



## *Repertoire of the Practice of the Security Council*

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### **PART V**

#### **Consideration of the functions and powers of the Security Council (Articles 24, 25 and 26 of the Charter)**

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## **Introductory note**

Part V covers the functions and powers of the Security Council under Articles 24, 25 and 26 of the Charter of the United Nations, and is accordingly divided into three sections. Under each section, decisions, communications and deliberations of the Security Council that touched upon the relevant Articles are examined.

During the two-year period from 2010 to 2011, the Council adopted a number of decisions while being “mindful of its primary responsibility” under the Charter for the maintenance of international peace and security, including, for the first time, decisions concerning the situations in the Horn of Africa, Libya<sup>1</sup> and Yemen. It also discussed its primary responsibility, particularly in consideration of topics such as its working methods, the interdependence between security and development and the impact of climate change (cases 1-3). Furthermore, a Council debate on the rule of law touched upon the question of the obligation of Member States to accept and carry out Council decisions, as provided for in Article 25 (case 4).

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<sup>1</sup> Until 17 March 2011, the Council considered developments in the Libyan Arab Jamahiriya at the 6686<sup>th</sup>, 6490<sup>th</sup> and 6491<sup>st</sup> meetings under the agenda item “Peace and security in Africa”. Pursuant to a note of the Security Council dated 16 March 2011 (S/2011/141), the Council decided to subsume its earlier consideration of developments in the Libyan Arab Jamahiriya at the above-mentioned three meetings under the new item “the situation in Libya”.

## Section I

### **The Security Council's primary responsibility for the maintenance of international peace and security under Article 24**

#### *Article 24*

*1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.*

*2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.*

#### **Note**

Article 24 (1) and (2) of the Charter of the United Nations provides that the members of the United Nations confer on the Security Council the primary responsibility for the maintenance of international peace and security and requires the Council, in discharging those duties, to act in accordance with the purposes and principles of the United Nations and with the special powers laid down in Chapters VI, VII, VIII and XII. This section covers the practice of the Security Council concerning its primary responsibility for the maintenance of international peace and security, in accordance with Article 24 of the Charter.<sup>2</sup> It is divided into two sub-sections, dealing with decisions and discussions referring to the Council's primary responsibility, respectively. During the period under review, explicit references to Article 24 were found in two communications, both of which were made in the context of the Council's discussion of its working methods.<sup>3</sup>

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<sup>2</sup> Article 24 (3) of the Charter is dealt with in part IV, section I. F. regarding annual and special reports of the Security Council to the General Assembly.

<sup>3</sup> Letter dated 1 April 2010 from the representative of Japan to the Secretary-General ([S/2010/165](#), p. 2); and identical letters dated 15 April 2010 from the representative of Egypt to the President of the General Assembly and the President of the Security Council ([S/2010/189](#), pp. 3-4).

## **A. Decisions referring to the Security Council's primary responsibility**

From 2010 to 2011, none of the decisions adopted by the Security Council contained an explicit reference to Article 24 of the Charter. However, Article 24 was implicitly referred to in a number of resolutions and presidential statements as reflected in Tables 1 and 2, categorized by agenda item and chronologically.

In seven resolutions adopted under items concerning country-specific issues, the Council made a common implicit reference to Article 24 (1), by indicating it was mindful of its primary responsibility under the Charter for the maintenance of international peace and security (see table 1). In five of those resolutions, the Council, “mindful of its primary responsibility”, took action under Chapter VII of the Charter:<sup>4</sup> four included provisions imposing measures under Article 41 against Eritrea, Libya and the Islamic Republic of Iran, respectively,<sup>5</sup> while one resolution included provisions authorizing the termination of enforcement action against Libya that the Council had previously authorized by [resolution 1973 \(2011\)](#).<sup>6</sup> In the remaining two resolutions dealing with situations in Yemen and Libya, the Council indicated it was “mindful of its primary responsibility”, without invoking Chapter VII of the Charter.<sup>7</sup> For example, by [resolution 2014 \(2011\)](#) of 21 October 2011, concerning the situation in the Middle East, the Council, being mindful of its primary responsibility and emphasizing the threats to regional security and stability posed by the deterioration of the situation in Yemen in the absence of a lasting political settlement, demanded that the Yemeni authorities, inter alia, end attacks against civilians and civilian targets by security forces.<sup>8</sup> Furthermore, in two decisions adopted in connection with threats to international peace and security caused by terrorist acts, the Council reaffirmed and recalled its “primary responsibility to maintain international peace and security” in accordance with the Charter (see table 2).<sup>9</sup>

In those decisions related to agenda items dealing with thematic issues, the Council mostly reiterated or reaffirmed its primary responsibility for the maintenance of international peace and security (see table 3). In a number of instances, the Council not only affirmed its

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<sup>4</sup> [Resolutions 1929 \(2010\)](#), [1970 \(2011\)](#), [2009 \(2011\)](#), [2016 \(2011\)](#) and [2023 \(2011\)](#).

<sup>5</sup> [Resolutions 2023 \(2011\)](#), [1970 \(2011\)](#), [2017 \(2011\)](#), and [1929 \(2010\)](#), respectively. For more information regarding measures under Article 41 against Eritrea, Libya and the Islamic Republic of Iran, see part VII, section III. A. 2 and 3, with regard to country-specific decisions relating to Article 41 and judicial measures relating to Article 41.

