name of self-defence and of initiating whatever measures were necessary for the maintenance of international peace and security.<sup>30</sup> No agreement, however, was reached in the Special Committee on those proposals.

<sup>29</sup> Ibid., para. 24.

<sup>30</sup> Ibid., para. 35.

## II. ANALYTICAL SUMMARY OF PRACTICE

### Question of the scope of the right of self-defence under Article 51

13. On seven occasions the question of the bearing of Article 51 on the items under consideration gave rise to constitutional discussion in the Security Council: the situation in the Middle East; the complaint by Morocco; the situation in Afghanistan; the complaint by Angola against South Africa; the complaint by Iraq; the question of the situation in the region of the Falkland Islands (Islas Malvinas); and the situation in Grenada. In each of the seven situations, action by a Member State, claimed to have been taken in individual or collective self-defence, gave rise to questions concerning the application of Article 51 and the rights and obligations of Member States under the Article.

#### 1. THE SITUATION IN THE MIDDLE EAST

14. In connection with the situation in the Middle East, the discussion centred on the distinction between acts of self-defence under the provisions of Article 51 and acts of retaliation, reprisals and "pre-emptive" strikes.

15. By a letter<sup>31</sup> dated 30 May 1979 addressed to the President of the Security Council, the representative of Lebanon requested an urgent meeting of the Security Council "to discuss the rapidly deteriorating situation in Southern Lebanon resulting from Israeli escalation of its attacks" and the adverse effect this might have on the implementation of Council resolutions 425 (1978)<sup>32</sup> and 444 (1979).<sup>33</sup>

16. During the Council's consideration of the situation in the Middle East, the representative of Israel underscored the right of every State to take the measures necessary to halt

and foil terrorist activities emanating from across its boundaries in order to protect the lives and safety of its citizens. He argued that the inability of the Lebanese Government to prevent the use of its territory for attacks by the Palestine Liberation Organization (PLO) against Israel had led the Israeli Government to take retaliatory measures in exercise of the inherent right of self-defence as provided for under Article 51. It was further contended that since Israel's efforts to bring the terrorist actions to the attention of the Council and the Secretary-General had gone unheeded and it appeared that the PLO had plans to step up such attacks, it fell to the Israeli Government to act. The Israeli actions had been specifically targeted against the PLO concentrations and not against Lebanon's territorial integrity.<sup>34</sup>

17. Most representatives, however, categorically denied the validity of such a broad definition and emphasized that self-defence was permitted only against armed attacks and subject to certain limitations. Legitimate self-defence implied the adoption of measures "proportionate to the seriousness of the attack and justified by the seriousness of the danger". It was asserted that the indiscriminate Israeli attacks on innocent civilians in response to minor border incidents could in no way be viewed as a legitimate act of self-defence. Israel's policy of pre-emptive or anticipatory strikes and its claim to a right to retaliate and conduct reprisals against terrorist attacks were rejected as unjustified by any interpretation of Article 51 of the Charter and contrary to General Assembly resolution 2625 (XXV)<sup>35</sup> and resolutions of the Security Council. It was underlined that the Council should condemn Israeli acts of aggression, call for an immediate cessation of hostilities and demand that Israel show strict respect for Lebanon's territorial integrity and its people.<sup>36</sup>

<sup>31</sup> S C (34), Suppl. for April-June 1979, S/13356.

<sup>32</sup> For prior consideration of resolution 425 (1978), see *Repertory, Supplement No. 5*, vol. I, under Article 2(4), para. 55.

<sup>33</sup> S C resolution 444 (1979) was primarily concerned with the United Nations Interim Force in Lebanon and its inability to fulfil its mandate. The relevant provisions read as follows: "The Security Council ... *reaffirming* the necessity for the strict respect for the sovereignty, territorial integrity and political independence of Lebanon within its internationally recognized boundaries, ... 1. *Deplores* the lack of cooperation, particularly on the part of Israel, with the efforts of the United Nations Interim Force in Lebanon fully to implement its mandate, including assistance lent by Israel to irregular armed groups in Southern Lebanon" (preamb. para. 8, para. 1).

<sup>34</sup> S C (34), 2146<sup>th</sup> mtg., paras. 50-51; 2149<sup>th</sup> mtg., paras. 48-49; S C (35), 2213<sup>th</sup> mtg., para. 72; S C (36), 2292<sup>nd</sup> mtg., paras. 40-63; S C (37) 2374<sup>th</sup> mtg., paras. 74-78; 2379<sup>th</sup> mtg., para. 126.

<sup>35</sup> Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted on 24 October 1970.

<sup>36</sup> For the texts of relevant statements, see S C (34), 2147<sup>th</sup> mtg.: Kuwait, para. 44; Libyan Arab Jamahiriya, para. 130; 2148<sup>th</sup> mtg.:

18. At its 2149<sup>th</sup> meeting, on 14 June 1979, the Security Council considered the situation in the Middle East and adopted<sup>37</sup> resolution 450 (1979), in which the Council, *inter alia*, strongly deplored acts of violence against Lebanon and called upon Israel to cease forthwith its acts against the territorial integrity, unity, sovereignty and political independence of Lebanon.

