

Digest of state practice: 1 July – 31 December 2022

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Europe

Russia – Ukraine: Russian aggression against Ukraine

States' support for Ukraine

The previous Digest described in detail the background of the Russian aggression against Ukraine, which started on 24 February 2022, and the international community's reaction to the invasion, including sanctions and delivery of weapons and ammunition.¹ During this reporting period, the Russian aggression against Ukraine has continued, as has the support of several states.

When it comes to sanctions, further restrictive measures were announced, *inter alia*, by the US,² the UK,³ the EU,⁴ Canada⁵ and Switzerland.⁶

Moreover, states continued to support Ukraine with weapons, ammunition, and training, as well as humanitarian assistance. The list of states supporting

¹Patrick M Butchard and Jasmin J Nessa (eds), 'Digest of State Practice: 1 January – 30 June 2022' (2022) 9 (2) *Journal on the Use of Force and International Law* 423, 440–6.

²United States, Department of State, 'Imposing Additional Costs on Russia for Its Continued War Against Ukraine' (2 August 2022) www.state.gov/imposing-additional-costs-on-russia-for-its-continued-war-against-ukraine/; United States, Department of the Treasury, 'Treasury Sanctions Elites and Companies in Economic Sectors that Generate Substantial Revenue for the Russian Regime' (2 August 2022) www.home.treasury.gov/news/press-releases/jy0905; USA, Department of the Treasury, 'Treasury Imposes Swift and Severe Costs on Russia for Putin's Purported Annexation of Regions of Ukraine' (30 September 2022) www.home.treasury.gov/news/press-releases/jy0981; United States, Department of the Treasury, 'Determination Pursuant to Section 1(A)(ii) of Executive Order 14071 (15 October 2022) www.home.treasury.gov/system/files/126/determination_09152022_eo14071.pdf; United States, Department of the Treasury, 'Treasury Sanctions Over 40 Individuals and Entities Across Nine Countries Connected to Corruption and Human Rights Abuse' (9 December 2022) www.home.treasury.gov/news/press-releases/jy1155; United States, Department of State, 'Furthering the United States' Effort to Hold Russia to Account for its War Against Ukraine' (15 December 2022) www.state.gov/furthering-the-united-states-effort-to-hold-russia-to-account-for-its-war-against-ukraine/.

³United Kingdom, Foreign, Commonwealth & Development Office, 'The Russia (Sanctions) (EU Exit) (Amendment) (No. 17-11) Regulations 2022' (last updated 3 January 2023) www.gov.uk/government/collections/uk-sanctions-on-russia.

⁴Council of the European Union, 'Russia's aggression against Ukraine: EU adopts "maintenance and alignment" package' (21 July 2022) www.consilium.europa.eu/en/press/press-releases/2022/07/21/russia-s-aggression-against-ukraine-eu-adopts-maintenance-and-alignment-package/; Council of the European Union, 'Russia: EU renews economic sanctions over Russia's military aggression against Ukraine for further six months' (26 July 2022) www.consilium.europa.eu/en/press/press-releases/2022/07/26/russia-eu-renews-economic-sanctions-over-russia-s-military-aggression-against-ukraine-for-further-six-months/; Council of the European Union, 'EU adopts its latest package of sanctions against Russia over the illegal annexation of Ukraine's Donetsk, Luhansk, Zaporizhzhia and Kherson regions' (6 October 2022) www.consilium.europa.eu/en/press/press-releases/2022/10/06/eu-adopts-its-latest-package-of-sanctions-against-russia-over-the-illegal-annexation-of-ukraine-s-donetsk-luhansk-zaporizhzhia-and-kherson-regions/; Council of the European Union, 'Ukraine: EU sanctions three individuals and one entity in relation to the use of Iranian drones in Russian aggression' (20 October 2022) www.consilium.europa.eu/en/press/press-releases/2022/10/20/ukraine-eu-sanctions-three-individuals-and-one-entity-in-relation-to-the-use-of-iranian-drones-in-russian-aggression/; Council of the European Union, 'Russia's war of aggression against Ukraine: EU adopts 9th package of economic and individual sanctions' (6 December 2022) www.consilium.europa.eu/en/press/press-releases/2022/12/16/russia-s-war-of-aggression-against-ukraine-eu-adopts-9th-package-of-economic-and-individual-sanctions/.

⁵See, Canada, Government of Canada, 'Sanctions – Russian invasion of Ukraine' (last updated 24 February 2023) www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/response_conflict-reponse_conflits/crisis-crises/ukraine-sanctions.aspx?lang=eng#dataset-filter1.

⁶See, e.g. Switzerland, Federal Council, 'Ukraine: Switzerland adopts EU's eighth package of sanctions' (23 November 2022) www.admin.ch/gov/en/start/documentation/media-releases.msg-id-91875.html.

Ukraine with military and humanitarian measures includes, *inter alia*, the United States,⁷ the United Kingdom,⁸ Canada,⁹ Poland, France,¹⁰ Sweden,¹¹ Norway,¹² Finland,¹³ Lithuania¹⁴ and Estonia.¹⁵

When it comes to the legal grounds of the military assistance provided by these states for Ukraine, states invoked Article 51 of the UN Charter. In the words of the representative of Norway in the UNSC:

(...) Ukraine has a right to defend itself against Russia's armed attack, as enshrined in Article 51 of the Charter of the United Nations. Other States are entitled to respond positively to Ukraine's call for assistance in the exercise of its legitimate right to self-defence.¹⁶

Also, the representative of Albania observed that:

Article 51 of the Charter is clear. It provides an unquestionable legal basis for individual States to offer any assistance to a country exercising its inherent rights to self-defence and the defence of its sovereignty and territorial integrity.¹⁷

⁷See United States, Department of State, 'U.S. Security Cooperation with Ukraine' (3 March 2023) www.state.gov/u-s-security-cooperation-with-ukraine/.

⁸See, e.g. the United Kingdom, Ministry of Defence, 'UK to give more multiple launch rocket systems and guided missiles to Ukraine' (11 August 2022) www.gov.uk/government/news/uk-to-give-more-multiple-launch-rocket-systems-and-guided-missiles-to-ukraine; United Kingdom, Ministry of Defence, 'UK to give air defence missiles to help Ukraine defend against rockets' (13 October 2022) www.gov.uk/government/news/uk-to-give-air-defence-missiles-to-help-ukraine-defend-against-rockets?utm_source=HOC+Library+-+Current+awareness+bulletins&utm_campaign=3a27f963f9-Current_Awareness_IADS_13_10_2022&utm_medium=email&utm_term=0_f325cdbfdc-3a27f963f9-103727638&mc_cid=3a27f963f9&mc_eid=5199a94ecb; United Kingdom, Prime Minister's Office, 'Prime Minister announces crucial winter kit delivery for Ukrainian Forces as he meets NATO Chief' (9 November 2022) www.gov.uk/government/news/prime-minister-announces-crucial-winter-kit-delivery-for-ukrainian-forces-as-he-meets-nato-chief. See, in general, the United Kingdom, House of Commons, 'Military assistance to Ukraine since the Russian invasion' (21 February 2023) researchbriefings.files.parliament.uk/documents/CBP-9477/CBP-9477.pdf.

⁹See, Canada, Government of Canada, 'Canadian donations and military support to Ukraine' (last updated 13 March 2023) www.canada.ca/en/department-national-defence/campaigns/canadian-military-support-to-ukraine.html.

¹⁰Marie Slavicek, 'What weapons is France sending to Ukraine?', *Le Monde* (11 October 2022) www.lemonde.fr/en/international/article/2022/10/11/what-weapons-is-france-sending-to-ukraine_5999916_4.html.

¹¹Sweden, Government Offices of Sweden, 'Government to send record support package to Ukraine' (16 November 2022) www.government.se/articles/2022/11/government-to-send-record-support-package-to-ukraine/.

¹²Norway, Ministry of Defence, 'Norway will assist in the training of Ukrainian soldiers' (28 September 2022) www.regjeringen.no/en/aktuelt/norge-vil-bidra-til-opplaring-av-ukrainske-soldater/id2924050/.

¹³Pekka Vanttinen, 'Finland sends 11th military aid package to Ukraine', *Euroactive* (22 December 2022) www.euractiv.com/section/politics/news/finland-sends-11th-military-aid-package-to-ukraine/.

¹⁴See, e.g. Official Account of the Ministry of National Defence of the Republic of Lithuania, *Twitter* (7 September 2022) twitter.com/Lithuanian_MoD/status/1567446474312540160.

¹⁵See, e.g. 'Estonia increases military aid to Ukraine: weapons, field hospital and training of the Armed Forces of Ukraine', *Ukrainian Military Portal* (19 August 2022) mil.in.ua/en/news/estonia-increases-military-aid-to-ukraine-weapons-field-hospital-and-training-of-the-armed-forces-of-ukraine/.

¹⁶UNSC Verbatim Record, UN Doc S/PV.9127 (8 September 2022) 16–7.

¹⁷*Ibid.*, 12. See, in general, statements made by states during *ibid.*; UNSC Provisional Record, UN Doc S/PV.9104 (29 July 2022); UNSC Verbatim Record, UN Doc S/PV.9112 (22 August 2022); UNSC Verbatim Record, UN Doc S/PV.9115 (24 August 2022); UNSC Verbatim Record, UN Doc S/PV.9116 (25 August 2022); UNSC Verbatim Record, UN Doc S/PV.9135 (22 September 2022); UNSC Verbatim Record, UN Doc S/PV.9175 (31 October 2022).

Security guarantees for Ukraine

Ukraine has been seeking a close relationship with NATO for several years now. In 2017, the Ukrainian Parliament adopted legislation establishing membership in NATO as a strategic foreign and security policy objective, while two years later a corresponding amendment to Ukraine's Constitution entered into force. In September 2020, President of Ukraine, Volodymyr Zelenskyy, approved Ukraine's new National Security Strategy, which establishes the aim of membership in NATO.¹⁸

On 30 September 2022, President Zelenskyy announced that Ukraine was about to take a 'decisive step by signing Ukraine's application for accelerated accession to NATO.'¹⁹ By 'accelerated application' President Zelenskyy apparently meant the path similar to the one adopted by Finland and Sweden, i.e. application without participation in the Membership Action Plan.²⁰

Since the application and accession to NATO will be a long-term process, especially given that all NATO members must agree for the accession of a new member, President Zelenskyy stated that 'while this is happening, we offer to implement our proposals regarding security guarantees for Ukraine and all of Europe in accordance with the Kyiv Security Compact.'²¹

The Kyiv Security Compact: International Security Guarantees for Ukraine: Recommendations was published on 13 September 2022. The document states that:

Given its unique geopolitical position, the most effective security guarantees lie in Ukraine's capacity to defend itself. To be sufficiently robust and credible, Ukraine's self-defence must be underpinned by binding commitments from a group of international partners to mobilise the necessary military and non-military resources. Ukraine is a European country that is now on the path to EU membership. This process will further integrate Ukraine into the European political community, improve its prospects for reconstruction and development, and strengthen the country's institutions and security. As an EU member, it will also benefit from the EU's mutual defence clause under Article 42.7 of the Treaty of the European Union. In the meantime, EU Member States and institutions should do their part in providing security guarantees to Ukraine through sustained arms supplies, financial aid, and with training missions, among others. Ukraine's aspiration to join NATO and benefit from its mutual defence arrangements is safeguarded in its Constitution. This aspiration is the sovereign decision of Ukraine. In the interim

¹⁸NATO, 'Relations with Ukraine' (last updated 22 February 2023) www.nato.int/cps/en/natohq/topics_37750.htm.

¹⁹Ukraine, President of Ukraine, 'We are taking our decisive step by signing Ukraine's application for accelerated accession to NATO – address by President Volodymyr Zelenskyy' (30 September 2022) www.president.gov.ua/en/news/mi-robimo-svij-viznachalniy-krok-pidpisuyuchi-zayavku-ukrayi-78173.

²⁰Membership Action Plan is a NATO program of advice, assistance and practical support tailored to the individual needs of states that wish to join the Alliance. It was launched in April 1999 (NATO, 'Membership Action Plan (MAP)' (last updated 5 October 2022) www.nato.int/cps/en/natohq/topics_37356.htm).

²¹Ukraine, President of Ukraine (n 19).

period Ukraine needs iron-clad security guarantees. These will come predominantly – though not exclusively – from NATO countries.²²

The group of international guarantors would have to, *inter alia*, provide financial aid and direct investments to restore the infrastructure of Ukraine, which was destroyed or damaged by military actions; offer technology transfers and arms export; establish regular training exercises to Ukrainian forces; and enhance intelligence cooperation.²³ The document further states that:

To avoid the pitfalls of weak guarantees, Ukraine will need:

Security guarantees that are legally and politically binding. (...)

Security guarantees should explicitly commit guarantors to Ukraine's self-defence. This means creating the parameters for a broad range of responses and not excluding any form of support to assure Ukraine's self-defence. (...)

In case of aggression, the joint document should spell out extended guarantee commitments by guarantors to use all elements of their national and collective power and take appropriate measures – which may include diplomatic, economic, and military means – to enable Ukraine to stop the aggression, restore its sovereignty, ensure its security, military edge, and capability to deter its enemies and defend itself by itself against any threat.

The territorial scope of the guarantees applies throughout Ukraine's internationally recognized borders. At the same time, the extended guarantees are to apply if Ukraine comes under attack on its territory within internationally recognized borders.

According to Uniting for Peace Resolution 377A(V) of the UN General Assembly, the guarantors should seek the support of the UN, most likely via UNGA, within the timeframe discussed below. Nonetheless, all security guarantee provisions will fall under the law on individual and collective self-defence (Article 51 of the UN Charter) (...).²⁴

Moreover, according to the document, the sanctions imposed on Russia since 2014 should be maintained until Russia stops its aggression against Ukraine, guarantees it will not attack Ukraine in the future, and compensates Ukraine for the damages caused during the invasion.²⁵ The sanctions guarantors should

[a]gree on a set of snapback sanctions that would be triggered by a well-defined event under international law, such as if Ukraine comes under 'armed attack' (Article 51 of the UN Charter) or an 'act of aggression' (UN General Assembly Resolution 3314, XXIX).²⁶

²²Working Group on International Security Guarantees for Ukraine, 'The Kyiv Security Compact: International Security Guarantees For Ukraine: Recommendations' (13 September 2022) 4 www.president.gov.ua/storage/j-files-storage/01/15/89/41fd0ec2d72259a561313370cee1be6e_1663050954.pdf.

²³*Ibid.*, 6.

²⁴*Ibid.*, 7.

²⁵*Ibid.*, 8.

²⁶*Ibid.*

Poland: position on the application of international law in cyberspace

In December 2022, Poland published its 'position on the application of international law in cyberspace'.²⁷

According to the document, '[t]he existing international law, including the Charter of the United Nations, applies to cyberspace. Therefore, states are required to adhere to international law in cyberspace.'²⁸ Also, '[i]n certain circumstances actions in cyberspace may constitute a violation of the prohibition of the use of force.'²⁹ The position invokes the finding from the ICJ advisory opinion on the *Legality of the Threat or Use of Nuclear Weapons* that 'an action may be considered the use of force irrespective of the means used. What matters are the effects of the actions taken' and further claims that,

Perceiving a cyberattack as the use of force is supported by the possibility of it causing similar effects to those caused by a classic armed attack executed with the use of conventional weapons. When assessing whether or not a cyber operation reaches the threshold of the use of force, the situation must be analysed individually, taking into consideration the circumstances of actions taken in accordance with the requirements of international law. An action in cyberspace that leads to: a permanent and significant damage of a power plant, a missile defence system deactivation or taking control over an aircraft or a passenger ship and causing an accident with significant effects may be considered the use of force. This list is not exhaustive – the legal qualification will always depend on the circumstances of a specific attack.

A cyberattack that does not reach the threshold of the prohibited use of force may be deemed a prohibited intervention or an action that violates the principle of sovereignty.³⁰

Moreover,

a cyberattack that results in death or injury of people or damage or destruction of property of significant value may be considered an armed attack. In such circumstances, according to international law, a state enjoys the right of self-defence, however, this right should be exercised in line with the principles arising from customary international law, namely the principle of necessity and proportionality. Self-defence does not need to involve the same means through which the armed attack was inflicted. In response to a cyberattack that reaches the threshold of an armed attack, it is possible to respond both in cyberspace exclusively or with the use of traditional armed forces.³¹

²⁷Poland, Ministry of Foreign Affairs, 'The Republic of Poland's position on the application of international law in cyberspace' (29 December 2022) www.gov.pl/web/diplomacy/the-republic-of-polands-position-on-the-application-of-international-law-in-cyberspace.

²⁸*Ibid.*, 2.

²⁹*Ibid.*, 5.