<sup>6</sup> [Resolution 2016 \(2011\)](#), thirteenth and fourteenth preambular paragraphs and paras. 5 and 6. For details concerning enforcement action against Libya, see part VII, section IV regarding measures to maintain or restore international peace and security in accordance with Article 42 of the Charter.

<sup>7</sup> [Resolutions 2014 \(2011\)](#) and [2017 \(2011\)](#), respectively.

<sup>8</sup> [Resolution 2014 \(2011\)](#), eighteenth preambular paragraph and para. 5.

<sup>9</sup> [S/PRST/2010/19](#) and [S/PRST/2011/5](#).

primary responsibility, it also decided that certain matters were closely linked to that primary responsibility. For example, in connection with the maintenance of international peace and security, the Council stated that it was fully aware of the responsibilities bestowed upon it by the Charter and of the collective aspirations of the peoples of the world, which compelled it to take effective action to maintain international peace and security and eradicate the scourge of war.<sup>10</sup> In connection with children and armed conflict, the Council reiterated its primary responsibility and, in that connection, its commitment to address the widespread impact of armed conflict on children.<sup>11</sup> On the topic of interdependence between security and development, the Council reaffirmed its primary responsibility for the maintenance of international peace and security, and its readiness to strive for sustainable peace in all situations under its consideration.<sup>12</sup>

Table 1

**Decisions by agenda item concerning country-specific and general issues referring to the Council's primary responsibility**

<i>Decision and date</i>	<i>Provision</i>
<b>Nonproliferation</b>	
<a href="#">Resolution 1929 (2010)</a> 9 June 2010 (adopted under Chapter VII)	Concerned by the proliferation risks presented by the Iranian nuclear programme and mindful of its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security (twenty-second preambular paragraph)
<b>Peace and security in Africa (Horn of Africa)</b>	
<a href="#">Resolution 2023 (2011)</a> 5 December 2011 (adopted under Chapter VII)	Mindful of its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security (fourteenth preambular paragraph)
<b>The situation in Libya</b>	
<a href="#">Resolution 1970 (2011)</a> 26 February 2011 (adopted under Chapter VII)	Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations (fifteenth preambular paragraph)
	<i>Same provision in <a href="#">resolutions 2009 (2011)</a> of 16 September 2011, fifteenth preambular paragraph and <a href="#">2016 (2011)</a> of 27 October 2011, thirteenth preambular paragraph</i>
<a href="#">Resolution 1970 (2011)</a> 31 October 2011	Mindful of its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security (fourteenth preambular paragraph)
<b>The situation in Middle East (Yemen)</b>	
<a href="#">Resolution 1970 (2011)</a>	Mindful of its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations, and emphasizing the threats to regional security and stability posed by the deterioration of the situation in Yemen in the absence of a lasting political settlement (eighteenth preambular paragraph)

<sup>10</sup> [S/PRST/2010/18](#), nineteenth paragraph.

<sup>11</sup> [Resolution 1998 \(2011\)](#), second preambular paragraph.

<sup>12</sup> [S/PRST/2011/4](#), first and second paragraphs.

Table 2

**Decisions by agenda item concerning general issues referring to the Council's primary responsibility**

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<i>Decision and date</i>	<i>Provision</i>
<b>Threats to international peace and security caused by terrorist acts</b>	
<a href="#">S/PRST/2010/19</a> 27 September 2010	The Security Council reaffirms its primary responsibility for the maintenance of international peace and security, in accordance with the Charter of the United Nations (first paragraph)
<a href="#">S/PRST/2011/5</a> 28 February 2011	The Council recalls its primary responsibility for the maintenance of international peace and security under the Charter of the United Nations and further recalls Article 103 of the Charter (second paragraph)

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Table 3

**Decisions by thematic agenda item referring to the Council's primary responsibility**

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<i>Decision and date</i>	<i>Provision</i>
<b>Children and armed conflict</b>	
<a href="#">Resolution 1998 (2011)</a> 12 July 2011	Reiterating its primary responsibility for the maintenance of international peace and security and, in this connection, its commitment to address the widespread impact of armed conflict on children (second preambular paragraph)
<b>Cooperation between the United Nations and regional and sub-regional organizations in maintaining international peace and security</b>	
<a href="#">S/PRST/2010/1</a> 13 January 2010	The Council recalls the purposes and principles of the Charter, reiterates its primary responsibility under the Charter for the maintenance of international peace and security, and further recalls that cooperation with regional and subregional organizations in matters relating to the maintenance of international peace and security, consistent with Chapter VIII of the Charter, can improve collective security (second paragraph)
<b>Maintenance of international peace and security: Conflict prevention</b>	
<a href="#">S/PRST/2011/18</a> 22 September 2011	The Security Council reaffirms its primary responsibility for the maintenance of international peace and security, acting in accordance with the purposes and principles of the Charter of the United Nations (third paragraph)
<b>Maintenance of international peace and security: Ensuring the Security Council's effective role in the maintenance of international peace and security</b>	
<a href="#">S/PRST/2010/18</a> 23 September 2010	<p>The Security Council reaffirms its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security (first paragraph)</p> <p>The Council is fully aware of the responsibilities bestowed upon it by the Charter, and of the collective aspirations of the peoples of the world, which impel it to take effective action to maintain international peace and security and eradicate the scourge of war (final paragraph)</p>
<b>Maintenance of international peace and security: Impact of climate change</b>	
<a href="#">S/PRST/2011/15</a> 20 July 2011	The Security Council reaffirms its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security. The

