The United Nations’ Reactions to Foreign Military Interventions – A Comparative Case Study Analysis

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Abstract
The purpose of the study is to analyse how the United Nations has reacted to foreign military interventions and which factors can help explain the reactions. In order to carry out the investigation the term foreign military intervention is defined, criteria for the selection of cases are formulated, and cases selected. This is followed by an examination of the United Nations’ reactions to the selected cases through the Security Council’s and the General Assembly’s responses to the interventions. The next step of the analysis is the formulation of a Hypothesis. This is done from a legal and normative approach to explaining the United Nations’ reactions. The Hypothesis is operationalised and tested through the formulation of two specifications. The two specifications are analysed in the context of the United Nation’s reactions to the selected cases. Based on this analysis the validity of the hypothesis is assessed.

Keywords

Biography
Ramses Amer, PhD and Associate Professor, is a Senior Lecturer at the Department of Political Science, Umeå University, Sweden. Major areas of research are a) security issues and conflict resolution in Southeast Asia and the wider Pacific Asia and b) the role of the United Nations in the international system. He is the author of “The United Nations’ Reactions to Foreign Military Interventions”, Journal of Peace Research, Vol. 31, No. 4 (November 1994), pp. 425-444; and, The United Nations and Foreign Military Interventions. A Comparative Study of the Application of the Charter, Second Edition, Report, No. 33 (Uppsala: Department of Peace and Conflict Research, Uppsala University, 1994). He is co-editor, with Carlyle A. Thayer, of Vietnamese Foreign Policy in Transition (Singapore: Institute for Southeast Asian Studies; and, New York: St Martin’s Press, 1999). He has also contributed to international journals and to books and has written reports on issues of Southeast Asian Affairs and on the United Nations.

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1. Introduction

In the post-Cold War Era the United Nations has become more actively involved in attempts aiming at resolving military conflicts. This is in line with the mandate given to the United Nations to maintain international peace and security and to assist in efforts to resolve disputes between states. The purpose of this study is to investigate how the United Nations has reacted to foreign military interventions and if the reactions to comparable cases of intervention have been consistent with the relevant provisions of the Charter of the United Nations.

The study is structured in the following way. First, the term foreign intervention is defined and criteria formulated for selecting the cases to be included in the study. This followed by an interpretation of the relevant provisions of the Charter. Second, the United Nations’ reactions to the selected cases of foreign military intervention are outlined and classified. Third, the United Nations reactions are assessed in relation to the relevant provisions of the Charter. In order to operationalise this process a hypothesis is formulated and it is tested through the formulation of two specifications. The specifications are analysed in relation to the United Nations’ reactions to the selected cases. Based on this analysis the hypothesis is tested. In the concluding section the main findings of the study are analysed.

2. Defining foreign intervention

In the broadest sense, a person, organization or state, which is aimed at another person, organization, or state, can use the term intervention to define any action. The interventions of interest in this study are foreign interventions, i.e. interventions undertaken by foreign actors. The purpose of this section is to examine if a general definition of foreign interventionist behaviour can be formulated, based on prior research on the subject.

James N. Rosenau has noted that many observers define intervention as: ‘any action whereby one state has an impact upon the affairs of another’ (Rosenau, 1969: 153). Wolfgang Friedmann gives a similar definition of the term intervention. However, he does not explicitly state that the intervention must have an impact on the affairs of the target state: ‘Intervention is a word which is often used quite generally to denote almost any act of interference by one state in the affairs of another’ (Friedmann, 1971: 40).

Rosenau’s aim is to conceptualize the term intervention and, as a first step, he turns to the efforts of some analysts who have sought precision through a formulation

* This is a revised and updated version of Amer, 2006.
which limited the meaning of interventionary behaviour to ‘dictatorial’ interference by one state in the internal affairs of another state (Rosenau, 1969: 153-154). He argues in favour of the operationalisation of the concept of intervention because he is convinced that it would reduce the ‘vagueness and confusion’ that has marked its use (Rosenau, 1969: 156). He identifies two characteristics of an interventionary phenomena, first, its convention-breaking character and, second, its authority-oriented nature (Rosenau, 1968: 167 and, Rosenau, 1969: 161). Thus, according to Rosenau, an intervention is taking place when the intervening state makes a sharp break with the prevailing manner of relating to the target state, and directs its behaviour at the structure of authority of the target. Furthermore, such behaviour is interventionary whether it is aimed at changing or preserving the structure of authority of the target state or not (Rosenau, 1968: 167; and, Rosenau, 1969: 161 and 164-165).

Friedmann’s definition of the term intervention presupposes ‘dictatorial’ interference in the domestic or foreign affairs of another state, which impairs the independence of that state (Friedmann, 1971: 40).

Max Beloff gives the following definition of intervention: ‘the attempt by one state to affect the internal structure and external behavior of other states through various degrees of coercion’ (Beloff, 1968: 198).

Hedley Bull takes as his starting-point the definition of the term intervention offered by ‘traditional international legal publicists’ and he summarizes the definition as follows: ‘it is dictatorial interference or coercive interference, by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community’ (Bull, 1984: 1). He underscores that a ‘basic condition’ for any action to be called interventionary is that the intervening state is superior in power to the target of the intervention. According to Bull the question of interference, which is ‘dictatorial’ or ‘coercive’, arises only because of the relative superior strength of the intervening state vis-à-vis the target (Bull, 1984: 1).

Researchers taking part in the debate on intervention can be broadly divided into ‘behaviouralists’ and ‘traditionalists’.1 The behaviouralists have generally generated extensive systematic knowledge on interventionary behaviour through their research. The traditionalists tend to provide discussions about interventionary behaviour from a general perspective without the systematic strength of the behaviouralists. However, there are traditionalists who have opted to focus on specific aspects of interventionary behaviour, one example is the focus on intervention for humanitarian reasons (Akehurst, 1984).

Although traditionalists and behaviouralists use different operational definitions of the term intervention in order to address the specific interventionary phenomena, which they want to study, they tend to use a similar general definition of the term intervention. This can be seen when comparing how Rosenau and Friedmann define intervention, in its broadest sense. It is also exemplified by a comparison between the result of Rosenau's efforts at conceptualizing the term intervention and the definition given by Bull.

For the purpose of this study the general definition of foreign intervention is formulated as **actions of one or more states, which alter the internal affairs of another state against the will of that state.** This definition draws upon the definition given by

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1 These terms have been used by Richard Little to classify the published research on intervention, Little, 1987: 50. For a discussion on Little’s assessment of the scholarly literature on intervention see Amer, 1994a: 12-14.
Rosenau (Rosenau, 1969: 153-154) as well as the definitions given by Bull and Friedmann respectively (Bull, 1984: 1; and, Friedmann, 1971: 40).

3. Selecting cases of foreign military intervention

3.1 Scholarly criteria for selecting cases of foreign intervention

If the aim of a study is to cover foreign interventions in general, no specific criteria for selection of cases would be needed, since all actions fulfilling a broadly formulated definition would be included in the study. The formulation of criteria for the selection of cases becomes indispensable when the research is focused on specific types or specific aspects of foreign interventions. The delimitation could be made either on the intervening side, by focusing on certain intervening actors and/or on certain actions, or on the target side, by focusing on certain target states and/or certain situations in the target states.

Friedmann represents the group of researchers who study interventions with a general definition, without formulating specific criteria for the selection of cases (Friedmann, 1971). Bertil Dunér, C.R. Mitchell, and Frederic S. Pearson can be taken as representatives of a research tradition, which formulates more specific criteria for the selection of cases of foreign intervention to be studied. All three have focused attention on what can be broadly denominated foreign involvement in civil strife. However, through the criteria and definitions used, these three authors end up with markedly different samples, with Dunér having the smallest set of cases and Mitchell the largest. This follows logically from two factors, namely the time limits set by both Pearson and Dunér, but not by Mitchell, as well as from Dunér’s use of the list of civil wars established by the project Correlates of War (COW) at the University of Michigan with its restrictive criteria, whereas Pearson and Mitchell have used less restrictive criteria. Dunér has, in contrast to both Mitchell and Pearson, exemplified that a more limited number of cases (twelve in Dunér's study) makes it possible to give a detailed description of the course of events in each of the cases (Dunér, 1985; Mitchell, 1970; Pearson, 1974a; and, Pearson, 1974b).

Thus, it is important to clearly set out the criteria for selecting the actions, which suit the purpose of research. Furthermore, the time period during which a foreign intervention must have taken place in order to be included in the study must be defined.

3.2 Criteria for the selection of cases of foreign military intervention for the purpose of this study

The following set of criteria has been found relevant for the purpose of this study with its focus on the United Nations’ reactions to foreign military interventions. All must be fulfilled for a case of foreign military intervention to included in the study:\(^2\)

- The intervention has been carried out by an individual state or by a number of states as a collective action.
- The intervention has been carried out against a state which is a member-state of the United Nations or which is recognized as independent by the Organization.

