



*Repertoire of the Practice of the Security Council*

**18th Supplement**

**2012-2013**

Department of Political Affairs - Security Council Affairs Division  
Security Council Practices and Charter Research Branch

**Part VII**

**Actions with Respect to Threats to the Peace,  
Breaches of the Peace, and Acts of Aggression  
(Chapter VII of the Charter)**

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## **Introductory note**

Part VII deals with action taken by the Security Council with respect to threats to the peace, breaches of the peace or acts of aggression, within the framework of Chapter VII of the Charter, including Articles 39 through 51.

In comparison to previous years, during the period under review the Council reduced the scope of resolutions adopted invoking explicitly Chapter VII of the Charter. Of the 53 resolutions adopted by the Council in 2012, 32 were adopted “acting under Chapter VII of the Charter” (60.3%), while in 2013, only 24 of the 47 resolutions were adopted “acting under Chapter VII” (51%). Most of those resolutions concerned the mandates of United Nations and regional peacekeeping missions or multinational forces, and the imposition, extension, modification or termination of sanctions measures.

In 2012 and 2013, the Security Council determined several new and ongoing threats to regional and/or international peace and security. The Council determined the existence of new threats under Article 39 of the Charter in relation to the situation in Mali<sup>1</sup> and in relation to the use of chemical weapons in the Syrian Arab Republic.<sup>2</sup> In addition, the recrudescence of the situation between the Sudan and South Sudan,<sup>3</sup> as well as in the Central African Republic,<sup>4</sup> merited a renewed expression of concern with regard to the threat to the peace posed by both situations.

Ongoing threats to international peace and security included the situations in Afghanistan, the Democratic Republic of the Congo, Lebanon, Liberia, Mali, Somalia, and West Africa and the Sahel. With respect to the situation in Afghanistan, the Security Council also recognized the threat posed by illicit drug production, trade and trafficking to international peace and stability. In its consideration of thematic agenda items, terrorism was again referred to as the most serious threat to international peace and security, and the Council reaffirmed that the proliferation of nuclear, chemical and biological weapons continued to pose a threat to international peace and security in connection with the

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<sup>1</sup> See resolution [2056 \(2012\)](#), sixteenth preambular paragraph.

<sup>2</sup> See resolution [2118 \(2013\)](#), thirteenth preambular paragraph and para. 1.

<sup>3</sup> See [S/PRST/2012/5](#), first paragraph.

<sup>4</sup> See resolution [2127 \(2013\)](#), third preambular paragraph.

Democratic People's Republic of Korea and the Islamic Republic of Iran. The Council expressed its concern during this period about the destabilizing effect of the accumulation and misuse of small arms and light weapons in many regions of the world which it deemed to continue to pose a threat to international peace and security.

The Council imposed new sanctions measures, of the type provided for under Article 41, against Guinea Bissau and the Central African Republic. The Council modified or expanded the measures in connection with Somalia and Eritrea, Al-Qaida and associated individuals and entities, Liberia, Democratic Republic of the Congo, Côte d'Ivoire, the Sudan, Democratic People's Republic of Korea, the Taliban and associated individuals and entities and Libya. No changes were made to the measures imposed on Iraq, Lebanon and the Islamic Republic of Iran. As far as judicial measures were concerned, no action was taken in 2012 and 2013, such as referring a particular situation to a tribunal or to the International Criminal Court.

The Council authorized United Nations peacekeeping missions and multinational forces to use force under Chapter VII of the Charter, relating to the maintenance or restoration of international peace and security by several peacekeeping missions and multinational forces in Afghanistan, Bosnia and Herzegovina, Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, the Middle East, the Sudan (including Darfur and Abyei areas), South Sudan and Somalia.

During the biennium under review, the Council authorized a new generation of so-called robust peacekeeping mandates. As part of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUSCO), the Council created the "Intervention Brigade" which was authorized to undertake enforcement action and was the most robust mandate approved so far by the Council. The Council also authorized enforcement action by the African Union in the newly-established African-led International Support Mission to Mali (AFISMA) and the African-led International Support Mission to the Central African Republic (MISCA). Subsequent UN missions in both Mali and the Central African Republic relied on robust mandates supported by French Forces (Operations Serval and Sangaris respectively) authorized also to use force.

The Council further clarified the authorization of the use of force with respect to the African Union/United Nations Hybrid operation in Darfur (UNAMID), the United Nations Interim Security Force for Abyei (UNISFA) and the United Nations Mission in the Sudan (UNMIS).

In this period, the Council also reaffirmed, renewed or extended the authorization of the use of force by the Member States participating in the International Security Assistance Force (ISAF) deployed in Afghanistan, the African Union in Somalia (AMISOM), the United Nations Operation in Côte d'Ivoire (UNOCI) and the French Forces (in support of the mission) in relation to the situation in Côte d'Ivoire, the European Union military operation (EUFOR ALTHEA) and the North Atlantic Treaty Organization (NATO) presence in Bosnia and Herzegovina, and the United Nations Interim Force in Lebanon (UNIFIL).

This part is divided into ten sections with each focusing on selected material to highlight the interpretation and application of the provisions of Chapter VII of the Charter by the Council in its deliberations and decisions. Sections I to IV cover material related to Articles 39 to 42, which regulate the Security Council's power to determine threats to international peace and security and to take the appropriate actions in response to those threats, including the imposition of sanctions measures or the authorization for the use of force. Sections V to VI focus on Articles 43 to 47, regarding the command and deployment of military forces. Sections VII and VIII address, respectively, the obligations of Member States under Articles 48 and 49, while sections IX and X address, respectively, the practice of the Council with respect to Articles 50 and 51. Finally, each section contains sub-sections on discussions that took place within the Security Council regarding the proper interpretation and implementation of these articles governing the Security Council's primary responsibility to maintain international peace and security.

## **Section I - Determination of a threat to the peace, breach of the peace or act of aggression in accordance with Article 39 of the Charter**

### *Article 39*

*The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.*

### **Note**

This section concerns the practice of the Security Council with regard to the determination of the existence of a threat to the peace, breach of the peace, or act of aggression in accordance with Article 39. It provides information regarding the determination of the existence of a threat by the Council and examines instances in which a threat was debated. The section is divided into two sub-sections. Sub-section A provides an overview of the relevant decisions of the Council in relation to the determination of a “threat to the peace” be it new or continuing, and sub-section B contains a series of case studies describing some of the arguments advanced during the Council’s deliberations in connection with the determination of a threat in accordance with Article 39 of the Charter and the adoption of some of the resolutions mentioned in sub-section A.

### **A. Decisions of the Security Council relating to Article 39**

During the period under review, the Council did not explicitly invoke Article 39 of the Charter in any of its decisions, nor did it determine the existence of any breach of the peace or act of aggression. However, the Council adopted numerous decisions determining, emphasizing, affirming or expressing concern at, the existence of a multiplicity of threats to the peace.

#### *1. New threats*

During the period under review, in four decisions, the Council determined the existence of new threats to international peace and security.

Given the rapidly deteriorating situation in the north of Mali, stemming from the actions carried out at the beginning of 2012 by an armed group affiliated to the Mouvement National pour la Liberation de l'Azawad (MNLA), the Council determined in resolution [2056 \(2012\)](#), adopted under the agenda item "Peace and security in Africa",<sup>5</sup> that the situation in Mali constituted a threat to international peace and security. The MNLA had sought the independence of the north and had caused the movement of 15,000 displaced persons and refugees.

Further to the independence of South Sudan and the recrudescence of the situation at the border with the Sudan (including incidents of cross-border violence, troop movements, support to proxy forces, and aerial bombardments), the Council viewed the situation as a serious threat to international peace and security.<sup>6</sup> Whilst the Council had already declared the situation between the Sudan and South Sudan as a threat to international peace and security in previous years, the aggravation of the situation led to a renewed emphasis on the threat posed to the peace by this situation. In a similar fashion, the aggravation of the situation in the Central African Republic at the end of 2013 added a new dimension to the conflict in that region and resulted in the determination by the Council of the situation in that country as a threat to international peace and security in resolution [2127 \(2013\)](#).

Finally, the use of chemical weapons in the context of the civil war unfolding in the Syrian Arab Republic led the Council to determine, in resolution [2118 \(2013\)](#), that the use of chemical weapons both in Syria and elsewhere constituted a threat to international peace and security.

For further details on the above, see the table below containing the relevant provisions of each decision relating to the determination of a threat to the peace by the Council during the period under review. The provisions below are organized in alphabetical order per agenda item.

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<sup>5</sup> The situation in Mali as such became a separate agenda item as of 20 December 2012, by virtue of a note of the President of the Security Council which established that "earlier consideration by the Council of [issues pertaining to Mali] under the agenda item entitled "Peace and security in Africa" would be subsumed under the agenda item entitled "The situation in Mali" ([S/2012/961](#)).

<sup>6</sup> See [S/PRST/2012/5](#).

Table 1  
**Determination of new threats to regional or international peace and security in 2012-2013**

| <i>Decision and date</i>   | <i>Provision</i>  |
|--|---|
| <b>Peace and security in Africa<sup>7</sup></b>                                  |   |
| Resolution <a href="#">2056 (2012)</a><br>5 July 2012                            | Determining that the situation in Mali constitutes a threat to international peace and security in the region (sixteenth preambular paragraph)  |
| <b>The situation in the Central African Republic</b>                             |   |
| Resolution <a href="#">2127 (2013)</a><br>5 December 2013                        | Determining that the situation in the CAR constitutes a threat to international peace and security (thirty first preambular paragraph)  |
| <b>Reports of the Secretary-General on the Sudan and South Sudan<sup>8</sup></b> |   |
| <a href="#">S/PRST/2012/5</a><br>6 March 2012                                    | The Security Council expresses grave concern about reports of repeated incidents of cross-border violence between Sudan and South Sudan, including troop movements, support to proxy forces, and aerial bombardments, and views the situation as a serious threat to international peace and security. The Council urges the two countries to implement and respect the letter and spirit of their February 10 Memorandum of Understanding on Non-Aggression and Cooperation, which was agreed under the auspices of the AU High-level Implementation Panel (AUHIP) (first paragraph) |
| <b>The situation in the Middle East</b>  |   |
| Resolution <a href="#">2118 (2013)</a><br>27 September 2013                      | Determining that the use of chemical weapons in the Syrian Arab Republic constitutes a threat to international peace and security (thirteenth preambular paragraph)<br><br>Determines that the use of chemical weapons anywhere constitutes a threat to international peace and security (para. 1)  |

## 2. *Continuing threats*

During the period 2012 and 2013, the Council determined that the situations in Afghanistan, the Democratic Republic of the Congo, Lebanon, Liberia, Mali, Somalia, and West Africa and the Sahel continued to constitute threats to “international peace and security”. It also determined that the presence and attacks of the Lord’s Resistance Army (LRA) in parts of Central Africa continued to pose a threat to regional security and the situation in Côte d’Ivoire posed a threat to international peace and security “in the region”. With regard to the Sudan and South Sudan, the Council determined that the situation in each of the two countries constituted a threat to international peace and security “in the region” whilst the situation in Abyei as well as along the border between Sudan and South Sudan continued to constitute a threat to international peace and security.

<sup>7</sup> See footnote 5 above.

<sup>8</sup> The Council agreed that issues pertaining to the Sudan and South Sudan, would, as from 11 November 2013, be considered under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, see [S/2013/657](#).

With regard to Afghanistan, during the period under review, the Council emphasized the threat posed by illicit drug trafficking. In connection with Bosnia and Herzegovina, the Council determined that the situation “in the region” continued to constitute a threat to international peace and security. With regard to Liberia, the north of Mali, West Africa and the Sahel region, the Council found a common threat posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea, as well as terrorism and its increasing links, in some cases, with transnational organized crime and drug trafficking. Terrorism was also deemed a threat in the context of the situation in the Middle East. Finally, concerning Somalia, the Council also deemed that the cumulative effect of the situation in the country, Eritrea’s influence in Somalia, as well as the dispute between Djibouti and Eritrea, continued to constitute a threat to international peace and security “in the region”.

During the period 2012 and 2013, the decisions adopted under thematic agenda items made reference to the same threats to international peace and security identified in country-specific and regional situations such as, terrorism, piracy and armed robbery at sea and the linkages with transnational organized crime and other illicit activities. As in previous periods, terrorism was deemed by the Council as one of the most serious threats to international peace and security. In the area of non-proliferation, the Council deemed that the proliferation of weapons of mass destruction as well as nuclear, chemical and biological weapons and their means of delivery continued to pose a threat to “international peace and security” in connection with the Democratic People’s Republic of Korea and the Islamic Republic of Iran. In addition, during this period, the Council expressed its concern about the destabilizing effect of the accumulation and misuse of small arms and light weapons in many regions of the world which it deemed to continue to pose threats to international peace and security.

For further details on the above, see tables 2 and 3 below containing the relevant provisions of each decision, be it country or region-specific or thematic, relating to the determination of continuing threats to the peace by the Council during the period under review. The provisions below are organized alphabetically per continent and per agenda item.

Table 2  
**Decisions by country-specific agenda item in which the Council referred to continuing threats to the peace in 2012-2013**

| <i>Decision and date</i>                                  | <i>Provision</i>   |
|---|--|
| <b>Africa</b>   |  |
| <b>Peace and security in Africa</b>                       |  |
| <a href="#">S/PRST/2012/2</a><br>21 February 2012         | The Security Council expresses concern about the serious threats to international peace and stability in different regions of the world, in particular in West Africa and the Sahel Region, posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea, as well as terrorism and its increasing links, in some cases, with transnational organized crime and drug trafficking. The Council stresses that these growing international threats, particularly in West Africa and the Sahel Region, contribute to undermining governance, social and economic development and stability, and creating difficulties for the delivery of humanitarian assistance, while threatening to reverse peacebuilding advances in the region (second paragraph)  |
| Resolution <a href="#">2056 (2012)</a><br>5 July 2012     | Expressing deep concern at the increased terrorist threat in the North of Mali and the region due to the presence of members of Al-Qaida in the Islamic Maghreb (AQIM), reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed (eleventh preambular paragraph)   |
| Resolution <a href="#">2071 (2012)</a><br>12 October 2012 | Determining that the situation in Mali constitutes a threat to international peace and security (sixteenth preambular paragraph)   |
| <a href="#">S/PRST/2013/5</a><br>13 May 2013              | <p>The Security Council notes with deep concern that terrorism continues to pose a serious threat to international peace and security, the enjoyment of human rights and social and economic development of States, and undermines global stability and prosperity in Africa, in particular that this threat has become more diffuse, with an increase, in various regions of the world, of terrorist acts including those motivated by intolerance and extremism (second paragraph)</p> <p>The Security Council notes the changing nature and character of terrorism in Africa, expresses its concern regarding the connection, in many cases, between terrorism and transnational organized crime and illicit activities such as drugs, arms and human trafficking and emphasizes the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international peace and security (tenth paragraph)</p>   |
| <a href="#">S/PRST/2013/10</a><br>16 July 2013            | <p>The Security Council continues to be gravely concerned about the activities in the Sahel region of terrorist organizations, including Al-Qaida in the Islamic Maghreb and the Movement for Unity and Jihad in West Africa and reiterates its strong condemnation of the recent terrorist attacks perpetrated in the region. The Security Council considers sanctions an important tool in countering terrorism, and underlines the importance of prompt and effective implementation of its relevant resolutions, in particular, Security Council resolutions <a href="#">1267 (1999)</a> and <a href="#">1989 (2011)</a> as key instruments in the fight against terrorism. The Security Council also expresses its continued concern over the serious threats to peace and security posed by armed conflict, proliferation of arms, transnational organized crime including illicit activities such as drug trafficking in the Sahel region and its increasing links, in some cases, with terrorism. In this regard, the Security Council reiterates its call for a full implementation of its resolution <a href="#">2017 (2011)</a>.” (third paragraph)</p> <p>See also <a href="#">S/PRST/2013/22</a> (second paragraph)</p> |
| <b>Central African region</b>                             |  |
| <a href="#">S/PRST/2012/18</a><br>29 June 2012            | The Security Council strongly condemns the ongoing attacks carried out by the Lord’s Resistance Army (LRA) in parts of central Africa, which pose a continuing threat to regional security. The Council reiterates its grave concern at the atrocities committed by the LRA, which have serious humanitarian and human rights consequences, including the displacement of over 445,000 people across the region. (first paragraph)   |

**The situation in Côte d'Ivoire**

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| <i>Decision and date</i>                                | <i>Provision</i>   |
|---|--|
| Resolution <a href="#">2045 (2012)</a><br>26 April 2012 | Determining that the situation in Côte d'Ivoire continues to pose a threat to international peace and security in the region (sixteenth preambular paragraph)<br><br>See also resolution <a href="#">2062 (2012)</a> (fifteenth preambular paragraph), resolution <a href="#">2101 (2013)</a> (eighteenth preambular paragraph) and resolution <a href="#">2112 (2013)</a> (eighteenth preambular paragraph) |

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#### **The situation concerning the Democratic Republic of the Congo**

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|--|---|
| Resolution <a href="#">2053 (2012)</a><br>27 June 2012 | Determining that the situation in the Democratic Republic of the Congo continues to pose a threat to international peace and security in the region (twentieth preambular paragraph)<br><br>See also resolution <a href="#">2076 (2012)</a> (thirteenth preambular paragraph), resolution <a href="#">2078 (2012)</a> (fifteenth preambular paragraph), and resolution <a href="#">2098 (2013)</a> (thirty-fourth preambular paragraph) |
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#### **The situation in Liberia**

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|---|--|
| Resolution <a href="#">2066 (2012)</a><br>17 September 2012 | Noting with concern the cross-border threats to subregional stability, including to Liberia, in particular threats posed by transnational organized crime, including illicit activities such as drug and arms trafficking (sixteenth preambular paragraph)<br><br>Determining that the situation in Liberia continues to constitute a threat to international peace and security in the region (nineteenth preambular paragraph)<br><br>See also resolution <a href="#">2079 (2012)</a> (eleventh preambular paragraph), resolution <a href="#">2116 (2013)</a> (seventeenth preambular paragraph) and resolution <a href="#">2128 (2013)</a> (fifteenth preambular paragraph) |
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#### **The situation in Mali**

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|--|--|
| Resolution <a href="#">2085 (2012)</a><br>20 December 2012 | Emphasizing that the situation and entrenchment of terrorist groups and criminal networks in the north of Mali continue to pose a serious and urgent threat to the population throughout Mali, and to the stability in the Sahel region, the wider African region and the international community as a whole (third preambular paragraph)<br><br>Determining that the situation in Mali constitutes a threat to international peace and security (fifteenth preambular paragraph)<br><br>See also resolution <a href="#">2100 (2013)</a> (twenty third preambular paragraph) |
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#### **The situation in Somalia**

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|--|---|
| Resolution <a href="#">2060 (2012)</a><br>25 July 2012     | Determining that the situation in Somalia, Eritrea's influence in Somalia, as well as the dispute between Djibouti and Eritrea, continue to constitute a threat to international peace and security in the region (tenth preambular paragraph)<br><br>See also resolution <a href="#">2111 (2013)</a> (seventeenth preambular paragraph)  |
| Resolution <a href="#">2072 (2012)</a><br>31 October 2012  | Determining that the situation in Somalia continues to constitute a threat to international peace and security in the region (fourth preambular paragraph)<br><br>See also resolution <a href="#">2073 (2012)</a> (fourth preambular paragraph), resolution <a href="#">2093 (2013)</a> (eighteenth preambular paragraph) and resolution <a href="#">2036 (2012)</a> (twenty-fourth preambular paragraph) |
| Resolution <a href="#">2077 (2012)</a><br>21 November 2012 | Determining that the incidents of piracy and armed robbery at sea off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat to international peace and security in the region (twenty ninth preambular paragraph)<br><br>See also resolution <a href="#">2125 (2013)</a> (thirty-fourth preambular paragraph)  |

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#### **Reports of the Secretary-General on the Sudan and South Sudan<sup>9</sup>**

|  |  |
|--|--|
| Resolution <a href="#">2035 (2012)</a><br>17 February 2012 | Determining that the situation in Sudan continues to constitute a threat to international peace and security in the region (nineteenth preambular paragraph) |
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<sup>9</sup> See footnote 8.

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| <i>Decision and date</i>                              | <i>Provision</i>   |
|---|--|
|   | See also resolution <a href="#">2063 (2012)</a> (nineteenth preambular paragraph), resolution <a href="#">2091 (2013)</a> (twentieth preambular paragraph) and resolution <a href="#">2113 (2013)</a> (twenty-sixth preambular paragraph)  |
| <a href="#">S/PRST/2012/12</a><br>12 April 2012       | The Security Council views the current situation as a serious threat to international peace and security. It will continue to follow the situation closely, and will take further steps as necessary. The Security Council looks forward to receiving a briefing from the AUHIP and Special Envoy Menkerios in the coming days (seventh paragraph) |
| Resolution <a href="#">2046 (2012)</a><br>2 May 2012  | Determining that the prevailing situation along the border between Sudan and South Sudan constitutes a serious threat to international peace and security (twenty-second preambular paragraph)   |
| Resolution <a href="#">2047 (2012)</a><br>17 May 2012 | Recognizing that the current situation in Abyei and along the border between Sudan and South Sudan constitutes a serious threat to international peace and security (twenty-second preambular paragraph)   |
|   | See also resolution <a href="#">2075 (2012)</a> (twenty-second preambular paragraph), resolution <a href="#">2104 (2013)</a> (twenty-seventh preambular paragraph), and resolution <a href="#">2126 (2013)</a> (twenty-eighth preambular paragraph)  |
| Resolution <a href="#">2057 (2012)</a><br>5 July 2012 | Determining that the situation faced by South Sudan continues to constitute a threat to international peace and security in the region (twenty-second preambular paragraph)  |
|   | See also resolution <a href="#">2109 (2013)</a> (twenty-fifth preambular paragraph) and resolution <a href="#">2132 (2013)</a> (tenth preambular paragraph)  |

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#### **Peace consolidation in West Africa**

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| Resolution <a href="#">2039 (2012)</a><br>29 February 2012 | Expressing its concern about the serious threats to international peace and stability in different regions of the world, in particular in West Africa and the Sahel Region, posed by transnational organized crime, including illicit weapons and drug trafficking, piracy and armed robbery at sea (eighteenth preambular paragraph) |
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#### **Asia**

##### **The situation in Afghanistan**

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| Resolution <a href="#">2041 (2012)</a><br>22 March 2012  | Encouraging the international community and regional partners to further effectively support Afghan-led sustained efforts to address drug production and trafficking, notably through the JCMB's working group on counter-narcotics as well as regional initiatives, recognizing the threat posed by illicit drug production, trade and trafficking to international peace and stability in different regions of the world, and the important role played by the United Nations Office on Drugs and Crime (UNODC) in this regard, and stressing the important role of the United Nations to continue to monitor the drug situation in Afghanistan (thirty-fourth preambular paragraph) |
|  | See also resolution <a href="#">2069 (2012)</a> (eighteenth preambular paragraph), resolution <a href="#">2096 (2013)</a> (thirty second preambular paragraph), resolution <a href="#">2120 (2013)</a>   |
| Resolution <a href="#">2069 (2012)</a><br>9 October 2012 | Determining that the situation in Afghanistan still constitutes a threat to international peace and security (thirty seventh preambular paragraph)   |
|  | See also resolution <a href="#">2120 (2013)</a> (thirty eighth preambular paragraph)   |

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#### **Europe**

##### **The situation in Bosnia and Herzegovina**

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| Resolution <a href="#">2074 (2012)</a><br>14 November 2012 | Determining that the situation in the region continues to constitute a threat to international peace and security (twenty-third preambular paragraph) |
|  | See also resolution <a href="#">2123 (2013)</a> (twenty-fifth preambular paragraph)   |

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#### **Middle East**

##### **The situation in the Middle East**

| <i>Decision and date</i>                                 | <i>Provision</i>  |
|--|---|
| Resolution <a href="#">2051 (2012)</a><br>12 June 2012   | Expressing grave concern at the security situation and continuing terrorist attacks, in particular by Al-Qaida in the Arabian Peninsula, within Yemen, and reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations (sixth preambular paragraph)  |
| Resolution <a href="#">2064 (2012)</a><br>30 August 2012 | Determining that the situation in Lebanon continues to constitute a threat to international peace and security (seventeenth preambular paragraph)<br><br>See also resolution <a href="#">2115 (2013)</a> (seventeenth preambular paragraph)   |
| <a href="#">S/PRST/2013/15</a><br>2 October 2013         | The Security Council moreover condemns increased terrorist attacks resulting in numerous casualties and destruction carried out by organisations and individuals associated with Al-Qaeda, and calls on all parties to commit to putting an end to terrorist acts perpetrated by such organisations and individuals. The Council reaffirms, in this regard, that terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security, and that any acts of terrorism are criminal and unjustifiable, regardless of their motivation, wherever, whenever and by whomsoever committed. (eighth paragraph) |

