



Digest of state practice: 1 July – 31 December 2021

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Digest of state practice: 1 July – 31 December 2021

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1. Europe

1.1. *Russia–Ukraine: Russian troops amass on Ukraine's border and prepare to invade*

At the time of writing, and as outlined and examined in this issue's introduction and editorial, Russia had invaded Ukraine. This invasion began on 24

February 2022, and, as such, does not form part of this Digest of State Practice's reporting period. However, during this reporting period (1 July – 31 December 2021), Russia had started to build up its troops on Ukraine's border. This, and other notable developments in the lead up to the invasion, are covered here.

Most western states continued to condemn Russia's 2014 annexation of Crimea. For example, in July, in the Organisation for Security Cooperation in Europe (OSCE), the UK expressed its 'significant concerns about the heightened tensions caused by the increased Russian military activity on Ukraine's border and in illegally annexed Crimea in April.'¹ The UK said that it would 'continue to call on Russia to engage with the OSCE processes and mechanisms available to provide necessary transparency regarding this activity.'² Similar statements were made in other special meetings of the OSCE's Permanent Council.³

The UK was referring to Russia's earlier troop movements in April 2021,⁴ where Russia had positioned thousands of troops near Ukraine's border at the same time as both states conducted military drills.⁵ Ukraine claimed at the time that Russia was amassing up to 110,000 troops near Ukraine's border,⁶ a figure repeated by EU officials.⁷

¹United Kingdom, Foreign, Commonwealth and Development Office, 'Russian aggression against Ukraine: UK response to OSCE' (8 July 2021) www.gov.uk/government/speeches/russian-aggression-against-ukraine-uk-response-to-osce.

²*Ibid.*

³See, e.g. OSCE, '1342nd Plenary Meeting of the Permanent Council' (28 October 2021) www.osce.org/permanent-council/503365; United States Mission to the OSCE, 'Ongoing Violations of International Law and Defiance of OSCE Principles and Commitments by the Russian Federation in Ukraine' (16 December 2021) www.osce.org/files/f/documents/f/a/510059.pdf; Permanent Mission of Ukraine to the International Organisations in Vienna, 'Statement on Russia's ongoing aggression against Ukraine and illegal occupation of Crimea', OSCE Permanent Council (15 July 2021) www.osce.org/files/f/documents/7/a/494050.pdf; EU, 'EU Statement on 'Russia's Ongoing Aggression against Ukraine and Illegal Occupation of Crimea'', OSCE Permanent Council (15 July 2021) www.osce.org/files/f/documents/e/4/494053.pdf. See also responses by Russia, for example: Russia, 'Statement by Mr Alexander Lukashevich, Permanent Representative of the Russian Federation, at the 1324th Meeting of the OSCE Permanent Council: On the deteriorating situation in Ukraine and continued non-implementation by the Ukrainian authorities of the Minsk agreements', OSCE Permanent Council (15 July 2021) www.osce.org/files/f/documents/1/e/494065.pdf.

⁴Military exercises or troop movements are generally not reported in the Digest of State Practice as a 'use of force', and so were not covered in full in the previous Digest. Given the significant developments that have taken place since these troop movements, recent developments in this regard have been included here for completeness. For further background on other political developments prior to Russia's invasion of Ukraine, see for example: Claire Mills, 'Ukraine: Russia's "red line"', UK House of Commons Library: Briefing Paper Number 9401 (18 February 2022) <https://commonslibrary.parliament.uk/research-briefings/cbp-9401/>.

⁵See, e.g. Maxim Rodionov and Tom Balmforth, 'Russia stages show of force near Ukraine with launch of Crimean exercises', *Reuters* (22 April 2021) www.reuters.com/world/europe/russian-defence-minister-oversees-large-scale-military-drills-crimea-ria-2021-04-22/.

⁶Gabrielle Tétrault-Farber and Robin Emmott, 'Russia, Ukraine hold military drills, NATO criticises Russian troop build-up', *Reuters* (14 April 2021) www.reuters.com/business/aerospace-defense/russia-ukraine-hold-military-drills-nato-criticises-russian-troop-build-up-2021-04-14/.

⁷Robin Emmott and Sabine Siebold, 'OFFICIAL Russian military build-up near Ukraine numbers more than 100,000 troops, EU says', *Reuters* (19 April 2021) www.reuters.com/world/europe/russian-military-build-up-near-ukraine-numbers-more-than-150000-troops-eus-2021-04-19/.

Ukraine sought international support at the time, warning that it believed Russia was considering further military action against Ukraine,⁸ while states supporting Ukraine threatened further sanctions against Russia should that transpire.⁹ Meanwhile, Russian President Putin gave a speech to the Russian Parliament,¹⁰ in which he said that states should not cross Russia's 'red lines', stating:

We want good relations ... and really don't want to burn bridges.

...

But if someone mistakes our good intentions for indifference or weakness and intends to burn down or even blow up these bridges, they should know that Russia's response will be asymmetrical, swift and harsh.¹¹

The build-up of tensions in April seemed to pass, however, after Russian Defence Minister Sergei Shoigu ordered the military units near Ukrainian's border to return to their bases.¹²

In July 2021, President Putin wrote an essay titled 'The Historical Unity of Russians and Ukrainians', in which he detailed what he believed to be the historical connections between the Russian and Ukrainian people. Although Putin stated that 'Russia has never been and will never be "anti-Ukraine"', and concluded that the future of Ukraine 'is up to its citizens to decide', Putin also argued that:

... true sovereignty of Ukraine is possible only in partnership with Russia. Our spiritual, human and civilizational ties formed for centuries and have their origins in the same sources, they have been hardened by common trials, achievements and victories. Our kinship has been transmitted from generation to generation. It is in the hearts and the memory of people living in modern Russia and Ukraine, in the blood ties that unite millions of our families. Together we have always been and will be many times stronger and more successful. For we are one people.¹³

Putin's essay also made reference to what he perceived as Western influence in Ukraine, and made veiled threats when he said:

All the subterfuges associated with the anti-Russia project are clear to us. And we will never allow our historical territories and people close to us living there

⁸Matthias Williams, 'Ukraine to allies: West must act now to ensure no new Russia military offensive', *Reuters* (21 April 2021) www.reuters.com/world/europe/ukraine-allies-west-must-act-now-ensure-no-new-russia-military-offensive-2021-04-21/.

⁹*Ibid.*

¹⁰Gleb Stolyarov, Andrew Osborn, Vladimir Soldatkin, Anton Kolodyazhnyy and Anton Zverev, 'Putin warns West of harsh response if it crosses Russia's "red lines"', *Reuters* (20 April 2021) www.reuters.com/world/europe/navalny-supporters-seek-drown-out-putin-speech-with-mass-protests-2021-04-20/.

¹¹*Ibid.*

¹²'Russia to pull troops back from near Ukraine', *BBC News* (22 April 2021) www.bbc.co.uk/news/world-europe-56842763.

¹³*Ibid.*

to be used against Russia. And to those who will undertake such an attempt, I would like to say that this way they will destroy their own country.¹⁴

In October, Ukraine used a Bayraktar TB2 drone, made and supplied by Turkey, in the conflict in the eastern regions of Ukraine. Particularly notable about this incident was Ukraine's justification and Russia's response to the use of this particular weaponry, and the fact that Ukraine was making use of Turkish military equipment. Ukraine's President Volodymyr Zelenskyy said that the use of the drones was defensive, used in self-defence, and did not violate any agreements on ceasefires or the foundations of any peace process in the Donbass.¹⁵ Russia, on the other hand, argued that Turkey's decision to sell these drones to Ukraine risked undermining and destabilising the situation in the east of Ukraine:

We have really good ties with Turkey, but in this situation our fears are unfortunately being realised that the deliveries of these types of weapons to the Ukrainian military can potentially destabilise the situation on the line of contact.¹⁶

Soon after this development, President Zelenskyy publicly revealed intelligence that Russia had started to build up troops on Ukraine's border again, at first reporting 90,000 troops at the beginning of November, and then increasing that estimate to 100,000 troops by mid-November.¹⁷

On 15 November, France and Germany released a joint statement referencing the troop movements at the border, stating:

Against the backdrop of renewed concerns about Russian movements of troops and hardware near Ukraine, we call on Russia to adopt a posture of restraint and provide transparent information about its military activities. Any new attempt to undermine Ukraine's territorial integrity would have serious consequences.

We called on Ukraine to maintain a posture of restraint. Already in Spring 2021, Ukraine contributed significantly to the de-escalation of the situation, despite Russian aggressive rhetoric and failure to provide transparent information in line with its international obligations.¹⁸

¹⁴*Ibid.*

¹⁵Natalia Zinets and Matthias Williams, 'Ukraine using Turkish drones in Donbass conflict in self-defence, Zelenskyy says', *Reuters* (29 October 2021) www.reuters.com/world/ukraine-using-turkish-drones-donbass-conflict-self-defence-zelenskyy-says-2021-10-29/.

¹⁶Dmitry Antonov and Gabrielle Tétrault-Farber, 'Kremlin says Turkish drones risk destabilising situation in east Ukraine', *Reuters* (27 October 2021) www.reuters.com/world/middle-east/kremlin-says-turkish-drones-risk-destabilising-situation-east-ukraine-2021-10-27/.

¹⁷Natalia Zinets and Tom Balmforth, 'Ukraine says Russia has nearly 100,000 troops near its border', *Reuters* (13 November 2021) www.reuters.com/world/europe/ukraine-says-russia-has-nearly-100000-troops-near-its-border-2021-11-13/.

¹⁸Germany, Federal Foreign Office, 'Joint Statement by Ministers of Foreign Affairs of Germany and France on Support for Ukraine' (15 November 2021) www.auswaertiges-amt.de/en/newsroom/news/-/2496138.

Russia, meanwhile, blamed the US and NATO's support for states in eastern Europe as a cause for a deterioration in security in Europe. Russia argued, for example, that Ukraine was building up its own forces and was being supplied with a 'significant number of weapons, including modern high-tech weapons.'¹⁹ During a debate at the UN General Assembly's disarmament committee, the Russian representative argued that:

Global trends towards the deterioration of the security situation have a negative impact on Europe as well. The root cause is the adoption by the United States and its NATO allies of a policy of confrontation with Russia, undermining the basis of European security and the arms control system.

The countries of the Alliance are building up their military capabilities along the Russian borders, increasing the speed of the transfer of forces to the Eastern flank. In response to the alleged Russian 'threat', multinational battalion tactical groups have been deployed in Latvia, Lithuania, Estonia, and Poland, a multinational brigade has been formed in Romania. Moreover, an armoured brigade and helicopter units of the U.S. Armed Forces have been transferred to the European territory. The total length of stay of ships of the NATO countries in the Black Sea waters during the year has increased.²⁰

Against this backdrop, on 10 November 2021, the US and Ukraine signed a 'Charter on Strategic Partnership'.²¹ The Preamble of the Charter emphasises 'unwavering commitment to Ukraine's sovereignty, independence, and territorial integrity' and refers to 'ongoing Russian aggression, which threatens regional peace and stability and undermines the global rules-based order.'²² Section II of the Charter is titled 'Security and Countering Russian Aggression', where it states in full:

1. The United States and Ukraine intend to continue a range of substantive measures to prevent external direct and hybrid aggression against Ukraine and hold Russia accountable for such aggression and violations of international law, including the seizure and attempted annexation of Crimea and the Russia-led armed conflict in parts of the Donetsk and Luhansk regions of Ukraine, as well as its continuing malign behaviour.

¹⁹Jamie Dettmer, 'Western policymakers weigh options for Ukraine, responses to Russian aggression', *VOA News* (24 November 2021) www.voanews.com/a/western-policymakers-weigh-options-for-ukraine-responses-to-russian-aggression-/6327196.html.

²⁰Russia, Permanent Mission of the Russian Federation to the United Nations, 'Statement by Representative of the Russian Federation Mr. Andrey Belousov in the First Committee of the 76th session of the UN General Assembly at the Thematic Debate on "Regional Disarmament and Security"' (18 October 2021) https://russiaun.ru/en/news/1com6_181021.

²¹US, Department of State, 'U.S.-Ukraine Charter on Strategic Partnership' (10 November 2021) www.state.gov/u-s-ukraine-charter-on-strategic-partnership/. For background, see US, White House, 'Joint Statement on the U.S.-Ukraine Strategic Partnership' (1 September 2021) www.whitehouse.gov/briefing-room/statements-releases/2021/09/01/joint-statement-on-the-u-s-ukraine-strategic-partnership/.

²²*Ibid*, Preamble, para 4.

The United States intends to support Ukraine's efforts to counter armed aggression, economic and energy disruptions, and malicious cyber activity by Russia, including by maintaining sanctions against or related to Russia and applying other relevant measures until restoration of the territorial integrity of Ukraine within its internationally recognised borders.

2. The United States does not and will never recognise Russia's attempted annexation of Crimea and reaffirms its full support for international efforts, including in the Normandy Format, aimed at negotiating a diplomatic resolution to the Russia-led armed conflict in the Donetsk and Luhansk regions of Ukraine on the basis of respect for international law, including the UN Charter. The United States supports Ukraine's efforts to use the Crimea Platform to coordinate international efforts to address the humanitarian and security costs of Russia's occupation of Crimea, consistent with the Platform's Joint Declaration.

At the G7 meeting in Liverpool in December 2021, the G7 Foreign Ministers and EU High Representative released a joint statement declaring that these parties were 'united in [their] condemnation of Russia's military build-up and aggressive rhetoric towards Ukraine.'²³ The statement called on Russia to 'de-escalate, pursue diplomatic channels, and abide by its international commitments on transparency of military activities'.²⁴ The statement also reiterated their support for France and Germany's ongoing role of brokering peace in the co-called 'Normandy Format' and the need to 'achieve full implementation of the Minsk Agreements in order to resolve the conflict in eastern Ukraine.'²⁵ Finally, the statement declared:

Any use of force to change borders is strictly prohibited under international law. Russia should be in no doubt that further military aggression against Ukraine would have massive consequences and severe cost in response.²⁶

Similarly, NATO Secretary General Jens Stoltenberg told journalists that '[t]here will be a high price to pay for Russia if they once again use force against the independence of the nation Ukraine.'²⁷ This was echoed by US Secretary of State Anthony Blinken, who said, '[a]ny escalatory actions by Russia would be a great concern to the United States ... and any renewed aggression would trigger serious consequences.'

²³See, e.g. UK, Foreign, Commonwealth and Development Office, 'Russia and Ukraine: G7 Foreign Ministers' statement' (12 December 2021) www.gov.uk/government/news/g7-foreign-ministers-statement-on-russia-and-ukraine.

²⁴*Ibid.*

²⁵*Ibid.*

²⁶*Ibid.*

²⁷Humeyra Pamuk, Sabine Siebold, Robin Emmott and Vladimir Soldatkin, 'Putin hits back as NATO warns Moscow against attacking Ukraine', *Reuters* (1 December 2021) www.reuters.com/world/europe/with-intelligence-nato-discuss-russian-intent-near-ukraine-2021-11-30/.

Reacting to this, Russian President Putin warned against NATO placing any missile systems on Ukrainian territory, suggesting that in such a scenario Russia ‘will have to then create something similar in relation to those who threaten us in that way. And we can do that now.’²⁸ As the rhetoric started to focus on the more direct tensions between the US and Russia, US President Biden and Russian President Putin held a virtual summit at the beginning of December where President Biden voiced his ‘deep concerns’ about Russia’s escalation of forces surrounding Ukraine.²⁹

On 17 December, Russia proposed two agreements to the US, setting out proposals for security and demands that NATO roll back its deployment in eastern Europe.³⁰ The first was a draft agreement on security measures between Russia and NATO,³¹ the second was a proposed treaty between Russia and the US on the same issues.³² The draft Russia-NATO agreement proposed to prohibit the deployment of military forces and weaponry on the territory of other European states beyond those there as of May 1997,³³ and also sought to prohibit the deployment of land-based intermediate- and short-range missiles in areas allowing them to reach the territory of the other Parties.³⁴ This proposal also went further to prohibit any further enlargement of NATO membership, including Ukraine, and restricting military drills.³⁵ The draft US-Russia treaty proposed very similar measures, applying similar restrictions to the US too, including on the use and deployment of nuclear weapons outside of the parties territories.

By the end of the reporting period, the US and others had not given a full response to Russia’s proposals. The US and NATO issued coordinated responses on 26 January 2022, and these will be covered in detail in the next Digest of State

²⁸*Ibid.*

²⁹US, White House, ‘Readout of President Biden’s Video Call with President Vladimir Putin of Russia’ (7 December 2021) www.whitehouse.gov/briefing-room/statements-releases/2021/12/07/readout-of-president-bidens-video-call-with-president-vladimir-putin-of-russia/.

³⁰For an overview, see, e.g. Patricia Lewis, ‘Russian treaty proposals hark back to post-Cold War era’, *Chatham House* (19 December 2021) www.chathamhouse.org/2021/12/russian-treaty-proposals-hark-back-post-cold-war-era. See also Gabrielle Tétrault-Farber and Tom Balmforth, ‘Russia demands NATO roll back from East Europe and stay out of Ukraine’, *Reuters* (17 December 2021) www.reuters.com/world/russia-unveils-security-guarantees-says-western-response-not-encouraging-2021-12-17/.

³¹Russia, Ministry of Foreign Affairs, ‘Agreement on measures to ensure the security of the Russian Federation and member states of the North Atlantic Treaty Organization’ (17 December 2021) https://mid.ru/ru/foreign_policy/rso/nato/1790803/?lang=en.

³²Russia, Ministry of Foreign Affairs, ‘Treaty between The United States of America and the Russian Federation on security guarantees’ (17 December 2021) https://mid.ru/ru/foreign_policy/rso/nato/1790818/?lang=en.

³³Russia, Ministry of Foreign Affairs, ‘Agreement on measures to ensure the security of the Russian Federation and member states of the North Atlantic Treaty Organization’ (17 December 2021) https://mid.ru/ru/foreign_policy/rso/nato/1790803/?lang=en, Article 4

³⁴*Ibid.*, Article 5.

³⁵*Ibid.*, Article 6.

Practice.³⁶ The US and NATO sought to keep the responses confidential because, according to the US, ‘diplomacy has the best chance to succeed if we provide space for confidential talks.’ But the documents were later leaked on the Spanish news website *El País*,³⁷ and comparisons of the Russian, US and NATO positions have been made by the Arms Control Association.³⁸

1.2. Greece–France–Turkey: new defence agreement between France and Greece

In October, the Greek parliament ratified a defence agreement between Greece and France.³⁹ The agreement contains a provision for collective self-defence and guarantees the security of both states where there is an ‘armed aggression’.⁴⁰ On 28 September, at a news conference with Greek Prime Minister Kyriakos Mitsotakis, French President Emmanuel Macron said that Europe should stop being ‘naïve’ about European security, and referred to Europe being under pressure from ‘powers’ hardening their stance, and argued that Europe needs to ‘react and show that we have the power and capacity to defend’ itself.⁴¹ Macron insisted that this new defence pact was, ‘[n]ot escalating things, but protecting ourselves.’⁴²

Turkey’s Foreign Ministry criticised Greece in response to the deal in a statement that said:

Greece’s maximalist maritime jurisdiction area and national airspace claims are in contravention of international law. It is a vain dream for Greece to

³⁶See US, Department of State, ‘Secretary Antony J. Blinken at a Press Availability’ (26 January 2022) www.state.gov/secretary-antony-j-blinken-at-a-press-availability-13/; NATO, ‘Press conference by NATO Secretary General Jens Stoltenberg’ (26 January 2022) www.nato.int/cps/en/natohq/opinions_191254.htm.