\(^2\) This set of criteria is adapted from Amer, 1994a: 32 and derived from Amer, 1994b: 427.
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• The intervention has involved the movement of foreign troops into the national territory or territorial waters of the target state.
• The intervention has been carried out without the consent of the administration of the target state.
• The intervention has resulted in the overthrow of the existing administration.

These criteria have to be complemented with a delimitation of the time period during which the cases must have occurred. The fact that many interventions during the post-1945 period were carried out in colonies and protectorates and, thus, formed part of the decolonization process, makes it natural to focus the study on the post-colonial period. Interventions in colonies and protectorates were frequent in the 1950s and 1960s and in some cases continued into the 1970s. The process of decolonization can be assessed to have been almost completed by the mid-1970s since, by that time, most Third World states had gained independence and had become members of the United Nations. Taking this into account the time period covered by this study has been set to start at 1 January 1976 and the foreign military interventions selected for the study must have occurred after this date.

3.3 Selected cases of foreign military intervention

The post-1 January 1976 period presents us with eight foreign military interventions fulfilling the criteria set out above, i.e. the intervention was carried out without the consent of the existing administration and resulted in the overthrow of that administration. Furthermore, all eight targets states were members of the United Nations. The eight cases are the following:

• Vietnam’s intervention in Kampuchea, resulting in the overthrow of the existing administration in January 1979.
• Tanzania’s intervention in Uganda, resulting in the overthrow of the existing administration in April 1979.
• France’s intervention in the Central African Empire (CAE), resulting in the overthrow of the existing administration in September 1979.
• The Union of Soviet Socialist Republics’ (USSR) intervention in Afghanistan, resulting in the overthrow of the existing administration in December 1979.
• The intervention in Grenada by the United States of America (USA) and several Caribbean states resulting in the overthrow of the existing administration in October 1983.
• The USA’s intervention in Panama, resulting in the overthrow of the existing administration in December 1989.
• Iraq’s intervention in Kuwait, resulting in the overthrow of the existing administration in August 1990.

3 For a comprehensive list of foreign military interventions during this period see Tillema, 1989: 191-196.
4 The General Assembly of the United Nations used the term Democratic Kampuchea and Kampuchea until it decided to start using the term Cambodia at the 45th session in 1990 (A/45/PV.3 par. 8). The terms Democratic Kampuchea and Kampuchea will be used in this study, except when directly referring to United Nations’ documents using the term Cambodia, since this study deals predominantly with the period during which the terms Democratic Kampuchea and Kampuchea were in use.
The USA and the United Kingdom of Great Britain and Northern Ireland (UK) led intervention in Iraq, resulting in the overthrow of the existing administration in April 2003.

4 Charter of the United Nations and the use of force by states

4.1 The provisions of Charter of the United Nations

There are three clauses in the Charter of the United Nations which regulate the use of force by the individual member-states, namely Article 2(3), Article 2(4), and Article 51. Furthermore, in Article 39 the regulations pertaining to the use of force by the United Nations are outlined.

It is essential to look at what is literally stated in these clauses of the Charter.

Article 2(3) reads as follows:

All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

Article 2(4) reads as follows:

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

Article 51 reads as follows:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Article 39 reads as follows:

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

Article 41 includes provisions dealing with measures that do not involve the use of armed force. If the Security Council considers that these measures are/or will prove to be inadequate Article 42 includes provisions dealing with the right of the Security Council to: ‘take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security’.

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4.2 Assessing the scholarly debate on the interpretation of the Charter

The debate among international lawyers pertaining to the provisions of the Charter of the United Nations regarding the use of force by states in inter-state relations displays considerable controversy as to how these provisions should be interpreted. This controversy can partly be ascribed to the wording of Article 2(4) and Article 51. The wording of the whole Charter was based on considerations and decisions among the original member-states of the United Nations. It is the result of a series of compromises reached by these states after having reconciled each other’s views and, consequently, the text is in some instances ‘ambiguous’ and ‘unclear’.

In the case of Article 2(4) the term ‘force’ has caused the scholars some trouble. The wording of Article 2(4) does not give a clear answer as to which actions of a state that should be defined as ‘force’.

- A restrictive interpretation is that ‘force’ refers to the threat or to the use of ‘armed force’ against the territorial integrity or political independence of a state.
- An extensive interpretation is that ‘force’ refers to any threat of ‘action’ or to any ‘action’ initiated against the territorial integrity or political independence of a state.

The restrictive interpretation prohibits the threat or the use of ‘armed force’ but does not, in principle, prohibit an economic embargo directed at another state. Scholars adhering to such a restrictive interpretation usually point to the fact that other forms of intervention in the internal affairs of a state than by ‘armed force’ are addressed by the principle of non-intervention. The extensive interpretation implies that the threat or the use of ‘force’ in whatever form in inter-state relations is prohibited, i.e. ‘any’ kind of interference which is not acceptable to the government of the target state.

Another point of disagreement is how the wording ‘against the territorial integrity or political independence of any State’, in Article 2(4), should be interpreted.

- A restrictive interpretation is that only the threat or the use of force that directly affects the territorial integrity or the political independence of a state is encompassed by the prohibition.
- An extensive interpretation is that not only the threat or the use of force affecting the territorial integrity or the political independence of a state but also any action against the political authority of a state is encompassed by the prohibition.

The interpretation of the wording ‘against the territorial integrity or political independence of any State’, in Article 2(4), has a bearing on what kind of inter-state behaviour that would fall under the phenomenon known as ‘use of force’. Nevertheless, despite the divergent interpretations of Article 2(4) there is a consensus that this Article provides a general prohibition of the threat or the use of ‘force’ in inter-state relations.

If the wording of Article 51 is looked at from the purely literal point of view, a state or a group of states can use force in self-defence only ‘if an armed attack occurs against a Member of the United Nations’. Thus, contrary to the wording in the case of

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6 This section is adapted from Amer, 1994a: 22-30 and is based on an overview of the following studies: Acevedo, 1984; Asrat, 1991; Bowett, 1955-56; Bring, 1982; Brownlie, 1962; Brownlie, 1963; Franck, 1970; Henkin, 1968; Kelsen, 1948; Reisman, 1984a; Reisman, 1984b; Waldock, 1952; Wright, 1957.

7 References to the discussions about Article 2(4) and Article 51 can be found in: Asrat, 1991: 38-40 and 199-200; Bowett, 1955-56: 131; Bring, 1982.; 38-40; Brownlie, 1962: 223-33.
Article 2(4), the provisions of Article 51 can be literally interpreted. Nevertheless, the interpretation of the right of self-defence has been subject to controversy in the scholarly debate and, as in the case of Article 2(4), a restrictive and an extensive line of interpretation can be identified.

• A restrictive interpretation of the provisions of Article 51 argues along the line that the use of force is only permitted when an ‘armed attack occurs’ against a member-state of the United Nations and under no other circumstances.

• An extensive interpretation does not view Article 51 as comprehensive in assessing the right of self-defence. It argues along the line that the customary right of self-defence is still valid under the Charter of the United Nations. This means that ‘anticipatory’ self-defence is not necessarily a violation of the provisions of the Charter.

The scholarly interpretations of the provisions of Article 2(4) and Article 51 have their weaknesses from the point of view of restricting the use of ‘force’ in inter-state relations.8

• A restrictive interpretation of the term ‘force’ in Article 2(4) would not prohibit economic and political activities that could undermine the political stability in a state or create hardship for its population. Furthermore, it would not prohibit foreign interference in a state as long as such interference does not involve direct engagement of troops in the affected state.

• A restrictive interpretation of the wording ‘against the territorial integrity or political independence of any State’ in Article 2(4) would imply that many kinds of foreign interventions short of armed attacks would not be prohibited, notwithstanding their effects on the political structure of the affected state.

• An extensive interpretation of the right of self-defence could have serious implications. First, it would not prohibit the pre-emptive use of force against a state under the guise of self-defence in a situation in which no real threat of force could be proved. Second, it would not prohibit the use of force against another state under the guise of rescuing its own nationals, residing in that state, without sufficient indications that the well being of these nationals was really threatened. Third, and more fundamentally, an extensive interpretation of self-defence could contribute to opening the way for the condoning of the use of force claimed to have been carried out in self-defence but in fact aiming at changing the political structure of another state. It is true that the representatives of the school of extensive interpretation put strong emphasis on the aspect of proportionality and on the action to be temporary when force is used in self-defence but this does not sufficiently address the possible implications as outlined above.