Table 3  
**Decisions by thematic agenda item in which the Council referred to continuing threats to the peace in 2012-2013**

| <i>Decision and date</i>   | <i>Provision</i>  |
|--|---|
| <b>Cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security</b> |   |
| <a href="#">S/PRST/2013/12</a><br>6 August 2013  | The Security Council recognizes the need to enhance coordination of efforts at national, regional, subregional and international levels, as appropriate, in order to strengthen the global response to the serious challenge and threat to international peace and security posed by the proliferation of weapons of mass destruction and their means of delivery (twenty-third paragraph)  |
| <a href="#">S/PRST/2013/12</a><br>6 August 2013  | The Security Council welcomes the efforts undertaken by its subsidiary bodies with responsibilities in counter-terrorism to foster cooperation with regional and subregional organizations, and notes with appreciation the efforts made by an increasing number of regional and subregional organizations in countering terrorism. The Council urges all relevant regional and subregional organizations to enhance the effectiveness of their counter-terrorism efforts within their respective mandates and in accordance with international law, including with a view to develop their capacity to help Member States in their efforts to tackle the threats to international peace and security posed by acts of terrorism (twenty-fifth paragraph)                                       |
| <b>Maintenance of international peace and security</b>   |   |
| <a href="#">S/PRST/2012/14</a><br>19 April 2012  | The Security Council reaffirms that proliferation of weapons of mass destruction, and their means of delivery, constitutes a threat to international peace and security (first paragraph)   |
| <a href="#">S/PRST/2012/24</a><br>19 November 2012   | The Security Council continues to be gravely concerned by the threat that piracy and armed robbery at sea pose to international navigation, the safety of commercial maritime routes, and the security and economic development of States in the regions concerned, as well as to the safety and welfare of seafarers and other persons, including through their being taken as hostages, and the increasing violence employed by pirates and persons involved in piracy and armed robbery at sea. The Security Council condemns in the strongest terms hostage taking and the use of violence against hostages, and calls upon States to also cooperate, as appropriate, to secure the early release of hostages, including through sharing of information and intelligence (second paragraph) |
| <b>Non-proliferation</b>   |   |
| Resolution <a href="#">2049 (2012)</a><br>7 June 2012  | Determining that proliferation of weapons of mass destruction, as well as their means of delivery, continues to constitute a threat to international peace and security (sixth preambular paragraph)  |

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| <i>Decision and date</i>   | <i>Provision</i>  |
|--|---|
|  | See also resolution <a href="#">2105 (2013)</a> (seventh preambular paragraph)  |
| <hr/>  |   |
| <b>Non-proliferation/Democratic People's Republic of Korea</b>   |   |
| Resolution <a href="#">2050 (2012)</a><br>12 June 2012   | Determining that proliferation of nuclear, chemical, and biological weapons, as well as their means of delivery, continues to constitute a threat to international peace and security (sixth preambular paragraph)<br><br>See also resolution <a href="#">2094 (2013)</a> (second preambular paragraph)   |
| Resolution <a href="#">2094 (2013)</a><br>7 March 2013   | Expressing its gravest concern that the DPRK's ongoing nuclear and ballistic missile-related activities have further generated increased tension in the region and beyond, and determining that there continues to exist a clear threat to international peace and security (seventh preambular paragraph)  |
| <hr/>  |   |
| <b>The promotion and strengthening of the rule of law in the maintenance of international peace and security</b> |   |
| <a href="#">S/PRST/2012/1</a><br>19 January 2012   | The Security Council notes with concern that transnational organized crime and drug trafficking can pose serious threats to international security in different regions of the world, notes also that these transnational crimes may threaten the security of countries on its agenda, including post-conflict states, encourages the coordination of United Nations actions as well as Member States' actions in fighting these threats through implementation of national and international applicable norms, relevant international long-term capacity building efforts and regional initiatives (tenth paragraph)   |
| <hr/>  |   |
| <b>Threats to international peace and security caused by terrorist acts</b>                                      |   |
| <a href="#">S/PRST/2012/17</a><br>4 May 2012   | The Security Council notes with concern that terrorism continues to pose a serious threat to international peace and security, the enjoyment of human rights and social and economic development of States, and undermines global stability and prosperity, that this threat has become more diffuse, with an increase, in various regions of the world, of terrorist acts including those motivated by intolerance and extremism, and reaffirms its determination to combat by all means, in accordance with the Charter of the United Nations and international law, including applicable international human rights, refugee and humanitarian law, threats to international peace and security caused by terrorist acts. (third paragraph)<br><br>See also <a href="#">S/PRST/2013/1</a> (second paragraph) and resolution <a href="#">2129 (2013)</a> (second preambular paragraph) |
| Resolution <a href="#">2082 (2012)</a><br>17 December 2012   | Recognizing that notwithstanding the evolution of the situation in Afghanistan and progress in reconciliation, the situation in Afghanistan remains a threat to international peace and security, and reaffirming the need to combat this threat by all means, in accordance with the Charter of the United Nations and international law, including applicable human rights, refugee and humanitarian law, stressing in this regard the important role the United Nations plays in this effort (eighth preambular paragraph)   |
| Resolution <a href="#">2083 (2012)</a><br>17 December 2012   | Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed, and reiterating its unequivocal condemnation of Al-Qaida and other individuals, groups, undertakings and entities associated with it, for ongoing and multiple criminal terrorist acts aimed at causing the deaths of innocent civilians and other victims, destruction of property and greatly undermining stability (second preambular paragraph)<br><br>See also resolution <a href="#">2129 (2013)</a> (first preambular paragraph)   |
| <hr/>  |   |
| <b>Small arms</b>  |   |
| Resolution <a href="#">2117 (2013)</a><br>26 September 2013  | Gravely concerned that the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons in many regions of the world continue to pose threats to international peace and security, cause significant loss of life, contribute to instability and insecurity and continue to undermine the effectiveness of the Security Council in discharging its primary responsibility for the maintenance of international peace and security (fourth preambular paragraph)  |

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## **B. Discussion relating to Article 39**

During the period under review, several issues regarding the interpretation of Article 39 and the determination of threats to international peace and security arose in the Council's debates. There were two explicit references to Article 39 during deliberations of the Council in relation to the following agenda items: "The promotion and strengthening of the rule of law in the maintenance of international peace and security" (case 1) and "The maintenance of international peace and security" (case 4).

During the period under review the threat posed by transnational and organized crime, including illicit cross-border activities was discussed in the context of Council deliberations in relation to different agenda items, such as "The promotion and strengthening of the rule of law in the maintenance of international peace and security" (case 1) and "Threats to international peace and security" (case 2). Terrorism and its growing linkage with transnational organized crime were also deemed a threat that was discussed in connection with the item "Peace and security in Africa" under different sub items of the Council's agenda (cases 5 and 6). Closely related to the two previous threats, the Council discussed the threat of piracy affecting regions as diverse as Somalia, the Gulf of Guinea and the South China Sea (case 4) as well as the threat of illicit extraction of, and trade in natural resources (case 7) in connection with the item "Maintenance of international peace and security". Finally, in the context of the civil war in the Syrian Arab Republic under the item "The situation in the Middle East", the Council discussed the threat posed to the peace by the use of chemical weapons (case 8). The Council also discussed the potential threat to international peace and security posed by grave crimes and crimes against humanity (case 3).

### **Case 1**

#### **The promotion and strengthening of the rule of law in the maintenance of international peace and security**

On 19 January 2012, the Council held its 6705<sup>th</sup> meeting to consider the latest report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies dated 12 October 2011.<sup>10</sup> In the context of that debate, several speakers mentioned transnational crime as a new and real threat to international peace and security.<sup>11</sup>

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<sup>10</sup> See [S/2011/634](#).

<sup>11</sup> [S/PV.6705](#), p. 7 (Portugal) and p. 13 (Morocco)

In addition, the representative of Pakistan recalled that resort to Article 39 of the Charter must be made “in accordance with the principles and purposes of the Charter”.<sup>12</sup> He also emphasized that if the decisions of the Council were informed by the same norms that it sought to promote, this would result in greater effectiveness of the Council. The representative of Costa Rica noted on his part that in seeking to address “new security threats”, the Council must be particularly cautious that its actions remained governed by the specific situation and were time bound and restricted by the provisions of Chapter VII of the Charter.<sup>13</sup> At that meeting, the Council issued a presidential statement noting with concern that transnational organized crime and drug trafficking could pose serious threats to international peace and security “in different regions of the world”.<sup>14</sup>

## Case 2

### Threats to international peace and security

#### *Securing borders against illicit cross-border trafficking and movement*

At its 6760<sup>th</sup> meeting, on 25 April 2012, the Council held a meeting further to the concept paper prepared by the United States on the topic of the debate.<sup>15</sup> In his address to the Council, the Secretary-General recalled that insufficiently protected borders across the globe enabled the traffic of drugs, weapons, contraband, terrorist funding, materials related to weapons of mass destruction, conflict minerals wildlife and people and that such illicit flows threatened peace and security.<sup>16</sup> He further noted that such threats were rightly the focus of the Council’s close attention. The representative of Colombia affirmed that illicit trafficking in nuclear, chemical or biological weapons and their delivery systems, as well as the movement of terrorists and their funds across borders were “recognized as threats to international peace”.<sup>17</sup> The representative of Guatemala noted by contrast that not all illicit cross-border activities posed an actual threat to international peace and security, although some actually had that potential.<sup>18</sup> In the same vein, the representative of France emphasized that illicit cross-border trafficking and flows encompassed various phenomena, some of which directly threatened international peace and security, such as the trafficking of weapons

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<sup>12</sup> Ibid., p. 17.

<sup>13</sup> Ibid., p. 29.

<sup>14</sup> [S/PRST/2012/1](#), tenth paragraph.

<sup>15</sup> See [S/2012/195](#).

<sup>16</sup> [S/PV.6760](#), p. 2.

<sup>17</sup> Ibid., p. 4.

<sup>18</sup> Ibid., p. 7.

of mass destruction-related goods and technologies.<sup>19</sup> Several speakers defended the Security Council's role in curbing illicit flows,<sup>20</sup> which, as noted by the representative of Germany, it had already addressed in relation to drug trafficking, organized crime and human trafficking. The representative of India cautioned, however, that the Council should only step in when there was a threat to international peace and security and in the context of specific situations, such as conflict and post-conflict situations and under specific sanctions regimes established under Chapter VII of the Charter.<sup>21</sup> The representative of Brazil also indicated that not every incidence of illicit cross-border trafficking posed a threat to international peace and security and that, therefore, the Council would have a role to play only in some cases.<sup>22</sup> In a similar way, the representative of Pakistan noted that border security should become a concern of the Council only in those specific situations posing a threat to international peace and security.<sup>23</sup> The United States affirmed that illicit transfers undermined the sovereignty and internal stability not only of fragile or particularly vulnerable States and that the Council could respond and prevent such threats.<sup>24</sup> The representative of the United Kingdom held that the benefits of an interconnected world and the developments in technology were many but that such benefits were also available to those seeking to cause harm. For that reason, he asserted that the international community needed to work collectively to identify and tackle those threats.<sup>25</sup> At the meeting, the Council issued a presidential statement in which it acknowledged the evolving nature of the threats discussed above and noted the challenges arising in this regard from a more interconnected world.<sup>26</sup>

### Case 3

#### **The promotion and strengthening of the rule of law in the maintenance of international peace and security**

##### *Peace and justice with a special focus on the International Criminal Court*

On 17 October 2012, the Council held its 6849<sup>th</sup> meeting, an open debate on peace and justice with a special focus on the role of the International Criminal Court further to

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<sup>19</sup> Ibid., p. 14.

<sup>20</sup> Ibid., p. 9 (Russian Federation); p. 11 (China) and p. 11 (Germany).

<sup>21</sup> Ibid., p. 8.

<sup>22</sup> Ibid., p. 22.

<sup>23</sup> Ibid., p. 17.

<sup>24</sup> Ibid., p. 18.

<sup>25</sup> Ibid., p. 16.

<sup>26</sup> [S/PRST/2012/16](http://www.un.org/en/sc/repertoire), second and fourth paragraphs.

Guatemala's concept note.<sup>27</sup> During the debate, speakers expressed overall consensus about the fact that grave crimes and crimes against humanity could threaten international peace and security. Discrepancies amongst speakers related mainly to the circumstances triggering a referral to the International Criminal Court (ICC). The representative of the Russian Federation argued that a referral should only happen once a Chapter VII decision was adopted due to the existence of a situation that constituted a threat to the peace, breach of the peace or an act of aggression.<sup>28</sup> Similarly, the representative of Sri Lanka emphasized the principle of sovereign equality and non-intervention in the internal affairs of Member States in situations where there was no threat to international peace and security.<sup>29</sup> The representatives of Togo and Tunisia warned against double standards, depending on where those situations took place, in referring situations to the ICC.<sup>30</sup> Several speakers affirmed that the work of the Security Council and the ICC were complementary<sup>31</sup> and that the work of the Court prevented those crimes, thereby contributing to the maintenance of international peace and security.<sup>32</sup>

#### Case 4

### Maintenance of international peace and security

#### *Piracy*

On 19 November 2012, further to the concept note of India,<sup>33</sup> the Council held an open debate on the issue of piracy. Speakers affirmed that piracy continued to threaten international peace and security<sup>34</sup> and that therefore the Council had a role to play, while some noted that the Council could act in relation to piracy only to the extent that the specific situation threatened international peace and security.<sup>35</sup> As affirmed by the representative of Argentina, unless a situation qualified as a threat to international peace and security under Article 39 of the Charter and the Council decided to take action under Chapter VII, a situation of piracy was not a matter that would fall within the primary competence of the

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<sup>27</sup> See [S/2012/731](#).

<sup>28</sup> [S/PV.6849](#), p. 20.

<sup>29</sup> [S/PV.6849 \(Resumption 1\)](#), p. 26 (Sri Lanka).

<sup>30</sup> [S/PV.6849](#), p. 22 (Togo) and [S/PV.6849 \(Resumption 1\)](#), p. 22 (Tunisia).

<sup>31</sup> [S/PV.6849](#), p. 25 (Luxembourg) and [S/PV.6849 \(Resumption 1\)](#), p. 28 (Austria).

<sup>32</sup> [S/PV.6849](#), p. 26 (Luxembourg) and [S/PV.6849 \(Resumption 1\)](#), p. 20 (Belgium).

<sup>33</sup> See [S/2012/814](#).

<sup>34</sup> [S/PV.6865](#), p. 10 (Luxembourg), p. 18 (Malaysia); p. 26 (New Zealand); p. 27 (Bangladesh) and p. 30 (Nigeria).

<sup>35</sup> [S/PV.6865](#), p. 12 (South Africa) and [S/PV.6865 \(Resumption 1\)](#), p. 6 (Argentina).

Council.<sup>36</sup> The representative of Japan added that it had become a major threat along with other outstanding threats such as transnational crime and terrorism.<sup>37</sup> Speakers made explicit reference to Somalia, the Gulf of Guinea and the South China Sea as areas particularly affected by piracy.<sup>38</sup> At the meeting, the Council issued a presidential statement expressing its grave concern about the threat posed by piracy and armed robbery at sea to “international navigation, the safety of commercial maritime routes, and the security and economic development of States in the regions concerned ...”.<sup>39</sup>

## Case 5

### Peace and security in Africa

#### *The Sahel: Towards a more comprehensive and coordinated approach*

On 10 December 2012, the Council held a meeting further to the concept note from Morocco<sup>40</sup> at which it was briefed by the Secretary-General, the Special Envoy of the Secretary-General for the Sahel and the United Nations High Commissioner for Refugees. At that meeting, the Council adopted a presidential statement in which it mentioned that the continued proliferation of weapons within and outside the Sahel threatened peace, security, and stability of States in the region.<sup>41</sup> The Secretary-General affirmed that in addition to arms smuggling, political turmoil, terrorist activity, and drug trafficking were spilling over borders and threatening peace and security.<sup>42</sup> Among them, the representative of Côte d’Ivoire highlighted the terrorist activity which – he said – threatened West Africa and the Sahel, as well as the Maghreb and beyond.<sup>43</sup> Similarly, the representative of the United Kingdom affirmed that the instability in the Sahel threatened not only the security and the livelihoods of the people in the region but also those of the neighbours and beyond.<sup>44</sup> The representative of Morocco added that separatists and criminals had committed acts of violence on over two-thirds of the national territory of Mali, constituting a threat to the

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<sup>36</sup> [S/PV.6865](#), p. 6.

<sup>37</sup> *Ibid.*, p. 13.

<sup>38</sup> [S/PV.6865](#), p. 12 (South Africa), p. 18 (Morocco), [S/PV.6865 \(Resumption 1\)](#), p. 5 (Denmark), p. 5 (Argentina), p. 6 (Saudi Arabia), p. 8 (Egypt), p. 10 (Luxembourg), p. 18 (Malaysia), and p. 27 (Bangladesh), p. 22 (Viet Nam) and p. 30 (Nigeria).

<sup>39</sup> [S/PRST/2012/24](#), second paragraph.

<sup>40</sup> [S/2012/906](#).

<sup>41</sup> [S/PRST/2012/26](#), fourth paragraph.

<sup>42</sup> [S/PV.6882](#), p. 4.

<sup>43</sup> *Ibid.*, p. 10.

<sup>44</sup> *Ibid.*, pp. 16.

security and stability not only of Mali but throughout the region.<sup>45</sup> On the Sahel, he emphasized that the region had become a safe haven for terrorist groups, ideologically and methodologically affiliated with Al-Qaida, as well as with separatist groups and traffickers in drugs and human beings that were a threat to international peace and regional security.<sup>46</sup> The representatives of the United States and Portugal summed up by declaring that the international community and the people of the Sahel faced a complex (and multifaceted) set of interrelated challenges threatening the security of the region and beyond.<sup>47</sup> Several speakers called for a coordinated and comprehensive action (including cooperation with regional organizations) in responding to the challenges and threats facing the Sahel region.<sup>48</sup>

## Case 6

### Peace and security in Africa

#### *The challenges of the fight against terrorism in Africa in the context of maintaining international peace and security*

On 13 May 2013, the Security Council held a public debate further to the concept note from Togo on the question of combating terrorism in Africa in the context of the maintenance of international peace and security.<sup>49</sup> At the meeting, the Council was briefed by the Secretary-General and the Director General of the Intergovernmental Action Group against Money Laundering in West Africa. Both speakers agreed that terrorism was a threat to peace and security. While the Secretary-General mentioned that it was a threat to peace, security and development in Africa,<sup>50</sup> the Director General of the Intergovernmental Action Group against Money Laundering in West Africa deemed that the challenges of fighting terrorism constituted a major threat to international peace and security.<sup>51</sup> Many speakers were of the view that terrorism was a threat to international peace and security and particularly aggravating in Africa, given the challenges in combating it. Several speakers confirmed that Africa was the new frontier for international terrorism.<sup>52</sup> Some speakers alluded to the fact

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<sup>45</sup> Ibid, p. 10. During the discussion several other speakers raised Mali as a specific threat within the broader context of the crisis affecting the Sahel, p. 20 (Russian Federation), p. 21 (Portugal), p. 23 (Pakistan), p. 25 (Guatemala), p. 27 (Germany), and p. 30 (European Union).

<sup>46</sup> Ibid. p. 10.

<sup>47</sup> Ibid., p. 14 (United States) and p. 21 (Portugal).

<sup>48</sup> Ibid., p. 15 (United States), p. 20 (China), p. 23 (Pakistan).

<sup>49</sup> [S/2013/264](#).

<sup>50</sup> [S/PV.6965](#), p. 2.

<sup>51</sup> Ibid., p. 4.

<sup>52</sup> Ibid., pp. 18-19 (Russian Federation); p. 22 (Pakistan) and p. 26 (Australia).

that terrorism in Africa not only threatened international peace and security but also – as mentioned by the Secretary-General – the socioeconomic development of the continent.<sup>53</sup> At that meeting, the Council issued a presidential statement, noting that terrorism continued to pose a serious threat to international peace and security which undermined global prosperity and stability in Africa.<sup>54</sup>

## Case 7

### Maintenance of international peace and security

#### *Conflict prevention and natural resources*

On 19 June 2013, further to the concept note from the United Kingdom, the Council held an open debate on the question of conflict prevention and natural resources.<sup>55</sup> The Council was briefed by four speakers, including the Deputy Secretary-General.<sup>56</sup> In her address to the Council, the Under-Secretary-General and Associate Administrator of the United Nations Development Programme cautioned that in light of the population growth, climate change and scarce natural resources, conflict related to natural resources could become a definite threat to global peace and security in this century.<sup>57</sup> The representative of the United States called on the members of the Council to act in those cases where the illicit extraction of, and trade in, natural resources threatened international peace and security.<sup>58</sup> The representative of Guatemala distinguished between situations where the control of natural resources – as in Africa – could lead to conflict and constitute a threat to international peace and security and those where the struggle over natural resources could create tensions not rising to the level of threatening international peace and security. He affirmed that there was no correlation between natural resources and conflict and that, therefore, the jurisdiction of the Security Council in relation to this area was very limited.<sup>59</sup> In a similar vein, the representatives of Argentina and Qatar cautioned against the intervention of the Council in a potential conflict arising from the exploitation of a country's natural resources unless this was

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<sup>53</sup> Ibid., p. 16 (Argentina) and p. 20 (Azerbaijan) and p. 38 (Tanzania).

<sup>54</sup> [S/PRST/2013/5](#), second paragraph.

<sup>55</sup> [S/2013/334](#).

<sup>56</sup> In addition to the Secretary-General, the Council was briefed by the Chair of the Africa Progress Panel, the Managing Director of the World Bank; and the Under-Secretary-General and Associate Administrator of the United Nations Development Programme.

<sup>57</sup> [S/PV.6982](#), p. 9.

<sup>58</sup> Ibid., p. 10.

<sup>59</sup> Ibid. p. 19.

in a conflict or post-conflict context, on the agenda of the Council, and threatening international peace and security.<sup>60</sup>

## Case 8

### The situation in the Middle East

On 27 September 2013, the Council held a meeting on the situation in the Middle East in the context of which resolution [2118 \(2013\)](#) was adopted in relation to the use of chemical weapons in the Syrian Arab Republic. In that resolution, the Council determined that “the use of chemical weapons anywhere” constituted a threat to international peace and security.<sup>61</sup> In the discussion following the adoption of the resolution, most speakers affirmed that the use of chemical weapons was a threat to international peace and security.<sup>62</sup> Some speakers went as far as stating that this authorized the Council to be immediately seized of the issue in the future, as a guarantor of chemical disarmament,<sup>63</sup> while other speakers noted that it would make it easier for the Security Council to deal with such weapons in future.<sup>64</sup> The representative of Australia affirmed that the resolution’s statement regarding the use of chemical weapons anywhere constituted a threat to international peace and security would act as a strong deterrent to anyone contemplating using chemical weapons in future.<sup>65</sup>

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<sup>60</sup> *Ibid.*, p. 20 (Argentina) and [S/PV.6982 \(Resumption 1\)](#), p. 10 (Qatar).

<sup>61</sup> See para. 1 of resolution [2118 \(2013\)](#).

<sup>62</sup> In some instances, speakers emphasized that the use of chemical weapons per se was a threat to international peace and security regardless of the circumstances, [S/PV.7038](#), p. 4 (United States); p. 6 (Luxembourg); p. 9 (Republic of Korea) and p. 15 (Australia).

<sup>63</sup> [S/PV.7038](#), p. 6 (Luxembourg), p. 7 (France).

<sup>64</sup> *Ibid.*, p. 12 (Morocco).

<sup>65</sup> *Ibid.*, p. 15.

## **Section II - Provisional measures to prevent an aggravation of the situation in accordance with Article 40 of the Charter**

### *Article 40*

*In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.*

### **Note**

This section covers the practice of the Security Council in relation to Article 40 of the Charter, regarding provisional measures that the Council called upon the parties to comply with in order to prevent an aggravation of the situation. Explicit reference to Article 40 was not made in any of the deliberations of the Council during the period under review.

