

Chapter XII

**CONSIDERATION OF THE PROVISIONS OF OTHER ARTICLES
OF THE CHARTER**

TABLE OF CONTENTS

	<i>Page</i>
INTRODUCTORY NOTE	181
PART I. CONSIDERATION OF THE PROVISIONS OF ARTICLE 2 OF THE CHARTER	
A. Article 2 (4) of the Charter	181
B. Article 2 (7) of the Charter	181
PART II. CONSIDERATION OF THE PROVISIONS OF ARTICLE 24 OF THE CHARTER	
Note	184
PART III. CONSIDERATION OF THE PROVISIONS OF ARTICLE 25 OF THE CHARTER	
Note	185
PART IV. CONSIDERATION OF THE PROVISIONS OF CHAPTER VIII OF THE CHARTER	
Note	185
**PART V. CONSIDERATION OF THE PROVISIONS OF ARTICLES 82-83 OF THE CHARTER	187
PART VI. CONSIDERATION OF THE PROVISIONS OF CHAPTER XVII OF THE CHARTER	187

INTRODUCTORY NOTE

Chapter XII covers the consideration by the Security Council of Articles of the Charter not dealt with in the preceding chapters.¹

CONSIDERATION OF THE PROVISIONS OF ARTICLE 2 OF THE CHARTER

A. Article 2 (4) of the Charter

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

CASE 1* THE SITUATION IN HUNGARY: In connexion

adopting the agenda.

Inclusion of the item: "The situation in Hungary" in

of Cuba stated that the situation constituted

"... intervention in the domestic affairs of another State — intervention in the ... form of military action, which the United Nations Charter, in paragraph 4 of Article 2, specifically condemns."

The representative of Peru contended that there were two facts before the Security Council. First, there was the intervention of foreign forces, the technical term for which in international law was "intervention in the

rendered more serious in that it was part of a "savage

For observations on the method adopted in compilation of this chapter, see: *Repertoire of the Practice of the Security Council, 1946-1951, Introduction, Note on Chapter III, II, arrangements of chapters X-XII, p. 270.*

* For texts of relevant statements, see: *Annex to the Report of the Secretary-General, 1956, paras. 113-119; USSR, paras. 141, 155-157.*

¹ On the inclusion of the question in the agenda, see chapter II, part III.B.1, Case 7.

"... not only a violation of the general principle of national law, and of the principles of the Charter, particularly Article 2, paragraph 4, which establishes the prohibition of the use of force against any State"

The representative of China observed that the intervention of the Soviet military forces in Hungary constituted

"a flagrant violation of the United Nations Charter, which clearly forbids the use of force against the territorial integrity or political independence of any State."

The representative of the USSR, who had opposed the

and that the Council was not competent either to discuss

the working population which had been led astray by lying propaganda". The Hungarian Government had been compelled to bring armed forces into action and had appealed to the Government of the USSR for assistance. In response to this request, Soviet military units which were stationed in Hungary in conformity with the Warsaw Pact came to the help of the Hungarian forces and Hungarian workers defending the Hungarian

B. Article 2 (7) of the Charter

7 Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the Charter.

situation in Algeria be considered by the Security Council.⁶

[Note: It was requested that the Security Council should consider the aggravated situation in Algeria which

security and the infringement of the basic right of self-

were not within the purview of the Council unless they
visional agenda was not adopted.]

By letter⁷ dated 13 June 1956, the representatives of Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Pakistan, Saudi Arabia, Syria, Thailand

meeting of the Council to consider the grave situation in Algeria. In a memorandum⁸ previously submitted to the President of the Security Council by the representatives of sixteen Member States, it had been stated that the situation had deteriorated to the extent that the United Nations could not remain indifferent to the threat to

right of self-determination, and to the flagrant violation of the other fundamental human rights. Since that memorandum had been submitted, the situation in Algeria had further worsened due to the nature and scope of the French military actions, which had resulted in grievous loss of human life. For these reasons, it was deemed essential that the Algerian question should be considered by the Security Council without delay.