<i>Decision and date</i>	<i>Provision</i>
	Council stresses the importance of establishing strategies of conflict prevention (first paragraph)
<b>Maintenance of international peace and security: Impact of the HIV/AIDS epidemic on international peace and security</b>	
<a href="#">Resolution 1983 (2011)</a> 7 June 2011	Bearing in mind the primary responsibility of the Council for the maintenance of international peace and security (sixteenth preambular paragraph)
<b>Maintenance of international peace and security: The interdependence between security and development</b>	
<a href="#">S/PRST/2011/4</a> 11 February 2011	The Security Council reaffirms its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security and its readiness to strive for sustainable peace in all situations under its consideration (first paragraph)
<b>Maintenance of international peace and security: Optimizing the use of preventive diplomacy tools - prospects and challenges in Africa</b>	
<a href="#">S/PRST/2010/14</a> 16 July 2010	The Security Council reaffirms its primary responsibility for the maintenance of international peace and security in accordance with the Charter of the United Nations (first paragraph)
<b>Peace and security in Africa (General)</b>	
<a href="#">S/PRST/2010/21</a> 22 October 2010	The Security Council reiterates its primary responsibility under the Charter for the maintenance of international peace and security, and recalls that cooperation with regional and sub-regional organizations in matters relating to the maintenance of international peace and security and consistent with Chapter VIII of the Charter can improve collective security (second paragraph)
<b>Threats to international peace and security</b>	
<a href="#">S/PRST/2010/4</a> 24 February 2010	The Security Council reaffirms its primary responsibility for the maintenance of international peace and security, in accordance with the Charter of the United Nations (first paragraph)
<b>United Nations peacekeeping operations</b>	
<a href="#">S/PRST/2011/17</a> 26 August 2011	The Security Council reaffirms its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security (first paragraph)

## **B. Constitutional discussion referring to the Security Council's primary responsibility**

During the period under review, explicit references to Article 24 and its paragraphs (1) and (2) were made on several occasions in the proceedings of the Council.<sup>13</sup> For example,

<sup>13</sup> In connection with implementation of the note by the President of the Security Council, see [S/PV.6300](#), p. 6 (Mexico); p. 9 (Lebanon); p. 15 (Brazil); p. 21 (Egypt), p. 23 (Luxembourg); p. 28 (Sierra Leone), p. 37 (Peru); [S/PV.6300 \(Resumption 1\)](#), p. 9 (Cuba), p. 10 (India), p. 13 (Islamic Republic of Iran); p. 19 (Kenya), p. 20 (Namibia), p. 24 (Ecuador); p. 26 (Pakistan); [S/PV.6672](#), p. 19 (Switzerland, on behalf of the group of five small nations (S-5)); and pp. 21-23 (Jordan), p. 24 (Egypt, on behalf of the Non-Aligned Movement); and [S/PV.6672 \(Resumption 1\)](#), p. 7 (Luxembourg); and p. 14 (Iran (Islamic Republic of)). In connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, see [S/PV.6347](#), p. 7 (Mexico) and [S/PV.6347 \(Resumption 1\)](#), p. 14 (Peru). In connection with the situation in the Middle East, including the Palestinian question, see [S/PV.6484](#), p. 4 (Lebanon). For explicit references to

at the 6347<sup>th</sup> meeting, on 29 June 2010, in connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, the representative of Mexico recalled that according to Article 24 (2), the Council was bound to discharge its duties in accordance with the purposes and principles of the United Nations which, in his opinion, included essential components of the rule of law, such as respect for the principles of justice and adherence to international law and human rights.<sup>14</sup>

In order to illustrate the interpretation and application of Article 24 by the Council, the following three case studies, arranged chronologically, were drawn from deliberations in which the Council engaged in discussions on its responsibilities under the Charter and the appropriateness for the Council to include a situation or thematic issue on its agenda. Case 1 examines the Council's deliberation on its working methods in which speakers provided their interpretations of Article 24, including those on the purview of the Security Council vis-à-vis other bodies in addressing some of the thematic issues. The remaining two cases feature discussions in which divided opinions were expressed on the question of whether the Council's primary responsibility, as espoused in Article 24, could be interpreted so as to extend to two thematic topics before the Council, interdependence between security and development and the impact of climate change (cases 2 and 3).

## Case 1

### **Implementation of the note by the President of the Security Council: working methods**

At the 6300<sup>th</sup> meeting, on 22 April 2010, in connection with "Implementation of the note by the President of the Security Council ([S/2006/507](#))", a number of speakers explicitly cited Article 24 in the context of improving the working methods of the Council, stressing the principle enshrined in the Article that the Security Council should act on behalf of Member States to maintain international peace and security.<sup>15</sup> Citing Article 24 (1), the representative of Pakistan considered it essential for the Council to comprehend the perception of the

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Article 24 and its paragraph 3 in the context of annual and special reports of the Security Council to the General Assembly, see part IV, section I. E.

<sup>14</sup> [S/PV.6347](#), p. 7.