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8 In this context the listed weaknesses are only seen from the perspective of the provisions of the Charter of the United Nations, and they do not take into consideration whether customary international law or General Assembly Resolutions address these weaknesses.
4.3 Interpretation of the Charter for the purpose of this study

An interpretation of the provisions of Article 2(4) must centre on the specific phenomenon under investigation, namely foreign military interventions resulting in the overthrow of the government in the target states. For this purpose the term ‘use of force’ will be interpreted as *armed force* in the sense that one or more states use their troops or military material against the territory of another state. The term ‘against the territorial integrity or political independence of any State’ will be interpreted as *entering the territory of a state or altering the political situation in a state*. The interpretation of the provisions of Article 2(4), pertaining to the prohibition of the use of force, applied in this study will be as follows:

- The use of armed force by one or more states against the territory and/or the territorial waters of a state and/or against the political structure of a state is prohibited.

An interpretation of the provisions of Article 51 must be formulated in a precise manner and the specific conditions in response to which force can be used in self-defence by a state must be clearly stated. The following interpretation of the right of a state to use force in self-defence will be used:

- A state can invoke the right to use force in self-defence if it is subject to an armed attack against its territory or its territorial waters.

Since the use of force by states in inter-state relations is the focus of attention it is relevant to recall the obligations placed upon states to settle their disputes by peaceful means, as expressed in Article 2(3). This is further emphasized under Chapter VI which is devoted to the ‘Pacific Settlement of Disputes’. Article 33(1) of Chapter VI is of relevance in this context:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Furthermore, if the parties should fail to settle a dispute of the kind referred to in Article 33(1) they shall refer it to the Security Council (Article 37(1)).

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9 The interpretation of Article 2(4) is taken from Amer, 1994a, p. 31, whereas the interpretation of Article 51 is revised (Amer, 1994a, p. 31). Both interpretations were used in Amer 1994b: 430.
5 The United Nations’ reactions to the eight cases

5.1 The United Nations’ reactions

The United Nations’ reactions to the eight cases of foreign military interventions will be summarized in the following. They will be presented in chronological order beginning with Kampuchea and ending with Iraq. The United Nations’ reactions are studied through the consideration given by the Security Council and/or the General Assembly to each of the cases. The United Nations’ consideration of the developments taking place after an intervention has been terminated is not subject to attention in the following.

5.1.1 Kampuchea

The Security Council decided to consider Vietnam’s intervention in Kampuchea twice, in January 1979 and in February-March 1979. The draft resolutions failed to be adopted on these two occasions due to vetoes by the USSR. Apart from the USSR, only Czechoslovakia voted against the drafts, while the other 13 members of the Council voted in favour.

The General considered issues related to the military intervention in Kampuchea from 1979 to 1990. For four years, 1979 to 1982, the question of Kampuchean representation was subject to vote, and, on all four occasions, the General Assembly decided to allow Democratic Kampuchea (DK), the overthrown government, to continue to represent the State of Kampuchea in the General Assembly.

The General Assembly considered the case of Kampuchea in connection with the agenda item entitled: ‘The situation in Kampuchea’, which was subject to vote from 1979 to 1989. The General Assembly adopted a resolution critical of Vietnam’s intervention in Kampuchea, by a growing majority over these years – although Vietnam was not mentioned by name in the resolutions.

At the 45th session (1990) some significant changes took place. First, in September 1990, the Security Council unanimously adopted resolution 668 dealing with the Kampuchean conflict (without reference to the intervention as such). Second, in October 1990, at the 45th session of the General Assembly, a resolution on the situation in Kampuchea was unanimously adopted for the first time. This resolution did not include any reference to a continued foreign military intervention in Kampuchea, i.e. the Assembly deemed that the intervention was terminated. Third, the Kampuchean seat was left de facto vacant at the 45th session because no credentials by representatives of DK were submitted.

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10 The United Nations’ reactions to seven of the cases (all except Iraq 2003) have been studied in Amer, 1994b: 430-432. For a detailed study of the United Nations’ reactions to the cases of Kampuchea, Uganda, the CAE, Afghanistan, Grenada, and Panama see Amer, 1994a: 56-175. The reactions to six of the cases (Kampuchea, the CAE, Afghanistan, Grenada, Panama, and Kuwait) have been briefly outlined in Amer, 1991: 54-59.

11 The consideration of the cases by the General Assembly will be subject to attention only if the Security Council has not been able to reach decisions in direct response to the interventions.

12 At the 45th session the agenda item was entitled: ‘The situation in Cambodia’.
5.1.2 Uganda
Neither the Security Council nor the General Assembly considered Tanzania’s foreign military intervention in Uganda.

5.1.3 CAE
Neither the Security Council nor the General Assembly considered France’s foreign military intervention in the CAE.

5.1.4 Afghanistan
The Security Council decided to consider the intervention once, in January 1980. The draft resolution failed to be adopted due to a veto by the USSR. Apart from the USSR, only the German Democratic Republic voted against the draft. The other 13 members of the Security Council voted in favour. In response to this situation the majority of the members decided to convene an emergency special session of the General Assembly.

The emergency special session was held in January 1980. At this session, as well as at the ordinary sessions of the General Assembly up to 1987, a resolution critical of the intervention of the USSR in Afghanistan was adopted – although the USSR was not mentioned by name in the resolution. Beginning in 1988 the resolutions on the agenda item: ‘The situation in Afghanistan and its implications for international peace and security’ were adopted without a vote. In the resolution adopted at the 44th session in 1989 the intervention in Afghanistan was deemed as terminated following the total withdrawal of foreign troops under the supervision of the United Nations.

The new government of Afghanistan was allowed to represent the State of Afghanistan in the General Assembly from the 6th emergency special session onwards.

5.1.5 Grenada
The Security Council decided to consider the intervention once, in October 1983. The draft resolution failed to be adopted due to a veto by the USA. The USA was the only member who voted against the draft. Eleven members of the Security Council voted in favour of the draft while Togo, the UK, and Zaire abstained in the vote.

The issue was then considered by the General Assembly under the agenda item: ‘The situation in Grenada’. A draft resolution critical of the intervention in Grenada was adopted – although none of the intervening states was mentioned by name in the resolution. This was the only session at which the General Assembly dealt with the agenda item: ‘The situation in Grenada’. Thus, the General Assembly did not deem the intervention in Grenada as terminated in an adopted resolution.

The new government of Grenada was allowed to represent the State of Grenada in the General Assembly from the 39th session onwards.

5.1.6 Panama
The Security Council decided to consider the intervention once, in December 1989. The draft resolution failed to be adopted due to a triple veto by France, the UK and the USA. Canada also voted against the draft and Finland abstained in the vote. The other ten members of the Security Council voted in favour.

The issue was then considered by the General Assembly and a draft resolution critical of the USAs’ intervention in Panama was adopted – the USA was directly referred to by name. This was the only session at which the General Assembly considered the intervention in Panama. Thus, the General Assembly did not deem the intervention in Panama as terminated in an adopted resolution.
The new government of Panama was allowed to represent the State of Panama during the work of the General Assembly, and it voted against the resolution that criticized the USA’s intervention in Panama.

5.1.7 Kuwait
The Security Council decided to consider Iraq’s intervention in Kuwait and subsequent events related to the intervention beginning in early August 1990. The Security Council adopted twelve resolutions between August and November 1990. The most important of these resolutions are the following:

- Resolution 660 adopted on 2 August 1990, with 14 votes in favour and one state not taking part in the vote, Yemen. Resolution 660 condemned Iraq for its ‘invasion’ of Kuwait and called for an unconditional Iraqi withdrawal (S/RES/660 (1990)).
- Resolution 661 adopted on 6 August 1990, by 13 votes in favour and two states abstaining in the vote, Cuba and Yemen. Resolution 661 decided to implement economic sanctions against Iraq (S/RES/661 (1990)).
- Resolution 662 adopted on 9 August 1990, by 15 votes in favour (consensus). Resolution 662 (1990) declared that the ‘comprehensive and eternal merger’ between Iraq and Kuwait was illegal (S/RES/662 (1990)).
- Resolution 665 adopted on 25 August 1990, by 13 votes in favour and two states abstaining in the vote, Cuba and Yemen. Resolution 665 gave the right to the member-states of the United Nations to use military force if needed to uphold the economic sanctions against Iraq (S/RES/665 (1990)).
- Resolution 670 adopted on 25 September 1990, by 14 votes in favour and one state abstaining in the vote, Cuba. Resolution 670 banned all air cargo traffic to Iraq, except for food in humanitarian circumstances (S/RES/670 (1990)).
- Resolution 678 adopted on 29 November 1990, by 12 votes in favour, with Cuba and Yemen voting against and with China abstaining in the vote. Resolution 678 included the following operative paragraph two:

  Authorizes Member States cooperating with the Government of Kuwait, unless Iraq before January 15, 1991 fully implements, ..., the foregoing resolutions, to use all necessary means to uphold and implement Security Council Resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area; (S/RES/678 (1990)).

