**Cover page**

* References to judgments or opinions of the International Court of Justice have not been scrutinized for further references. On the use of scholarly work by the ICJ, see M. Peil, ‘Scholarly Writings as a Source of Law: A Survey of the Use of Doctrine by the International Court of Justice’, (2012) 1 *Cambridge Journal of International and Comparative Law* 136.
* Errors in referencing have been corrected and reinterpreted where the error was obvious, e.g. in case of a reversal of page numbers (e.g., Daniel Silver refers to p. 18 of Dinstein’s book, which should be p. 81) or an incorrect reference to a quote, e.g. when Russell Buchan refers to p. 12 of Bentwich and Martin’s book; this should be p. 13; or in case of plain logic, e.g. when Stephanie Handler refers to p. 88 of Daniel Silver’s article, which should be p. 81. These choices are explicated and accounted for in the ‘comments’ column.
* Footnotes sometimes include works of authors arguing the opposite of the consensus claim, included by the author as representing the *a contrario* opinion. These *a contrario* references have, obviously, not been included in this table.
* Individual decisions as to in- or exclusion of references under the ‘secondary’ and ‘tertiary’ columns have been accounted for within the pdf-files of the articles themselves; I have these on file. These decisions were necessary when, for example, the primary reference refers to multiple page numbers, or where the page referred to itself contains multiple footnotes. Not all of these are necessarily supportive of the consensus/interpretive claim. Where I thought it necessary to do so, these individual decisions have been accounted for in the table below.
* The decision to in-or exclude a particular reference has been based on the way the author referred to is used by the author doing the referring: in other words, I have attempted not to be guided by my own conclusions as to relevance, but by how the author was used in the text. This approach accounts for some differences in the trackback for similar authors. Decisions as to in- or exclusion in this regard have been made on a case-by-case basis, but with an expansive scope in mind (that is, a bias towards inclusion in this table rather than exclusion).
* If an author states that ‘economic coercion is not prohibited by Article 2(4) [fn1], but is prohibited by the non-intervention principle [fn2]’, this begs the question whether to include both footnotes or only the first in the table below. I have only included the second if it is clearly part of a discussion of force; to have a wider scope would lead to the inclusion of references to e.g. Article 2(3) of the Charter, or the discussion of all kinds of treaties that are not directly relevant to the discussion of force. Decisions in this respect have been made on a case-by-case basis.
* The references sometimes include General Assembly Resolutions; these are, where necessary, specified in the ‘comments’ column.
* Cross-references have not been included here (e.g. ‘*supra* note 5’), as only those pages referred to by the author doing the referring were included. Arguments made in the text (e.g., an analysis of other uses of the word ‘force’ in the UN Charter, or an analysis of the *travaux préparatoires*) have likewise not been included, except where indicated otherwise in the ‘comments’ column.
* Sometimes references are made to support a consensus claim, but these references in turn do not necessarily contain a consensus claim; they can also support the *interpretation* that force is ‘armed’ force. In that case, those references needed to support that interpretive claim have been included, but, again, only those found on the page referred to by the author doing the referring.
* The table includes consensus claims that are not substantiated in a footnote immediately following the claim. This is clarified in the table itself.
* The phrase ‘no further references’ is used to either indicate that no further references are given by the author in question; or to indicate that there are no further *relevant* references in the text cited by the author.
* The extent to which the articles used here deal with Article 2(4) varies greatly. Some deal only with Article 2(4) and cyber, and extensively go into the history of the prohibition, General Assembly Resolutions on the subject, and the meaning given to the prohibition by the ICJ. In other works, Article 2(4) is mentioned only sideways, as part of a discussion of, for example, countermeasures or Article 51 of the UN Charter.