#### **A. Decisions of the Security Council relating to Article 40**

During the period under review, the Council did not adopt any decision explicitly citing Article 40 of the Charter. However, having determined the existence of a threat to the peace, the Council adopted three decisions, acting under Chapter VII of the Charter, which while not explicitly citing Article 40, can be considered of relevance for the interpretation and application of this provision. Table 4 below contains the relevant provisions of the three decisions.

The prolonged and complex nature of the conflicts dealt with by the Council and the rapidly evolving conditions of most of those conflicts has led the Council to impose provisional measures in parallel to the adoption of measures under Articles 41 and 42 of the Charter. Hence, whilst Article 40 suggests that provisional measures to prevent the aggravation of a conflict would be adopted prior to the imposition of the range of measures available under Chapter VII (namely, in Articles 41 and 42), the practice of the Council reflects a more flexible interpretation of that provision.

As in previous supplements, during the period under review, provisional measures were adopted simultaneously with the adoption of measures under Chapter VII. For example,

while commending the efforts of UNISFA in carrying out its mandate under Chapter VII,<sup>66</sup> the Council adopted a series of measures with a view to de-escalating the tensions between the Sudan and South Sudan<sup>67</sup> subject to a series of timelines and with a clear threat to adopt Article 41 measures in the event of non-compliance.<sup>68</sup> In relation to the situation in Mali, the Council expanded the measures applicable in the framework of resolution [1989 \(2011\)](#) against Al Qaida to include individuals, groups, undertakings and entities associated therewith in the Sahel region and notably in the north of Mali.<sup>69</sup> It adopted a series of measures with a view to ensuring the cessation of hostilities, restoring the constitutional order and the safe return of the interim President reserving its right to adopt further action in case of non-compliance.<sup>70</sup> Finally, with respect to the situation in the Central African Republic, the Council authorized the deployment of and the use of force by MISCA,<sup>71</sup> in parallel to the adoption of a series of measures to ensure the respect of the transitional arrangements for the restoration of the constitutional order and the holding of elections in the country, which it subjected to the possible imposition of additional sanctions measures in the event of delay, impediment or violation of the transitional arrangements.<sup>72</sup>

In sum, during the period under review, the Council called for compliance with provisional measures relating to, inter alia, the following: (a) cessation of hostilities, (ii) withdrawal of armed forces, (iii) activation of border security mechanisms, (iv) implementation of transitional arrangements, (v) respect for the constitutional order, and (vi) resumption of negotiations, which were deemed of relevance for the interpretation and application of Article 40 of the Charter.

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<sup>66</sup> See resolution [2046 \(2012\)](#), para. 8 and resolution [1990 \(2011\)](#), para. 3, authorizing the use of force by UNISFA pursuant to Article 42.

<sup>67</sup> See resolution [2046 \(2012\)](#), paras. 1 and 2.

<sup>68</sup> See resolution [2046 \(2012\)](#), paras. 3, 5 and 6.

<sup>69</sup> See resolution [2056 \(2012\)](#), para. 24.

<sup>70</sup> See resolution [2056 \(2012\)](#), paras. 4, 6, 7 and 9.

<sup>71</sup> See resolution [2127 \(2013\)](#), para. 28.

<sup>72</sup> See resolution [2127 \(2013\)](#), paras. 1, 5, 10 and 56.

Table 4

**Measures calling upon the parties to comply with provisional measures and Council action in the event of failure to comply**

| <i>Type of measure</i>   | <i>Provision</i>   |
|--|--|
| <b>The situation in Central African Republic (resolution <a href="#">2127 (2013)</a> of 5 December 2013)</b>                         |  |
| Implementation of transitional arrangements  | Demands the swift implementation of transitional arrangements referred to in paragraph 1 above, which shall lead to the holding of free, fair and transparent presidential and legislative elections 18 months after the beginning of the transition period as defined in article 102 of the Transitional Charter which took effect on 18 August 2013, and called for by the N'Djamena Declaration (para. 5)   |
| Council action in the event of failure to comply   | Decides that any attempt to delay, impede or violate the transitional arrangements referred to in paragraph 1 above shall be considered as an impediment to the peace process and could lead to the imposition of appropriate measures defined in paragraph 56 below (para. 10)  |
| <b>The situation in Mali (resolution <a href="#">2056 (2012)</a> of 5 July 2012)</b>   |  |
| Respect for the constitutional order   | Calls upon all national stakeholders in Mali to create the necessary conditions for enabling the Transitional authorities to fully exercise their primary responsibilities and to ensure the full restoration and preservation of constitutional order (para. 2)   |
| Cessation of hostilities   | Demands the full, immediate and unconditional cessation of hostilities by rebel groups in the North of Mali (para. 9)  |
| Council action in the event of failure to comply   | Takes note of the decisions of ECOWAS and AU to adopt targeted sanctions in Mali and reserves the right to consider appropriate measures as necessary (para. 6)  |
| <b>Reports of the Secretary-General on Sudan and South Sudan<sup>73</sup> (resolution <a href="#">2046 (2012)</a> of 2 May 2012)</b> |  |
| Cessation of hostilities   | Decides that Sudan and South Sudan shall take the following actions with immediate effect unless otherwise specified below:<br><br>Immediately cease all hostilities, including aerial bombardments, with the parties formally conveying their commitment in this respect to the Chairperson of the African Union Commission and the President of the Security Council not later than 48 hours from the adoption of this resolution (para. 1(i))   |
| Withdrawal of armed forces   | Unconditionally withdraw all of their armed forces to their side of the border, in accordance with previously adopted Agreements, including the Agreement on the Border Monitoring Support Mission of 30 July 2011 (para. 1 (ii))  |
| Activate border security mechanisms  | Activate, within no more than a week of the adoption of this resolution, the necessary border security mechanisms, namely the Joint Border Verification and Monitoring Mechanism (JBVMM) and the Safe Demilitarized Border Zone (SDBZ), in accordance with the administrative and security map presented to the Parties by the AUHIP in November 2011, it being understood that this map in no way prejudices ongoing negotiations on the disputed areas and demarcation of the border (para. 1 (iii)) |
| Cessation of harbouring of armed elements  | Cease the harbouring of, or support to, rebel groups against the other State (para. 1 (iv))  |
| Cessation of hostile propaganda  | Immediately cease hostile propaganda and inflammatory statements in the media, as well as any attacks against the property, religious and cultural symbols belonging to the nationals of the other State, with the two governments assuming full responsibility for the protection of each other's nationals in line with international principles, consistent with the Framework Agreement on the Status of Nationals of the  |

<sup>73</sup> The Council agreed that issues pertaining to the Sudan and South Sudan, would, as from 11 November 2013, be considered under the agenda item entitled "Reports of the Secretary-General on the Sudan and South Sudan" ([S/2013/657](#)).

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| <i>Type of measure</i>                           | <i>Provision</i>   |
|--|--|
|  | Other State and Related Matters initialled in March 2012 (para. 1 (vi))  |
| Implementation of transitional arrangements      | Implement pending aspects of the 20 June 2011 Agreement on Temporary Security and Administrative Arrangements for the Abyei Area, in particular the redeployment, within no more than two weeks of the adoption of this resolution, of all Sudanese and South Sudanese forces out of the Abyei Area (para. 1 (vii))  |
| Resumption of negotiations                       | Decides that Sudan and South Sudan shall unconditionally resume negotiations, under the auspices of the AUHIP and with the support of the Chairman of IGAD, at a time to be set by the AUHIP in consultation with relevant international partners, but within no more than two weeks from the time of adoption of this resolution, to reach agreement on the following critical issues ... (para. 2)   |
| Council action in the event of failure to comply | Requests the Secretary-General to consult with the African Union on the implementation of this resolution and the decisions of the AU PSC, to work closely with the AUHIP in support of its facilitation efforts, and to inform the Security Council within 15 days and in two week intervals thereafter on the status of compliance by Sudan, South Sudan, and the SPLM-N with the decisions set forth in this resolution, and expresses its intention, in the event that any or all of the parties have not complied with the decisions set forth in this resolution, to take appropriate additional measures under Article 41 of the Charter as necessary (para. 6) |

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### **Section III – Measures not involving the use of armed force in accordance with Article 41 of the Charter**

#### *Article 41*

*The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.*

#### **Note**

This section covers decisions of the Security Council imposing measures not involving the use of force, pursuant to Article 41 of the Charter. During the period under review, the Council imposed sanctions measures under Chapter VII, Article 41, on Guinea-Bissau and the Central African Republic, modified the measures in connection with Somalia and Eritrea, Al-Qaida and associated individuals and entities, the Taliban and associated individuals and entities, Liberia, Democratic Republic of the Congo, Côte d'Ivoire, Sudan, Democratic People's Republic of Korea, and Libya, and expanded the measures on Somalia and the Democratic People's Republic of Korea. No changes were made to the measures imposed under Article 41 on Iraq, Lebanon and the Islamic Republic of Iran.

In addition, no judicial measures were imposed under Article 41 during the period under review. The tribunals for the former Yugoslavia and Rwanda continued to function in parallel with the International Residual Mechanism for the Criminal Tribunals, established in 2010 with a view to bringing those tribunals to a close.<sup>74</sup>

The Council expressly referred to Article 41 in the preambles of resolutions [2048 \(2012\)](#), [2049 \(2012\)](#), [2050 \(2012\)](#), [2094 \(2013\)](#), and [2105 \(2013\)](#), and in the operative provisions of resolutions [2046 \(2012\)](#) and [2051 \(2012\)](#).<sup>75</sup> The Council also expressly referred to Article 41 in presidential statements on the Sudan and Yemen, expressing its intention in each instance to consider further or appropriate measures under Article 41, if necessary.<sup>76</sup>

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<sup>74</sup> See Part IX, Section IV.

<sup>75</sup> Resolution [2046 \(2012\)](#), para. 6, and resolution [2051 \(2012\)](#), para. 6.

<sup>76</sup> [SPRST/2012/19](#), fourteenth paragraph (the Sudan) and [S/PRST/2013/3](#), fourth paragraph (Yemen).

This section is divided into two subsections. Subsection A outlines the decisions of the Security Council imposing, modifying or terminating measures under Article 41, in connection with items on the agenda of the Council of a thematic nature as well as country-specific. Subsection B examines salient issues from the deliberations of the Council related to Article 41, in connection with both thematic and country-specific agenda items.

## **A. Decisions of the Security Council relating to Article 41**

### *1. Decisions of a thematic nature relating to Article 41*

During the period under review, the Security Council adopted several decisions of a thematic nature containing provisions relating to Article 41, in connection with the following agenda items: “Children and armed conflict”, “Protection of civilians in armed conflict”, “Small arms and light weapons”, “The promotion and strengthening of the rule of law in the maintenance of international peace and security” and “Women and peace and security”.

The Council, through those decisions, expressed its readiness to adopt “targeted and graduated” sanctions measures against persistent perpetrators of violations and abuses against children and civilians in armed conflict,<sup>77</sup> and against perpetrators of sexual violence in conflict.<sup>78</sup> The Council also reaffirmed its responsibility to monitor arms embargoes and take “appropriate measures” to strengthen such embargoes.<sup>79</sup> Moreover, the Council recognized sanctions as an important tool in the maintenance and restoration of international peace and security, and expressed its commitment to ensuring fair procedures for placing individuals and entities on sanctions lists and for granting humanitarian exemptions.<sup>80</sup>

### *2. Country-specific decisions relating to Article 41*

During 2012 and 2013, the Council imposed sanctions measures in connection with two new country-specific situations,<sup>81</sup> while measures previously adopted under Article 41 in connection with twelve existing country-specific situations<sup>82</sup> remained in place, or were extended, modified, strengthened or terminated. The following contains descriptions and

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<sup>77</sup> Resolution [2068 \(2012\)](#), para. 3 (b) and [S/PRST/2013/8, para. 13](#).

<sup>78</sup> [S/PRST/2012/3, para. 4](#) and resolution [2106 \(2013\), para. 13](#).

<sup>79</sup> Resolution [2117 \(2013\), para. 6](#).

<sup>80</sup> [S/PRST/2012/1, para. 15](#).

<sup>81</sup> Guinea-Bissau and Central African Republic.

<sup>82</sup> Somalia and Eritrea, Taliban, Al-Qaida, Iraq, Liberia, Democratic Republic of the Congo, Côte d’Ivoire, Sudan, Lebanon, Democratic People’s Republic of Korea, Iran (Islamic Republic of ), and Libya.

tables concerning decisions of the Council relating to changes, if any, to country-specific sanctions regimes during the period under review, in chronological order from the earliest regime established (Somalia and Eritrea) to the most recent (Central African Republic).

An overview of the sanctions measures in place during 2012-2013 is provided in Table 5 (resolutions) and Table 6 (measures) below.

Table 5  
Overview of country-specific decisions imposing measures pursuant to Article 41 that were in place in 2012-2013

| Measures taken in connection with   | Somalia and Eritrea  | Taliban and associated individuals and entities  | Al-Qaida and associated individuals and entities   | Iraq   | Liberia  | Democratic Republic of the Congo   | Côte d'Ivoire  | Sudan   | Lebanon  | Democratic People's Republic of Korea   | Islamic Republic of Iran   | Libya  | Guinea-Bissau[1]            | Central African Republic[2] |
|---|--|--|--|--|--|--|--|---|--|---|--|--|-----------------------------|-----------------------------|
| Resolution establishing measures and selected resolutions subsequently modifying the measures <sup>83</sup> | <a href="#">733 (1992)</a><br><a href="#">1356 (2001)</a><br><a href="#">1425 (2002)</a><br><a href="#">1725 (2006)</a><br><a href="#">1744 (2007)</a><br><a href="#">1816 (2008)</a><br><a href="#">1844 (2008)</a><br><a href="#">1851 (2008)</a><br><a href="#">1872 (2009)</a><br><a href="#">1907 (2009)</a><br><a href="#">1910 (2010)</a><br><a href="#">1916 (2010)</a><br><a href="#">2002 (2011)</a><br><a href="#">2023</a> | <a href="#">1267 (1999)</a><br><a href="#">1333 (2000)</a><br><a href="#">1388 (2002)</a><br><a href="#">1390 (2002)</a><br><a href="#">1452 (2002)</a><br><a href="#">1699 (2006)</a><br><a href="#">1735 (2006)</a><br><a href="#">1822 (2008)</a><br><a href="#">1904 (2009)</a><br><a href="#">1988 (2011)</a> | <a href="#">1267 (1999)</a><br><a href="#">1333 (2000)</a><br><a href="#">1388 (2002)</a><br><a href="#">1390 (2002)</a><br><a href="#">1452 (2002)</a><br><a href="#">1699 (2006)</a><br><a href="#">1735 (2006)</a><br><a href="#">1822 (2008)</a><br><a href="#">1904 (2009)</a><br><a href="#">1989 (2011)</a> | <a href="#">1483 (2003)</a><br><a href="#">1546 (2004)</a><br><a href="#">1956 (2010)</a><br><a href="#">1957 (2010)</a> | <a href="#">1521 (2003)</a><br><a href="#">1532 (2004)</a><br><a href="#">1683 (2006)</a><br><a href="#">1688 (2006)</a><br><a href="#">1689 (2006)</a><br><a href="#">1731 (2006)</a><br><a href="#">1753 (2007)</a><br><a href="#">1903 (2009)</a> | <a href="#">1493 (2003)</a><br><a href="#">1533 (2004)</a><br><a href="#">1596 (2005)</a><br><a href="#">1649 (2005)</a><br><a href="#">1671 (2006)</a><br><a href="#">1698 (2006)</a><br><a href="#">1756 (2007)</a><br><a href="#">1856 (2008)</a><br><a href="#">1857 (2008)</a><br><a href="#">1925 (2010)</a><br><a href="#">1952 (2010)</a><br><a href="#">2021 (2011)</a> | <a href="#">1572 (2004)</a><br><a href="#">1584 (2005)</a><br><a href="#">1643 (2005)</a><br><a href="#">1893 (2005)</a><br><a href="#">1946 (2010)</a><br><a href="#">1975 (2011)</a> | <a href="#">1556 (2004)</a><br><a href="#">1591 (2005)</a><br><a href="#">1672 (2006)</a><br><a href="#">1706 (2006)</a><br><a href="#">1945 (2010)</a> | <a href="#">1636 (2005)</a><br><a href="#">1701 (2006)</a> | <a href="#">1695 (2006)</a><br><a href="#">1718 (2006)</a><br><a href="#">1874 (2009)</a> | <a href="#">1737 (2006)</a><br><a href="#">1747 (2007)</a><br><a href="#">1803 (2008)</a><br><a href="#">1929 (2010)</a> | <a href="#">1970 (2011)</a><br><a href="#">1973 (2011)</a><br><a href="#">2009 (2011)</a><br><a href="#">2016 (2011)</a> | <a href="#">2048 (2012)</a> | <a href="#">2127 (2013)</a> |

<sup>83</sup> The selected resolutions included in this chart are those establishing new sanctions measures, modifying existing measures (including those creating exemptions), and terminating measures. Resolutions that solely provided extensions or reiterations of sanctions measures are not included.

[\(2011\)](#)

|   |                        |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|---|------------------------|------------------------|------------------------|------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| <i>Resolutions<br/>adopted in<br/>2012-2013</i> | <a href="#">2036</a>   | <a href="#">2082</a>   | <a href="#">2083</a>   | No<br>resolutions<br>adopted | <a href="#">2079</a>   | <a href="#">2076</a>   | <a href="#">2045</a>   | <a href="#">2035</a>   | No<br>resolutions<br>adopted | <a href="#">2050</a>   | <a href="#">2049</a>   | <a href="#">2040</a>   | <a href="#">2048</a>   | <a href="#">2127</a>   |                        |                        |
|   | <a href="#">(2012)</a> | <a href="#">(2012)</a> | <a href="#">(2012)</a> |                              | <a href="#">(2012)</a> | <a href="#">(2012)</a> | <a href="#">(2012)</a> | <a href="#">(2012)</a> |                              | <a href="#">(2012)</a> | <a href="#">(2013)</a> |
|   | <a href="#">2060</a>   |                        |                        |                              | <a href="#">2128</a>   | <a href="#">2078</a>   | <a href="#">2062</a>   | <a href="#">2091</a>   |                              | <a href="#">2091</a>   | <a href="#">2087</a>   | <a href="#">2105</a>   | <a href="#">2095</a>   | <a href="#">2092</a>   | <a href="#">2092</a>   |                        |
|   | <a href="#">(2012)</a> |                        |                        |                              | <a href="#">(2013)</a> | <a href="#">(2012)</a> | <a href="#">(2012)</a> | <a href="#">(2013)</a> |                              | <a href="#">(2013)</a> |                        |
|   | <a href="#">2077</a>   |                        |                        |                              |                        | <a href="#">2098</a>   | <a href="#">2101</a>   | <a href="#">2113</a>   |                              | <a href="#">2113</a>   | <a href="#">2094</a>   |                        |                        |                        |                        |                        |
|   | <a href="#">(2012)</a> |                        |                        |                              |                        | <a href="#">(2013)</a> | <a href="#">(2013)</a> | <a href="#">(2013)</a> |                              | <a href="#">(2013)</a> | <a href="#">(2013)</a> |                        |                        |                        |                        |                        |
|   | <a href="#">2093</a>   |                        |                        |                              |                        |                        | <a href="#">2112</a>   |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|   | <a href="#">(2013)</a> |                        |                        |                              |                        |                        | <a href="#">(2013)</a> |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|   | <a href="#">2111</a>   |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|   | <a href="#">(2013)</a> |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|   | <a href="#">2124</a>   |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
|   | <a href="#">(2013)</a> |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
| <a href="#">2125</a>                            |                        |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |
| <a href="#">(2013)</a>                          |                        |                        |                        |                              |                        |                        |                        |                        |                              |                        |                        |                        |                        |                        |                        |                        |

<sup>[1]</sup> Imposition of new measures pursuant to resolution [2048 \(2012\)](#) of 18 May 2012.

<sup>[2]</sup> Imposition of new measures pursuant to resolution [2127 \(2013\)](#) of 5 December 2013.

**Table 6**  
**Overview of measures imposed pursuant to Article 41 or in place in 2012-2013**

| <i>Measures taken in connection with</i>               | <i>Sanctions measures</i>  |  |   |             |                |   |                      |              |                |  |                                 |              |                      |                                 |
|--|----------------------------|--|---|-------------|----------------|---|----------------------|--------------|----------------|--|---------------------------------|--------------|----------------------|---------------------------------|
|  | <i>Somalia and Eritrea</i> | <i>Taliban and associated individuals and entities</i> | <i>Al-Qaida and associated individuals and entities</i> | <i>Iraq</i> | <i>Liberia</i> | <i>Democratic Republic of the Congo</i> | <i>Côte d'Ivoire</i> | <i>Sudan</i> | <i>Lebanon</i> | <i>Democratic People's Republic of Korea</i> | <i>Islamic Republic of Iran</i> | <i>Libya</i> | <i>Guinea-Bissau</i> | <i>Central African Republic</i> |
| <i>Arms embargo</i>                                    | X                          | X  | X   | X           | X              | X                                       | X                    | X            | X              | X  | X                               | X            |                      | X                               |
| <i>Travel ban or restrictions</i>                      | X                          | X  | X   |             | X              | X                                       | X                    | X            | X              | X  | X                               | X            | X                    |                                 |
| <i>Assets freeze</i>                                   | X                          | X  | X   | X           | X              | X                                       | X                    | X            | X              | X  | X                               | X            |                      |                                 |
| <i>Ban on arms exports by target state</i>             |                            |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Business restrictions</i>                           | X (Eritrea)                |  |   |             |                |   |                      |              |                |  |                                 |              | X                    |                                 |
| <i>Financial restrictions</i>                          | X (Eritrea)                |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Non-proliferation measures</i>                      |                            |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Prohibition on bunkering services</i>               |                            |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Public financial support for trade restrictions</i> |                            |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Restrictions on ballistic missiles</i>              |                            |  |   |             |                |   |                      |              |                | X  | X                               |              |                      |                                 |
| <i>Transport and aviation sanctions</i>                |                            |  |   |             |                |   |                      | X            |                |  |                                 | X            |                      |                                 |
| <i>Diamond embargo</i>                                 |                            |  |   |             |                |   | X                    |              |                |  |                                 |              |                      |                                 |
| <i>Diplomatic/overseas representation restrictions</i> |                            |  |   |             |                |   |                      |              |                | X  |                                 |              |                      |                                 |

*Luxury goods  
embargo*

X

*Enforcement measures*

| <i>Measures taken in connection with</i> | <i>Somalia and Eritrea</i> | <i>Taliban and associated individuals and entities</i> | <i>Al-Qaida and associated individuals and entities</i> | <i>Iraq</i> | <i>Liberia</i> | <i>Democratic Republic of the Congo</i> | <i>Côte d'Ivoire</i> | <i>Sudan</i> | <i>Lebanon</i> | <i>Democratic People's Republic of Korea</i> | <i>Islamic Republic of Iran</i> | <i>Libya</i> | <i>Guinea-Bissau</i> | <i>Central African Republic</i> |
|--|----------------------------|--|---|-------------|----------------|---|----------------------|--------------|----------------|--|---------------------------------|--------------|----------------------|---------------------------------|
| <i>Seizing of arms</i>                   | X                          |  |   |             | X              | X                                       | X                    |              |                | X  | X                               | X            |                      | X                               |
| <i>Cargo inspections</i>                 | X (Eritrea)                |  |   |             |                | X                                       | X                    |              |                | X  | X                               |              |                      |                                 |
| <i>Transport and aviation control</i>    |                            |  |   |             |                | X                                       |                      |              |                |  |                                 | X            |                      |                                 |
| <i>Border / customs controls</i>         |                            |  |   |             |                | X                                       |                      |              |                |  |                                 |              |                      |                                 |

(a) Somalia and Eritrea

During the biennium under review in this Supplement, the Security Council adopted seven resolutions concerning the sanctions measures on Somalia and Eritrea, more than any other sanctions regime during this period. As further described below, the Council made a number of modifications to the sanctions measures concerning Somalia and Eritrea, including establishing new exemptions to the respective arms embargoes on Somalia and Eritrea, extending certain exemptions to the assets freeze, and modifying the reporting obligations applicable to Somalia as well as to all Member States. The Council also imposed a new sanctions measure in the form of a charcoal ban on Somalia. An overview of changes to the sanctions measures concerning Somalia and Eritrea is provided in Table 7.