In short, resolution 678 gave the right to any member-state of the United Nations, cooperating with the Kuwaiti government, to use force if necessary to oust the Iraqi troops from Kuwait.

In January-February 1991 a massive military operation led by the USA forced the Iraqis out of Kuwait. The Iraqi intervention in Kuwait had thus been brought to an end.

5.1.8 Iraq
The intervention Iraq has not been directly considered by the Security Council or by the General Assembly. However, the issue of use for force against Iraq was on the agenda of the Security Council in early 2003 prior to the intervention with the USA and UK pushing for a resolution specifically authorisation the use of force against Iraq pursuant to Resolution 1441 adopted 8 November on 2002 which had found Iraq in material breach of Resolution 687 (1991) and which had given Iraq a ‘final chance to comply with its disarmament obligations under relevant resolutions of the Council’
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(S/RES/1441 (2002)). These attempts failed to gain the approval of a majority of the Council among those opposing a resolution authorisation the use of force against Iraq where the other three permanent members, i.e. China, France and Russia.

After the intervention was launched and the existing administration had been overthrown the Security Council has adopted resolutions dealing with the situation in Iraq but none of these resolutions contained any reference to the intervention as such. In fact step-by-step various aspects on the post-intervention developments in Iraq have been legitimised through Security Council resolutions adopted since the intervention was initiated on 20 March 2003 as can be seen from the following:

First, the occupation of Iraq was legitimised in resolution 1483 adopted on 22 May 2003. This resolution contains references to the occupied status in Iraq but not to the legality of the intervention that brought about the occupation of the country. In the preamble part of the resolution reference is made to the USA and the UK as ‘occupying powers under unified command (the ‘Authority’).’ (S/RES/1483 (2003)). In the operative parts of the resolution references are only made to the ‘Authority’. The Resolution does not call for an end to the occupation. Instead in operative paragraph 24 of the resolution the following text has been included: ‘…encourages the United Kingdom of Great Britain and Northern Ireland and the United States of America to inform the Council at regular intervals of their efforts under this resolution.’ (S/RES/1483 (2003)) In Resolution 1511 adopted on 16 October 2003 operative paragraph 1 refers to the ‘temporary nature of the exercise by the Coalition Provisional Authority (Authority) of the specific responsibilities, authorities, and obligations under applicable international law recognized and set forth in resolution 1483 (2003)’ (S/RES/1511 (2003)). However, resolution 1511 does not explicitly refer to an occupation situation. A reference to the occupation of Iraq was included in operative paragraph 2 of Resolution 1546 adopted on 8 June 2004 in connection to the welcoming of the announced end of the occupation by 30 June 2004 (S/RES/1546 (2004)).

Second, the various Iraqi ‘administrations’ established since the intervention have gradually been legitimised through resolutions adopted by the Security Council in 2003, 2004, and 2005. In the preamble of resolution 1511 the Security Council welcomed the decisions of the ‘Governing Council of Iraq’ to form a preparatory constitutional meeting for a constitutional conference to draft a constitution (S/RES/1511 (2003)). In operative paragraph 3 the resolution also ‘supports’ the Governing Council’s efforts to ‘mobilize the people of Iraq’ (S/RES/1511 (2003)). In the preamble of Resolution 1546 the commitment of the ‘Interim Government of Iraq’ to work towards ‘a federal democratic, pluralist, and unified Iraq, in full respect for political and human rights’ is welcomed (S/RES/1546 (2004)). Furthermore, in operative paragraph 1 the resolution ‘Endorses the formation of a sovereign Interim Government of Iraq, as presented on 1 June 2004, which will assume full responsibility and authority by 30 June for governing Iraq’ (S/RES/1546 (2004)). In the preamble of resolution 1637 adopted on 8 November 2005 the ‘assumption of full government authority by the Interim Government of Iraq on 28 June 2004’ is welcomed. The resolution also contains references to the ‘Government of Iraq’ in both the preamble and operative parts (S/RES/1637 (2005)). In the preamble of resolution 1723 adopted by the Security Council on 28 November 2006 the formation of a ‘national unity government in Iraq’ is welcomed the operative part of the resolution contains reference to the ‘Government of Iraq’ (S/RES/1723 (2006)).
Third, the transformation of the occupying forces into a Multinational Force (MNF). This was initiated already on Resolution 1511. Operative paragraph 13 is of direct relevance encompasses the following:

… authorizes a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq, … to contribute to the security of the United Nations Assistance Mission in Iraq, the Governing Council of Iraq and other institutions of the Iraqi interim administration, and key humanitarian and economic infrastructure; (S/RES/1511 (2003)).

The resolution goes on step further in operative paragraph 14 in which it ‘urges’ member states of the United Nations to ‘contribute assistance under this United Nations mandate, including military forces, to the multinational force’ (S/RES/1511 (2003)). In resolution 1546 operative paragraph 9 ‘Notes that the presence of the multinational force in Iraq is at the request of the incoming Interim Government of Iraq and therefore reaffirms the authorization for the multinational force under unified command established under resolution 1511 (2003)’ (S/RES/1546 (2004)). In operative paragraph 10 the Security Council decides that the MNF ‘shall have the authority to take all necessary measures to contribute to the maintenance of security and stability in Iraq’ (S/RES/1546 (2004)). Furthermore, operative paragraph 15 includes a request to member states as well as to international and regional organisations to ‘contribute assistance to the multinational force, including military forces, as agreed with the Government of Iraq’ (S/RES/1546 (2004)). In operative paragraph 1 of resolution 1637 the mandate of the MNF was extended to 31 December 2006 (S/RES/1637 (2005)). In operative paragraph 1 of resolution 1723 the mandate of the MNF was extended to 31 December 2007 (S/RES/1723 (2006)).

5.2 Classification of the reactions

The following major differences can be identified in the reactions of the United Nations:

- Two of the cases – Uganda, the CAE – were not subject to any consideration, the case of Iraq was on the agenda of the Security Council prior to the intervention and the situation in Iraq has been on agenda after the intervention was initiated but no resolution relating to the intervention as such has been considered by the Security Council, the case of Kuwait was subject to consideration by the Security Council, whereas the other five cases were considered by both the Security Council and the General Assembly.
- The consideration by either of the two organs of the United Nations was pursued until the intervention was deemed as terminated in the cases of Kampuchea, Afghanistan, and Kuwait but not in regard to the cases of Grenada, Panama.
- In the case of Kuwait the Security Council was able to adopt resolutions condemning the intervention as well as enforcing economic sanctions and eventually allowing the use of force by the member-states if the intervening forces were not withdrawn. In regard to the other four cases the Security Council could not act due to the use of the veto by one or more of the permanent members.

These differences in reactions can serve as a basis for a classification of the eight cases. There are different aspects to be taken into consideration when a process of classification is carried out and the following aspects appear to be central in the present
context. First, the reaction versus no-reaction aspect. Second, the termination versus non-termination aspect. Third, the action versus non-action aspect. Fourth, the question of direct legitimisation of the outcome of the intervention.

- The reaction – no-reaction dichotomy can be expressed as follows: Has the United Nations considered a case of foreign military intervention at the time it occurred? It is basically a question of consideration.
- The termination – non-termination dichotomy can be expressed as follows: Has the United Nations pursued its consideration of a case until the intervention was deemed as terminated? It is basically a question of how extensive a reaction has been.
- The action – non-action dichotomy can be expressed as follows: Has the United Nations resorted to punitive measures when considering a case to ensure the termination of an intervention? It is basically a question on how the United Nations sought to bring about the termination of an intervention.
- The legitimisation – non-legitimisation dichotomy can be expressed as follows has the United Nations through resolutions – adopted after the intervention was initiated – legitimised the outcome the intervention, e.g. the overthrow of the existing administration, the establishment of a new administration, and, the presence of the intervening forces.

For convenience these aspects of the United Nations’ reactions will be called the reaction, the termination, the action aspect, and the legitimisation aspect.

A classification of the eight cases in relation to these three aspects gives the following table:

**Table I The United Nations’ reactions to the eight cases in relation to the reaction, termination, action, and legitimisation aspects**

<table>
<thead>
<tr>
<th>Case</th>
<th>Considered</th>
<th>Terminated</th>
<th>Action</th>
<th>Legitimisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kampuchea</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Uganda</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>CAE</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Grenada</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Panama</td>
<td>yes</td>
<td>no</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>Kuwait</td>
<td>yes</td>
<td>yes</td>
<td>yes</td>
<td>no</td>
</tr>
<tr>
<td>Iraq</td>
<td>no</td>
<td>no</td>
<td>no</td>
<td>yes</td>
</tr>
</tbody>
</table>

Based on the four aspects the United Nations’ reactions to the eight cases fall into five categories that can be described as follows (see Table I):

- The category encompassing the case that did not result in a direct consideration but in a legitimisation of the outcome of the intervention is referred to as: *Legitimisation of outcome.*
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- The category encompassing the two cases which did not result in any consideration on the part of the United Nations is referred to as: No reaction.
- The category encompassing the two cases that the General Assembly considered without including any reference to a termination of the interventions in the adopted resolutions. This category is referred to as: Single reaction.
- The category encompassing the two cases that were subject to a strong and continued consideration by the General Assembly and which were deemed as terminated in an adopted resolution in each case. This category is referred to as: Extensive reaction.
- The category encompassing the case that was subject to active measures, decided upon by the Security Council in adopted resolutions. This category is referred to as: Active reaction.