<sup>15</sup> [S/PV.6300](#), p. 6 (Mexico); p. 9 (Lebanon); p. 15 (Brazil); p. 21 (Egypt), p. 23 (Luxembourg); p. 28 (Sierra Leone), p. 37 (Peru); [S/PV.6300 \(Resumption 1\)](#), p. 9 (Cuba), p. 10 (India), p. 13 (Iran (Islamic Republic of)); p. 19 (Kenya), p. 20 (Namibia), p. 24 (Ecuador); p. 26 (Pakistan); [S/PV.6672](#), p. 19 (Switzerland, on behalf of the group of five small nations (S-5)); and pp. 21-23 (Jordan), p. 24 (Egypt, on behalf of the Non-Aligned Movement); and [S/PV.6672 \(Resumption 1\)](#), p. 7 (Luxembourg); and p. 14 (Iran (Islamic Republic of)).



general membership of its work and methods to carry out its mandate.<sup>16</sup> The representative of Mexico urged the Council to continue to fine-tune its working methods in order to ensure the effective implementation of its decisions by all and ultimately to enhance its credibility.<sup>17</sup> Furthermore, the representative of Lebanon proposed an increase in the number of open meetings, Arria formula meetings and informal interactive dialogues, on the basis that such “open-door diplomacy” would increase interaction between the Council and the States that entrusted it to act on their behalf to maintain international peace and security under Article 24.<sup>18</sup>

In addition, several speakers held that the Council should, as a general rule, refrain from encroaching upon the functions and powers that the Charter had placed within the purview of other bodies, such as the General Assembly, particularly in addressing thematic issues.<sup>19</sup> In that context, the representative of the Islamic Republic of Iran stated that although Article 24 required the Council to act on behalf of all Member States of the United Nations, in reality, the Council’s decisions decreasingly reflected the wishes and views of the general membership, and in many cases, did not even represent the genuine opinion of its own general membership.<sup>20</sup> The representative of Saint Vincent and the Grenadines, speaking on behalf of the Caribbean Community (CARICOM), further called on the Council to construe its mandate strictly, to do a small number of things well, than to be more expansive and “do a host of tasks poorly”, so as not to undercut the compelling logic and unique goals under which the United Nations had been established.<sup>21</sup> The representative of the Philippines urged the Council to channel its resources and attention on the “basic and core issues” of peace and security, and to refrain from tackling cross-cutting issues more appropriately dealt with by other bodies of the United Nations.<sup>22</sup> Similarly, the representative of China considered that some of the thematic items on the Council’s agenda were beyond the Council’s sphere of competence, urging the Council to focus on addressing “major and urgent threats” to international peace and security.<sup>23</sup>

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<sup>16</sup> [S/PV.6300 \(Resumption 1\)](#), pp. 26-27.

<sup>17</sup> [S/PV.6300](#), p. 6.

<sup>18</sup> *Ibid.*, p. 9.

<sup>19</sup> *Ibid.*, p. 7 (China); p. 21 (Egypt, on behalf of Non-Aligned Movement (NAM)); p. 26 (Saint Vincent and the Grenadines, on behalf of the Caribbean Community (CARICOM)); and [S/PV.6300 \(Resumption 1\)](#), p. 9 (Cuba); p. 24 (Ecuador); p. 26 (Qatar); and p. 27 (Pakistan).

<sup>20</sup> [S/PV.6300 \(Resumption 1\)](#), p. 13.

<sup>21</sup> [S/PV.6300](#), p. 26.

<sup>22</sup> [S/PV.6300 \(Resumption 1\)](#), p. 2.

<sup>23</sup> [S/PV.6300](#), p. 6.

At the 6672<sup>nd</sup> meeting, on 30 November 2011, under the item entitled “Implementation of the note by the President of the Security Council ([S/2010/507](#))”, some speakers commended the Council’s willingness to consider thematic issues as a positive and necessary response to more challenging, complex and non-traditional threats to international peace and security.<sup>24</sup> The representative of France said that thematic debates enabled the Council to refine its approach to issues pertaining to international peace and security and to demonstrate its ability to adapt to new demands,<sup>25</sup> while the representative of Belgium, speaking on behalf of its own country and the Netherlands, observed that the contemporary notion of international peace and security encompassed a far broader scope than at the time of the creation of the United Nations.<sup>26</sup> Conversely, other speakers expressed concern at the Council’s perceived encroachment upon the prerogatives of other United Nations bodies.<sup>27</sup> The representative of Egypt, speaking on behalf of the Non-Aligned Movement (NAM), stressed that the Council should refrain from continually encroaching on the functions and powers of the General Assembly or the Economic and Social Council by addressing issues that traditionally fell within their spheres of competence.<sup>28</sup>

Some speakers commended the Council for its willingness to consider complex thematic issues while being mindful of the purview of other United Nations bodies and agencies. For example, the representative of Australia considered the Council’s debate on climate change as a laudable response to challenges affecting small island States. Nonetheless, he said that the Council should not stray into the prerogatives of other organs.<sup>29</sup> Similarly, the representative of Gabon said that although the thematic debates made a significant contribution to the Council’s consideration of the multiple challenges to international peace and security, it was important to clearly define their focus so as not to encroach upon the competencies of other organs.<sup>30</sup> The representative of the Russian Federation explained that it “soberly and selectively” reacted to initiatives for the Council to consider thematic issues, suggesting that the Council instead focus on issues on which it could and should take concrete decisions.<sup>31</sup>

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<sup>24</sup> [S/PV.6672](#), p. 5 (France); [S/PV.6672 \(Resumption 1\)](#), p. 4 (Australia); and p. 16 (Belgium, speaking on behalf of its own country and the Netherlands).