## 2. COMPLAINT BY MOROCCO

19. In connection with the complaint by Morocco, attention was focused on the question of whether the use of force in exercising the "right of hot pursuit" by a State in response to an armed intrusion into its territory and for the purpose of expelling foreign armed forces from its soil constituted an act of self-defence within the meaning of Article 51.

20. By letters<sup>38</sup> dated 13 and 15 June 1979 addressed to the President of the Security Council, the representative of Morocco reported a "flagrant aggression and violation of Moroccan territory" by Algeria which had resulted in "extensive material damage" and civilian casualties. The Government of Morocco, therefore, felt both justified and compelled to address itself to the Council and "continue to exercise its inherent right of self-defence in accordance with the provisions of Article 51 of the Charter" whenever it was subjected to repeated armed attacks and to "pursue its attackers both within and outside its territory".

21. During the Council's considerations of the item at the 2151<sup>st</sup> to 2154<sup>th</sup> meetings, from 20 to 25 June 1979, the representative of Morocco maintained that his Government had a duty to defend its sovereignty, territorial integrity and the security of its citizens against the deliberate acts of aggression committed by "armed bands" from Algeria. He charged that the latter had been "recruited, equipped, armed, trained and financed by the Algerian authorities and protected in Algerian sanctuaries". In the application of its inherent right of self-defence, as recognized in international law and embodied in Article 51 of the Charter, the Moroccan Government would pursue the aggressors "wherever they might be found". Morocco hoped that the deliberations in the Council would result in the Council taking "all effective measures" to avert the obvious threats to peace.<sup>39</sup>

22. The representative of Algeria, however, did not accept Morocco's attempt to claim self-defence under Article

51 without previously demonstrating the existence of an attack on the part of Algeria. He argued that Morocco was trying to justify in advance the so-called "right of hot pursuit" which was "an act of deliberate and premeditated armed aggression" and could not be considered a variation of the right of self-defence provided for in Article 51.<sup>40</sup> In support of that position, the representative of Madagascar noted that, since the legitimacy of the struggle of liberation movements was internationally recognized, the military operations of the Frente POLISARIO could not be "legally assimilated to an act of aggression". Therefore, Morocco was not entitled to invoke Article 51 and the right of pursuit against the Frente POLISARIO fighters. The representative pointed out that to disallow such improper use of the right of self-defence, Article 51 of the Charter gave the Council the prerogative to control the exercise of that right.<sup>41</sup>

23. At the 2154<sup>th</sup> meeting, on 25 June 1979, in view of the request<sup>42</sup> from Morocco to suspend action on its complaint, the Council adjourned further consideration of the question.

## 3. THE SITUATION REGARDING AFGHANISTAN

24. In connection with a letter<sup>43</sup> dated 3 January 1980 from 52 Member States regarding Afghanistan and the implications of the dispatch of military forces by the Soviet Union, the discussion focused on the question of whether the dispatch of military assistance by a Member State to another Member State, at the latter State's request, could be considered as an exercise of the right of self-defence under Article 51.

25. By letters<sup>44</sup> dated 4 and 5 March 1980, the Government of Afghanistan expressed strong opposition to the consideration of the issue by the Security Council and pointed out that, in view of the "unceasing armed intervention" and foreign interference against Afghanistan, and in accordance with the right of self-defence provided for under Article 51 of the Charter, it had requested urgent assistance, including military support from the Soviet Union pursuant

Egypt, paras. 9-10; S C (36), 2292<sup>nd</sup> mtg.: Lebanon, paras. 23-35; Jordan, paras. 66-75; PLO, paras. 77-99; USSR, paras. 106-107; 2293<sup>rd</sup> mtg.: Tunisia, paras. 35-38; France, paras. 40-44; United Kingdom, paras. 46-54; Egypt, paras. 63-74; Syrian Arab Republic, paras. 143-165; Democratic Yemen, paras. 175-176; Yemen, paras. 184-191.

<sup>37</sup> The draft resolution (S/13392) was adopted by 12 votes to none, with 2 abstentions. One member of the Security Council did not participate in the voting.

<sup>38</sup> S C (34), Suppl. for April-June 1979, S/13394 and S/13397, respectively.

<sup>39</sup> S C (34), 2151<sup>st</sup> mtg., paras. 34, 35 and 43.

<sup>40</sup> *Ibid.*, 2152<sup>nd</sup> mtg., paras. 27-29. See also *ibid.*, Suppl. for April-June 1979, S/13399.

<sup>41</sup> *Ibid.*, 2153<sup>rd</sup> mtg., paras. 25-29.

<sup>42</sup> S C (34), Suppl. for April-June 1979, S/13410.

<sup>43</sup> S C (35), Suppl. for Jan.-March 1980, S/13724/Add.1 and 2.

<sup>44</sup> *Ibid.*, S/13725 and S/13835, respectively. See also other letters from Afghanistan: *ibid.*, S/13734; S/13752, S/13910; *ibid.*, Suppl. for April-June 1980, S/13951. A number of other communications were received from various Governments expressing their positions on the events in Afghanistan, some criticizing and others endorsing the action of the Soviet Union in sending its military forces to Afghanistan. Since those positions were reiterated in the course of the discussion in the Council and are summarized in paragraph 26 below, only the document symbols are provided here: *ibid.*, S/13717 (China), S/13727 (Kampuchea), S/13728 (Chile), S/13729 (Mongolia), S/13747 (Solomon Islands), S/13760 and S/13925 (Italy), S/13794 (Dominica) and S/13810 (Pakistan).

to the Afghan-Soviet Treaty of Friendship, Good-Neighbourliness and Cooperation of 5 December 1978.