6 Formulating and operationalising the Hypothesis

6.1 Formulating the Hypothesis

The main focus of this study is to analyze the reactions of the United Nations to foreign military interventions. It is therefore appropriate to pursue an approach generated from within the United Nations’ system. Such an approach would seek to explain the reactions of the United Nations from a legal or normative perspective, taking the Charter as a law governing the United Nations behaviour.

The Hypothesis to be tested in this study is formulated as follows:

- The provisions of the Charter of the United Nations provide the legal rules which have determined the United Nations’ reactions to the eight cases of foreign military intervention.

This Hypothesis will be tested with the goal of evaluating whether it is tenable or untenable.

6.2 Operationalising the Hypothesis

The Hypothesis with its legal and normative dimensions refer to the level of the action, i.e. the intervention, and it will be examined from the perspective of the provisions of the Charter of the United Nations pertaining to the use of force by states. The articles of relevance in the context of this study are Article 2(4) and Article 51 of the Charter.

The Hypothesis assumes that the United Nations reacts in a uniform and consistent manner, when facing similar situations. The eight selected cases of foreign military intervention will be used for the testing of the Hypothesis. The core issue to be addressed is whether the United Nations has treated these cases in a consistent manner. The United Nations’ reaction to each of the eight cases will be examined in the light of the provisions of Article 2(4) and Article 51. Each article is to constitute a specification of the Hypothesis. The two specifications will be referred to as Specifications 1 and 2 and are formulated as follows:

- Specification 1: The United Nations has reacted in a consistent way to the eight foreign military interventions that have violated the provisions of Article 2(4) of the

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13 This methodological approach is adapted from Amer, 1994a: 47-48 and 180-181.
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Charter of the United Nations pertaining to the prohibition of the use of force by states in inter-state relations.

• Specification 2: The United Nations’ has consistently taken into account the provisions of Article 51 of its Charter, pertaining to the right of states to use force in self-defence, when reacting to the eight cases of foreign military intervention.

7 Testing the Hypothesis

7.1 Specification 1: Use of force

The eight cases of foreign military interventions have been selected because they fulfil a number of specified criteria. One criteria is that the intervention has involved the movement of foreign troops into the national territory or territorial waters of the target state. Another criteria is that the intervention has been carried out without the consent of the administration of the target state. A third relevant criteria is that the intervention has resulted in the overthrow of the existing administration.

All the eight cases involved the use of armed force against the territorial integrity of another state as well as against the political structure of that state. The use of force in both instances has been defined as prohibited by the provisions of Article 2(4) of the Charter of the United Nations. Thus, all eight interventions violate the prohibition of the use of force with regard to the aspect of territorial integrity as well as to the aspect of political structure.

The United Nations’ reaction to Vietnam's intervention was twofold: firstly, from the 34th to the 44th session the General Assembly decided to allow the overthrown government to represent the State of Kampuchea in the Assembly, and second, from the 34th to the 44th session, the Assembly also adopted resolutions which, among other things, called for the withdrawal of foreign troops from Kampuchea. In the resolution adopted at the 45th session the troops were judged to have been withdrawn from Kampuchea. The United Nations’ reactions should be seen as a condemnation of Vietnam's intervention in Kampuchea.

The United Nations did not consider the case of Uganda and thus it is not possible to assess whether the United Nations has condoned or condemned Tanzania’s intervention in Uganda.

The United Nations did not consider the case of CAE and, as in the case of Uganda, it is not possible to assess whether the United Nations has condoned or condemned France's intervention in the CAE.

The United Nations considered the case of Afghanistan and at the 6th emergency special session of the General Assembly a resolution calling, among other things, for the withdrawal of foreign troops from Afghanistan was adopted. The same demand was included in resolutions adopted from the 35th to the 43rd session of the Assembly. At the 44th session the adopted resolution acknowledged that the Soviet troops had been withdrawn from Afghanistan. The United Nations’ reaction should be seen as a condemnation of the USSR’s intervention in Afghanistan.

The United Nations’ considered the case of Grenada and a resolution adopted by the General Assembly at its 38th session called, among other things, for the withdrawal of foreign troops from Grenada. The United Nations’ reactions should be seen as a condemnation of the intervention carried out by the USA and the Caribbean states against Grenada.
The United Nations’ considered the case of Panama and called, among other things, for the withdrawal of foreign troops from Panama in a resolution adopted by the General Assembly at its 44th session. The United Nations’ reaction should be seen as a condemnation of the intervention carried out by the USA against Panama.

The United Nations’ considered the case of Kuwait and condemned the intervention, called for the unconditional withdrawal of foreign troops, imposed sanctions against Iraq, and finally allowed the use force to oust the intervening forces from Kuwait in resolutions adopted by the Security Council. The United Nations’ reaction should be seen as a condemnation of the intervention carried out by Iraq against Kuwait.

The United Nations’ considered the case of Iraq but did not adopt any resolution relating to the military intervention carried out in that country nor any call for the withdrawal of foreign troops. The United Nations did adopt a resolution stating that Iraq was subject to foreign occupation but not any demand for a withdrawal of foreign troops. Thus, the United Nations’ reaction cannot be seen as a condemnation of the military intervention in Iraq. However, through subsequent resolution adopted by the Security Council the outcome of the intervention was legitimised by the United Nations.

The relation between the United Nations’ reactions to the eight cases of foreign military intervention, on the one hand, and the degree of violation of the provisions of Article 2(4) of the Charter of the United Nations pertaining to the prohibition of the use of force in inter-state relations, as defined in this study, on the other, is summarized in the following table. With regard to the United Nations’ reactions the five categories of Legitimisation of outcome, No reaction, Single reaction, Extensive reaction and Active reaction are used.

<table>
<thead>
<tr>
<th>Violating Article 2(4)</th>
<th>United Nations’ reactions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Legitimisation of outcome</td>
</tr>
<tr>
<td>Violation documented</td>
<td>Iraq</td>
</tr>
<tr>
<td></td>
<td>CAE</td>
</tr>
</tbody>
</table>

A violation of the provisions of Article 2(4) has been documented in regard to all eight cases.

It follows from Table II that no correlation has been found between the United Nations’ reactions to the eight cases of foreign military intervention and the violation of the provisions of Article 2(4). Thus, the testing of Specification 1 has shown that, when applied to the eight cases encompassed by this study, the notion that the United Nations has reacted in a consistent way to the eight interventions that violated of the provisions of Article 2(4) of the Charter has not been sustained.

7.2 Specification 2: Self-defence

7.2.1 Introduction
In order to properly examine Specification 2 some central aspects related to the eight military interventions have to be explored. First, the prelude to the interventions proper are important since, in accordance with the interpretation of the provisions of Article 51 pertaining to the right of self-defence as used in this study, a state must be the subject of an armed attack before it can invoke the right to use armed force in self-defence. The events preceding an intervention provide the objective basis to determine whether the right to use force in self-defence by the intervening states can be documented or not. Second, the official statements given by an intervening state in connection with the intervention are important since they can contain claims of having acted in self-defence when carrying out the intervention.

7.2.2 Kampuchea
Border clashes between Kampuchea and Vietnam occurred immediately after the communist forces seized power in Kampuchea, after the fall of Phnom Penh on 17 April 1975, and in the former Republic of Vietnam, after the fall of Saigon on 30 April 1975. A settlement was reached during a visit to Hanoi in June 1975 by a delegation of the Kampuchean Communist Party and a fairly stable situation prevailed on the common border up to the end of 1976.

In early 1977, Kampuchea started to ‘patrol’ disputed border areas, which they regarded as Kampuchean territory but under Vietnam’s control. From March, Kampuchea began artillery shelling and armed attacks against Vietnam. During the second half of 1977, the conflict escalated into a full-scale war with attacks by the two states across the common border. The armed conflict continued unabated during 1978 until the Vietnamese intervention, launched on 25 December 1978 (Amer, 1994a: 194-201; Heder, 1982: 28-67).