<sup>25</sup> [S/PV.6672](#), p. 5.

<sup>26</sup> [S/PV.6672 \(Resumption 1\)](#), p. 16.

<sup>27</sup> [S/PV.6672](#), p. 12 (India); and p. 25 (Egypt, speaking on behalf of NAM); [S/PV.6672 \(Resumption 1\)](#), p. 15 (Iran (Islamic Republic of)).

<sup>28</sup> [S/PV.6672](#), p. 25.

<sup>29</sup> [S/PV.6672 \(Resumption 1\)](#), p. 4.

<sup>30</sup> [S/PV.6672](#), pp. 6-7.

<sup>31</sup> *Ibid.*, p. 3.

A number of speakers also touched upon the Council's responsibility under Article 24 in discussing the issue of improving the working methods of the Council.<sup>32</sup> The representative of India observed that the failure of the Council to amend or innovate its working methods in line with the contemporary realities of international relations detracted from its effectiveness in implementing its mandate to maintain international peace and security.<sup>33</sup> Recognizing the new and emerging threats and challenges to international peace and security, the representative of Portugal called on the Council to work continuously on improving its working methods, in order to increase its efficiency and fully exercise its responsibilities.<sup>34</sup> The representative of Luxembourg said that the continuing improvement of the Council's effectiveness was of interest to all those who subscribed to the Charter, which stipulated in Article 24 that the Council acted in the name of all Member States to ensure the rapid and effective response of the Organization to preserve international peace and security.<sup>35</sup>

The representative of Jordan, providing a detailed analysis on the interpretation of both Article 24 (1) and (2), pointed out that although Article 24 (1), referring to the primary responsibility of the Council in the maintenance of international peace and security, appeared to be clear cut in its meaning, the Council had yet to reach consensus on whether "primary" was equal in meaning to "exclusive" and whether the meaning of "responsibility" implied rights and/or duties. He further interpreted Article 24 (2), requiring the Council, in discharging its duties, to act in accordance with the purposes and principles of the United Nations, as implying an obligation on the part of the Council to act, rather than a mere suggestion or discretion. He urged that provision to be read in tandem with Article 1, which would thus require the Council to act "in accordance with the purposes and principles of the Charter" and, therefore, in his opinion, "in conformity with the principles of justice and international law." With that interpretation in mind, he cautioned that if the use or threat of use of a veto by a permanent member might prevent the Council from acting to deter, prevent or dismantle an alleged serious violation of the sort that might threaten international peace and security, but also create an obligation *erga omnes* on all Member States to address it, that

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<sup>32</sup>Ibid., p. 12 (India), pp. 21-23 (Jordan); [S/PV.6672 \(Resumption 1\)](#), p. 7 (Luxembourg); and p. 20 (Portugal).

<sup>33</sup>[S/PV.6672](#), p. 12.

<sup>34</sup>[S/PV.6672 \(Resumption 1\)](#), p. 20.

<sup>35</sup>Ibid., p. 7.

action might subvert the Council's ability to fulfill its responsibilities under Article 24 and to uphold the principles of justice and international law, in accordance with Article 1 (1).<sup>36</sup>

## Case 2

### **Maintenance of international peace and security: the interdependence between security and development**

At the 6479<sup>th</sup> meeting, on 11 February 2011, focusing on the interdependence between security and development under the item entitled "Maintenance of international peace and security", several speakers stressed that the Council should refrain from taking actions beyond its core competence of maintaining international peace and security, by delving into matters that fell essentially in the domain of other United Nations development agencies, funds or programmes, the General Assembly and the Economic and Social Council.<sup>37</sup> The representative of Cuba emphasized that the provisions of the Charter were clear that the responsibilities of the Council were limited to international peace and security, while economic and social development issues were the remit of other principal organs of the United Nations.<sup>38</sup> The representative of Egypt, speaking on behalf of the NAM, also called on Member States to respect the distinction between the mandates of the various United Nations bodies, and noted that although there were conceptual inter-linkages between security and development, the issue went beyond the core competencies of the Council.<sup>39</sup>

Other speakers supported the Council's decision to consider the issue of security and development in the context of its responsibility to maintain international peace and security.<sup>40</sup> The representative of the United Republic of Tanzania emphasized that it was time for the interdependence of security and development to be on the regular agenda of the Council, given that the nature of conflict and the kinds of threats to international peace and security confronting the Council at the time of its creation were vastly different from those of contemporary times.<sup>41</sup> The representative of Australia observed that peace, security and

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<sup>36</sup> [S/PV.6672](#), pp. 21-23.

<sup>37</sup> [S/PV.6479 \(Resumption 1\)](#), p. 11 (Cuba); pp. 16-17 (Egypt, on behalf of NAM); and p. 37 (Venezuela).

<sup>38</sup> *Ibid.*, p. 11.

<sup>39</sup> *Ibid.*, p. 16.