At the 729th meeting on 26 June 1956, the repre-

domestic affairs by third parties, whether these were the General Assembly or the Security Council. Domestic jurisdiction was ordinarily defined by the exercise of internal sovereignty, and French sovereignty was alone exercised in Algeria. In exercising one of the most

⁶ 729th meeting: Iran, paras. 79-84, 89; France, paras. 29, 95, 100-104;

⁷ 730th meeting: Belgium, para. 61; Cuba, paras. 40-42; Iran, para. 3; United Kingdom, paras. 52-53.

⁸ On the inclusion of the situation in the agenda, see chapter

United Nations to intervene between the Government of a State and those of its citizens who were disturbing the peace. This was most strictly prohibited under Article 2(7) of the Charter, which rightly proclaimed the fundamental principle of non-intervention in the domestic

was found also through Chapters VI and VII of the

the authors of the letter which had been submitted to

"international" did not appear in its text. As to the other claims contained in the letter, he observed:

"The point is, however, that neither the violation of fundamental human rights nor the denial of the right

are not within the purview of this high forum unless they relate to international peace and security..."

The representative of Iran, who favoured the inclusion in the agenda, stated that Article 2(7) did not apply in this instance. Furthermore, the refusal to allow the people

The right of peoples to self-determination which was cited in that paragraph constituted one of the fundamental principles of human rights. The United Nations had previously declared itself to be competent when the right of peoples to self-determination had been raised. He further stated:

"In addition, the word 'essentially' which appears in the text of Article 2, paragraph 7, allows a wider interpretation of this Article..."

between the Members of the United Nations, is not essentially within the domestic jurisdiction of a State. As attested by numerous precedents, especially those which I have just cited, the United Nations has always

Article 2 (7):

"The term 'intervene' has a well defined meaning in international law: it implies an act of interference in the internal and external affairs of another

Algerian question in the agenda... of examining it or even of making recommendations on it can in no case constitute intervention in the affairs of France. Furthermore, the inclusion of the item in the agenda

does not even prejudice the question of competence which can be discussed later, once the problem has been placed on the Council's agenda."

At the 730th meeting on 26 June 1956, the representative of Iran reiterated his view that :

"... questions bearing on violations of human rights were not a matter of purely national concern when and were such as to impair the cordial relations which should exist between Members of the United Nations, and especially when they represented a threat to international peace and security."

The representative of Cuba, after citing Article 2 (7), observed that the case of Algeria was different from the

the Council to alter the precepts of the Charter, because on such basis no Member State would feel secure in the United Nations. Therefore, he opposed the inclusion of the item in the agenda.

The representative of the United Kingdom agreed that the Council was not to be asked to consider a question which would inevitably constitute interference in a matter lying essentially within the domestic jurisdiction of a Member State. The question was,

After referring to Article 2 (7) as "one of the cardinal principles" of the Charter, he remarked :

"... it is, I think, timely to recall that a number of founder nations without whose co-operation the United Nations could hardly have been brought into being would have hesitated to lend, as they did, their whole-hearted efforts to this great enterprise unless they had known that the Charter enshrined this cardinal principle."

Article 2 (7) contained a general prohibition:

"... It applies to all provisions of the Charter, including those bearing on human rights and specific

This prohibition applies to the entire Organization and Council and the Assembly"

Case 3¹⁰ The situation in Hungary. In connection with the letter dated 17 October 1956...

On the inclusion of the question in the agenda, see chapter

¹⁰ For texts of relevant statements, see : 746th meeting: Australia para 133; Belgium paras 180-182; USSR, paras. 12-13, 20, 26; United Kingdom, para. 30; United States, paras. 58-59.

Kingdom and the United States to the President of the Security Council concerning the situation in Hungary and with the decision of 28 October 1956 adopting the provisional agenda.

[Note: It was requested that the Security Council should consider the situation created by action of forces guaranteed by the Peace Treaty with Hungary of 1947. Objections were raised on the grounds of Article 2 (7) of the Charter and it was argued that the inclusion of the question in the agenda of the Security Council would constitute an interference in the internal affairs of Hungary. The agenda was adopted.]

referred

"... to the situation created by the action of foreign military forces in Hungary in violently repressing the rights of the Hungarian people which are secured by the Treaty of Peace of 10 February 1947 to which the Government of Hungary and the United Kingdom are parties.