The empirical evidence shows that a militarized border conflict between Kampuchea and Vietnam preceded Vietnam’s military intervention in Kampuchea in late December 1978. Most scholars also agree that the military actions, which eventually escalated to a state of de facto war and finally to Vietnam’s military intervention, were initiated by Kampuchea during the first quarter of 1977. However, it has been debated whether Kampuchea’s military actions should be viewed as defensive or offensive acts.14 It can be noted that the claims put forward by both Kampuchea and Vietnam, pertaining to military attacks by the other party, do not in content contradict the description given by scholars (Amer, 1994a: 195-201).

If attention is turned to Vietnam’s argumentation in describing its relations with Kampuchea, two main lines can be identified. The first was followed from early January 1979 onwards, while the second started to be used during the second half of February 1979.

- Along the first line of argumentation, Vietnam referred to the ‘aggression’ and the ‘anti-Vietnam border war’ waged by Kampuchea. Furthermore, Vietnam stated that it had made several proposals aiming at resolving the dispute by peaceful means but to no avail (S/PV.2108: 11-4; BBC/FE/6016/A3/9; and, S/PV.2117: 9-12).
- According to the second line of argumentation, Vietnam was providing ‘assistance’ to Kampuchea upon the latter’s request. Vietnam argued that such ‘assistance’ was

14 Stephen R. Heder has argued that these were indeed defensive measures (Heder, 1982: 28-67). Michael Vickery has criticized Heder’s approach to the conflict between Kampuchea and Vietnam (Vickery, 1984: 189-196).
not in violation the Charter of the United Nations since it aimed at supporting the people of Kampuchea it its struggle for self-determination (S/PV.2115: 13).

In can also be noted that Vietnam claimed that the government in Kampuchea was overthrown through an internal uprising (S/PV.2108: 11-14).

The factual evidence available gives credence to Vietnam’s claims of Kampucheans attacks against Vietnam but the course of events from 25 December 1978 onwards was different from the picture given by the Vietnamese in 1979. The evidence shows that Vietnam carried out a military intervention in Kampuchea resulting in the overthrow of the existing government.

Judging from the decisions by the General Assembly, the United Nations did not accept the intervention as an act of self-defence, in accordance with the provisions of Article 51 of the Charter of the United Nations.

7.2.3 Uganda

Relations between Tanzania and Uganda had been tense for many years prior to 1978, with reports of clashes along the common border. The immediate cause of the crisis leading to the intervention was an incursion by Ugandan troops into northern Tanzania in October 1978, resulting in Uganda taking control of the Kagera Salient. Tanzania fought back and forced the Ugandan troops out of Tanzania during the first half of November 1978. However, the fighting continued and eventually Tanzania began to advance into Uganda. Uganda claimed that this occurred as early as October 1978, whereas Tanzania first acknowledged an incursion on 26 January 1979 (Africa Diary, 1979a: 9414-9417, Africa Diary, 1979b: 9524-9529).

Some scholars have taken the position that Tanzania’s action could be condoned on humanitarian grounds in the light of the internal policies of the Ugandan administration, see for example Burrows (Burrows, 1979), whereas others have argued that such a notion is not in agreement with the prohibition of the use of force as expressed in Article 2(4) of the Charter of the United Nations, see for example Bring (Bring, 1982: 59-61). However, it seems sustained that the two countries had carried out attacks across the common land border.

The claims made by Uganda that it was subject to attacks from Tanzania in October 1978 are contradictory as can be seen from the following. In statements from October 12 to 29 Uganda claimed that fighting was on-going on Ugandan territory and in the statement on November 1 President Amin claimed that his troops had first forced Tanzanian troops out of 400 square miles of Ugandan territory and then captured 710 square miles of Tanzanian territory. Thus, Uganda claimed that in some 48 hours it had not only been more successful in repulsing Tanzanian attacks than during the three previous weeks, but it had also seized a large area of Tanzania. (Africa Diary, 1979a: 9414-9417; Africa Diary, 1979b: 9524-9529).

Tanzania claimed that its military intervention in Uganda was a response to attacks carried out by Uganda and that Tanzania’s action was an act of self-defence in accordance with the provisions of Article 51 of the Charter of the United Nations. (Africa Diary, 1979a: 9414-9417; Africa Diary, 1979b: 9524-9529).

The fact that the United Nations did not consider the case of Uganda should not be interpreted as an acceptance of Tanzania's argument that the action was in accordance with the principles of the Charter of the United Nations, nor can it be interpreted as an acceptance of Tanzania's right to respond to Uganda's attacks by the use of force.
7.2.4 Central African Empire
Due to France’s discontent with the human rights’ record of the CAE, French financial and military aid was suspended in 1979. During the night of 20-21 September 1979 Emperor Bokassa, on a visit to Libya, was overthrown and replaced by Mr David Dacko who had been flown to Bangui on a French military aircraft the same night. France also dispatched 300 troops to the CAE (Faligot & Krop, 1985: 344-345).

France did not present any claims of military actions carried out by the CAE against France, nor against French citizens residing in the CAE, and it did not claim to have acted in self-defence when carrying out the military intervention. Instead, France claimed that French troops were dispatched at the request of the new administration, under the leadership of Mr Dacko, and that he was brought to power through an internal upheaval, without French interference (Africa Diary, 1979c: 9763-9764; Africa Diary, 1979d: 97880).

The factual evidence shows that the military intervention took place before the alleged uprising which, according to France, resulted in the overthrow of Emperor Bokassa, and it was the intervention that led to the overthrow of the existing administration in the CAE.

The absence of any United Nations’ reaction to the French intervention in the CAE cannot be interpreted as an acceptance by the United Nations of the French version of the course of events.

It should be noted that the course of events in the case of the CAE differs from the cases of Kampuchea and Uganda, since there was no basis for claiming the right to use force in self-defence.

7.2.5 Afghanistan
The People’s Democratic Party of Afghanistan (PDPA) had gained power by overthrowing President Mohammad Daud in a coup in April 1978. Mr Nur Mohammad Taraki became President and led the country until mid-September 1979. On 16 September 1979 it was officially announced that Mr Hafizullah Amin had been unanimously elected Prime Minister and Minister of Defence. Subsequently, Mr Amin was also elected Head of State. On 27 December 1979 Kabul radio was monitored to have announced that President Amin had been overthrown by Mr Babrak Karmal. Mr Karmal was flown to Kabul on a Soviet aircraft. This followed an airlift of an estimated 4,000 to 5,000 Soviet troops into Kabul on 25-26 December 1979 (Sen Gupta, 1986: 26-84).

The claims put forward by the USSR bear resemblance to those put forward by France in the case of the CAE. The USSR claimed to have sent troops to Afghanistan at the request of the new administration. The USSR also claimed that this request was made because the new administration was facing a threat of ‘foreign aggression’. Furthermore, according to the USSR, the new administration in Afghanistan was a product of an internal uprising against an unpopular ‘regime’ and the USSR was not in any way involved in this uprising. The USSR did put emphasize on the argument that the dispatch of troops to Afghanistan was in accordance with the provisions of the Treaty of Friendship, Good Neighbourliness and Co-operation of 5 December 1978 between the two countries (S/PV.2186: 1-5 and S/PV.2190: 12-14).

The factual evidence display that the military intervention took place before the alleged uprising which, according to the USSR, resulted in the overthrow of President
Amin, and that the intervention led to the overthrow of the existing government in the country.

The General Assembly did not accept the claims put forward by the USSR. The Assembly pursued its condemnation of the intervention in Afghanistan until it was internationally verified that the foreign troops had been withdrawn from the country.

It should be noted that the course of events as well as the claims by the intervening state in the case of Afghanistan display similarities with the case of the CAE, whereas it differs from the cases of Kampuchea and Uganda.

7.2.6 Grenada

The Prime Minister of Grenada, Mr Maurice Bishop, was overthrown in a coup in mid-October 1983. The coup was staged by a rival faction of the ruling New Jewel Movement, headed by Mr Bernard Coard and General Hudson Austin. In the aftermath of the coup Mr Bishop and several ministers were executed. A Revolutionary Military Council (RMC), chaired by General Austin, was created on October 20.

All members of the Organization of East Caribbean States (OECS), except Grenada, held an emergency session on October 21 in Bridgetown, Barbados. They discussed the situation in Grenada and decided to ‘take appropriate action’ under the provisions of the OECS’s founding treaty concerning the defence and security in the ‘sub-region’.

In the morning of October 25, 1,900 USA troops landed in Grenada. Five hundred soldiers and police from Antigua and Barbuda, Barbados, Dominica, Jamaica, Saint Lucia, and Saint Vincent and the Grenadines also took part in the intervention.

The military intervention in Grenada was a ‘collective’ enterprise, but there is no doubt that the USA provided the bulk of the troops as well as the military equipment enabling the military intervention to be carried out.