26. During the Council's consideration of the developments in Afghanistan at the 2185<sup>th</sup> to 2190<sup>th</sup> meetings, from 5 to 9 January 1980, the representative of Afghanistan stated that, in order to remove the threats to its independence, sovereignty and territorial integrity posed by continued armed attacks and acts of intervention from abroad, Afghanistan was compelled to invoke its inherent right of individual and collective self-defence, in accordance with the provisions of Article 51 of the Charter, by requesting assistance from the Soviet Union based on a mutual defence treaty. The discussion in the Council, therefore, was viewed by his Government as direct interference in the internal affairs of the country, contrary to the provisions of Article 2 (7) of the Charter.<sup>45</sup> Recalling the chain of events that had compelled the Government of Afghanistan to appeal for assistance, the representative of the Soviet Union stated that both the request of Afghanistan and the decision of the Soviet Union to meet that request were fully in accordance with the inalienable right of States to individual and collective self-defence. In connection with the reporting provision of Article 51, he added that the dispatch of a military contingent by one State to the territory of another State at its request was exclusively within the scope of their internal affairs and was not subject to intervention by the Council.<sup>46</sup> In support of that position, several speakers<sup>47</sup> noted that the continuous armed incursions from the territory of a neighbour of Afghanistan constituted in themselves acts of aggression, as defined in article 3 of the Definition of Aggression annexed to General Assembly resolution 3314 (XXIX), particularly since the incursions had "acquired dimensions which had violently disturbed normal life in the country, endangering its independence and territorial integrity". They rejected the allegations that "the temporary presence of a limited Soviet military contingent in Afghanistan [was] a threat to international peace and security".

27. On the other hand, several representatives<sup>48</sup> contended that the invocation of Article 51 by Afghanistan and the

Soviet Union was not supported by facts and urged the Soviet Union to immediately withdraw its troops. They condemned the intervention of Soviet troops in internal political conflicts in Afghanistan as an infringement upon the sovereignty, political independence and territorial integrity of Afghanistan and a serious threat to peace and stability in the region. It was noted that Article 51 established an obligatory link between the exercise of the right of self-defence and the existence of an armed attack against the State involved which did not seem to exist in the case of Afghanistan. Furthermore, not only had the Governments of both the Soviet Union and Afghanistan failed to give the required notice to the Security Council under Article 51 of the measures taken in self-defence, they had actually declared that the Council had no competence to discuss the issue. Even if Article 51 had rightly been invoked, the Council would have had the authority to take at any time such actions as it deemed necessary to maintain international peace and security, as clearly provided for in that Article.

28. Under the terms of a draft resolution<sup>49</sup> submitted at the 2190<sup>th</sup> meeting, on 7 January 1980, the Security Council would have, inter alia, deeply deplored the armed intervention in Afghanistan; affirmed the sovereignty, territorial integrity, political independence and non-aligned status of Afghanistan; and called for the immediate and unconditional withdrawal of all foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, coercion or constraint of any kind. The draft resolution was not adopted due to the negative vote of a permanent member of the Council.

29. At the resumed 2190<sup>th</sup> meeting, on 9 January 1980, another draft resolution<sup>50</sup> was put to a procedural vote and adopted as resolution 462 (1980). By that resolution, taking into account the lack of unanimity of its permanent members that had prevented the Council from exercising its primary responsibility for the maintenance of international peace and security, the Council, inter alia, "decid[ed] to call an emergency special session of the General Assembly" to examine the Afghanistan question.<sup>51</sup>

#### 4. COMPLAINT BY IRAQ

30. In connection with the complaint by Iraq, the question arose whether a Member State's attack on the nuclear in-

Democratic Republic, paras. 135-139; Philippines, paras. 145-156; Mexico, paras. 160-165. There were numerous invocations of Article 2, paragraphs 4 and 7, in addition to references to Article 51.

<sup>49</sup> The draft resolution (S/13729) was sponsored by Bangladesh, Jamaica, the Niger, the Philippines, Tunisia and Zambia, and received 13 votes to 2, with no abstentions.

<sup>50</sup> The draft resolution (S/13731) was sponsored by the Philippines and Mexico, and in a procedural vote received 12 votes to 2, with 1 abstention.

<sup>51</sup> For consideration of this item in the General Assembly, see the present *Supplement*, vol. I, under Article 2 (4), paras. 35 and 37.

<sup>45</sup> S C (35), 2185<sup>th</sup> mtg., paras. 88, 100-105; 2190<sup>th</sup> mtg., para. 87.

<sup>46</sup> Ibid., paras. 11-20 and 110-122, respectively.