**Reading instruction**

The table below presents 29 consensus claims in total; 26 of those are made in the context of a discussion about the application of Article 2(4) to cyber-attacks; the other three are taken from writings about Article 2(4) generally (these last three can be found on the last page of this document). These last three have been trackbacked as they are more frequently referred to in the debate on cyber-attacks and Article 2(4). The first column of the table below gives the author, publication and page number on which the consensus claim is made; the second column gives the actual claim, with the footnote (if any is given) that the author provides, in brackets (e.g. ‘[28]’). The third column then gives the sources provided by the writer making the consensus claim, with the author, year of publication, page number, and, for the sake of clarity, the footnote in the original publication where the reference is made. The fourth column (‘secondary references’) provides the references referred to by the authors *in the third column*. For example, Richard Aldrich refers in footnote 76 to Goodrich, Hambro and Simons to substantiate his own consensus claim (listed under ‘primary references’); they, in turn, refer in footnotes 84-86 to several General Assembly Resolutions and other discussions within the UN framework (which can be found under ‘secondary references’). The fifth column (‘tertiary references’) provides those works referred to by the authors in the fourth column, in other words, those works cited by the secondary references. The sixth column provides clarifying comments where I thought it necessary to do so; the final column on the far right provides a full list of all publications used for that particular consensus claim. With regard to these publications, the bibliographical information given by the author is not always complete, and referencing styles differ. Therefore, I have given as much details about the publication as the author using it provided. This also accounts for occasional differences in referencing style in the last column.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Author, publication**  | **Consensus claim, footnotes in brackets** | **References in footnote**  | **Secondary references** | **Tertiary references** | **Comments** | **Full citations, in alphabetic order**  |
| **Vida M. Antolin-Jenkins, ‘Defining the Parameters of Cyberwar Operations: Looking for Law in All the Wrong Places’, 51 *Naval Law Review* 132 (2005)*****Consensus claim at*** *152-153* | ‘Use of force also remains undefined in international treaties. The **prevailing view** among international legal scholars seems to be that the term (p. 153) “use of force” in the UN Charter encompasses only use of military force.**[88]**’ | 1) Kelsen (1954) 57-58 [88] 12) Aldrich (2000) 238 [88]3) Bentwich & Martin (1950) 13 [88]4) Randelzhofer (2002/2) MN 16 [88] | 1(a) no further references 2(a) Goodrich, Hambro and Simons (1969/3) 49 [76]3(a) no further references4(a) see ‘Randelzhofer (2002/2)’ below | 1(a-1) no further references 2(a-1) General Assembly Resolutions and other discussions within the UN framework [84-86] 23(a-1) no further references 4(a-1) see ‘Randelzhofer (2002/2)’ below | Note that on p. 150-151 Antolin-Jenkins states that ‘[t]he UN Charter uses the terms “aggression,” “armed attack” and “use of force” in its various provisions without defining any of the terms. This has resulted in over 50 years of debate on meanings of those terms. An examination of the debates surrounding the adoption of the UN Charter, (p. 151) subsequent legal writings and international practice is needed to inform those definitions, although there is still no complete international consensus.[79] There is, however, agreement that the terms are not synonymous.[80]’1 I assumed Antolin-Jenkins to refer to footnote 5 on pp. 57-58 of Kelsen’s work.2 The Resolutions and UN discussions in footnotes 84-86 of Goodrich et al.’s chapter are the following (as copied from their footnotes): ‘GA Res. 380(V) and 381(V), Nov. 17, 1950’; ‘Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514(XV), Dec. 14, 1960’; ‘UN Doc. S/2322, Sept. 1, 1951’; ‘SCOR/6th Yr./549th-558th Mtgs./July 26-Sept. 1, 1951’; ‘UN Doc. S/4395, July 19, 1960.’ | Aldrich, ‘How Do You Know You Are At War in the Information Age?’, 22 *Houston Journal of International Law* 223 (2000); Bentwich and Martin, *A Commentary on the Charter of the United Nations*, Routledge and Kegan Paul Ltd.: 1950; Goodrich, Hambro and Simons, *Charter of the United Nations*, 1969 (3rd ed.); Kelsen, ‘Collective Security under International Law’, *US Naval War College International Law Studies* (1954); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 2002 (2nd ed.) |
| **Richard W. Aldrich, ‘How Do You Know You Are At War in the Information Age?’, 22 *Houston Journal of International Law* 223 (2000)*****Consensus claim at*** *238* | ‘Does the use of force envisioned in the Charter only prohibit the use of physical force? The **prevailing view** among international legal scholars seems to be yes-or at least that the use of force envisioned was more in the nature of armed force versus economic or political force **[76]**.’  | 1) Goodrich, Hambro and Simons (1969/3) 49 [76] | 1(a) General Assembly Resolutions and other discussions within the UN framework [84-86] 1 | No further references | Aldrich uses Goodrich et al. as illustrative of this position. The text of the footnote reads as follows: ‘76. *See, e.g.*, GOODRICH ET AL., *supra* note 71, at 49.’ (italics and capitalization in original)1 The Resolutions and UN discussions in footnotes 84-86 of Goodrich et al.’s chapter are the following (as copied from their footnotes): ‘GA Res. 380(V) and 381(V), Nov. 17, 1950’; ‘Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514(XV), Dec. 14, 1960’; ‘UN Doc. S/2322, Sept. 1, 1951’; ‘SCOR/6th Yr./549th-558th Mtgs./July 26-Sept. 1, 1951’; ‘UN Doc. S/4395, July 19, 1960.’ | Goodrich, Hambro and Simons, *Charter of the United Nations: Commentary and Documents*, Columbia University Press: 1969 (3rd ed.) |