³⁷Hibai Arbide Aza and Miguel González, ‘US offered disarmament measures to Russia in exchange for deescalation of military threat in Ukraine’, *El País* (2 February 2022) <https://english.elpais.com/usa/2022-02-02/us-offers-disarmament-measures-to-russia-in-exchange-for-a-deescalation-of-military-threat-in-ukraine.html>.

³⁸Arms Control Association, ‘Russia, U.S., NATO Security Proposals’ (March 2022) www.armscontrol.org/act/2022-03/news/russia-us-nato-security-proposals. See also Claire Mills, ‘Ukraine: Russia’s “red line”’, UK House of Commons Library: Briefing Paper Number 9401 (18 February 2022) <https://commonslibrary.parliament.uk/research-briefings/cbp-9401/>.

³⁹Greece, Parliament, ‘Ratification of the Agreement between the Government of the Hellenic Republic and the Government of the French Republic establishing a strategic partnership for cooperation in defence and security’ (8 October 2021) www.hellenicparliament.gr/Nomothetiko-Ergo/Anazitisi-Nomothetikou-Ergou?law_id=50f9990e-73f6-4015-b706-adb4013e7514.

⁴⁰For analysis of the agreement, see, e.g. Nicholas Tsagourias and Constantine Antonopoulos, ‘An international law assessment of the collective self-defence clause of the 2021 treaty on the “establishment of strategic partnership of cooperation in matters of defence and security” between Greece and France’, *EJIL: Talk!* (28 October 2021) www.ejiltalk.org/an-international-law-assessment-of-the-collective-self-defence-clause-of-the-2021-treaty-on-the-establishment-of-strategic-partnership-of-cooperation-in-matters-of-defence-and-security/.

⁴¹John Irish, ‘Macron tells Europe to “stop being naïve” after France signs defence deal with Greece’, *Reuters* (28 September 2021) www.reuters.com/world/europe/greece-buys-three-new-french-frigates-boost-european-defence-2021-09-28/.

⁴²*Ibid.*

think that they can impose upon Turkey these claims, which are also questioned by the international community, by forming bilateral military alliances against Turkey, undermining NATO Alliance itself. Such futile attempts will further strengthen our determination to protect the rights of both our own and those of Turkish Republic of Northern Cyprus in the Aegean and the Mediterranean Seas.

Greece's policy of armament as well as isolation and alienation of Turkey, instead of cooperation, is a problematic policy, which will threaten regional peace and stability and undermine not only itself but also the EU, which Greece is a member of.⁴³

France insisted that the deal was not aimed at Turkey, and officials told reporters in September that the agreement was not aimed at any particular state but was in line with Greece and France's common goal of strengthening European sovereignty.⁴⁴ But prior to the Greek Parliamentary vote, Prime Minister Kyraikos Mitsotakis made a veiled reference to Turkey when he said that '[f]or the first time it is clearly stipulated that there be military assistance in the event of a third party attacking one of the two states. And we all know who is threatening whom with a *casus belli* [cause for war] in the Mediterranean.'⁴⁵

2. Africa

2.1. Mozambique: international military assistance widens

The previous two Digests have covered the deteriorating situation in Mozambique involving militants known as Ansar al-Sunna from Mozambique that had pledged allegiance to the so-called Islamic State.⁴⁶ Previously, states from the South African Development Community (SADC) had expressed willingness to assist Mozambique in their military operations, but reports in August 2020 suggested that the Mozambican government did not want to consent to a SADC intervention, and instead preferred bilateral military assistance from Zimbabwe.⁴⁷

⁴³Turkey, Ministry of Foreign Affairs, 'Statement of the Spokesperson of the Ministry of Foreign Affairs, Ambassador Tanju Bilgiç, in Response to a Question Regarding the Statement of Greek Defence Minister Concerning the Inclusion of Maritime Jurisdiction Areas to the Defence Agreement Signed with France' (1 October 2021) www.mfa.gov.tr/sc_-42_-yunanistan-savunma-bakani-nin-aciklamasi-hk-sc_en.mfa.

⁴⁴Lefteris Papadimas, Michele Kambas and George Georgiopoulos, 'Greek parliament approves defence pact with France', *Reuters* (7 October 2021) www.reuters.com/world/europe/greece-france-defence-pact-protects-against-third-party-aggression-greek-pm-2021-10-07/.

⁴⁵*Ibid.*

⁴⁶See, e.g. Patrick M Butchard and Jasmin J Nessa (eds), 'Digest of State Practice: 1 January – 30 June 2021' (2021) 8(2) *Journal on the Use of Force and International Law* 343, 353–5.

⁴⁷*Ibid.* See also Andrew Kunambura, 'Mozambican govt begs Zim for military rescue', *Zimbabwe Independent* (7 August 2020) www.theindependent.co.zw/2020/08/07/mozambican-govt-begs-zim-for-military-rescue/.

As detailed previously, on 23 June 2021, the Executive Secretary of SADC, Stergomena Tax, told reporters that the African states had agreed the deployment of a Standby Force ‘in support of Mozambique to combat terrorism and acts of violent extremism in Cabo Delgado’.⁴⁸ At the beginning of July, Stergomena Tax wrote to the United Nations to inform the Security Council of the deployment, stating that the deployment was to take effect by 15 July 2021, for an initial period of three months.⁴⁹ There were no details at that time on troop numbers or contributions, but SADC said that the mission ‘aims to support Mozambique in combating acts of terrorism and violent extremism, and to support Mozambique in restoring law and order in affected areas of Cabo Delgado Province.’⁵⁰ The letter to the UN also argued that the deployment was ‘[c]onsistent with the SADC Protocol on Politics, Defence and Security Cooperation, and in recognition of the principle of subsidiarity as espoused in the Charter of the United Nations (Chapter VIII, regional arrangements, Article 52).’⁵¹

Reports suggest the SADC publicly launched at a ceremony on 9 August 2021.⁵² Then, Mozambique television news reported that Tanzania would contribute 274 troops to the force, South Africa would send 270, Botswana 108, Lesotho 70, while Angola would send 16. But Janes Defence news reported that South Africa had put their troop contributions at 1,495, while Botswana was at 296 and Zimbabwe would provide 303 soldiers for training purposes.⁵³

In November, SADC provided further details on the progress of the deployment, stating that this new SADC Mission in Mozambique (SAMIM) had achieved a number of milestones, including:

... recapturing villages, dislodging terrorists from their bases and seizing weapons and warfare material, which has contributed to create a relatively secure environment for safer passage of humanitarian support. Additionally, members of the community have developed confidence in SAMIM forces,

⁴⁸‘Southern African nations agree to deploy forces to Mozambique’, *Al-Jazeera* (23 June 2021) www.aljazeera.com/news/2021/6/23/southern-african-nations-agree-to-deploy-forces-to-mozambique/; Mozambique reportedly sent its formal request in July, see ‘Mozambique formally seeks help from neighbors to stem insurgency’, *The Defence Post* (16 July 2021) www.thedefensepost.com/2021/07/16/mozambique-neighbors-insurgents/; SADC, ‘SADC Executive Secretary presents instruments of authority for Standby Force Deployment Mission to Mozambique’ (17 July 2021) www.sadc.int/news-events/news/sadc-executive-secretary-presents-instruments-authority-standby-force-deployment-mission-mozambique/.

⁴⁹Letter dated 15 July 2021 from the Secretary-General addressed to the President of the Security Council, UN Doc S/2021/658 (21 July 2021) Annex.

⁵⁰*Ibid.*

⁵¹*Ibid.*

⁵²See Helmoed-Römer Heitman & Jeremy Binnie, ‘SADC mission in Mozambique launched’, *Janes* (12 August 2021) www.janes.com/defence-news/news-detail/sadc-mission-in-mozambique-launched.

⁵³*Ibid.* See also ‘South Africa to send 1,495 troops to Mozambique to fight jihadists’, *The Defence Post* (28 July 2021) www.thedefensepost.com/2021/07/28/south-africa-troops-mozambique/.

feeling more secure and allowing internally displaced persons to return to their normal lives.⁵⁴

Other states have also continued to offer international assistance to Mozambique to combat terrorism. Rwanda, for example, announced that it was deploying a 1,000-strong force of soldiers and police to Mozambique.⁵⁵ In its announcement, the Rwandan government said that the deployment was ‘at the request of the Government of Mozambique’ and that:

The Rwandan contingent will support efforts to restore Mozambican state authority by conducting combat and security operations, as well as stabilisation and security-sector reform (SSR).

This deployment is based on the good bilateral relations between the Republic of Rwanda and the Republic of Mozambique, following the signing of several agreements between the two countries in 2018, and is grounded in Rwanda’s commitment to the Responsibility to Protect (R2P) doctrine and the 2015 Kigali Principles on the Protection of Civilians.⁵⁶

As reported previously, at the end of June, the EU also established an EU Training Mission in Mozambique,⁵⁷ and formalised the mission as EUTM Mozambique in early July.⁵⁸ The EU mission’s mandate mission will initially last two years, and the EU announced:

During this period, its strategic objective will be to support the capacity building of the units of the Mozambican armed forces that will be part of a future Quick Reaction Force. In particular, the mission will provide military training including operational preparation, specialised training on counter-terrorism, and training and education on the protection of civilians and compliance with international humanitarian law and human rights law.⁵⁹

In August, Rwandan forces claimed that they had made significant progress, claiming to have regained small towns such as Awasse,⁶⁰ as well as helping Mozambique recapture the key port town of Mocimboa da Praia.⁶¹

⁵⁴Southern African Development Community, ‘SADC Mission in Mozambique (SAMIM) in Brief’ (10 November 2021) www.sadc.int/news-events/news/sadc-mission-mozambique-samim-brief/.

⁵⁵Helmoed-Römer Heitman, ‘Rwandan troops deploy to Mozambique’, *Janes* (12 July 2021) www.janes.com/defence-news/news-detail/rwandan-troops-deploy-to-mozambique.

⁵⁶Rwanda, Government of Rwanda, ‘Rwanda Deploys Joint Force to Mozambique’ (9 July 2021) www.gov.rw/blog-detail/rwanda-deploys-joint-force-to-mozambique.

⁵⁷‘EU agrees military training mission for Mozambique’, *The Defence Post* (30 June 2021) www.thedefensepost.com/2021/06/30/eu-mozambique-military-training/.

⁵⁸Council of the EU, ‘Mozambique: EU sets up a military training mission to help address the crisis in Cabo Delgado’ (12 July 2021) www.consilium.europa.eu/en/press/press-releases/2021/07/12/mozambique-eu-launches-a-military-training-mission-to-help-address-the-crisis-in-cabo-delgado/.

⁵⁹*Ibid.* See also ‘EU launches military mission to train Mozambique army’, *The Defence Post* (12 July 2021) www.thedefensepost.com/2021/07/12/eu-military-mission-mozambique/.

⁶⁰See, e.g. ‘Rwanda troops in Mozambique claim progress against jihadists’, *The Defence Post* (6 August 2021) www.thedefensepost.com/2021/08/06/rwanda-troops-progress-mozambique/.

⁶¹‘Mozambique insurgency: Key port retaken from insurgents – Rwanda’, *BBC News* (8 August 2021) www.bbc.co.uk/news/world-africa-58138507.

SADC states met at a summit in October to consider the progress made by the regional deployment.⁶² The summit thanked this mission's contributors for 'the remarkable achievements made since the deployment', and further:

... approved the extension of the SAMIM to continue with offensive operations against terrorists and violent extremists to consolidate stability of security and create a conducive environment for resettlement of the population and facilitate humanitarian assistance operations and sustainable development.⁶³

While the initial authorisation of the deployment was due to end in October 2021, this extension did not set an end date.⁶⁴

2.2. Sahel region–Central African Republic: international military assistance, while Russian Wagner Group is sanctioned

In the previous Digest,⁶⁵ it was reported that France planned to draw *Operation Barkhane* to a close by early 2022. In a press conference with Niger's President Mohamed Bazoum, French President Emmanuel Macron announced that France would start closing its military bases in northern Mali in the second half of 2021, with an aim to complete this by early 2022.⁶⁶ Macron repeated that France would continue to be a partner for the G5 Sahel, and justified the drawdown by suggesting: 'Our enemies have abandoned their territorial ambitions in favour of spreading their threat not only across the Sahel, but across all of West Africa.'⁶⁷

Mali's Prime Minister, Choguel Kokalla Maiga, gave an interview to French newspaper *Le Monde* in October,⁶⁸ where he repeated claims that France was 'abandoning' Mali in the fight against terrorism.⁶⁹ In the interview, Maiga was also asked whether Mali was in discussions with the Russian Wagner mercenary group, but Maiga dismissed this as 'rumours' while suggesting that Mali was still in discussions with Russia about providing military equipment and possibly other assistance, suggesting that Mali

⁶²South Africa, Government of South Africa, 'Communiqué of Extra-ordinary Summit of organ Troika of Southern African Development Community (SADC) plus the Republic of Mozambique' (5 October 2021) www.gov.za/speeches/communiqu%C3%A9-extra-ordinary-summit-organ-troika-southern-african-development-community-sadc.

⁶³*Ibid.*, para 8.

⁶⁴Wendell Roelf and Alexander Winning, 'Southern African bloc extends troop deployment in Mozambique to fight insurgency –communique', *Reuters* (5 October 2021) www.reuters.com/world/africa/southern-african-bloc-extends-troop-deployment-mozambique-fight-insurgency-2021-10-05/.

⁶⁵Butchard and Nessa (eds) (n 46) 351–5.

⁶⁶'France to start closing military bases in Mali by year-end: Macron', *The Defence Post* (9 July 2021) www.thedefensepost.com/2021/07/09/france-mali-bases/.

⁶⁷*Ibid.*

⁶⁸Morgane Le Cam, 'Choguel Maïga : « Notre gouvernement a compris que s'il ne compte que sur un seul partenaire, il pourra à tout moment être abandonné », *Le Monde* (18 October 2021) www.lemonde.fr/afrrique/article/2021/10/18/choguel-maiga-notre-gouvernement-a-compris-que-s-il-ne-compte-que-sur-un-seul-partenaire-il-pourra-a-tout-moment-etre-abandonne_6098822_3212.html.

⁶⁹See also, 'Mali doubles down on French "abandonment" with troop drawdown', *The Defence Post* (18 October 2021) www.thedefensepost.com/2021/10/18/mali-france-abandonment/.

seeks ‘all the means and the assistance of all the States which could help us to secure our people.’⁷⁰

Despite this, in December, the US State Department expressed concern over a rumoured deal between Mali and the Wagner Group, reportedly costing \$10 million per month.⁷¹ The US, which had already sanctioned the Wagner Group, said that the Group ‘will not bring peace to Mali, but rather will destabilise the country further.’⁷² The US also addressed Mali’s rejection of a UN peacekeeping contingent:

The United States laments that Mali’s transitional government has refused to accept more than 2,000 additional MINUSMA military and police peacekeepers — again, at no cost to Mali — that would have contributed to civilian protection. The United States also regrets that the transitional government has delayed efforts by international partners to deploy additional troops and trainers and to bolster security operations. We call on the transitional government to take action to facilitate responsible and accountable security assistance efforts aimed at protecting and empowering the Malian people.⁷³

A number of experts at the UN, part of the UN Human Rights Council’s Special Procedures, released a statement in October 2021 expressing their concerns over activities of the Russian mercenary Wagner Group in the Central African Republic.⁷⁴ The statement said:

We are extremely concerned about intimidation and recent reports of violent harassment by private military and security contractors against individuals and communities.

...

We call on the CAR government to end all relationships with private military and security personnel, particularly the Wagner Group ... We urge the authorities to comply with their obligations under international law to hold accountable all perpetrators of grave violations and abuses of human rights and international humanitarian law committed on their territory. They must ensure unhindered access to justice and redress to all victims of violations, including abuses committed by Russian private military and security personnel.⁷⁵

The Wagner Group, according to the statement, are Russian instructors operating as military and security personnel working closely with the

⁷⁰*Le Monde* Interview (n 68).

⁷¹US, Department of State, ‘Potential Deployment of the Wagner Group in Mali’ (15 December 2021) www.state.gov/potential-deployment-of-the-wagner-group-in-mali/.

⁷²*Ibid.*

⁷³*Ibid.*

⁷⁴UN Office of the High Commissioner for Human Rights, Human Rights Council, Special Procedures, ‘CAR: Russian Wagner Group harassing and intimidating civilians – UN experts’ (27 October) www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts.

⁷⁵*Ibid.*

armed forces of the Central African Republic and police, and engage in the arrest and detention of individuals.⁷⁶ In response to the allegations of human rights abuses, the European Union imposed sanctions and restrictions on the Wagner Group in December 2021.⁷⁷ The EU said when imposing sanctions:

The Wagner Group has recruited, trained and sent private military operatives to conflict zones around the world to fuel violence, loot natural resources and intimidate civilians in violation of international law, including international human rights law.

...

The individuals listed by the EU are involved in serious human rights abuses, including torture and extrajudicial, summary or arbitrary executions and killings, or in destabilising activities in some of the countries they operate in, including Libya, Syria, Ukraine (Donbas) and the Central African Republic. The group is also spreading its malign influence elsewhere, notably in the Sahel region. For these reasons the group constitutes a threat for the people in the countries where they are present, the wider region and for the European Union.⁷⁸

2.3. Eritrea–Ethiopia: Tigray crisis continues amid Eritrean presence in Ethiopia

As detailed in the previous Digests,⁷⁹ Eritrea had deployed forces within the Tigray region of Ethiopia, during hostilities between the Tigray People's Liberation Front (TPLF)⁸⁰ and the Ethiopian Federal Government.⁸¹ Ethiopia has previously declared a state of emergency in the Tigray region,⁸² and Ethiopia's Cabinet and Parliament branded the TPLF a terrorist organisation.⁸³ By the end of June, the TPLF had taken the Tigray region capital, Mekelle,⁸⁴ and some reports at the beginning of this reporting period

⁷⁶For background on the group, see also 'Wagner Group: Why the EU is alarmed by Russian mercenaries in Central Africa', *BBC News* (19 December 2021) www.bbc.co.uk/news/world-africa-59699350.

⁷⁷European Union, 'EU imposes restrictive measures against the Wagner Group' (13 December 2021) www.consilium.europa.eu/en/press/press-releases/2021/12/13/eu-imposes-restrictive-measures-against-the-wagner-group/.

⁷⁸*Ibid.*

⁷⁹See Butchard and Nessa (eds) (n 46) 348–51; Patrick M Butchard and Jasmin J Nessa (eds), 'Digest of State Practice: 1 July – 31 December 2020' (2021) 8(1) *Journal on the Use of Force and International Law* 357, 183–4.

⁸⁰Some reports suggest that rebels have rebranded as the Tigray Defence Forces (TDF).

⁸¹*Ibid.*

⁸²Louisa Brooke-Holland, 'Ethiopia: Warnings of "full-scale humanitarian crisis" in Tigray region', House of Commons Library, UK Parliament (18 November 2020) <https://commonslibrary.parliament.uk/ethiopia-fears-of-civil-war-in-tigray-region/>; more recently, see Louisa Brooke-Holland, 'Ethiopia: Situation in Tigray', House of Commons Library, UK Parliament (18 June 2021) <https://commonslibrary.parliament.uk/research-briefings/cbp-9147/>.

⁸³'Tigray conflict: Ethiopia lists TPLF as a terrorist group', *Africa News* (6 May 2021) www.africanews.com/2021/05/06/tigray-conflict-ethiopia-lists-tplf-as-a-terrorist-group/.