³⁰*Ibid.*

³¹*Ibid.*

According to the position, the right to self-defence applies also to cyberattacks conducted by non-state actors if the cyberattack reached the threshold of the use of force, as well as states may use the right to collective self-defence in cyberspace.³²

Kosovo – Serbia: dispute over the vehicle registration plates and shooting down of a drone

For almost two years now Kosovo's government has been trying to implement new legislation obliging anyone entering Kosovo with Serbian IDs to replace them with a temporary document during their stay in Kosovo. The law would also impose an obligation on ethnic Serbian residents with Serbian vehicle registration plates to change them to Kosovo license plates within two months. Under the United States and European Union's pressure and after demonstrations at the Kosovo-Serbian border crossings in August, Kosovo's government agreed to slightly postpone the implementation of new regulations.³³

The tensions peaked at the beginning of November 2022 when the Serbian Ministry of Defence reported that several drones had entered Serbian airspace from Kosovo, allegedly filming military bases. One drone was shot down in the city of Raska, 250 kilometres southwest of Belgrade. Despite Serbian allegations, Kosovo denied that drones were coming from its territory.³⁴

Ultimately, Serbia and Kosovo managed to reach a deal on vehicle registration plates on 24 November.³⁵

Iran – Albania: alleged Iranian cyberattack in Albania

Albania accused Iran of being responsible for a cyberattack affecting the entire Albanian government digital infrastructure on 15 July 2022.³⁶ After a 'thorough in-depth investigation', Albania concluded that it was 'beyond any doubt, that the cyberattack was a State-sponsored aggression carried

³²*Ibid* 6.

³³Liv Klingert, 'Kosovo postpones border plans after Serbia tension turns violent', *The Brussels Times* (1 August 2022) www.brusselstimes.com/265104/kosovo-postpones-border-plans-after-serbia-tension-turns-violent.

³⁴'Serbia says drones enter its airspace from Kosovo amid rise in tensions', *Reuters* (2 November 2022) www.reuters.com/world/europe/serbia-says-drones-enter-its-airspace-kosovo-amid-rise-tensions-2022-11-02/; Talha Ozturk, 'Serbia shoots down drone on border with Kosovo', *AA* (2 November 2022) www.aa.com.tr/en/europe/serbia-shoots-down-drone-on-border-with-kosovo/2728147.

³⁵'Giant step forward': Kosovo, Serbia reach deal on vehicle plates', *Aljazeera* (24 November 2022) www.aljazeera.com/news/2022/11/24/giant-step-forward-kosovo-serbia-reach-deal-on-vehicle-plates.

³⁶Letter dated 7 September 2022 from the Permanent Representative of Albania to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/76/943-S/2022/677 (9 September 2022); see, also, UNSC Verbatim Record, UN Doc S/PV.9139 (28 September 2022) 11 (Albania).

out by four groups, orchestrated and sponsored by the Islamic Republic of Iran'.³⁷ Albania reported that it held Iran directly responsible for the cyber-attack.³⁸ Iran categorically rejected 'any kind of unwarranted attribution' and contended that 'fictitious and false claims are based on fabrications and wrong assumptions levelled only for political agendas'.³⁹ Iran warned against 'any provocative and unwarranted measure' that may be taken by Albania in response to the alleged accusations, whilst warning that Iran would reserve its right to respond.⁴⁰

In response to the alleged Iranian cyberattacks against Albania, Israel declared that 'Iran is a shared threat to both Israel and Albania' and that Israel would assist as much as possible in the effort against Iran.⁴¹

Africa

Mali – France: Mali accuses France of aggression and preserves right to self-defence

In a letter dated 15 August 2022 to the UN, Mali complained about 'repeated and frequent violations of Malian airspace by air vehicles such as drones, military helicopters and fighter planes flown by French forces without authorization from the Malian authorities', enclosing details of air incidents that had occurred since the announced withdrawal of the French Barkhane force.⁴² The letter also included an annex containing two communiqués dated 12 January 2022 and 26 April 2022, which, according to the letter, the Government of Mali issued '[i]n the light of the increase in those acts of aggression against the sovereignty and territorial integrity of a State Member of the United Nations, ... in order to inform the nation and the international community', adding that the Security Council had also been informed.⁴³ The letter went on to state the following:

³⁷*Ibid.* (UN Doc A/76/943-S/2022/677).

³⁸*Ibid.*

³⁹Letter dated 10 September 2022 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/2022/685 (12 September 2022). See, also, Letter dated 3 October 2022 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/2022/734 (3 October 2022); Iran, Ministry of Foreign Affairs, 'The Iranian Ministry of Foreign Affairs strongly condemns Albania's anti-Iran measure' (8 September 2022) www.mfa.ir/portal/newsview/692576; Iran, Ministry of Foreign Affairs, 'Iran's foreign ministry spokesman rejects US, UK accusations of cyberattacks' (8 September 2022) www.mfa.ir/portal/newsview/692583.

⁴⁰*Ibid.* (UN Doc S/2022/685) 2.

⁴¹Israel, Ministry of Foreign Affairs, 'PM Lapid meets with Albanian Prime Minister Edi Rama' (23 October 2022) www.gov.il/en/departments/news/pm-lapid-meets-with-albanian-pm-rama-23-oct-2022.

⁴²Letter dated 15 August 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Mali to the United Nations addressed to the President of the Security Council, UN Doc S/2022/622 (19 August 2022).

⁴³*Ibid.*

The Government of Mali has several pieces of evidence indicating that France has made use of those flagrant violations of Malian airspace to collect intelligence for the benefit of terrorist groups operating in the Sahel and to drop arms and ammunition to them.

Moreover, it should be noted that the Government of Mali, because of its suspicions regarding the destabilizing tactics of France, has firmly opposed the request for French air support for [MINUSMA], so that France does not use the United Nations mission as a pretext for conducting subversive operations aimed at further weakening Mali and the Sahel region.

In terms of international law, the Government of Mali believes that those actions by France constitute aggression, which is defined, according to General Assembly resolution 3314 (XXIX) of 14 December 1974 ...

Accordingly, the Government of Mali invites the United Nations Security Council, as the guarantor of international peace and security, to take action to ensure that the French Republic immediately ceases its acts of aggression against Mali. Furthermore, France, as a permanent member of the Security Council, should comply with international law and respect the relevant provisions of the Charter of the United Nations.

Should France persist in its behaviour, which undermines the stability and security of our country, the Government of Mali reserves the right to resort to self-defence in accordance with Article 51 of the United Nations Charter.⁴⁴

Meanwhile, in a letter dated 16 August 2022 to the UN, France stated that the decision taken on 17 February 2022 ‘to redeploy outside Malian territory the resources assigned to the Barkhane operation’ due to the fact that ‘the political and operational conditions for its continued engagement in Mali were no longer in place’ has taken effect as of 15 August 2022 ‘with the departure from Mali of the last French soldier under Operation Barkhane’. The letter also confirmed that ‘France remains engaged in the Sahel, the Gulf of Guinea and the Lake Chad region, together with all partners committed to stability and the fight against terrorism.’⁴⁵

Noting ‘the effective departure of the French Barkhane force’, a statement by the Malian Transitional Government read on national TV reiterated that ‘France decided unilaterally on June 10, 2021, to withdraw the Barkhane force from Mali by adopting a timetable without consulting the Malian authorities, to whom it was bound by defence agreements.’⁴⁶

In a meeting of the Security Council on 18 October 2022, the Malian representative repeated the previously mentioned allegations of aggression

⁴⁴*Ibid.*

⁴⁵Letter dated 16 August 2022 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council, UN Doc S/2022/625 (16 August 2022).

⁴⁶‘Mali reacts to total withdrawal of French military forces’, *Africanews* (21 August 2022) www.africanews.com/2022/08/20/malis-transitional-government-reacts-to-total-withdrawal-of-french-force/.

by France, adding that a specific meeting of the Council to discuss the matter would allow Mali the ‘opportunity to present concrete evidence of France’s duplicity, espionage and destabilization against Mali’.⁴⁷ Further, the representative denounced ‘the proxy war being waged against’ Mali and warned:

In any case, the Government of Mali reserves the right to resort to self-defence, in accordance with Article 51 of the Charter of the United Nations and with letter No. 444/Ministry for Foreign Affairs and International Cooperation, dated 15 August 2022, from the Government of Mali to the Security Council. Mali therefore reserves the right to self-defence if France continues to undermine our country’s sovereignty, territorial integrity and national security.⁴⁸

Confirming that France had reported to the Security Council the completion of the redeployment of Operation Barkhane outside Malian territory, the French representative responded to the allegations made by the Malian representative:

We have always been transparent with the international community since our military intervention in Mali in 2013 – an intervention that was based on a request from the Malian authorities.

In that context, I deeply regret the serious and unfounded accusations that the Malian transition authorities have repeatedly made against France. I would like to remind the Council that France has been committed to Mali for nine years – at the request of the country – to combat armed terrorist groups, and 59 French soldiers have paid with their lives in that fight.

France has never violated Malian airspace. I formally condemn any violation of the bilateral legal framework. France complies with the requirements of the agreement concluded by the exchange of letters in 2013, despite Mali’s unilateral and unjustified rejection of it on 2 May.⁴⁹

Upon France’s response, the Malian representative took the floor again and insisted that a special meeting of the Security Council should be arranged to discuss the matter, reiterating that the ‘Malian State will bring to the Council and the world concrete and tangible proof of what we are putting forward.’⁵⁰

Mozambique: SADC extends the mandate of SAMIM

As reported in a previous Digest, on 15 July 2021, the South African Development Community (SADC) sent a mission to Mozambique consisting of troops from member states to combat terrorism and violent extremism, and to support Mozambique in restoring law and order in the affected

⁴⁷UN Verbatim Record, UN Doc S/PV.9154 (18 October 2022) 20 (Mali).

⁴⁸*Ibid.*

⁴⁹*Ibid.*, 22 (France).

⁵⁰*Ibid.*, 23 (Mali).

areas.⁵¹ On 14 July 2022, in an extra-ordinary summit, the Heads of State and Government of SADC ‘approved an interim extension of’ the mandate of this SADC Mission in Mozambique (SAMIM) ‘beyond 15 July 2022’, pending the decision to be taken in the next ordinary summit to be held from 17–18 August 2022.⁵² Upon the updates it received, the 42nd Ordinary Summit of the Heads of State and Government ‘approved the extension of the SADC Mission in Mozambique (SAMIM) and its related processes’.⁵³

In a separate development, the EU ‘approved the provision of EUR 15 million in support of SAMIM on 8 September 2022.’⁵⁴ The EU later also ‘adopted an assistance measure worth €20 million to support the continued deployment of Rwanda Defence Force’, which ‘started in July 2021 at the request of Mozambican authorities, in response to the ongoing fight against terrorism’.⁵⁵ This was a separate deployment than that of SAMIM in the country, as reported in a previous Digest.⁵⁶

Democratic republic of the Congo – Rwanda: accusations of intervention, aggression and occupation

Accusations reported in the previous Digest of cross-border violations by the Democratic Republic of the Congo (DRC) and Rwanda against each other have continued during the reporting period of this Digest. In a letter dated 10 August 2022 to the UN, the Government of the Congo stated that it has been informed by media sources⁵⁷ that the UN Group of Experts has stated in a report that it has ‘solid evidence’ that Rwandan troops conducted military operations in the eastern Congo ‘by participating directly in attacks against Congolese military personnel and by equipping and providing reinforcements to the terrorist group M23’.⁵⁸ Further, the letter stated,

⁵¹Patrick M Butchard and Jasmin J Nessa (eds), ‘Digest of State Practice: 1 July – 31 December 2021’ (2022) 9(1) *Journal on the Use of Force and International Law* 171, 181–2.

⁵²South African Development Community, ‘Communiqué of the Extra-Ordinary SADC Troika Summit Plus the Chairperson of the Organ’ (14 July 2022) www.sadc.int/latest-news/communique-extra-ordinary-sadc-troika-summit-plus-chairperson-organ, para 6.

⁵³South African Development Community, Communiqué of the 42nd Ordinary Summit of SADC Heads of State and Government (17 August 2022) para 10.

⁵⁴Council of the European Union, ‘Press Release: European Peace Facility: EU agrees support to the Southern African Development Community mission in Mozambique’ (8 September 2022) www.consilium.europa.eu/en/press/press-releases/2022/09/08/european-peace-facility-eu-agrees-support-to-the-southern-african-development-community-mission-in-mozambique/.

⁵⁵Council of the European Union, ‘Press Release: European Peace Facility: Council adopts assistance measures in support of the armed forces of five countries’ (1 December 2022) www.consilium.europa.eu/en/press/press-releases/2022/12/01/european-peace-facility-council-adopts-assistance-measures-in-support-of-the-armed-forces-of-five-countries/.

⁵⁶Butchard and Nessa (eds) (n 51) 182.

⁵⁷See ‘U.N. experts: Rwanda has intervened militarily in eastern Congo’, *Reuters* (4 August 2022) www.reuters.com/world/africa/un-experts-say-rwanda-has-intervened-militarily-eastern-congo-2022-08-04/.

⁵⁸Letter dated 10 August 2022 from the Chargé d’affaires a.i. of the Permanent Mission of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council, UN Doc S/2022/610 (15 August 2022).

The Group of Experts has also confirmed that the Rwandan army launched military operations on the territory of the Democratic Republic of the Congo against Congolese armed groups and positions of the Armed Forces of the Democratic Republic of the Congo between November 2021 and June 2022.

(...)

The Government of the Democratic Republic of the Congo would like to point out that such use of armed force by a State against the sovereignty, territorial integrity or political independence of another State is inconsistent with the Charter of the United Nations and constitutes an act of aggression under paragraph 1 of General Assembly resolution 3314 (XXIX) of 14 December 1974.⁵⁹

The letter then requested ‘the Security Council, in fulfilment of its responsibilities relating to the maintenance of international peace and security’ to make public the entire report, urgently convene an open meeting to consider the report and take all appropriate measures resulting therefrom, including requiring Rwanda to repair the harm it has caused, imposing sanctions against Rwanda and the officers and members of the Rwanda Defence Force (RDF), demanding that Rwanda stop providing any kind of support to Congolese rebel movements and urging Rwanda to withdraw all its military personnel from the territory of the Congo.⁶⁰

In a letter dated 1 September 2022, the Government of the Congo transmitted a statement delivered by the Deputy Prime Minister and Minister for Foreign Affairs of the Congo at the meeting of the Peace and Security Council of the African Union (AU), reiterating the above-mentioned accusations against Rwanda and accusing Rwanda of continuing its behaviour despite the demands by the AU Commission and the UN Security Council of Rwanda’s ‘unconditional withdrawal from occupied Congolese localities’.⁶¹

In a meeting of the Security Council on 30 September 2022, the representative of the DRC repeated the above-mentioned accusations against Rwanda and the above-mentioned requests from the Security Council, including that the Security Council join the DRC in demanding ‘that the forces of aggression and occupation immediately leave’ the country.⁶² The representative also demanded the foreign armed groups to return home and the countries of origin of the these groups to set up the processes and conditions necessary to absorb the fighters.⁶³ He also called upon the Council to ‘lift the prior notification clause required by the 1533 Sanctions Committee’ on the

⁵⁹*Ibid.*

⁶⁰*Ibid.*

⁶¹Letter dated 1 September 2022 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council, UN Doc S/2022/664 (12 September 2022).

⁶²UNSC Verbatim Record, UN Doc S/PV.9142 (30 September 2022) 19–20 (DRC).

⁶³*Ibid.*, 20–1.

DRC, as it ‘is totally unfair and does not enable us to defend our country properly’.⁶⁴

In response to the allegations made by the representative of the DRC, the Rwandan representative made counter allegations:

The Forces démocratiques de libération du Rwanda (FDLR) and its splinter groups continue to pose a serious threat to Rwanda. Troubling concerns therefore arise when the FDLR and splinter groups receive support and operate comfortably alongside the Forces armées de la République démocratique du Congo (FARDC). Such treatment enables those destructive forces to reorganize, recruit and conduct cross-border incursions on Rwandan territory. The FARDC must stop forging alliances with hostile and sanctioned armed groups such as the FDLR.⁶⁵

Accusations by Rwanda and the DRC against each other continued during a Security Council meeting on 26 October 2022.⁶⁶ In response to Rwanda’s accusations, the DRC representative denied that the FDLR is the main cause of the conflict in the eastern DRC. He reminded that ‘Rwanda was in control of our entire country’s national security from May 1997 until July 1998’, that Rwanda occupied eastern Congo between 1998 and 2003 and that when Joseph Kabila was President, Rwanda intervened in the Congo to pursue the FDLR, and asked why Rwanda did nothing to eliminate the FDLR when it had power to do so.⁶⁷ He claimed the reason is that ‘[t]hey are not really entering the Congo to pursue the FDLR, because their main interest is in plundering our resources.’⁶⁸

The US representative, on the other hand, called on armed groups to cease their assaults on the DRC’s most vulnerable populations and called ‘on State actors to stop supporting those groups, and that includes the Rwandan Defence Force’s assistance to the M-23’.⁶⁹

As noted in a Report of the Secretary-General, tensions between Rwanda and the DRC increased following M23 attacks against the Armed Forces of the DRC on 20 October and the seizure by the group of Kiwanja and Rutshuru on 29 October.⁷⁰ The DRC accused Rwanda of providing support to the group, expelled the Rwandan Ambassador and restricted the entry of Rwandans into the country, while reiterating its commitment to the

⁶⁴*Ibid.*, 21.

⁶⁵*Ibid.*, 22 (Rwanda); Also, see, UNSC, Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General, UN Doc S/2022/735 (4 October 2022) para 19, reporting that, during an interview broadcast on 4 July, the Rwandan President repeated the accusations against the DRC and ‘added that since 2019, FDLR had repeatedly attacked Rwandan territory, killing dozens of people and damaging property’.

⁶⁶UNSC Verbatim Record, UN Doc S/PV.9165 (26 October 2022).

⁶⁷*Ibid.*, 19 (DRC).

⁶⁸*Ibid.*, 20 (DRC).

⁶⁹*Ibid.*, 8–9 (United States).