| **Jason Barkham, ‘Information Warfare and International Law on the Use of Force’, 34 *NYU Journal of International Law and Politics* 57 (2001)*****Consensus claim at*** *84-85* | ‘Including all IW [Information Warfare - LB] actions within the use of force would require a major expansion of Article 2(4)... But such an expanded definition of the use of force would make it very difficult to continue to exclude acts of coercion from Article 2(4) because international law would have to distinguish IW acts that do not cause physical damage, such as electronic incursions and blockades, from acts of economic and political coercion, such as economic (p. 85) sanctions, which traditionally and specifically have been excluded from Article 2(4), but which often have the same effect.[113] There would not be a logical basis to exclude only certain types of economic aggression from an expanded Article 2(4).[114] In any event, the drafters of the Charter and the Declaration of Friendly Relations explicitly rejected this, and **a general consensus has emerged** that economic aggression is not a use of force.**[115]**’  | 1) Sadurska (1988) 253-254 [115] | 1(a) Farer (1985) 411 [70] 11(b) Definition of Aggression [70]1(c) US/France arbitral tribunal (1978) 443 [71] 21(d) ICJ: *Nicaragua* case [72]1(e) Seidl-Hohenveldern (1985) 14 [72]1(f) Wallensteen (1983) 127 [72]1(g) Deese (1983) 169 [72]   | 1(a-1) no further references1(b-1) no further references1(c-1) no further references1(d-1) no further references1(e-1) Seidl-Hohenveldern (1979) 1294 [30]1(e-2) Seidl-Hohenveldern (1980) 985 [30]1(e-3) Lindemeyer (1981) 16 [30]1(f-1) no further references1(g-1) no further references | In footnote 115, Sadurska refers to a previous footnote (no. 8), where she details the position of the ICJ: ‘[T]he International Court of Justice interprets the notion of force narrowly. Recently, Nicaragua claimed that the actions of an economic nature taken by the United States caused its economy a loss of $36 million per annum. Nicaragua v. U.S., 1986 ICJ Rep. at 69. The ICJ not only did not consider this issue in the context of Article 2(4), but also did not even find such actions to be a breach of the customary law principle of nonintervention. *Id*.at 126. But some dicta suggest that the Court's position is ambiguous: “The element of coercion, which defines, and indeed forms the very essence of prohibited intervention, is *particularly obvious* in the case of intervention which uses force....” *Id*. at 108 (emphasis added).’ (Sadurska, p. 241fn.8, emphasis in original)1 Note that Farer doesn't make a consensus claim: ‘However, in light of state practice, I believe that the requisite conditions are so unlikely to occur that a state’s use of economic power to influence another state is prima facie legitimate or, even if arguably illegitimate, not the sort of delinquency the target state is entitled to regard as “aggression”; an enormously heavy burden of proof must lie on the state claiming otherwise.’ Rather, he uses the work of Julius Stone to argue his own views.2 As copied from Sadurska, fn71: ‘Case Concerning the Air Services Agreement of 27 March 1946 (U.S. v. Fr.), 18 R. Int’l Arb. Awards 417,443 (1978), 54 ILR 304…(1979)’ | Deese, ‘The Vulnerability of Modern Nations: Economic Diplomacy in East-West Relations’ (155-182) and Wallensteen, ‘Economic Sanctions: Ten Modern Cases and Three Important Lessons’ (87-130), both in *Dilemmas of Economic Coercion: Sanctions in World Politics*, Nincic & Wallensteen (eds.) Praeger Publishers: 1983; Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985); Lindemeyer, ‘Das Handelsembargo als wirtschaftliches Zwangsmittel der staatlichen Auβenpolitik’, *Recht der internationalen Wirtschaft*, 1981; Sadurska, ‘Threats of Force’, 82 *AJIL* 239 (1988); Seidl-Hohenveldern, *Völkerrecht*, 1979; Seidl-Hohenveldern, ‘The Right of Economic Self-Determination’, *Melanges Dendias*: 1980; Seidi-Hohenveldern, ‘The United Nations and Economic Coercion’, 18 *Revue Belge de Droit International* 9 (1985) |