<sup>40</sup> [S/PV.6479](#), p. 12 (Bosnia and Herzegovina); p. 16 (South Africa); p. 20 (Nigeria); and p. 22 (Brazil); [S.PV.6479 \(Resumption 1\)](#), p. 6 (Australia); p. 14 (Luxembourg); p. 27 (United Republic of Tanzania); and p. 32 (Senegal).

<sup>41</sup> [S/PV.6479 \(Resumption 1\)](#), pp. 27-28.

development were inexplicably linked and when the Council sought to fulfill its responsibilities under the Charter to maintain international peace and security, it must be fully appraised of the root causes of the conflicts before it.<sup>42</sup> The representative of Brazil explained that the purpose of the debate being held at the initiative of his country, holding the Presidency, was not to reconfigure the responsibilities of different United Nations organs or agencies, or to transform the Council into a development programme, but to contribute to raising awareness of the importance of associating development with the security strategies for sustainable peace conceived by the Council.<sup>43</sup> Agreeing with the representative of Brazil, the representative of South Africa stated that the Council, in relevant deliberations, should take social and development issues into account within its Charter mandate.<sup>44</sup>

By the presidential statement adopted at the meeting, the Council reaffirmed its primary responsibility under the Charter for the maintenance of international peace and security and its readiness to strive for sustainable peace in all situations under its consideration. It further noted that in matters relating to the maintenance of international peace and security under its consideration, conflict analysis and contextual information on, inter alia, social and economic issues was important when such issues were drivers of conflict, represented a challenge to the implementation of Council mandates or endangered the process of peace consolidation.<sup>45</sup>

### Case 3

#### **Maintenance of international peace and security: impact of climate change**

At the 6587<sup>th</sup> meeting, on 20 July 2011, under the item entitled “Maintenance of international peace and security”, the Council met to exchange views on whether it should consider climate change on its agenda, or whether the issue should be left for consideration by other United Nations organs. In explaining the rationale for the debate as the Presidency of the month, the representative of Germany reminded the Council of its responsibility to maintain international peace and security, to act with foresight and to do its best to prevent crises before they became acute. He explained that the impacts of climate change on peace and security, particularly for small islands and fragile States, including rising sea levels,

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<sup>42</sup> Ibid., p. 6.

<sup>43</sup> [S/PV.6479](#), p. 27.

<sup>44</sup> Ibid., p. 16.

<sup>45</sup> [S/PRST/2011/4](#), first and eighth paragraphs.

increasing demand for natural resources, the depletion of fertile soils and food insecurity as a result of climate change, could potentially drive social tensions and violent conflict and destabilize entire regions. He thus suggested that the debate focus strictly on the security implications of climate change, and emphasized that there was no intention to advance any kind of encroachment on the competencies of the United Nations Framework Convention on Climate Change (UNFCCC).<sup>46</sup>

Several speakers, notably the small-island States, offered support for the Council's reconsideration of the matter on the grounds that the issue fell under the Security Council's mandate to maintain international peace and security, and that the security implications were imminent and required immediate action.<sup>47</sup> The representative of the Republic of Nauru likened the security threats of climate change to nuclear proliferation and terrorism, and called on the Council to appoint a new special representative to analyze the effects of climate change and keep the Council informed on new developments.<sup>48</sup> Acknowledging concerns about encroachment of the Council on issues beyond its competence, the representative of Papua New Guinea said that a discussion on climate change in the Council was appropriate, in the same way that a discussion on other issues like the AIDS epidemic, children in armed conflict, and women in conflict were appropriate and had not diluted the role of other United Nations organs.<sup>49</sup> The representative of Fiji said that although he understood why some states classified climate change as a sustainable development issue beyond the mandate of the Security Council, in his view, the rising water levels created by greenhouse gas emissions and their potential to inundate his and other island states posed the gravest security threat any state could face: that of survival.<sup>50</sup>

Some speakers also offered support for the Security Council's consideration of the matter, by focusing on the future threats posed by climate change.<sup>51</sup> The representative of the United Kingdom stressed that although it was important to respect the different roles, functions and mandates of the various United Nations bodies dealing with climate change, the Council should consider "emerging threats" in the maintenance of international peace and security. Greater discussion and better awareness of those new and cross-cutting security

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<sup>46</sup> [S/PV.6587](#), p. 21.

<sup>47</sup> [S/PV.6587](#), p. 7 (United States); p. 23 (Republic of Nauru); [S/PV.6587 \(Resumption 1\)](#), p. 5 (New Zealand); p. 19 (Papua New Guinea); p. 27 (Palau); and p. 36 (Fiji).

<sup>48</sup> [S/PV.6587](#), p. 23.

<sup>49</sup> [S/PV.6587 \(Resumption 1\)](#), p. 19.

<sup>50</sup> *Ibid.*, p. 36.