⁷⁰UNSC, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, UN Doc S/2022/892 (30 November 2022) para 5.

Nairobi and Luanda processes. On 30 October, Rwanda placed its security forces at the Congolese border on high alert, while on 8 November, the Congolese National Assembly declared M23 a terrorist group.⁷¹

The report also noted that on 7 November, Rwanda ‘denounced a violation of its airspace by a Congolese fighter jet, which the Congolese authorities acknowledged as unintentional’.⁷² Also, on 19 November, ‘an individual wearing military attire reportedly crossed the Congolese border at Goma and was shot and killed by the Rwandan Defence Force, which called on the Expanded Joint Verification Mechanism to investigate the incident’.⁷³ In a statement on 28 December, Rwandan government accused the DRC of violating its airspace again and stated that ‘[t]hese repeated violations are against the spirit of Luanda and Nairobi peace initiatives’.⁷⁴

A Security Council Press Release dated 20 November 2022 stated that the members of the Council called ‘the region not to tolerate nor provide assistance or support of any kind to armed groups. They called for all external support to non-State armed actors, including the M23, to stop’.⁷⁵

In late November, in a statement after a summit in Luanda, the leaders of the Congo, Rwanda, Burundi and Angola, and former Kenyan president Uhuru Kenyatta declared a ceasefire in eastern Congo, aimed in particular at stopping attacks by M23.⁷⁶ The statement also cautioned that ‘[i]f M23 does not withdraw the East African Community (EAC) heads of states shall authorize use of force to compel the group to comply’.⁷⁷ The statement also included an agreement to stop all political and military support to M23 and other local and foreign armed groups in the region.⁷⁸ In response to this summit, the M23 spokesperson said that, even though they were not part of it, they were ‘ready to start disengagement and withdraw’ from occupied territory, confirming also its commitment to a previously agreed ceasefire.⁷⁹

⁷¹*Ibid.*

⁷²*Ibid.*, para 7.

⁷³*Ibid.*, para 7; For more on these developments, see Louise Heavens and others, ‘Congo expels Rwanda ambassador as M23 rebels capture strategic town’, *Reuters* (31 October 2022) www.reuters.com/world/africa/congos-m23-rebels-capture-key-north-kivu-town-2022-10-29/; Mike Harrison and Peter Graff, ‘Rwandan troops kill Congolese soldier who crossed border’, *Reuters* (19 November 2022) www.reuters.com/world/africa/suspected-congolese-soldier-killed-after-crossing-border-rwanda-ministry-2022-11-19/.

⁷⁴Patrick Ilunga, ‘Rwanda accuses DR Congo of violating its airspace, again’, *The EastAfrican* (29 December 2022) www.theeastafrican.co.ke/tea/news/east-africa/rwanda-says-drc-violated-airspace-again-4069736.

⁷⁵UNSC Press Release, ‘Security Council Press Statement on Situation in Democratic Republic of Congo’, UN Doc SC/15115 (22 November 2022) <https://press.un.org/en/2022/sc15115.doc.htm>.

⁷⁶Jonathan Oatis and Sandra Maler, ‘African leaders agree to a ceasefire in east Congo from Friday’, *Reuters* (24 November 2022) www.reuters.com/world/africa/african-leaders-agree-ceasefire-east-congo-friday-2022-11-23/.

⁷⁷*Ibid.*

⁷⁸*Ibid.*

⁷⁹Paul Lorgetie and Sonia Rolley, ‘M23 rebels ready to withdraw from occupied areas in eastern Congo’, *Reuters* (7 December 2022) www.reuters.com/world/africa/m23-rebels-ready-withdraw-occupied-areas-eastern-congo-2022-12-06/.

In a meeting of the Security Council on 9 December, the French representative expressed concern over 'reports of Rwandan support for the M-23' and recalled 'the Security Council's demand that all external support to the M-23 and other armed groups ... cease immediately'.⁸⁰ The United States representative called 'for the cessation of all State support for armed groups, including but not limited to Rwanda's assistance to M-23' and urged 'Council members to consider how this kind of support runs afoul of existing sanctions regimes'.⁸¹ Representatives of the DRC and Rwanda, on the other hand, continued to repeat similar accusations against each other.⁸²

Meanwhile, in the midterm report on their work, transmitted to the Security Council in a letter dated 16 December 2022, the UN Group of Experts on the DRC 'found substantial evidence' of violations, including:

(a) direct intervention of the Rwandan Defence Force on the territory of the Democratic Republic of the Congo, either to reinforce M23/ARC or to conduct military operations against the Forces démocratiques de libération du Rwanda (FDLR); (b) provision of weapons, ammunition and uniforms to M23/ARC; (c) support to several Congolese armed groups by FARDC members in Rutshuru territory; and (d) cooperation between FARDC units and Congolese armed groups in Rutshuru territory.⁸³

Democratic Republic of the Congo: EAC deployment starts, DRC questions MONUSCO's mandate

As reported in the previous Digest, in June 2022, the East African Community (EAC) leaders, in cooperation with the DRC, decided to send a regional force to the DRC, seeking to 'stabilise and guarantee peace' in the country.⁸⁴ In a Security Council Press Release dated 12 July 2022, the members of the Council welcomed the Communiqué of the EAC dated 20 June 2022 where the decision to deploy the regional force was taken and

took note of steps taken to operationalize a Regional Force and stressed the importance of the protection of civilians and of coordination and information sharing with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). They stressed the need to carry out all operations, joint or unilateral, in strict compliance with international law, including international humanitarian law and international human rights law, as applicable.⁸⁵

⁸⁰UNSC Verbatim Record, UN Doc S/PV.9215 (9 December 2022) 9 (France).

⁸¹*Ibid.*, 11 (United States); The United States made the call for the cessation of support for armed groups again in the meeting of 20 December, see, UNSC Verbatim Record, UN Doc S/PV.9226 (20 December 2022) 2.

⁸²*Ibid.*, 23–4 (DRC) and 27–8 (Rwanda).

⁸³Letter dated 16 December 2022 from the Group of Experts on the Democratic Republic of the Congo addressed to the President of the Security Council, UN Doc S/2022/967 (16 December 2022) 2.

⁸⁴Butchard and Nessa (eds) (n 1) 455.

⁸⁵UNSC Press Release, 'Security Council Press Statement on Situation in Democratic Republic of Congo', UN Doc SC/14967 (12 July 2022) <https://press.un.org/en/2022/sc14967.doc.htm>.

Subsequent Security Council Press Releases dated 28 October and 22 November concerning the DRC reiterated these points, in addition to acknowledging ‘the deployment of forces of Burundi and Uganda’.⁸⁶

In a letter dated 1 September 2022 to the UN, the Government of the Congo transmitted a statement delivered at a meeting of the AU, demanding ‘[t]he rapid deployment of the East African regional force’ and stating that ‘[t]he withdrawal of M23 and the cessation of the aggressive activities of Rwanda require the international community, in particular the African Union and the aforementioned regional communities, to take coercive measures.’⁸⁷

As noted in a Report of the Secretary-General covering developments from 17 June to 16 September 2022, the Vice-Prime Minister and Minister for Foreign Affairs of the DRC described the EAC regional force as ‘an offensive mission’ aimed at dislodging all armed groups, starting with M23, ‘should the political track of the Nairobi process fail’. The report also noted the signing on 8 September of the status-of-forces agreement for the regional force, to be deployed for an initial period of six months.⁸⁸

Another Report of the Secretary-General, covering developments from 16 March to 15 September 2022, noted a claim by the Résistance pour un État de droit au Burundi (RED Tabara) that ‘it had clashed with alleged combatants of the Burundi National Defence Force (FDNB)’ in the DRC territory in April, on which Burundian authorities did not publicly comment.⁸⁹ The report also noted that the Armed Forces of the DRC (FARDC) announced on 15 August that, under a bilateral agreement between Burundi and the DRC, an FDNB contingent had been deployed in eastern Congo ‘to quell violence perpetrated by armed groups’. On 24 August, the President of Burundi informed the President of the Senate that an FDNB infantry battalion had been deployed to South Kivu for a renewable period of three months, in collaboration with the Government of the DRC as part of the regional force of the EAC.⁹⁰ As its Minister of Information, Telecommunications and Postal Services announced on 26 August, South Sudan also approved a budget for the deployment of a battalion of 750 troops to the DRC as part of the regional

⁸⁶UNSC Press Release, ‘Security Council Press Statement on Situation in Great Lakes Region’, UN Doc SC/15087 (28 October 2022) <https://press.un.org/en/2022/sc15087.doc.htm>; UNSC Press Release, ‘Security Council Press Statement on Situation in Democratic Republic of Congo’, UN Doc SC/15115 (22 November 2022) <https://press.un.org/en/2022/sc15115.doc.htm>.

⁸⁷Letter dated 1 September 2022 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council, UN Doc S/2022/664 (12 September 2022).

⁸⁸UNSC, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, UN Doc S/2022/709 (22 September 2022) para 7.

⁸⁹UNSC, Implementation of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region: Report of the Secretary-General, UN Doc S/2022/735 (4 October 2022) para 12.

⁹⁰*Ibid*, para 13.

force.⁹¹ However, in early December 2022, the troops were yet to be sent, as the South Sudanese military spokesman stated that '[t]he forces are still under training, and they are still at the preparatory level'.⁹²

In a meeting of the Security Council on 30 September 2022, the DRC representative, with regard to the EAC regional force, assured 'the Security Council that it will cooperate with MONUSCO. The MONUSCO force is there to support the FARDC [the Armed Forces of the DRC], and the regional force will not operate in the Democratic Republic of the Congo without the FARDC'.⁹³ With regard to the MONUSCO's mandate, the representative stated that.

under Chapter VII of the Charter of the United Nations, the most important element in a situation of war is the protection of civilians. It is therefore crucial for MONUSCO to work on that area. A robust offensive position is also essential. If MONUSCO is unable make its presence felt and be a deterrent on the ground, it will struggle to discharge its mission and main mandate to protect civilians.⁹⁴

Burundian representative, on the other hand, informed the Council that

Given the complex security environment in the eastern Democratic Republic of the Congo, Burundi joined the efforts of the East African Community (EAC) to stabilize the eastern Democratic Republic of the Congo in the context of the Nairobi process. In that spirit, Burundi deployed a contingent of the Burundi National Defence Force to the Democratic Republic of the Congo to assist in restoring peace and security in South Kivu province.⁹⁵

On 18 November, Kenya also started to deploy a battalion to Goma, as noted in a Report of the Secretary-General. The report further noted that 'the Ugandan People's Defence Force (UPDF) continued to operate in North Kivu and Ituri Provinces under bilateral agreements renewed on 20 September', while '[o]n 18 November, UPDF announced the deployment of one battalion under the EAC regional force'.⁹⁶

With regard to the deployment of the Kenyan troops, President of Kenya, William Ruto, stated that '[w]e all have a stake in a stable Democratic Republic of Congo and its security' and that the UN and the AU had given 'tacit' approval for the deployment. However, a UN spokesperson told Reuters that the Secretary-General 'was not a mandating authority, and that

⁹¹*Ibid*, para 18.

⁹²'South Sudan to send 750 troops to join regional force in DRC', *Aljazeera* (5 December 2022) www.aljazeera.com/news/2022/12/5/south-sudan-to-send-750-troops-for-regional-force-in-congo.

⁹³UNSC Verbatim Record, UN Doc S/PV.9142 (30 September 2022) 20–1 (DRC).

⁹⁴*Ibid*, 21.

⁹⁵*Ibid*, 23 (Burundi).

⁹⁶UNSC, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo: Report of the Secretary-General, UN Doc S/2022/892 (30 November 2022) para 13; Also see 'Uganda to send 1,000 troops to Congo as part of regional force', *Reuters* (21 November 2022) www.reuters.com/world/africa/uganda-send-1000-troops-congo-part-regional-force-2022-11-21/.

decisions on whether or not to finance such missions were out of his purview'. Also, a UN source told Reuters that 'there has been some uncertainty around Kenya's deployment because Nairobi wanted international funding, which requires an official mandate from the U.N. Security Council or the African Union.' Meanwhile, in early November, several thousand people in eastern Congo demonstrated against the regional force, claiming that some of their 'enemies' were member countries of the EAC.⁹⁷

As mentioned in the previous section, in late November 2022, leaders of the regional countries, including the DRC and Rwanda, declared a ceasefire in eastern Congo and stated that '[i]f M23 does not withdraw the East African Community (EAC) heads of states shall authorize use of force to compel the group to comply'.⁹⁸ In response, in a statement on 6 December, M23 agreed 'to start disengagement and withdraw' from occupied territory.⁹⁹

On 9 December 2022, in another meeting of the Security Council, urging that 'MONUSCO's inability to neutralize the M-23' must be addressed, the DRC representative stated that the DRC expects the current

meeting to clarify the Security Council's mandate for MONUSCO in the current context. ... Is MONUSCO a peacekeeping force, or is it a peacemaking force, or is it both? This clarification will allow expectations of MONUSCO to be reconfigured, permitting its scope of action to be better circumscribed and avoiding misunderstandings and intentions in relation to a shift in MONUSCO's mandate towards a sort of special political mission, which could be perceived as a desire to set the Mission up as a pole of governance parallel to the Government of the Republic. That would be counterproductive.

It is clear that the Democratic Republic of the Congo's preference is to see MONUSCO, alongside the FARDC and the East African Community regional force, imposing peace, because peacekeeping presupposes that peace has been restored, which is not yet the case in the eastern part of the country.¹⁰⁰

The representative also reminded that the Heads of State signatories of the final communiqué of the Luanda summit 'called on MONUSCO to support the regional force and the FARDC to ensure the implementation of the planned timetable'.¹⁰¹

Other representatives in general expressed support for the deployment of EAC regional force and urged for close cooperation and coordination between the force and MONUSCO. French representative stated that both 'forces must pursue a common objective: protecting civilians in compliance

⁹⁷ Edwin Waita, 'Kenya deploys troops to Congo to help end decades of bloodshed', *Reuters* (3 November 2022) www.reuters.com/world/africa/kenya-deploys-troops-congo-help-end-decades-bloodshed-2022-11-02/.

⁹⁸ Oatis and Maler (n 76).

⁹⁹ Lorgerie and Rolley (n 79).

¹⁰⁰ UN Verbatim Record, UN Doc S/PV.9215 (9 December 2022) 24 (DRC).

¹⁰¹ *Ibid.*

with international humanitarian law'.¹⁰² The US representative called on the DRC 'and MONUSCO to work together to proactively protect Goma from attack, invasion or from being surrounded by the M-23'.¹⁰³

On 20 December 2022, acting under Chapter VII of the UN Charter, the UN Security Council adopted two resolutions, extending the mandate of MONUSCO, alongside its Intervention Brigade, for one year¹⁰⁴ and lifting the requirement under Resolution 1807 (2008) for all states to give advance notice of any shipment of arms and related material, or any provision of assistance, advice or training related to military activities in the country.¹⁰⁵ In the meeting concerning the adoption of these resolutions, the United States representative applauded 'the mandate's clear reiteration of MONUSCO's obligation to protect Goma and other population centres from armed groups, either unilaterally or in support of Congolese forces'.¹⁰⁶

In a separate development, on 13 December 2022, the Ugandan army stated that a group of ADF fighters that crossed into Ugandan territory from the DRC were killed in clashes with Ugandan forces during a cross-border raid.¹⁰⁷

Central African Republic: disputes concerning MINUSCA and Russian presence, withdrawal of French troops

In a resolution of 29 July 2022, adopted under Chapter VII of the UN Charter, the Security Council extended its arms embargo against the CAR until 31 July 2023, while exempting from the embargo the 'Supplies intended solely for the support of or use by MINUSCA and the European Union training missions deployed in the CAR', and French and other member states' forces under the conditions specified in the Resolution.¹⁰⁸

In a meeting of the Security Council on 19 October, in response to statements made by other representatives regarding the cooperation between Russia and the CAR, the representative of Russia stated that,

Military instructors were sent to work in that country at the request of the Government of the Central African Republic, in accordance with international law and with the knowledge of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic. That cooperation is providing significant results in training the country's armed forces and stabilizing the situation in the country.

¹⁰²*Ibid*, 10 (France).

¹⁰³*Ibid*, 11 (United States).

¹⁰⁴UNSC Res 2666, UN Doc S/RES/2666 (20 December 2022).

¹⁰⁵UNSC Res 2667, UN Doc S/RES/2667 (20 December 2022).

¹⁰⁶UNSC Verbatim Record, UN Doc S/PV.9226 (20 December 2022) 2 (United States).

¹⁰⁷'Uganda army says 11 Islamist militants killed in cross-border raid', *Reuters* (13 December 2022) www.reuters.com/world/africa/uganda-army-says-11-islamist-militants-killed-cross-border-raid-2022-12-13/.

¹⁰⁸UNSC Res 2648, UN Doc S/RES/2648 (29 July 2022) para 1.