⁸⁴'Ethiopia's Tigray conflict: Street celebrations as rebels seize capital', *BBC News* (29 June 2021) www.bbc.co.uk/news/world-africa-57645282.

suggested that forces were continuing to push to recapture towns in the south of the region.⁸⁵ As the conflict continued, Ramesh Rajasingham, UN Acting Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, warned of an imminent humanitarian crisis and people falling into famine in Tigray,⁸⁶ a situation made worse after two key bridges allowing aid into Tigray were destroyed.⁸⁷ Meanwhile, Ethiopian Prime Minister Abiy Ahmed won the rescheduled election in June-July 2021, but voting did not take place in Tigray.⁸⁸

Eritrea had admitted it had a presence in Tigray in a letter to the UN in April, but denied any illegal conduct, while also suggesting that Eritrea and Ethiopia had agreed ‘on the withdrawal of Eritrean forces and the simultaneous redeployment of Ethiopian contingent along the international boundary.’⁸⁹

However, during the current reporting period US Secretary of State, Antony Blinken, revealed that Eritrean Defence Forces (EDF) had re-entered Ethiopian territory. He said in August that ‘large numbers of EDF have re-entered Ethiopia, after withdrawing in June.’⁹⁰ Blinken said:

Prolonged, intensified and expanded conflict increases the risks of violence against civilians and rights violations. We call upon the Eritrean government to withdraw its military forces immediately and permanently from Ethiopia. At the same time, the United States continues to urge all parties to the conflict, including the Tigray People’s Liberation Front, to end abuses against civilians, take steps to de-escalate the conflict, allow for unimpeded humanitarian access, and commit to a negotiated ceasefire.⁹¹

This came as the US sanctioned Eritrean Defence Forces (EDF) Chief of Staff General Filipos Woldeyohannes ‘for his connection with serious human

⁸⁵Dawit Endeshaw and Maggie Fick, ‘Forces from Ethiopia’s Tigray region say they are pushing south’, *Reuters* (12 July 2021) www.reuters.com/world/africa/forces-ethiopia-tigray-region-say-they-are-say-pushing-south-2021-07-12/.

⁸⁶‘400,000 in Tigray cross “threshold into famine”, with nearly 2 million on the brink, Security Council told’, *UN News* (2 July 2021) <https://news.un.org/en/story/2021/07/1095282>. See also Giulia Paravicini and Katharine Houreld, ‘Exclusive: UN official accuses Eritrean forces of deliberately starving Tigray’, *Reuters* (14 June 2021) www.reuters.com/world/africa/exclusive-un-official-accuses-eritrean-forces-deliberately-starving-tigray-2021-06-11/.

⁸⁷See, e.g. ‘Ethiopia says won’t “suffocate” Tigray as UN clamors for access’, *The Defence Post* (2 July 2021) www.thedefensepost.com/2021/07/02/ethiopia-will-not-suffocate-tigray/.

⁸⁸‘Ethiopia election: Abiy Ahmed wins with huge majority’, *BBC News* (11 July 2021) www.bbc.co.uk/news/world-africa-57791868.

⁸⁹Letter Dated 16 April 2021 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council, UN Doc S/2021/378 (19 April 2021).

⁹⁰US, Department of State, ‘Sanctioning Eritrean Military Leader in Connection with Human Rights Abuse in Ethiopia’ (23 August 2021) www.state.gov/sanctioning-eritrean-military-leader-in-connection-with-human-rights-abuse-in-ethiopia/.

⁹¹*Ibid.* See also US, Department of the Treasury, ‘Treasury Sanctions Eritrean Military Leader in Connection with Serious Human Rights Abuse in Tigray’ (23 August 2021) <https://home.treasury.gov/news/press-releases/jy0329>.

rights abuse committed during the ongoing conflict in Ethiopia.’ The US claimed:

Under Filipos’ command, EDF troops have raped, tortured, and executed civilians in Ethiopia. Internally Displaced Persons (IDPs) have described a systematic effort by the EDF to inflict as much harm on the ethnic Tigrayan population as possible in the areas the EDF controls. Eritrean troops have forcibly displaced civilians and ransacked businesses; IDPs spoke of a ‘scorched earth’ policy intended to prevent civilians from returning home.⁹²

On 13 July, the UN Human Rights Council adopted Resolution 47/13, on the situation of human rights in the Tigray region of Ethiopia.⁹³ The Resolution expressed that the Council was:

Deeply concerned also by reports indicating the participation of Eritrean troops exacerbating the conflict in the Tigray region and by allegations of their involvement in cases of serious human rights violations and violations of international humanitarian and refugee law.⁹⁴

As well as expressing concern for ‘the deteriorating humanitarian situation in the Tigray region, the food crisis and the serious conditions of famine, and also about the insecurity that continues to hamper humanitarian access’,⁹⁵ the Council also called for ‘the swift and verifiable withdrawal of Eritrean troops from the Tigray region’.⁹⁶

Meanwhile, there were continued reports of violations of human rights, international humanitarian law, and the deliberate targeting of civilians by Tigray forces as the crisis continued, with some allegations also made against Eritrean and Ethiopian forces.⁹⁷ On 17 December 2021, the Human Rights Council adopted Resolution S-33/1 at its thirty-third special session, which established an international commission of human rights experts on Ethiopia.⁹⁸ The mandate of this investigation included investigating ‘allegations of violations and abuses of international human rights law and violations of international humanitarian law and international refugee law in Ethiopia committed since 3 November 2020 by all parties to the conflict, including the possible gender dimensions of such violations and abuses ...’⁹⁹

⁹²*Ibid*

⁹³UN Human Rights Council Resolution 47/13 (2021), UN Doc A/HRC/RES/47/13 (26 July 2021).

⁹⁴*Ibid*, preambular para 7.

⁹⁵*Ibid*, preambular para 8.

⁹⁶*Ibid*, operative para 3.

⁹⁷See, e.g. ‘Ethiopia’s Tigray rebels accused of shelling, shooting civilians’, *The Defence Post* (22 September 2021) www.thedefensepost.com/2021/09/22/tigray-rebels-shooting-civilians/; Human Rights Watch, ‘Ethiopia: Tigray Forces Summarily Execute Civilians’, *HRW* (9 December 2021) www.hrw.org/news/2021/12/10/ethiopia-tigray-forces-summarily-execute-civilians.

⁹⁸UN Human Rights Council Resolution S-33/1, UN Doc A/HRC/RES/S-33/1 (21 December 2021).

⁹⁹*Ibid*, para 9.

Regarding the developments in the hostilities during this reporting period, the Ethiopian government had announced a unilateral ceasefire at the end of June 2021.¹⁰⁰ But reports as early as July suggested the Ethiopian government was preparing another offensive in the region as the Tigray rebels captured more territory in the north.¹⁰¹ By November, reports suggested that fighting had resumed in the region,¹⁰² and by December Ethiopia claimed the recapturing of key towns.¹⁰³ The Tigray rebels then announced a retreat out of two regions, and back into the main strongholds in Tigray.¹⁰⁴

Fighting also crossed the border into Sudan at one point – the Sudanese government stated that several soldiers had been killed in the cross-border clash, but Ethiopia blamed the incident on the instability and fighting in Tigray.¹⁰⁵

2.4. Somalia–US: US airstrikes after withdrawal

The US troop withdrawal from Somalia, covered in the previous Digest, was completed in January 2021.¹⁰⁶ In July, the US undertook its first airstrike in Somalia since President Joe Biden took office. In a statement, US Marine Corps Brig. Gen. Thomas Savage, the US Africa Command deputy director of operations, said that '[t]his strike was conducted under collective self-defence authority and targeted al-Shabaab fighters engaged in active combat with our Somali partners. ... We are committed to supporting our Somali partners as they fight against these terrorists.'¹⁰⁷

The US undertook a second strike less than two weeks later, with it repeating the justification that 'US forces are authorised to conduct strikes in

¹⁰⁰Daphne Psaedakis and Humeysa Pamuk, 'Blinken calls for indefinite ceasefire in call with Ethiopia's Abiy', *Reuters* (7 July 2021) www.reuters.com/world/africa/blinken-calls-negotiated-indefinite-ceasefire-call-with-ethiopia-abiy-2021-07-06/.

¹⁰¹See, e.g. 'Ethiopia leaders threaten new offensive against Tigray rebels', *The Defence Post* (15 July 2021) www.thedefensepost.com/2021/07/15/ethiopia-leaders-offensive-tigray/.

¹⁰²Ethiopia forces, Tigrayan rebels battle over key town of Kombolcha', *The Defence Post* (1 November 2021) www.thedefensepost.com/2021/11/01/ethiopia-battle-kombolcha/; Declan Walsh, 'Ethiopia launches new offensive on Tigray rebels as famine looms', *The New York Times* (12 October 2021) www.nytimes.com/2021/10/12/world/africa/ethiopia-tigray-offensive.html.

¹⁰³Maggie Fick, 'Ethiopian forces have recaptured two strategic towns, government says', *Reuters* (6 December 2021) www.reuters.com/world/middle-east/ethiopian-forces-have-recaptured-two-strategic-towns-government-says-2021-12-06/.

¹⁰⁴Ethiopia's rebels announce retreat to Tigray', *The Defence Post* (21 December 2021) www.thedefensepost.com/2021/12/21/ethiopia-rebels-retreat-tigray/.

¹⁰⁵Ethiopia denies attack on Sudan, blames rebels for violence', *Al-Jazeera* (29 November 2021) www.aljazeera.com/news/2021/11/29/ethiopia-denies-attack-on-sudan-blames-rebels-for-unrest.

¹⁰⁶See Butchard and Nessa (eds) (n 46) 355–6; Cara Anna, 'US military says its troop removal from Somalia is complete', *AP News* (17 January 2021) <https://apnews.com/article/donald-trump-troop-withdrawals-national-elections-africaa5c53d5c7cb0fa3473e7df98ee66ce1>.

¹⁰⁷US Africa Command, 'U.S. Africa Command conducts strike against al-Shabaab' (20 July 2021) www.africom.mil/pressrelease/33893/us-africa-command-conducts-strike-against-al-shabaab. See also 'US launches air strike targeting Al Shabaab in Somalia', *The Defence Post* (21 July 2021) www.thedefensepost.com/2021/07/21/us-air-strike-somalia/.

support of combatant commander designated partner forces under collective self-defence.¹⁰⁸

3. Middle East

3.1. Syria: refuting the United States' Article 51 claim

During the previous reporting period, the United States reported to the Security Council, in a letter dated 29 June 2021, that it had conducted strikes against facilities in Syria and Iraq in the exercise of its inherent right of self-defence, as reflected in Article 51 of the Charter.¹⁰⁹ The United States added:

This letter supplements prior letters provided to the Council, including on 27 February 2021, which further explain the basis for such actions in self-defence against these ongoing attacks. These militia attacks have escalated in recent months.¹¹⁰

Syria responded, through its letter dated 1 July 2021, condemning the attack and accusing the United States of attempting 'to invoke the provisions of the Charter to justify its aggression'.¹¹¹ Syria recalled its message from its previous letter, dated 4 March 2021,¹¹² that Article 51 had been drafted with deliberate care to include restrictions to ensure that its provisions were not 'manipulated, misconstrued and exploited to carry out acts of aggression and spread chaos and destruction'.¹¹³ Syria emphasised the importance of the principle of refraining from the use of force:

... and the need to steer clear of misinterpreting or arbitrarily applying Article 51 and transforming it from a provision concerning self-defence into a basis for aggression and occupation, as well as a threat to international peace and security.¹¹⁴

¹⁰⁸Idrees Ali and Phil Stewart, 'US military carries out second strike in Somalia this week', *Reuters* (23 July 2021) www.reuters.com/world/africa/us-military-carries-out-second-strike-somalia-this-week-2021-07-23/.

¹⁰⁹United States, Letter dated 29 June 2021 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council, UN Doc S/2021/614 (30 June 2021).

¹¹⁰*Ibid.*

¹¹¹Identical letters dated 1 July 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/620 (2 July 2021).

¹¹²Identical letters dated 4 March 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/223 (15 March 2021).

¹¹³UN Doc S/2021/620 (n 111).

¹¹⁴*Ibid.*

Syria repeatedly called upon the United Nations, including in letters dated 8 July 2021¹¹⁵ and 23 August 2021,¹¹⁶ to demand an end to the United States' aggression and illegal occupation of parts of Syrian territory.

3.2. Syria: third states' involvement

During this reporting period, Syria wrote to the Security Council on numerous occasions concerning allegations against Turkey, including the alleged obstruction of humanitarian operations,¹¹⁷ Turkey's renewal of its mandate to send military forces into Iraq and Syria,¹¹⁸ Turkey's alleged funding of terrorist organisations in Syria¹¹⁹ and the occupation of Turkish forces in Syria.¹²⁰ During the 8866th meeting of the Security Council on 28 September, the representative of Syria complained about the alleged 'aggressive and destructive practices' carried out by Turkey on Syrian territories.¹²¹ Syria called upon the Security Council and the Secretariat to put an end to the alleged crimes of the Turkish occupation and to end the presence of Turkish military forces on Syrian territory.¹²² Turkey responded to all these allegations, in its letter dated 8 December 2021, by categorically rejecting 'the lies and delusional allegations' made by Syria.¹²³

During the 8888th meeting of the Security Council on 27 October 2021, the representative of Syria reiterated its demand for an end to the 'illegal presence' of the United States and Turkish forces on Syrian territory and for stopping 'their aggressive practices.'¹²⁴

¹¹⁵Identical letters dated 8 July 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/643 (14 July 2021).

¹¹⁶Note verbale dated 23 August 2021 from the Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva addressed to the secretariat of the Human Rights Council, UN Doc A/HRC/48/G/1 (27 September 2021).

¹¹⁷Identical letters dated 29 November 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/983 (29 November 2021).

¹¹⁸Identical letters dated 1 November 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/916 (2 November 2021).

¹¹⁹Letter dated 7 September 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/781 (13 September 2021).

¹²⁰Identical letters dated 21 July 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/670 (22 July 2021); Identical letters dated 20 August 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/744 (25 August 2021); Identical letters dated 26 October 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/897 (2 November 2021).

¹²¹UNSC Verbatim Record, UN Doc S/PV.8866 (28 September 2021) 17 (Syria).

¹²²*Ibid.*

¹²³Letter from the Permanent Representative of Turkey to the Organisation United Nations of 8 December 2021 to President of the Security Council, UN Doc S/2021/1024 (9 December 2021).

¹²⁴UNSC Verbatim Record, UN Doc S/PV.8888 (27 October 2021) 22–3 (Syria).

3.3. Response to Syrian accusations of third states' involvement

On 2 July 2021, the Russian Foreign Minister explained that Russia was in Syria on an 'invitation from the legitimate government' and that Russia was helping the Syrian security forces and the army to eradicate the remaining hotbeds of terrorism from Syrian territory.¹²⁵ Further, the Russian Foreign Minister accused the United States of occupying 'significant portions of Syria' and illegally exploiting Syria's natural resources.¹²⁶ On 9 September 2021, the Russian Foreign Minister repeated the claim that a significant part of Syrian territory was under the illegal occupation of the United States.¹²⁷

During a General Assembly meeting on 27 September 2021, the representative of Nicaragua reiterated its solidarity with the Government and people of Syria as 'they defend their sovereignty and territorial integrity and struggle against foreign aggression and international terrorism'.¹²⁸

The representative of Iran, during a Security Council meeting on 24 August 2021, cautioned that 'all uninvited foreign forces must leave the country without any precondition or delay' if grounds to end the conflict in Syria were to be created.¹²⁹ Further, during the 8937th meeting of the Council, held on 20 December 2021, the representative of Iran warned that the 'continued occupation of parts of the Syrian territory by foreign forces constituted a flagrant violation of international law and the Charter of the United Nations, must come to an end' and, again, warned that 'all occupying and uninvited foreign forces must leave that country without any precondition or further delay'.¹³⁰

3.4. Israel–Syria: alleged attacks and dispute over the Golan Heights

3.4.1. Alleged attacks

During this reporting period, Israel sent a fifty-six page document to the Security Council listing alleged breaches of Israeli sovereignty and violations of the Disengagement of Forces Agreement by Syria for the period of January – March 2021.¹³¹ Similarly, a seventy-two page document listing further

¹²⁵Russia, Ministry of Foreign Affairs, 'Foreign Minister Sergey Lavrov's statement and answers to media questions at a joint news conference following talks with Foreign Minister of the Kingdom of Bahrain Abdullatif bin Rashid Alzayani, Moscow, July 2, 2021' (2 July 2021) www.mid.ru/en/press_service/minister_speeches/1767185/.

¹²⁶*Ibid.*

¹²⁷Russia, Ministry of Foreign Affairs, 'Foreign Minister Sergey Lavrov's statement and answers to media questions at a joint news conference with Foreign Minister of the State of Israel Yair Lapid, Moscow, September 9, 2021' (9 September 2021) www.mid.ru/en/foreign_policy/news/1775210/.

¹²⁸UNGA Verbatim Record, UN Doc A/76/PV.17 (27 September 2021) 14 (Nicaragua).

¹²⁹UNSC Verbatim Record, UN Doc S/PV.8841 (24 August 2021) 27 (Iran).

¹³⁰UNSC Verbatim Record, UN Doc S/PV.8937 (20 December 2021) 27 (Iran).

¹³¹Identical letters dated 9 July 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/638 (9 July 2021).

Syrian breaches and violations for the period of April – June 2021 was sent to the Council by Israel.¹³²

Syria also wrote to the Security Council on a number of occasions to report alleged attacks by Israel against Syria. In response to an alleged attack by Israel on 19 July 2021, Syria accused Israel of ‘engaging in State terrorism and providing ongoing support to armed terrorist groups’, whilst warning Israel that carrying out further attacks would have ‘serious repercussions, and for which Israel will bear full responsibility’.¹³³

Following a further alleged attack by Israel on 22 July 2021, Syria alleged that continued acts of terrorism perpetrated by the Israel ‘would not be possible without the protection and cover provided by successive American administrations and certain Western States’ and reiterated that Syria would not hesitate to ‘exercise its right to defend its land, people and sovereignty’.¹³⁴ In additional letters, concerning further alleged attacks against Syria by Israel, Syria reiterated ‘the unrestrained and constant support’ given by the United States to Israel¹³⁵ and warned Israel ‘of the serious repercussions of its attacks under false pretexts’.¹³⁶ At the 8888th meeting of the Security Council on 27 October 2021, the representative of Syria called upon the Security Council to stop Israeli acts of aggression against Syria.¹³⁷

During the 8866th meeting of the Security Council on 28 September, the representative of Iran stated that the Security Council must live up to its responsibility and ‘compel the Israeli regime to put an immediate end to its acts of aggression’ against Syria, arguing that such ‘adventuristic practices’ threaten regional and international peace and security.¹³⁸ At the 8937th meeting of the Council, held on 20 December 2021, the representative of Iran reaffirmed ‘Syria’s inherent right to self-defence and to respond at a time and place of its choosing’.¹³⁹ On 29 December 2021, Iranian Foreign Ministry Spokesman condemned the alleged frequent attacks by Israel against Syria and labelled them as ‘acts of aggression’. The spokesman

¹³²Identical letters dated 4 October 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/837 (5 October 2021).

¹³³Identical letters dated 21 July 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/670 (22 July 2021).

¹³⁴Identical letters dated 22 July 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/673 (26 July 2021).

¹³⁵Identical letters dated 20 August 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/744 (19 August 2021).

¹³⁶Identical letters dated 3 September 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN doc S/2021/775 (8 September 2021).

¹³⁷UN Doc S/PV.8888 (n 124) 22 (Syria).

¹³⁸UNSC Verbatim Record, UN Doc S/PV.8866 (28 September 2021) 18 (Iran).