On 25 July 2012, the Council, by resolution [2060 \(2012\)](#), created an exemption to the arms embargo on Somalia for “supplies of weapons and military equipment, or the provision of assistance, solely for the support of or use by the United Nations Political Office for Somalia” (UNPOS).<sup>84</sup> By resolution [2093 \(2013\)](#) of 6 March 2013, the Council extended the exemption to the arms embargo to United Nations personnel, including UNPOS and its successor mission, and, under certain conditions, the strategic partners of the African Union Mission in Somalia (AMISOM).<sup>85</sup>

By the same resolution, the Council partially lifted the arms embargo for “deliveries of weapons or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people”.<sup>86</sup> By resolution [2111 \(2013\)](#) of 24 July 2013 the Council extended this partial lifting of the arms embargo until 6 March 2014,<sup>87</sup> except in relation to items listed in the annex to that resolution, including surface to air missiles, anti-tank guided weapons, and weapon sights with a night vision capability, which could be supplied to the Federal Government of Somalia only upon approval in advance, on a case-by-case basis, by the Committee established pursuant to resolutions [751 \(1992\)](#) and [1907 \(2009\)](#).<sup>88</sup>

The Council created exemptions to the arms embargo that had been imposed on Eritrea by resolution [1907 \(2009\)](#) in response to the support Eritrea had been providing to

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<sup>84</sup> Resolution [2060 \(2012\)](#), para. 10.

<sup>85</sup> Resolution [2093 \(2013\)](#), paras. 36 -37.

<sup>86</sup> *Ibid.*, para. 33.

<sup>87</sup> Resolution [2111 \(2013\)](#), para. 6.

<sup>88</sup> *Ibid.*, para. 7.

armed groups engaged in undermining peace and reconciliation in Somalia and regional stability. In resolution [2060 \(2012\)](#), the Council decided that the arms embargo “shall not apply to protective clothing including flak jackets and military helmets, temporarily exported to Eritrea by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only”,<sup>89</sup> or to supplies of “non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee”.<sup>90</sup>

In addition, by resolution [2111 \(2013\)](#) of 24 July 2013, the Council consolidated the exemptions to the arms embargo on Somalia and Eritrea in one single resolution.

With regard to the assets freeze, established in resolution [1844 \(2008\)](#) on individuals and entities designated by the Committee pursuant to criteria for listing provided in that same resolution, the Council extended earlier exemptions to the assets freeze for “payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia” until 25 October 2014.<sup>91</sup>

Adopting a new sanctions measure, the Council, by resolution [2036 \(2012\)](#) of 22 February 2012, imposed a ban on the export and direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia.<sup>92</sup> Further, the Council, considering that the commerce of charcoal “may pose a threat to the peace, security, or stability of Somalia”, decided that the “Committee may designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution [1844 \(2008\)](#)”.<sup>93</sup>

During the period under review, the Council also modified reporting obligations concerning Somalia as well as all Member States. Firstly, by resolution [2036 \(2012\)](#) the Council demanded that all Member States report to the Committee within 120 days on the steps they had taken towards effective implementation of the charcoal ban.<sup>94</sup> Secondly, by resolution [2093 \(2013\)](#), adopted on 6 March 2013, the Federal Government of Somalia was requested to report to the Council within one month, and every six months thereafter, on the structure of the Security Forces of the Federal Government of Somalia; the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military

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<sup>89</sup> Resolution [2060 \(2012\)](#), para. 11.

<sup>90</sup> *Ibid.*, para. 12.

<sup>91</sup> Resolution [2111 \(2013\)](#), para. 22.

<sup>92</sup> Resolution [2036 \(2012\)](#), para. 22.

<sup>93</sup> *Ibid.*, para. 23.

<sup>94</sup> *Ibid.*, para. 22.

equipment by the Security Forces; and the procedures and codes of conduct in place for the registration, distribution, use and storage of weapons by the Security Forces, and training needs in that regard.<sup>95</sup>

In resolution [2060 \(2012\)](#), the Council expressed its readiness to apply targeted sanctions against individuals and entities who met the listing criteria provided in resolutions [1844 \(2008\)](#) and [2002 \(2011\)](#).<sup>96</sup> In resolution [2093 \(2013\)](#), the Council decided to review within twelve months the effects of the modifications to the sanctions regime introduced by paragraphs 33 to 41 of that resolution.<sup>97</sup>

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<sup>95</sup> Resolution [2093 \(2013\)](#), para. 39.

<sup>96</sup> Resolution [2060 \(2012\)](#), paras. 1-3.

<sup>97</sup> Resolution [2093 \(2013\)](#), para. 42.

Table 7

**Changes to the measures imposed pursuant to Article 41 in connection with Somalia and Eritrea in 2012-2013**

| <i>Provisions related to sanctions measures</i> | <i>Resolution(s) establishing measures</i>    | <i>Resolution(s) adopted during the period</i> |                                    |                                    |  |  |                                    |                                    |
|---|---|--|------------------------------------|------------------------------------|--|--|------------------------------------|------------------------------------|
|   |   | <a href="#"><u>2036 (2012)</u></a>             | <a href="#"><u>2060 (2012)</u></a> | <a href="#"><u>2077 (2012)</u></a> | <a href="#"><u>2093 (2013)</u></a>             | <a href="#"><u>2111 (2013)</u></a>                 | <a href="#"><u>2124 (2013)</u></a> | <a href="#"><u>2125 (2013)</u></a> |
| Arms embargo                                    | <a href="#"><u>733 (1992)</u></a> , para. 5   |  | exemption, para. 10                | exemption, para. 14                | exemptions, para. 33, 36-38 modified, para. 34 | exemption, para. 6, 10, 13-15 modified, para. 6-8, |                                    | exemption, para. 14                |
| Arms embargo (Eritrea)                          | <a href="#"><u>1907 (2009)</u></a> , para. 5  |  | exemptions, para. 11, 12           |                                    |  | exemption, para. 12-13                             |                                    |                                    |
| Assets freeze                                   | <a href="#"><u>1844 (2008)</u></a> , para. 3  |  | exemption, para. 7                 |                                    |  | exemption, para. 22                                |                                    |                                    |
| Charcoal ban                                    | <a href="#"><u>2036 (2012)</u></a> , para. 22 | New  |                                    |                                    |  |  |                                    |                                    |

b) The Taliban and associated individuals and entities

On 17 December 2012, the Security Council, by resolution [2082 \(2012\)](#), extended the application of the sanctions measures, namely the assets freeze, travel restrictions and arms embargo, on the Taliban and other individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan, as designated by the Committee established by resolution [1988 \(2011\)](#).<sup>98</sup>

By the same resolution, the Council recalled that exemptions to the assets freeze created by earlier resolutions, namely [1452 \(2002\)](#) and [1735 \(2006\)](#), continued to be available to Member States.<sup>99</sup> Further, recognizing the “importance of a comprehensive political process in Afghanistan to support peace and reconciliation among all Afghans”, the Council decided that the travel ban did not apply to individuals whose travel was “necessary to participate in meetings in support of peace and reconciliation”, as confirmed to the Committee by the Government of Afghanistan.<sup>100</sup> That exemption to the travel ban, to be granted only for the requested period of time and for travel limited to a specified location or locations, was conditional on the determination by the Committee, on a case-by-case basis, that the concerned individuals’ entry or transit was justified.<sup>101</sup> The listed individuals would remain subject to the other sanctions measures in the resolution. Finally, the Council expressed its intention to review the implementation of the measures in 18 months, and make adjustments as necessary.<sup>102</sup>

Table 8 provides an overview of the changes to the sanctions measures during the period under review.

Table 8  
**Changes to the measures imposed pursuant to Article 41 in connection with the Taliban and associated individuals and entities in 2012-2013**

|   | <i>Resolution(s) establishing measures</i> | <i>Resolution(s) adopted during the period</i><br><a href="#">2082 (2012)</a> |
|---|--|---|
| <b>Provisions related to sanctions measures</b> |  |   |
| Arms embargo                                    | <a href="#">1333 (2000)</a> , para. 5      | reaffirmed, para. 1 (c)   |

<sup>98</sup> Resolution [2082 \(2012\)](#), para. 1.

<sup>99</sup> Ibid., para. 8.

<sup>100</sup> Ibid., paras. 9 and 10.

<sup>101</sup> Ibid., para. 10.

<sup>102</sup> Ibid., para. 39.

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|                            |   |   |
|----------------------------|---|---|
| Assets freeze              | <a href="#">1267 (1999)</a> , para. 4 (b) | reaffirmed, para. 1 (a); exemption, para. 8                   |
| Travel ban or restrictions | <a href="#">1390 (2002)</a> , para. 2 (b) | reaffirmed, para. 1 (b); exemption, para. 1 (b), 9, 10 and 11 |

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c) Al-Qaida and associated individuals and entities

On 17 December 2012, the Security Council, by resolution [2083 \(2012\)](#), extended the sanctions measures, namely the assets freeze, travel ban and arms embargo, on Al-Qaida and associated individuals, groups, undertakings and entities,<sup>103</sup> with modifications to the assets freeze and the travel ban. An overview of the changes to the sanctions measures during the period under review is provided in Table 9.

The assets freeze on designated individuals and entities associated with Usama bin Laden and Al-Qaida, including proceeds derived from crime and narcotic drugs and payments of ransom to individuals and entities on the sanctions list,<sup>104</sup> was modified with regard to assets that had been frozen as a result of the listing of Usama bin Laden, who was killed in May 2011. The Council required Member States to submit a request to unfreeze such assets to the Committee established by resolution [1267 \(1999\)](#), with assurances that the assets would “not be transferred, directly or indirectly, to a listed individual, group, undertaking or entity, or otherwise used for terrorist purposes in line with Security Council resolution [1373 \(2001\)](#)”.<sup>105</sup> The assets could only be unfrozen in the absence of an objection by a Committee member. The Council stressed “the exceptional nature” of the provision, emphasizing that it was not to be considered as establishing a precedent.<sup>106</sup> The Council also encouraged Member States to make use of available exemptions to the assets freeze provided for in earlier resolutions.<sup>107</sup>

By the same resolution, the Council authorized the Ombudsperson,<sup>108</sup> in instances in which the Ombudsperson was unable to interview a petitioner in his or her state of residence, to request the Committee to consider granting an exemption to the travel ban “for the sole purpose

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<sup>103</sup> Resolution [2083 \(2012\)](#), para. 1.

<sup>104</sup> Resolution [2083 \(2012\)](#), paras. 5 and 6.

<sup>105</sup> *Ibid.*, para. 32.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*, para. 8.

<sup>108</sup> The Office of the Ombudsperson was created by resolution [1904 \(2009\)](#), para. 4, to assist the Committee with delisting requests.

of allowing the petitioner to travel to another State to be interviewed by the Ombudsperson for a period no longer than necessary”.<sup>109</sup>

The Council decided to review the sanctions measures, with a view to possibly further strengthening them, in 18 months, or sooner if necessary.<sup>110</sup>

Table 9

**Changes to the measures imposed pursuant to Article 41 in connection with Al-Qaida and associated individuals and entities in 2012-2013**

|   | <i>Resolution(s) establishing measures</i> | <i>Resolution(s) adopted during the period</i><br><u><a href="#">2083 (2012)</a></u> |
|---|--|--|
| <b>Provisions related to sanctions measures</b> |  |  |
| Arms embargo                                    | <a href="#">1333 (2000)</a> , para. 5      | reaffirmed, para. 1 (c)  |
| Assets freeze                                   | <a href="#">1267 (1999)</a> , para. 4 (b)  | reaffirmed, para. 1 (a); modified, para. 32  |
| Travel ban or restrictions                      | <a href="#">1390 (2002)</a> , para. 2 (b)  | reaffirmed, para. 1 (b); exemption, para. 36   |

d) Iraq

The Security Council did not adopt any new resolutions concerning the remaining sanctions measures on Iraq, which, during the period under review, consisted of an arms embargo, with exemptions,<sup>111</sup> and a freeze on financial assets of the former Iraqi regime and its senior officials, state bodies, corporations and agencies. The Committee established by resolution [1518 \(2003\)](#) continued to oversee the implementation of the assets freeze and maintain the list of individuals and entities to whom the assets freeze applied.

e) Liberia

The Security Council adopted two resolutions concerning the sanctions measures on Liberia in 2012-13, which, during this period, consisted of an arms embargo, a travel ban and an

<sup>109</sup> Resolution [2083 \(2012\)](#), para. 36.

<sup>110</sup> Ibid., para. 63.

<sup>111</sup> Resolution [1546 \(2004\)](#), para. 21.

assets freeze. Table 10 provides an overview of the changes to the measures during the period under review.

On 12 December 2012, the Council, by resolution [2079 \(2012\)](#), extended the arms embargo and the travel ban for a period of 12 months,<sup>112</sup> and reaffirmed that the assets freeze established by resolution [1532 \(2004\)](#) on former Liberian President Charles Taylor, his immediate family members, senior officials of the former regime, and other associates and allies, remained in force, demanding that the Government of Liberia make all necessary efforts to fulfil its obligations to implementing the assets freeze.<sup>113</sup> The Council, recognizing the progress achieved in the stabilization of Liberia, expressed its intention to review and possibly modify or lift all or part of the sanctions measures at the end of the 12 month period.<sup>114</sup>

By resolution [2128 \(2013\)](#) of 10 December 2013, the Council welcomed the “sustained progress” made by the Government of Liberia in rebuilding the country, but determined that the situation in Liberia remained fragile and continued to constitute a threat to international peace and security in the region.<sup>115</sup> Consequently, the Council renewed the arms embargo and travel ban for a period of another 12 months,<sup>116</sup> and reaffirmed that the assets freeze remained in force.<sup>117</sup> The Council did, however, modify the notification requirements associated with the arms embargo,<sup>118</sup> by providing that notification for non-lethal materials and associated training was no longer required, that the Liberian authorities now had the primary responsibility of notifying the Committee established by resolution [1521 \(2003\)](#) of the shipment of any supplies of lethal arms and related material or military assistance, advice or training for the Government of Liberia, and that Member States could, in the alternative, make such notifications in consultation with the Government of Liberia.<sup>119</sup> The Council decided to review the sanctions measures six months following the adoption of the resolution, “with a view to modify or lift all

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<sup>112</sup> Resolution [2079 \(2012\)](#), para. 2 (a) and (b).

<sup>113</sup> *Ibid.*, para. 1.

<sup>114</sup> *Ibid.*, para. 2 (c).

<sup>115</sup> Resolution [2128 \(2013\)](#), second and fifteenth preambular paragraphs.

<sup>116</sup> *Ibid.*, para. 2 (a) and (b).

<sup>117</sup> *Ibid.*, para. 1.

<sup>118</sup> The Council had placed, by resolution [1903 \(2009\)](#), para. 6, a requirement on States to notify the Committee established by resolution [1521 \(2003\)](#) in advance of shipments of arms and military assistance or training they provided to the Government of Liberia.

<sup>119</sup> Resolution [2128 \(2013\)](#), para. 2 (b).

or part of the measures”, dependent upon the progress made by Liberia towards meeting the conditions for termination of the measures set out in resolution [1521 \(2003\)](#).<sup>120</sup>

Table 10  
**Changes to the measures imposed pursuant to Article 41 in connection with Liberia in 2012-2013**

|   | <i>Resolution(s) establishing measures</i> | <i>Resolution(s) adopted during the period</i> |   |
|---|--|--|---|
|   |  | <a href="#">2079 (2012)</a>                    | <a href="#">2128 (2013)</a>                               |
| <b>Provisions related to sanctions measures</b> |  |  |   |
| Arms embargo                                    | <a href="#">1521 (2003)</a> , para. 2      | extended, para. 2 (b)                          | extended, para. 2 (b)<br>modified, para. 2 (b) (i) – (iv) |
| Assets freeze                                   | <a href="#">1532 (2004)</a> , para. 1      | reaffirmed, para. 1                            | reaffirmed, para. 1                                       |
| Travel ban or restrictions                      | <a href="#">1521 (2003)</a> , para. 4      | extended, para. 2 (a)                          | extended, para. 2 (a)                                     |

f) Democratic Republic of the Congo

In October 2012, responding to the emergence of the M23 rebel military group in eastern Democratic Republic of the Congo, the Council issued a presidential statement condemning the militia’s attacks on civilians, peacekeepers and humanitarian workers, its human rights abuses, including summary executions, sexual violence and recruitment of child soldiers, as well as its attempts to establish a parallel administration in the region.<sup>121</sup> The Council expressed its intention “to apply targeted sanctions against the leadership of M23 and those acting in violation of the sanctions regime”.<sup>122</sup> By resolution [2076 \(2012\)](#) of 20 November 2012, the Council reiterated its condemnation of the M23,<sup>123</sup> called on the Committee established by resolution [1533 \(2004\)](#) to review, “as a matter of urgency”, the activities of named M23 commanders and others who met the criteria for designation,<sup>124</sup> and expressed its intention to consider additional targeted sanctions against the leadership of the M23 and those acting in violation of the sanctions regime.<sup>125</sup>

<sup>120</sup> Ibid., para. 4.

<sup>121</sup> [S/PRST/2012/22](#), second paragraph.

<sup>122</sup> Ibid., third paragraph.

<sup>123</sup> Resolution [2076 \(2012\)](#), para. 1-3.

<sup>124</sup> Ibid., para. 7.

<sup>125</sup> Ibid., para. 8.

On 28 November 2012 the Council adopted resolution [2078 \(2012\)](#), by which it extended the sanctions measures concerning the Democratic Republic of the Congo, including the arms embargo, the assets freeze and travel restrictions, and the border and transport and aviation controls.<sup>126</sup> The Council renewed the exemptions to the travel ban, but modified them to include, inter alia, cases where the entry or transit of a listed individual was “necessary for the fulfilment of judicial process”.<sup>127</sup>

By the same resolution, the Council expanded the criteria for listing individuals and entities subject to the assets freeze and travel ban to include individuals or entities “acting on behalf of or at the direction of a designated individual or entity or controlled by a designated individual”, and those who planned, sponsored or participated in attacks against peacekeepers in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).<sup>128</sup> The Council further expressed its intention to consider additional targeted sanctions against the leadership of the M23 and those who provided external support to the M23,<sup>129</sup> and to review the sanctions measures, with a view to adjusting them, if appropriate, by no later than 1 February 2014.<sup>130</sup>

In resolution [2098 \(2013\)](#) of 28 March 2013, the Council welcomed the signing by the Democratic Republic of the Congo and its neighbouring countries of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the region in February 2013,<sup>131</sup> and reiterated its condemnation of the M23 and other armed groups operating in the Democratic Republic of the Congo.<sup>132</sup> The Council extended the mandate of MONUSCO, including the authorization for MONUSCO to monitor the implementation of the arms embargo, with the authority to seize, collect and dispose of arms and related material whose presence in the Democratic Republic of the Congo violated the terms of the embargo.<sup>133</sup>

Table 11 provides an overview of the changes to the sanctions measures concerning the Democratic Republic of the Congo during the period under review.

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<sup>126</sup> Resolution [2078 \(2012\)](#), paras. 1-3 and 10.

<sup>127</sup> *Ibid.*, para. 10 (d).

<sup>128</sup> *Ibid.*, para. 4 (h) and (i).

<sup>129</sup> *Ibid.*, para. 9.

<sup>130</sup> *Ibid.*, para. 23.

<sup>131</sup> Resolution [2098 \(2013\)](#), para. 1.

<sup>132</sup> *Ibid.*, para. 8.

<sup>133</sup> *Ibid.*, para. 12 (c).

Table 11

**Changes to the measures imposed pursuant to Article 41 in connection with the Democratic Republic of the Congo in 2012-2013**

|   | <i>Resolution(s) establishing measures</i>      | <i>Resolution(s) adopted during the period</i> |   |                             |
|---|---|--|---|-----------------------------|
|   |   | <a href="#">2076 (2012)</a>                    | <a href="#">2078 (2012)</a>                       | <a href="#">2098 (2013)</a> |
| <b>Provisions related to sanctions measures</b>   |   |  |   |                             |
| Arms embargo                                      | <a href="#">1493 (2003)</a> , para. 20          |  | extended, para. 1                                 |                             |
| Assets freeze                                     | <a href="#">1596 (2005)</a> , para. 15          |  | extended, para. 3                                 |                             |
| Border / customs controls                         | <a href="#">1596 (2005)</a> , para. 10          |  | extended, para. 2                                 |                             |
| Measures on transport and aviation                | <a href="#">1596 (2005)</a> , para. 6-8, 10, 12 |  | extended, para. 2                                 |                             |
| Travel ban  | <a href="#">1596 (2005)</a> , para. 13          |  | extended, para. 10;<br>modified, para. 10 (a)-(d) |                             |
| <b>Provisions related to enforcement measures</b> |   |  |   |                             |
| Seizing of arms                                   | <a href="#">1533 (2004)</a> , para. 4           |  |   | extended, para. 12 (c)      |

g) Côte d'Ivoire

During the biennium under review, the Council adopted four resolutions to extend the sanctions measures and related enforcement measures concerning Côte d'Ivoire. An overview of the changes to the sanctions measures pursuant to these resolutions is provided in Table 12.

By resolution [2045 \(2012\)](#) of 26 April 2012, the Council decided to replace the arms embargo provisions in resolution [1572 \(2004\)](#) with new provisions re-imposing the embargo.<sup>134</sup> However, the Council created several exemptions to the embargo, for: the provision of training and expertise related to security and military activities; supplies of civilian vehicles to the Ivorian security forces; supplies intended solely for the support of or use by the United Nations Operation in Côte d'Ivoire (UNOCI); supplies of non-lethal military equipment intended solely for humanitarian or protective use; supplies of protective clothing for the personal use of United Nations personnel, representatives of the media and humanitarian workers; supplies temporarily exported to the forces of a State evacuating its nationals from Côte d'Ivoire; supplies of non-lethal law enforcement equipment intended to enable the Ivorian security forces to maintain

<sup>134</sup> Resolution [2045 \(2012\)](#), paras. 1 and 2.

public order; and supplies of arms and other related lethal equipment to the Ivorian security forces, intended solely for security sector reform.<sup>135</sup> A number of those exemptions were to be approved in advance by the Committee established by resolution [1572 \(2004\)](#) to assist with the implementation of the sanctions measures.

The Council extended the remaining sanctions measures, namely the assets freeze, travel ban and diamond embargo, by resolutions [2045 \(2012\)](#) and [2101 \(2013\)](#). In connection with the arms embargo, the Council extended the authorization for UNOCI to conduct cargo inspections and to seize and destroy arms, by resolutions [2062 \(2012\)](#) and [2112 \(2013\)](#).

The Council expressed its intention to review the sanctions measures, as appropriate, in accordance with the progress achieved in Côte d'Ivoire in relation to, inter alia, disarmament, security sector reform and national reconciliation.<sup>136</sup>

Table 12  
**Changes to the measures imposed pursuant to Article 41 in connection with Côte d'Ivoire in 2012-2013**

|   | <i>Resolution(s) establishing measures</i> | <i>Resolution(s) adopted during the period</i> |                             |                             |                             |
|---|--|--|-----------------------------|-----------------------------|-----------------------------|
|   |  | <a href="#">2045 (2012)</a>                    | <a href="#">2062 (2012)</a> | <a href="#">2101 (2013)</a> | <a href="#">2112 (2013)</a> |
| <b>Provisions related to sanctions measures</b>   |  |  |                             |                             |                             |
| Arms embargo                                      | <a href="#">1572 (2004)</a> , para. 7      | modified, para. 1, 2; exemptions, para. 1, 3   |                             | extended, para. 1           |                             |
| Assets freeze                                     | <a href="#">1572 (2004)</a> , para. 11     | extended, para. 6                              |                             | extended, para. 6           |                             |
| Diamond embargo                                   | <a href="#">1643 (2005)</a> , para. 6      | extended, para. 6                              |                             | extended, para. 6           |                             |
| Travel ban  | <a href="#">1572 (2004)</a> , para. 9      | extended, para. 6                              |                             | extended, para. 6           |                             |
| <b>Provisions related to enforcement measures</b> |  |  |                             |                             |                             |
| Cargo inspections                                 | <a href="#">1584 (2005)</a> , para. 2 (a)  |  | extended, para. 1           |                             | extended, para. 1, 6 (e)    |
| Seizing of arms                                   | <a href="#">1584 (2005)</a> , para. 2 (b)  |  | extended, para. 1           |                             | extended, para. 1, 6 (e)    |

#### h) The Sudan

The Council adopted three resolutions concerning the sanctions measures on the Sudan during the period under review. By resolution [2035 \(2012\)](#), the Council ended the exemptions to

<sup>135</sup> Ibid., paras. 1 and 3.