<sup>47</sup> See S C (35), 2186<sup>th</sup> mtg.: Bulgaria, paras. 67-87; Poland, paras. 118-126; 2187<sup>th</sup> mtg.: Hungary, paras. 136-147; 2188<sup>th</sup> mtg.: German Democratic Republic, paras. 4-21; Czechoslovakia, paras. 41-48; Viet Nam, para. 62-93; and 2189<sup>th</sup> mtg.: Mongolia, paras. 21-37; Lao People's Democratic Republic, paras. 101-112.

<sup>48</sup> See S C (35), 2187<sup>th</sup> mtg.: United States, paras. 6-27; Australia, paras. 30-35; Singapore, paras. 38-48; Norway, paras. 52-56; Spain, paras. 59-68; Somalia, paras. 72-80; Costa Rica, paras. 92-100; Italy, paras. 104-110; Liberia, paras. 112-133; 2188<sup>th</sup> mtg.: Portugal, paras. 24-27; Venezuela, paras. 30-38; Netherlands, paras. 51-59; Jamaica, paras. 97-102; 2189<sup>th</sup> mtg.: Zambia, paras. 6-17; Bangladesh, paras. 41-49; Federal Republic of Germany, paras. 63-75; Yugoslavia, paras. 80-97; Lao People's Democratic Republic, paras. 101-112; 2190<sup>th</sup> mtg.: Panama, paras. 10-34; Zaire, paras. 39-59; Canada, paras. 62-72; Chile, paras. 75-84; the President (France), paras. 125-131; German

installations of another Member State could be recognized as an exercise of the former's inherent right of self-defence under Article 51.

31. By a letter<sup>52</sup> dated 8 June 1981 addressed to the President of the Security Council, the representative of Israel notified, in accordance with Article 51 of the Charter, that an attack had been carried out by the Israeli Air Force against the Iraqi atomic reactor of Osirak, located in the vicinity of Baghdad, which had been designed to produce atomic bombs to be used against Israel. Since the Iraqi reactor was expected to be operational within a short period of time, the Government of Israel had decided to act without delay to "ensure its people's existence".

32. During the deliberations at the 2280<sup>th</sup> to 2285<sup>th</sup> meetings, from 12 to 19 June 1981, Article 51 and relevant provisions of the Definition of Aggression<sup>53</sup> were repeatedly invoked. On the one hand, the representative of Israel argued that his Government had the duty to protect the lives of its citizens. In destroying the Iraqi atomic reactor Osirak, Israel had exercised its inherent and natural right of self-defence as "understood in general international law" and as provided for in Article 51 of the Charter, in order to halt a threat of nuclear obliteration. He added that the Israeli Government decided to exercise its right of self-defence only after "the usual international procedures and avenues" had proved futile and the situation had developed to the point where the "reactor was to go critical in a matter of weeks". The Government acted in a manner which would minimize the danger to all concerned. The Israeli representative further observed that the concept of a State's right of self-defence had broadened in scope "with the advance of man's ability to wreak havoc on his enemies. Consequently, the concept [had taken] on new and far wider applications with the advent of the nuclear era."<sup>54</sup>

33. For his part, the representative of Iraq underscored that his country's nuclear programme was intended solely for peaceful uses and was fully in compliance with the Treaty on the Non-Proliferation of Nuclear Weapons<sup>55</sup> as well as the safeguards administered by the International Atomic Energy Agency (IAEA). The Israeli attack on Osirak, therefore, was a "clear-cut act of aggression". A number of other representatives<sup>56</sup> rejected the attempt by Israel to justify its destruction of the Iraqi nuclear reactor as

an act of self-defence under both the principles of customary international law and Article 51 of the Charter. They asserted that the Charter recognized the right of self-defence only against an armed attack and pending action by the Council to restore peace, and did not provide for a right to "preventive attack". The representatives opined that self-defence was justified only when the reason for it was "instant, overwhelming, leaving no choice of means and no moment for deliberation". The Israeli attack, to the contrary, had been preceded by months of planning and was plainly inconsistent with the requirements of self-defence. Israel, by its armed attack, had dangerously challenged the international system under the Non-Proliferation Treaty and the right of all States to develop nuclear energy for peaceful purposes.

34. While condemning Israel's act, one representative<sup>57</sup> underlined that it was necessary to take into account the context of Israel's action and the fact that Iraq had never signed a ceasefire with Israel or recognized Israel as a nation. Therefore, Israel might have sincerely believed that the attack on the Iraqi nuclear reactor was a "defensive move".

35. At the 2288<sup>th</sup> meeting, on 19 June 1981, the Security Council adopted resolution 487 (1981), by which it expressed concern about the danger to international peace and security created by the premeditated Israeli air attack on Iraqi nuclear installations on 7 June 1981; strongly condemned the military attack by Israel in clear violation of the Charter of the United Nations and the norms of international conduct; called upon Israel to refrain in the future from any such acts or threats thereof; considered the attack as a serious threat to the entire safeguards regime of IAEA, which was the foundation of the Treaty on the Non-Proliferation of Nuclear Weapons; fully recognized the inalienable sovereign right of Iraq and all other States, especially the developing countries, to establish programmes of technological and nuclear development to develop their economy and industry for peaceful purposes in accordance with their current and future needs and consistent with the internationally accepted objectives of preventing nuclear-weapons proliferation; and called upon Israel urgently to place its nuclear facilities under the safeguards of the International Atomic Energy Agency.<sup>58</sup>

##### 5. COMPLAINT BY ANGOLA AGAINST SOUTH AFRICA

36. In connection with the complaint by Angola against South Africa, the members of the Security Council discussed whether the intervention by paramilitary forces from the territory of a Member State constituted an armed attack that would allow the affected State to resort to individual or collective self-defence.