¹³⁹UNSC Verbatim Record, UN Doc S/PV.8937 (20 December 2021) 26 (Iran).

added that Syria had a legitimate right to defend itself ‘against the actions of the aggressors’.¹⁴⁰

3.4.2. *Dispute over the Golan Heights*

On 26 December 2021, Israeli Prime Minister Bennett announced that Israel’s goal was to double the population of the Golan Heights:¹⁴¹

[T]he Golan Heights are Israeli; this is self-evident. Israeli law has been applied to them since 1981 and they are beyond all debate

...

And to the Israelis who are looking for a place to build their home, I say – the Heights are waiting for you; come to the Golan.¹⁴²

Syria wrote to the Security Council, in a letter dated 27 December 2021, concerning Israel’s settlement policy in the Golan Heights, which Syria described as a ‘dangerous and unprecedented escalation’.¹⁴³ The letter explained that the occupied Syrian Golan was an integral part of the territory of Syria:

The Government of the Syrian Arab Republic will work to regain the Golan in its entirety and by all available means guaranteed under international law. That is its eternal right that cannot be extinguished by the passage of time and is a constitutional duty of the Syrian State.¹⁴⁴

Syria claimed that Israel’s ‘provocative and reckless behaviour and aggressive policies’ have been possible because of the alleged protection provided by successive United States administrations, who have provided ‘cover for repeated acts of aggression’ against Syria.¹⁴⁵

3.5. *United States’ military strikes in Syria and Iraq against ‘Iran-backed militia’ on 27 June 2021*

It was detailed in the previous Digest¹⁴⁶ that the United States had reported to the Security Council that it had conducted strikes against facilities in Syria and Iraq, on 27 June 2021, in the exercise of its inherent right of self-defence,

¹⁴⁰Iran, Ministry of Foreign Affairs, ‘Foreign Ministry’s reaction to Israel’s attack on food and medicine storage places in Syria’s Latakia’ (29 December 2021) en.mfa.gov.ir/portal/newsview/664005.

¹⁴¹Israel, Ministry of Foreign Affairs, ‘Cabinet approves special plan to develop the Golan Heights’ (26 December 2021) www.gov.il/en/departments/news/cabinet-approves-special-plan-to-develop-golan-heights-26-dec-2021.

¹⁴²Israel, Ministry of Foreign Affairs, ‘PM Bennett’s remarks at the start of the special Cabinet meeting on the Golan Heights’ (26 December 2021) <https://www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-special-cabinet-meeting-26-dec-2021>.

¹⁴³Identical letters dated 27 December 2021 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/1096 (29 December 2021).

¹⁴⁴*Ibid.*

¹⁴⁵*Ibid.*, 2.

¹⁴⁶Butchard and Nessa (eds) (n 46) 363.

as reflected in Article 51 of the Charter.¹⁴⁷ In the United States' report, it was alleged that the facilities in question 'were used by Iran-backed militia groups' that had been involved in a series of attacks against the United States personnel and facilities in Iraq.¹⁴⁸

In a letter dated 2 July 2021 addressed to the Security Council, Iran refuted the United States' accusations that Iran was 'supporting the so-called "militia groups" in Iraq':

I have made it crystal clear that the Islamic Republic of Iran has not been involved, directly or indirectly, in any armed attack by any entity or individual against United States personnel or facilities in Iraq.

Any claim to attribute to Iran, explicitly or implicitly, any attack carried out against American personnel or facilities in Iraq is factually wrong and void of the minimum requirements of authenticity and reliability, and thus completely baseless. Accordingly, we firmly reject such allegations and consider them legally null and void.¹⁴⁹

Further, Iran categorically rejected 'the extremely arbitrary interpretation of Article 51' by the United States in justifying its 'unlawful military strike' on 27 June 2021' and labelled the strike as a flagrant violation of Article 2(4) of the Charter.¹⁵⁰

The Israeli Ministry of Foreign Affairs accused Iran of being 'the world's number one exporter of terror':

Israel will not sit quietly by, while Iran builds terror bases on our northern border. Or while Iran supplies advanced weapons to terror organizations. Weapons intended to be used against us. We will maintain our ability to defend ourselves in the face of threats from Syria and elsewhere.¹⁵¹

During the 8910th meeting of the Security Council, held on 23 November 2021, on 'The Situation Concerning Iraq', the representative of Mexico reiterated its concerns of the invocation of Article 51 of the Charter:

Mexico reiterates once again its deep concern over the abuse of the invocation of Article 51 of the Charter of the United Nations in the context of the fight against terrorism. This practice runs the risk of de facto broadening the exceptions to the general prohibition of the use of force, as enshrined in Article 2, paragraph 4, of the Charter and in the unwavering jurisprudence of the

¹⁴⁷Letter dated 29 June 2021 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council, UN Doc S/2021/614 (30 June 2021).

¹⁴⁸*Ibid.*

¹⁴⁹Letter dated 2 July 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/623 (6 July 2021).

¹⁵⁰*Ibid.*

¹⁵¹Israel, Ministry of Foreign Affairs, 'FM Lapid and Russian FM Lavrov hold joint press conference in Moscow' (9 September 2021) www.gov.il/en/departments/news/fm-lapid-and-russian-fm-lavrov-hold-joint-press-conference-in-moscow-9-september-2021.

International Court of Justice. This is an aberration that we cannot accept and one that undermines Iraq's sovereignty and territorial integrity.¹⁵²

3.6. Israel–Iran: reports of alleged attacks and threats

3.6.1. Israel and the United States' accusations against Iran's nuclear activities

During a meeting between the Israeli President and the German President on 1 July 2021, both agreed that Iran's plan to acquire nuclear weapons would 'threaten the stability of the region and of the whole world'.¹⁵³ Israel accused Iran of openly declaring that Iran was working towards Israel's destruction.¹⁵⁴ Further, Israel accused Iran of developing nuclear weapons and warned that Israel will do everything to prevent Iran from attaining nuclear weapons.¹⁵⁵

Israeli Prime Minister, Naftali Bennett, met at the White House with the United States' President, Joe Biden, 27 August 2021 for their first diplomatic meeting.¹⁵⁶ President Biden stated that they were 'going to discuss the threat from Iran and our commitment to ensure Iran never develops a nuclear weapon' by putting diplomacy first.¹⁵⁷ However, Biden cautioned that 'if diplomacy fails, we're ready to turn to other options'.¹⁵⁸ During the meeting, Bennett stated that 'the Iranians are spinning their centrifuges in Natanz and Fordow. We have got to stop them, and we both agree about that'.¹⁵⁹ Iran responded to these specific statements, in its letter dated 14 September 2021 addressed to the Security Council, declaring that these statements constituted 'clear manifestations of explicit threats to conduct nuclear terrorism' against Iran and that they also constituted a 'gross violation of international law and the Charter of the United Nations, particularly

¹⁵²UNSC Verbatim Record, UN Doc S/PV.8910 (23 November 2021) 18 (Mexico).

¹⁵³Israel, Prime Minister's Office, 'President Rivlin hosts official reception for German President Steinmeier' (1 July 2021) www.gov.il/en/departments/news/president-rivlin-hosts-official-reception-for-german-president-steinmeier-1-july-2021.

¹⁵⁴Israel, Prime Minister's Office, 'PM Bennett meets with German President Frank-Walter Steinmeier' (1 July 2021) www.gov.il/en/departments/news/pm-bennett-meets-with-german-president-frank-walter-steinmeier-1-july-2021.

¹⁵⁵Israel, Prime Minister's Office, 'PM Bennett comments on this week's IAEA Report on Iran' (10 September 2021) www.gov.il/en/departments/news/spoke_iaea100921. See also Israel, Prime Minister's Office, 'PM Bennett's remarks at the start of the weekly Cabinet meeting' (22 August 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-weekly-cabinet-meeting-22-august-2021; Israel, Prime Minister's Office, 'Prime Minister Naftali Bennett: "Do not give in to Iran's nuclear blackmail"' (29 November 2021) www.gov.il/en/departments/news/spoke_iran291121.

¹⁵⁶United States, White House, 'Remarks by President Biden and Prime Minister Bennett of the State of Israel Before Expanded Bilateral Meeting' (27 August 2021) www.whitehouse.gov/briefing-room/speeches-remarks/2021/08/27/remarks-by-president-biden-and-prime-minister-bennett-of-the-state-of-israel-before-expanded-bilateral-meeting/.

¹⁵⁷*Ibid.*

¹⁵⁸*Ibid.*

¹⁵⁹Israel, Prime Minister's Office, 'PM Bennett's Statement at the White House' (28 August 2021) www.gov.il/en/departments/news/spoke280821.

its Article 2(4).¹⁶⁰ Iran warned against ‘any possible miscalculation or adventurist acts’ against Iran’s nuclear programme and stated that Iran reserved ‘its inherent right under international law to take all necessary measures to protect’ itself.¹⁶¹

On 10 October 2021, the Israeli Prime Minister explained that the prospect of Iran having nuclear weapons was not just a strategic problem for Israel, ‘but an existential issue’.¹⁶² This claim of Iran posing an ‘existential threat’ to Israel was repeated by the representative of Israel at the Security Council’s 8883rd meeting, held on 19 October 2021, where the representative added: ‘We will do whatever is necessary to stop Iran’s nuclear drive and counter the threat from its armies of proxies along our borders and beyond our borders.’¹⁶³

In response to alleged threats by Israel against Iranian nuclear capabilities, Iran informed the Security Council in October 2021, once again, that such threats violated Article 2(4) of the Charter of the United Nations and that Iran would reserve ‘its inherent right to self-defence in order to decisively respond to any threat or wrongful act perpetrated by the Israeli regime’.¹⁶⁴

Iran condemned Israel’s ‘unfounded accusations and fabrications’ and accused Israel of regularly making ‘absurd, irrelevant and baseless’ claims regarding Iran’s nuclear programme.¹⁶⁵ Iran highlighted that Israel had ‘explicitly threatened to use of force’ against Iran:

That illegal threat constitutes a gross violation of international law and the United Nations Charter, particularly its Article 2, paragraph 4, and must therefore be denounced and condemned by the Security Council.

The Islamic Republic of Iran reserves its inherent right under international law to take all the necessary measures to protect and defend itself.¹⁶⁶

In a letter dated 12 November 2021, Israel wrote to the Security Council concerning various alleged continued violations by Iran’s nuclear activities of

¹⁶⁰Letter dated 14 September 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc S/2021/794 (14 September 2021).

¹⁶¹*Ibid.* See also similar comments made by the representative of Iran, UNGA Verbatim Record, UN Doc A/76/PV.17 (27 September 2021) 29 (Iran).

¹⁶²Israel, Prime Minister’s Office, ‘PM Bennett’s remarks at the start of the festive Cabinet meeting attended by German Chancellor Angela Merkel’ (10 October 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-festive-cabinet-meeting-10-october-2021.

¹⁶³UNSC Verbatim Record, UN Doc S/PV.8883 (19 October 2021) 12 (Israel).

¹⁶⁴Letter dated 13 October 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc S/2021/872 (13 October 2021).

¹⁶⁵Letter dated 21 October 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2021/884 (21 October 2021) 28 (Iran).

¹⁶⁶*Ibid.*

Security Council resolution 2231 (2015).¹⁶⁷ Iran categorically rejected the ‘series of unsubstantiated allegations’ made in Israel’s letter, describing them as ‘a bulk of disinformation and fake data’.¹⁶⁸ Iran held that the Security Council’s inaction to hold Israel accountable for violations of international law, particularly Article 2(4) of the Charter, had emboldened Israel to continue to explicitly threaten to use force against Iran’s nuclear programme.¹⁶⁹

On 21 November 2021, the Israeli Prime Minister made it clear that Israel expected its allies to be ‘tough and assertive toward the Iranians’, whilst also making Israel’s position clear to all ‘its friends’ that Israel ‘reserves all options to defend itself’.¹⁷⁰ During the same month, at a meeting with the Prime Minister of the United Kingdom, the Israeli Foreign Minister reiterated the position that ‘Israel will always defend itself’.¹⁷¹

In its letter dated 16 December 2021 to the United Nations, Iran issued the following warning about Israeli threats against Iran and Israel’s alleged covert operations against Iran’s peaceful nuclear facilities:

If unchecked, these provocative and wrongful acts would gradually and yet seriously weaken and erode the prohibition of the threat or use of force against the territorial integrity or political independence of States, enshrined in the United Nations Charter, and undermine other rules of international law.¹⁷²

3.6.2. *The alleged Iranian attack on a merchant vessel off the coast of Oman on 29 July 2021*

Israel informed the Security Council of its concerns regarding the alleged attack by Iran on a merchant vessel, *Mercer Street*, run by an Israeli-managed company off the coast of Oman on 29 July 2021, resulting in the death of a British and a Romanian national.¹⁷³ Israel described the incident

¹⁶⁷Identical letters dated 12 November 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/949 (12 November 2021).

¹⁶⁸Letter dated 15 November 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc S/2021/951 (15 November 2021).

¹⁶⁹*Ibid.*

¹⁷⁰Israel, Prime Minister’s Office, ‘President Herzog departs on official visit to the UK’ (21 November 2021) www.gov.il/en/departments/news/president-herzog-departs-on-official-visit-to-the-uk-21-november-2021.

¹⁷¹Israel, Prime Minister’s Office, ‘FM Lapid meets with British PM Boris Johnson’ (29 November 2021) www.gov.il/en/departments/news/fm-lapid-meets-with-british-pm-boris-johnson.

¹⁷²Letter dated 16 December 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, UN doc S/2021/1059 (17 December 2021).

¹⁷³Identical letters dated 3 August 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/702 (3 August 2021). For comments on the *Mercer Street* attack by Israeli Prime Minister, Naftali Bennett, see Israel, Prime Minister’s Office, ‘PM Bennett’s Remarks at the Start of the Weekly Cabinet Meeting’ (1 August 2021) www.gov.il/en/departments/news/spoke_start010821.

as ‘yet another instance of maritime terrorism’ by Iran and called for the Security Council to take all necessary measures to hold Iran accountable.¹⁷⁴ The Israeli Minister of Foreign affairs, during a conversation with United States Secretary of State on 31 July 2021, warned that Iran ‘repeatedly errs in underestimating the determination of the State of Israel and its commitment to defending itself and its interests’.¹⁷⁵ The Israeli Prime Minister, on 1 August 2021, claimed that the ‘Iranian aggression’ on the *Mercer Street* was ‘intended to attack an Israeli target’.¹⁷⁶ Further, the Prime Minister asserted that he determined ‘with absolute certainty’ that Iran was responsible for the attack:

The intelligence evidence for this exists and we expect the international community will make it clear to the Iranian regime that they have made a serious mistake. In any case, we know how to send a message to Iran in our own way.¹⁷⁷

The Israeli Prime Minister explained that Israel had shared its intelligence ‘with our friends in the US, the UK and elsewhere’ and that ‘[w]hile nobody has any doubt who is behind the incident, we provided hard evidence just to be sure’.¹⁷⁸

Iran rejected Israel’s claims as ‘baseless’ and warned about ‘recent suspicious attempts to create artificial maritime “incidents” in the Persian Gulf and broader region’.¹⁷⁹

According to Liberia, Romania and the United Kingdom, initial assessments by the United Kingdom and international partners concluded that it was ‘highly likely’ that the *Mercer Street* was attacked by Iran using one or more unmanned aerial vehicles.¹⁸⁰ Iran responded by asserting that the allegations made were ‘unfounded’, ‘factually wrong’ and ‘categorically rejected’:

¹⁷⁴*Ibid.* For Israel’s letter to the Security Council of a previous alleged attack by Iran on an Israeli-owned cargo vessel, see Identical letters dated 2 March 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/213 (2 March 2021).

¹⁷⁵Israel, Ministry of Foreign Affairs, ‘Attack on the ship in the Gulf of Oman’ (31 July 2021) www.gov.il/en/departments/news/attack-on-the-ship-in-the-gulf-of-oman-31-july-2021.

¹⁷⁶Israel, Ministry of Foreign Affairs, ‘PM Bennett’s remarks at the start of the weekly Cabinet meeting’ (1 August 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-weekly-cabinet-meeting-1-august-2021.

¹⁷⁷*Ibid.*

¹⁷⁸Israel, Ministry of Foreign Affairs, ‘PM Bennett visits IDF Northern Command headquarters’ (3 August 2021) www.gov.il/en/departments/news/pm-bennett-visits-idf-northern-command-headquarters-3-august-2021.

¹⁷⁹Letter dated 4 August 2021 from the Chargé d’affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc S/2021/706 (4 August 2021).

¹⁸⁰Letter dated 3 August 2021 from the representatives of Liberia, Romania and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council, UN Doc S/2021/701 (3 August 2021). See also United Kingdom, Foreign, Commonwealth & Development Office, ‘UK condemns deliberate attack on oil tanker by Iran’ (1 August 2021) www.gov.uk/government/news/uk-condemns-deliberate-attack-on-oil-tanker-by-iran.

Without presenting any shred of evidence to substantiate their claims, the authors of the above-mentioned letter have resorted to such uncertain terms as ‘highly likely’, ‘initial assessments’ and ‘one or more unmanned aerial vehicles’, as well as vague terminology like ‘international partners’, to arbitrarily accuse the Islamic Republic of Iran of attacking the Mercer Street vessel.¹⁸¹

The G7 Foreign Ministers and the High Representative of the European Union called the incident a ‘deliberate and targeted attack’ and claimed that ‘[a]ll available evidence clearly points to Iran’ as being responsible for the attack.¹⁸² The Israeli Prime Minister welcomed the statement by the G-7 countries and declared that ‘[n]ow, it has become a test of actions and not just statements’.¹⁸³

3.6.3. Alleged Israeli attack on the fuel enrichment plant in Natanz on 11 April 2021

As detailed in the previous Digest,¹⁸⁴ Iran reported that an alleged sabotage had caused a blackout at its nuclear facility, Natanz Fuel Enrichment Plant, on 11 April 2021 and suggested that Israel was responsible for the attack.¹⁸⁵

In a follow-up to this, Iran wrote a letter addressed to the UN Secretary-General, dated 27 August 2021, alleging that Israel’s Prime Minister had implicitly confessed to Israel’s covert attacks on Iran’s nuclear programme.¹⁸⁶ In the same letter, Iran accused Israel’s Defence Minister and Chief of the General Staff of threatening to attack Iran:

Moreover, the aforementioned explicit threats against a Member State of the United Nations constitute gross violations of international law and of the Charter of the United Nations, particularly its Article 2(4), and therefore must not be tolerated by the international community and the Security Council.¹⁸⁷

Iran warned against any ‘possible miscalculation or adventurist act’ by Israel and stated that Iran reserved ‘its inherent right under international law to

¹⁸¹UN Doc S/2021/706 (n 179).

¹⁸²United Kingdom, Foreign, Commonwealth & Development Office, ‘MV Mercer Street attack: G7 Foreign Ministers’ statement’ (6 August 2021) www.gov.uk/government/news/mv-mercer-street-attack-g7-foreign-ministers-statement.

¹⁸³Israel, Ministry of Foreign Affairs, ‘PM Bennett’s remarks at the start of the weekly Cabinet meeting’ (8 August 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-weekly-cabinet-meeting-8-august-2021.

¹⁸⁴Butchard and Nessa (eds) (n 46) 368-369.

¹⁸⁵Letter dated 12 April 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/75/852-S/2021/347 (13 April 2021).

¹⁸⁶Letter dated 27 August 2021 from the Chargé d’affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, UN Doc S/2021/758 (27 August 2021).