They requested that pursuant to the provisions of Article 34 of the Charter, an item entitled "The situation in Hungary" be considered at an urgent meeting of the Council.

By letter¹¹ dated 28 October 1956, the representative of the Hungarian People's Republic transmitted to the Security Council a copy of a declaration of the Government of the Hungarian People's Republic "concerning the proposed agenda of the meeting of the Security Council to be convened on 28 October 1956", and requested that this declaration be circulated "among the members of the Security Council".

In the declaration, the Government of Hungary stated that

"... the Government of Hungary is not prepared to accept any proposal which would result in the inclusion of the situation in Hungary in the agenda of the Security Council, as this would constitute an interference in the internal affairs of Hungary and consequently do not fall within the jurisdiction of the Security Council."

not endanger their maintenance ..."

After quoting the text of Article 2 (7) of the Charter, the representative of the United Kingdom stated that the inclusion of the question in the agenda of the Security Council would constitute an interference in the internal affairs of Hungary.

¹¹ S/3690, O.R., 11th year, Suppl. for Oct.-Dec. 1956, p. 100.

¹² S/3691, O.R., 11th year, Suppl. for Oct.-Dec. 1956, pp. 100-101.

against placing on the agenda the consideration of any question

"... concerning the domestic affairs of Hungary, since the consideration of such questions in the United

would obviously be in contradiction with the principles laid down in the Charter of the United Nations."

At the 746th meeting on 28 October 1956, the repre-

the Council, stated that

that what the United States, the United Kingdom and the Soviet Union have in mind is a violation of the provisions of the United Nations Charter, at gross interference in the domestic affairs of the Hungarian People's Republic."

The representative of the USSR quoted the text of Article 2 (7) and, after referring to the declaration of the Hungarian Government of 28 October 1956, stated that

"The measure the Hungarian Government has seen fit to take in order to put an end to the armed uprising of criminal elements of a fascist type against the legal Government of Hungary and to maintain law and order in the country are its inalienable prerogative, as they are the prerogative of the Government of any

compelled to bring its armed forces into action for the liquidation of the counter-revolutionary uprising and it appealed to the Government of the Soviet Union for assistance. It is perfectly clear that all these actions of the Hungarian Government are an internal

to interfere in these matters."

that the USSR representative had argued that the matter at issue was one of domestic jurisdiction and that Article 2 (7) debarred the Council from intervention. But what was the situation in Hungary which the Council was asked to consider? It was "the situation created by the action of foreign military forces in Hungary". Foreign troops were fighting in Hungary. That was obviously a matter of international concern. It seemed to the representative of the United Kingdom clear that the Security Council was competent; nor had he any doubt, in view of the gravity of the situation, that it was "the Council's duty to consider the situation".

After the adoption of the agenda,¹⁴ the representative of the United States contended that "this urgent meeting of the Security Council has been called to consider the situation in Hungary resulting from the violent suppres-

guaranteed to them by the Peace Treaty to which the Governments of Hungary and the Allied and Associated Powers have adhered. The Security Council "must and principles set forth in the Charter."

The representative of Australia stated that his country had always taken a firm stand on the observance of Article 2, paragraph 7 of the Charter" and was

Nations in matters which were essentially within the domestic jurisdiction of any State. But he did not believe that

"... this provision of the Charter prevents the Council, in this particular case, from investigating the situation created in Hungary by the violent action taken by foreign military forces in repressing the civil rights and political freedoms of the Hungarian people, rights and freedoms that were guaranteed under article 2, paragraph 1, of the Treaty of Peace with Hungary."

Hungarian Government that the item under discussion was a matter within the domestic jurisdiction seemed somewhat surprising. The USSR had maintained repeatedly, both in the Security Council and in the General Assembly, even in cases when provisions of the

should not prevent intervention by the United Nations.