<sup>52</sup> Ibid., 2288<sup>th</sup> mtg.: United States, paras. 25-36.

<sup>58</sup> The draft resolution (S/14556) was prepared in the course of the Security Council's consultations and was adopted unanimously.

<sup>52</sup> S C (36), Suppl. for April-June 1981, S/14510.

<sup>53</sup> G A resolution 3314 (XXIX), annex.

<sup>54</sup> S C (36), 2280<sup>th</sup> mtg., paras. 57-117; 2288<sup>th</sup> mtg.: paras. 38-98.

<sup>55</sup> G A resolution 2373 (XXII), annex.

<sup>56</sup> See S C (36), 2280<sup>th</sup> mtg.: Iraq, paras. 20-53; Algeria, paras. 145-173; Sudan, paras. 176-184; 2281<sup>st</sup> mtg.: India, paras. 31-34; Brazil, para. 39; Pakistan, paras. 67-72; 2282<sup>nd</sup> mtg.: Uganda, paras. 7-38; France, paras. 41-59; Spain, paras. 75-86; 2283<sup>rd</sup> mtg.: Ireland, paras. 4-39; Sierra Leone, paras. 144-157; 2284<sup>th</sup> mtg.: Niger, paras. 6-12; Syrian Arab Republic, paras. 62-81; 2285<sup>th</sup> mtg.: Morocco, paras. 7-23; Bangladesh, paras. 110-130; 2287<sup>th</sup> mtg.: Sri Lanka, paras. 39-47; and 2288<sup>th</sup> mtg.: Mexico, paras. 105-132; Iraq, paras. 181-186 and 198-203.



37. By a letter<sup>59</sup> dated 25 August 1981 addressed to the Secretary-General, the representative of Angola reported that South Africa had intensified its aggression against Angola and continued to occupy "various areas" of the Angolan territory. Consequently, Angola was being "forced to resort to Article 51 of the Charter for the defence of its sovereignty and territorial integrity". The Government of Angola requested the Council to put an end to the successive acts of aggression against Angola and "neutralize the imminent and large-scale invasion prepared against the country."

38. During the Council's consideration of the item at the 2296<sup>th</sup> to 2300<sup>th</sup> meetings, on 28, 29 and 31 August 1981,<sup>60</sup> the representative of Angola maintained that "armed invasion of Angola by South Africa "constituted" a most serious and immediate threat" to the area since it intended to consolidate South Africa's illegal occupation of the Territory of Namibia in defiance of Council resolutions. He demanded the immediate and unconditional withdrawal of the South African troops and requested "valid assistance" to enable Angola to strengthen its defence capability in the face of South Africa's military might.<sup>61</sup> Several speakers<sup>62</sup> joined Angola in rejecting South Africa's pretext of hot pursuit and its policy of "pre-emptive strikes" against the South West Africa People's Organization (SWAPO) inside Angola. It was argued that the magnitude, duration and depth of the unprovoked acts of aggression and the occupation of part of its territory entitled Angola to take all necessary measures under Article 51 of the Charter to defend its territory and its population.

39. On the other hand, the representative of South Africa argued that the "premeditated attacks" conducted by SWAPO, from across the border in Angola had left his country no other alternative but to carry out its responsibility to defend the civilian population of South West Africa/Namibia under its protection and to pursue the attackers "whenever and wherever" they could be found. He noted that by providing sanctuary to the "perpetrators of terrorism", the Government of Angola and certain other

<sup>59</sup> S C (36), Suppl. for July-Sept. 1981, S/14643.

<sup>60</sup> For procedural details of the case, see the study under Article 2(4) in the present *Supplement*, vol. I.

<sup>61</sup> S C (36), 2296<sup>th</sup> mtg., paras. 7-25.

<sup>62</sup> See S C (36), 2296<sup>th</sup> mtg.: Spain, paras. 31-38; German Democratic Republic, paras. 40-56; Zimbabwe, paras. 58-63; USSR, paras. 64-69, 75-81; Japan, paras. 86-91; Viet Nam, paras. 102-118; Cuba, paras. 120-134; the President (Panama), paras. 158 and 159; 2297<sup>th</sup> mtg.: Mexico, paras. 6-22; France, paras. 38-47; Libyan Arab Jamahiriya, paras. 58-65; Yugoslavia, paras. 68-77; India, paras. 78-82; 2298<sup>th</sup> mtg.: Federal Republic of Germany, paras. 5-10; Kenya, paras. 49-58; S C (38), 2504<sup>th</sup> mtg.: Angola, paras. 6-31; India, paras. 64-74; Botswana, paras. 77-91; 2505<sup>th</sup> mtg.: Portugal, paras. 10-15; Brazil, paras. 16-20; 2506<sup>th</sup> mtg.: Nicaragua, paras. 24-34; Pakistan, paras. 48-57; Nigeria, paras. 61-67; United Republic of Tanzania, paras. 119-136; 2507<sup>th</sup> mtg.: Zambia, paras. 5-11; German Democratic Republic, paras. 27-38; Ethiopia, paras. 43-52; Cuba, paras. 111-128; S C (39), 2511<sup>th</sup> mtg.: France, paras. 18-30.