As for States' choice of partners in a given area, that is the sovereign prerogative of national authorities, as is the investigation of violations of human rights and international humanitarian law.¹⁰⁹

Rwandan representative stated that, as a contributor to MINUSCA and a bilateral partner of the CAR,

Rwanda attests that bilateral military intervention can complement the work of the United Nations to restore peace and create a suitable environment for the peace process. Troops deployed under the bilateral arrangement between Rwanda and the Central African Republic are mandated to work in partnership with Government forces within pre-identified areas of operation and in coordination with MINUSCA forces.¹¹⁰

In a resolution on 14 November, acting under Chapter VII of the UN Charter, the Security Council extended the mandate of MINUSCA until 15 November 2023, identifying the Mission's mandate as 'priority tasks', such as the protection of civilians, and 'additional tasks' that includes support for the extension of state authority.¹¹¹ In the meeting after the adoption of the resolution, Kenya's representative stated that the not-agreed proposals of the three African members of the Security Council, Gabon, Ghana and Kenya, would have better improved MINUSCA's mandate. The representative in particular pointed out that 'the task concerning the extension of State authority, the deployment of security forces and the preservation of territorial integrity' should have been considered 'priority tasks' instead of 'other tasks'.¹¹² Representatives of Gabon and China expressed similar regrets.¹¹³

The representative of the CAR found the adopted text unsatisfactory for not taking into account the needs of the country or the aspects to ensure that the peacekeeping operation is more effective.¹¹⁴ In particular, the representative stated that 'the Special Representative of the Secretary-General must have the freedom to use the strength of her mandate and employ armed force to deal with an ever-increasing insurgency, which shows the limits of a peace operation that has no mission or mandate to address the cause of the problem, namely, armed groups'.¹¹⁵

In the same meeting, the representative of the UK expressed disappointment 'by the loss of agreed responsibility-to-protect language' and maintained that the Government of the CAR 'remains primarily responsible for

¹⁰⁹UN Verbatim Record, UN Doc S/PV.9156 (19 October 2022) 15–6 (Russia).

¹¹⁰*Ibid.*, 22 (Russia).

¹¹¹UNSC Res 2659, UN Doc S/RES/2659 (14 November 2022).

¹¹²UNSC Verbatim Record, UN Doc S/PV.9190 (14 November 2022) 4 (Kenya).

¹¹³*Ibid.*, 3, 5 and 6.

¹¹⁴*Ibid.*, 8–11 (Central African Republic).

¹¹⁵*Ibid.*, 9 (Central African Republic).

the protection of all civilians from genocide, war crimes, ethnic cleansing and crimes against humanity’.¹¹⁶

Meanwhile, on 15 December, remaining 47 French soldiers that had been deployed to the CAR as part of Operation Sangaris in 2013 left the country, with the commander of French forces in Gabon saying to the press that ‘[i]n 2021, when the presence of the private military company Wagner was increasingly intrusive in the country, France considered that the conditions were no longer met for us to continue working for the Central African armed forces’.¹¹⁷

Central African Republic: CAR claims a border nation bombed its troops and Russian allies

The Government of the Central African Republic (CAR) was reported to say in a statement on 28 November 2022 that an aircraft that flew in from a neighbouring country ‘dropped explosives’ on the town of Bossangoa ‘targeting the base of our defense forces, that of our allies as well as the cotton factory’, causing ‘significant material damage’.¹¹⁸ According to the statement, ‘after committing these crimes’, the aircraft ‘headed north before crossing our borders’ and that an investigation had been opened to ‘establish responsibility’ for ‘this despicable act perpetrated by enemies of peace’ that ‘cannot go unpunished’ and ‘all measures have already been taken to deal with any eventuality’.¹¹⁹ A pro-government militia declared that France was behind the bombing, attacking from the CAR’s neighbour, Chad.¹²⁰ The CAR Government usually describes these ‘allies’ that came under attack as the military advisors from Russia, but others claim they belong to the Russian private military company, the Wagner Group.¹²¹

ECOWAS plans to establish a regional force to intervene in member states and extends The Gambia mission

In a communique after the annual summit on 4 December 2022, the leaders of the Economic Commission for West African States (ECOWAS) were

¹¹⁶*Ibid.*, 5 (United Kingdom).

¹¹⁷‘Last French soldiers leave Central African Republic’, *Africanews* (15 December 2022) www.africanews.com/2022/12/15/last-french-soldiers-leave-central-african-republic/.

¹¹⁸‘Central Africa says border nation bombed its troops and Russian allies’, *Africanews* (29 November 2022) www.africanews.com/2022/11/29/central-africa-says-border-nation-bombed-its-troops-and-russian-allies/. Also see ‘C.Africa Says Border Nation Bombed Its Troops and Russian Allies’ *TheDefensePost* (29 November 2022) www.thedefensepost.com/2022/11/29/central-africa-bombed-troops-allies/; Jean Fernand Koena, ‘Unknown aircraft targets Wagner base in C. African Republic’, *AP News* (29 November 2022) <https://apnews.com/article/europe-africa-central-african-republic-bangui-161ab4f3ed86484c200f1353b11481c7>.

¹¹⁹*Ibid.*

¹²⁰Ruth Maclean, Elian Peltier and Anatoly Kurmanav, ‘Russian Official in Africa Wounded by Package Bomb, Moscow Says’, *The New York Times* (16 December 2022).

¹²¹‘C.Africa Says Border Nation Bombed Its Troops and Russian Allies’, *TheDefensePost* (n 118).

reported to state that the leaders ‘have decided to recalibrate our security architecture to ensure that we take care of our own security in the region’, and that the leaders ‘are determined to establish a regional force that will intervene in the event of need, whether this is in the area of security, terrorism (or to) ... restore constitutional order in member countries’.¹²²

Expressing concern over the security situation in the region due to the terrorist attacks, the Final Communiqué published after the summit stated that the Authority of Heads of State and Government of ECOWAS decided to ‘instruct the Committee of Chiefs of Defence Staff to urgently study and propose options, modalities and financial and technical means for the urgent operationalisation of the ECOWAS Standby Force, including a special kinetic operation to combat terrorism’.¹²³ Reaffirming ‘the urgent need for collective action to entrench democracy and promote stability in the region’, the Authority also decided ‘to set up a regional force whose mandate will include the restoration of constitutional order where they are threatened in the subregion’.¹²⁴ The establishment of such a force was later confirmed in a meeting of 17 December 2022 by the ECOWAS Heads of Operations, ‘expected to come up with options and modalities for the effective deployment of ECOWAS Standby Force (ESF) in the fight against terrorism and for the restoration of constitutional order where they are threatened in the Region’.¹²⁵

The Authority of ECOWAS Heads of State and Government also decided to extend the mandate of the ECOWAS Mission in the Gambia (ECOMIG) for a further year from 1 January 2023 and instructed the ECOWAS Commission ‘to consider, within that period, a gradual downsizing of the Mission and commence the training and reorientation of The Gambia Defence and Security Forces to enable them to play their constitutionally assigned roles in a democratic dispensation’.¹²⁶ As reported in a previous Digest, the ECOMIG was the mission that forced Yahya Jammeh to relinquish power in January 2017, at the request of the democratically elected President Adama Barrow.¹²⁷ A substantially reduced ECOMIG force later stayed

¹²²Felix Onuah, ‘West African leaders plan peacekeeping force to counter ‘coup belt’ reputation’, *Reuters* (5 December 2022) www.reuters.com/world/africa/west-african-leaders-plan-peacekeeping-force-counter-coup-belt-reputation-2022-12-04/.

¹²³ECOWAS, Sixty-Second Ordinary Session of the Authority of Heads of State and Government, Final Communiqué (4 December 2022) <https://ecowas.int/final-communique-sixty-second-ordinary-session-of-the-authority-of-heads-of-state-and-government/> paras 17 and 20.

¹²⁴*Ibid.*, paras 22 and 25.

¹²⁵ECOWAS, ‘ECOWAS Heads of Operations meet ahead of the Extraordinary Session of the Committee of Chiefs of Defence Staff in Bissau’ (18 December 2022) <https://ecowas.int/ecowas-heads-of-operations-meet-ahead-of-the-extraordinary-session-of-the-committee-of-chiefs-of-defence-staff-in-bissau/>.

¹²⁶ECOWAS, Sixty-Second Ordinary Session (n 123) para 46.

¹²⁷See Tom Ruys, Luca Ferro and Carl Vander Maelen (eds), ‘Digest of State Practice: 1 January – 30 June 2017’ (2017) 4 *Journal on the Use of Force and International Law* 371, 383–4.

in the country at the request of Barrow to protect the new President and secure stability in the country.¹²⁸

Ethiopia: reports that Eritrean and Somali soldiers leave Ethiopia after ceasefire

After two-years of conflict, on 2 November 2022, in the aftermath of AU-led negotiations, Ethiopia's Government and forces from the Tigray region signed an agreement for a 'permanent cessation of hostilities'.¹²⁹ After the signing of the agreement, which, among others, required the removal of foreign troops from Tigray, it was reported on 30 December that Eritrean soldiers were leaving Tigray. An Ethiopian official, speaking on condition of anonymity, confirmed that Eritrean troops were withdrawing from Axum and Shire, though there have been conflicting reports whether they were leaving Tigray entirely or just pulling back from certain towns.¹³⁰

In a parallel development, it was reported on 21 December that Somalia had begun repatriating the troops it said it sent for training in Eritrea, after protests in public that they had been recruited under false pretences. Some reports indicated that they were sent to Ethiopia's Tigray region to fight in the conflict there, while Somali authorities denied that they fought in Ethiopia.¹³¹

Somalia: United States strikes al-Shabaab at the request of Somali Government and in self-defence

During this Digest's period, US Africa Command released several press statements announcing airstrikes against al-Shabaab in Somalia. According to these statements, the strikes were conducted either 'in support of', 'in coordination with' or 'at the request of' the Somali government.¹³² Some of the

¹²⁸*Ibid.*

¹²⁹Alexandra Zavis and Mark Heinic, 'Factbox: Key points in Ethiopia's ceasefire agreement', *Reuters* (4 November 2022) www.reuters.com/world/africa/key-points-ethiopias-ceasefire-agreement-2022-11-04/.

¹³⁰Dawit Endeshaw, 'Eritrean soldiers leaving major towns in northern Ethiopia – witnesses', *Reuters* (30 December 2022) www.reuters.com/world/africa/eritrean-soldiers-pull-out-major-tigray-towns-eyewitnesses-say-2022-12-30/.

¹³¹'Somalia repatriates troops from Eritrea after protests over recruitment', *Reuters* (22 December 2022) www.reuters.com/world/africa/somalia-repatriates-troops-eritrea-after-protests-over-recruitment-2022-12-21/; 'Somalia says 5,000 missing soldiers to come home soon from Eritrea', *Reuters* (19 July 2022) www.reuters.com/world/africa/somalia-says-5000-missing-soldiers-come-home-soon-eritrea-2022-07-19/.

¹³²US Africa Command, 'Somali, U.S. forces engage insurgents in support of the Federal Government of Somalia' (18 July 2022) www.africom.mil/pressrelease/34612/somali-us-forces-engage-insurgents-in-support-of-the-federal-government-of-somalia; US Africa Command, 'Somali, U.S. forces engage insurgents in support of the Federal Government of Somalia' (10 August 2022) www.africom.mil/pressrelease/34660/somali-us-forces-engage-insurgents-in-support-of-the-federal-government-of-somalia; US Africa Command, 'Somali, U.S. forces engage insurgents in support of the Federal Government of Somalia' (17 August 2022) www.africom.mil/pressrelease/34670/somali-us-forces-engage.

statements also added that the strikes were conducted in ‘collective self-defense’. For example, the statement, dated 18 December 2022, states that ‘[a]t the request of the Federal Government of Somalia, U.S. Africa Command conducted two collective self-defense strikes, one each on Dec. 14 and 17, 2022, in support of Somali National Army engagements against al-Shabaab near Cadale, Somalia.’¹³³ Part of another statement reads that.

U.S. forces are authorized to conduct strikes in defense of designated partner forces. The defensive strikes allowed the Somali National Army and African Union Transition Mission in Somalia forces to regain the initiative and continue the operation to disrupt al-Shabaab in the Hiraan region of central Somalia.¹³⁴

In another development in Somalia, as reported in the previous Digest, the AU Peace and Security Council (AUPSC) had decided to replace the African Union Mission in Somalia (AMISOM) with the African Union Transition Mission in Somalia (ATMIS), and the new Mission was later authorised by the UN Security Council in a resolution adopted under Chapter VII of the UN Charter.¹³⁵ In a Press Release on 1 November 2022, the members of the Security Council condemned a terrorist attack by Al-Shabaab on 29 October and ‘welcomed the efforts of the Federal Government of Somalia with support from the African Union Transition Mission in Somalia (ATMIS) to counter the threat posed by Al-Shabaab, and urged Somalia leaders to work together on the fight against terrorism’.¹³⁶

Later, in a resolution adopted on 21 December, the Security Council, acting under Chapter VII of the UN Charter and noting the AU request¹³⁷

insurgents-in-support-of-the-federal-government-of-somalia; US Africa Command, ‘Federal Government of Somalia engages terrorists with support from U.S. forces’ (21 September 2022) www.africom.mil/pressrelease/34736/federal-government-of-somalia-engages-terrorists-with-support-from-us-forces; US Africa Command, ‘U.S. forces conduct strike in Somalia targeting al-Shabaab leader’ (3 October 2022) www.africom.mil/pressrelease/34758/us-forces-conduct-strike-in-somalia-targeting-al-shabaab-leader; US Africa Command, Federal Government of Somalia engages terrorists with support from U.S. forces (25 October 2022) www.africom.mil/pressrelease/34817/federal-government-of-somalia-engages-terrorists-with-support-from-us-forces; US Africa Command, ‘Federal Government of Somalia engages terrorists with support from U.S. forces’ (5 November 2022) www.africom.mil/pressrelease/34826/federal-government-of-somalia-engages-terrorists-with-support-from-us-forces; US Africa Command, ‘Federal Government of Somalia combats terrorists with support from U.S. forces’ (11 November 2022) www.africom.mil/pressrelease/34827/federal-government-of-somalia-combats-terrorists-with-support-from-us-forces; US Africa Command, ‘Federal Government of Somalia combats terrorists’ (18 December 2022) www.africom.mil/pressrelease/34831/federal-government-of-somalia-combats-terrorists; US Africa Command, ‘Somali forces engage al-Shabaab insurgents’ (23 December 2022) www.africom.mil/pressrelease/35066/somali-forces-engage-al-shabaab-insurgents.

¹³³US Africa Command, ‘Federal Government of Somalia combats terrorists’ (18 December 2022) (n 132).

¹³⁴US Africa Command, ‘Federal Government of Somalia engages terrorists with support from U.S. forces’ (21 September 2022) (n 132).

¹³⁵Butchard and Nessa (eds) (n 1) 453–4.

¹³⁶UNSC Press Release, Security Council Press Statement on Al-Shabaab Terrorist Attack in Mogadishu, UN Doc SC/15092 (1 November 2022) <https://press.un.org/en/2022/sc15092.doc.htm>.

¹³⁷See AU Peace and Security Council, Communiqué, PSC/PR/COMM.1121 (11 November 2022) para 2; Also, see, Letter dated 9 December 2022 from the Chargé d’affaires a.i. of the Permanent Mission of

to extend the ATMIS's drawdown, 'exceptionally' extended its relevant authorisations concerning ATMIS until 30 June 2023.¹³⁸ In another resolution, adopted on 17 November, the Security Council, commending the support provided by ATMIS, acting under Chapter VII of the UN Charter, renewed the sanctions regime on Somalia.¹³⁹

Middle East

Syria – Israel: accusations of attacks and dispute over the Golan Heights

Accusations of attacks

During this reporting period, Syria repeatedly wrote to the Security Council concerning numerous alleged attacks by Israel against Syria and warned that Syria reserved the right to respond by appropriate means approved under international law and the UN Charter.¹⁴⁰ Syria explained that the alleged attacks by Israel could not be addressed in isolation from the alleged attacks by the United States and the occupation of the north-east of Syria by the United States.¹⁴¹ Syria expressed its concern and dissatisfaction with the Security Council's silence to alleged repeated Israeli aggressions and called upon the Security Council to do 'the bare minimum':

The minimum expected of the organs of the United Nations responsible for maintaining peace and security in the world is to condemn the aggressions of Israel and characterize them as what they are de jure and de facto: deliberate and repeated violations of the sovereignty of a State Member of the United Nations and a direct threat to regional and international peace and security. Doing so would preserve the credibility and prestige of the Organization and is consistent with its principles, which do not permit aggression and occupation and do not allow for extraneous considerations or double standards.¹⁴²

Ghana to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/939 (13 December 2022), transmitting this Communiqué.

¹³⁸UNSC Res 2670, UN Doc S/RES/2670 (21 December 2022).

¹³⁹UNSC Res 2662, UN Doc S/RES/2662 (17 November 2022).

¹⁴⁰See, e.g. Identical letters dated 2 July 2022 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/2022/545 (13 July 2022); Identical letters dated 26 August 2022 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/2022/646 (30 August 2022); Identical letters dated 1 September 2022 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/2022/666 (7 September 2022).

¹⁴¹Identical letters dated 22 July 2022 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/2022/572 (26 July 2022).

¹⁴²Identical letters dated 15 August 2022 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/2022/621 (17 August 2022) 1–2.