The members-states of the OECS, which took part in the intervention in Grenada, claimed to have acted in self-defence when facing the turmoil in Grenada and the rise of a new government, which they felt presented a security threat to the neighbours. Nevertheless, these OECS states did not put forward any evidence that Grenada had initiated military activities against them (S/PV.2489 par. 6-8, 22-28 and 76-80, and S/PV.2491 par. 11-18, 28-43, 63-75 and 147-150). Since no military attacks had been carried out by Grenada against its neighbours there was no basis for invoking an action in self-defence, according to the provisions of Article 51 of the Charter of the United Nations. This is in accordance with the interpretation of the provisions of Article 51 pertaining to the right of self-defence, as used in this study.

The USA’s claimed to have acted in order to rescue US citizens in danger in Grenada as well as to provide assistance to the OECS states (S/PV.2487 par. 93-95 and S/PV.2491 par 28-43). Grenada stated that the US citizens in Grenada were not in danger (S/PV.2487 par. 41-55).

The United Nations’ reaction to the military intervention in Grenada shows that a majority of the member-states condemned the action when it was subject to consideration by the General Assembly. This reaction should be interpreted as a non-acceptance by the majority of the member-states of the self-defence claims put forward by the intervening states. It should also be interpreted as a non-acceptance of the notion that a state can intervene militarily in another state and overthrow a government on the basis of ensuring the security of a number of its own citizens.

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15 The description of events leading to the intervention is based on Gilmore, 1984: 30-34, 92 and 97.
7.2.7 Panama

In early April 1989 President George Bush extended the economic sanctions against Panama that had been announced by President Ronald Reagan in 1988. Presidential elections held in Panama on 7 May 1989 were nullified by the country’s General Manuel Noriega, on May 10. On 3 October 1989 an abortive military coup was carried out in Panama. The coup attempt received support from US troops based in the country. On 15 December 1989 the National Assembly of Panama issued a declaration making General Noriega formal Head of State and announcing that Panama was in a 'state of war'.

On December 16 an ‘off-duty’ US marine was killed in a confrontation with members of the Fuerzas de Defensa de Panamá (FDP) and on December 18 a Panamanian police officer was shot by a US soldier who felt ‘threatened’ when approached by the officer.

Finally, the USA intervened in Panama on 20 December 1989. The intervention involved 13,000 soldiers based in Panama as well as an additional 9,500 soldiers airlifted from the USA.

The USA explicitly laid claims to have carried out its military intervention in Panama in self-defence, in accordance with Article 51 of the Charter of the United Nations. The USA referred to the killing of a US serviceman in Panama and to the harassment of other US servicemen by Panamanian forces as a basis for acting in self-defence. Furthermore, the USA claimed that a speech by President Noriega about Panama being in a state of war was directed against the USA and as such constituted ‘military aggression’ against the USA (S/PV.2899 par. 31-37 and S/PV.2902 par. 7-16). However, the USA did not claim that its territory or its territorial waters had been attacked by Panama and, thus, its claims are not sufficient to invoke the right to use force in self-defence. This is in accordance with the interpretation of the provisions of Article 51 pertaining to the right of self-defence, as used in this study.

As in the case of Grenada the USA justified its action by the rescuing of US citizens living in Panama. In the case of Panama one US citizen had undoubtedly been killed, whereas in the case of Grenada no evidence of an imminent threat was presented. Nevertheless, the circumstances surrounding the killing of the US serviceman as well as other incidents involving US servicemen do not unequivocally show that the Panamanian side was the first to resort to the use of force.

Panama’s declaration of being in a state of war was interpreted as an act of aggression by the USA and as a threat to the US servicemen in the country. However, the declaration could also be interpreted as expressing Panama’s assessment of the events as a war launched by the USA against Panama (Amer, 1994a: 225).

The decision of the General Assembly to condemn the military intervention in Panama should be interpreted as a non-acceptance of the claims of the USA to have acted in self-defence when carrying out its action.

7.2.8 Kuwait

The relations between Iraq and Kuwait had been deteriorating during 1990 over a number of issues. First, there was Iraq’s debt to Kuwait that had increased considerably during the war between Iraq and Iran during the 1980s. Second, Iraq accused Kuwait of

16 The description of events leading to the intervention is based on James, 1990: 25-30.
undermining its economy by opposing measures to limit oil production, which would have increased the price on crude oil, thus causing economic hardship to Iraq. Third, the border between the two countries was disputed and Iraq accused Kuwait of exploiting an oil field on Iraqi territory. Fourth, Iraq was opposed to what it perceived as Kuwait promoting American influence in the region. Attempts at reaching some sort of accommodation on the disputed bilateral issues through bilateral and multilateral meetings, involving representatives from the two countries failed and on 2 August 1990 Iraq, launched its military intervention against Kuwait (Salinger & Laurent, 1991: 7-116).

Iraq’s main motive for intervening in Kuwait was that there was an American threat to Iraq's security emanating from Kuwait. According to Iraq, Kuwait had been transformed into an ‘American base for hatching plots’ against Iraq (Hussein-Cuellar, p. 8). Thus, Iraq was pursuing self-defence arguments. However, Iraq did not claim to have been subject to armed attacks carried out by Kuwait or by troops of other nations based in Kuwait. Thus, Iraq’s claims were not sufficient to invoke the right to use force in self-defence. This is in accordance with the interpretation of the provisions of Article 51 pertaining to the right of self-defence, as used in this study.

Another line of argumentation by Iraq was also to claim that the overthrow of the existing administration in Kuwait was the result of an internal uprising, admittedly with the assistance of Iraqi troops. Furthermore, Iraq argued that the ‘comprehensive and eternal merger’ between the two countries was a response to the threat posed to Kuwait from US forces in Saudi Arabia and that prior to the dispatch of US troops Iraq had announced that it would withdraw its troops from Kuwait (Hussein-Cuellar, 1991: 8-9).

The United Nations’ reaction to Iraq’s intervention in Kuwait can only be interpreted as a non-acceptance of Iraq’s claims to have acted in self-defence when carrying out its action as well as of Iraq’s explanations pertaining to the political union between Iraq and Kuwait.

7.2.9 Iraq
The prelude to the intervention against Iraq centred around attempts by the USA and the UK to gain support in the Security Council for a resolution authorising the use of force against Iraq on the grounds that Iraq was in ‘material breach’ of its obligations under earlier Security Council resolutions in particular 687 (1991) and 1441 (2002) These efforts continued up the day preceding the initiation of the military intervention, i.e. up to 19 March 2003. In letters to the Security Council dated 20 March 2003 both the UK and the USA argued along the same line. The letter from the UK stated that Iraq’s behaviour had resulted in it being in ‘material breach of the conditions for the ceasefire at the end of hostilities in 1991 laid down by the council in its resolution 687 (1991).’ (S/2003/350) The letter from the USA stated that the ‘actions being taken are authorized under existing Council resolutions, including its resolutions 678 (1990) and 687 (1991).’ (S/2003/351) The line of argumentations pursued by the two intervening states were that the authorisation to use force in response to Iraq’s intervention in Kuwait in 1990 provided a legal foundation for the use of force against Iraq in March 2003.

In terms of self-defence the letter from the UK did not contain any such references or claims whereas the letter from the USA contained a self-defence claim as stated in the following:

‘The actions that coalition forces are undertaking are appropriate response. They are necessary steps to defend the United States and the international community from the
threat posed by Iraq and to restore international peace and security in the area. Further delay would simply allow Iraq to continue its unlawful and threatening conduct.’ (S/2003/351)

Thus, the USA was pursuing a self-defence argument. However, the USA did not claim to have been subject to armed attacks carried out by Iraq. In fact reference is made to the ‘threat’ posed by Iraq. Thus, USA’s claim is not sufficient to invoke the right to use force in self-defence. This is in accordance with the interpretation of the provisions of Article 51 pertaining to the right of self-defence, as used in this study, i.e. that self-defence can only been claimed when a state is the subject of an armed attack.

7.2.10 Assessing Specification 2

If the eight cases are analysed from the perspective of self-defence there are two aspects to take into consideration. First, did the intervening state claim to have acted in self-defence or not. Second, did the course of events prior to the intervention provide the basis for invoking the right to use force in self-defence.

• Self defence was claimed by the intervening states in five of the eight cases namely Uganda, Grenada, Panama, Kuwait, and Iraq.

• The cases of Kampuchea and Uganda involved border conflicts, initiated by the governments in the target states. These military attacks created a situation that eventually led to the interventions. The armed attacks by Kampuchea and Uganda respectively provided a basis for the intervening states to invoke the right to use force in self-defence in accordance with the provisions of Article 51 of the Charter of the United Nations.