"in the present case the letter which laid the matter before the Council refers to the action of foreign military forces in Hungary. On this occasion, it is precisely that element which invalidates the arguments drawn from Article 2, paragraph 7, of the Charter. It is alleged that the Soviet army intervened at the request of the Hungarian Government. But would that Government have been able to maintain itself in power without the support of the Soviet army?"

¹⁴ 746th meeting: para. 35.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 24 OF THE CHARTER

national discussion during the period under review, on one occasion¹⁵ incidental reference was made to the primary

¹⁵ See Chapter VI, Case 1.

Attention may also be directed to three decisions¹⁶ of

¹⁶ See Chapter VI, Cases 2, 3 and 4.

the Council in the preamble of which reference was made to the inability of the Security Council to exercise its primary responsibility for the maintenance of inter-

national peace and security, because of the "lack of unanimity of its permanent members" in particular instances of the Council's proceedings.

Part III

CONSIDERATION OF THE PROVISIONS OF ARTICLE 25 OF THE CHARTER

NOTE

Discussion regarding Article 25 arose only in one instance as reported below in Case 4. Attention is also directed to the discussion of the question of the effect

of Article 25 of the Charter in the India-Pakistan question (Chapter X, Case 11).

Article 25 of the Charter

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

CASE 4.¹⁷ THE PALESTINE QUESTION: In connexion with the report of the Secretary-General pursuant to the resolution of 4 April 1956; United Kingdom draft resolution voted upon and unanimously adopted, as amended, on 4 June 1956.

[Note: During the consideration of the report of the Secretary-General, the representative of Syria discussed

its declaration¹⁸ of acceptance of the cease-fire provisions of the Syrian-Israeli General Armistice Agreement.]

At the 724th meeting on 31 May 1956, the representative of Syria*, stressing the need to achieve a genuine cease-fire, stated:

dropped context in his letter dated 2 May 1956, which

¹⁷ For texts of relevant statements, see: 724th meeting: Syria*, paras. 34-35.

¹⁸ For the Syrian Government's letter of 2 May 1956 to the Secretary-General and his reply of the same date, S/3596

is reproduced as annex 3 to the report of the Secretary-General [S/3596], our Prime Minister has made it crystal clear that the declaration of cease-fire was given within the framework of the United Nations Charter and the resolutions of the Security Council, with particular reference to Article 25 of the Charter and the resolution of 27 October 1953 dealing with the question of the river Jordan [S/3128].

a reservation nor is it a qualification. In law and in fact it is an integral part of the cease-fire declaration itself. The matter is foreign neither to the Charter, to the Israel-Syrian General Armistice Agreement or to the resolutions of the Security Council. For how can we conceive of a cease-fire declaration outside the

of Article 25, which will force the Council?

Council? And again, how can we conceive of a cease-fire contrary to the resolutions of the Security Council, particularly the injunction embodied in the resolution of 27 October 1953 dealing with the diversion of the

Part IV

CONSIDERATION OF THE PROVISIONS OF CHAPTER VIII OF THE CHARTER

NOTE

In consequence of the obligation placed by the Charter upon Members of the United Nations and upon regional arrangements or agencies, the attention of the Security Council has been drawn during the period from 1956 to 1958 to the following

1. Communications from the Chairman of the Council of the Organization of American States

(i) Dated 3 May 1957: transmitting a resolution adopted on 2 May 1957 by the Council at the request of the Governments of Honduras and Nicaragua for a Meeting of Consultation of

mittee on the differences between Honduras and Nicaragua at the meeting held on 17 May, and the resolutions approved by that body at the meetings held on 17 and 24 May 1957.²⁰

- (iii) Dated 8 July 1957: transmitting a resolution adopted on 5 July 1957 by the Council on the differences between Honduras and Nicaragua.²¹
- (iv) Dated 23 July 1957: transmitting the text of an agreement signed by the Ministers of Foreign Affairs of Honduras and Nicaragua on 21 July 1957.²²

2. Communications from the Chairman of the Inter-American Peace Committee

Dated 23 April 1956: transmitting a copy of the Peace Committee on 20 April concerning the case of Cuba on 27 February 1956.²³

3. Communications from the Secretary-General of the Organization of American States

Dated 28 July 1958: transmitting the text of a resolution adopted by the Council of the Organization on 27 June 1957 in connexion with the differences between Honduras and Nicaragua.