<sup>136</sup> Resolution [2045 \(2012\)](#), para. 7 and 21; resolution [2101 \(2013\)](#), para. 6, 7 and 24.

the arms embargo that had been established in resolution [1591 \(2005\)](#) with respect to assistance and supplies provided in support of the implementation of the Comprehensive Peace Agreement concerning the Darfur region of the Sudan, signed in 2005 between the Government of the Sudan and the Sudan People’s Liberation Movement/Sudan People’s Liberation Army.<sup>137</sup> This was the only change to the sanctions measures concerning the Sudan during the period, as shown in Table 13.

By the same resolution, the Council also clarified that, in light of the creation of two new states in the Darfur region, references in previous resolutions to sub-regions of Darfur would apply to all the territory of Darfur.<sup>138</sup>

In resolutions [2035 \(2012\)](#) and [2091 \(2013\)](#), the Council urged all States to report to the Committee established by resolution [1591 \(2005\)](#) on the actions they had taken to implement the sanctions measures, and to be mindful of the risk that certain items continued to be converted to military purposes and transferred to Darfur.<sup>139</sup> In resolution [2091 \(2013\)](#), the Council also expressed its concern that technical assistance and support to the Sudan “could be used by the Government of Sudan to support military aircraft being used in violation of” the sanctions measures.<sup>140</sup> In resolution [2113 \(2013\)](#), the Council, condemning attacks on the United Nations-African Union Mission in Darfur (UNAMID), noted that individuals who planned, sponsored or participated in such attacks constituted a threat to stability in Darfur and might therefore meet the criteria for designation on the Sanctions List.<sup>141</sup>

Table 13  
**Changes to the measures imposed pursuant to Article 41 in connection with the Sudan in 2012-2013**

| <i>Resolution(s) establishing measures</i>      | <i>Resolution(s) adopted during the period</i> |                             |                             |
|---|--|-----------------------------|-----------------------------|
|   | <a href="#">2035 (2012)</a>                    | <a href="#">2091 (2013)</a> | <a href="#">2113 (2013)</a> |
| <b>Provisions related to sanctions measures</b> |  |                             |                             |

<sup>137</sup> Resolution [2035 \(2012\)](#), para. 4.

<sup>138</sup> *Ibid.*, para. 2.

<sup>139</sup> Resolution [2035 \(2012\)](#), paras. 11-13, and resolution [2091 \(2013\)](#), paras. 9, 12 and 13.

<sup>140</sup> Resolution [2091 \(2013\)](#), para. 2.

<sup>141</sup> Resolution [2113 \(2013\)](#), para. 11.

Arms embargo [1556 \(2004\)](#), paras. 7 and 8 modified, para. 4

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i) Lebanon

During the period under review, the Council did not make any modifications to the sanctions measures concerning Lebanon, consisting of an assets freeze and travel restrictions on individuals designated as suspected of involvement in the 14 February 2005 terrorist bombing in Beirut, Lebanon, that killed former Lebanese Prime Minister Rafiq Hariri and 22 others,<sup>142</sup> and an arms embargo on any entity or individual in Lebanon, unless travel was authorized by the Government of Lebanon or by the United Nations Interim Force in Lebanon (UNIFIL).<sup>143</sup>

j) Democratic People's Republic of Korea

The Security Council adopted three resolutions relating to the sanctions regime concerning the Democratic People's Republic of Korea in 2012 and 2013.<sup>144</sup> An overview of the changes to the sanctions measures pursuant to those resolutions is provided in Table 14.

By resolution [2087 \(2013\)](#) of 22 January 2013, the Council, condemned the launch of a rocket by the Democratic People's Republic of Korea on 12 December 2012, and strengthened the extensive sanctions measures on that country, while underlining that the measures were not intended to have adverse humanitarian consequences for the civilian population.<sup>145</sup> The Council extended the application of the arms embargo, the ban on arms exports by the Democratic People's Republic of Korea, and the non-proliferation measures, to items listed in two information circulars issued by the International Atomic Energy Agency (IAEA) concerning nuclear material, equipment and technology,<sup>146</sup> as well as to items in the Council's document [S/2012/947](#) related to ballistic missile programmes.<sup>147</sup> In addition, the Council extended the remaining sanctions measures (as indicated in Table 14), and expanded the assets freeze and

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<sup>142</sup> Resolution [1636 \(2005\)](#), para. 3 (a). As at the end of 2013, no individuals had been designated and registered by the Committee established pursuant to resolution [1636 \(2005\)](#) for this purpose.

<sup>143</sup> Resolution [1701 \(2006\)](#), para. 15.

<sup>144</sup> Resolution [2050 \(2012\)](#) of 12 June 2012 only concerned the Panel of Experts that was created in 2009 to assist the Committee established by resolution [1718 \(2006\)](#) in carrying out its mandate. For further details see Part IX.

<sup>145</sup> Resolution [2087 \(2013\)](#), para. 18.

<sup>146</sup> IAEA information circulars [INFCIRC/254/Rev.11/Part 1](#) and [INFCIRC/254/Rev.8/Part 2](#).

<sup>147</sup> Resolution [2087 \(2013\)](#), para. 5 (b).

travel ban to individuals and entities listed in annexes I and II of that resolution.<sup>148</sup> The Council also called on Member States “to exercise enhanced vigilance” with regard to the financial restrictions established in resolution [1874 \(2009\)](#), “including monitoring the activities of their nationals, persons in their territories, financial institutions and other entities... with or on behalf of financial institutions in the Democratic People’s Republic of Korea...”<sup>149</sup>

By resolution [2094 \(2013\)](#) of 7 March 2013, the Council made several modifications to the sanctions measures. The arms embargo and non-proliferation measures were expanded to include nuclear, missile and chemical weapons-related items listed in annex III of that resolution.<sup>150</sup> The Council also added a requirement on Member States to prevent, by their nationals or from their territories, the provision of “brokering or other intermediary services” in relation to the prohibited items.<sup>151</sup> Further, the assets freeze was expanded to encompass individuals and entities listed in annexes I and II of that resolution, including an organization involved in research and development of advanced weapons systems.<sup>152</sup> Furthermore, expressing its concern that transfers of bulk cash to the Democratic People’s Republic of Korea may be used to evade the sanctions measures, the Council clarified that the financial restrictions on the country included restrictions on the transfers of bulk cash that could contribute to its nuclear or ballistic missile programmes.<sup>153</sup>

By the same resolution, the Council reaffirmed the luxury goods embargo, clarifying that “luxury goods” included items specified in annex IV of the resolution, including precious and semi-precious stones, yachts, and automobiles and motor vehicles used to transport people (other than public transport).<sup>154</sup> Further, the Council extended the travel ban to three individuals listed in annex I of the resolution (including two representatives of a corporation classified as the primary arms dealer of the Democratic People’s Republic of Korea) and to individuals acting on their behalf.<sup>155</sup> The travel ban was also extended to any individuals that a State determined was “working on behalf of or at the direction of a designated individual or entity or individuals

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<sup>148</sup> Ibid., para. 5 (a).

<sup>149</sup> Ibid., para. 6.

<sup>150</sup> Resolution [2094 \(2013\)](#), para. 20.

<sup>151</sup> Ibid., para. 7.

<sup>152</sup> Ibid., para. 8.

<sup>153</sup> Ibid., paras. 11 and 14.

<sup>154</sup> Ibid., para. 23.

<sup>155</sup> Ibid., paras. 9 and 10.

assisting the evasion of sanctions or” their violation.<sup>156</sup> The Council made it a requirement for States to repatriate from their territories such individuals who were nationals of the Democratic People’s Republic of Korea, with exceptions in the case of, inter alia, medical, safety or other humanitarian purposes.<sup>157</sup>

Finally, in a new measure, the Council called on States to exercise enhanced vigilance over diplomatic personnel of the Democratic People’s Republic of Korea, in order to prevent such individuals from contributing to that country’s nuclear or ballistic missile programme or other activities prohibited by the sanctions regime.<sup>158</sup> The Council called on all States to report to the Council within 90 days on “concrete measures” they had taken to implement the provisions of the resolution.<sup>159</sup>

Table 14  
**Changes to the measures imposed pursuant to Article 41 in connection with the Democratic People’s Republic of Korea in 2012-2013**

|  | <i>Resolution(s) establishing measures</i>                           | <i>Resolution(s) adopted during the period</i> |   |   |
|--|--|--|---|---|
|  |  | <u><a href="#">2050 (2012)</a></u>             | <u><a href="#">2087 (2013)</a></u>            | <u><a href="#">2094 (2013)</a></u>                  |
| <b>Provisions related to sanctions measures</b>    |  |  |   |   |
| Arms embargo                                       | <u><a href="#">1718 (2006)</a></u> , para. 8 (a)(i), (c)             |  | reaffirmed, para. 4;<br>modified, para. 5 (b) | reaffirmed, para. 7;<br>modified, para. 7, 20, 22   |
| Assets freeze                                      | <u><a href="#">1556 (2004)</a></u> , para. 8 (d)                     |  | reaffirmed, para. 4;<br>modified, para. 5 (a) | modified, para. 8                                   |
| Chemical and biological weapons embargo            | <u><a href="#">1718 (2006)</a></u> , para. 6, 8 (a)(ii), (f)         |  |   | modified, para. 20                                  |
| Diplomatic or overseas representation restrictions | <u><a href="#">2094 (2013)</a></u> , para. 24                        |  |   | new   |
| Financial restrictions                             | <u><a href="#">1874 (2009)</a></u> , para. 18, 19                    |  | reaffirmed, para. 4;<br>modified, para. 6     | modified, para. 11, 14                              |
| Luxury goods embargo                               | <u><a href="#">1718 (2006)</a></u> , para. 8 (a) (iii)               |  | reaffirmed, para. 4<br>modified, para. 5 (b)  | reaffirmed, para. 23                                |
| Non-proliferation measures                         | <u><a href="#">1718 (2006)</a></u> , para.2, 7, 8 (a) (ii), (c), (f) |  | reaffirmed, para. 4;<br>modified, para. 5 (b) | reaffirmed, para. 6, 7<br>modified, para. 7, 20, 22 |
| Prohibition of                                     | <u><a href="#">1874 (2009)</a></u> , para. 17                        |  | reaffirmed, para. 4;                          |   |

<sup>156</sup> Ibid.

<sup>157</sup> Ibid., para. 10.

<sup>158</sup> Ibid., para. 24.

<sup>159</sup> Ibid., para. 25.

|   |   |  |                        |
|---|---|--|------------------------|
| bunkering services                                |   |  |                        |
| Public financial support for trade restrictions   | <a href="#">1874 (2009)</a> , para. 20                  | reaffirmed, para. 4                        | modified, para. 15     |
| Restrictions on ballistic missiles                | <a href="#">1718 (2006)</a> , para. 2, 5, 7, 8 (a) (ii) | reaffirmed, para. 4                        | reaffirmed, para. 6    |
| Travel ban or restrictions                        | <a href="#">1718 (2006)</a> , para. 8 (e)               | reaffirmed, para. 4; modified, para. 5 (a) | modified, para. 9, 10  |
| <b>Provisions related to enforcement measures</b> |   |  |                        |
| Cargo inspections                                 | <a href="#">1718 (2006)</a> , para. 8 (f)               |  | modified, para. 16, 17 |

#### k) Islamic Republic of Iran

During the period under review, no changes were made to the sanctions measures concerning the Islamic Republic of Iran, which included an arms embargo, a ban on arms exports by the country, an assets freeze and travel ban on designated individuals and entities, non-proliferation measures, restrictions on ballistic missiles, financial restrictions on Iranian banks, and a prohibition on providing bunkering services to vessels owned or contracted by the Islamic Republic of Iran.<sup>160</sup>

#### l) Libya

During the period under review, the Security Council adopted two resolutions concerning the sanctions measures on Libya, by which it modified enforcement aspects of the arms embargo. The sanctions measures, including, inter alia, an assets freeze and travel ban on listed individuals or entities, remained in place. An overview of changes to the measures taken in connection with Libya during the period under review is provided in Table 15.

By resolution [2040 \(2012\)](#) the Council, while underscoring the importance of the full implementation of the arms embargo on Libya, terminated the authorization in resolution [1973 \(2011\)](#) for Member States to carry out cargo inspections and related obligations in connection with enforcement of the embargo.<sup>161</sup> Further, the Council urged all States, relevant United Nations bodies, including the United Nations Support Mission in Libya (UNSMIL), and other

<sup>160</sup> The Council did adopt resolutions [2049 \(2012\)](#) and [2105 \(2013\)](#) during the period under review, both of which extended the mandate of the Panel of Experts established by resolution [1929 \(2010\)](#) to assist the Committee established pursuant to resolution [1737 \(2006\)](#). For further details see Part IX.

<sup>161</sup> Resolution [2040 \(2012\)](#), para. 8

interested parties, to cooperate fully with the Committee established pursuant to resolution [1970 \(2011\)](#) and with the Panel of Experts established by resolution [1973 \(2011\)](#), in particular by supplying any information regarding the implementation of the sanctions regime and incidents of non-compliance.<sup>162</sup>

By resolution [2095 \(2013\)](#), adopted on 14 March 2013, the Council decided that the approval by the Committee “for supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training” was no longer necessary.<sup>163</sup> In addition, the Council decided that “supplies of non-lethal military equipment, and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the Libyan government, shall no longer require notification to, or the absence of a negative decision by, the Committee”.<sup>164</sup>

Table 15

**Changes to the measures imposed pursuant to Article 41 in connection with Libya in 2012-2013**

|   | <i>Resolution(s) establishing measures</i> | <i>Resolution(s) adopted during the period</i> |                             |
|---|--|--|-----------------------------|
|   |  | <a href="#">2040 (2012)</a>                    | <a href="#">2095 (2013)</a> |
| <b>Provisions related to sanctions measures</b>   |  |  |                             |
| Arms embargo                                      | <a href="#">1970 (2011)</a> , para. 9      |  | modified, para. 9, 10       |
| <b>Provisions related to enforcement measures</b> |  |  |                             |
| Cargo inspections                                 | <a href="#">1973 (2011)</a> , para. 13     | terminated, para. 8                            |                             |

m) Guinea-Bissau

During the period under review, the Security Council established sanctions measures in relation to Guinea-Bissau for the first time, in response to a military coup in that country. An overview of the sanctions measures is provided in Table 16.

On 18 May 2012, condemning the military coup in Guinea-Bissau on 12 April 2012, and demanding that the new “Military Command” take immediate steps to restore constitutional

<sup>162</sup> Ibid., para. 11. The Council reiterated this the following year in resolution [2095 \(2013\)](#), para. 15.

<sup>163</sup> Resolution [2095 \(2013\)](#), para. 9.

<sup>164</sup> Ibid., para. 10.

order and a democratic electoral process, the Council by resolution [2048 \(2012\)](#) imposed a travel ban on the chief of staff and deputy chief of staff of the armed forces and other members of the “Military Command” listed in the annex to the resolution, as well as on other individuals as designated by the Committee established for this purpose by the same resolution.<sup>165</sup> The Council provided for exemptions to the travel ban in cases where the travel was “justified on grounds of humanitarian need, including religious obligation”, “where the entry or transit was necessary for the fulfilment of a judicial process”, or where “an exemption would further the objectives of peace and national reconciliation” in Guinea-Bissau, as determined by the Committee on a case-by-case basis.<sup>166</sup> Further, the Council also provided criteria for the Committee to designate individuals subject to the sanctions measures, namely, individuals who were “seeking to prevent the restoration of constitutional order or taking action that undermines stability in Guinea-Bissau, in particular those who played a leading role in the coup d’état of 12 April 2012...”, and those “acting for or on behalf of or at the direction of or otherwise supporting or financing” such individuals, including support or financing by means of proceeds of organized crime and the illicit cultivation, production and trafficking of narcotic drugs and their precursors.<sup>167</sup> The resolution also called on Member States to report to the Committee on the steps they had taken to implement the travel ban.<sup>168</sup> Finally, the Council indicated that it would “keep the situation in Guinea-Bissau under continuous review”, and would be prepared to review the appropriateness of the sanctions measures, including strengthening them through additional measures such as an arms embargo or financial restrictions, and modifying, suspending or lifting the measures, as may be needed, in light of the progress achieved in Guinea-Bissau.<sup>169</sup>

In resolution [2092 \(2013\)](#), the Council expressed “its willingness to consider further action... against those involved in drug trafficking and organized crime in Guinea-Bissau” in line with resolution [2048 \(2012\)](#).<sup>170</sup>

Table 16  
**Measures imposed pursuant to Article 41 in connection with Guinea-Bissau in 2012-2013**

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<sup>165</sup> Resolution [2048 \(2012\)](#), paras. 4, 5 and 9 (b).

<sup>166</sup> *Ibid.*, para. 5.

<sup>167</sup> *Ibid.*, paras. 6 and 7.

<sup>168</sup> *Ibid.*, para. 10.

<sup>169</sup> *Ibid.*, para. 12.

<sup>170</sup> *Ibid.*, para. 7.

|   | <i>Resolution(s) establishing measures</i>   | <i>Resolution(s) adopted during the period</i> |                                    |
|---|--|--|------------------------------------|
|   |  | <u><a href="#">2048 (2012)</a></u>             | <u><a href="#">2092 (2013)</a></u> |
| <b>Provisions related to sanctions measures</b> |  |  |                                    |
| Travel ban                                      | <u><a href="#">2048 (2012)</a></u> , para. 4 | new  |                                    |

n) Central African Republic

Starting in late 2012, the Central African Republic saw an increasingly deteriorating security and human rights situation in the context of a civil war between mainly Muslim and mainly Christian armed groups. Following on its earlier resolutions and statements on the situation in the Central African Republic, the Security Council on 5 December 2013 adopted resolution [2127 \(2013\)](#), in which it condemned “the continued violations of international humanitarian law and widespread human rights abuses perpetrated by armed groups”, as well as the illegal exploitation of natural resources in the country that contributed to the perpetuation of the conflict.<sup>171</sup> The Council imposed an arms embargo on the Central African Republic, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and financial and technical assistance and training related to military activities, with exemptions for, inter alia, non-lethal military equipment intended solely for humanitarian or protective use, and supplies of arms to the Central African Republic security forces intended solely for security sector reform.<sup>172</sup> The resolution also authorized Member States to seize, register and dispose of all prohibited items that were discovered.<sup>173</sup>

By the same resolution, the Council established a Committee to monitor the implementation of the measures,<sup>174</sup> and a Panel of Experts to assist the Committee in carrying out its mandate.<sup>175</sup> The Council also called on Member States to report to the Committee on the steps they had taken to implement the sanctions measures.<sup>176</sup> Finally, the Council expressed its intention to “swiftly consider imposing targeted measures, including travel bans and assets

<sup>171</sup> Resolution [2127 \(2013\)](#), para. 16 and 17.

<sup>172</sup> *Ibid.*, para. 54 (b) and (e).

<sup>173</sup> *Ibid.*, para. 55.

<sup>174</sup> *Ibid.*, para. 57.

<sup>175</sup> *Ibid.*, para. 59.

<sup>176</sup> *Ibid.*, para. 58.

freezes against individuals who act to undermine the peace, stability and security... in the Central African Republic”<sup>177</sup>

Table 17 provides an overview of the new Central African Republic sanctions regime.

Table 17  
**Measures imposed pursuant to Article 41 in connection with the Central African Republic in 2012-2013**

|   | <i>Resolution(s) establishing measures</i>    | <i>Resolution(s) adopted during the period</i><br><u><a href="#">2127 (2013)</a></u> |
|---|---|--|
| <b>Provisions related to sanctions measures</b>   |   |  |
| Arms embargo                                      | <u><a href="#">2127 (2013)</a></u> , para. 54 | new  |
| <b>Provisions related to enforcement measures</b> |   |  |
| Seizing of arms                                   | <u><a href="#">2127 (2013)</a></u> , para. 55 | new  |

## **B. Discussion relating to Article 41**

The following sub-section covers discussions in the Council regarding the appropriate role and use of sanctions and other Article 41 measures. The section is divided under two headings; the first deals with discussions on thematic issues, while the second deals with country-specific discussions.

In its thematic discussions the Council dealt with the question of imposing and/or expanding targeted measures to help enforce its decisions on children and armed conflict (Case 9), and women and peace and security (Case 10). Regarding country-specific discussions, the Council discussed the role of sanctions in relation to the Sudan and South Sudan (Case 11), debated options for an appropriate response to the coup in Guinea Bissau (Case 12), and considered the use of Article 41 measures in the context of the Syrian crisis (Case 13).

### *1. Discussions of a thematic nature*

#### **Case 9**

#### **Children and armed conflict**

<sup>177</sup> Ibid., para. 56.

At its 6838<sup>th</sup> meeting on 19 September 2012, the Security Council held an open debate on Children and armed conflict, discussing the annual report of the Secretary-General on the issue.<sup>178</sup> At the beginning of the meeting, it adopted resolution [2068 \(2012\)](#), reiterating its readiness to adopt targeted and graduated sanctions measures against persistent perpetrators.<sup>179</sup>

In her briefing following the vote, the Special Representative of the Secretary-General for Children and Armed Conflict proposed targeted measures against persistent perpetrators listed in the report, starting with those individuals in situations for which a sanctions committee was already in place.<sup>180</sup> In this respect, several participants highlighted the inclusion of grave violations against children as a listing criteria by the Sanctions Committee on Côte d'Ivoire, the Democratic Republic of the Congo, Somalia and the Sudan.<sup>181</sup> Some speakers proposed that child protection criteria should be included also in the mandates of the other sanctions committees that were being renewed or established.<sup>182</sup> Guatemala specifically expressed the hope that other sanctions regimes such as those against Al-Qaida and the Taliban would adopt criteria defining serious violations against children.<sup>183</sup>

As a further measure, the representative of New Zealand called for a greater use of child protection experts in groups of experts supporting/assisting the work of the sanctions committees.<sup>184</sup> Other speakers advocated for a strong relationship between the Working Group on Children and Armed Conflict, the Special Representative of the Secretary-General and the country-specific sanctions committees through, inter alia, briefings by the SRSGs to the sanctions committees.<sup>185</sup>

The representatives of China and Portugal advocated for caution in adopting sanctions measures. They argued that strengthening national capacities should be given priority and that sanctions should remain the last resort available to the Council.<sup>186</sup> Similarly, the representative of Brazil recalled that sanctions alone were insufficient and therefore reminded the Council not to

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<sup>178</sup> [S/2012/261](#).

<sup>179</sup> See for more details, Part I, section “Children and armed conflict”.

<sup>180</sup> [S/PV.6838](#), p. 5.

<sup>181</sup> *Ibid.*, p. 13 (United States); p. 20 (South Africa); p. 27 (Guatemala); [S/PV.6838 \(Resumption 1\)](#), p. 4 (Canada); p. 10 (Finland); and p. 28 (New Zealand).

<sup>182</sup> [S/PV.6838](#), p. 18 (Portugal); and p. 32 (European Union).

<sup>183</sup> *Ibid.*, p. 27.

<sup>184</sup> [S/PV.6838 \(Resumption 1\)](#), p. 28.

<sup>185</sup> [S/PV.6838](#), p. 20 (South Africa); p. 32 (European Union); [S/PV.6838 \(Resumption 1\)](#), p. 10 (Finland); p. 18 (Bosnia and Herzegovina); and p. 19 (Slovenia)

<sup>186</sup> [S/PV.6838](#), p. 12 (China); p. 18 (Portugal).

lose sight of cooperation with Governments and parties to conflicts in order to find sustainable solutions for the protection of children.<sup>187</sup>

As a possible solution to address the problem of perpetrators in situations where no sanctions committee existed, the representatives of Portugal and Japan mentioned the establishment of a thematic sanctions committee.<sup>188</sup> Similarly, the representatives of France and Liechtenstein supported the possible use of the Working Group as a sanctions committee.<sup>189</sup> The representative of Argentina called for a discussion on how to sanction perpetrators in situations where no sanctions committee existed,<sup>190</sup> and the representative of New Zealand said that these situations required a degree of innovation in the Council's working methods.<sup>191</sup> Conversely, the representative of the United States expressed his view that a free-standing sanctions regime on children in armed conflict would not seem to address the need for better tools to deal with persistent perpetrators.<sup>192</sup>

Some participants expressed concern about the prospect of sanctions in situations not on the agenda of the Security Council. On the one hand, the representative of Colombia said that there were other bodies and other ways of dealing with the protection of children in situations that could not be defined as armed conflict. He reminded the Council, as did also the representative of Brazil, that targeted sanctions mechanisms were applicable only in situations on the Council's agenda that constituted a threat to international peace and security pursuant to Article 39 of the Charter of the United Nations.<sup>193</sup>

## Case 10

### Women and Peace and Security

At its 6722<sup>nd</sup> meeting on 23 February 2012, the Security Council discussed the Secretary-General's annual report on conflict-related sexual violence,<sup>194</sup> which contained information on

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<sup>187</sup> Ibid., p. 31.