In September 2022, Syria wrote to the Security Council claiming that the '[o]bstruction by certain Western States' was preventing the Security Council from exercising its mandate¹⁴³ and that the facts were 'now clear' that Israeli's acts of aggression were being perpetrated with the cover of the United States, 'while the United Nations remains bafflingly and unjustifiably silent'.¹⁴⁴

In a letter dated 22 October 2022, Syria repeated its warning that the Security Council's inability to fulfil its primary function of maintaining international peace and security, by halting alleged Israeli aggressions, could lead to 'serious confrontations'.¹⁴⁵ Syria reaffirmed its right to hold Israel 'fully responsible for the military, legal and political consequences arising from their ongoing attacks'.¹⁴⁶ At various Security Council meetings, Iran condemned alleged ongoing aggressions and terrorist attacks by Israel against Syria and acknowledged that the Charter and international law provided Syria with a legitimate right to self-defence.¹⁴⁷ A joint statement by Iran, Russia and Turkey condemned the alleged continuing Israeli military attacks in Syria.¹⁴⁸

Israel wrote to the Security Council in July¹⁴⁹ and December¹⁵⁰ to inform the Council of alleged Syrian violations of the Agreement on Disengagement between Israeli and Syrian Forces of 1974 and of breaches of Israeli sovereignty.

¹⁴³Identical letters dated 7 September 2022 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/2022/678 (12 September 2022).

¹⁴⁴Identical letters dated 17 September 2022 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/2022/699 (21 September 2022).

¹⁴⁵Identical letters dated 22 October 2022 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/2022/793 (27 October 2022).

¹⁴⁶*Ibid.*

¹⁴⁷UNSC Verbatim Record, UN Doc S/PV.9117 (29 August 2022) 20 (Iran); UNSC Verbatim Record, UN Doc S/PV.9204 (29 November 2022) 19 (Iran); UNSC Verbatim Record, UN Doc S/PV.9204 (29 November 2022) 19 (Iran).

¹⁴⁸Letter dated 28 July 2022 from the Permanent Representatives of the Islamic Republic of Iran, the Russian Federation and Türkiye to the United Nations addressed to the President of the Security Council, UN Doc S/2022/584 (28 July 2022) 3-4; Iran, Ministry of Foreign Affairs, 'Joint Statement by the President of the Islamic Republic of Iran, the President of the Russian Federation, and the President of the Republic of Türkiye' (19 July 2022) www.mfa.ir/portal/newsview/687420; Iran, Ministry of Foreign Affairs, 'Presidents of Iran, Russia and Turkey in a joint press conference; Ayatollah Raisi: The presence of the Americans in Syria is wrong under any pretext and they should leave this region' (20 July 2022) www.mfa.ir/portal/newsview/687520; Letter dated 29 November 2022 from the Permanent Representatives of the Islamic Republic of Iran, Russian Federation and Türkiye to the United Nations addressed to the President of the Security Council, UN Doc S/2022/893 (30 November 2022) 3; Iran, Ministry of Foreign Affairs, 'Iranian Foreign Ministry Spokesman strongly condemns Zionist regime's brutal missile strike against some areas in Syria' (22 July 2022) www.mfa.ir/portal/newsview/687780.

¹⁴⁹Identical letters dated 15 July 2022 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/2022/563 (15 July 2022).

¹⁵⁰Identical letters dated 19 December 2022 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/2022/982 (20 December 2022).

Dispute over the Golan Heights

During this reporting period, Syria continued to express concerns about Israel's alleged settlement policy in the Golan Heights, whilst reaffirming that the occupied Syrian Arab Golan was an integral part of Syrian territory and that Syria 'will act to restore it by all means provided for under international law'.¹⁵¹

Iran, Russia and Turkey rejected the occupation of the Golan region by Israel.¹⁵² Iran warned that the occupation of the Golan region by Israel was a violation of the sovereignty of Syria and 'a threat to regional and international peace and security'.¹⁵³ Numerous other states, including Saudi Arabia,¹⁵⁴ Qatar,¹⁵⁵ Azerbaijan,¹⁵⁶ Argentina¹⁵⁷ and Cuba¹⁵⁸ called for an end to the Israeli occupation of the Golan Heights.

Syria: third states' involvement

Syria wrote to the Security Council, in a letter dated 9 August 2022, to condemn 'in the strongest terms the illegal United States and Turkish aggression and military presence on its territory'.¹⁵⁹ Syria demanded an end to the United States and Turkish occupation of north-eastern and north-western Syria.¹⁶⁰ Turkey maintained throughout this reporting period that its operations in Syria target the PKK/PYD/YPG terrorist organisations and that such operations were permitted within Turkey's right to self-defence, as per Article 51 of the UN Charter'.¹⁶¹

¹⁵¹Identical letters dated 28 July 2022 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 A/76/912-S/2022/588 (29 July 2022) 2.

¹⁵²Letter dated 28 July 2022 from the Permanent Representatives of the Islamic Republic of Iran, the Russian Federation and Türkiye to the United Nations addressed to the President of the Security Council, UN Doc S/2022/584 (28 July 2022) 4; Iran, Ministry of Foreign Affairs, 'Joint Statement by the President of the Islamic Republic of Iran, the President of the Russian Federation, and the President of the Republic of Türkiye' (19 July 2022) www.mfa.ir/portal/newsview/687420; Letter dated 29 November 2022 from the Permanent Representatives of the Islamic Republic of Iran, Russian Federation and Türkiye to the United Nations addressed to the President of the Security Council, UN Doc S/2022/893 (30 November 2022) 3.

¹⁵³Iran, Ministry of Foreign Affairs, 'Dr Raisi at the 7th Summit of the Guarantor States of the Astana Process' (19 July 2022) www.mfa.ir/portal/newsview/687422.

¹⁵⁴UNSC Verbatim Record, S/PV.9099 (Resumption 1) (26 July 2022) 8 (Saudi Arabia).

¹⁵⁵*Ibid*, 13 (Qatar).

¹⁵⁶*Ibid*, 19 (Azerbaijan).

¹⁵⁷*Ibid*, 20 (Argentina).

¹⁵⁸UNSC Verbatim Record, S/PV.9174 (Resumption 1) (28 October 2022) 24 (Cuba).

¹⁵⁹Identical letters dated 9 August 2022 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/2022/611 (12 August 2022).

¹⁶⁰*Ibid*.

¹⁶¹UNSC Verbatim Record, UN Doc S/PV.9117 (29 August 2022) 21 (Turkey); UNSC Verbatim Record, UN Doc S/PV.9130 (14 September 2022) 21 (Turkey); UNSC Verbatim Record, UN Doc S/PV.9163 (25 October 2022) 22 (Turkey); UNSC Verbatim Record, UN Doc S/PV.9204 (29 November 2022) 20 (Turkey); Turkey, Presidency of the Republic of Türkiye, 'Press Statement on the Phone Call between Presidential Spokesperson İbrahim Kalın and UK National Security Adviser Tim Barrow' (2 December

At the Security Council's 9204th meeting on 29 November 2022, the Special Envoy of the Secretary-General for Syria reported that Turkey had launched a military operation in Syria on 20 November 2022.¹⁶² Syria condemned the attacks and warned that 'the pretexts that the Turkish regime uses to justify those attacks have been exposed and no longer fool anyone'.¹⁶³ Turkey claimed that it would continue to carry out 'counterterrorism operations ... in the exercise of our inherent right of self-defence, as reflected in Article 51 of the Charter'.¹⁶⁴ During the same meeting, Mexico expressed its alarm at the 'abuse of invocations of Article 51 of the Charter of the United Nations, which are supposedly justified in the name of the fight against terrorism', and called for full respect for Syria's sovereignty and territorial integrity.¹⁶⁵

In October 2022, the United States renewed its Executive Order 13894 of 14 October 2019 with respect to the situation in and in relation to Syria:¹⁶⁶

The situation in and in relation to Syria, and in particular the actions by the Government of Turkey to conduct a military offensive into northeast Syria, undermines the campaign to defeat the Islamic State of Iraq and Syria, or ISIS, endangers civilians, and further threatens to undermine the peace, security, and stability in the region ...¹⁶⁷

Turkey condemned the United States' Order, which Turkey claimed, contained baseless allegations and accusations against Turkey.¹⁶⁸ During this reporting period, Iran called upon the United States to withdraw its forces 'from the entire region, including Syria, as soon as possible'.¹⁶⁹

2022) www.tccb.gov.tr/en/spokesperson/1696/141990/press-statement-on-the-phone-call-between-presidential-spokesperson-ibrahim-kalin-and-uk-national-security-adviser-tim-barrow-; Turkey, Presidency of the Republic of Türkiye, 'Press Statement on the Phone Call between Presidential Spokesperson Ibrahim Kalin and U.S. National Security Advisor Jake Sullivan' (7 December 2022) www.tccb.gov.tr/en/spokesperson/1696/142006/press-statement-on-the-phone-call-between-presidential-spokesperson-ibrahim-kalin-and-u-s-national-security-advisor-jake-sullivan.

¹⁶²UNSC Verbatim Record, UN Doc S/PV.9204 (29 November 2022) 2 (Special Envoy of the Secretary-General).

¹⁶³*Ibid.*, 17 (Syria).

¹⁶⁴*Ibid.*, 20 (Turkey).

¹⁶⁵*Ibid.*, 12 (Mexico).

¹⁶⁶United States, The White House, 'Notice on the Continuation of the National Emergency With Respect to the Situation in and in Relation to Syria' (12 October 2022) www.whitehouse.gov/briefing-room/presidential-actions/2022/10/12/notice-on-the-continuation-of-the-national-emergency-with-respect-to-the-situation-in-and-in-relation-to-syria-2/.

¹⁶⁷United States, The White House, 'Letters to the Speaker of the House of Representatives and the President of the Senate, on the Continuation of the National Emergency With Respect to the Situation in and in Relation to Syria' (12 October 2022) www.whitehouse.gov/briefing-room/statements-releases/2022/10/12/letters-to-the-speaker-of-the-house-of-representatives-and-the-president-of-the-senate-on-the-continuation-of-the-national-emergency-with-respect-to-the-situation-in-and-in-relation-to-syria/.

¹⁶⁸Turkey, Ministry of Foreign Affairs, 'No: 313, 13 October 2022, Press Release Regarding the US Executive Order Under the Title of "National Emergency with Respect to the Situation in and in Relation to Syria"' (13 October 2022) www.mfa.gov.tr/no_313_abd-nin-suriye-baglaminda-ulusal-acil-durum-basligiyla-yayinlanan-baskanlik-kararnamesi-hk.en.mfa.

¹⁶⁹Iran, Ministry of Foreign Affairs, 'Dr Raisi at the 7th Summit of the Guarantor States of the Astana Process' (19 July 2022) www.mfa.ir/portal/newsview/687422.

United States strikes in Syria and claim of self-defence (23 August 2022)

The United States announced that it had conducted precision strikes against a facility in eastern Syria on 23 August 2022.¹⁷⁰ The United States reported to the Security Council, in a letter dated 26 August 2022, that the facility was being used by ‘militia groups affiliated with Iran’, adding:

This action was in response to armed attacks against the United States and was taken in the exercise of the United States’ inherent right of self-defence, as reflected in Article 51 of the Charter of the United Nations.¹⁷¹

The United States claimed that Iran-backed militia groups had attacked United States forces in Syria on 15 August 2022, which had allegedly followed a series of other attacks throughout 2022. The United States maintained that its military actions were necessary and proportionate actions, and that the military response was only taken after non-military options proved inadequate.¹⁷² Further, the United States clarified its position on the parameters of the law on self-defence:

States must be able to defend themselves, in accordance with the inherent right of self-defence reflected in Article 51 of the Charter of the United Nations, when, as is the case here, the Government of the State where the threat is located is unwilling or unable to prevent the use of its territory by non-State militia groups responsible for such attacks. This action was conducted together with diplomatic measures.¹⁷³

The United States cautioned that it remained prepared to use ‘necessary and proportionate force in self-defence in response to future threats or attacks’.¹⁷⁴

Whilst demanding an end to the illegal presence of United States forces on Syrian territory, Syria deplored and condemned the United States’ invocation of Article 51 of the Charter:

A stop must be put to the misinterpretation and misapplication of Article 51 by certain Member States to justify attacks on the sovereignty, independence and territorial integrity of other States. Such behaviour constitutes a threat to international peace and security.¹⁷⁵

¹⁷⁰United States, The White House, ‘Letter to the Speaker of the House and President pro tempore of the Senate consistent with the War Powers Resolution (Public Law 93-148)’ (25 August 2022) www.whitehouse.gov/briefing-room/statements-releases/2022/08/25/letter-to-the-speaker-of-the-house-and-president-pro-tempore-of-the-senate-consistent-with-the-war-powers-resolution-public-law-93-148/.

¹⁷¹Letter dated 26 August 2022 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/2022/647 (29 August 2022).

¹⁷²*Ibid.*

¹⁷³*Ibid.*

¹⁷⁴*Ibid.*

¹⁷⁵Letter dated 6 September 2022 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council, UN Doc S/2022/675 (12 September 2022).

Iran refuted the United States' claim that it supported non-state militia groups in Syria:

The Islamic Republic of Iran has not been involved, directly or indirectly, in any armed attack by any entity or individual against the United States in Syria and, accordingly, firmly rejects any claim to attribute to Iran, explicitly or implicitly, any attack carried out against American forces in Syria. As a result, any such attribution is entirely unfounded and unsubstantiated, thus rendering it both illegal and invalid.¹⁷⁶

Iran condemned the United States strikes in Syria, which Iran claimed, had 'erroneously been justified by applying an arbitrary interpretation of Article 51 of the Charter'.¹⁷⁷ Iran reiterated that Iran's legal presence in Syria was based on the formal request and consent of Syria and that Iran reserved its inherent right to self-defence in order to respond to any threat or wrongful act against Iranian forces, interests and facilities.¹⁷⁸

Israel emphasised the 'importance of the strikes President Biden ordered in Syria'¹⁷⁹ and stated that it was working to 'prevent Iran from establishing terrorist bases throughout the Middle East and especially in Syria'.¹⁸⁰

The 23 August 2022 United States' strikes in eastern Syria were discussed in the 9117th meeting of the Security Council on 29 August 2022. At the meeting, the United States reiterated its justification for the strikes as measures taken in self-defence, as reflected in Article 51 of the Charter.¹⁸¹ Syria rejected the United States's justification of self-defence and described it as a 'legal misrepresentation and political insolence'.¹⁸² China asserted that there was 'no doubt' that the United States' military operations in eastern Syria constituted a violation of the sovereignty and territorial integrity of Syria 'and have nothing to do with the right to self-defence under Article 51 of the Charter'.¹⁸³ Mexico took note of the invocation of Article 51 to justify the military actions in eastern Syria and provided a clarification of its own position:

We reiterate Mexico's position that based on that provision, invocations of self-defence justifying the use of force against non-State actors in a third

¹⁷⁶Letter dated 7 September 2022 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/2022/680 (8 September 2022).

¹⁷⁷*Ibid.*

¹⁷⁸*Ibid.*

¹⁷⁹Israel, Prime Minister's Office, 'PM Lapid speaks with the President of the United States, Joseph R. Biden, Jr.' (31 August 2022) www.gov.il/en/departments/news/spoke_usa310822.

¹⁸⁰Israel, Prime Minister's Office, 'PM Yair Lapid's Remarks at the Start of the Weekly Cabinet Meeting' (11 September 2022) www.gov.il/en/departments/news/spoke_start110922.

¹⁸¹UNSC Verbatim Record, UN Doc S/PV.9117 (29 August 2022) 6 (United States).

¹⁸²*Ibid.*, 19 (Syria).

¹⁸³*Ibid.*, 17 (China).

State under the so-called unwilling and unable doctrine are contrary to the Charter of the United Nations and customary international law.¹⁸⁴

Drawing attention to the 23 August 2022 United States' strikes in eastern Syria at the 9130th meeting of the Security Council, Syria complained that 'certain Western states' were 'misinterpreting and wrongly applying Article 51 of the Charter of the United Nations as they use unfounded pretexts and misleading interpretations to justify attacks'.¹⁸⁵

Iran: alleged Iranian violations of Security Council resolution 2231 (2015)

It was detailed in the last reporting period¹⁸⁶ that a number of states, including the United States,¹⁸⁷ had accused Iran of carrying out ballistic missile launches and tests in violation of Security Council resolution 2231 (2015). In response, Iran wrote to the Security Council in this reporting period to refute the allegations and accused the United States of 'fabricating baseless allegations against Iran'.¹⁸⁸ Russia also wrote to the Council to note its deep regret that the United States was levelling 'unsubstantiated accusations' and 'misleading' claims against Iran without providing any viable information to substantiate the claims.¹⁸⁹

Further accusations of ballistic missile launches and tests were made in November 2022 by France, Germany and the United Kingdom, adding that such activity sent 'a very destabilizing message to the region and beyond'.¹⁹⁰ Iran rejected the allegations and reiterated that it would continue with its activities, which it claimed were within its 'inherent rights under international law and are necessary for the preservation of its security'.¹⁹¹

¹⁸⁴*Ibid.*, 15 (Mexico). See, also, UNSC Verbatim Record, UN Doc S/PV.9221 (15 December 2022) 22 (Mexico).

¹⁸⁵UNSC Verbatim Record, UN Doc S/PV.9130 (14 September 2022) 17 (Syria).

¹⁸⁶Butchard and Nessa (n 1) 461.

¹⁸⁷Identical letters dated 24 June 2022 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General, the President of the Security Council and the Security Council Facilitator for the Implementation of Resolution 2231 (2015), UN Doc S/2022/514 (27 June 2022).

¹⁸⁸Letter dated 5 July 2022 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/2022/544 (7 July 2022) 2.

¹⁸⁹Letter dated 13 July 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/554 (14 July 2022).

¹⁹⁰Letter dated 22 November 2022 from the representatives of France, Germany and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/878 (23 November 2022).