Governments in southern Africa were just as "guilty as if they were accessories". The representative rejected the allegation of aggression against Angola since all action on the part of South African security forces in southern Angola was in self-defence, aimed solely against SWAPO targets and not against Angola and its people. He stressed that peaceful coexistence with neighbouring States could only come about if those States did not allow their territory to be used as a sanctuary from which attacks could be launched.<sup>63</sup>

40. Noting the presence of a large number of foreign military advisers in Angola and the substantial supplies of foreign arms that had been shipped into Angola to rearm SWAPO, the representatives of the United Kingdom and the United States called for the cessation of recourse to violence by all parties and the immediate withdrawal of "all foreign troops" from Angola in order to improve the prospects for peace in the region. They expressed reservations with regard to paragraphs 5 and 6 of resolution 546 (1984), respectively, by which the Council had reaffirmed the right of Angola, in accordance with Article 51, to take all the measures necessary to defend itself and requested Member States to extend all necessary assistance to Angola in order that Angola might defend itself against the escalating attacks by South Africa. The representatives maintained that those provisions might be taken as an "invitation to widen the conflict and exacerbate the problems of finding peace in the region".<sup>64</sup>

41. At the 2511<sup>th</sup> meeting, on 6 January 1984, the Security Council adopted<sup>65</sup> resolution 546 (1984) which read in part as follows:

*"The Security Council,*

*"...*

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

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

<sup>63</sup> S C (36), 2298<sup>th</sup> mtg., paras. 13-39; S C (38), 2504<sup>th</sup> mtg.: paras. 34-48. See also S C (36), Suppl. for July-Sept. 1981, S/14652.

<sup>64</sup> See S C (36), 2296<sup>th</sup> mtg.: United Kingdom, paras. 26-30; United States, paras. 144-148; S C (39), 2511<sup>th</sup> mtg.: United Kingdom, paras. 59-63; United States, paras. 66-72. Both the United Kingdom and the United States abstained in the vote leading to the adoption of resolution 546 (1984).

<sup>65</sup> The revised draft resolution (S/16247/Rev.1) was sponsored by Angola, Egypt, India, Malta, Mozambique, Nicaragua, Pakistan, Peru, the United Republic of Tanzania, Upper Volta, Zambia and Zimbabwe, and received 13 votes to none, with 2 abstentions.



6. THE SITUATION IN THE REGION OF THE FALKLAND ISLANDS (ISLAS MALVINAS)

42. In connection with the question concerning the situation in the region of the Falkland Islands (Islas Malvinas), a constitutional question arose regarding the bearing of the provisions of Article 51 and the obligation of the parties to discontinue measures taken in the exercise of the right of self-defence once the Security Council had taken the measures necessary to maintain international peace and security.

43. By letter<sup>66</sup> dated 9 April 1982 addressed to the President of the Security Council, the representative of Argentina informed the Council that his Government had received a communication from the Government of the United Kingdom stating that it intended to impose a "maritime exclusion zone" around the "Falkland Islands" and that it reserved the right "to take whatever additional measures that may be needed in exercise of its right of self-defence, under Article 51 of the Charter of the United Nations". In response to that letter, his Government had communicated to the British Government that the Argentine Republic intended to "exercise the right of self-defence granted to it under Article 51 of the Charter in the face of this and any other act of aggression".

44. During the deliberations in the Council on the question concerning the situation in the region of the Falkland Islands (Islas Malvinas) at the 2360<sup>th</sup>, 2362<sup>nd</sup> to 2364<sup>th</sup>, 2366<sup>th</sup> and 2368<sup>th</sup> meetings, from 21 to 26 May 1982, the representative of Argentina argued that his country had not invaded any foreign territory but had recovered its national sovereignty over the territories of the Malvinas, the South Georgia and South Sandwich Islands that had been illegally occupied by Great Britain in 1833. The action taken by his Government was an act of legitimate defence in response to the aggression by the United Kingdom. While posing a grave threat to the civilian population of the Malvinas and to Argentina's security and integrity, the military activity by the United Kingdom in April 1982 had been "publicized" as acts of self-defence. The representative of Argentina argued that measures of self-defence should be "reasonable, limited to the need for protection and proportionate to the imminent danger". Furthermore, he noted that, under Article 51, there was a "legal obligation to suspend self-defence once the Council had taken measures necessary to maintain international peace and security". The determination of whether such measures had been effective could not be left to the arbitrary judgement of the United Kingdom.<sup>67</sup> A number of representatives observed that the economic blockade imposed by the United Kingdom in order to give effect to

resolution 502 (1982)<sup>68</sup> was in direct contradiction with Article 41 of the Charter which provided that it was up to the Security Council to decide which measures should be applied to give effect to its decisions.<sup>69</sup>

45. By a letter<sup>70</sup> dated 9 April 1982 addressed to the President of the Security Council, the representative of the United Kingdom informed the Council that since Argentina had been steadily reinforcing its armed forces in the Falkland Islands following the invasion on 2 April 1982, the British Government had imposed a "maritime exclusion zone" around the Falkland Islands without prejudice to its right to take whatever additional measures that might be needed in exercise of its right of self-defence, under Article 51.