<sup>188</sup> [S/PV.6838](#), p. 18 (Portugal); p. 29 (Japan).

<sup>189</sup> Ibid., p. 17 (France); [S/PV.6838 \(Resumption 1\)](#), p. 16 (Liechtenstein).

<sup>190</sup> [S/PV.6838 \(Resumption 1\)](#), p. 5 (Argentina).

<sup>191</sup> Ibid., p. 28 (New Zealand).

<sup>192</sup> [S/PV.6838](#), p. 13.

<sup>193</sup> Ibid., p. 14 (Colombia); p. 30 (Brazil).

<sup>194</sup> [S/2012/33](#).

parties to armed conflict around the world credibly suspected of sexual violence. The report also contained an annex with a list of parties suspected of sexual violence in situations of armed conflict on the Council agenda. In the debate, many speakers welcomed the instrument of listing perpetrators of sexual violence in conflict by the relevant sanctions committees.<sup>195</sup>

At its 6948<sup>th</sup> meeting, on 17 April 2013, the Council discussed the Secretary-General's annual report on sexual violence in conflict,<sup>196</sup> which called on the Council to adopt targeted measures by relevant sanctions committees, and to consider means by which such measures could also be taken in relevant contexts where no sanctions committees were in place. Several participants at the debate echoed the Secretary-General's call and welcomed the expansion of designation criteria in sanctions regimes to explicitly address sexual and gender-based violence.<sup>197</sup> Some speakers also called for enhanced collaboration and exchange between the Special Representative of the Secretary-General on Sexual Violence in Conflict and relevant sanctions committees.<sup>198</sup>

The representative of Ireland said that she strongly endorsed the recommendation by the Secretary-General that the Council expand its institutional capacity to develop ways to apply sanctions where no committees were in place.<sup>199</sup> Conversely, the representative of Brazil called for more discussion on that point, as he thought that such an expansion could amount to applying restrictive measures in situations that the Security Council had not determined to constitute threats to international peace and security.<sup>200</sup>

At its 6984<sup>th</sup> meeting on 24 June 2013, the Council adopted resolution [2106 \(2013\)](#), by which it urged existing sanctions committees to apply targeted sanctions against those who perpetrate and direct sexual violence in conflict; and reiterated its intention, when adopting or renewing targeted sanctions in situations of armed conflict, to consider including designation criteria pertaining to sexual violence. At the same meeting, the representative of Ireland

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<sup>195</sup> [S/PV.6722](#), p. 4 (Special Representative of the Secretary-General on Sexual Violence in Conflict); p. 20 (Portugal); p. 21 (France); p. 29 (Belgium); [S/PV.6722 \(Resumption 1\)](#), p. 3 (Australia); p. 6 (European Union); pp. 8-9 (Switzerland); p. 9 (Liechtenstein); p. 10 (Israel); p. 12 (Italy); p. 16 (Japan); p. 17 (Estonia); p. 18 (Canada); p. 20 (Luxembourg); p. 23 (Ireland); p. 28 (Mexico); and p. 29 (Sweden).

<sup>196</sup> [S/2013/149](#).

<sup>197</sup> [S/PV.6948](#), p. 9 (Republic of Korea); pp. 16-17 (Pakistan); p. 23 (Luxembourg); p. 24 (Australia); p. 29 (Rwanda); p. 30 (Norway); p. 33 (European Union); p. 38 (Canada); p. 39 (Botswana); p. 42 (Kazakhstan); p. 53 (Estonia); p. 57 (Italy); p. 59 (Lithuania); p. 66 (Germany); p. 68 (New Zealand); p. 70 (Belgium);

<sup>198</sup> *Ibid.*, p. 34 (Slovenia, on behalf of the Human Security Network); p. 42 (Kazakhstan); and p. 59 (Lithuania).

<sup>199</sup> *Ibid.*, p. 63.

<sup>200</sup> *Ibid.*, p. 44.

expressed his disappointment to see little evidence of progress by the Council to identify ways to target suspected perpetrators with sanctions and other measures in countries where no sanctions regime applied.<sup>201</sup>

## 2. *Country-specific discussions relating to Article 41*

### Case 11

#### **Reports of the Secretary-General on the Sudan and South Sudan<sup>202</sup>**

At its 6764<sup>th</sup> meeting on 2 May 2012, the Security Council adopted resolution [2046 \(2012\)](#), in which it condemned repeated incidents of cross-border violence between Sudan and South Sudan and determined that the situation along the border between Sudan and South Sudan constituted a serious threat to international peace and security. By the same resolution, the Council decided that Sudan and South Sudan should immediately cease all hostilities and resume negotiations under the auspices of the African Union High-level Implementation Panel (AUHIP), and expressed its intention to take measures under Article 41 of the Charter in case of non-compliance.<sup>203</sup>

Speaking after the vote, several speakers welcomed the fact that the resolution had been adopted under Chapter VII of the Charter and that its obligations were therefore binding.<sup>204</sup> The representative of the United States expressed support for the efforts of the AUHIP, but at the same time underlined that the Council was determined to hold both sides accountable, and that they stood ready to impose Chapter VII sanctions on either or both parties.<sup>205</sup>

Conversely, several other speakers expressed caution with regard to sanctions.<sup>206</sup> The representative of the Russian Federation considered sanctions to be an extreme step for influencing both parties. He believed that the AUHIP should continue its active efforts to mediate and remain the chief mechanism for normalizing relations between the two countries.<sup>207</sup>

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<sup>201</sup> [S/PV.6984](#), p. 59.

<sup>202</sup> The Council agreed that issues pertaining to the Sudan and South Sudan, would, as from 11 November 2013, be considered under the agenda item entitled “Reports of the Secretary-General on the Sudan and South Sudan” ([S/2013/657](#)).

<sup>203</sup> For more details, see Part I, section “The reports of the Secretary-General on the Sudan and South Sudan”.

<sup>204</sup> [S/PV.6764](#), p. 4 (South Africa); pp. 4-5 (Germany); p. 6 (France); and p. 8 (United Kingdom).

<sup>205</sup> *Ibid.*, p. 3.

<sup>206</sup> *Ibid.*, p. 3 (China); p. 5 (Russian Federation); p. 7 (Morocco); and p. 8 (Pakistan).

<sup>207</sup> *Ibid.*, p. 5.

Similarly, the representative of Morocco said that his country believed in sanctions only when they were absolutely necessary. He cited the call of the League of Arab States on the two parties to settle the problems between them through negotiation.<sup>208</sup>

Reiterating the need to keep the process of conflict settlement within the African continent, the representative of Sudan stated that the resolution included under Chapter VII the issue of the two states of Southern Kordofan and Blue Nile, despite the fact that the Peace and Security Council of the African Union had not requested that they be included under that Chapter. He mentioned further that the resolution contained a threat of resort to measures under Article 41 of the Charter, even though the African Union had not requested that either.<sup>209</sup>

## Case 12

### The situation in Guinea-Bissau

Following a military coup in Guinea-Bissau, the Security Council, at its 6754<sup>th</sup> meeting on 19 April 2012, heard a briefing by the Special Representative of the Secretary-General and Head of the United Nations Integrated Peacebuilding Office in Guinea-Bissau. He said that the Community of Portuguese-speaking Countries (CPLP) and the African Union had suggested that targeted individual sanctions be applied to the military and political leaders associated with the coup.<sup>210</sup> The representative of Portugal said that the European Union would be ready to move forward with sanctions on individuals who continue to obstruct peace, security and the normal functioning of constitutional institutions, and called on the Council to consider similar targeted measures.<sup>211</sup> Two days later, the Council issued a presidential statement,<sup>212</sup> in which it mentioned the possibility of targeted sanctions against the perpetrators and supporters of the military coup.

At the Council's 6766<sup>th</sup> meeting, on 7 May 2012, the Minister for Foreign Affairs and International Cooperation of Guinea-Bissau called for the imposition of sanctions on the coup leaders and their associates.<sup>213</sup> The Minister of External Relations of Angola, speaking on behalf of CPLP, appealed to the Security Council to impose targeted sanctions on the military personnel

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<sup>208</sup> Ibid., p. 7.

<sup>209</sup> Ibid., pp. 11-12.

<sup>210</sup> [S/PV.6754](#), p. 3.

<sup>211</sup> Ibid., p. 13.

<sup>212</sup> [S/PRST/2012/15](#)

<sup>213</sup> [S/PV.6766](#), p. 7.

and civilians involved in the coup d'état.<sup>214</sup> Finally, the representative of ECOWAS informed the Council of a series of targeted sanctions on the military command and its associates, along with diplomatic, economic and financial sanctions on the country, that were imposed after the failure of consultations between ECOWAS and the military junta.<sup>215</sup>

Eleven days later, by unanimously adopted resolution [2048 \(2012\)](#), the Council imposed a travel ban on the military junta. It also affirmed that it would continuously review the situation and be prepared to impose additional measures, or to modify, suspend or lift the measures already imposed. Speaking after the vote, the representatives of Portugal and Morocco welcomed the adoption of the resolution as a strong message calling for the restoration of the constitutional order.<sup>216</sup>

At the Council's 6963<sup>rd</sup> meeting, on 5 June 2013, the representative of Côte d'Ivoire spoke on behalf of ECOWAS. He described transitional political arrangements and progress made towards the holding of elections.<sup>217</sup> Against this background, he called for a lifting of the sanctions, arguing that they inflicted the greatest suffering on those who were poor and without a voice.<sup>218</sup> At the same meeting, the representative of Mozambique, speaking on behalf of CPLP, proposed the establishment of a panel of experts to fight drug trafficking networks. He argued that facilitating the adoption of sanctions against traffickers would constitute a concrete contribution to overcoming the problem of drug trafficking in Guinea-Bissau, and thus contribute to the promotion of stability in the country.<sup>219</sup>

At the Council's 7070<sup>th</sup> meeting on 26 November 2013, the Minister of Foreign Affairs of Guinea-Bissau called on Guinea-Bissau's partner organizations to lift the sanctions currently imposed. He said that the effects of the sanctions went beyond political considerations and should rather be looked at from a humanitarian perspective.<sup>220</sup>

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<sup>214</sup> *Ibid.*, pp. 7-8.

<sup>215</sup> *Ibid.*, p. 10.

<sup>216</sup> [S/PV.6774](#), p. 2 (Portugal); and p. 3 (Morocco).

<sup>217</sup> For more details, see Part I, section "The situation in Guinea-Bissau".

<sup>218</sup> [S/PV.6963](#), pp. 7-8.

<sup>219</sup> *Ibid.*, p. 10.

<sup>220</sup> [S/PV.7070](#), p. 6.

At its 7074<sup>th</sup> meeting, the Council issued a presidential statement,<sup>221</sup> in which it recalled its resolution [2048 \(2012\)](#) and reiterated its readiness to consider further measures, including targeted sanctions against individuals who undermined efforts to restore the constitutional order.

### Case 13

#### The situation in the Middle East

At its 6710<sup>th</sup> meeting on 31 January 2012, the Council heard a briefing by the Prime Minister and Minister for Foreign Affairs of the State of Qatar. Speaking in his capacity as Chairman of the Ministerial Committee of the League of Arab States on Syria, he informed the Council about a package of sanctions agreed at the Ministerial Council. He emphasized that the sanctions envisaged would not directly affect the Syrian people.<sup>222</sup> The representative of France said that the European Union had considerably expanded its sanctions on the regime and its leaders since the beginning of the crisis. He added that nevertheless the actions of the European Union or the League of Arab States could not replace action by the Council.<sup>223</sup>

Speaking against the backdrop of the possible imposition of sanctions, the representative of the Russian Federation said that the role of the international community should not be to exacerbate conflict or meddle in internal affairs by using economic sanctions. He also criticized the sanctions measures of the League of Arab States as counterproductive.<sup>224</sup> In the same vein, the representative of China recalled his country's cautious approach to sanctions, expressing his belief that rather than assisting in resolving an issue, sanctions often lead to the further complication of the situation.<sup>225</sup>

Four days later, the Council failed to adopt a draft resolution on the situation in Syria,<sup>226</sup> owing to the negative vote of two permanent members of the Council. Speaking after the vote, several speakers expressed their disappointment and highlighted the fact that the text put to a vote did not mention sanctions.<sup>227</sup> The representative of France announced that his country

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<sup>221</sup> [S/PRST/2013/19](#).

<sup>222</sup> [S/PV.6710](#), p. 3.

<sup>223</sup> *Ibid.*, p. 15.

<sup>224</sup> *Ibid.*, p. 24.

<sup>225</sup> *Ibid.*, p. 25.

<sup>226</sup> [S/2012/77](#).

<sup>227</sup> [S/PV.6711](#), p. 5 (Germany); p. 5 (United States); p. 6 (Portugal); and p. 7 (United Kingdom).

would continue to increase the pressure on Syria by imposing further sanctions of the European Union.<sup>228</sup>

At its 6756<sup>th</sup> meeting, on 21 April 2012, the Council adopted resolution [2043 \(2012\)](#), establishing the United Nations Supervision Mission in Syria (UNSMIS). Speaking after the vote, the representative of France said that if the observer mission should find that Syria had not met its obligations, the Council would have to consider other options, including possible sanctions.<sup>229</sup> The representative of the United Kingdom added that any attempt to hinder the work of the mission would have to be met with robust sanctions.<sup>230</sup>

At its 6810<sup>th</sup> meeting on 19 July 2012, the Council failed to adopt draft resolution [S/2012/538](#), with two permanent members casting a negative vote. The resolution would have decided that the Syrian authorities should implement their commitments relating to a withdrawal of troops and heavy weapons from population centres to facilitate a sustained cessation of violence. The resolution would have been adopted under Chapter VII and would have imposed sanctions measures under Article 41 of the Charter in case of non-compliance.

Speaking after the vote, the representatives of the United Kingdom and Portugal argued that the imposition of sanctions would not have been automatic in case of non-compliance, but would have required further steps by the Council, namely another resolution from the Council defining the sanctions that would apply.<sup>231</sup> The representative of the United States added further that the resolution would not have authorized or even “paved the way” for foreign military intervention.<sup>232</sup> The representative of the Russian Federation argued, by contrast, that his country could not accept a decision under Chapter VII of the Charter of the United Nations that would open the way to sanctions and external military involvement in Syrian domestic affairs. He criticized, in addition, that the threat of sanctions was levelled exclusively against the Government of Syria.<sup>233</sup> The representative of South Africa echoed this point, saying that the text threatened with sanctions only against the Government of Syria without realistically allowing any action to be taken against the opposition.<sup>234</sup> On the other hand, the representative of the

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<sup>228</sup> Ibid., p. 4.

<sup>229</sup> [S.PV/6756](#), p. 3.

<sup>230</sup> Ibid., p. 6.

<sup>231</sup> [S/PV.6810](#), p. 3 (United Kingdom); and p. 8 (Portugal).

<sup>232</sup> Ibid., p. 10.

<sup>233</sup> Ibid., pp. 8-9.

<sup>234</sup> Ibid., p. 12.

United States made clear that the threat of sanctions was directed against the only party to the conflict using heavy weaponry against its own cities and citizens.<sup>235</sup>

Finally, the representative of the Syrian Arab Republic affirmed that imposing sanctions was illegitimate and harmed the Syrian people, affecting negatively their daily lives.<sup>236</sup> The humanitarian effects of sanctions was taken up on 30 August 2012 at the 6826<sup>th</sup> meeting of the Council by the representative of the Russian Federation, who said that the unilateral economic sanctions denied the Syrian citizens of the opportunity to meet their basic needs and fully enjoy basic human rights. He called upon the States that had imposed sanctions against Syria to lift them immediately.<sup>237</sup>

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<sup>235</sup> Ibid., p. 10.

<sup>236</sup> Ibid., p. 16.

<sup>237</sup> [S/PV.6826](#), p. 25.

## **Section IV – Measures to maintain or restore international peace and security in accordance with Article 42 of the Charter**

### *Article 42*

*Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.*

### **Note**

This section covers the practice of the Security Council in relation to Article 42 of the Charter, regarding the authorization of the use of force by peacekeeping operations and multinational forces, as well as interventions by regional organizations.<sup>238</sup>

During the period under review, the Council authorized the use of force under Chapter VII of the Charter, relating to the maintenance or restoration of international peace and security by several peacekeeping missions and multinational forces in Afghanistan, Bosnia and Herzegovina, Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, the Middle East, the Sudan (including Darfur and Abyei areas), South Sudan and Somalia. The Council authorized enforcement action for the African-led International Support Mission to Mali (AFISMA), the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the African-led International Support Mission to the Central African Republic (MISCA).

This section is divided into two sub-sections. Sub-section A outlines decisions of the Council authorizing the use of force under Chapter VII of the Charter. Sub-section B covers discussions of the Council of relevance for Article 42, and contains five case studies in connection with thematic and country-specific agenda items.

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<sup>238</sup> The Council's authorization of the use of force by regional organizations is covered in Part VIII (Regional Arrangements). The authorization of the use of force by peacekeeping operations is also covered in Part X in the context of mandates of peacekeeping operations.

## **A. Decisions of the Security Council relating to Article 42**

During the period 2012 and 2013, the Council made no explicit reference to Article 42 of the Charter in its decisions. This notwithstanding, the Council adopted several resolutions under Chapter VII of the Charter authorizing peacekeeping missions and multinational forces, including those deployed by regional organizations, to use “all necessary measures” or “all necessary means” relating to the maintenance or restoration of international peace and security.

During the period under review, the Council authorized for the first time the use of force in relation to the situation in Mali by AFISMA, MINUSMA and the French Forces (in support of each mission)<sup>239</sup> and in relation to the situation in the Central African Republic by MISCA and the French Forces (in support of the mission).<sup>240</sup>

In relation to Mali, the authorization to use force by the different entities mentioned above was made in connection with mandates involving, in the first instance, to support the Malian authorities to, inter alia, recover territory under the control of terrorist and armed groups, protect civilians, or to create a secure environment for the civilian-led delivery of humanitarian assistance,<sup>241</sup> and in the second instance, the stabilization of key population centres and the deterrence of threats, the extension and re-establishment of State administration throughout the country, the protection of civilians, protection of United Nations personnel, installations and equipment, support for humanitarian assistance and the efforts of transitional authorities to bring to justice perpetrators of war crimes and crimes against humanity and assistance to protecting from attack cultural and historical sites.<sup>242</sup> Most significantly, in the case of Mali, the Council provided MINUSMA with a robust mandate with a view to stabilizing key population centres and deterring threats.<sup>243</sup> In relation to the Central African Republic, the authorization to use force related to the mandate to contribute, inter alia, to the protection of civilians, stabilization of the country, restoration of State authority, creation of conditions conducive to the provision of

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<sup>239</sup> See resolutions [2085 \(2012\)](#), para. 9, and [2100 \(2013\)](#), paras. 17 and 18.

<sup>240</sup> See resolution [2127 \(2013\)](#), paras. 28 and 50.

<sup>241</sup> See resolution [2085 \(2012\)](#), para. 9.

<sup>242</sup> See resolution [2100 \(2013\)](#), paras. 16 and 17.

<sup>243</sup> See resolution [2100 \(2013\)](#), para. 16(a)(i).

humanitarian assistance, and disarmament demobilization and reintegration process led by the transitional authorities.<sup>244</sup>

The Council also expanded the area of operations of AMISOM with a view to reducing the threat posed by Al Shabaab and other armed opposition groups<sup>245</sup> and reinforced the measures in relation to MONUSCO, enabling the mission to undertake offensive operations.<sup>246</sup> In the case of MONUSCO, the Council added specific resources to the existing military component of the mission by creating the so-called “Intervention Brigade”.<sup>247</sup> In addition, the Council clarified the scope of the authorization to use force by UNMISS and UNISFA underscoring that the language of prior resolutions (namely resolution [1990 \(2011\)](#) in the case of UNISFA and resolution [1996 \(2011\)](#) in the case of UNMISS) included “taking the necessary actions to protect civilians under imminent threat of physical violence”.<sup>248</sup> With regard to UNAMID, the Council urged UNAMID to take all necessary measures within its rules of engagement to protect United Nations personnel and equipment, thereby clarifying the mandate provided for in paragraph 15 of resolution [1769 \(2007\)](#).

During the period under review, the Council also reaffirmed, renewed or extended the authorization of the use of force by ISAF (and its participating Member States) regarding the situation in Afghanistan,<sup>249</sup> UNMISS in the context of the situation in South Sudan,<sup>250</sup> AMISOM and relevant Member States (cooperating with the Transitional Federal Government in the fight against piracy and armed robbery at sea) concerning the situation in Somalia,<sup>251</sup> UNOCI and the French Forces (in support of the mission) in relation to the situation in Côte d’Ivoire,<sup>252</sup> EUFOR ALTHEA in connection with the situation in Bosnia and Herzegovina,<sup>253</sup> and UNIFIL in relation to Lebanon.<sup>254</sup> In addition, with regard to the deteriorating situation in the Golan Heights as a result of the civil war unfolding in the Syrian Arab Republic (which resulted in the detention of

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<sup>244</sup> See resolution [2127 \(2013\)](#), para. 28.

<sup>245</sup> See resolution [2036 \(2012\)](#), para. 1.

<sup>246</sup> See resolution [2098 \(2013\)](#), para. 12(b).

<sup>247</sup> See resolution [2098 \(2013\)](#), para. 9. See for further information in the regard, Part X of this Supplement.

<sup>248</sup> See resolutions [2109 \(2013\)](#), para. 4 and [2104 \(2013\)](#), para. 4.

<sup>249</sup> See resolutions [2069 \(2012\)](#), paras. 1 and 2 and [2120 \(2013\)](#), paras. 1 and 2.

<sup>250</sup> See resolutions [2057 \(2012\)](#), para. 5 and [2109 \(2013\)](#), para. 8.

<sup>251</sup> See resolutions [2036 \(2012\)](#), para. 18, [2072 \(2012\)](#), para. 1, [2073 \(2012\)](#), para. 1, [2077 \(2012\)](#), para. 12, [2093 \(2013\)](#), para. 1, [2124 \(2013\)](#), para. 1 and [2125 \(2013\)](#), para. 12.

<sup>252</sup> See resolutions [2062 \(2012\)](#), paras. 5 and 14 and [2112 \(2013\)](#), paras 7 and 21.

<sup>253</sup> See resolution [2123 \(2013\)](#), paras. 14 and 15.

<sup>254</sup> See resolutions [2064 \(2012\)](#), paras. 1 and [2115 \(2013\)](#), paras. 1 and 13.

UNDOF peacekeepers and UNTSO observers by armed elements of the Syrian opposition), the Council underscored the need for UNDOF to have the means, required capacity and resources to carry out and fulfil its mandate.<sup>255</sup> For further information on the specific mandates of each of the United Nations peacekeeping operations, please refer to Part X of this Supplement.

## **B. Discussion relating to Article 42**

This sub-section highlights the themes discussed in the context of the deliberations of the Council with regard to measures under Article 42 of the Charter and the authorization of the use of force.

During the period under review, the debates at the Council focused on the changing nature of peacekeeping in increasingly challenging environments as exemplified by the situations in Mali, the Central African Republic and the Democratic Republic of the Congo. In this regard, Council members dwelled on the scope of the authorization of the use of force under mandates to protect civilians and on the appropriateness and impact of increasingly robust mandates of peacekeeping missions. The following case studies in relation to the protection of civilians in armed conflict (case 14), the situation concerning the Democratic Republic of the Congo (case 15), the situation in Mali (case 16), the situation in the Central African Republic (case 17), and United Nations peacekeeping operations (case 18) focus on the key elements of those debates.