<sup>51</sup> [S/PV.6587](#), p. 9 (Bosnia and Herzegovina); p. 10 (Nigeria); p. 12 (United Kingdom); p. 14 (Colombia); and p. 15 (France); [S/PV.6587 \(Resumption 1\)](#), p. 15 (Japan); and p. 28 (Finland).

challenges, including the effects of climate change, would allow the Council to better fulfil its responsibility to prevent future conflict.<sup>52</sup> The representative of Colombia opined that although the responses needed to minimize the effects of climate change were not within the mandate of the Council, it did have a responsibility to play a role in cases of conflict situations on its agenda when those were exacerbated by the effects of climate change.<sup>53</sup> The representative of France said that the Council, in taking up the issue of climate change, was simply facing up to a new type of security threat.<sup>54</sup>

Some speakers felt that the Council should not be the primary forum for negotiating and determining climate change policy, but that it certainly should play a complementary role in those negotiations, with respect to security issues.<sup>55</sup> The representative of Lebanon cited General Assembly resolution 68/281 which called on all relevant organs of the United Nations, within their respective mandates, to address the issue of climate change, including its possible security implications. He said the present debate should be understood as an expression of such “complementarity.”<sup>56</sup> The representative of the Philippines stressed that while the Council could play a complementary role, no discussion of security matters should occur without first acknowledging the state of play in other forums, especially within the UNFCCC.<sup>57</sup> The representative of Australia also reaffirmed the UNFCCC as the primary intergovernmental instrument for addressing climate change but noted that the overwhelming nature of the challenge of climate change meant everyone, in every forum, was responsible for addressing it.<sup>58</sup>

Other speakers expressed a more narrow view of the Council’s role, seeing its discussion of climate change as anticipatory rather than participative.<sup>59</sup> The representative of Portugal said that the Council was not the forum for any climate change negotiations or even decisions. However, given the Council’s role in anticipating new challenges and ensuring that those did not lead to tensions and ultimately conflict, he said that the Council could add value by discussing the issue.<sup>60</sup> The representative of Brazil said that security tools were appropriate to deal with concrete threats to international peace and security, but inadequate to

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<sup>52</sup> [S/PV.6587](#), p. 12.

<sup>53</sup> *Ibid.*, p. 14.

<sup>54</sup> *Ibid.*, p. 15.

<sup>55</sup> [S/PV.6587](#), p. 16 (Lebanon); p. 18 (Gabon); p. 24 (Australia); [S/PV.6587 \(Resumption 1\)](#), p. 2 (Slovenia); p. 3 (Denmark); p. 3 (Luxembourg); p. 5 (Costa Rica); p. 8 (Chile); p. 16 (Singapore); and p. 31 (Philippines).

<sup>56</sup> [S/PV.6587](#), p. 16.

<sup>57</sup> [S/PV.6587 \(Resumption 1\)](#), p. 31.

<sup>58</sup> [S/PV.6587](#), p. 24.

<sup>59</sup> [S/PV.6587](#), p. 8 (Brazil); p. 17 (South Africa); p. 20 (Portugal); p. 28 (El Salvador); [S/PV.6587 \(Resumption 1\)](#), p. 9 (Mexico); p. 11 (Ecuador); p. 17 (Iceland); and pp. 22-23 (Belgium).

<sup>60</sup> [S/PV.6587](#), p. 20.

address less obvious multidimensional issues such as climate change.<sup>61</sup> The representative of Mexico agreed that climate change was not presently a threat to international peace and security in the traditional sense, but that it could be, and he therefore urged all countries to engage in collective action, in accordance with their common but differentiated responsibilities, to avoid the Council having to act in the future.<sup>62</sup>

Several speakers objected to any role for the Security Council in addressing the issue of climate change.<sup>63</sup> The representative of Egypt, on behalf of the Non-Aligned Movement, said that climate change and its impacts were a sustainable development issue which required a comprehensive approach that was best left to the relevant competent frameworks of the UNFCCC, the General Assembly, and the Economic and Social Council. He expressed deep concern that the Council was encroaching on the functions and powers of those more competent bodies.<sup>64</sup> The representative of Argentina, on behalf of the Group of 77 and China, added that the encroachment represented a distortion of the principles and purposes of the Charter, infringing on their authority and competence, and compromised the rights of the general membership.<sup>65</sup> The representative of Kuwait, on behalf of the Group of Arab States, stated that there was no role for the Security Council given that climate change was a sustainable development issue<sup>66</sup>; while the representative of Barbados, on behalf of the Caribbean Community, advised the Council to construe its mandate strictly and do a small number of things well, rather than do an expansive host of tasks “poorly”.<sup>67</sup>

Other speakers objected to any role for the Council, as its constitution was unrepresentative of a global membership affected by a global issue.<sup>68</sup> The representative of the Plurinational State of Bolivia recognized the security dimension of climate change, but felt that a discussion of the issue should take place in a forum where the “main victims” were represented, noting that only the General Assembly possessed that level of participation.<sup>69</sup> The representative of China said that the Council, in addition to lacking expertise in climate

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<sup>61</sup> Ibid., p. 8.

<sup>62</sup> [S/PV.6587 \(Resumption 1\)](#), p. 9.

<sup>63</sup> [S/PV.6587](#), p. 9 (China); p. 13 (Russian Federation); p. 19 (India); p. 26 (Egypt, on behalf of the Non-Aligned Movement); p. 27 (Argentina, on behalf of the Group of 77 and China); [S/PV.6587 \(Resumption 1\)](#), pp. 11-12 (Cuba), pp. 19-20 (Iran (Islamic Republic of)); p. 20 (Kuwait, on behalf of the Group of Arab States); p. 26 (Plurinational State of Bolivia); pp. 28-29 (Barbados, on behalf of the Caribbean Community); p. 35 (Venezuela (Bolivarian Republic of)); and p. 38 (Tanzania).

