Chapter 5
Impartiality of Peacekeeping Measures

Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned.
Second sentence of Article 40 of the UN Charter

1. The Principle of Non-Intervention

The Security Council must always take care not to intervene in the domestic jurisdiction of a state within the meaning of Article 2(7) of the UN Charter,\(^1\) especially

when the situation involves internal conflicts within a state. Peacekeeping measures adopted as provisional measures under Article 40 of the Charter are subject to the principle of non-intervention, since those measures by no means constitute enforcement measures as the stated exception to the principle.2 Nevertheless, the Security Council has, from time to time, taken peacekeeping measures in the face of allegations that those measures would constitute an intervention into domestic jurisdiction of a state. This was the case for the UN peace observation missions despatched despite the pleas of domestic jurisdiction by the Netherlands for the Indonesian question in 1947,3 and likewise by the Soviet Union for the Lebanese question in 1958.4 Yet the way in which the Security Council despatched those missions was subtle, emphasising their conformity with Article 2(7) by reaffirming the imperative requirement of provisional measures not to intervene in or to be used to influence the outcome of conflicts in a way prejudicial to the rights, claims, or position of the parties concerned.5

It must be borne in mind that the principle of non-intervention between sovereign states is to be distinguished from non-intervention by the UN in the domestic jurisdiction of sovereign states.6 The principle of non-intervention embodied in Article 2(7) of the Charter addresses the latter, whereas the principle of non-intervention in the former sense can be derived from the principles of sovereign equality and non-use of force as embodied in Articles 2(1) and 2(4) of the Charter respectively.7 Although the principle has been reiterated in a number of UN resolutions including the landmark *Declaration on Principles of International

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2 See, the last sentence of Article 2(7) of the Charter.
3 See, UN SCOR, 2nd year, 171st–173rd mtgs, UN Doc S/PV.171-173 (31 July–1 August 1947). For a brief account of the event, see Ch. 3, fn. 7. A motion was tabled to request the ICJ to give an advisory opinion as to whether the Security Council was competent to deal with the question, though it was not adopted: UN SCOR, 2nd year, 194th mtg, UN Doc S/PV.194 (25 August 1947).
4 See, UN SCOR, 13th year, 825th mtg, UN Doc S/PV.825 (11 June 1958). Although it regarded the situation in Lebanon as falling solely within the domestic jurisdiction of Lebanon, the Soviet Union abstained from the voting, explaining that neither Lebanon nor the UAR objected to it: id. at paras. 83–86. For a brief account of the event, see Ch. 3, fn. 64.
7 See, Nolte, above n. 1 at 151.