### **Case 14**

#### **Protection of civilians in armed conflict**

Further to the latest report of the Secretary-General, the Council held an open debate on 25 June 2012 on the protection of civilians in armed conflict. Against the backdrop of the implementation of resolution [1973 \(2011\)](#) in relation to the situation in Libya, the representative of the Russian Federation noted that “any reactive measure to protect civilians” required Council authorization and regretted unsatisfactory implementation of Council resolutions relating to the

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<sup>255</sup> See resolutions [2108 \(2013\)](#), tenth preambular paragraph and para. 7 and [2131 \(2013\)](#), ninth preambular paragraph and para. 6.

protection of civilians.<sup>256</sup> By contrast, the representative of the United States defended that resolution [1973 \(2011\)](#) was adopted without opposition and contained a strong civilian-protection mandate to authorize the use of force to prevent brutal actions by that regime against the Libyan people.<sup>257</sup> Some speakers referred to the use of force as a measure of last resort.<sup>258</sup> The representative of China argued that the authorization of the use of force in the protection of civilians had to be approached with extreme caution.<sup>259</sup> The representative of Chile stressed the need to establish common criteria for the implementation of the authorization of the use of force by the Security Council.<sup>260</sup> He suggested criteria such as the principle of the protection of civilians or the principle of the responsibility to protect.<sup>261</sup> The representative of Pakistan warned against misplaced expectations for peacekeeping missions exemplified by the mandate to peacekeepers to pre-empt threats to the civilian population.<sup>262</sup> In this connection, he added that the use of force “under the garb of civilian protection” was not helpful and that it was necessary to carefully evaluate all legal aspects of the civilian protection in peacekeeping operations.<sup>263</sup>

On 13 February 2013, the Council held a second open debate on the protection of civilians in armed conflict. The circumstances of the civilian deaths in Libya as a result of NATO airstrikes continued to be part of the background of the discussion. The representative of the Russian Federation reiterated that proactive steps to protect civilians when it involved the use of force should be taken only if endorsed by the Security Council and with full compliance with the Charter.<sup>264</sup> The representative of Brazil noted that the use of force in the protection of civilians stood out as a controversial question that compromised efforts towards the peaceful settlement of disputes.<sup>265</sup> In addition, he made reference to Brazil’s paper on “responsibility while protecting” ([S/2011/701](#)) of 2011 and added that resort to military action should always be an exceptional measure after exhausting peaceful means and only upon authorization of the

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<sup>256</sup> [S/PV.6790](#), p. 22.

<sup>257</sup> *Ibid.*, p. 26.

<sup>258</sup> See [S/PV.6790 \(Resumption 1\)](#), p. 5 (Argentina) and p. 24 (Bangladesh).

<sup>259</sup> [S/PV. 6790](#), p. 28.

<sup>260</sup> See [S/PV.6790 \(Resumption 1\)](#), p. 26.

<sup>261</sup> *Ibid.*

<sup>262</sup> [S/PV.6790](#), p. 17.

<sup>263</sup> *Ibid.*

<sup>264</sup> [S/PV.6917](#), p. 26.

<sup>265</sup> [S/PV.6917](#), pp. 28-29.

Council.<sup>266</sup> Moreover, he indicated that if force was authorized it had to be judicious, proportionate and limited to the objectives established by the Council.<sup>267</sup> Portugal also recalled Brazil's 2011 paper as a means of improving implementation when the use of force is authorized by the Security Council.<sup>268</sup> Again as in the previous debate, some speakers noted that the use of force should be a measure of last resort.<sup>269</sup>

On 19 August 2013, the Council held an open debate on the protection of civilians in armed conflict further to the concept note circulated by Argentina in light of the then forthcoming report of the Secretary-General.<sup>270</sup> The representative of the Russian Federation deemed unacceptable the attempts to manipulate mandates and clarified that the use of force to protect civilians was only possible with the approval of the Council and “unwavering compliance” with the Charter.<sup>271</sup> The representative of Brazil recalled the meaning of protection, criticizing the attitude of some with regard to what he described as “an almost automatic link between the protection of civilians and the use of force”.<sup>272</sup> In this regard, he added that the use of force should be a measure of last resort.<sup>273</sup> By contrast, the representative of France lauded the action of the Council in providing robust mandates to peacekeeping missions in order to “put an end to situations where civilians are threatened”.<sup>274</sup>

## Case 15

### The situation concerning the Democratic Republic of the Congo

On 28 March 2013, the Council adopted resolution [2098 \(2013\)](#) deciding that MONUSCO include “on an exceptional basis and without creating a precedent or any prejudice to the agreed principles of peacekeeping”, an Intervention Brigade under the direct command of the MONUSCO Force Commander, with the responsibility of neutralizing armed groups and the objective of contributing to reducing the threat posed by armed groups to state authority and

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<sup>266</sup> Ibid.

<sup>267</sup> Ibid.

<sup>268</sup> [S/PV.6917 \(Resumption 1\)](#), p. 14.

<sup>269</sup> [S/PV.6917 \(Resumption 1\)](#), p. 24 (Bosnia Herzegovina), p. 39 (Bangladesh), and p. 45 (Venezuela).

<sup>270</sup> [S/2013/447](#).

<sup>271</sup> See [S/PV.7019](#), p. 10.

<sup>272</sup> Ibid., p. 30.

<sup>273</sup> Ibid.

<sup>274</sup> Ibid., p. 23.

civilian security in eastern Democratic Republic of the Congo and to make space for stabilization activities. In the debate that ensued, Council members overwhelmingly welcomed the creation of the Intervention Brigade. However, many speakers dwelled on the risks that the peace-enforcement mandate of the newly created Intervention Brigade would entail for the neutrality and impartiality of the United Nations activities in the country.<sup>275</sup> The representative of Guatemala explicitly noted his country’s preference that the Brigade would have been defined as a self-contained unit with specific responsibilities, “clearly distinguishable from the mandates of the other MONUSCO brigades”.<sup>276</sup> He also added that many conceptual, operational and legal considerations had not been adequately explored in the course of negotiating the text of the resolution.<sup>277</sup> The representative of the United Kingdom underscored that the resolution separated the tasks of the military and the civilian components of the mission, while admitting that the United Kingdom also harbored “some concerns and well-founded doubts as to the establishment of the Intervention Brigade”.<sup>278</sup> In the same vein, while bearing concerns about the safety and security of peacekeepers, the representative of Pakistan highlighted that the resolution “clearly define[d] the goals and tasks of the Intervention Brigade”.<sup>279</sup> In addition, several speakers emphasized that the deployment of the Intervention Brigade did not constitute any precedent nor did it affect the adherence to the principles of peacekeeping.<sup>280</sup>

## Case 16

### The situation in Mali

On 20 December 2012, the Council adopted resolution [2085 \(2012\)](#) authorizing the deployment of AFISMA to support the Malian authorities in recovering the areas in the north of its territory under the control of terrorist, extremist and armed groups and in reducing the threat posed by terrorist organizations. During the discussion that ensued, the representative of Côte d’Ivoire affirmed that the resolution provided the “necessary international legitimacy” to carry

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<sup>275</sup> See [S/PV.6943](#), p. 3 (Rwanda), p. 4 (Guatemala), p. 6 (Argentina), and p. 7 (Pakistan).

<sup>276</sup> *Ibid.*, p. 4.

<sup>277</sup> *Ibid.*

<sup>278</sup> *Ibid.*, p. 5.

<sup>279</sup> *Ibid.*, p. 7.

<sup>280</sup> *Ibid.*, p. 5 (United Kingdom), p. 7 (Pakistan), and p. 8 (China).

out the necessary actions to restore the sovereignty and territorial integrity of Mali with the objective of retaking the territory under the control of terrorist and extremist groups.<sup>281</sup>

Less than six months later, faced with the aggravation of the security situation in the north of Mali, the Council adopted resolution [2100 \(2013\)](#), on 25 April 2013, establishing MINUSMA and providing it with a robust mandate (by using all necessary means) to, inter alia, stabilize key population centres and to extend and re-establish State administration in support of the transitional authorities of Mali, as well as bringing to justice those responsible for war crimes and crimes against humanity in Mali.<sup>282</sup> In the discussion that ensued, the representative of the Russian Federation cautioned against operations by peacekeepers to arrest those accused by the International Criminal Court (ICC) which in his view should be conducted by specially trained troops.<sup>283</sup>

## Case 17

### The situation in the Central African Republic

On 25 November 2013, against the backdrop of the unfolding crisis in the Central African Republic, the Deputy Secretary-General reported on the technical assistance mission dispatched to the country and called for prompt and decisive action in the form of a “robust international action”.<sup>284</sup> In a similar way, the Secretary-General of the Economic Community of Central African States reiterated the request of the Heads of State and government of ECCAS “for a robust mandate under Chapter VII of the Charter”.<sup>285</sup>

Ten days later, on 5 December 2013, the Council unanimously adopted resolution [2127 \(2013\)](#), authorizing the deployment of MISCA with the mandate to, inter alia, contribute to protect civilians, restore security and public order, stabilize the country and restore State authority.<sup>286</sup> During the discussion that followed the adoption, the representatives of France and Togo welcomed the resolution.<sup>287</sup> While the representative of France underlined MISCA’s robust

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<sup>281</sup> See [S/PV.6898](#), p. 3.

<sup>282</sup> See resolution [2100 \(2013\)](#), paras. 16 (a)(i) and 16(a)(ii).

<sup>283</sup> See [S/PV.6952](#), p. 2.

<sup>284</sup> See [S/PV.7069](#), p. 2.

<sup>285</sup> *Ibid.*, p. 6.

<sup>286</sup> See resolution [2127 \(2013\)](#), para. 28.

<sup>287</sup> See [S/PV.7072](#), p. 2 (Togo) and p. 4 (France).

mandate under Chapter VII of the Charter,<sup>288</sup> the representative of Togo highlighted the authorization to the French forces to take “every measure necessary” to support MISCA in carrying out its mandate.<sup>289</sup>

## Case 18

### United Nations peacekeeping operations

On 21 January 2013, the Council adopted resolution [2086 \(2013\)](#) in which it reaffirmed that respect for the basic principles of peacekeeping, including the consent of the parties, impartiality, and non-use of force, except in self-defence and defence of the mandate. During the discussions that preceded and followed the adoption of the resolution under the item of “United Nations peacekeeping: A multidimensional approach”, speakers reflected on the changing and challenging circumstances of peacekeeping. Some of them defended that sometimes the Council needed to formulate more robust mandates to be effective;<sup>290</sup> and in some cases, as argued by the representative of Côte d’Ivoire, for the “imposition of peace”.<sup>291</sup> In a subsequent meeting of the Council under the item of “United Nations peacekeeping operations”, on 26 June 2013, speakers again dwelled on the changing landscape of peacekeeping and in particular on the following: MONUSCO’s Intervention Brigade,<sup>292</sup> the use of unmanned aerial vehicles,<sup>293</sup> and the increasingly robust mandate of certain peacekeeping operations.<sup>294</sup>

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<sup>288</sup> Ibid, p. 4.

<sup>289</sup> Ibid., pp. 2-3.

<sup>290</sup> See [S/PV.6903](#), p. 38 (Tanzania); p. 53 (Uganda); and p. 64 (South Sudan).

<sup>291</sup> Ibid., p. 51.

<sup>292</sup> See [S/PV.6987](#), p. 12 (Argentina).

<sup>293</sup> Ibid., p. 7 (Pakistan); and p. 9 (Russian Federation).

<sup>294</sup> Ibid., p. 18 (Republic of Korea).

## **Section V – Consideration of Articles 43 to 45 of the Charter**

### *Article 43*

*1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.*

*2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.*

*3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.*

### *Article 44*

*When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.*

### *Article 45*

*In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.*

## Note

Article 43 of the Charter provides that all Member States undertake to make available to the Council, for the maintenance of international peace and security, armed forces, assistance and facilities in accordance with special agreements. Such agreements were conceived to be entered into by the Council and Member States to regulate the numbers and types of troops, their readiness and location and the nature of facilities to be provided.

However, agreements under Article 43 were never concluded and in the absence of such agreements, there is therefore no practice in application of Article 43. The United Nations has developed practical arrangements to carry out military operations in the absence of such agreements. In that context, the Council authorises peacekeeping forces (under the command and control of the Secretary-General and assembled pursuant to ad hoc agreements entered into by the United Nations and Member States), and national or regional forces (under national or regional command and control) to conduct military action. Peacekeeping operations, as well as their mandates, are covered in detail in Part X of this Supplement.

Articles 44 and 45 of the Charter make explicit reference to Article 43 and are therefore intimately linked. As with Article 43, there is no practice in application of Articles 44 and 45. However, the Council has developed practice to, on the one hand, consult with Member States contributing troops for United Nations peacekeeping activities and, on the other, call on Member States to contribute military air assets in the context of peacekeeping. During the period under review, the Council did not explicitly refer to Articles 43 to 45 in any of its decisions nor was there any constitutional discussion about these articles. Featured below is an overview of the practice of the Security Council during 2012 and 2013 concerning the consultation with troop and police contributing countries (sub-section A) and the contribution of military air assets (sub-section B) to peacekeeping operations.

## **A. Recognition of the need to consult with troop and police contributing countries**

During the period under review the Council recognized in a number of its decisions the need for and importance of further cooperation and consultation with troop and police contributing countries.<sup>295</sup>

Also in Council meetings, Council members dwelled upon the importance of cooperation and regular consultations with troop- and police contributing countries. In connection with the item “Implementation of the note by the President of the Security Council (S/2010/507)”, on 26 November 2012, speakers mentioned the need to strengthen the interaction with troop and police contributing countries.<sup>296</sup> During the 6870<sup>th</sup> meeting, some speakers advocated for more regular participation of troop and police contributing countries as a means of improving the definition of the mandates and the decision-making concerning peacekeeping operations.<sup>297</sup> In the 6903<sup>rd</sup> meeting of the Council, under the item “United Nations peacekeeping operations”, several speakers emphasized the importance of the “triangular cooperation” between the Council, the Secretariat and the troop-contributing countries in the decision-making process.<sup>298</sup> The representative of Pakistan highlighted the need for sound planning and coordination in mandating and deploying peacekeeping missions through consultations with all stakeholders, especially troop-contributing countries.<sup>299</sup> In a similar vein, several speakers favoured and demanded strengthened cooperation and regular consultations with troop- and police contributing countries.<sup>300</sup> The representative of India further recalled the 2011 presidential statement ([S/PRST/2011/17](#)) calling for meaningful engagement by the Council with troop-contributing countries.<sup>301</sup> The representative of Nepal argued that a framework for consultation with troop contributing and police contributing countries should be “substantive, institutionalized and structured”.<sup>302</sup>

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<sup>295</sup> See [S/PRST/2012/22](#) twelfth paragraph; and resolutions [2053 \(2012\)](#), para. 27, [2086 \(2013\)](#), para 17, [2098 \(2013\)](#), para. 31 and [2113 \(2013\)](#), para. 11.

<sup>296</sup> [S/PV.6870](#), p. 3 (Portugal); p. 5 (Colombia); p. 6 (Russian Federation); p. 11 (Pakistan); p. 13 (Togo); p. 14 (Morocco); p. 16 (South Africa), [S/PV.6870 \(Resumption 1\)](#), p. 7 (Sweden) and p. 12 (Indonesia).

<sup>297</sup> [S/PV.6870](#), p. 20 (India) and p. 33 (Ireland).

<sup>298</sup> [S/PV.6903](#), p. 11 (Guatemala), p. 20 (Morocco), p. 36 (Chile) and p. 39 (Uruguay).

<sup>299</sup> *Ibid.*, p. 4.

<sup>300</sup> *Ibid.*, p. 21 (Azerbaijan), p. 41 (Cuba), p. 45 (Thailand) and p. 46 (Ukraine).

<sup>301</sup> *Ibid.*, p. 31.

<sup>302</sup> *Ibid.*, pp. 42-43.

## **B. The question of contributing military air assets**

During 2012 and 2013, the Council adopted a number of decisions calling on Member States to contribute personnel, equipment and other resources to United Nations as well as Member State-led enforcement operations and peacekeeping missions,<sup>303</sup> including military air assets.<sup>304</sup> It called on Member States to contribute air assets in the context of military action carried out pursuant to Chapter VII in the Democratic Republic of the Congo,<sup>305</sup> Somalia<sup>306</sup> and the Sudan and South Sudan.<sup>307</sup>

On 21 January 2013, in connection with the item “United Nations peacekeeping operations” speakers mentioned the need for Member States to adequately support and equip United Nations peacekeeping missions. Indeed, at the 6903<sup>rd</sup> meeting of the Council, the Secretary-General called on Member States to provide “key military assets and enabling capabilities ... to operate in ever more challenging environments”. He also emphasised that when Member States “show the will to make the right contributions at the right time”, the United Nations can deploy more quickly and operate more effectively.<sup>308</sup> The representatives of India and Rwanda made reference to the importance of resources.<sup>309</sup> In this connection, the representative of Rwanda recalled his country’s deployment of military utility helicopters to UNMISS in response to the Secretary-General’s requests.<sup>310</sup>

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<sup>303</sup> See, for example, resolutions [2069 \(2012\)](#), para. 3, [2085 \(2012\)](#), para. 15, [2086 \(2013\)](#), para. 11, [2120 \(2013\)](#), para. 3, [2122 \(2013\)](#), para. 9 and [2124 \(2013\)](#), para. 6.

<sup>304</sup> See, for example, resolutions [2053 \(2012\)](#), para. 27, [2057 \(2012\)](#), para. 24, [2098 \(2013\)](#), para. 31, [2109 \(2013\)](#), para. 33 and [2113 \(2013\)](#), para. 11.

<sup>305</sup> See resolutions [2053 \(2012\)](#), para. 27 and [2098 \(2013\)](#), para. 31.

<sup>306</sup> See resolution [2124 \(2013\)](#), para. 6.

<sup>307</sup> See resolutions [2057 \(2012\)](#), para. 24, [2109 \(2013\)](#), para. 33, and [2113 \(2013\)](#), para. 11.

<sup>308</sup> [S/PV.6903](#), p. 3.

<sup>309</sup> *Ibid.*, p. 19 (Rwanda) and p. 31 (India).

<sup>310</sup> *Ibid.*, p. 19. During the 6993<sup>rd</sup> meeting of the Council, on 8 July 2013, the Special Representative of the Secretary-General and Head of the United Nations Mission in the Republic of South Sudan, in her briefing highlighted that UNMISS was facing a mobility crisis which was having an especially detrimental effect on the Mission’s ability to protect civilians; mainly due to aviation safety procedures and to a lack of aviation capabilities, particularly helicopters. She urged the Council to take urgent action to support the Mission in filling those gaps ([S/PV.6993](#), p. 4).

## **Section VI - Assistance by the Military Staff Committee and composition of the Military Staff Committee in accordance with Articles 46 and 47 of the Charter**

### *Article 46*

*Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.*

### *Article 47*

- 1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.*
- 2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.*
- 3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.*
- 4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.*

### **Note**

This section covers the practice of the Security Council in relation to Articles 46 and 47 of the Charter regarding the Military Staff Committee, including instances where the Council considered the role of the Military Staff Committee in planning the application of armed force, and advising and assisting the Council on the military requirements for the maintenance of international peace and security.

During the period under review and by contrast with previous supplements, the Military Staff Committee received little attention from the Council in its decisions and deliberations. This notwithstanding, interest remained in the enhancement of its role as attested by the fact that it remained on the agenda of all Council discussions under the item “Implementation of the note by the President of the Security Council ([S/2010/507](#))”.

During the period under review, the Council did not explicitly refer to either Article 46 or 47 in any of its decisions. In addition, during the period 2012 and 2013, no decision of the Council made reference to the Military Staff Committee. As it is customary, the Annual Reports of the Security Council made reference to the Military Staff Committee as well as to its activities.<sup>311</sup> Sub-section A below covers the discussions of the Council of relevance to Articles 46 and 47.

#### **A. Discussion relating to Articles 46 and 47**

During the period under review, there were no explicit references to Articles 46 and 47 in any of the meetings of the Council. However, the Military Staff Committee was mentioned in two meetings of the Council. On 20 June 2012, during the 6789<sup>th</sup> meeting of the Council under the item “United Nations peacekeeping operation”, the representative of the Russian Federation mentioned that the Military Staff Committee needed to step up its activities in order to fulfil the Charter purpose of providing the necessary level of military expertise for measures taken in the framework of peacekeeping.<sup>312</sup> Furthermore, on 26 November 2012, during the 6870<sup>th</sup> meeting of the Council, under the item “Implementation of the note by the President of the Security Council ([S/2010/507](#))”, the representative of the Netherlands considered interesting to explore whether the Military Staff Committee could provide military advice when the Council considered the mandate of a military operation.<sup>313</sup> This comment was made in relation to the reference by India and Portugal in their joint concept note to the topic of enhancing the role of the Military Staff Committee, as a possible topic for discussion.<sup>314</sup>

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<sup>311</sup> See [A/67/2](#), p. 209, [A/68/2](#), p. 216 and [A/69/2](#), p. 219.

<sup>312</sup> See [S/PV.6789](#), pp. 16.

<sup>313</sup> [S/PV.6870 \(Resumption 1\)](#), p. 6.

<sup>314</sup> [S/2012/853](#). The same topic was listed for possible discussion in the concept note of Azerbaijan ([S/2013/613](#)) to the Council. However, in the meeting of the Council following that concept note, there was no reference to the Military Staff Committee.

## **Section VII – Action required from Member States under Article 48 of the Charter**

### *Article 48*

*1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.*

*2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.*

### **Note**

This section covers the practice of the Council in relation to Article 48 of the Charter, regarding the obligation of all or some Member States to carry out the decisions of the Council for the maintenance of international peace and security. Under Article 48(2), Member States shall carry out the decisions directly, or through international organizations of which they are members. Therefore, the present section focuses on the types of obligations imposed on Member States in accordance with Article 48, and on the range of addressees designated by the Council to implement, or comply with, decisions adopted. Whilst Article 48 relates to requests to Member States to carry out action of the Council, during the 2012 and 2013 period, the Council addressed some of its pleas to various “parties”<sup>315</sup> and “non-state” actors<sup>316</sup> in decisions dealing with the ever increasing number of items on its agenda involving intra-state conflict.

During the period under review, the Council did not explicitly invoke Article 48 in its decisions. However, in several instances, the Council adopted resolutions which underlined the obligation of Member States to comply with the measures imposed under Chapter VII of the Charter of relevance to Article 48.

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<sup>315</sup> See resolutions [2035 \(2012\)](#), para. 12, [2040 \(2012\)](#), para. 11, [2045 \(2012\)](#), paras. 23 and 26, [2049 \(2012\)](#), para. 5, [2050 \(2012\)](#), para. 5, [2060 \(2012\)](#), para. 16, [2091 \(2013\)](#), para. 12, [2095 \(2013\)](#), para. 15, [2098 \(2013\)](#), para. 32, [2101 \(2013\)](#), para. 28, [2105 \(2013\)](#), para. 5, [2111 \(2013\)](#), para. 32, and [2127 \(2013\)](#), para. 60.

<sup>316</sup> See resolution [2077 \(2012\)](#), para. 26.

This section is divided into two sub-sections. Sub-section A covers decisions of the Council requiring Member States to carry out action in relation to measures under Article 41 and sub-section B covers decisions of the Council requiring Member States to carry out action in relation to measures under Article 42. During the biennium under review, only one explicit reference was found to Article 48 in the communications to the Council<sup>317</sup> and no constitutional discussions were held in relation to the interpretation or application of this article.

### **A. Decisions requiring Member States to carry out action in relation to measures under Article 41 of the Charter**

During the period under review and in relation to decisions adopted pursuant to Article 41 concerning sanctions, the Council called on Member States: (i) to comply with their obligation to implement sanctions measures by, inter alia, taking “all necessary measures”;<sup>318</sup> (ii) to report to the relevant sanctions committees or to the Council directly;<sup>319</sup> (iii) to ensure full cooperation with the relevant committee, panel of experts or monitoring group;<sup>320</sup> and (iv) to provide unhindered access and safety to panels of experts and monitoring groups assisting sanctions committees.<sup>321</sup> In this regard, the Council addressed those requests to all Member States, all States concerned, States in the subregion,<sup>322</sup> as well as to Member States individually or in the framework of other international organizations and entities, echoing Article 48(2) of the Charter.<sup>323</sup>

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<sup>317</sup> Letter dated 31 December 2012 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities addressed to the President of the Security Council ([S/2012/968](#)).

<sup>318</sup> See for example, resolutions [2036 \(2012\)](#), para. 22; [2045 \(2012\)](#), para. 8; [2048 \(2012\)](#), para. 4; [2056 \(2012\)](#), para. 23; [2062 \(2012\)](#), para. 9; [2082 \(2012\)](#), para. 1; [2083 \(2012\)](#), paras. 1 and 20; [2094 \(2013\)](#), paras. 13, 22 and 30; [2101 \(2013\)](#), para. 1; [2111 \(2013\)](#), para. 18; and [2127 \(2013\)](#), paras. 54 and 55.

<sup>319</sup> See for example, resolutions [2035 \(2012\)](#), para. 13; [2078 \(2012\)](#), para. 22; [2094 \(2013\)](#), para. 25; and [2127 \(2013\)](#), para. 58.