¹⁸⁷*Ibid.*

take all necessary measures to protect and defend' itself against any terrorist or disruptive acts.¹⁸⁸

3.6.4. Israel: accusations of Iranian involvement in alleged Hezbollah attacks

In July 2021, Israel's Prime Minister cautioned that Lebanon was 'on the verge of collapse, like all countries that Iran takes over'.¹⁸⁹

Hezbollah, as Iran's proxy, is endangering the citizens of Lebanon and their future. The citizens of Lebanon are not the enemy. In effect, we and the citizens of Lebanon have a common enemy – Hezbollah and Iran. There is only one difference: We have all the tools and the capabilities to deal with this enemy.¹⁹⁰

The Israeli Foreign Minister warned that Israel would not accept firing at its territory from Lebanon and that Lebanon and its army 'must take responsibility for what is happening in their backyard'.¹⁹¹

On 4 August 2021, the Israeli Foreign Minister also claimed that Iran was responsible 'for dozens of terror attacks across the Middle East, while controlling its proxies in Yemen, Iraq and additional countries' and warned that '[i]t is time for diplomatic, economic and even military deeds'.¹⁹² On the same day, Iran issued the following warning:

In view of the very recent provocative statements by the Israeli regime's officials threatening to use force in gross violation of Article 2(4) of the Charter of the United Nations, that regime must be reminded that it shall bear the consequences of all its possible adventurism and miscalculations. Warning about such threats from any source, the Islamic Republic of Iran will not hesitate to take all measures necessary to vigorously protect its people, defend its sovereignty and secure its national interests.¹⁹³

¹⁸⁸*Ibid*, 2.

¹⁸⁹Israel, Ministry of Foreign Affairs, 'PM Bennett's remarks at the start of the weekly Cabinet meeting' (11 July 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-weekly-cabinet-meeting-11-july-2021.

¹⁹⁰Israel, Ministry of Foreign Affairs, 'PM Bennett addresses the National Defence College graduation ceremony' (14 July 2021) www.gov.il/en/departments/news/pm-bennett-addresses-the-national-defense-college-graduation-ceremony-14-july-2021.

¹⁹¹Israel, Ministry of Foreign Affairs, 'PM Bennett's remarks at the start of the weekly Cabinet meeting' (8 August 2021) www.gov.il/en/departments/news/pm-bennett-s-remarks-at-the-start-of-the-weekly-cabinet-meeting-8-august-2021.

¹⁹²Israel, Ministry of Foreign Affairs, 'Ambassadors of UNSC member countries briefed on Iranian terror and aggression in the region' (4 August 2021) www.gov.il/en/departments/news/ambassadors-of-unscc-member-countries-briefed-on-iranian-terror-and-aggression-in-the-region-4-august-2021. See also Israel, Ministry of Foreign Affairs, 'PM Bennet addresses the United Nations General Assembly in New York' (27 September 2021) www.gov.il/en/departments/news/pm-bennet-addresses-ung-a-27-september-2021.

¹⁹³Letter dated 4 August 2021 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc S/2021/706 (4 August 2021).

Israel reported to the Security Council on 6 August 2021 that Hezbollah had allegedly carried out attacks from within Lebanon against Israel in May, July and August 2021.¹⁹⁴ Although Israel said that it would hold ‘Lebanon responsible for any action originating from within its territory, regardless of the affiliation of the individuals or the terrorist group that carried out the attacks’, Israel noted that recent attacks and growing tensions in the region were being exacerbated by Iran’s activities and Iran’s ‘arming of its proxies, especially Hezbollah’.¹⁹⁵ Israel warned that should these attacks continue, ‘Israel will have no choice but to respond and dismantle Hezbollah’s terrorist infrastructure’.¹⁹⁶ In a follow-up letter addressed to the Security Council on 12 August 2021, Israel described Lebanon’s release of four ‘Hezbollah terrorists’ arrested for perpetrating the attacks described in Israel’s 6 August 2021 letter as underlining ‘the extent of Iran’s and its proxy, Hezbollah’s, domination of local government and power in Lebanon’.¹⁹⁷

Iran categorically rejected Israel’s claims of Iranian involvement as ‘unfounded allegations’.¹⁹⁸

3.7. Yemen–Saudi Arabia: alleged attacks by ‘Iranian-backed terrorist Houthi militias’

Throughout this reporting period, Yemen wrote numerous letters to the Security Council detailing concerns of alleged attacks by Houthi militias in Yemen¹⁹⁹ and Saudi Arabia.²⁰⁰ Further, the representative of Yemen, at

¹⁹⁴Identical letters dated 6 August 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/710 (6 August 2021).

¹⁹⁵*Ibid.*

¹⁹⁶*Ibid.*, 2.

¹⁹⁷Identical letters dated 12 August 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/725 (12 August 2021).

¹⁹⁸UN Doc S/2021/758 (n 186).

¹⁹⁹Letter dated 4 August 2021 from the Chargé d’affaires a.i. of the Permanent Mission of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/705 (4 August 2021); Letter dated 15 September 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/798 (15 September 2021); Letter dated 6 October 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/853 (6 October 2021); Letter dated 12 October 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/869 (12 October 2021); Letter dated 3 November 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/921 (3 November 2021); Letter dated 19 November 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/965 (19 November 2021).

²⁰⁰Letter dated 8 July 2021 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2021/539 (9 June 2021).

the 8840th Security Council meeting on 23 August 2021 accused Iran of supporting Houthi militias with ‘their destructive approach and aggression’ and ‘military escalation’ against cities in Yemen and Saudi Arabia.²⁰¹

Saudi Arabia complained to the Security Council of the alleged continued military hostilities committed by the ‘Iranian-backed terrorist Houthi militias’ against Saudi Arabia on 31 August 2021²⁰² and on 4 September 2021.²⁰³ Saudi Arabia warned that it would undertake ‘all necessary and deterrent measures’ to protect its territory and to stop the alleged hostile, cross-border acts of aggression.²⁰⁴ Further, on 8 October 2021, Saudi Arabia alleged that the ‘the Iranian-backed terrorist Houthi militias’ had targeted King Abdullah Airport using a bomb-laden drone.²⁰⁵ In a follow-up letter, Saudi Arabia reiterated that it would ‘spare no effort to take all measures necessary to safeguard its territories and preserve the safety of its citizens and residents’.²⁰⁶ Saudi Arabia once again issued this warning, in a letter dated 25 December 2021, following another alleged attack by Houthi militias.²⁰⁷

The Council of the League of Arab States adopted resolution 8685, entitled ‘Iranian interference in the internal affairs of Arab States’, on 9 September 2021.²⁰⁸ The League condemned the ‘continued use of drones and the firing of Iranian-made ballistic and other missiles by Iranian-affiliated Houthi militias from Yemeni territory towards Saudi Arabia’ and considered these actions to be a ‘a blatant act of aggression’.²⁰⁹ Further, the League reaffirmed the following:

²⁰¹UNSC Verbatim Record, UN Doc S/PV.8840 (23 August 2021) 19 (Yemen).

²⁰²Letter dated 2 September 2021 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/772 (20 September 2021).

²⁰³Letter dated 8 September 2021 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/780 (9 September 2021).

²⁰⁴*Ibid.*

²⁰⁵Letter dated 8 October 2021 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/862 (8 October 2021).

²⁰⁶Letter dated 9 October 2021 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/863 (11 October 2021).

²⁰⁷Letter dated 28 December 2021 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/1095 (28 December 2021).

²⁰⁸Letter dated 14 September 2021 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council, UN Doc A/76/390-S/2021/790 (20 September 2021).

²⁰⁹*Ibid.*, 3.

... the legitimate right of Saudi Arabia to defend its territory pursuant to Article 51 of the Charter of the United Nations; and support any measures that Saudi Arabia decides to take, within the framework of international law, in response to Iranian violations.²¹⁰

Iran refuted the allegations made in resolution 8685 and accused the League of deliberately using provocative language, describing the resolution as being 'replete with disinformation, absolute fabrications and unfounded accusations' against Iran.²¹¹

On 10 September 2021, at the 8854th meeting of the Security Council, the representative of the United Kingdom condemned 'the reckless cross-border attacks by the Houthis facilitated by Iran'.²¹² Iran rejected this claim of Iranian involvement as unfounded.²¹³

During the Security Council's 8883rd meeting on 19 October 2021, the representative of Saudi Arabia condemned 'brutal terrorist attacks by Iranian-backed Houthi militias' in Saudi Arabia, including the alleged attacks on Abha and Jazan airports.²¹⁴ Further the representative reiterated Saudi Arabia's 'full right to take all the measures necessary to protect the security and stability' of Saudi Arabia, whilst also stating that the 'Iranian-backed Houthi militia bears the responsibility for the repercussions of the Yemeni crisis and the worsening of the humanitarian situation'.²¹⁵ At the same meeting, the representative of Bahrain expressed Bahrain's support for 'all measures being taken' by Saudi Arabia.²¹⁶

At the Security Council's 8929th meeting on 14 December 2021, the United States condemned 'the intensification of Houthi cross-border attacks on Saudi Arabia' and argued that these attacks 'underscore the need for Iran to end its lethal support to the Houthis'.²¹⁷ During the same meeting, the representative of Yemen accused Iran of continuing to 'provide the Houthi militias with arms and military expertise'.²¹⁸

²¹⁰*Ibid.*

²¹¹Letter dated 7 October 2021 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/857 (7 October 2021).

²¹²UNSC Verbatim Record, UN Doc S/PV.8854 (10 September 2021) 7 (United Kingdom).

²¹³UN Doc S/2021/857 (n 211) 2.

²¹⁴Letter dated 21 October 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2021/884 (26 October 2021) 45 (Saudi Arabia).

²¹⁵*Ibid.*

²¹⁶*Ibid.*, 6 (Bahrain).

²¹⁷UNSC Verbatim Record, UN Doc S/PV.8929 (14 December 2021) 8 (United States).

²¹⁸*Ibid.*, 19 (Yemen).

3.8. *Israel–Palestine: escalation of cross-border incidents*

Palestine repeatedly wrote to the UN Security Council in July,²¹⁹ August,²²⁰ September,²²¹ October,²²² November²²³ and December 2021²²⁴ concerning Israel's settlement policy and reported alleged casualties, injuries and aggression against Palestinian civilians.

During this reporting period, Turkey's President, Erdoğan, underlined that Turkey would not remain silent to Israel's oppression in

²¹⁹Identical letters dated 9 July 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/873-S/2021/639 (12 July 2021); Identical letters dated 19 July 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/874-S/2021/665 (19 July 2021); Identical letters dated 23 July 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/875-S/2021/678 (26 July 2021).

²²⁰Identical letters dated 6 August 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/876-S/2021/713 (9 August 2021); Identical letters dated 17 August 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/877-S/2021/731 (17 August 2021); Identical letters dated 24 August 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/878-S/2021/748 (24 August 2021).

²²¹Identical letters dated 27 September 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/879-S/2021/829 (29 September 2021).

²²²Identical letters dated 7 October 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/880-S/2021/856 (7 October); Identical letters dated 22 October 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/881-S/2021/891 (25 October 2021); Identical letters dated 28 October 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/882-S/2021/904 (29 October 2021).

²²³Identical letters dated 5 November 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/883-S/2021/928 (9 November 2021).

²²⁴Identical letters dated 8 December 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/884-S/2021/1021 (10 December 2021); Identical letters dated 17 December 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/885-S/2021/1067 (20 December 2021); Identical letters dated 17 December 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/885-S/2021/1067 (20 December 2021); Identical letters dated 29 December 2021 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/ES-10/886-S/2021/1100 (29 December 2021).

Palestine,²²⁵ whilst emphasising the importance of reaching ‘permanent peace and stability on the basis of a two-state solution’.²²⁶ During a meeting between Erdoğan and President Abbas of Palestine on 18 July 2021, Erdoğan condemned an alleged Israeli attack on Palestinian civilians praying in al-Aqsa Mosque and reiterated ‘our call to the Israeli government to end these provocative acts and attacks at once’.²²⁷ On 29 November 2021,

On various occasions, during meetings of the Security Council, throughout this reporting period, the representative of Viet Nam called upon Israel to cease the excessive use of force against Palestinian civilians and to carry out impartial investigations into all attacks.²²⁸ The representative of Norway also urged Israel to refrain from the ‘excessive use of force’ against Palestinians.²²⁹ The representatives of Tunisia²³⁰ and Saint Vincent and the Grenadines²³¹ characterised Israeli actions against Palestine as ‘aggression’.

During the 8826th meeting of the Security Council on 28 July 2021, Mexico condemned attacks on Israel launched from Gaza and missiles from southern Lebanon, and called on the parties to avoid the disproportionate use of force and cease provocations.²³² At the 8869th meeting of the Security Council on 29 September 2021, Mexico specifically condemned the disproportionate use of force by Israel against Palestinian.²³³ At the same meeting, the representative of Saint Vincent and the Grenadines reiterated that the ‘ongoing occupation of Palestinian territories constitutes a flagrant violation of international law and remains a significant threat to lasting and comprehensive peace’.²³⁴ At the Security

²²⁵Turkey, Presidency of the Republic of Turkey, ‘President Erdoğan meets with President Abbas of Palestine’ (10 July 2021) www.tccb.gov.tr/en/news/542/128644/president-erdogan-meets-with-president-abbas-of-palestine.

²²⁶Turkey, Presidency of the Republic of Turkey, ‘As the OIC members, we should refrain from any action that may undermine the Palestinian cause’ (24 November 2021) www.tccb.gov.tr/en/news/542/133599/-as-the-oic-members-we-should-refrain-from-any-action-that-may-undermine-the-palestinian-cause-.

²²⁷Turkey, Ministry of Foreign Affairs, ‘No: 257, 18 July 2021, Press Release Regarding the Attacks and Provocations Against the Al-Aqsa Mosque’ (18 July 2021) www.mfa.gov.tr/no_-257_-mescid-i-ak-sa-ya-yonelik-saldiri-ve-provokasyonlar-hk.en.mfa.

²²⁸UNSC Verbatim Record, UN Doc S/PV.8847 (30 August 2021) 10 (Viet Nam); UNSC Verbatim Record, UN Doc S/PV.8869 (29 September 2021) 18 (Viet Nam); UNSC Verbatim Record, UN Doc S/PV.8883 (19 October 2021) 24 (Viet Nam).

²²⁹UN Doc S/PV.8847 (n 228) 9 (Norway).

²³⁰*Ibid*, 8 (Tunisia).

²³¹UNSC Verbatim Record, UN Doc S/PV.8913 (30 November 2021) 18 (Saint Vincent and the Grenadines).

²³²UNSC Verbatim Record, UN Doc S/PV.8826 (28 July 2021) 14 (Mexico).

²³³UN Doc S/PV.8869 (n 228) 12 (Mexico).

²³⁴*Ibid*, 17 (Saint Vincent and the Grenadines).

Council's 8940th meeting, many states, including the United States,²³⁵ Russia,²³⁶ Kenya,²³⁷ France,²³⁸ Saint Vincent and the Grenadines,²³⁹ the United Kingdom,²⁴⁰ Ireland,²⁴¹ Estonia,²⁴² Norway,²⁴³ India,²⁴⁴ China,²⁴⁵ Mexico²⁴⁶ and Niger,²⁴⁷ expressed support for a two-state solution, based on the 1967 borders, in relation to the Israel-Palestine situation.

Throughout this reporting period, during meetings of the Security Council, the representative of Estonia repeatedly stated that the launch of attacks against Israel was unacceptable and that 'Israel has a right to defend itself'.²⁴⁸ During the 8883rd meeting of the Council on 19 October 2021, the representative of Estonia added that Israel's use of its right to defend itself must be carried out proportionally.²⁴⁹ During the same meeting, the representative of the United Kingdom noted that it was concerned about Israel's use of excessive force and urged 'Israel to uphold the principles of necessity and proportionality when defending its legitimate security interests'.²⁵⁰

3.8.1. The Security Council's 8826th meeting on 28 July 2021

During the 8826th meeting of the Security Council, held on 28 July 2021, the representative of Azerbaijan, on behalf of the 120 Member States of the Movement of Non-Aligned Countries, delivered a statement characterising Israel's actions against Palestine as 'provocative' and 'illegal',²⁵¹

²³⁵UNSC Verbatim Record, UN Doc S/PV.8940 (21 December 2021) 4 (United States).

²³⁶*Ibid*, 5 (Russia).

²³⁷*Ibid*, 6 (Kenya).

²³⁸*Ibid*, 7 (France).

²³⁹*Ibid*, 8 (Saint Vincent and the Grenadines).

²⁴⁰*Ibid*, 10 (United Kingdom).

²⁴¹*Ibid*, 10 (Ireland).

²⁴²*Ibid*, 12 (Estonia).

²⁴³*Ibid*, 14 (Norway).

²⁴⁴*Ibid*, 14–5 (India).

²⁴⁵*Ibid*, 16 (China).

²⁴⁶*Ibid*, 16 (Mexico).

²⁴⁷*Ibid*, 17 (Niger).

²⁴⁸UN Doc S/PV.8826 (n 232) 20 (Estonia); UN Doc S/PV.8847 (n 228) 13 (Estonia); UN Doc S/PV.8869 (n 228) 15 (Estonia).

²⁴⁹UNSC Verbatim Record, UN Doc S/PV.8883 (19 October 2021) 16 (Estonia).

²⁵⁰UNSC Verbatim Record, UN Doc S/PV.8883 (19 October 2021) 21 (United Kingdom).

²⁵¹Letter dated 30 July 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2021/685 (30 July 2021) 2 (Azerbaijan on behalf of the Movement of Non-Aligned Countries).

whilst expressing support for the ‘sovereign and independent State of Palestine’.²⁵² The representatives of Bangladesh²⁵³ and Venezuela,²⁵⁴ expressed their support for an independent and sovereign Palestine. The representative of Cuba alleged that ‘aggressions’ by Israel counted on the ‘complicity and impunity guaranteed by the United States, whose Government obstructs the action of the Security Council’.²⁵⁵ Similarly, the representative of Iran claimed that Israel enjoyed the ‘unwavering support for Israel from the United States’ against the ‘inherent rights of the oppressed Palestinians, including their right to life, dignity, liberation, self-defence and self-determination and to establish their own independent State’.²⁵⁶

The representative of Costa Rica, on the other hand, acknowledge Israel’s ‘legitimate security concerns’ but reiterated that Israel’s right to ‘self-defence must be exercised in a proportionate manner and in accordance with international humanitarian law’.²⁵⁷ However, the representative of Turkey asserted that there was no justification for Israel’s attacks on buildings, such as schools and international media outlets, whilst observing that ‘[t]he right to self-defence does not give carte blanche for the excessive, disproportionate and indiscriminate use of force on civilians and civilian targets’.²⁵⁸

The representative of the European Union stated that it ‘fully supported Israel’s right to defend itself’ but underlined the importance of that right being ‘exercised in a proportionate manner and in full respect of international humanitarian law’.²⁵⁹ The representative of Ukraine, concerned by the alleged violence caused by Hamas from Gaza, reiterated that ‘Israel has the right to defend itself from attacks’.²⁶⁰

At the same meeting, the representative of Palestine lamented that ‘[t]he Council has, unfortunately, demonstrated its limitations in times of aggression and war’.²⁶¹

²⁵²*Ibid*, 4 (Azerbaijan on behalf of the Movement of Non-Aligned Countries).

²⁵³*Ibid*, 6 (Bangladesh).

²⁵⁴*Ibid*, 61 (Venezuela). See also Venezuela, Ministry of People’s Power for Foreign Relations, ‘Venezuela sends a warm greeting to the brotherly Palestinian People for the International Day of Solidarity with Palestine’ (29 November 2021) mppre.gob.ve/comunicado/venezuela-pueblo-palestino-dia-internacional-de-solidaridad-con-palestina/.