**4. Communications from States parties to disputes or situations

In addition to circulating these communications to the representatives on the Council, it has been the practice to refer to them in the report of the Secretary-General to the General Assembly.²⁴

CASE 5.²⁵ LETTER DATED 22 MAY 1958 FROM THE REPRESENTATIVE OF LEBANON ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL:

... for the inclusion of the question in the agenda of the Security Council.

²⁰ S/3856.

²¹ S/3857 and Rev.1.

²² S/3859.

²³ S/3591.

²⁴ See *Annexes to the Reports of the Secretary-General to the General Assembly*, 1956-1957, vol. I, p. 10.

²⁵ For texts of relevant statements, see: 818th meeting: President (Canada), para. 17; Colombia, paras. 23-26; Iraq, paras. 8, 28-30; Lebanon *, paras. 11-15; Panama, paras. 32-35; USSR, para. 7;

822nd meeting: President (China), paras. 1, 3;

823rd meeting: President (China), para. 191; Colombia, paras. 144-148; Japan, paras. 126-128; Panama, paras. 172-173;

824th meeting: President (China), para. 2.

... zation of which the parties to the complaint were members.]

At the 818th meeting on 27 May 1958, the representative of Iraq proposed that the Council should adjourn until 3 June 1958 by which time it would be known whether the complaint of Lebanon against the United Arab Republic could be resolved by the League of Arab States which would meet to consider it on 31 May.

The President (Canada) observed that a proposal aimed at achieving a peaceful solution on a regional basis seemed to fit into the general pattern of United Nations procedures.

The representative of Colombia was prepared to

... the permanent observer of the League of Arab States of

26 May 1958 referred to a complaint of aggression. If the issue submitted to the Council by Lebanon was equivalent to the matter to be considered by the League of Arab States, he would agree to await consideration by the League.

The representative of Iraq assured the representative of Colombia that "the same question" had been submitted to the Security Council and to the League of Arab States.

The representative of Panama concurred with the view

Arab States to have recourse to the peaceful means contemplated in Article 33 of the Charter. Moreover, it was the duty of the Security Council, in accordance with Article 36, to take into account the peaceful means freely chosen by Lebanon and the United Arab Republic when

At the 823rd meeting on 6 June 1958, when the Council began consideration of the complaint, the representative of Japan, following statements by the representatives of Lebanon and the United Arab Republic, declared that the explanations given by the representatives of Lebanon and the United Arab Republic did not appear complete, and suggested that the Council should be furnished with more complete information on the question.

At the 824th meeting on 7 June 1958, the representative of the representative of Japan. He observed that Colombia was a member of a regional organization, the Organization of American States, to which the United Nations accorded a status identical to that given the League of Arab States. "A very grave precedent" would be set if the Security Council, which on three consecutive occasions had postponed consideration of this question to await a decision from the League of Arab States, proceeded to consider it without ascertaining what had taken place in the League. Such a precedent might be

applied later to disputes between the nations composing the Organization of American States.

The representative of Panama supported the proposal of the representative of Colombia which was based on the provisions of the Charter. Articles 53 and 54 referred to the Council's obligation to take account of such agencies and organizations.

unnecessary. The representatives of Iraq, Lebanon and the United Arab Republic might see fit to furnish the Council with additional information.

At the 824th meeting on 10 June 1958, the President (China) stated that the representative of Iraq had transmitted to him some information in Arabic about what took place at the League meetings, which was being translated and would be made available to the Council.

expressed by some members of the Council for additional information in regard to the meetings of the League of

Council that the information in question included the summary records of the meetings of the League of Arab

Part V

****CONSIDERATION OF THE PROVISIONS OF ARTICLES 82-83 OF THE CHARTER**

Part VI

***CONSIDERATION OF THE PROVISIONS OF CHAPTER XVII OF THE CHARTER**