<sup>320</sup> See for example, resolutions [2035 \(2012\)](#), para. 12; [2040 \(2012\)](#), para. 11; [2045 \(2012\)](#), paras. 14 and 23; [2049 \(2012\)](#), para. 5; [2050 \(2012\)](#), para. 5; [2056 \(2012\)](#), para. 24; [2060 \(2012\)](#), para. 16; [2077 \(2012\)](#), para. 8; [2078 \(2012\)](#), para. 9; [2079 \(2012\)](#), para. 7; [2091 \(2013\)](#), para. 12; [2095 \(2013\)](#), para. 15; [2101 \(2013\)](#), paras. 17 and 21; [2105 \(2013\)](#), para. 5; [2111 \(2013\)](#), para. 32; [2127 \(2013\)](#), para. 60, and [2128 \(2013\)](#), para. 7.

<sup>321</sup> See for example, resolutions [2045 \(2012\)](#), paras. 12 and 26; and [2101 \(2013\)](#), paras. 15 and 30.

<sup>322</sup> See for example, resolution [2045 \(2012\)](#), paras. 8 and 14 in relation to the sanctions measure in relation to Côte d'Ivoire. See also resolution [2060 \(2012\)](#), para. 16 in relation to the sanctions measures in place in relation to Somalia and Eritrea.

<sup>323</sup> See for example, resolution [2077 \(2012\)](#), paras. 28 and 33 in relation to the sanctions measures in place in relation to Somalia and Eritrea.

During the period under review, the Council urged Member States to assist the committees and panels of experts also in providing publicly available reasons for listing individuals and entities affected by the sanctions measures imposed pursuant to Article 41.<sup>324</sup>

Regarding decisions adopted in accordance with Article 41 in relation to judicial measures, the Council called on Member States to cooperate with tribunals.<sup>325</sup> During the period under review, the Council called for cooperation with the International Criminal Court for the former Yugoslavia (ICTY), the International Tribunal for Rwanda (ICTR), the United Nations Mechanism for International Criminal Tribunals (MICT) as well as the International Criminal Court (ICC). In this context, it requested all Member States, all States “in a position to do so”,<sup>326</sup> States where fugitives were suspected to be at large,<sup>327</sup> as well as States individually concerned,<sup>328</sup> to take measures with a view to cooperating with those tribunals.

With regard to Article 48(2), the thirteenth report of the Analytical Support and Sanctions Implementation Monitoring Team stated that Article 48 of the Charter required Member States to observe mandatory decisions of the Council “not only directly but also through their action in appropriate international agencies of which they are members”.<sup>329</sup>

## **B. Decisions requiring Member States to carry out action in relation to measures under Article 42 of the Charter**

During the period under review, the Council urged, called upon, encouraged, requested, and authorized action by a particular Member State, a designated group of Member States and/or all Member States in relation to measures adopted under Article 42 of the Charter. For example, in relation to the situation in Afghanistan, the Council continued to authorize Member States

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<sup>324</sup> See for example, resolution [2079 \(2012\)](#), para. 4 with regard to the sanctions regime in Liberia. See also resolution [2083 \(2012\)](#) paras. 14 and 38 adopted under the agenda item “Threats to international peace and security caused by terrorist acts”.

<sup>325</sup> See for example, resolutions [2054 \(2012\)](#), paras. 5 and 6; [2074 \(2012\)](#), para. 3; [2080 \(2012\)](#), paras. 3 and 4; [2081 \(2012\)](#), para. 4; [2095 \(2013\)](#), para. 11; [2123 \(2013\)](#), para. 3; and [2130 \(2013\)](#), para. 3.

<sup>326</sup> See for example, resolutions [2054 \(2012\)](#), para. 6 and [2080 \(2012\)](#), para. 4.

<sup>327</sup> See for example, resolutions [2054 \(2012\)](#), para. 5 and [2080 \(2012\)](#), para. 3.

<sup>328</sup> See for example, resolution [2095 \(2013\)](#), para. 4 concerning the Council’s call on the Libyan government to continue to cooperate fully with the International Criminal Court and the Prosecutor pursuant to resolution [1970 \(2011\)](#).

<sup>329</sup> See the annex to letter dated 31 December 2012 from the Chair of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities addressed to the President of the Security Council ([S/2012/968](#)).

“participating in ISAF” to take all necessary measures to fulfil its mandate.<sup>330</sup> Similarly, the Council continued to authorize “the Member States acting through or in cooperation with the EU” to establish for a further period of twelve months a multinational stabilization force (EUFOR ALTHEA), legal successor of the NATO-led Stabilization Force (SFOR), in Bosnia and Herzegovina.<sup>331</sup> In relation to the situation in Somalia, the Council renewed its call upon “States ... that have the capacity to do so” to take part in the fight against piracy and armed robbery at sea off the coast of Somalia.<sup>332</sup> Also in relation to the situation in Somalia, the Council renewed the authorization to “Member States of the African Union” to maintain the deployment of AMISOM to take all necessary measures to carry out its mandate.<sup>333</sup> In addition, during the period under review, the Council authorized the “French forces in the Central African Republic” to take all necessary measures to support MISCA.<sup>334</sup> The Council also called upon “neighbouring countries of the Central African Republic” to take appropriate measures to support the action of the French forces.<sup>335</sup>

Oftentimes, the Council would in these cases request Member States or coalitions of Member States to report to the Council on the implementation of mandates, as was the case in relation to the situation in Afghanistan,<sup>336</sup> Bosnia and Herzegovina,<sup>337</sup> the Central African Republic,<sup>338</sup> Mali,<sup>339</sup> and Somalia.<sup>340</sup>

The Council called upon “Member States, especially those in the region” to ensure the free, unhindered and expeditious movement to and from Mali to all personnel, as well as equipment, provisions, supplies and other goods which were for the exclusive use of MINUSMA.<sup>341</sup> In relation to the Sudan and South Sudan, the Council called on both States to

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<sup>330</sup> Resolutions [2069 \(2012\)](#), para. 2 and [2120 \(2013\)](#), para. 2.

<sup>331</sup> Resolution [2074 \(2012\)](#), para. 10 and [2123 \(2013\)](#), para. 10.

<sup>332</sup> Resolutions [2077 \(2012\)](#), para. 10 and [2125 \(2013\)](#), para. 10. Paragraphs 11 to 30 of the resolution [2077 \(2012\)](#) specify a variety of actions to be taken by Member States such as to continue to support the efforts of the Contact Group on Piracy Off the Coast of Somalia and the Somali authorities and to prosecute perpetrators and criminalize piracy under relevant domestic laws.

<sup>333</sup> Resolutions [2093 \(2013\)](#), para. 1 and [2124 \(2013\)](#), para. 1.

<sup>334</sup> Resolution [2127 \(2013\)](#), para. 50.

<sup>335</sup> Ibid.

<sup>336</sup> Resolutions [2069 \(2012\)](#), para. 8 and [2120 \(2013\)](#), para. 8.

<sup>337</sup> Resolutions [2074 \(2012\)](#), para. 18 and [2123 \(2013\)](#), para. 18.

<sup>338</sup> Resolution [2127 \(2013\)](#), para. 50.

<sup>339</sup> Resolution [2085 \(2012\)](#), para. 10.

<sup>340</sup> Resolutions [2077 \(2012\)](#), para. 33 and [2125 \(2013\)](#), para. 29.

<sup>341</sup> Resolution [2100 \(2013\)](#), para 20.

ensure the free, unhindered and expeditious movement to and from Abyei of personnel and equipment for the exclusive use of UNISFA.<sup>342</sup> The Council also called upon “all Member States” to ensure the free, unhindered and expeditious movement from the Republic of South Sudan of personnel and equipment for the exclusive use of UNMISS.<sup>343</sup>

Finally, in some instances, the Council requested action from Member States acting “through” other international entities, in consonance with Article 48(2) of the Charter.<sup>344</sup>

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<sup>342</sup> Resolution [2104 \(2013\)](#), para. 13.

<sup>343</sup> Resolution [2109 \(2013\)](#), para. 12.

<sup>344</sup> For example, the Council requested “all States contributing through CGPCS” to report on their efforts to establish jurisdiction and cooperation on the investigation and prosecution of piracy, resolution [2077 \(2012\)](#), para. 33.

## **Section VIII – Mutual assistance by Member States pursuant to Article 49 of the Charter**

### *Article 49*

*The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.*

#### **Note**

This section covers the practice of the Security Council in relation to Article 49 of the Charter concerning mutual assistance among Member States in carrying out the measures decided upon by the Council. The section consists of one sub-section covering decisions of the Council relating to mutual assistance in the implementation of measures adopted by the Council under Chapter VII of the Charter.

During the period under review, the Council did not explicitly invoke Article 49 in any of its decisions. However, the Council did request Member States to join in providing mutual assistance among, and to, Member States carrying out measures under Chapter VII. During the 2012 and 2013 period, there was no constitutional discussion in the Council relating to the interpretation or application of Article 49 of the Charter. Similarly, no reference to Article 49 was found in the communications received by the Council.

#### **A. Decisions of the Council relating to mutual assistance in the implementation of measures under Chapter VII of the Charter**

During the period under review, the Council called upon Member States to enhance their cooperation, within and without peacekeeping missions to carry out measures decided upon by the Council. The Council addressees of its calls for mutual assistance ranged from individual Member States, neighbouring or particularly concerned States, to “all Member States”. The types of assistance requested from Member States varied greatly, from military assets and other resources to less tangible contributions such as assistance or efforts in the consolidation of State authority and the promotion of peace and security in the region.

For example, in relation to the situation in Afghanistan, the Council called upon “Member States” to contribute personnel, equipment and other resources to ISAF and to pursue efforts to support security, stability and transition in Afghanistan.<sup>345</sup>

In connection with Côte d’Ivoire, the Council called on the Governments of Côte d’Ivoire and Liberia to continue to enhance their cooperation “particularly with respect to the border area” in developing and implementing a shared border strategy to support the disarmament and repatriation of foreign armed elements on both sides of the border.<sup>346</sup> Still in connection with the situation in Côte d’Ivoire, the Council also urged “all States” to cooperate with the sanctions committee and its group of experts as well as with the French forces in delivering their respective mandates, in particular by supplying information at their disposal on possible violations of the relevant resolutions.<sup>347</sup>

With regard to the situation in Liberia, the Council encouraged the Governments of Liberia, Sierra Leone, Côte d’Ivoire and Guinea to intensify coordination and exchange of information with regard to cross-border threats to peace and security, as well as to illicit arms trafficking,<sup>348</sup> and “the international community” to support Liberia’s reform efforts aimed at ensuring that natural resources contributed to peace, security and development.<sup>349</sup>

Concerning the Central African Republic, the Council called upon Member States to provide financial support and contributions in kind to MISCA to enable its deployment and implementation of its mandate,<sup>350</sup> and to contribute generously to the United Nations Trust Fund for MISCA.<sup>351</sup>

Concerning Libya, the Council encouraged Libya and “neighbouring States” to continue efforts to promote regional cooperation aimed at stabilization of the situation in Libya and to prevent former regime elements and violent extremist groups from using their territories to carry out illicit acts to destabilize the country and the region.<sup>352</sup>

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<sup>345</sup> Resolutions [2069 \(2012\)](#), para. 3 and [2120 \(2013\)](#), para. 3.

<sup>346</sup> Resolution [2112 \(2013\)](#), para. 25. Resolution [2066 \(2012\)](#), para. 12 relating to the situation in Liberia contains identical language.

<sup>347</sup> Resolution [2101 \(2013\)](#), para. 28.

<sup>348</sup> Resolution [2128 \(2013\)](#), para. 10.

<sup>349</sup> *Ibid.*, para. 12.

<sup>350</sup> Resolution [2127 \(2013\)](#), para. 42.

<sup>351</sup> *Ibid.*, para. 44.

<sup>352</sup> Resolution [2095 \(2013\)](#), para. 6.

In as far as Mali is concerned, in the period 2012 and 2013, the Council urged “Member States” to assist efforts to undertake reform and capacity-building of the Malian security forces to restore the authority of the State of Mali over its territory, uphold the unity and territorial integrity of Mali and reduce the threat of Al Qaida and affiliated groups.<sup>353</sup> It also urged “Sahel and Maghreb States” to enhance interregional cooperation and coordination in relation to counterterrorism strategies and activities against Al Qaida in the Sahel and Maghreb.<sup>354</sup> Subsequently, the Council urged Member States to provide assistance, expertise, training, and capacity building to the Malian Defence and Security Forces,<sup>355</sup> and called upon Member States “including from the Sahel region” to contribute troops to AFISMA.<sup>356</sup> It further urged Member States to provide coordinated support to AFISMA, “including military training, provision of equipment, intelligence, logistical support and any necessary assistance in efforts to reduce the threat posed by terrorist organizations”.<sup>357</sup> The Council further called upon “the international community” to meet regularly in and outside Mali to assist the transitional authorities of Mali to implement the transitional road map and to continue contributing to the promotion of lasting peace, stability and reconciliation in Mali.<sup>358</sup> The Council also urged “Member States” to provide coordinated assistance, expertise, training and capacity building support to the Malian Defence and Security Forces, including through the United Nations Trust Fund established pursuant to resolution [2085 \(2012\)](#).<sup>359</sup> And finally, the Council urged “the Sahel and Maghreb States” to enhance interregional cooperation and coordination in order to develop inclusive and effective strategies to combat in a comprehensive and integrated manner the activities of terrorist groups and prevent their expansion as well as to limit the proliferation of all arms and transnational organized crime.<sup>360</sup>

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<sup>353</sup> See resolution [2056 \(2012\)](#), para. 22.

<sup>354</sup> *Ibid.*, para. 23.

<sup>355</sup> Resolution [2085 \(2012\)](#), para. 7.

<sup>356</sup> *Ibid.*, para. 13.

<sup>357</sup> Resolutions [2085 \(2012\)](#), para. 14 and [2100 \(2013\)](#), para. 10.

<sup>358</sup> Resolution [2100 \(2013\)](#), para. 5.

<sup>359</sup> *Ibid.*, para. 23. See also resolution [2085 \(2012\)](#), para. 7.

<sup>360</sup> Resolution [2100 \(2013\)](#), para. 29.

## **Section IX - Special economic problems of the nature described in Article 50 of the Charter**

### *Article 50*

*If preventive of enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.*

### **Note**

This section covers the practice of the Security Council in relation to Article 50 of the Charter, regarding the right of Member States to consult the Council with a view to resolve special economic problems arising from the implementation of preventive and enforcement measures, such as sanctions, imposed by the Council.

During the period 2012 to 2013, there was no explicit reference or invocation of Article 50 of the Charter in any decision of the Council or in any of the annual reports of the relevant subsidiary bodies overseeing sanctions regimes. This is consistent with the trend observed in previous Supplements mainly due to the continued use of targeted, as opposed to comprehensive, sanctions by the Council, thereby considerably minimizing the negative effects on third (non-targeted) states.<sup>361</sup> Article 50 of the Charter was also not invoked in any communication to the Council.

In spite of the absence of explicit references to Article 50 of the Charter, the Council continued to adopt decisions (in particular in relation to piracy in Somalia) urging cooperating States to take appropriate steps to ensure that the activities they undertook pursuant to relevant resolutions did not have the “practical effect of denying or impairing the right of innocent passage”,<sup>362</sup> echoing the intention behind Article 50 to avoid unintended economic problems to third States arising from the carrying out of measures imposed by the Council.

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<sup>361</sup> For more information on sanctions measures, see sect. III with regard to Article 41 of the Charter.

<sup>362</sup> See resolutions [2077 \(2012\)](#), para. 15 and [2125 \(2013\)](#), para. 15.

In addition, during the period under review, in the context of a meeting under the item “Briefings by Chairmen of subsidiary bodies of the Security Council” on 7 December 2012, the representative of Portugal, concerned about the unintended consequences of sanctions on populations and third States, proposed two concrete initiatives (i) to consider humanitarian exemption to help populations affected by the freezing of national assets and funds, as well as (ii) to clarify whether subsidiaries of listed entities would also be subject to sanctions.<sup>363</sup>

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<sup>363</sup> [S/PV.6881](#), p. 6.

## **Section X – The right of individual or collective self-defence in accordance with Article 51 of the Charter**

### *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.*

### **Note**

This section covers the practice of the Security Council in relation to Article 51 of the Charter, regarding the “inherent right of individual or collective self-defence” in the event of an armed attack against a Member State. The section is divided into three sub-sections. Sub-section A covers decisions adopted by the Council relating to Article 51, sub-section B covers the discussions of the Council of relevance to the interpretation and application of Article 51 and sub-section C covers references to Article 51 and the principle to self-defence in communications addressed to the Security Council.

#### **A. Decisions of the Security Council relating to Article 51**

During the period under review, the Council made reference to Article 51 of the Charter in one decision. In resolution [2117 \(2013\)](#), while noting the significance of small arms and light weapons as the most frequently used weapons in the majority of recent armed conflicts, the

Council emphasized that the right of individual and collective self-defence recognized in Article 51 of the Charter should be “fully taken into account”.<sup>364</sup>

## **B. Discussions relating to Article 51**

During the period under review, explicit references to Article 51 of the Charter were made in the context of the deliberations of the Council in relation to a broad range of agenda items. However, none of those references led to constitutional discussions on the interpretation or application of Article 51.

On 25 April 2012, in a meeting held under the agenda item “Threats to international peace and security” concerning the sub-item “Securing borders against illicit cross-border trafficking and movement”, the representative of Venezuela defended the need to establish controls on the supply of small arms and light weapons so as to limit their supply to Governments and their authorized bodies which he deemed “in accordance with international law, in particular the right to self-defence enshrined in Article 51 of the Charter”.<sup>365</sup>

On 15 January 2013, under the agenda item “Threats to international peace and security”, the representative of Egypt on behalf of the Organization of Islamic Cooperation emphasized the need to distinguish between terrorism and the exercise of the legitimate right of peoples to resist foreign occupation consistent with, inter alia, Article 51 of the Charter.<sup>366</sup>

Finally, on 22 January 2013, in relation to the situation in Mali, the representative of Niger opined that the intervention of France in Mali was legitimate and legal by virtue of the specific request made by the authorities of Mali under “relevant provisions of the Charter ... and specifically pursuant to [A]rticle 51, which enshrines the principle of individual and collective self-defence”.<sup>367</sup> In his identical letters to the Secretary-General and to the President of the Security Council, the representative of France made no explicit reference to Article 51 of the Charter in informing that France had responded to a request for assistance from the Interim

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<sup>364</sup> Resolution [2117 \(2013\)](#), third preambular paragraph.

<sup>365</sup> [S/PV.6760 \(Resumption 1\)](#), p. 8.

<sup>366</sup> [S/PV.6900](#), p. 30.

<sup>367</sup> [S/PV.6905](#), p. 14.

President of the Republic of Mali.<sup>368</sup> In his letter he informed that the French armed forces were supporting Malian units in combating terrorist elements from the north that were threatening the territorial integrity and very existence of the State and the security of its population.<sup>369</sup>

In addition, reference to the right to self-defence was mentioned during the 2012 to 2013 period in relation to, inter alia, the rocket attacks against Israel originating in Gaza under the agenda item “The situation in the Middle East, including the Palestinian question”.<sup>370</sup> Also in connection with the same agenda item but in relation to the Syrian crisis, reference was made to the recognition in resolution 7595 of the League of Arab States to the right of States to their own self-defence.<sup>371</sup>

### **C. References to Article 51 and the right of self-defence in communications addressed to the Security Council**

During the period under review, explicit references to Article 51 of the Charter were found in several communications addressed to the President of the Council.

Article 51 of the Charter was explicitly mentioned in relation to disputes or situations relating to Eritrea and Ethiopia,<sup>372</sup> and the Sudan and South Sudan.<sup>373</sup>

Article 51 was also explicitly mentioned in communications in connection with the question of non-proliferation concerning the Islamic Republic of Iran. The representative of the Islamic Republic of Iran, with reference to media reports regarding Israel’s Prime Minister and Defense Minister’s threats of use of force, invoked his country’s inherent right under Article 51

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<sup>368</sup> [S/2013/17](#).

<sup>369</sup> Ibid.

<sup>370</sup> See [S/PV.6816](#), p. 24 (Germany), [S/PV.6847](#), p. 23 (Germany) and p. 25 (Portugal), and [S/PV.6862](#), p. 31 (Israel).

<sup>371</sup> [S/PV.6950 \(Resumption 1\)](#), p. 5 (Permanent Observer of the League of Arab States).

<sup>372</sup> Letter dated 23 January 2012 from the representative of Eritrea addressed to the President of the Security Council ([S/2012/57](#), p. 2), letter dated 14 March 2012 from the representative of Ethiopia addressed to the President of the Security Council ([S/2012/158](#), p. 2) and letter dated 27 September 2012 from the representative of Eritrea to the President of the Security Council ([S/2012/726](#), pp. 5-6).

<sup>373</sup> Letter dated 23 April 2012 from the representative of the Sudan to the President of the Security Council ([S/2012/252](#), p. 1) and letter dated 28 April 2012 from the representative of the Sudan to the President of the Security Council ([S/2012/277](#), p. 1).

of the Charter to act in self-defence to respond to attacks or to take appropriate measures to protect itself.<sup>374</sup>

The representative of the Syrian Arab Republic addressed identical letters to the Secretary-General and the President of the Security Council dated 21 May 2013 informing of his country's response to an alleged violation by Israel of the Agreement on Disengagement "by exercising the right to self-defence ... enshrined in the Charter".<sup>375</sup>

The right to self-defence (without reference to Article 51 of the Charter) was also invoked by Israel at numerous occasions during the period under review in connection with the actions carried out in response to the attacks "emanating from the Gaza strip".<sup>376</sup>

In his report to the Security Council on the implementation of Security Council resolution [1701 \(2006\)](#), the Secretary-General affirmed that, notwithstanding the right of Israel to self-defence, the retaliatory fire used in response to the rocket-launching on 22 August 2013 from Lebanon did not conform to "the expectations of the United Nations with respect to the cessation of hostilities".<sup>377</sup> He explained that these expectations included that each side immediately notify UNIFIL and that each refrain from responding except where "clearly in immediate self-defence".<sup>378</sup>

Finally, in the Final document of the Sixteenth Conference of Heads of State or Government of Non-Aligned Countries held in Tehran from 26 to 31 August 2012 and transmitted to the Secretary-General in a letter dated 8 October 2012 from the representative of the Islamic Republic of Iran in his capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement, the Heads of State or Government reiterated that all States shall refrain from

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<sup>374</sup> Letter dated 25 May 2012 from the representative of the Islamic Republic of Iran to the President of the Security Council ([S/2012/372](#), p. 1), letter dated 22 August 2012 from the representative of the Islamic Republic of Iran to the President of the Security Council ([S/2012/660](#), p. 2), and identical letters dated 7 November 2012 from the representative of the Islamic Republic of Iran addressed to the Secretary-General and the President of the Security Council ([S/2012/817](#), p. 1).

<sup>375</sup> [S/2013/303](#).

<sup>376</sup> Identical letters from the representative of Israel to the Secretary-General and the President of the Security Council dated 3 January 2012 ([S/2012/5](#), p. 1), 27 January 2012 ([S/2012/69](#), p. 1), 31 January 2012 ([S/2012/73](#), p. 1), 3 February 2012 ([S/2012/78](#), p. 1), 17 February 2012 ([S/2012/100](#), p. 1), 11 March 2012 ([S/2012/148](#), p. 1), 4 May 2012 ([S/2012/296](#), p. 1), 17 May 2012 ([S/2012/333](#), p. 1), 19 June 2012 ([S/2012/457](#), p. 1), 17 July 2012 ([S/2012/556](#), p. 1), 28 August 2012 ([S/2012/674](#), p. 1), 11 September 2012 ([S/2012/696](#), p. 1), 16 October 2012 ([S/2012/770](#), p. 1), 24 October 2012 ([S/2012/787](#), p. 1), 12 November 2012 ([S/2012/826](#), p. 1), and 25 June 2013 ([S/2013/373](#), p. 1).

<sup>377</sup> [S/2013/650](#), para. 68.

<sup>378</sup> *Ibid.*

the threat or use of force against any State and stressed that the Charter contained sufficient provisions regarding the use of force to maintain and preserve international peace and security.<sup>379</sup> In this regard, the Final document also noted that Article 51 of the Charter “is restrictive and should not be rewritten or re-interpreted”.<sup>380</sup>

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<sup>379</sup> [S/2012/752](#), para. 28.2.

<sup>380</sup> Ibid.