²⁵⁵UN Doc S/2021/685 (n 251) 14 (Cuba).

²⁵⁶*Ibid*, 29 (Iran).

²⁵⁷*Ibid*, 12 (Costa Rica).

²⁵⁸*Ibid*, 54 (Turkey).

²⁵⁹*Ibid*, 21 (European Union).

²⁶⁰*Ibid*, 57 (Ukraine).

²⁶¹UNSC Verbatim Record, UN Doc S/PV.8826 (28 July 2021) 8 (Palestine).

3.9. Lebanon–Israel: exchange of allegations of violations

Israel and Lebanon continued in their regular exchange, via the UN, of allegations of violations of Security Council Resolution 1701 (2006) and the ‘Blue Line’.

Lebanon submitted letters during this reporting period of allegations of Israeli violations committed in April,²⁶² June,²⁶³ July,²⁶⁴ August,²⁶⁵ September,²⁶⁶ October²⁶⁷ and November 2021.²⁶⁸

Israel submitted letters during this reporting period of allegations of Lebanese violations committed between January – March 2021²⁶⁹ and April – June 2021.²⁷⁰ Lebanon refuted a number of the Israeli allegations of violations committed in the January – March 2021 period, describing them as ‘unfounded’, ‘pure fabrications and false allegations against Lebanon’.²⁷¹

²⁶²Identical letters dated 1 July 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/75/963–S/2021/659 (16 July 2021).

²⁶³Identical letters dated 15 September 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/342–S/2021/840 (1 October 2021).

²⁶⁴Letter dated 22 July 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council, UN Doc S/2021/712 (6 August 2021); Identical letters dated 14 September 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/341–S/2021/826 (28 September 2021).

²⁶⁵Identical letters dated 6 August 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/75/988–S/2021/711 (13 August 2021); Identical letters dated 19 August 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/75/1001–S/2021/743 (24 August 2021); Identical letters dated 19 August 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/75/1002–S/2021/746 (24 August 2021); Identical letters dated 26 October 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/500–S/2021/929 (12 November 2021).

²⁶⁶Identical letters dated 17 November 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/568–S/2021/982 (26 November 2021).

²⁶⁷Identical letters dated 27 December 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/643–S/2022/19 (2 December 2021).

²⁶⁸Identical letters dated 20 December 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc (A/76/650–S/2021/1088).

²⁶⁹Identical letters dated 9 July 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/644 (14 July 2021).

²⁷⁰Identical letters dated 4 October 2021 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2021/846 (5 October 2021).

²⁷¹Identical letters dated 30 November 2021 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/582–S/2021/993 (6 December 2021).

4. Asia

4.1. Afghanistan: Taliban takes control

4.1.1. International troops continue to depart

The US and other NATO states continued their withdrawal from Afghanistan.²⁷² In July, US President Biden announced that the US was on track to complete its withdrawal as planned, by 31 August:

When I announced our drawdown in April, I said we would be out by September, and we're on track to meet that target. Our military mission in Afghanistan will conclude on August 31st. The drawdown is proceeding in a secure and orderly way, prioritizing the safety of our troops as they depart.²⁷³

At this press briefing, President Biden said that the chances of the Taliban capturing the capital Kabul was 'not inevitable', suggesting 'the Afghan troops have 300,000 well-equipped – as well-equipped as any army in the world – and an air force against something like 75,000 Taliban.'²⁷⁴

By mid-August, the US Military confirmed the progress of withdrawal, with US Central Command suggesting that 'more than 95% of the entire withdrawal process' had been completed by 10 August.²⁷⁵ Other states involved in NATO operations had also completed their withdrawals by this time, including Germany²⁷⁶ and Italy.²⁷⁷ The UK Prime Minister, Boris Johnson, told Parliament that all troops were returning home, and that most of the UK's personnel had already left on 8 July 2021.²⁷⁸

4.1.2. Taliban advances

As the international coalition started leaving Afghanistan, the Taliban started making significant advances in the country. In less than two months, the

²⁷²For background on the planned withdrawal, and developments before the Taliban takeover, see: US, The White House, 'Remarks by President Biden on the Way Forward in Afghanistan' (14 April 2021) www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/14/remarks-by-president-biden-on-the-way-forward-in-afghanistan/; Claire Mills, 'Withdrawal of military forces in Afghanistan and its implications for peace', House of Commons Library: Briefing Paper Number 9241 (13 August 2021) <https://commonslibrary.parliament.uk/research-briefings/cbp-9241/>.

²⁷³US, The White House, 'Remarks by President Biden on the Drawdown of U.S. Forces in Afghanistan' (8 July 2021) www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/08/remarks-by-president-biden-on-the-drawdown-of-u-s-forces-in-afghanistan/.

²⁷⁴*Ibid.* See also 'Biden says Kabul's fall to Taliban "not inevitable" as fighting rages', *The Defence Post* (9 July 2021) www.thedefensepost.com/2021/07/09/biden-kabul-fall-taliban/.

²⁷⁵US Central Command, 'Update on withdrawal of U.S. forces from Afghanistan August 10, 2021' (10 August 2021) www.centcom.mil/MEDIA/PRESS-RELEASES/Press-Release-View/Article/2725774/update-on-withdrawal-of-us-forces-from-afghanistan-august-10-2021/.

²⁷⁶Darko Janjevic, 'Germany pulls last troops from Afghanistan, ending nearly 20-year mission', *DW* (29 June 2021) www.dw.com/en/germany-pulls-last-troops-from-afghanistan-ending-nearly-20-year-mission/a-58097894.

²⁷⁷Ayaz Gul, 'Germany, Italy complete troop exit from Afghanistan', *VOA* (30 June 2021) www.voanews.com/a/south-central-asia_germany-italy-complete-troop-exit-afghanistan/6207646.html?msclid=0ba90027b92e11ec9dadde67b475da01.

²⁷⁸UK House of Commons, HC Deb 8 July 2021, c1104.

Taliban captured more territory than in the whole of the 20-year presence of US and allied troops, reportedly taking some regions and locations without resistance.²⁷⁹ The Taliban also claimed to capture numerous border crossings.²⁸⁰ As the Taliban advanced, reports suggested that as many as 1,600 Afghan soldiers fled to Tajikistan.²⁸¹

The US also announced that it had still been conducting airstrikes in Afghanistan in support of the Afghan National Security Forces (ANSF), with a commitment to helping the Afghan forces and government going forward.²⁸²

Meanwhile, the US said it was now up to the Afghan security forces to defend their country from the Taliban.²⁸³ There were some reports of Afghan forces fighting back against the Taliban.²⁸⁴ Some reports suggested that the Afghan government had requested air support from India, but reportedly India turned down this request.²⁸⁵

As the UK and US started evacuating its nationals from the capital Kabul, they were also forced to call in troops to assist with military evacuations.²⁸⁶ Pentagon Press Secretary John F Kirby addressed the new deployments on 12 August, stating:

I want to stress that these forces are being deployed to support the orderly and safe reduction of civilian personnel at the request of the State Department ... This is a temporary mission with a narrow focus. As with all deployments of our troops into harm's way, our commanders have the inherent right of self defense and any attack on them can and will be met with a forceful and an appropriate response.²⁸⁷

²⁷⁹Jonathan Beale, 'Afghanistan: How the Taliban gained ground so quickly', *BBC News* (13 August 2021) www.bbc.co.uk/news/world-asia-58187410. See also 'Mapping the advance of the Taliban in Afghanistan', *BBC News* (16 August 2021) www.bbc.co.uk/news/world-asia-57933979.

²⁸⁰See, e.g. 'Taliban claims to control key border crossing with Pakistan', *The Defence Post* (14 July 2021) www.thedefensepost.com/2021/07/14/taliban-border-crossing-pakistan/.

²⁸¹'Afghanistan: Soldiers flee to Tajikistan after Taliban clashes', *BBC News* (5 July 2021) www.bbc.co.uk/news/world-asia-57720103.

²⁸²'US launched recent air strikes in Afghanistan: Pentagon', *The Defence Post* (23 July 2021) www.thedefensepost.com/2021/07/23/us-air-strikes-afghanistan/.

²⁸³Idrees Ali, 'U.S. says it is up to Afghans to defend country as Taliban take more territory', *Reuters* (10 August 2021) www.reuters.com/world/india/us-says-it-is-up-afghans-defend-country-taliban-take-more-territory-2021-08-09/.

²⁸⁴See, e.g. 'Afghan forces bomb Taliban fighters to repel assaults on key cities', *The Defence Post* (2 August 2021) www.thedefensepost.com/2021/08/02/afghan-forces-bomb-taliban/.

²⁸⁵Inder Singh Bisht, 'Afghan government requests Indian air force support against Taliban', *The Defence Post* (11 August 2021) www.thedefensepost.com/2021/08/11/afghanistan-india-support-taliban/; Nayanima Basu, 'Afghan govt wants IAF support to crush Taliban as fighting worsens across the country', *The Print* (10 August 2021) <https://theprint.in/diplomacy/afghan-govt-wants-iaf-support-to-crush-taliban-as-fighting-worsens-across-the-country/712182/>.

²⁸⁶See, e.g. Robert Birsell, Nick Macfie, Gareth Jones and Patricia Zengerle, 'Taliban seize more Afghan cities, assault on capital Kabul expected', *Reuters* (14 August 2021) www.reuters.com/world/asia-pacific/embassies-get-staff-out-afghanistan-taliban-claim-two-big-cities-2021-08-13/.

²⁸⁷US, Department of Defence, 'Pentagon Press Secretary John F. Kirby Holds a Press Briefing on Afghanistan' (12 August 2021) www.defense.gov/News/Transcripts/Transcript/Article/2730396/pentagon-press-secretary-john-f-kirby-holds-a-press-briefing-on-afghanistan/source/pentagon-press-secretary-john-f-kirby-holds-a-press-briefing-on-afghanistan/.

States met in Doha on 10 and 12 August to discuss the possibility of an accelerated peace process in Afghanistan,²⁸⁸ where the participants ‘reaffirmed that they will not recognise any government in Afghanistan that is imposed through the use of military force.’²⁸⁹

4.1.3. Taliban takes Kabul

On 15 August 2021, Taliban forces entered the Afghanistan capital of Kabul, seemingly unopposed, after capturing most of the towns and outskirts of the city.²⁹⁰ Afghan President Ashraf Ghani fled the country just before the Taliban took control.²⁹¹ Reports suggest the Taliban captured 26 of Afghanistan’s 34 provincial capitals in less than 10 days up to 15 August.²⁹² Despite reports of revenge killings, the Taliban leadership said: ‘No one’s life, property and dignity will be harmed and the lives of the citizens of Kabul will not be at risk,’ while also offering ‘amnesty’ to those who worked for the Afghan government.²⁹³

Reacting to the rapid collapse of the Afghan government, US President Biden gave a televised address on 16 August.²⁹⁴ In it, he said that the US’s mission in Afghanistan ‘was never supposed to have been nation building’, and that the only ‘vital national interest in Afghanistan’ remains ‘preventing a terrorist attack on American homeland.’²⁹⁵ He admitted that the situation unfolded more quickly than anticipated, explaining that the political leaders ‘gave up and fled the country’ while the Afghan military ‘collapsed, sometimes without trying to fight.’²⁹⁶ Reinforcing his belief that withdrawing at this point was the right decision for the US, President Biden said:

²⁸⁸The meetings included special envoys and representatives from China, Uzbekistan, United States, Pakistan, United Kingdom, Qatar, United Nations, and the European Union met in Doha on August 10, and special envoys and representatives of Germany, India, Norway, Qatar, Tajikistan, Turkey, and Turkmenistan on August 12. See Qatar, Ministry of Foreign Affairs, ‘Participants in International Meeting on Afghanistan Agree on Need to Accelerate Peace Process and Call for Immediate End to Violence’ (12 August 2021) <https://mofa.gov.qa/en/all-mofa-news/details/1443/01/04/participants-in-international-meeting-on-afghanistan-agree-on-need-to-accelerate-peace-process-and-call-for-immediate-end-to-violence>.

²⁸⁹*Ibid.*

²⁹⁰See, e.g. ‘Taliban in control of Afghanistan, panic in Kabul’, *The Defence Post* (16 August 2021) www.thedefencepost.com/2021/08/16/taliban-control-afghanistan/; Clarissa Ward, Tim Lister, Angela Dewan and Saleem Mehsud, ‘Afghan President Ashraf Ghani flees the country as Taliban forces enter the capital’, *CNN* (16 August 2021) <https://edition.cnn.com/2021/08/15/asia/afghanistan-taliban-advances-kabul-intl/index.html>.

²⁹¹‘Afghan President Ghani flees country as Taliban enters Kabul’, *Al-Jazeera* (15 August 2021) www.aljazeera.com/news/2021/8/15/afghan-president-ghani-flees-country-as-taliban-surrounds-kabul.

²⁹²*Ibid.*

²⁹³*Ibid.*

²⁹⁴US, The White House, ‘Remarks by President Biden on Afghanistan’ (16 August 2021) www.whitehouse.gov/briefing-room/speeches-remarks/2021/08/16/remarks-by-president-biden-on-afghanistan/.

²⁹⁵*Ibid.*

²⁹⁶*Ibid.*

American troops cannot and should not be fighting in a war and dying in a war that Afghan forces are not willing to fight for themselves. ...

We gave them every chance to determine their own future. What we could not provide them was the will to fight for that future.²⁹⁷

4.1.4. *Developments and fallout*

The White House admitted soon after the Taliban took control of Kabul that it was likely that a 'fair amount' of US defence equipment that was given to the Afghan defence forces would have fallen into the hands of the Taliban.²⁹⁸

The UN Security Council issued a press statement on 16 August, calling for an end to all hostilities, and stating:

The members of the Security Council called for an immediate end to the violence in Afghanistan, the restoration of security, civil and constitutional order, and urgent talks to resolve the current crisis of authority in the country and to arrive at a peaceful settlement through an Afghan-led, Afghan-owned process of national reconciliation. They underscored that a sustainable end to the conflict in Afghanistan can only be achieved through an inclusive, just, durable and realistic political settlement that upholds human rights, including for women, children and minorities. The members of the Security Council called on parties to adhere to international norms and standards on human rights and put an end to all abuses and violations in this regard.²⁹⁹

In other developments, only days after the Taliban seized control, China announced that it was ready to open 'friendly and cooperative relations' with Afghanistan.³⁰⁰ Foreign Ministry spokeswoman Hua Chunying told reporters:

The Taliban have repeatedly expressed their hope to develop good relations with China, and that they look forward to China's participation in the reconstruction and development of Afghanistan.

...

We welcome this. China respects the right of the Afghan people to independently determine their own destiny and is willing to continue to develop ... friendly and cooperative relations with Afghanistan.³⁰¹

²⁹⁷*Ibid.*

²⁹⁸US, The White House, 'Press Briefing by Press Secretary Jen Psaki and National Security Advisor Jake Sullivan, August 17, 2021' (17 August 2021) www.whitehouse.gov/briefing-room/press-briefings/2021/08/17/press-briefing-by-press-secretary-jen-psaki-and-national-security-advisor-jake-sullivan-august-17-2021/. See also 'Taliban gained "fair amount" of US defense equipment: White House', *The Defence Post* (18 August 2021) www.thedefensepost.com/2021/08/18/taliban-us-defense-equipment/.

²⁹⁹UN Security Council, 'Security Council Press Statement on Afghanistan', SC/14604 (16 August 2021) www.un.org/press/en/2021/sc14604.doc.htm.

³⁰⁰China says ready for "friendly relations" with Taliban after rout', *France 24* (16 August 2021) www.france24.com/en/live-news/20210816-china-says-ready-for-friendly-relations-with-taliban-after-rout.

³⁰¹*Ibid.*

China also called on the Taliban to ‘ensure a smooth transition’ of power and to keep its promises to negotiate the establishment of an ‘open and inclusive Islamic government’.³⁰²

In October, Russia hosted the Taliban at a summit in Moscow, where Russia, China, Pakistan, India, Iran, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan called for a UN ‘donor conference’ to aid Afghanistan’s economy.³⁰³ Russian Foreign Minister Sergey Lavrov recognised that the Taliban were a ‘new administration ... in power’ and said that Russia ‘note their efforts to stabilise the military and political situation and set up work of the state apparatus.’³⁰⁴ But later in October, Russia’s UN Ambassador Vassily Nebenzia suggested that Russia was not ready to recognise the Taliban as Afghanistan’s government, when he said that ‘[t]he question of recognition will arise when the international community makes sure that the promises and commitments that the authorities announced will be delivered.’³⁰⁵

On the issue of recognition, and the question of who represents Afghanistan at the United Nations, the UN Credentials Committee deferred a decision on whether to approve the credentials of the Taliban (and also of Myanmar, following the coup there).³⁰⁶ This decision was approved by a Resolution of the General Assembly without a vote.³⁰⁷ A UN News story suggested that: ‘The de facto Taliban authorities in Afghanistan, as well as the military rulers in Myanmar, had sought to replace the envoys, who were appointed by democratically-elected governments that were deposed this year.’³⁰⁸ But the deferral now means that the current ambassadors for the two countries will remain in place for the time being.³⁰⁹

UN Secretary-General Antonio Guterres said in a press interview that ‘We must maintain a dialogue with the Taliban, where we affirm our principles directly – a dialogue with a feeling of solidarity with the Afghan

³⁰²*Ibid.*

³⁰³Maria Tsvetkova, ‘Regional powers back aid for Afghanistan, say U.S. and allies should pay’, *Reuters* (20 October 2021) www.reuters.com/world/asia-pacific/russia-urges-international-aid-afghanistan-talks-with-taliban-2021-10-20/.

³⁰⁴Regional powers back aid for Afghanistan as Russia hosts Taliban’, *Al-Jazeera* (20 October 2021) www.aljazeera.com/news/2021/10/20/russia-hosts-taliban-for-talks-but-warns-no-recognition-for-now.

³⁰⁵Michelle Nichols, ‘Russia signals not ready to let Afghanistan’s Taliban into U.N.’, *Reuters* (29 October 2021) www.reuters.com/world/asia-pacific/russia-signals-not-ready-let-afghanistans-taliban-into-un-2021-10-29/.

³⁰⁶UN General Assembly, Report of the Credentials Committee, UN Doc A/76/550 (1 December 2021).

³⁰⁷UN General Assembly Resolution 76/15, *Credentials of representatives to the seventy-sixth session of the General Assembly*, UN Doc A/RES/76/15 (7 December 2021)

³⁰⁸General Assembly defers decision on Afghanistan and Myanmar seats’, *UN News* (6 December 2021) <https://news.un.org/en/story/2021/12/1107262>. See also Michelle Nichols, ‘U.N. committee agrees Taliban, Myanmar junta not allowed in U.N. for now’, *Reuters* (1 December 2021) www.reuters.com/world/asia-pacific/taliban-myanmar-junta-unlikely-be-let-into-un-now-diplomats-2021-12-01/.