¹⁹¹Letter dated 28 November 2022 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/2022/882 (29 November 2022); see, also, letter from Russia refuting the allegations against Iran, Letter dated 29 November 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/889 (29 November 2022).

During this reporting period, Israel resumed with its warnings that it would continue to do everything to prevent Iran from attaining nuclear capabilities¹⁹² and that the only way to stop Iran would be to apply pressure through a 'credible military threat'.¹⁹³ Israel reiterated that it had the right to defend itself against Iran,¹⁹⁴ a matter which it recognised as an 'existential question'.¹⁹⁵ Israel warned that a nuclear Iran would 'endanger the entire world'.¹⁹⁶ Iran, on the other hand, claimed that Israel's nuclear facilities posed 'a serious threat to international security'.¹⁹⁷

Alleged Iranian transfer of unmanned aerial vehicles to Russia in violation of Security Council resolution 2231 (2015)

In October 2022, a letter sent to the Security Council by France, Germany and the United Kingdom accused Iran of transferring unmanned aerial vehicles to Russia, in violation of Security Council resolution 2231 (2015), which were allegedly 'being used by Russia in its war of aggression against Ukraine'.¹⁹⁸ The letter cited 'significant open-source evidence' of Russia deploying these unmanned aerial vehicles in Ukraine and warned that further open-source reporting suggested that Iran intended to transfer more unmanned aerial vehicles to Russia.¹⁹⁹ The United States also wrote to the Security Council detailing the same allegations against Iran and citing 'significant publicly available documentation' to evidence that Russia

¹⁹²Israel, Prime Minister's Office, 'Statement by PM Lapid' (2 July 2022) www.gov.il/en/departments/news/event_statement020722; Israel, Prime Minister's Office, 'PM Yair Lapid Speaks with French President Emmanuel Macron' (22 August 2022) www.gov.il/en/departments/news/spoke_france220822; Israel, Prime Minister's Office, 'Mossad Director David Barnea Updates Prime Minister Yair Lapid on his Security and Diplomatic Meetings in the US' (8 September 2022) www.gov.il/en/departments/news/spoke_usa080922.

¹⁹³Israel, Prime Minister's Office, 'PM Yair Lapid's remarks alongside President of the United States Joe Biden' (14 July 2022) www.gov.il/en/departments/news/spoke_joint_statements140722; Israel, Ministry of Foreign Affairs, 'PM Lapid speaks with UK PM Johnson' (26 July 2022) www.gov.il/en/departments/news/pm-lapid-speaks-with-uk-pm-boris-johnson-26-jul-2022; Israel, Prime Minister's Office, 'PM Lapid's Speech to the United Nations General Assembly' (22 September 2022) www.gov.il/en/departments/news/event-speech-un220922.

¹⁹⁴Israel, Prime Minister's Office, 'Statement by PM Yair Lapid to the Foreign Media' (28 August 2022) www.gov.il/en/departments/news/event_briefing280822; Israel, Ministry of Foreign Affairs, 'Prime Minister Yair Lapid visits joint Israel-US Series of aerial exercises' (30 November 2022) www.gov.il/en/departments/news/pm-lapid-visits-joint-israel-us-series-of-aerial-exercises-30-nov-2022.

¹⁹⁵Israel, Ministry of Foreign Affairs, 'PM Netanyahu's remarks at the start of the first Cabinet meeting of the 37th Government' (29 December 2022) www.gov.il/en/departments/news/pm-netanyahu-s-remarks-at-the-start-of-the-cabinet-meeting-29-dec-2022.

¹⁹⁶Israel, Prime Minister's Office, 'PM Lapid's Remarks at the Joint Statements with German Chancellor Olaf Scholz' (12 September 2022) www.gov.il/en/departments/news/event_joint120922.

¹⁹⁷Iran, Ministry of Foreign Affairs, 'Foreign ministry spokesman's tweet' (29 July 2022) www.mfa.ir/portal/newsview/688492.

¹⁹⁸Letter dated 21 October 2022 from the representatives of France, Germany and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/781 (21 October 2022).

¹⁹⁹*Ibid.*

had deployed these vehicles against Ukraine.²⁰⁰ In a letter to the Security Council, Iran described the allegations as ‘unfounded’.²⁰¹

The authors of the aforesaid letters have desperately made every effort, including by disseminating unsubstantiated, undocumented and erroneous information, raising inaccurate assumptions and resorting to totally flawed, arbitrary and misleading interpretations of Security Council resolution 2231 (2015), to establish an entirely artificial linkage between that resolution and the use of unmanned aerial vehicles in the ongoing conflict in Ukraine so as to seemingly justify their unfounded claims against my country.²⁰²

Accusations of the transfer of unmanned aerial vehicles by Iran to Russia were also reported to the Security Council by Ukraine²⁰³ and Lithuania (transmitting a joint statement from Estonia, Latvia, Lithuania and Czechia).²⁰⁴ Further, the United Kingdom claimed that Iran was responsible for supplying Russia with drones used to bombard Ukraine,²⁰⁵ whilst the United States alleged that there was now ‘abundant evidence’ to attribute responsibility to Iran.²⁰⁶

During the Security Council’s 9161st meeting on 21 October 2022, states, including France,²⁰⁷ United States,²⁰⁸ Ireland,²⁰⁹ United Kingdom,²¹⁰

²⁰⁰Letter dated 21 October 2022 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/2022/782 (21 October 2022).

²⁰¹Letter dated 24 October 2022 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/2022/794 (24 October 2022). For further examples of Iran refuting the allegations, see, e.g. Iran, Ministry of Foreign Affairs, ‘Iranian foreign ministry spokesman reacts to some claims about shipment of arms including military drones by Iran to Ukraine’ (18 October 2022) www.mfa.ir/portal/newsview/696898; Iran, Ministry of Foreign Affairs, ‘Foreign ministry spokesman reacts to the new anti-Iran sanctions imposed by Council of the European Union and Britain’ (22 October 2022) www.mfa.ir/portal/newsview/697314; Iran, Ministry of Foreign Affairs, ‘Iran’s Foreign Ministry spokesman reacts to comments by Ukrainian foreign minister’ (4 November 2022) www.mfa.ir/portal/newsview/698706.

²⁰²*Ibid.*, (UN Doc S/2022/794).

²⁰³Letter dated 17 October 2022 from the Permanent Representative of Ukraine to the United Nations addressed to the Secretary-General, UN Doc S/2022/771 (18 October 2022). The accusations against Iran in the Ukrainian letter were refuted by Iran in Letter dated 19 October 2022 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, UN Doc S/2022/776 (19 October 2022).

²⁰⁴Letter dated 21 October 2022 from the Permanent Representative of Lithuania to the United Nations addressed to the President of the Security Council, UN Doc S/2022/790 (24 October 2022) 2–3. The accusations against Iran in the Lithuanian letter were refuted by Iran in Letter dated 10 November 2022 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/2022/841 (10 November 2022).

²⁰⁵United Kingdom, Foreign, Commonwealth & Development Office, ‘UK sanctions Iran over kamikaze Russian drones’ (20 October 2022) [www.gov.uk/government/news/uk-sanctions-iran-over-kamikaze-russian-drones#:~:text=The%20UK%20is%20today%20\(20,drones%20used%20to%20bombard%20Ukraine.](http://www.gov.uk/government/news/uk-sanctions-iran-over-kamikaze-russian-drones#:~:text=The%20UK%20is%20today%20(20,drones%20used%20to%20bombard%20Ukraine.)

²⁰⁶United States Embassy & Consulates in Russia, ‘On Russia’s Acquisition of UAVs from Iran’ (19 October 2022) www.ru.usembassy.gov/on-russias-acquisition-of-uavs-from-iran/.

²⁰⁷UNSC Verbatim Record, UN Doc S/PV.9161 (21 October 2022) 6 (France).

²⁰⁸*Ibid.*, 10 (United States).

²⁰⁹*Ibid.*, 11 (Ireland).

²¹⁰*Ibid.*, 13 (United Kingdom).

Albania,²¹¹ Ukraine,²¹² Slovakia,²¹³ Germany,²¹⁴ asserted claims that Russian armed forces were using Iranian drones in Ukraine. Russia refuted the allegations.²¹⁵ Iran categorically rejected all accusations made by members and non-members of the Security Council during the Council's 9161st meeting.²¹⁶

Letters to the Security Council in December 2022 from the United Kingdom,²¹⁷ Germany²¹⁸ and France²¹⁹ repeated accusations that Russia was using unmanned aerial vehicles from Iran, in violation of Security Council resolution 2231 (2015), in its 'war of aggression against Ukraine'. Iran refuted the allegations stating that the use of unmanned aerial vehicles in the ongoing conflict in Ukraine was 'totally irrelevant' to Security Council resolution 2231 (2015).²²⁰

Iraq – Iranian strikes and claims of self-defence (28 September 2022)

The Iraqi Ministry of Foreign Affairs announced that Iran had conducted strikes in four areas in the Kurdistan region of Iraq on 28 September 2022.²²¹ Iraq stated that it had issued a strong note of protest to Iran and called upon Iran to respect the sovereignty of Iraq.²²² The representative of Iraq spoke at the 9145th meeting of the Security Council on 4 October

²¹¹*Ibid*, 17–8 (Albania).

²¹²*Ibid*, 20–1 (Ukraine).

²¹³*Ibid*, 22 (Slovakia).

²¹⁴*Ibid*, 22–3 (Germany).

²¹⁵*Ibid*, 15 (Russia); Letter dated 21 October 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council, UN Doc S/2022/783 (21 October 2022).

²¹⁶Letter dated 24 October 2022 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/2022/794 (24 October 2022) 2.

²¹⁷Letter dated 5 December 2022 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/908 (5 December 2022).

²¹⁸Letter dated 6 December 2022 from the Permanent Representative of Germany to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/913 (7 December 2022).

²¹⁹Letter dated 6 December 2022 from the Permanent Representative of France to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/914 (9 December 2022).

²²⁰Letter dated 6 December 2022 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/2022/915 (6 December 2022); Letter dated 7 December 2022 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/2022/923 (7 December 2022).

²²¹Iraq, Ministry of Foreign Affairs, 'Press release' (28 September 2022) www.mofa.gov.iq/2022/09/?p=34068; Iraq, Ministry of Foreign Affairs, 'Spokesperson for the Ministry of Foreign Affairs' (28 September 2022) www.mofa.gov.iq/2022/09/?p=34083.

²²²Iraq, Ministry of Foreign Affairs, 'Press release' (29 September 2022) www.mofa.gov.iq/2022/09/?p=34104.

2022 detailing air attacks that had been carried out in Iraq by Iran in the previous week, and, in particular, on 28 September 2022.²²³ The United States,²²⁴ the United Kingdom,²²⁵ Albania²²⁶ and France²²⁷ condemned the attacks.

Iran reported to the Security Council that it had conducted several military operations on 28 September 2022 in Iraq in response to alleged armed and terrorist attacks.²²⁸ As a result of Iraq not taking 'effective and concrete measures' against terrorist and armed groups posing a threat to Iran from Iraqi territory, Iran claimed that it 'had no choice but to exercise its inherent right to self-defence'.²²⁹

Further Iranian attacks on Iraqi territory were reported by Iraq in November 2022.²³⁰ The United States strongly condemned 'these repeated and brazen violations of Iraq's territorial integrity'.²³¹ The Kurdistan Parliament condemned the attacks and called upon Iraq to 'to fulfil its constitutional duty to protect the sovereignty of Iraq including the Kurdistan Region'.²³²

Iraq – Turkey: Turkey's claim of self-defence

Iraq reported that a tourist resort in the city of Zakho had been attacked on 20 July 2022.²³³ In a letter dated 21 July 2022 to the Security Council, Iraq described the attack as constituting 'a clear and blatant aggression against

²²³UNSC Verbatim Record, UN Doc S/PV.9145 (4 October 2022) 16 (Iraq).

²²⁴*Ibid*, 5 (United States). See, also, United States Central Command, 'Statement regarding Islamic Revolutionary Guard Corps' unprovoked attack in Iraq's Erbil Governorate' (28 September 2022) www.centcom.mil/MEDIA/STATEMENTS/Statements-View/Article/3173389/statement-regarding-islamic-revolutionary-guard-corps-unprovoked-attack-in-iraq/; United States, Department of State, 'Iranian Attacks on the IKR' (28 September 2022) www.state.gov/iranian-attacks-on-the-ikr/.

²²⁵UNSC Verbatim Record, UN Doc S/PV.9145 (4 October 2022) 6 (United Kingdom). See, also, United Kingdom, Foreign, Commonwealth & Development Office, 'UK condemns Iranian attacks on the Kurdistan Region of Iraq' (28 September 2022) www.gov.uk/government/news/uk-condemns-iranian-attacks-on-the-kurdistan-region-of-iraq.

²²⁶UNSC Verbatim Record, UN Doc S/PV.9145 (4 October 2022) 8 (Albania).

²²⁷*Ibid*, 13 (France).

²²⁸Letter dated 10 October 2022 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/2022/748 (10 October 2022).

²²⁹*Ibid*, 2.

²³⁰Iraq, Ministry of Foreign Affairs, 'Press release' (14 November 2022) www.mofa.gov.iq/2022/11/?p=34896; Iraq, Ministry of Foreign Affairs, 'Press release' (14 November 2022) www.mofa.gov.iq/2022/11/?p=34899; Iraq, Ministry of Foreign Affairs, 'Press release' (21 November 2022) www.mofa.gov.iq/2022/11/?p=35137.

²³¹United States, Department of State, 'Iranian Attacks Against the Iraqi Kurdistan Region' (22 November 2022) www.state.gov/iranian-attacks-against-the-iraqi-kurdistan-region/.

²³²Kurdistan Parliament – Iraq, 'Parliament strongly condemns Iran's latest missile and drone attacks on Erbil and Slemani governorates' (21 November 2022) www.parliament.krd/english/parliament-activities/latest-news/posts/2022/november/parliament-strongly-condemns-irans-latest-missile-and-drone-attacks-on-erbil-and-sleman-governorates/.

²³³Iraq, Ministry of Foreign Affairs, 'Press release' (20 July 2022) www.mofa.gov.iq/2022/07/?p=32905; Iraq, Ministry of Foreign Affairs, 'Press release' (23 July 2022) www.mofa.gov.iq/2022/07/?p=32934.

the territory and sovereignty of Iraq' by Turkey.²³⁴ The Security Council was called upon to fulfil its role under the Charter and Iraq reaffirmed that it reserved its right, in accordance with Article 51 of the Charter, to take all necessary measures to protect its security.²³⁵ Iraq rejected the 'pretexts that Türkiye has offered repeatedly', calling the Kurdistan Workers' Party a Turkish problem that should not be exported to Iraqi territory.²³⁶ Iraq stressed that it would like to 'renew briefing the public opinion that there is no security or military agreement with Turkey that allows its troops to make incursions on Iraq's territories'.²³⁷

During the 9100th meeting of the Security Council on 26 July 2022, Iraq reiterated that Turkey had committed an act of aggression against the territory and sovereignty of Iraq on 20 July 2022.²³⁸ Further, Iraq demanded the withdrawal of the Turkish army's continued illegal presence on Iraqi territories.²³⁹ Iraq expressed its expectation that Turkey would justify its military presence in Iraq by presenting 'many illegal arguments':

The Turkish side will present unfounded reasons linked to an internal Turkish problem with the Kurdistan Workers' Party of Türkiye (PKK). Türkiye will claim that there is an agreement with Iraq that would allow for a Turkish military presence in Iraq so that it could resolve its Turkish problem. Türkiye will also refer illegally once again to Article 51 of the Charter to justify its actions, which are in violation of Iraq's sovereignty. The same Article 51 compels Türkiye to inform the Security Council of military violations carried out in Iraq ... Due to this situation, we reaffirm, before the entire international community, through the Security Council, that there is no security agreement whatsoever between Iraq and Türkiye that allows for an incursion into Iraq by Turkish forces to chase the PKK.²⁴⁰

During the same meeting, Turkey argued that certain parts of Iraq's territory in the north had become safe havens for terrorists because Iraq was not able to 'exercise effective sovereignty' over those territories,²⁴¹ adding:

Iraq has so far proven to be either unable or unwilling to fight the terrorists. If a country cannot control its own territory, is unwilling to fight against terrorists and cannot stop terrorists from using its territory to kill the citizens of a neighbouring State, then it is siding, either directly or indirectly, with the terrorists. It is that simple. A State cannot castigate its neighbour for using its right to self-defence.

²³⁴Letter dated 22 July 2022 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, UN Doc S/2022/574 (26 July 2022).

²³⁵*Ibid.*, 2–3.

²³⁶*Ibid.*, 3; see, also, Iraq, Ministry of Foreign Affairs, 'Press release' (22 July 2022) www.mofa.gov.iq/2022/07/?p=32912.

²³⁷Iraq, Ministry of Foreign Affairs, 'Ministry of Foreign Affairs Spokesperson Dr Ahmed Al-Sahhaf' (24 July 2022) www.mofa.gov.iq/2022/07/?p=32940.

²³⁸UNSC Verbatim Record, UN Doc S/PV.9100 (26 July 2022) 3 (Iraq).

²³⁹*Ibid.*, 4 (Iraq).

²⁴⁰*Ibid.*

²⁴¹*Ibid.*, 6 (Turkey).

...