| **Marco Benatar, ‘The Use of Cyber Force: Need for Legal Justification?’, 1 *Goettingen Journal of International Law* 375 (2009)*****Consensus claim at*** *385* | ‘...the final text [of the Friendly Relations Declaration - LB] makes no mention of other forms of interstate pressure and uses terms that can only relate to armed force. [46] In addition, the declaration links the principle on non-intervention in domestic affairs to economic and political coercion. [47]Therefore, **the majority view** connects article 2(4) with force and the principle of non-intervention with other forms of coercion. **[48]**’ | 1) Randelzhofer (2002/2) 118 [48] 1 | 1(a) Virally in Cot & Pellet (1991/2) 122-123 [27, 31] 21(b) Seidl-Hohenveldern and Stein (2000/10) MN 1784 [28] 31(c) UNCIO VI, pp. 334, 609 [29] 41(d) Friendly Relations Declaration [30] 51(e) ICJ: *Nicaragua* case (1986) [31, 32] | 1(a-1) ICJ: *Nicaragua* case [1]1(a-2) Bowett (1958)1(a-3) Brownlie (1963)1(a-4) Higgins (1963) 1(a-5) LaCharriere (1984) 1(a-6) Sahovic (1972) 1(a-7) Schwebel (1972) 1(a-8) Treves (1987) 1(a-9) Waldock (1952) 1(a-10) Zourek (1974)1(b-1) no further references1(c-1) no further references1(d-1) no further references1(e-1) no further references | 1 Note that the reference here is to Randelzhofer (2002) p. 118, not 117 (where Randelzhofer’s own consensus claim is made). On p. 118, paras. 17-20, Randelzhofer discusses political and economic force. Only the references contained in these particular paragraphs have been included here, as Benatar’s consensus claim is made to argue the distinction between armed force on the one hand, and political and economic force on the other. Note that Randelzhofer also includes opinions opposing the force = armed force majority view.2 References 1(a-2) to 1(a-10) are the generic bibliography given by Virally at the end of his chapter, and are not mentioned in the footnotes on p. 122-123 of his chapter. They are therefore included here, in grey.3 Randelzhofer specifically refers to Seidl-Hohenveldern and Stein to support his argument that the permissibility of economic coercion under Article 2(4) is necessary to allow states some means of coercion, otherwise ‘States would be left with no means of exerting pressure on other States that violate international law’ (p. 118). In MN 1784 of Seidl-Hohenveldern and Stein’s book, they elaborate on this argument without providing further references. They *do*, earlier in the same paragraph, elaborate on the distinction between economic and military force, and they *do* offer further references in that section – but this is not the reason Randelzhofer refers to their work. Hence, the tertiary references column lists here ‘no further references’.4 This is a reference to the *travaux préparatoires* of the UN Charter.5 The inclusion of this reference is not entirely consistent with the method generally applied here, as this is a cross-reference. I have included it here, however, as the *Friendly Relations Declaration* is also mentioned in the text by Randelzhofer. | Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford University Press: 1963; Randelzhofer, ‘Article 2(4)’, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 2002 (2nd ed.); Sahovic (ed.), *Principles of International Law Concerning Friendly Relations and Cooperation*, Oceana, Dobbs Ferry: 1972; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern and Stein, *Völkerrecht*, 2000 (10th ed.); Treves, ‘La Declaration des Nations Unies sur le renforcement de l’Efficacite du Principe du non Recours a la Force’, *AFDI* 1987; Virally, ‘Article 2 Paragraph 4’, in: Cot and Pellet (eds.), *La Charte des Nations Unies,* 1991 (2nd ed.); Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Zourek, *L'interdiction de l'Emploi de Ia Force*, Sijthoff: 1974 |
| **James N. Bond, *Peacetime Foreign Data Manipulation as One Aspect of Offensive Information Warfare: Questions of Legality under the United Nations Charter Article 2(4)*, paper submitted to the Naval War College in Newport, Rhode Island, 1996*****Consensus claim at*** *78* | ‘By eliminating economic and political coercion, it is clear that physical, not mental, types of force were contemplated.Other than those who try to argue economic and political acts are included, **the jurists seem unanimous** about the need for physical force or violence - death or destruction.’  | No references |  |  | This (to my knowledge, unpublished) paper has been included in this table as it is referenced by several authors in the debate on cyber-attacks and Article 2(4). It can be found at http://oai.dtic.mil/oai/oai?verb=getRecord&metadataPrefix=html&identifier=ADA310926 (accessed December 11th, 2015) |  |
| **Russell Buchan, ‘Cyber Attacks: Unlawful Uses of Force or Prohibited Interventions?’, 17 *Journal of Conflict and Security Law* 211 (2012)*****Consensus claim at*** *212* | ‘Importantly, and as we shall see, Article 2(4) is an effects-based prohibition. **The generally accepted interpretation** of Article 2(4) is that only those interventions that produce physical damage will be regarded as an unlawful use of force.’  | No references |  |  |  |  |