³⁰⁹*Ibid.*

people.³¹⁰ He said that such discussions were necessary to ensure that Afghanistan did not become a centre of terrorism.³¹¹

4.1.5. US strike in Kabul

The US and others continued to evacuate troops, nationals, and people with emergency visas from Kabul, and the so-called Islamic State terrorist group took advantage of the chaos by bombing the crowds outside Kabul airport, killing dozens of people and US troops.³¹²

The US administration sought to react decisively following this attack, conducting an airstrike on a target it suspected of planning to carry out another attack.³¹³ The US military originally said that it ‘conducted a self-defence unmanned over-the-horizon airstrike today on a vehicle in Kabul, eliminating an imminent ISIS-K threat to Hamad Karzai International airport.’³¹⁴ The statement also said that the US was confident that the strike ‘hit the target’, and apparently ‘[s]ignificant secondary explosions from the vehicle indicated the presence of a substantial amount of explosive material.’³¹⁵ While initially the US said that they had no indications of civilian casualties, it released an updated statement on the same day suggesting otherwise, noting that the US was ‘aware of reports of civilian casualties.’³¹⁶ The military explained:

We are still assessing the results of this strike, which we know disrupted an imminent ISIS-K threat to the airport. We know that there were substantial and powerful subsequent explosions resulting from the destruction of the vehicle, indicating a large amount of explosive material inside that may have caused additional casualties. It is unclear what may have happened, and we are investigating further.

We would be deeply saddened by any potential loss of innocent life.³¹⁷

Devastatingly, it later emerged that the vehicle targeted in the airstrike was actually occupied by 10 innocent civilians, including seven children.³¹⁸ In

³¹⁰UN chief calls for “dialogue” with the Taliban, fears for the Sahel’, *The Defence Post* (10 September 2021) www.thedefensepost.com/2021/09/10/un-dialogue-taliban-sahel/.

³¹¹*Ibid.*

³¹²Islamic State suicide bombers kill scores at Kabul airport’, *The Defence Post* (27 August 2021) www.thedefensepost.com/2021/08/27/islamic-state-blast-kabul/; ‘Kabul airport attack: What do we know?’, *BBC News* (27 August 2021) www.bbc.co.uk/news/world-asia-58349010.

³¹³US Central Command, ‘U.S. Central Command statement on defensive strike in Kabul’ (29 August 2021) www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/2756206/us-central-command-statement-on-defensive-strike-in-kabul/.

³¹⁴*Ibid.*

³¹⁵*Ibid.*

³¹⁶US Central Command, ‘UPDATE: U.S. Central Command statement on defensive strike in Kabul’ (29 August 2021) www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/2756293/update-us-central-command-statement-on-defensive-strike-in-kabul/.

³¹⁷*Ibid.*

³¹⁸For initial reports, see for example, ‘Afghanistan: US investigates civilian deaths in Kabul strike’, *BBC News* (30 August 2021) www.bbc.co.uk/news/world-asia-58380791.

a statement, the US Department of Defence admitted what it called a ‘tragic mistake’, and assessed that ‘it is unlikely that the vehicle and those who died were associated with ISIS-K or were a direct threat to U.S. forces.’³¹⁹ The statement also outlined the surveillance, assessments and factors the US strike team has considered before conducting the strike. The US apologised, and later offered financial compensation to the relatives of those killed.³²⁰ In December, the US confirmed that no American troops or officials will be held accountable for a drone strike, following an internal investigation which suggested that no laws were violated in the strike.³²¹

The results of this internal investigation were publicly announced on 3 November 2021, but the report was not released in full.³²² Instead, the investigator, Lieutenant General Sami Said, gave a summary to the press and answered questions at a Department of Defence press briefing.³²³ In this briefing, Said was asked several questions about why he believed the strike still did not violate the law, and specifically the law of war.³²⁴ Said told journalists that his investigation looked at the information available to the strike team and the analysis applied to it, and considered that as the basis for the perceived threat in this case. He said that the team believed the threat, but it was a mistake.³²⁵

4.2. Armenia–Azerbaijan: developments following 2020 conflict and peace deal

Following on from the conflict between Armenia and Azerbaijan in the second half of 2020, covered in detail in a previous Digest,³²⁶ tensions between Armenia and Azerbaijan continue to remain high. The two states continued to exchange allegations via letters to the United Nations.

In July, Armenia accused Azerbaijan of instigating ‘a provocative action in adjacent territories of Yeraskh settlement’, after what Armenia described as an ‘infiltration of the Azerbaijani armed forces into the sovereign territory of

³¹⁹US, Department of Defence, ‘DoD: August 29 Strike in Kabul “Tragic Mistake”, Kills 10 Civilians’ (17 September 2021) www.defense.gov/News/News-Stories/Article/Article/2780257/dod-august-29-strike-in-kabul-tragic-mistake-kills-10-civilians/.

³²⁰Afghanistan: US offers to pay relatives of Kabul drone attack victims’, *BBC News* (16 October 2021) www.bbc.co.uk/news/world-us-canada-58935260.

³²¹‘Deadly US drone strike in Kabul did not break law, Pentagon says’, *BBC News* (3 November 2021) www.bbc.co.uk/news/world-us-canada-59157089; Eric Schmitt, ‘No U.S. Troops Will Be Punished for Deadly Kabul Strike, Pentagon Chief Decides’, *The New York Times* (13 December 2021) www.nytimes.com/2021/12/13/us/politics/afghanistan-drone-strike.html.

³²²US, Department of Defence, ‘Pentagon Press Secretary John F. Kirby and Air Force Lt. Gen. Sami D. Said Hold a Press Briefing’ (3 November 2021) www.defense.gov/News/Transcripts/Transcript/Article/2832634/pentagon-press-secretary-john-f-kirby-and-air-force-lt-gen-sami-d-said-hold-a-p/.

³²³*Ibid.*

³²⁴*Ibid.*

³²⁵*Ibid.*

³²⁶Butchard and Nessa (eds) (n 79) 214–23.

the Republic of Armenia in Syunik and Gegharkunik regions.³²⁷ Armenia said:

The armed encroachment against the territorial integrity of Armenia, accompanied by territorial claims, threats and use of force and incendiary rhetoric by the highest leadership of Azerbaijan, may further increase the tensions and destabilize the situation in the region, creating a serious threat for regional and international peace and security.³²⁸

Armenia wrote again on 29 July referring to ‘Azerbaijan’s continued use of force against the territorial integrity of Armenia, in flagrant violation of the norms and principles of international law and the Charter of the United Nations.’³²⁹ This related to an incident in which Armenia alleged that Azerbaijan attacked the Upper Shorzha village in the Gegharkunik region of Armenia.³³⁰ Armenia reiterated that it was ‘resolute to exercise its legitimate right to self-defence to protect its sovereignty and territorial integrity, in accordance with Article 51 of the Charter of the United Nations.’³³¹

The exchanges continued in August, and Armenia claimed more violations by Azerbaijan, when Armenia said, ‘It is noteworthy that these actions are accompanied by the threats of the Azerbaijani top leadership towards the sovereignty and territorial integrity of Armenia and use of force against Artsakh.’³³² Similar accusations were made on 8 November,³³³ 16 November,³³⁴ 7 December.³³⁵

Azerbaijan continued to deny all allegations made by Armenia in their letters.³³⁶ In August, Azerbaijan called them ‘totally false, absurd and

³²⁷Letter dated 14 July 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/75/947–S/2021/653 (15 July 2021).

³²⁸*Ibid.*

³²⁹Letter dated 29 July 2021 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/693 (30 July 2021).

³³⁰*Ibid.*

³³¹*Ibid.* Linked to these incidents, see also Letter dated 12 August 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/75/989–S/2021/727 (13 August 2021).

³³²Letter dated 17 August 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/75/996–S/2021/734 (18 August 2021).

³³³Letter dated 8 November 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/76/523–S/2021/934 (9 November 2021).

³³⁴Letter dated 16 November 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/76/546–S/2021/956 (17 November 2021); Letter dated 16 November 2021 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council, UN Doc S/2021/954 (16 November 2021).

³³⁵Letter dated 7 December 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/76/584–S/2021/1018 (7 December 2021).

³³⁶See, e.g. Letter dated 24 November 2021 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN Doc A/76/600–S/2021/1035 (14 December 2021); Letter dated 15 December 2021 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN Doc A/76/606–S/2021/1046 (15 December 2021).

repeatedly refuted allegations, the only purpose of which is to cover up its own heinous crimes and justify heavy losses inflicted on its armed forces on the battlefield.³³⁷ Azerbaijan also continued to call on Armenia to release ‘the maps of mined areas in the formerly occupied territories of Azerbaijan’, accusing Armenia of refusing to do so.³³⁸

On 27 September, one year on from the start of the 2020 conflict, both Armenia³³⁹ and Azerbaijan³⁴⁰ made reference to the legacy of their war, each claiming the other was responsible for violating international law. Azerbaijan highlighted that the President Azerbaijan, Ilham Aliyev stated: ‘Azerbaijan has restored its territorial integrity. We have resolved the war by military and political means. The war is now in the past. The Nagorno-Karabakh conflict has been consigned to history.’³⁴¹ In referring to this, Azerbaijan also direct Armenia to move on from the conflict and abide by its international obligations, stating:

Armenia must reconcile with the fact that the conflict is resolved. Apart from the duties arising under the Charter of the United Nations, international law and the statutory instruments of the relevant regional organizations, to which both Armenia and Azerbaijan are parties, the specific obligations now committing them are those laid down in the statements of the President of the Republic of Azerbaijan, the Prime Minister of the Republic of Armenia and the President of the Russian Federation signed on 9 November 2020 and 11 January 2021.³⁴²

On 29 November, the President of Azerbaijan, Prime Minister of Armenia, and President of Russia signed a joint statement on the status of the peace process since the peace agreement in November 2020.³⁴³ The statement reaffirmed the parties’ commitment to the peace agreements, confirmed Russia’s role in deploying ‘peacekeepers’ to the region, and declared that:

The Russian Federation will continue to provide all necessary assistance to normalize relations between the Republic of Azerbaijan and the Republic of Armenia, to establish an atmosphere of trust between the Azerbaijani and Armenian peoples, and to build good-neighbourly relations in the region.³⁴⁴

³³⁷Letter dated 9 August 2021 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN Doc A/75/987-E/2021/78 (13 August 2021).

³³⁸Letter dated 9 August 2021 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN Doc A/75/986-S/2021/721 (12 August 2021).

³³⁹Letter dated 28 September 2021 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General, UN Doc A/76/362-S/2021/834 (30 September 2021).

³⁴⁰Letter dated 27 September 2021 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General, UN Doc A/76/359-S/2021/831 (29 September 2021).

³⁴¹*Ibid.*

³⁴²*Ibid.*

³⁴³Letter dated 29 November 2021 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council, UN Doc A/76/571-S/2021/985 (1 December 2021).

³⁴⁴*Ibid.*, Annex.

4.3. China–Taiwan: continued tensions between China and others over support for Taiwan

China's long-established claim over Taiwan continued to be the catalyst for tension in the second half of 2021. The US in particular made very clear that it would continue its support for Taiwan on a number of occasions.

For example, political tensions rose in September after reports suggested that the US was considering changing the 'Taipei Economic and Cultural Representative Office' in Washington DC to the 'Taiwan Representative Office'.³⁴⁵ Responding to these claims, China's Foreign Ministry Spokesperson Zhao Lijian said:

The Taiwan question is the most important and sensitive issue at the core of China–US relations. The one-China principle is the political foundation of bilateral relations. In the China–US Joint Communiqué on the Establishment of Diplomatic Relations, the US unequivocally pledged that 'the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan'. In his phone call with President Xi Jinping, President Biden said that the US has no intention to change the one-China policy. China has lodged solemn representation with the US side with regard to the above-mentioned issue reported by the media. The US should abide by the one-China principle and the three China–US joint communiqués, honor its commitments with concrete actions, stop all forms of official exchanges or elevating substantive relations with Taiwan, including not renaming the Taipei Economic and Cultural Representative Office in the US the 'Taiwan Representative Office', and stop sending wrong signals to 'Taiwan independence' separatist forces. The US side should handle the Taiwan question in a prudent manner, lest it should seriously undermine China–US relations and peace and stability across the Taiwan Strait.³⁴⁶

At the end of September, the UK Navy frigate HMS Richmond tweeted that it was 'en route through the Taiwan Strait'.³⁴⁷ This particular navigation through the Taiwan Strait was apparently notable because it was reportedly the first time a UK warship had been through the strait in over a decade, and it is rare for non-US war vessels to do so.³⁴⁸ The UK Ministry of Defence said that any operations by the Navy were in full compliance with international law, and demonstrated 'a sign of our commitment to regional security'.³⁴⁹

³⁴⁵See, e.g. Hercules Reyes, 'China Threatens "Severe Measures" in Taiwan Office Name Spat', *The Defence Post* (14 September 2021) www.thedefensepost.com/2021/09/14/china-taiwan-office-name-spat/.

³⁴⁶China, Ministry of Foreign Affairs, 'Foreign Ministry Spokesperson Zhao Lijian's Regular Press Conference on September 13, 2021' (13 September 2021) www.mfa.gov.cn/ce/ceph/eng/fyrth/t1906650.htm.

³⁴⁷HMS Richmond on Twitter (26 September 2021) https://twitter.com/HMS_Richmond/status/1442189189320151047.

³⁴⁸See, e.g. 'UK sends warship through Taiwan strait for first time in more than a decade', *The Guardian* (28 September 2021) www.theguardian.com/uk-news/2021/sep/28/uk-sends-warship-through-taiwan-strait-for-first-time-in-more-than-a-decade.

³⁴⁹*Ibid.*

China's Foreign Ministry spokeswoman Hua Chunying said that China hoped 'the relevant countries can do more to build mutual trust between countries and uphold peace and security in the region.'³⁵⁰ On the other hand, the Chinese Army's Eastern Theatre Command said, '[t]his kind of behaviour harbours evil intentions and damages peace and stability in the Taiwan Strait.'³⁵¹

Then, in October, US President Joe Biden answered a question on Taiwan from an audience member at a 'town hall' event broadcasted on US media. He was asked whether the US would defend Taiwan if China invaded, and the President answered: 'Yes, we have a commitment to that.'³⁵² This bolstered Taiwan, and the Presidential Office spokesperson Xavier Chang responded by stating: 'The US government has demonstrated, through actual actions, their rock solid support for Taiwan.'³⁵³ The White House later clarified in a statement to the press:

The U.S. defense relationship with Taiwan is guided by the Taiwan Relations Act. We will uphold our commitment under the Act, we will continue to support Taiwan's self-defense, and we will continue to oppose any unilateral changes to the status quo.³⁵⁴

Chinese Foreign Ministry spokesman Wang Wenbin indicated China's displeasure to Biden's remarks, calling on the US 'not to send the wrong signals to the forces of Taiwan independence, to avoid seriously harming Sino-U.S. ties and peace and stability in the Taiwan Strait.'³⁵⁵ Around the same time, China's UN Ambassador Zhang Jun told reporters that China was pursuing 'peaceful reunification' with Taiwan.³⁵⁶ Referring to Taiwan's controlling parties as separatists, he said:

We are not the troublemaker. On the contrary, some countries – the U.S. in particular – is taking dangerous actions, leading the situation in Taiwan Strait into a dangerous direction. I think at this moment what we should call is that the United States to stop such practice. Dragging Taiwan into a war definitely is in nobody's interest. I don't see that the United States will gain anything from that.³⁵⁷

³⁵⁰Liam Gibson, "'Evil intentions': China denounces British warship passing through Taiwan Strait', *Taiwan News* (28 September 2021) www.taiwannews.com.tw/en/news/4299786.

³⁵¹*Ibid.*

³⁵²Vincent Ni, 'China warns against "wrong signals" as Biden suggests US would defend Taiwan', *The Guardian* (22 October 2021) www.theguardian.com/world/2021/oct/22/biden-suggests-us-would-defend-taiwan-against-china-forcing-fresh-white-house-clarification.

³⁵³Biden says us would defend Taiwan against China invasion', *The Defence Post* (22 October 2021) www.thedefensepost.com/2021/10/22/biden-defend-taiwan-china/.

³⁵⁴See, e.g. Trevor Hunnicut, 'Biden says United States would come to Taiwan's defense', *Reuters* (22 October 2021) www.reuters.com/world/asia-pacific/biden-says-united-states-would-come-taiwans-defense-2021-10-22/.

³⁵⁵*Ibid.*

³⁵⁶*Ibid.*

³⁵⁷*Ibid.*

At a virtual meeting between President Biden and President Xi Jinping in November, the White House said that the US remains committed to the ‘one China’ policy, and that the United States ‘strongly opposes unilateral efforts to change the status quo or undermine peace and stability across the Taiwan Strait.’³⁵⁸ President Xi Jinping, on the other hand, reportedly said that any US encouragement of Taiwan gaining independence would be ‘playing with fire.’³⁵⁹

Just days after the meeting, the US Navy destroyer, USS Milius, sailed through the Taiwan Strait in what the Navy called a routine transit ‘through international waters in accordance with international law.’³⁶⁰

In December, China warned Taiwan that it would take ‘drastic measures’ if Taiwan sought to gain independence.³⁶¹

4.4. South China Sea: tensions between the US and China continue

As covered in recent previous Digests, the South China Sea has played host to tense standoffs over disputed territory and China’s artificial islands. Tensions in the South China Sea continued during this reporting period.

The US continued to conduct a number of ‘freedom of navigation’ exercises in the South China Sea. In July, the US Navy said that the USS Benfold ‘asserted navigational rights and freedoms in the vicinity of the Paracel Islands, consistent with international law.’³⁶² In justifying its actions, the US Navy said:

China, Taiwan, and Vietnam each claim sovereignty over the Paracel Islands. All three claimants require either permission or advance notification before a military vessel or warship engages in ‘innocent passage’ through the territorial sea. Under international law as reflected in the Law of the Sea Convention, the ships of all States – including their warships – enjoy the right of innocent passage through the territorial sea. The unilateral imposition of any authorization or advance-notification requirement for innocent passage is not permitted by international law. By engaging in innocent passage without giving prior notification to or asking permission from any of the claimants, the United States challenged these unlawful restrictions imposed by China,

³⁵⁸US, The White House, ‘Readout of President Biden’s Virtual Meeting with President Xi Jinping of the People’s Republic of China’ (16 November 2021) www.whitehouse.gov/briefing-room/statements-releases/2021/11/16/readout-of-president-bidens-virtual-meeting-with-president-xi-jinping-of-the-peoples-republic-of-china/.

³⁵⁹Biden-Xi talks: China warns US about “playing with fire” on Taiwan’, *BBC News* (16 November 2021) www.bbc.co.uk/news/world-asia-china-59301167.

³⁶⁰US Navy, ‘7th Fleet Destroyer Transits Taiwan Strait’ (22 November 2021) www.navy.mil/Press-Office/News-Stories/Article/2851704/7th-fleet-destroyer-transits-taiwan-strait/.

³⁶¹Ryan Woo, ‘China warns of “drastic measures” if Taiwan provokes on independence’, *Reuters* (30 December 2021) www.reuters.com/world/china/china-warns-drastic-measures-if-taiwan-provokes-independence-2021-12-29/.

³⁶²US Navy, ‘7th Fleet conducts Freedom of Navigation Operation’ (12 July 2021) www.navy.mil/Press-Office/News-Stories/Article/2690226/7th-fleet-conducts-freedom-of-navigation-operation/.

Taiwan and Vietnam. The United States demonstrated that innocent passage may not be subject to such restrictions.³⁶³

The Navy also said that it also sought to challenge China's purported rights over the islands, challenging its legal basis to do so in international law:

The United States also challenged China's 1996 declaration of straight baselines encompassing the Paracel Islands. Regardless of which claimant has sovereignty over the islands in the Paracel Islands, straight baselines cannot lawfully be drawn around the Paracel Islands in their entirety. International law as reflected in the Law of Sea Convention is both clear and comprehensive regarding the circumstances under which States can depart from 'normal' baselines. Straight baselines cannot be lawfully drawn in the Paracels under the international law of the sea as reflected in Article 7 of the Law of Sea Convention. Furthermore, international law does not permit continental States, like China, to establish baselines around entire dispersed island groups. With these baselines, China has attempted to claim more internal waters, territorial sea, exclusive economic zone, and continental shelf than it is entitled to under international law. By conducting this operation, the United States demonstrated that these waters are beyond what China can lawfully claim as its territorial sea, and that China's claimed straight baselines around the Paracel Islands are inconsistent with international law.³⁶⁴

China reportedly responded to the incident by calling on the US to stop 'provocations' and to 'strictly manage its maritime and aerial military activities, or it will be the US that bears any consequences.'³⁶⁵

US Vice President Kamala Harris criticised China, accusing it of coercion and intimidation over the South China Sea.³⁶⁶ She said:

We know that Beijing continues to coerce, to intimidate and to make claims to the vast majority of the South China Sea. ...