46. During the debate, the representative of the United Kingdom observed that Argentina had, in practice, rejected resolution 502 (1982) by refusing to withdraw its troops, and instead reinforcing its armed forces on the islands and imposing a military government. It had long been recognized that a dispute existed concerning the sovereignty over the Falklands. However, by its first use of "armed force" to settle the dispute, Argentina had committed an act of aggression, had violated the obligation of all States under the Charter to seek peaceful solutions and had attempted to apply a "dangerous doctrine" that the Charter did not apply to the current situation since the problem had arisen before 1945. Under the circumstances, the United Kingdom was left with no other choice but to exercise its inherent right of self-defence under Article 51 of the Charter against foreign invasion and occupation. Responding to the Argentine argument that self-defence could be exercised "only as an immediate reaction to protect essential interests" and in the face of "imminent and grave danger", the representative underscored that the essential interests of the United Kingdom included protection of British territory and British nationals and that the armed invasion of the Falklands posed an actual and grave danger to those interests. He noted that, while Article 51 preserved the right of self-defence until the Security Council took measures necessary to maintain international peace and security, that could only be taken to refer to measures which were "actually effective to bring about the stated objective". Since Council resolution 502 (1982) had not proved effective, the United Kingdom's inherent right of self-defence was thus unimpaired. In accordance with Article 51, his Government had meticulously

<sup>66</sup> S C (37), Suppl. for April-June 1982, S/14961. See also other letters from Argentina which contain implicit or explicit references to Article 51: *ibid.*, S/14975, S/14984 and S/15009.

<sup>67</sup> S C (37), 2366<sup>th</sup> mtg., paras. 27-96; 2362<sup>nd</sup> mtg., paras. 274-286.

<sup>68</sup> By resolution 502 (1982), the Council had expressed concern at reports of an invasion on 2 April 1982 by armed forces of Argentina and demanded an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas).

<sup>69</sup> S C (37), 2362<sup>nd</sup> mtg.: Spain, paras. 7-20; Uruguay, paras. 23-45; Venezuela, paras. 56-89; Soviet Union, paras. 91-108; Mexico, paras. 115-131; Cuba, paras. 134-151.

<sup>70</sup> S C (37), Suppl. for April-June 1982, S/14963. See also other letters from the United Kingdom which contain references to Article 51: *ibid.*, S/14964, S/14973, S/15006 and 15016.

informed the Council of measures that it had taken in self-defence.<sup>71</sup>

47. Several representatives noted that Argentina's unprovoked resort to force in occupying the Falkland Islands/Islands Malvinas and failure to comply with the demands of the Security Council to withdraw had forced the United Kingdom to invoke its rights under Article 51. They added that the issue before the Council was not merely that of the Falkland Islands/Islands Malvinas dispute. Rather, the question was how the Council should react to the armed action taken by Argentina in contravention of a unanimous call by the Council on all parties to refrain from the use of force.<sup>72</sup>

48. At the 2368<sup>th</sup> meeting, on 26 May 1982, the Security Council adopted resolution 505 (1982), by which it, *inter alia*, requested the Secretary-General to undertake a renewed mission of good offices with a view to ensuring the implementation of resolution 502 (1982) and restoring peace in the region.

#### 7. THE SITUATION IN GRENADA

49. In connection with the situation in Grenada, the right of collective self-defence by a regional organization and the use of force to protect nationals abroad in the exercise of the right of self-defence was discussed.

50. By a letter<sup>73</sup> dated 25 October 1983 addressed to the President of the Security Council, the representative of Saint Lucia transmitted a statement from the secretariat of the Organization of Eastern Caribbean States (OECS) stating that the OECS member countries<sup>74</sup> had determined the situation in Grenada, following the assassination of the Prime Minister, several cabinet ministers and other citizens, to be a serious threat to the security of OECS and other neighbouring countries. The OECS member States were deeply concerned that the extensive military build-up in Grenada had created a situation of disproportionate military strength between Grenada and other OECS countries. Under the provisions of article 8 of the Treaty Establishing OECS concerning defence and security in the subregion, member Governments had decided to take appropriate action to remove that threat. Lacking adequate military resources, OECS had sought and received assistance from Barbados, Jamaica and the United States to form a multinational force for the purpose of undertaking a pre-emptive defensive strike in order to remove the dangerous threat to

peace and security in the subregion and "to establish a situation of normalcy in Grenada".

51. By a letter<sup>75</sup> dated 25 October 1983 addressed to the President of the Security Council, the representative of the United States informed the Council that, pursuant to the invitation of OECS for assistance in restoring government and order in Grenada and to facilitate the departure of those United States citizens and other foreign nationals who wished to be evacuated, the United States Government had agreed to contribute logistical, transportation and manpower support to the collective force being organized by OECS.