| **Russell Buchan, ‘Cyber Attacks: Unlawful Uses of Force or Prohibited Interventions?’, 17 *Journal of Conflict and Security Law* 211 (2012)*****Consensus claim at*** *216* | ‘...the Brazilian delegation proposed that Article 2(4) expressly prohibit ‘the threat or use of force and the threat or use of economic measures in any manner inconsistent with the purposes of the Organization’.[31] As is well known, this proposal was vetoed by the drafting committee.[32] As a result, ‘the *travaux preparatoires* also reveal that the drafters did not intend to extent the prohibition to economic coercion and political pressures’ [33]. Thus, **the generally accepted interpretation** is that the term force within Article 2(4) is limited to *armed* force.**[34]**’ | 1) Randelzhofer (2002/2) 117 [34]2) Bentwich & Martin (1950) 12 [34] 1  | 1(a) see 'Randelzhofer (2002/2)' below2(a) no further references | 1(a-1) see ‘Randelzhofer (2002/2)’ below2(a-1) no further references | 1 The Bentwich and Martin quote referenced by Russell Buchan in fn 34 can be found on p. 13, not 12, of their book (contrary to Buchan's reference). | Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 2002 (2nd ed.) |
| **Stephen J. Cox, ‘Confronting Threats through Unconventional Means: Offensive Information Warfare as a Covert Alternative to Preemptive War’, 42 *Houston Law Review* 881 (2005)*****Consensus claim at*** *899* | ‘As one scholar explains, the “preambular terminology [of the U.N. Charter] is... interpreted more broadly than that contained in the articles”;[111] thus, Article 2(4) “force” probably does not extend beyond “armed force.” [112] This interpretation is **consistent with mainstream thought** on the subject.**[113]**’  | 1) Sloss (2003) 50 [113] 12) General Assembly Resolution 42/22 (1987) [113]3) Schmitt (1999) 907-908 and n67 [113] | 1(a) Dinstein (2001/3) 80-86 [31]2(a) no further references 3(a) General Assembly Resolution 42/22 (1987) [67] 23(b) Szasz (1998) 455 [69] 33(c) Kelsen (1954) 57n5 [70]3(d) Brownlie (1963) 362 [70] | 1(a-1) Virally in Cot & Pellet (1985) 120 [14]1(a-2) UN Charter [15]1(a-3) Kearney & Dalton (1970) 534-535 [16]1(a-3) Randelzhofer (1995) 112-113 [17] 1(a-4) Wehberg (1951) 69 [18]2(a-1) no further references3(a-1) no further references3(b-1) Randelzhofer (1994) 112 [1]3(b-2) other UN/General Assembly documents [2-11] 43(c-1) no further references3(d-1) Sørensen (1960) 237 [4]3(d-2) Arechaga (1958) 84-85 [4, 7] 3(d-3) UN documents on Disarmament [6, 7]3(d-4) Alfaro in ILC Yearbook (1951) vol I. p. 111, paras. 45a-49, vol. II para. 41 [7] 3(d-5) Aroneanu (1958) 106 [7] | 1 Sloss uses Dinstein’s book as illustrative of this interpretation. The line referred to by Cox actually ends on p. 51 of Sloss’ article, including the reference, which I have taken the liberty to include here (so the reference is found on p. 51, not p. 50).2 The trackback for Schmitt’s work differs slightly from that elsewhere in this table, as Cox specifically uses Schmitt to support his own interpretation of General Assembly Resolution 42/22. See Cox, fn113. 3 I assumed this reference to Szasz by Schmitt to refer to the whole article, as p. 455 is its first page - which contains only a minor reference to the meaning of ‘force’; moreover, the way Schmitt refers to him suggests he refers to the whole article. Note that Szasz suggests that though initially not prohibited by 2(4), international law might be evolving in such a way as to increasingly condemn the use of economic sanctions (though perhaps not through 2(4)). See p. 458 of his article for his conclusion. 4 These are the following (copied from Szasz, footnotes 2 to 11): ‘UN Doc. ARES/2131 (XX) (1965), at annex, para. 2’; ‘UN Doc. ARES/2625 (XXV) (1970), at annex’; ‘UN Doc. ARES/36/103 (1981)’; ‘UN Doc. A/RES/50/96 (1995)’; ‘UN Doc. ARES/51/22 (1996)’; ‘UN Doc. A/RES/51/103 (1996)’; ‘UN Docs. ARES/52/181 (1997)’; ‘A/RES/52/120 (1997)’; ‘UN Doc. A52/459 (1997)’; ‘UN Docs. ARES/47/19 (1992), 48/16 (1993), 49/9 (1994), 50/10 (1995), 51/17 (1996), and 52/10 (1997).’ | Alfaro in ILC Yearbook 1951 vol. I and vol. II; Arechaga, *Derecho constitucional de las Nacionas Unidas*, Madrid: 1958; Aroneanu, *La Définition de l’agression*, Paris: 1958; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Dinstein, *War, Aggression and Self-Defense*, Cambridge: 2001 (3rd ed.); Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Kelsen, ‘Collective Security under International Law’, *US Naval War College International Law Studies* (1954); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 and 1995; Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999); Sloss, ‘Forcible Arms Control: Preemptive Attacks on Nuclear Facilities’, 4 *Chicago Journal of International Law* 39 (2003); Sørensen, 101 Hague Recueil (1960, III) p. 5-245: ‘Principes de droit internatinal public’; Szasz, ‘The Law of Economic Sanctions’, in ‘The Law of Armed Conflict: Into the Next Millenium’, *International Law Studies*, vol. 71 (1998) Schmitt & Green (eds.), p. 455-482; Virally, ‘Article 2 Paragraph 4’, in: Cot and Pellet (eds.), *La Charte des Nations Unies,* 1985; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Paul Ducheine et al. ‘Towards a Legal Framework for Military Cyber Operations’, in *Cyber Warfare: Critical Perspectives*, Paul Ducheine et al. (eds.) T.M.C. Asser Press 2012 at 101-128*****Consensus claim at*** *116* | ‘This provision [Article 2(4) - LB] prohibits extraterritorial operations, including cyber operations, insofar these [*sic*] operations can be conceived as ‘use of force’. This issue is problematic as international law does not provide for a definition of this term. [71] **It is generally accepted** that use of force encompasses armed, i.e. military, physical force. **[72]** The extent of this force is not relevant. [73] Actions are judged by the results or effects: [74] they are considered use of force if they directly cause death, injury or physical damage to property.’ | 1) Ducheine (2008) 130-131 [72] 12) Barkham (2001) 71 [72] | 1(a) Asrat (1991) 134 [56] and 40 [65] 21(b) Schmitt, Dinniss & Wingfield (2004) 1 [57]1(c) Schmitt (1999) 11 [58] 31(d) Stahn (2004) 857 [59] 1(e) Dinstein (2005/4) 196 [59] 41(f) Brownlie (1963) 361 [65]1(g) Goodrich, Hambro and Simons (1969/3) 48 [65] 51(h) Singh (1984) 212 [65] 1(i) Khare (1985) 7 [65] and 9 [67]1(j) Dinstein (2001/3) 81 [65] 6 and 192 [75]1(k) Shaw (2003) 1019 [65] 1(l) Preamble, UN Charter [65] 1(m) Lauterpacht (1952b) 202 [67] and 184 [72] 1(n) League of Nations Covenant and Kellogg-Briand Pact [67]1(o) ICJ: *Nicaragua* case [73] 1(p) Malanczuk (1997) 309 [74, 75]2(a) Mani (1993) 11-16 [55] 72(b) Bowett (1972) 1 [56] 2(c) Schachter (1984) 1624 [56]2(d) Brownlie (1963) 365-366 [59]2(e) Szasz (1998) 455-456 [60] | 1(a-1) ICJ: *Nicaragua* case [196] 1(a-2) UNTS vol. 1108, p. 151 [198] 81(a-3) Brownlie (1963) 362 [199]1(b-1) no further references1(c-1) Schmitt (1999b) no page nrs. [77]1(d-1) no further references1(e-1) ICJ: *Nuclear Weapons* Advisory Opinion [101]1(e-2) Robertson (2001) 140 [102]1(e-3) Dinstein (2001b) 105 [103]1(f-1) UN Disarmament Commission [5]1(f-2) Sørensen (1960) 236 [6]1(f-3) Protocol to the Declaration on the Neutrality of Laos [6]1(g-1) General Assembly Resolutions and other discussions within the UN framework [84-86] 91(h-1) Goodrich, Hambro and Simons (1969) 48-49 [10]1(h-2) Bentwich and Martin (1969) 13 [10]1(h-3) Bowett (1958) 148 [10] 1(h-4) Brownlie (1963) 361 [10] 1(i-1) no further references1(j-1) Kearney and Dalton (1970) 534-535 [16]1(j-2) Randelzhofer (1995) 112-113 [17]1(j-3) Wehberg (1951) 69 [18]1(k-1) no further references1(l-1) no further references1(m-1) no further references1(n-1) no further references1(o-1) no further references1(p-1) Meng (1982) no page nrs [19]1(p-2) Skubiszewski (1982) 74-78 [19] 1(p-3) Reisman & Baker (1992) no page nrs [19]2(a-1) Friendly Relations Declaration and negotiations [18-25, 28, 29, 32, 33, 44, 45]2(a-2) *travaux préparatoires* UN Charter and Dumbarton Oaks proposal [26, 27] 2(a-3) General Assembly Resolutions 378 and 380 (1950) [30, 31]2(b-1) Friendly Relations Declaration negotiation [6]2(c-1) General Assembly Resolutions [8] 102(d-1) Drafting documents on the Definition of Aggression [7] 112(d-2) McNair (1956) vol. iii 212 [7]2(e-1) Randelzhofer (1994) 112 [1] 12 | Note that Ducheine (primary references) makes his own consensus claim on p. 129. As this page is not referenced, however, by Ducheine et al., it is not included in the trackback. 1 Ducheine et al. insert the words ‘*inter alia*’in their footnote.2 It should be noted that Asrat adds that ‘[t]here might not have been a crystallized general wish to exclude completely from the prohibition other modes of force or coercion. In any event, this at least (p. 41) demonstrates the difficulty attaching to the *travaux préparatoires* when relied upon to ascertain the scope of the prohibited force.’ (p. 40-41)3 I assumed this to be a typographical error as the phrases Ducheine quotes can be found on Schmitt (1999) p. 911, not 11.4 Note that on these pages Dinstein discusses the qualities of an armed attack, not the use of force.5 I assumed Ducheine to refer to p. 49, not p. 48 of Goodrich, Hambro and Simons, as on p. 48 they only explain the possible positions towards Article 2(4). On p. 49 they themselves opt for the restrictive interpretation.6 For this particular trackback Dinstein’s p. 80 (which contains a reference to Virally in Cot and Pellet) has not been included (whereas elsewhere in this table it has) as Ducheine only refers to Dinstein, p. 81.7 The difficulty here is that Barkham refers to Mani to state that economic coercion is included; Mani, however, on the pages indicated by Barkham explains how different positions with regard to ‘force’ were present in the negotiations on the Friendly Relations Declaration and that, as Barkham himself states, ‘no consensus could be worked out’ (Barkham, p. 71fn55). See also Mani, p. 16. The only footnotes used by Mani included here, therefore, are those pertaining to Barkham’s own claim (p. 70: ‘Despite attempts by developing states to include threats of force and economic coercion within Article 2(4) during the drafting of the U.N. Charter and as actions of aggression in the Declaration on Friendly Relations, the international community has resisted such efforts;[55] thus, threats of force and economic coercion have been expressly excluded.