These unlawful claims have been rejected by the 2016 arbitral tribunal decision, and Beijing's actions continue to undermine the rules-based order and threaten the sovereignty of nations.³⁶⁷

Responding to this speech, China's Foreign Ministry spokesman, Wang Wenbin, said that the US was seeking an international order where it could 'wilfully slander, oppress, coerce and bully other countries and not

³⁶³ *Ibid.*

³⁶⁴ *Ibid.*

³⁶⁵ Joe Saballa, 'US Navy conducts South China Sea "freedom of navigation" operation', *The Defence Post* (13 July 2021) www.thedefensepost.com/2021/07/13/us-navy-freedom-navigation/. See also Liu Xuanzun, 'PLA forces expel US destroyer trespassing Chinese territorial waters in South China Sea on 5th anniversary of invalid arbitral ruling', *Global Times* (12 July 2021) www.globaltimes.cn/page/202107/1228421.shtml.

³⁶⁶ Nandita Bose, 'U.S. VP Harris says China intimidates to back South China Sea claims', *Reuters* (24 August 2021) www.reuters.com/world/asia-pacific/kamala-harris-says-beijing-continues-coercion-south-china-sea-2021-08-24/.

³⁶⁷ *Ibid.*

have to pay any price.³⁶⁸ US Secretary of State Anthony Blinken repeated the US concerns in December, calling on China to stop its ‘aggressive actions’.³⁶⁹

In one notable incident in the South China Sea, Chinese coast guard vessels reportedly blocked and used water cannons against Philippine resupply boats that were headed towards a small Philippine-occupied island.³⁷⁰ Philippine Foreign Secretary Teodoro Locsin condemned the incident, and argued that: ‘China has no law enforcement rights in and around these areas. They must take heed and back off.’³⁷¹ Notably, Locsin also warned China against further such actions, and said that a public vessel is covered by a Philippines-United States Mutual Defence Treaty.³⁷² The US State Department also responded to the incident, stating:

The United States stands with our ally, the Philippines, in the face of this escalation that directly threatens regional peace and stability, escalates regional tensions, infringes upon freedom of navigation in the South China Sea as guaranteed under international law, and undermines the rules-based international order.

...

The United States stands with our Philippine allies in upholding the rules-based international maritime order and reaffirms that an armed attack on Philippine public vessels in the South China Sea would invoke U.S. mutual defense commitments under Article IV of the 1951 U.S. Philippines Mutual Defense Treaty.³⁷³

5. Americas

5.1. Venezuela: the alleged use of mercenary operations by the United States and Colombia

In a letter dated 27 July 2021, Venezuela wrote to the Security Council detailing concerns of acts of aggression allegedly committed by Colombian and United States mercenaries against Haiti and Venezuela.³⁷⁴ The letter alleged that Colombian and United States’ mercenaries assassinated the

³⁶⁸ *Ibid.*

³⁶⁹ John Hudson, ‘Blinken warns China to stop “aggressive actions” in first trip to Southeast Asia’, *The Washington Post* (14 December 2021) www.washingtonpost.com/national-security/blinken-china-southeast-asia-jakarta/2021/12/14/914487f4-5cc7-11ec-b1ef-cb78be717f0e_story.html.

³⁷⁰ Karen Lema, ‘Philippines tells China to “back off” after South China Sea standoff’, *Reuters* (18 November 2021) www.reuters.com/world/china/philippines-condemns-chinese-coast-guards-action-south-china-sea-2021-11-18/.

³⁷¹ *Ibid.*

³⁷² *Ibid.*

³⁷³ US, Department of State, ‘On the Situation in the South China Sea’ (19 November 2021) www.state.gov/on-the-situation-in-the-south-china-sea/?msclkid=063a4f0bb9fe11ec968cb46d5759ddf2.

³⁷⁴ Letter dated 27 July 2021 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the President of the Security Council, UN Doc S/2021/688 (29 July 2021).

President of Haiti on 7 July 2021.³⁷⁵ Further claims were made that the assassination could not have been carried out without the knowledge of the security and intelligence agencies of both the Governments of Colombia and the United States, and that there was an ‘abundance of evidence proving’ that both states had ‘failed to comply with their international obligations to prevent the assassination’.³⁷⁶ The assassination, it was claimed, matched the characterisation of an ‘act of aggression’, as established by General Assembly resolution 3314 (XXIX).³⁷⁷ Without explicitly referring to the assassination as an armed attack, Venezuela accused the United States of having a ‘history of the use of mercenaries in armed attacks’.³⁷⁸ Within the same letter, Venezuela repeated its previous claim³⁷⁹ that it was ‘publicly proven’ that the United States and Colombia were responsible for the failed ‘armed aggression’ against Venezuela and the attempted assassination of the Venezuelan President, Nicolás Maduro, on 3 May 2020.³⁸⁰

The letter by Venezuela was concluded by calling upon the Security Council to investigate the United States and Colombia’s use of mercenary operations

for the commission of armed attacks, acts of terrorism, acts of aggression and the assassination of Heads of State and Government and high-ranking political officials, with the purpose of overthrowing Governments and undermining their constitutional bases.³⁸¹

5.2. Venezuela: alleged strategy of armed aggression by Colombia and the United States

Venezuela wrote to the Security Council in a letter dated 8 October 2021 concerning the alleged joint strategy of Colombia and the United States to ‘justify military aggression’ against Venezuela based on a ‘false flag operation’.³⁸² Venezuela accused Colombia of repeating a ‘false war-mongering narrative’ as an argument for ‘preparing an aggression against

³⁷⁵*Ibid.*, 2.

³⁷⁶*Ibid.*, 5.

³⁷⁷*Ibid.*

³⁷⁸*Ibid.*

³⁷⁹Identical letters dated 13 May 2020 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/74/861–S/2020/399 (22 May 2020); UNGA Verbatim Record, UN Doc A/75/PV.7 (23 September 2020) 52 (Venezuela).

³⁸⁰UN Doc S/2021/688 (n 374) 5–8.

³⁸¹*Ibid.*, 10.

³⁸²Letter dated 8 October 2021 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the President of the Security Council, UN Doc S/2021/866 (11 October 2021). See also Venezuela, Ministry of People’s Power for Defence, ‘Official Statement from the Bolivarian National Armed Forces’ (21 September 2021) www.mindefensa.gob.ve/mindefensa/2021/09/21/comunicado-oficial-de-la-fuerza-armada-nacional-bolivariana-21/.

Venezuela, in alliance with the Government of the United States of America'.³⁸³ Citing alleged Colombian and United States' attacks against Venezuela, the letter noted that statements from high-ranking officials of Colombia and the United States had moved 'beyond rhetoric and have moved into concrete reality with military aggressions, terrorist attacks and the use of mercenaries'.³⁸⁴

Venezuela concluded its letter by declaring that it was 'necessary to stop the war machinery' of Colombia and the United States before they make 'the grave mistake of launching an armed attack' against Venezuela.³⁸⁵ The letter contained a request for the Security Council to discuss the role of Colombia and the United States 'in the execution of a strategy of armed aggression' against Venezuela.³⁸⁶

On 21 October 2021, Venezuela stated that the Secretary of State of the United States 'should explain to the people of the United States what his support is based on that has allowed the increase in paramilitary and criminal activity' in Colombia.³⁸⁷

6. Non-regional issues

6.1. UNSC open debate: 'Maintenance of International Peace and Security: cybersecurity'

The UN Security Council held its first-ever open debate on the topic 'Maintenance of International Peace and Security: Cybersecurity', convened on 29 June 2021.³⁸⁸

The importance of the role of the United Nations Charter in cyber governance was emphasised by the representative of Pakistan:

The Charter of the United Nations is unequivocal in its categorical upholding the principles of sovereignty, territorial integrity and non-interference in internal affairs of other States. These principles should serve as guiding star as we navigate the complexities of cyber governance.³⁸⁹

³⁸³UN Doc S/2021/866 (n 382) 2.

³⁸⁴*Ibid.*, 3–4.

³⁸⁵*Ibid.*, 6.

³⁸⁶*Ibid.*

³⁸⁷Venezuela, Ministry of People's Power for Foreign Relations, 'Venezuela denounces that Secretary Blinken's visit to Colombia is part of a strategy of sustained aggression against the Venezuelan people' (21 October 2021) mppre.gob.ve/comunicado/bliken-colombia-sostenida-agresion/.

³⁸⁸Letter dated 1 July 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, UN Doc S/2021/621 (1 July 2021). See also United Nations, "'Explosive" Growth of Digital Technologies Creating New Potential for Conflict, Disarmament Chief Tells Security Council in First-Ever Debate on Cyberthreats' (29 June 2021) www.un.org/press/en/2021/sc14563.doc.htm.

³⁸⁹UN Doc S/2021/621 (n 388) 98–9 (Pakistan).

Several representatives, including Viet Nam,³⁹⁰ Saint Vincent and the Grenadines,³⁹¹ China,³⁹² Russia,³⁹³ Georgia,³⁹⁴ Iran,³⁹⁵ Japan,³⁹⁶ emphasised that cyberspace is subject to international law, including the principle of state sovereignty.

The representative of China warned that security should be promoted to prevent cyberspace from becoming a new battlefield.³⁹⁷ Numerous states, including Austria,³⁹⁸ Ecuador³⁹⁹ and Iran,⁴⁰⁰ explained that the United Nations Charter prohibited the use of force, meaning that states must refrain from the threat or use of force within or through the cyberspace environment, and that all international disputes in cyberspace should be settled by peaceful means.

The representative of Liechtenstein spoke of the increasing invocation of Article 51 and the risk of such invocations being extended to cyberspace:

One of the landmark achievements of the Charter of the United Nations is the prohibition on the use of force. The use of force is prohibited except when authorized by the Security Council under Chapter VII or carried out in self-defence under article 51 of the Charter. However, article 51 is increasingly invoked as the legal basis for the use of force without necessary legal justifications. There is a substantive risk of this trend extending to cyberspace with the development of new technologies and State capabilities. We should ensure that cyberspace does not facilitate unjustified self-defense operations.⁴⁰¹

Without further elaboration, the representative of Japan stated the following on when Article 51 should be invoked in response to a cyber operation:

Japan's view is that when a cyberoperation constitutes an armed attack under article 51 of the Charter of the United Nations, States may exercise the inherent right of individual or collective self-defense recognized under the same article.⁴⁰²

The representative of Iran observed that there had been an 'alarming trend of systematic accusations by certain States against other States of launching cyberattacks or similar activities in cyberspace' but, citing the difficulties of attribution, Iran considered these accusations to be politically motivated:

³⁹⁰*Ibid*, 12 (Viet Nam).

³⁹¹*Ibid*, 20 (Saint Vincent and the Grenadines).

³⁹²*Ibid*, 27 (China).

³⁹³*Ibid*, 32 (Russia).

³⁹⁴*Ibid*, 64 (Georgia).

³⁹⁵*Ibid*, 79–80 (Iran).

³⁹⁶*Ibid*, 83 (Japan).

³⁹⁷*Ibid*, 27 (China).

³⁹⁸*Ibid*, 39 (Austria).

³⁹⁹*Ibid*, 56 (Ecuador).

⁴⁰⁰*Ibid*, 80 (Iran).

⁴⁰¹*Ibid*, 88 (Liechtenstein).

⁴⁰²*Ibid*, 84 (Japan).

Given the existing challenges associated with attribution in the cyberspace environment as well as the absence of a set of internationally developed and agreed standards on genuine, reliable and adequate proof for substantiating the attribution, such accusations must be considered merely politically motivated.⁴⁰³

The representative of Austria warned that challenges in attributing cyberattacks increased ‘insecurity, the risk of miscalculations and the potential for human error when deciding how to respond to an incoming attack’.⁴⁰⁴ Other states, including the United States,⁴⁰⁵ Brazil⁴⁰⁶ and Egypt,⁴⁰⁷ also noted the complexities of attributing cyber operations to a state or an actor. The representative of Japan, whilst recognising the difficulty of attribution, put forward the position that the ‘due diligence obligation may provide grounds for invoking the responsibility of the State from the territory of which a cyberoperation not attributable to any State originated’.⁴⁰⁸

6.2. Report of the Group of governmental experts on Advancing Responsible State Behaviour in cyberspace in the Context of International Security (GGE)

The report of the GGE reflects the outcome of extensive deliberations that took place from 2019, over a period of 18 months, on ‘Advancing Responsible State Behaviour in Cyberspace in the Context of International Security’.⁴⁰⁹

The report noted that a number of states were developing Information and Communication Technology (ICT) capabilities for military purposes and that the use of ICTs in ‘future conflicts between States is becoming more likely’.⁴¹⁰ The report stated what that response should be if malicious ICT activity were to occur:

An affected State’s response to malicious ICT activity attributable to another State should be in accordance with its obligations under the Charter of the United Nations and other international law, including those relating to the settlement of disputes by peaceful means and internationally wrongful acts.⁴¹¹

⁴⁰³*Ibid*, 80 (Iran).

⁴⁰⁴*Ibid*, 39 (Austria).

⁴⁰⁵*Ibid*, 16 (United States).

⁴⁰⁶*Ibid*, 45 (Brazil).

⁴⁰⁷*Ibid*, 57 (Egypt).

⁴⁰⁸*Ibid*, 83 (Japan).

⁴⁰⁹Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security: note by the Secretary-General, UN Doc A/76/135 (14 July 2021); for an official compendium of voluntary national contributions of participating governmental experts, see Official compendium of voluntary national contributions on the subject of how international law applies to the use of information and communications technologies by States submitted by participating governmental experts in the Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security established pursuant to General Assembly resolution 73/266, UN Doc A/76/136 (13 July 2021).

⁴¹⁰UN Doc A/76/135 (n 409) 7.

⁴¹¹*Ibid*, 9.

The GGE report reaffirmed the commitment of states to principles of the Charter and other international law, including refraining 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.⁴¹² Moreover, the report observed that, states, in their use of ICTs, shall refrain in their international relations from the threat or use of force.⁴¹³

There was no mention of the right of self-defence or Article 51 of the United Nations Charter in the GGE report. This is interesting considering that many states, including Australia,⁴¹⁴ Brazil,⁴¹⁵ Estonia,⁴¹⁶ Germany,⁴¹⁷ Japan,⁴¹⁸ Netherlands,⁴¹⁹ Norway,⁴²⁰ Romania,⁴²¹ Singapore,⁴²² Switzerland,⁴²³ United Kingdom⁴²⁴ and the United States,⁴²⁵ specifically discussed the application of the invocation of self-defence and Article 51 in cyberspace in their numerous submissions for the preparation of the report.

6.3. UN General Assembly Special Committee on the Charter of the United Nations and on the strengthening of the role of the organization

The 26th meeting of the Sixth Committee for the 76th session of the General Assembly was held on 4 November 2021,⁴²⁶ where it considered agenda item 84 on the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation.⁴²⁷

During the meeting, the representative of Mexico voiced concerns about the use and interpretations of Article 51 of the UN Charter, the lack of action on Article 51 reports submitted to the Council and the invocation of the ‘the

⁴¹²*Ibid*, 17.

⁴¹³*Ibid*, 18.

⁴¹⁴UN Doc A/76/136 (n 409) 5–6, 11–3, 15 (Australia).

⁴¹⁵*Ibid*, 19–20 (Brazil).

⁴¹⁶*Ibid*, 25, 28, 29–30 (Estonia).

⁴¹⁷*Ibid*, 41–3 (Germany).

⁴¹⁸*Ibid*, 49 (Japan).

⁴¹⁹*Ibid*, 55, 58, 62, 64–5 (Netherlands).

⁴²⁰*Ibid*, 69, 73–4 (Norway).

⁴²¹*Ibid*, 77 (Romania).

⁴²²*Ibid*, 84 (Singapore).

⁴²³*Ibid*, 88 (Switzerland).

⁴²⁴*Ibid*, 116, 120 (United Kingdom).

⁴²⁵*Ibid*, 136–7, 139 (United States).

⁴²⁶United Nations, ‘Sixth Committee Speakers Highlight Proposals on Countries’ Right to Self-Defence, Security Council Reform, Sanctions, as Special Charter Committee Debate Ends’ (4 November 2021) www.un.org/press/en/2021/gal3651.doc.htm; for a webcast of the full meeting, see United Nations UN Web TV, ‘Sixth Committee, 26th meeting – General Assembly, 76th session’ (4 November 2021) media.un.org/en/asset/k1h/k1h0zjf34.

⁴²⁷Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation, UN Doc A/76/33 (2021).

unwilling and unable criteria'.⁴²⁸ The representative explained that Mexico's proposal to the Special Charter Committee⁴²⁹ focused on creating a space for all Member States to exchange views on recent interpretations of Article 51, adding that the creation of such a space would fall within the competency of the Special Committee.⁴³⁰ The representative of Russia observed that Mexico's proposal could be helpful in settling disputes, whilst the representative of Syria noted that one of the most prominent examples of misuse of the provisions of the Charter was the use of the right to self-defence as a pretext for aggression or occupation.⁴³¹

The representative of Russia highlighted an initiative submitted by his state and Belarus requesting an International Court of Justice advisory opinion on the legal consequences of a state's use of force without preliminary authorisation from the Security Council, except in cases of the right to self-defence.⁴³²

Concerns relating to the misinterpretation of Article 51 and the inherent right of self-defence were expressed by the representative of Iran.⁴³³ The representative noted that '[c]larification and re-affirmation of Charter provisions, with respect of the use of force, could contribute to the strengthening of the organisation'.⁴³⁴ The representative of India also noted the importance of the prohibition on the threat or use of force contained in the Charter and expressed India's view that 'further clarification on the provisions of the Charter regarding use of force could contribute to the rule based international system'.⁴³⁵

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⁴²⁸Sixth Committee Speakers (n 426) (Mexico).

⁴²⁹UN Doc A/76/33 (n 427) Annex: Revised working paper submitted by Mexico, entitled 'Discussion on the application of Article 51, in the light of its interrelation with Article 2(4), of the Charter of the United Nations', 25–8.

⁴³⁰Sixth Committee Speakers (n 426) (Mexico).

⁴³¹*Ibid* (Russia); *ibid* (Syria).

⁴³²UN Doc A/76/33 (n 427) 9–10.

⁴³³Permanent Mission of the Islamic Republic of Iran to the United Nations, 'Statement by Mr. Mohammad Ghorbanpour First Secretary, the Permanent Mission of the Islamic Republic of Iran to the UN Before the Sixth Committee of the 76th Session of the United Nations General Assembly On Agenda Item 84' (4 November 2021) www.un.org/en/ga/sixth/76/pdfs/statements/charter_committee/25mtg_iran.pdf.

⁴³⁴*Ibid*.

⁴³⁵Permanent Mission of India to the United Nations, 'Statement By Dr. Kajal Bhat Counsellor & Legal Adviser on Agenda Item 84' (4 November 2021) www.un.org/en/ga/sixth/76/pdfs/statements/charter_committee/26mtg_india.pdf, [10].