In the absence of Iraq's ability and willingness to deal with the presence of terrorist organizations in its own country, we are obliged to take the appropriate measures, just as any member of the Council would do. We will continue to exercise our inherent right to self-defence as outlined in Article 51 of the Charter of the United Nations²⁴²

At the same meeting, the United States condemned the attacks of 20 July 2022 without attributing responsibility to Turkey and stated that it looked forward 'to receiving additional information and greater clarity in relation to facts on the attack'.²⁴³

In a letter dated 8 November 2022 to the Security Council, Turkey, once again, explained that Turkey 'is obliged to take appropriate measures against terrorist threats to its security emanating from Iraq' as a result of Iraq's inability to deal with the threat.²⁴⁴ Criticism directed towards Turkey 'for exercising its inherent right of self-defence, as outlined in Article 51 of the Charter', Turkey explained, was unacceptable.²⁴⁵

During this reporting period, Iraq also submitted to the Security Council a report of alleged violations of Iraqi territory and airspace committed by Turkey between April 2022 – June 2022 and July 2022 – September 2022.²⁴⁶

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'. Israel wrote to the Security Council in July²⁴⁷ and November 2022²⁴⁸ alleging Lebanese violations. In a letter dated 5 July 2022 to the Security Council, Israel alleged that Hezbollah, which it described as an 'internationally designated terror organization and Iran's main terror proxy army', had established military infrastructures along the Blue Line

²⁴²*Ibid*, 7 (Turkey).

²⁴³*Ibid*, 7 (United States).

²⁴⁴Letter dated 8 November 2022 from the Permanent Representative of Türkiye to the United Nations addressed to the President of the Security Council, UN Doc S/2022/837 (8 November 2022).

²⁴⁵*Ibid*; see, also, Turkey, Presidency of the Republic of Türkiye, 'Press Statement on the Phone Call between Presidential Spokesperson İbrahim Kalın and U.S. National Security Advisor Jake Sullivan' (7 December 2022) www.tccb.gov.tr/en/spokesperson/1696/142006/press-statement-on-the-phone-call-between-presidential-spokesperson-ibrahim-kalin-and-u-s-national-security-advisor-jake-sullivan.

²⁴⁶Identical letters dated 2 November 2022 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/826 (3 November 2022).

²⁴⁷Identical letters dated 15 July 2022 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/2022/562 (18 July 2022).

²⁴⁸Identical letters dated 15 November 2022 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/2022/857 (15 November 2022).

separating Israel and Lebanon.²⁴⁹ Israel stressed that the responsibility for Hezbollah's expansion lay 'squarely on the shoulders of the Lebanese authorities'.²⁵⁰ Israel maintained that it would continue to defend itself.²⁵¹ Allegations of continued expansion of the establishment of military infrastructures by Hezbollah were reported to the Security Council by Israel in November 2022.²⁵² During this reporting period, Israel also complained to the Security Council that, on 2 July 2022, Hezbollah had launched three uncrewed aerial vehicles from Lebanese territory into Israel, in violation of Security Council resolution 1701 (2006).²⁵³ Israel held Lebanon responsible for the launches and warned that, 'Lebanon must not allow Iran's proxy, Hezbollah, or other terrorist groups to adversely affect regional security and stability'.²⁵⁴ Lebanon refuted Israel's allegations²⁵⁵ and Iran categorically rejected 'all unwarranted and unjustified references to Iran, as well as the unsubstantiated accusations levelled against' Iran.²⁵⁶ During this reporting period, Iran commended Lebanon for its resistance against Israeli aggression, which Iran claimed had made an impact over the entire region.²⁵⁷

Assertions made in the Secretary-General's report on the implementation of Security Council resolution 1701 (2006), that the Israeli Navy had warned a UNIFIL vessel from operating in the vicinity of the Karish offshore natural gas field and that Israeli fighter aircraft flew over the same vessel,²⁵⁸ were refuted by Israel in a letter dated 6 September to the Security

²⁴⁹Identical letters dated 5 July 2022 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/2022/535 (5 July 2022).

²⁵⁰*Ibid.*, 2.

²⁵¹Israel, Prime Minister's Office, 'PM Lapid's Remarks at the Start of the Weekly Cabinet Meeting' (3 July 2022) www.gov.il/en/departments/news/spoke_start030722.

²⁵²Identical letters dated 15 November 2022 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/2022/859 (15 November 2022).

²⁵³Identical letters dated 11 July 2022 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/2022/550 (12 July 2022).

²⁵⁴*Ibid.* During this reporting period, Israel continued to accuse Iran of being the founder of Hezbollah. See, e.g. Israel, Prime Minister's Office, 'PM Lapid's Remarks at the Start of the Weekly Cabinet Meeting' (10 July 2022) www.gov.il/en/departments/news/spoke_start100722 and Israel, Prime Minister's Office, 'PM Lapid's Speech to the United Nations General Assembly' (22 September 2022) www.gov.il/en/departments/news/event-speech-un220922.

²⁵⁵Identical letters dated 11 August 2022 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/76/921-S/2022/619 (16 August 2022).

²⁵⁶Letter dated 27 July 2022 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/2022/581 (28 July 2022).

²⁵⁷Iran, Ministry of Foreign Affairs, 'Dr Raisi in a meeting with Lebanese PM: Lebanon showed that only resistance can stop the brutality of the Zionist Regime' (21 September 2022) www.mfa.ir/portal/newsview/694103.

²⁵⁸Report of the Secretary-General, 'Implementation of Security Council resolution 1701 (2006) during the period from 19 February to 20 June 2022', UN Doc S/2022/556 (14 July 2022) para 17.

Council.²⁵⁹ Whilst explaining the alleged threats and hostile terrorist activities were mounting by ‘Hezbollah, the Iranian proxy’, Israel stressed that it ‘will continue to take all protective measures necessary so long as the threat of Hezbollah remains’.²⁶⁰ Lebanon condemned the alleged manoeuvres of the Israeli fighter aircraft, which it claimed constituted violations of Security Council resolution 1701 (2006).²⁶¹

Lebanon wrote to the Security Council in October,²⁶² November²⁶³ and December 2022²⁶⁴ alleging Israeli violations of Lebanese airspace, territorial waters and territory.

Yemen: accusations of Iranian involvement in Yemen

In June 2022, Saudi Arabia alleged that ‘Iran’s brutal policies, attesting to its ongoing atrocities by supporting the terrorist Houthi militia and other terrorist militias in our region’ was prolonging the war in Yemen.²⁶⁵ Iran refuted the accusations.²⁶⁶

Yemen accused Iran of being the leader and sponsor of the Houthis.²⁶⁷ In October 2022, Yemen alleged that attacks had been conducted against oil infrastructures in Yemen by the Houthis who, it was claimed, were serving ‘the interest of the Iranian rogue regime and poses a serious threat to international peace and security’. Yemen called upon the Security Council to ‘strongly condemn this Houthi terrorist attack and the Iranian regime

²⁵⁹Identical letters dated 6 September 2022 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/2022/674 (6 September 2022).

²⁶⁰*Ibid.*, 2.

²⁶¹Identical letters dated 17 October 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/556-S/2022/774 (26 October 2022).

²⁶²Identical letters dated 6 October 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/538-S/2022/772 (19 October 2022).

²⁶³Identical letters dated 15 November 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/616-S/2022/921 (29 November 2022); Identical letters dated 17 November 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/617-S/2022/888 (29 November 2022); Identical letters dated 17 November 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/623-S/2022/894 (30 November 2022).

²⁶⁴Identical letters dated 29 November 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc A/77/674-S/2022/984 (20 December 2022).

²⁶⁵Letter dated 29 June 2022 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council, UN Doc S/2022/526 (29 June 2022).

²⁶⁶Letter dated 5 August 2022 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/2022/601 (8 August 2022).

²⁶⁷Letter dated 3 October 2022 from the Permanent Representative of Yemen addressed to the President of the Security Council, UN Doc S/2022/732 (3 October 2022).

behind it'.²⁶⁸ Further, in November 2022, Yemen alleged that the Houthis had launched further attacks using Iranian drones in Yemen.²⁶⁹ In a letter dated 16 November 2022 to the Council, Yemen reported that the Houthis had been continuing their escalation and threats against oil and shipping companies in Yemen.²⁷⁰

Iran, on the other hand, claimed that it should be the 'invading coalition and their Western backers' that must be held accountable for their activities in Yemen for the last 7 years.²⁷¹

Israel – Palestine: escalation of cross-border incidents

Palestine repeatedly wrote to the UN Security Council in July,²⁷² August,²⁷³ September,²⁷⁴ October,²⁷⁵ November²⁷⁶ and December 2022²⁷⁷ concerning

²⁶⁸Letter dated 21 October 2022 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2022/791 (24 October 2022).

²⁶⁹Letter dated 11 November 2022 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2022/843 (11 November 2022); UNSC Verbatim Record, UN Doc S/PV.9199 (22 November 2022) 16 (Yemen).

²⁷⁰Letter dated 16 November 2022 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council, UN Doc S/2022/864 (16 November 2022).

²⁷¹Iran, Ministry of Foreign Affairs, 'Iranian foreign ministry spokesman reacts to Arab media claim regarding alleged arms smuggling to Yemen' (15 August 2022) www.mfa.ir/portal/newsview/690188.

²⁷²Identical letters dated 1 July 2022 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-10/906-S/2022/531 (4 July 2022).

²⁷³Identical letters dated 29 July 2022 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-10/909-S/2022/589 (8 August 2022); Identical letters dated 17 August 2022 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-10/910-S/2022/628 (18 August 2022); Identical letters dated 18 August 2022 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-10/911-S/2022/631 (19 August 2022).

²⁷⁴Identical letters dated 31 August 2022 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-10/912-S/2022/662 (1 September 2022); Identical letters dated 28 September 2022 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-10/913-S/2022/719 (30 September 2022).

²⁷⁵Identical letters dated 13 October 2022 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-10/914-S/2022/758 (17 October 2022); Identical letters dated 14 October 2022 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-10/916-S/2022/763 (17 October 2022); Identical letters dated 25 October 2022 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-10/917-S/2022/800 (26 October 2022).

²⁷⁶Identical letters dated 28 November 2022 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-10/918-S/2022/879 (28 November 2022).

²⁷⁷Identical letters dated 2 December 2022 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

Israel's settlement policy and reported alleged casualties, injuries and aggression against Palestinian civilians. Palestine refuted Israeli claims of self-defence against Palestinians.²⁷⁸ During the Security Council's 9107th meeting on 8 August 2022, Palestine asserted that Israel 'claims for itself everything that it denies us. Israel claims it is always defending itself'.²⁷⁹

On 17 July 2022, Israel announced that it had 'attacked targets in Gaza on a magnitude that they were not prepared for' in response to launches from Gaza toward Israeli territory.²⁸⁰ Further, on 5 August 2022, Israel claimed to have struck Islamic Jihad targets in Gaza, whilst providing the following clarification:

A word for the international media: Israel carried out a precise counter-terror operation against an immediate threat ... We will do whatever it takes to defend our people.²⁸¹

Israel warned that, should it be necessary, it will 'launch a preemptive strike in order to protect the citizens of Israel, and defend its sovereignty and infrastructure'.²⁸² Iran,²⁸³ Turkey²⁸⁴ and Iraq²⁸⁵ condemned the Israeli strikes in Gaza. During the Security Council's 9139th meeting on 28 September 2022,

President of the Security Council, UN Doc A/ES-10/919-S/2022/905 (5 December 2022); Identical letters dated 20 December 2022 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-10/920-S/2022/985 (21 December 2022).

²⁷⁸ Identical letters dated 5 August 2022 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-10/908-S/2022/602 (8 August 2022); Identical letters dated 8 August 2022 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-10/907-S/2022/603 (8 August 2022).

²⁷⁹ UNSC Verbatim Record, S/PV.9107 (8 August 2022) 4 (Palestine); see, also, UNSC Verbatim Record, S/PV.9174 (28 October 2022) 5 (Palestine).

²⁸⁰ Israel, Prime Minister's Office, 'PM Lapid's Remarks at the Start of the Weekly Cabinet Meeting' (17 July 2022) www.gov.il/en/departments/news/spoke_start170722.

²⁸¹ Israel, Prime Minister's Office, 'PM Lapid's Statement' (5 August 2022) www.gov.il/en/departments/news/event_statementk050822; Israel, Prime Minister's Office, 'Joint Statement by PM Lapid and Defense Minister Gantz' (5 August 2022) www.gov.il/en/departments/news/spoke_joint050822.

²⁸² Israel, Prime Minister's Office, 'Statements by PM Lapid and Defense Minister Gantz' (8 August 2022) www.gov.il/en/departments/news/event_statement080822.

²⁸³ Iran, Ministry of Foreign Affairs, 'Iranian foreign ministry spokesman condemns Zionist regime attack on Gaza' (5 August 2022) www.mfa.ir/portal/newsview/689255; Iran, Ministry of Foreign Affairs, 'Iranian Foreign Minister holds phone conversation with secretary general of Palestinian Islamic Jihad Movement' (6 August 2022) www.mfa.ir/portal/newsview/689319; Iran, Ministry of Foreign Affairs, 'Iranian FM Hossein Amirabdollahian and UN Secretary General Antonio Guterres hold telephone conversation' (7 August 2022) www.mfa.ir/portal/newsview/689356; Iran, Ministry of Foreign Affairs, 'Iran FM calls on UNSC to condemn Israel aggression against Gaza' (7 August 2022) www.mfa.ir/portal/newsview/689326; Iran, Ministry of Foreign Affairs, 'Iran and Syria FM discuss Gaza developments' (7 August 2022) www.mfa.ir/portal/newsview/689361; Iran, Ministry of Foreign Affairs, 'Foreign Minister Hossein Amirabdollahian's Instagram post over Gaza developments' (8 August 2022) www.mfa.ir/portal/newsview/689376.

²⁸⁴ Turkey, Ministry of Foreign Affairs, 'No: 250, 6 August 2022, Press Release Regarding Israel's Airstrikes on Gaza' (6 August 2022) www.mfa.gov.tr/no_-250_-israil-in-gazze-ye-yonelik-hava-saldirilari-hk.en.mfa.

²⁸⁵ Iraq, Ministry of Foreign Affairs, 'press release' (6 August 2022) www.mofa.gov.iq/2022/08/?p=33382.

Ireland reaffirmed Israel's right to defend itself,²⁸⁶ whilst Albania stated that it supported Israel's 'right to defend itself acting proportionately and based on law'.²⁸⁷ The United Kingdom expressed its full support of Israel's right to self-defence, but cautioned that, where there are accusations of excessive use of force, transparent investigations should be undertaken.²⁸⁸ Similar cautionary remarks were expressed again by Albania and the United Kingdom, in support of Israel's right to defend itself, during a Security Council meeting held on 28 November 2022.²⁸⁹ In October, Mexico explained that it had always recognised Israel's right to legitimate self-defence but called for Israel to observe the 'principles of necessity, proportionality and distinction at all times when they exercise the right to self-defence'.²⁹⁰

Asia

North Korea: further threats

On 8 September 2022, North Korea's Supreme People's Assembly promulgated the 'law on the state policy on nuclear forces'.²⁹¹ According to the 2013 version of the law, North Korea could use nuclear weapons to repel invasion or attack from a hostile nuclear state. The new law allows 'for pre-emptive nuclear strikes if an imminent attack by weapons of mass destruction or against the country's "strategic targets," including its leadership, is detected'.²⁹²

In October 2022, for the first time since 2017, North Korea fired a ballistic missile over Japan. The missile landed in the Pacific Ocean.²⁹³ At the end of October, the United States and South Korea began one of their largest combined military air drills, code-name 'Vigilant Storm'.²⁹⁴ A spokesman at the North Korea's Foreign Ministry denounced the exercises and called them 'a war drill for aggression mainly aimed at striking the strategic targets of the DPRK in case of contingency in the Korean Peninsula'.²⁹⁵ According to the North Korea's official, Pyongyang is 'ready to take all necessary measures

²⁸⁶UNSC Verbatim Record, UN Doc S/PV.9139 (28 September 2022) 8 (Ireland).

²⁸⁷*Ibid.*, 11 (Albania); see, also, UNSC Verbatim Record, S/PV.9116 (25 August 2022) 12 (Albania).

²⁸⁸UNSC Verbatim Record, UN Doc S/PV.9139 (28 September 2022) 15 (United Kingdom).

²⁸⁹UNSC Verbatim Record, UN Doc S/PV.9203 (28 November 2022) 11 (Albania), 5 (United Kingdom).

²⁹⁰UNSC Verbatim Record, UN Doc S/PV.9174 (28 October 2022) 19 (Mexico).

²⁹¹Jun Bong-guen, 'Comparing North Korea's Nuclear Forces Policy Laws', *APLN* (1 November 2022) www.apln.network/analysis/commentaries/comparing-north-koreas-law-on-nuclear-forces-policy-2022-with-the-law-on-consolidating-the-position-of-nuclear-weapons-state-2013.

²⁹²Josh Smith, 'New North Korea law outlines nuclear weapons use, including pre-emptive strikes', *The Japan Times* (9 September 2022) www.japantimes.co.jp/news/2022/09/09/asia-pacific/north-korea-nuclear-weapons-policy/.

²⁹³Jean Mackenzie, Yvette Tan & Rupert Wingfield-Hayes, 'North Korea fires ballistic missile over Japan', *BBC* (4 October 2022), www.bbc.com/news/world-asia-63126534.

²⁹⁴Josh Smith, 'U.S. and South Korean warplanes begin largest ever air drills', *Reuters* (31 October 2022) www.reuters.com/world/us-south-korean-warplanes-begin-largest-ever-air-drills-2022-10-31/.