<sup>64</sup> [S/PV.6587](#), p. 26.

<sup>65</sup> Ibid., p. 27.

<sup>66</sup> [S/PV.6587 \(Resumption 1\)](#), p. 20.

<sup>67</sup> Ibid., pp. 28-29.

<sup>68</sup> [S/PV.6587](#), p. 9 (China); p. 13 (Russian Federation); p. 19 (India); [S/PV.6587 \(Resumption 1\)](#), p. 26 (Plurinational State of Bolivia); and p. 35 (Bolivarian Republic of Venezuela).

<sup>69</sup> [S/PV.6587 \(Resumption 1\)](#), p. 26.



change and the necessary means and resources to address it, was not a forum for decision-making with universal representation.<sup>70</sup>

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<sup>70</sup> [S/PV.6587](#), p. 9.

## Section II

### The obligation for Member States to accept and carry out Council decisions under Article 25

#### *Article 25*

*The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.*

#### Note

This section covers the practice of the Security Council in relation to Article 25 of the Charter, concerning the obligation of members of the United Nations to accept and carry out the decisions of the Council.

#### **A. Decisions and communications related to Article 25**

From 2010 to 2011, the Council did not adopt any decisions which referred to Article 25, either explicitly or implicitly. However, during the period under review, there was one instance in which Article 25 was explicitly invoked in a communication of the Council. In a concept paper for the Council debate on working methods, the representative of Japan reminded Member States that they were bound, under Article 25 of the Charter, to accept and carry out the decisions of the Council.<sup>71</sup>

#### **B. Constitutional discussion related to Article 25**

On several occasions, Article 25 was explicitly invoked in the deliberations of the Council.<sup>72</sup> For example, in the discussion on working methods of the Council, the representative of Mexico stated that to protect the principle enshrined in Article 24 that the Council acted on behalf of Member States in the maintenance of international peace and

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<sup>71</sup> Letter dated 1 April 2010 from the representative of Japan to the Secretary-General ([S/2010/165](#), p. 2).

<sup>72</sup> In connection with the implementation of the note by the President of the Security Council ([S/2006/507](#)), see [S/PV.6300](#), p. 6 (Mexico); and p. 15 (Brazil). In connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security, see [S/PV.6347](#), p. 20 (Lebanon); and p. 24 (Japan); [S/PV.6347 \(Resumption 1\)](#), p. 7 (Liechtenstein). In connection with the protection of civilians in armed conflict, see [S/PV.6650 \(Resumption 1\)](#), p. 22 (Representative of the International Humanitarian Fact-Finding Commission).

security, the Council must continue to fine-tune its working methods in order to ensure that its decisions were effectively implemented by all Member States as provided by Article 25, and ultimately to enhance its credibility.<sup>73</sup> The following case study is drawn from a deliberation on the rule of law, in which speakers provided the interpretation of Article 25, explicitly referring to the Article (case 4).

#### Case 4

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

At the 6347<sup>th</sup> meeting, on 29 June 2010, under the item entitled “The promotion and strengthening of the rule of law in the maintenance of international peace and security”, the representative of Liechtenstein stated that the Council must remain vigilant in ensuring that its work remained within the legal bounds and the spirit of the Charter. He emphasized that Council decisions that were to be implemented by Member States, in accordance with Article 25 of the Charter, must have a clear legal foundation.<sup>74</sup> Arguing that the *raison d'être* of the law lay in its implementation and compliance, the representative of Japan observed that States had dual responsibilities to observe international law and to be ruled by it. Member States, he noted, were bound by the Charter, including by Article 25, to faithfully implement the decisions of the Security Council. To promote and strengthen the rule of law at the international level, he called on States to continually confirm their adherence to that principle and to the fundamental principle of *pacta sunt servanda*.<sup>75</sup> Similarly, the representative of Lebanon opined that when certain countries did not abide by the Charter, actual implementation of the principle of honouring contracts, or *pacta sunt servanda*, was missing. Furthermore, he questioned the selective implementation of international resolutions and wondered why sanctions were enforced against some, but not all, States that failed to comply with international resolutions, despite Article 25 of the Charter, which obliged all Members to respect the resolutions of the Security Council.<sup>76</sup>

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<sup>73</sup> [S/PV.6300](#), p. 6.

<sup>74</sup> [S/PV.6347 \(Resumption 1\)](#), p. 7.

<sup>75</sup> [S/PV.6347](#), p. 24.

<sup>76</sup> *Ibid.*, p. 20.

### **Section III**

#### **The Security Council's responsibility to formulate plans to regulate armaments under Article 26**

##### *Article 26*

*In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.*

##### **Note**

This section covers the practice of the Security Council concerning its responsibility for formulating plans for the establishment of a system for a regulation of armaments, in accordance with Article 26 of the Charter.<sup>77</sup>

During the period under review, the Security Council did not adopt any decisions that invoked Article 26 of the Charter, either explicitly or implicitly. Furthermore, there were no explicit or implicit references to Article 26 in any communications or deliberations of the Security Council.

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<sup>77</sup> For more information on the Military Staff Committee, see part VII, section VI, with regard to assistance by the Military Staff Committee and composition of the Military Staff Committee in accordance with Articles 46 and 47.