Comparing the United Nations’ reactions to the eight cases with the expressed claims of self-defence by the intervening states display the following pattern:

Table III The United Nations’ reactions as against claims of self-defence by the intervening states

<table>
<thead>
<tr>
<th>Self-defence claim</th>
<th>Legitimisation of outcome</th>
<th>United Nations’ reactions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Self-defence claimed</td>
<td>Iraq</td>
<td>Uganda</td>
</tr>
<tr>
<td>Self-defence not claimed</td>
<td>CAE</td>
<td>Kampuchea</td>
</tr>
</tbody>
</table>

Table III does not show a link between the United Nations’ reactions to the eight cases and claims of self-defence by the intervening states. Nevertheless, the following observations can be made:

• The five cases in which the intervening states explicitly claimed to have acted in self-defence display a considerable variation in United Nations’ reactions ranging from no-reaction in the case of Uganda, to single reaction in the cases of Grenada
and Panama, whereas there was an active reaction in response to the case of Kuwait. Finally, there was a legitimisation of outcome of the intervention in the case of Iraq.

- The two cases in which the intervening states did not explicitly claim to have acted in self-defence – Kampuchea and Afghanistan – warranted an extensive reaction on the part of the United Nations, whereas there was no reaction in regard to the case of the CAE.

Comparing the United Nations’ reactions to the eight cases with the available evidence pertaining to the events preceding the interventions, i.e. could these events form the basis for claims of self-defence, would generate the pattern displayed in Table IV:

### Table IV The United Nations’ reactions as against documented evidence for claiming self-defence

<table>
<thead>
<tr>
<th>Documented evidence for self-defence</th>
<th>Legitimisation of outcome</th>
<th>United Nations’ reactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Documented evidence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uganda</td>
<td>No</td>
<td>Single</td>
</tr>
<tr>
<td>Kampuchea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not documented evidence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Iraq</td>
<td>CAE</td>
<td>Grenada</td>
</tr>
<tr>
<td>Kuwait</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Panama</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table IV does not show a link between the United Nations’ reactions to the eight cases and a documented basis for self-defence. In fact, the United Nations’ reactions to the five cases without a documented basis for invoking self-defence displayed the full variety of reactions from legitimisation of outcome in the case of Iraq to active reaction in the case of Kuwait. The United Nations’ reactions to the cases of Uganda and Kampuchea were also very different, despite the documented basis for invoking self-defence.

The testing could be carried out at an additional level of complexity by taking into consideration both the explicit claims of self-defence by the intervening states and the available documented evidence pertaining to the events preceding the interventions. This exercise would give the picture displayed in Table V, i.e. a contradiction similar to Tables III and IV in regard to the case of Kuwait, on the one hand, and the cases of Grenada and Panama, on the other. The case of Iraq reinforces the contradiction.
Table V The United Nations’ reactions as against claims of self-defence and documented evidence

<table>
<thead>
<tr>
<th>Claimed self defence/ Documented evidence</th>
<th>United Nations’ reactions</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Legitimisation of outcome</td>
</tr>
<tr>
<td>Self-defence claimed and documented</td>
<td>Uganda</td>
</tr>
<tr>
<td>Self-defence claimed but not documented</td>
<td>Iraq</td>
</tr>
<tr>
<td></td>
<td>Grenada</td>
</tr>
<tr>
<td></td>
<td>Kuwait</td>
</tr>
<tr>
<td></td>
<td>Panama</td>
</tr>
<tr>
<td>Self-defence not claimed but documented</td>
<td>Kampuchea</td>
</tr>
<tr>
<td>Self-defence not claimed and not documented</td>
<td>CAE</td>
</tr>
<tr>
<td></td>
<td>Afghanistan</td>
</tr>
</tbody>
</table>

The testing of Specification 2, based on the documented evidence pertaining to the eight cases, has shown that the notion that the United Nations has consistently taken into account the provisions of Article 51 of its Charter, when reacting to the eight cases of foreign military intervention, has not been sustained.

7.3 Evaluating the Hypothesis

From the above analysis follows that no sustained correlation has been found between the two specifications and the United Nations’ reactions to the eight cases of foreign military intervention.

The analysis of Specification 1 showed that all eight cases were violations of the prohibition of the use of force, as defined for the purpose of this study. The interventions violated the prohibition of the use force against the territorial integrity of states as well as the prohibition of the use of force against the political structure of states. Thus, from the point of view of the violation of the prohibition of the use of force, no difference could be identified between the cases. However, the United Nations’ reactions to the eight cases were not consistent.

The analysis of Specification 2 showed that a basis for invoking the right to use force in self-defence by the intervening state could be documented in the cases of Kampuchea and Uganda but not in the other six cases. It was also displayed that the intervening states claimed to have acted in self-defence in five of the cases – Uganda, Grenada, Panama, Kuwait, and Iraq. Whether self-defence was claimed and/or documented or not, it did not produce any correlation with the United Nations’ reactions to the eight cases.
In an earlier study of six of the cases (Kuwait and Iraq were not included) it was concluded that: ‘explicit self-defence claims put forward by an intervening state seem to result in a ‘milder’ United Nations’ reaction’ (Amer, 1994a: 238). However, the United Nations’ reaction to the case of Kuwait does not support such findings whereas the reaction to the case of Iraq seems to support it.

Since all eight interventions involved the overthrow of an existing indigenous administration, they can under no circumstances be regarded as proportional self-defence responses. Thus, adding the aspect of proportionality to the analysis would not make the United Nations’ reactions to the eight cases more compatible with the provisions of Article 51, as interpreted for the purpose of this study.

Consequently it could be argued that the United Nations’ reactions to the eight cases were not consistent.

The conclusion from the testing of the Hypothesis is that it has been found untenable. It can therefore be argued that the provisions of the Charter of the United Nations is not the sole factor guiding and generating the United Nations’ reactions to foreign military interventions.

7.4 Concluding Remarks

In the early 1990s the United Nations’ reaction to Iraq’s intervention in Kuwait was hailed as an example of how the United Nations should react to breaches of the provisions of the Charter of the United Nations and it was also said to herald a new era when breaches of the Charter would no longer be tolerated. If that was the case back in the early 1990s the United Nations’ reaction to the intervention in Iraq must then be an example of the diametrically opposite trend, namely a weaker response than against any of the other interventions involving the USA encompassed by this study. Furthermore, it could be seen as setting a trend of legitimising the outcome of actions that breach the provisions of the Charter. In the following the trends in the United Nations’ reactions to foreign military interventions will be discussed in further details.

This study has displayed the full variety of reactions to foreign military interventions by the United Nations. However, in all eight cases only one has led to the legitimisation of the outcome of the intervention through Security Council resolutions, namely the case of Iraq. The other cases were either condemned or warranted no reaction. This constitutes a qualitative difference given the growing importance of the Security Council in the post-Cold War Era (ref till Wallensteen and Johansson). This reaction is even more remarkable given the fact that of all the eight cases Iraq was the only in connection with which the intervening forces sought the authorisation from the Security Council before the intervention and they failed to obtain such an authorisation. Thus, in all logic a number of members of the Security Council, including some permanent ones opposed the intervention, yet they have voted in favour of all subsequently adopted resolutions relating to developments in Iraq. Furthermore, no attempt at condemning the intervention was done through the means available in the Security Council, i.e. a draft resolution to that effect. This can be contrasted to the cases of Kampuchea, Afghanistan, Grenada, Panama, and Kuwait. If Kuwait is disregarded the other four cases display that the use of the veto to prevent the Security Council from adopting resolutions criticising the intervention did not deter countries from putting them to the vote. Following the vetoes that were cast in the Security Council the four cases were brought to the General Assembly where resolutions criticising the interventions were adopted in all four cases. In the case of Afghanistan an Emergency Session of the General Assembly was organised to deal with the issues in early 1980
displaying the urgency of the issue of intervention in that case. Thus, the threat of veto cannot help explain why no such initiative was taken in the case of Iraq.

Interestingly enough if the three cases in which the USA was one of the intervening actors, i.e. Grenada, Panama and Iraq, are compared a trend of steadily but clearly weakening reaction is displayed. In the case of Grenada only one veto was cast in the Security Council namely by the USA and the resolution in the General Assembly was adopted by 108 votes in favour, nine votes against and with 27 states abstaining in the vote. In the case of Panama three permanent members voted against the draft resolution in the Security Council namely the USA, the UK and France. The resolution in the General Assembly was adopted by 75 votes in favour, 20 against and with 38 states abstaining. In the case of Iraq no resolution condemning the interventions has been considered in either the Security Council or in the General Assembly. This pattern of reaction displays a continuous trend in weakening reaction to the cases with the USA as intervening actor. Interestingly enough the reaction was stronger during the Cold war, it weakened but was still in evidence by the end of the Cold War, while the latest case of Iraq displays an acceptance and a legitimisation of the outcome of the intervention but not an explicit acceptance of the intervention as such.
8 References

8.1 United Nations documents

8.1.1 The Charter of the United Nations

8.1.2 Security Council Meetings

8.1.3 Security Council Resolutions

8.1.4 Security Council documents

8.2 Other sources


Umeå, March 2007