²⁹⁵N. Korea urges U.S. to stop joint air drills with S. Korea, warns of 'more powerful' actions', *Yonhap News Agency* (1 November 2022) <https://en.yna.co.kr/view/AEN20221101000800325>.

for defending its sovereignty, people's security and territorial integrity from outside military threats.²⁹⁶

On 3 November 2022, North Korea fired twenty-three short-range missiles. One of them fell less than 60 kilometres off the South Korean coast, near the Northern Limit Line, which is the *de facto* maritime border between South and North Korea. In reaction, the South Korean president denounced a 'de facto territorial invasion' and ordered a response – South Korean fighter jets fired three air-to-ground missiles.²⁹⁷

Further, on 18 November, North Korea fired an intercontinental ballistic missile, able to reach the mainland of the United States, which is reported to have landed about 200 km west of Oshima-Oshima Island in the northern prefecture of Hokkaido.²⁹⁸ Several hours later, Kim Jong Un reportedly 'solemnly declared that if the enemies continue to pose threats (...) our party and government will resolutely react to nukes with nuclear weapons and to total confrontation with all-out confrontation.'²⁹⁹

Taiwan – China: US support for Taiwan and China's replies

On 2 August 2022, Speaker of the House of Representatives, Nancy Pelosi, landed in Taipei, being the highest-ranking United States' official in 25 years to visit Taiwan. She reaffirmed Taiwan's Government about the unwavering United States' support for the island.³⁰⁰ On the same day, Ministry of Foreign Affairs of the People's Republic of China issued a statement in which it called Pelosi visit 'a serious violation of the one-China principle and the provisions of the three China-U.S. joint communiqués', as well as claiming,

[the visit] seriously infringes upon China's sovereignty and territorial integrity. It gravely undermines peace and stability across the Taiwan Strait, and sends a seriously wrong signal to the separatist forces for 'Taiwan independence'. China firmly opposes and sternly condemns this, and has made serious démarche and strong protest to the United States.³⁰¹

²⁹⁶ *Ibid.*

²⁹⁷ Philippe Mesmer, 'New North Korean missile launches cause false alarm in Japan', *Le Monde* (3 November 2022) www.lemonde.fr/en/international/article/2022/11/03/new-north-korean-missile-launches-cause-false-alarm-in-japan_6002792_4.html.

²⁹⁸ 'North Korea tests suspected ICBM with range to reach US mainland', *Aljazeera* (18 November 2022) www.aljazeera.com/news/2022/11/18/north-korea-tests-suspected-intercontinental-ballistic-missile.

²⁹⁹ 'N Korea warns of "all-out" nuclear response to US "aggression"', *Aljazeera* (19 November 2022) www.aljazeera.com/news/2022/11/19/north-korea-warns-of-all-out-nuclear-response-to-us-provocation.

³⁰⁰ Jeremy Herb and Eric Cheung, 'US House Speaker Nancy Pelosi lands in Taiwan amid threats of Chinese retaliation', *CNN* (2 August 2022) www.dition.cnn.com/2022/08/02/politics/nancy-pelosi-visit-taipei-taiwan-trip/index.html.

³⁰¹ 'China, Ministry of Foreign Affairs, 'Statement by the Ministry of Foreign Affairs of the People's Republic of China' (2 August 2022) www.fmprc.gov.cn/eng/zxxx_662805/202208/t20220802_10732293.html.

On 4 August 2022, China started the 'long-range, live-fire exercises' around Taiwan.³⁰² A few days later, on 10 August 2022, China issued its first white paper on Taiwan in more than 20 years. In the document, on one hand, the Chinese Government reaffirmed that it was seeking peaceful reunification with Taiwan. At the same time, however, it stated,

we will not renounce the use of force, and we reserve the option of taking all necessary measures. This is to guard against external interference and all separatist activities. In no way does it target our fellow Chinese in Taiwan. Use of force would be the last resort taken under compelling circumstances. We will only be forced to take drastic measures to respond to the provocation of separatist elements or external forces should they ever cross our red lines.

We will always be ready to respond with the use of force or other necessary means to interference by external forces or radical action by separatist elements.³⁰³

In reply, Taiwan decided to increase overall defence budget by 13.9% to a record \$19.41 billion.³⁰⁴ Also, the United States, once again, expressed support for Taiwan. Firstly, in a TV interview on 18 August, President Joe Biden, when asked whether the United States forces would defend Taiwan in case of the Chinese military intervention, replied, 'Yes, if in fact, there was an unprecedented attack.'³⁰⁵ Moreover, in December 2022, the Biden administration approved \$180 million arms sale to Taiwan, including vehicle-launched anti-tank munition-laying systems, and related equipment.³⁰⁶ The Chinese reaction involved sending seventy-one planes and seven ships towards Taiwan, officially as part of the 'joint combat readiness patrols and joint firepower strike drills' in the sea and airspace around Taiwan.³⁰⁷

Pakistan – Afghanistan: shelling at the Chaman border crossing

On 12 December 2022, shelling erupted at the Chaman border crossing between Pakistan and Afghanistan. Eight Pakistani civilians and one

³⁰²Lily Kuo, Christian Shepherd and Ellen Nakashima, 'China launches military exercises around Taiwan after Pelosi's visit', *The Washington Post* (4 August 2022) www.washingtonpost.com/world/2022/08/04/taiwan-china-military-exercises-pelosi/.

³⁰³'China, The Taiwan Affairs Office of the State Council and The State Council Information Office, 'The Taiwan Question and China's Reunification in the New Era' (August 2022), 21 www.gov.cn/atts/stream/files/62f34db4c6d028997c37ca98.

³⁰⁴Yimou Lee and Ben Blanchard, 'Taiwan aims for big rise in defence spending amid escalating China tension', *Reuters* (25 August 2022) www.reuters.com/business/aerospace-defense/taiwan-proposes-129-on-year-rise-defence-spending-2023-2022-08-25/.

³⁰⁵David Brunnstrom and Trevor Hunnicut, 'Biden says U.S. forces would defend Taiwan in the event of a Chinese invasion', *Reuters* (19 September 2022) www.reuters.com/world/biden-says-us-forces-would-defend-taiwan-event-chinese-invasion-2022-09-18/.

³⁰⁶Jennifer Hansler and Jack Forrest, 'Biden administration approves \$180 million arms sale to Taiwan', *CNN* (8 December 2022) edition.cnn.com/2022/12/28/politics/biden-arms-sale-taiwan/index.html.

³⁰⁷'China 'sends record number of fighter jets' toward Taiwan', *Aljazeera* (26 December 2022) www.aljazeera.com/news/2022/12/26/china-sends-record-number-of-planes-toward-taiwan.

Afghan soldier were killed. According to Pakistan, Afghan border forces had opened ‘unprovoked and indiscriminate fire of heavy weapons including artillery/mortar on to the civilian population,’ but according to a spokesman for Kandahar’s governor, the fighting began after Pakistan objected to Afghan forces building a new checkpoint.³⁰⁸

Three days later fighting started again. According to Pakistan, the reason for this new clash was the repairment by Pakistani forces of a portion of the border fence damaged during Sunday’s clashes, but the Afghanistan ministry of defence claimed that it was Pakistani forces which first opened the fire.³⁰⁹

Americas

Haiti: request for ‘an international specialized armed force’

In a resolution adopted on 15 July 2022, the UN Security Council called ‘upon Member States to prohibit the transfer of small arms, light weapons, and ammunition to non-State actors engaged in or supporting gang violence, criminal activities, or human rights abuses in Haiti’³¹⁰ and requested the Secretary-General to submit a written report to the Security Council regarding possible options for enhanced security support for the Haitian National Police’s efforts to combat high levels of gang violence.³¹¹ Pursuant to this request, in a letter dated 8 October 2022, the UN Secretary-General reported that

the Prime Minister of Haiti had indicated to the Secretariat that the deployment of a multinational special force for a short period to temporarily reinforce the Haitian National Police could be contemplated in view of the deteriorating security environment. Subsequently, on 6 October, the Council of Ministers authorized the Prime Minister to request the immediate deployment of an international specialized armed force to address the insecurity resulting from criminal action by armed gangs.³¹²

Regarding this request, the Secretary-General advised the Security Council that ‘[o]ne or several Member States, acting bilaterally at the invitation of and in cooperation with the Government of Haiti, could deploy, as a matter of urgency, a rapid action force’ consisting of ‘special armed forces personnel’ from the participating states ‘to support the Haitian National

³⁰⁸Gul Yousafzai and Asif Shahzad, ‘Eight Pakistanis, one Afghan soldier killed in cross-border clash’, *Reuters* (2 December 2022) www.reuters.com/world/asia-pacific/six-killed-firing-by-afghan-forces-pakistan-border-pakistan-army-2022-12-11/.

³⁰⁹Gul Yousafzai, ‘One dead as fresh clashes erupt between Afghan, Pakistani border forces’, *Reuters* (15 December 2022) www.reuters.com/world/asia-pacific/one-dead-fresh-clashes-erupt-between-afghan-pakistani-border-forces-2022-12-15/.

³¹⁰UNSC Res 2645, UN Doc S/RES/2645 (15 July 2022) para 4.

³¹¹*Ibid*, para 10.

³¹²Letter dated 8 October 2022 from the Secretary-General addressed to the President of the Security Council, UN Doc S/2022/747 (10 October 2022) 4.

Police' and suggested that 'The Security Council could welcome the force in response to the request made by the Government of Haiti on 6 October'.³¹³

In identical letters dated 14 October 2022 addressed to the Secretary-General and the President of the Security Council, Haiti reiterated that it 'urgently needs the support of a special armed force to assist the national police in addressing the humanitarian crisis by neutralizing the armed gangs in order to ensure seamless fuel distribution and facilitate the resumption of operations'.³¹⁴ The letter warned that '[o]therwise, it is the armed gangs and their backers who will take control of and rule our country'.³¹⁵

During a Security Council meeting on 17 October 2022, while some representatives noted the Haitian authorities' request for an international armed force and the Secretary-General's recommendation to that effect, the representative of China expressed scepticism for the deployment of such a force, stating that

At a time when the Haitian Government lacks legitimacy and is unable to govern, will sending such a rapid-reaction force to Haiti be met with the understanding, support and cooperation of the parties in Haiti, or will it face resistance from, or even trigger violent confrontation among, the population? ...

... Without a strong desire, a sense of common purpose and collaboration among all sectors of Haitian society, outside advocacy and efforts will ultimately not be of much help. After all, the key to resolving the Haitian issue is in the hands of the Haitian people themselves.³¹⁶

The representative of the US, on the other hand, announced working closely with Mexico to draft a new resolution that

would authorize a non-United Nations international security assistance mission to help improve the security situation and enable the flow of desperately needed humanitarian aid. It reflects one of the options that the Secretary-General recommended that the Security Council consider. It is also a direct response to the request from Prime Minister Ariel Henry and the Haitian Council of Ministers ...

... This non-United Nations international security assistance mission would operate under Chapter VII of the Charter.³¹⁷

Previously, during a meeting of the Security Council on 26 September 2022, the Dominican Republic had also expressed support for the deployment of such a force, citing the Secretary-General António Guterres's statement that 'while strengthening assistance for training its police, there is a need

³¹³*Ibid.*, 5.

³¹⁴Identical letters dated 14 October 2022 from the Permanent Representative of Haiti to the United Nations addressed to the Secretary-General and the President of the Security Council, UN Doc S/2022/764 (20 October 2022) 2.

³¹⁵*Ibid.*, 6.

³¹⁶UNSC Verbatim Record, UN Doc S/PV.9153 (17 October 2022) 13 (China).

³¹⁷*Ibid.*, 4–5 (United States).

for a robust force that is capable of restoring peace and putting an end to the violence unleashed by armed gangs, which have been infiltrated by the political and economic power'.³¹⁸

In response to the situation in Haiti, the Security Council adopted a resolution on 21 October 2022 imposing measures such as travel ban, asset freeze and targeted arms embargo for the individuals or entities responsible for the crisis in the country.³¹⁹ In the meeting concerning the adoption of the Resolution, the Haitian representative again urged the Council members to consider the Haitian Government's request for a specialised force³²⁰ and the US representative reiterated that they are working with Mexico 'on a draft resolution that would authorize a non-United Nations international security assistance mission'.³²¹ Debates on whether a special armed force should be sent to Haiti continued during the meeting of the Security Council on 21 December 2022.³²² No such force was formed during the reporting period of this Digest.³²³

Venezuela: rejection of the US-planned coups and military invasion

The National Assembly of Venezuela condemned the comments made by the former United States National Security Advisor, John Bolton, during an interview with *CNN* that he helped plot coups abroad, including one in Venezuela against the President Nicolás Maduro.³²⁴ As reported on 14 July 2022 on the website of the National Assembly of Venezuela:

Through an agreement approved unanimously, the National Assembly ... expressed its repudiation and rejection of the statements of the former White House adviser, John Bolton, and the former Undersecretary of State for Venezuela and Cuba, Carrie Filipetti, who openly confirmed to the press the attempts of the United States to invade Venezuelan territory militarily.

The agreement was presented by Deputy Pedro Infante, who denounced before the international community the actions undertaken by the United States government aimed at violating the sovereignty of several nations, especially against Venezuela.

(...)

³¹⁸UNSC Verbatim Record, UN Doc S/PV.9136 (26 September 2022) 18 (Dominican Republic).

³¹⁹UNSC Res 2653, UN Doc S/RES/2653 (21 October 2022).

³²⁰UNSC Verbatim Record, UN Doc S/PV.9159 (21 October 2022) 8 (Haiti); Also see the call of the Haiti's ambassador to the US for the formation of such an international armed force: Brian Ellsworth, 'Haiti still needs foreign strike force to confront gangs, official says', *Reuters* (29 November 2022) www.reuters.com/world/americas/haiti-still-needs-foreign-strike-force-confront-gangs-official-says-2022-11-28/.

³²¹*Ibid.*, 3 (United States).

³²²UNSC Verbatim Record, UN Doc S/PV.9233 (21 December 2022).

³²³See, UNSC, United Nations Integrated Office in Haiti: Report of the Secretary-General, UN Doc S/2023/41 (17 January 2023) para 75, reiterating 'the urgent need for the deployment of an international specialized armed force'.

³²⁴Stefano Pozzebon, 'Venezuela lashes out at Bolton's coup claim', *CNN* (14 July 2022) [http://edition.cnn.com/2022/07/14/americas/john-bolton-venezuela-government-overthrow-trump-intl-latam/index.html](https://edition.cnn.com/2022/07/14/americas/john-bolton-venezuela-government-overthrow-trump-intl-latam/index.html).

He recalled that both characters are defenders of the Monroe Doctrine that they have sought to apply against Cuba, Nicaragua and Venezuela, accusing them of the food chain of tyranny in the region. He pointed out that such statements are further proof of direct aggression by US imperialism against the free peoples of the world.³²⁵

Head of the National Assembly, Jorge Rodríguez, on the other hand, accused the United States of stirring unrest in Venezuela and theorised, '[w]hat was in the mind of this crazy John Bolton was that the violence would accelerate so that they could have an excuse for the invasion ... a military invasion in Venezuela'.³²⁶

Venezuela: alleged 'terrorist threats' from the outgoing government in Colombia

On 3 July 2022, the President of Venezuela, Nicolás Maduro, accused the outgoing President of Colombia, Iván Duque, of seeking revenge after losing the presidential elections and claimed that 'we have the information in hand for terrorist attacks against the Venezuelan electrical system, refineries and against Venezuelan political and military leaders'.³²⁷

On 26 July 2022, as reported on the website of the Venezuelan Presidency, Nicolás Maduro, again, warned about the planned terrorist threats coming from the neighbouring country, Colombia, to deteriorate the peace among the Venezuelan people and urged the Bolivarian National Armed Forces to remain alert. He stated that, '[t]hey conspire with terrorists and traitors born in Venezuela to harm the Homeland, but no crime is perfect and we will know how to neutralize, defeat and persecute criminals who conspire against peace and stability'.³²⁸

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³²⁵Venezuela, National Assembly, 'AN repudia declaraciones belicistas de John Bolton y de Carrie Filippetti' (14 July 2022) www.asambleanacional.gob.ve/noticias/an-repudia-declaraciones-belicistas-de-john-bolton-y-de-carrie-filippetti.

³²⁶Deisy Buitrago, 'Venezuela hits back at 'crazy' former U.S. adviser Bolton's coup-plotting admission', *Reuters* (14 July 2022) www.reuters.com/world/americas/venezuela-hits-back-crazy-former-us-adviser-boltons-coup-plotting-admission-2022-07-14/.

³²⁷Andreína Chávez Alava, 'Venezuela: Maduro Alerts Army of New 'Terrorist Threats' from Colombia' *Venezuelanalysis.com* (27 July 2022) <https://venezuelanalysis.com/news/15573>; 'Nicolás Maduro: Iván Duque quiere vengarse de Venezuela' *SWI* (3 July 2022) www.swissinfo.ch/spa/venezuela-colombia_nicol%C3%A1s-maduro--iv%C3%A1n-duque-quiere-vengarse-de-venezuela/47722584.

³²⁸Venezuela, Presidency, 'President Maduro alerts the FANB about planned terrorist threats in Colombia' (26 July 2022) www.presidencia.gob.ve/Site/Web/Principal/paginas/classMostrarEvento3.php?id_evento=21684.