52. During the Council's deliberations<sup>76</sup> regarding the situation in Grenada at the 2487<sup>th</sup>, 2489<sup>th</sup> and 2491<sup>st</sup> meetings, from 25 to 27 October 1983, a number of representatives<sup>77</sup> recalled the violent events in Grenada and argued that a further deterioration in the situation was expected as the military group in control attempted to secure its position. They pointed out that Grenada could be used as a staging post for acts of aggression against surrounding States. The action had been undertaken in accordance with the Regional Defence Pact of OECS, to which Grenada was a party, and at the request of the island's Governor-General, who was the only remaining link of legitimate authority. It was also maintained that, while under normal circumstances military action to protect endangered nationals would not be justified, it was permitted by international law in the "unique combination of circumstances prevailing" in Grenada where the leadership had been murdered and no "minimally responsible" Government had replaced the former one. The action taken by the collective security force, it was stated, was "reasonable and proportionate" to the deterioration of authority in Grenada and the threat that this posed to the peace and security of the region. It was consistent with the purposes and principles of the Charter since it aimed only at the restoration of conditions of law and order fundamental to the enjoyment of basic human rights. The Charter provided, under Article 51, mechanisms for the removal of threats of such nature.

53. On the other hand, it was argued that the events that had taken place in Grenada were the internal affair of that State and provided no justification for the invasion of the island by foreign forces, in clear violation of its sovereignty, territorial integrity and political independence. The representative of Grenada pointed out that his Government had not threatened any country and had fully guaranteed the

<sup>71</sup> S C (37), 2360<sup>th</sup> mtg., paras. 100-127; 2362<sup>nd</sup> mtg., paras. 252-273.

<sup>72</sup> See S C (37), 2360<sup>th</sup> mtg.: Australia, paras. 208-225; Japan, paras. 66-70; 2362<sup>nd</sup> mtg.: Canada, paras. 207-215; United States, paras. 218-239.

<sup>73</sup> S C (38), Suppl. for Oct.-Dec. 1983, S/16070.

<sup>74</sup> The OECS member countries included Antigua and Barbuda, Dominica, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Montserrat.

<sup>75</sup> C (38), Suppl. for Oct.-Dec. 1983, S/16076.

<sup>76</sup> For procedural details of the case, see the present *Supplement*, vol. I, under Article 2(4).

<sup>77</sup> For the texts of relevant statements, see S C (38), 2487<sup>th</sup> mtg.: United States, paras. 188-196; 2489<sup>th</sup> mtg.: Dominica, paras. 6-14; Jamaica, paras. 45-58; Antigua and Barbuda, 155-159; 2491<sup>st</sup> mtg.: Saint Lucia, paras. 13-28; Zimbabwe, paras. 31-41; Ecuador, paras. 45-50; United States, paras. 53, 65-75; Barbados, paras. 141-149; Saint Vincent and the Grenadines, paras. 327-331.

lives and property of American and foreign citizens in Grenada.<sup>78</sup> Several representatives<sup>79</sup> argued that article 8 of the OECS Treaty, based explicitly on Article 51 of the Charter, provided for collective defence measures only against external aggression, in response to a request from the legitimate authority of the affected country. None of those articles authorized a “pre-emptive defensive strike” against a State on the basis of a supposed “vacuum of authority” in

<sup>78</sup> S C (38), 2487<sup>th</sup> mtg.: Grenada, paras. 88-109.

<sup>79</sup> Ibid., Mexico, paras. 10-19; Nicaragua, paras. 20-41; Guyana, paras. 71, 74-75; Grenada, paras. 90-97; Cuba, paras. 114-125; USSR, paras. 158-161 and 168; Democratic Yemen, paras. 172-184; 2489<sup>th</sup> mtg.: Viet Nam, paras. 21-25; Nigeria, paras. 32-33; Poland, paras. 36-43; China, paras. 65-68; Argentina, paras. 71-76; Algeria, para. 97; France, paras. 145-146; 2491<sup>st</sup> mtg.: Mr. Maksoud, para. 295; United Republic of Tanzania, paras. 382-384; the President (Jordan), paras. 412 and 413; 2491<sup>st</sup> mtg.: Saint Lucia, paras. 13-28; Zimbabwe, paras. 31-41; Ecuador, paras. 45-50; United States, paras. 53, 65 and 75; Benin, para. 91; Barbados, paras. 141-149; Sao Tome and Principe, paras. 175 and 177; Guinea-Bissau, para. 245; Mr. Maksoud, paras. 293-295; Jordan, paras. 412-414.

that State or to protect “endangered nationals”. It was further argued that, under Article 53, the regional organizations could not take enforcement measures in dealing with any threat to international peace and security except at the request of the Security Council and under its auspices. The representatives demanded the immediate cessation of armed intervention and the withdrawal of foreign troops from Grenada.

54. At the 2491<sup>st</sup> meeting, on 27 October 1983, a revised draft resolution<sup>80</sup> was submitted under which the Security Council would have deplored the armed intervention in Grenada and called for the immediate cessation of the intervention and the withdrawal of the foreign troops from that State. The draft resolution was not adopted due to the negative vote of a permanent member of the Security Council.

<sup>80</sup> The revised draft resolution (S/16077/Rev.1) was sponsored by Guyana, Nicaragua and Zimbabwe and received 11 votes to 1, with 3 abstentions.