[56]’) and not those used to substantiate the view of a broader interpretation of 2(4).8 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques9 The Resolutions and UN discussions in footnotes 84-86 of Goodrich et al.’s chapter are the following (as copied from their footnotes): ‘GA Res. 380(V) and 381(V), Nov. 17, 1950’; ‘Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514(XV), Dec. 14, 1960’; ‘UN Doc. S/2322, Sept. 1, 1951’; ‘SCOR/6th Yr./549th-558th Mtgs./July 26-Sept. 1, 1951’; ‘UN Doc. S/4395, July 19, 1960.’10 These include (copied from Schachter, fn8) ‘G.A. Res. 3281 (XXIX), 29 U.N. GAOR Supp. (No. 31) at 50, U.N. Doc. A/Res/3281 (XXIX) (1974).’11 As Barkham, in his footnote 59, specifically refers to Brownlie’s comment on naval blockades, I have not included the footnotes following Brownlie’s discussion on frontier incidents on his p. 356.12 The inclusion of Randelzhofer here is a boundary case, as Barkham only refers to Szasz to point out that economic sanctions are not a use of force, which Szasz states on p. 455. Barkham, however, also refers to p. 456, where Szasz cites Randelzhofer to present the ‘traditional’ view. I have included it here, but hesitantly (also because the reference to Randelzhofer is part of a new section). | Asrat, *Prohibition of Force under the UN Charter: A study of Article 2(4)*, Uppsala: 1991; Barkham, ‘Information Warfare and International Law on the Use of Force’*,* 34 *NYU Journal of International Law and Politics* 57 (2001); Bentwich and Martin, *A Commentary of the Charter of the United Nations*, 1969; Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Bowett, ‘Economic Coercion and Reprisals by States’, 13 *VaJIL* 1 (1972); Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 2001 (3rd ed.) and 2005 (4th ed.); Dinstein, ‘Computer Network Attacks and Self-Defense’, in ‘Computer Network Attack and International Law’, *International Law Studies* vol. 76 (2001), Schmitt and O’Donnell (eds.), 99-119 (Dinstein 2001b); Ducheine, *Krijgsmacht, Geweldgebruik & Terreurbestrijding* (dissertation University of Amsterdam) Wolf Legal Publishers: 2008; Goodrich, Hambro and Simons, *Charter of the United Nations: Commentary and Documents*, Columbia University Press: 1969 (3rd ed.); Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Khare, *Use of Force under UN Charter*, New Delhi Metropolitan Book Co. Ltd.: 1985; Lauterpacht, *Oppenheim’s International Law: A Treatise (vol. II), Disputes, War and Neutrality*, London: Longmans, Green and co.: 1952 (Lauterpacht 1952b); Malanczuk, *Akehurst's Modern Introduction to International Law*, Routledge: 1997; Mani, *Basic Principles of Modern International Law: A Study of the United Nations Debates on the Principles of International Law concerning Friendly Relations and Co-operation among States*, Lancers Books: 1993; McNair, *International Law Opinions*, 3 volumes, Cambridge: 1956; Meng, ‘War’, 4 *EPIL* 282 (1982); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 and 1995; Reisman and Baker, *Regulating Covert Action: Practices, Contexts and Policies of Covert Coercion Abroad in International and American Law*, Yale University Press: 1992; Robertson, ‘Self-Defense against Computer Network Attack under International Law’ in ‘Computer Network Attack and International Law’, *International Law Studies* vol. 76 (2001), Schmitt and O’Donnell (eds.), p. 121-145; Rosenne, ‘International Law and the Use of Force’, in ‘The Use of Force, Human Rights, and General International Legal Issues’, *International Law Studies* vol. 62 (1980); Lillich & Norton Moore (eds.), p. 1-8; Schachter, ‘International Law: The Right of States to Use Armed Force’, 82 *Mich. LR* 1620 (1984); Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999); Schmitt, ‘War and the Environment: Fault Lines in the Prescriptive Landscape’, 37 *Archiv des Volkerrechts* 25 (1999) (Schmitt 1999b); Schmitt, Harrison Dinniss and Wingfield, ‘Computers and War: The Legal Battlespace’, Background Paper prepared for Informal High-Level Expert Meeting on Current Challenges to International Humanitarian Law, Cambridge, June 25-27, 2004; Shaw, *International Law*, Cambridge University Press: 2003; Singh, *Use of Force under International Law*, 1984; Skubiszewski, ‘Peace and War’, 4 *EPIL* 74 (1982); Sørensen, *Principes de Droit International Public*, 101 RCADI III (1960); Stahn, ‘‘Nicaragua is dead, long live Nicaragua’ - The Right to Self-defense under Article 51 UN Charter and International Terrorism’, in: Walter, Vöneky and Schorkopf (eds.), *Terrorism as a Challenge for National and International Law: Security versus Liberty?*, Springer: 2004, p. 827-877; Szasz, ‘The Law of Economic Sanctions’, in ‘The Law of Armed Conflict: Into the Next Millennium’, *International Law Studies*, vol. 71 (1998) Schmitt & Green (eds.), p. 455-482; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Stephanie G. Handler, ‘The New Cyber Face of Battle: Developing a Legal Approach to Accommodate Emerging Trends in Warfare’, 48 *Stanford Journal of International Law* 209 (2012)*****Consensus claim at*** *218* | ‘Neither the “use of force” nor “armed attack” is defined in the Charter. **There is consensus** that the term “use of force” was intended to refer only to military force based upon the historical background of Article 2(4), the *travaux preparatoires* of the Charter, and decisions by the International Court of Justice, including the *Nicaragua* case, which interpret the use of force narrowly. **[27]** The common reading of “use of force” thus excludes other types of coercion such as economic, political, or psychological.’ | 1) ICJ: *Nicaragua* case (1986) [27]2) Schmitt (1999) 886 [27] 13) Silver (2002) 88 [27] 2  | 1(a) no further references2(a) Randelzhofer (1995) 112 [52] 32(b) Wehberg (1951) 69 [52] 2(c) UN Charter [54, 74, 76]2(d) *travaux préparatoires* UN Charter and Dumbarton Oaks proposal [58, 59]2(e) Inter-American Treaty of Reciprocal Assistance [60]2(f) Pact of the League of Arab States [60]2(g) Charter of the Organization of American States [61]2(h) Friendly Relations Declaration [63, 65, 66]2(i) negotiating texts Friendly Relations Declaration [64]2(j) Report of the Special Comm. on Friendly Relations, p. 12 [64] 52(k) Bowett (1972) 1 [64]2(l) General Assembly Resolution 42/22 (1988) [67] and 2131 [87]2(m) Szasz (1998) 455 [69] 62(n) Kelsen (1954) 57n5 [70]2(o) Brownlie (1963) 362 [70, 79]2(p) ICJ: *Nicaragua* case [71]2(q) Cameron (1991) 218 [73]2(r) Reisman (1991) 45 [74] 2(s) Schmitt (1999b) no page nrs. [77]2(t) Duncan (1998) 1 [80]2(u) Additional Protocol I, reprinted in Levie (1980) 174, 337 [84, 85]2(v) Verri (1992) 90 [84]2(w) 1108 UNTS 151 [86] 2(x) Definition of Aggression [114]2(y) Schachter (1986) 127 [123]2(z) ILC Report (1980) 53n176 [123]3(a) Gordon (1985) no page nrs. [28]43(b) Friendly Relations Declaration [29]3(c) General Assembly Resolution 42/22 (1988) [30]3(d) Schmitt (1999) 904-908 [31, 34]3(e) ICJ: *Nicaragua* case [32, 33] | 1(a-1) no further references2(a-1) Virally in Cot & Pellet (1991/2) 122-123 [27]2(b-1) Goodrich and Hambro (1949) 104 [1]2(b-2) Bentwich and Martin (1950) 13 [1]2(b-3) Société des Nations (1932) 84 [5]2(c-1) no further references2(d-1) no further references2(e-1) no further references2(f-1) no further references2(g-1) no further references2(h-1) no further references2(i-1) no further references2(j-1) no further references 2(k-1) Friendly Relations Declaration negotiations [6]2(l-1) no further references2(m-1) Randelzhofer (1994) 112 [1]2(m-2) other UN/General Assembly documents [2-11] 72(n-1) no further references2(o-1) Sørensen (1960) 237 [4]2(o-2) Arechaga (1958) 84-85 [4, 7] 2(o-3) UN documents on Disarmament [6, 7]2(o-4) Alfaro in ILC Yearbook (1951) vol I. p. 111, paras. 45a - 49, vol. II para. 41 [7] 2(o-5) Aroneanu (1958) 106 [7]2(p-1) no further references2(q-1) Boorman (1974) 205 [2]2(q-2) Brosche (1974) 3 [2]2(q-3) Dempsey (1977) 254 [2]2(q-4) Baldwin (1985) 336-347 [5, 34] and 340n17 [78]2(q-5) Farer (1985) 405 [5] and 410 [79]2(q-6) Muir (1974) 187 [5]2(q-7) Daoudi & Dajani (1983) 3 [9, 10]2(q-8) Bowett (1976) 245 [34, 78]2(q-9) Kausch (1977) 31 [34, 78]2(q-10) Lillich (1977) 236 [34] and 234 [78]2(q-11) UN Charter [35]2(q-12) Goodrich and Hambro (1946) 70 [37]2(q-13) Bowett (1958) 148 [38] 2(q-14) General Assembly Resolution 3171 (1974) voting record [77]2(q-15) Hufbauer & Schott (1983) 15 [101] and 14-22 [140]2(q-16) Joyner (1984) 214 [101] 2(q-17) Bilder (1977) 41 [5, 108]2(q-18) Shihata (1974) 591 [108]2(q-19) Lowenfeld (1977) 25 [112]2(q-20) US practice and Court decision [114-122, 139]2(q-21) ICJ: *Nicaragua* case [123, 141]2(q-22) Acevedo (1984) 323 [124] 2(q-23) VCLT [134]2(q-24) Partridge (1971) 756-761 [136] and 767-768 [137]2(r-1) no further references2(s-1) no further references 82(t-1) no further references 92(u-1) no further references2(v-1) no further references2(w-1) no further references2(x-1) no further references2(y-1) no further references2(z-1) no further references3(a-1) Bishop (1971) 1010 [5, 6]3(a-2) General Treaty for the Renunciation of War as an Instrument of National Policy, 46 Stat. 234546, 94 L.N.T.S. 63 (1929) [7]3(a-3) Briggs (1938) 716-717 n2 [8]3(a-4) Atlantic Charter, 55 Stat. 1603 (1941-1942) [9]3(a-5) ‘Plan for the Establishment of an International Organization for the Maintenance of International Peace and Security’ in Russell (1958) 991 [10]3(b-1) no further references3(c-1) no further references3(d-1) Randelzhofer (1995) 112 [52] 3(d-2) Wehberg (1951) 69 [52] 3(d-3) UN Charter [54]3(d-4) *travaux préparatoires* UN Charter [58, 59] 3(d-5) Inter-American Treaty of Reciprocal Assistance [60] 3(d-6) Pact of the League of Arab States [60] 3(d-7) Charter of the Organization of American States [61] 3(d-8) Friendly Relations Declaration [63, 65, 66]3(d-9) negotiating texts Friendly Relations Declaration [64] 3(d-10) Report of the Special Comm. on Friendly Relations, U.N.GAOR, 24th Sess., Supp. No. 19, at 12, U.N. Doc. A/7619 (1969) [64]3(d-11) Bowett (1972) 1 [64] 3(d-12) General Assembly Resolution 42/22 (1988) [67]3(d-13) Szasz (1998) 455 [69] 3(d-14) Kelsen (1954) 57n5 [70]3(d-15) Brownlie (1963) 362 [70]3(e-1) no further references | 1 I understood Handler to refer to the whole of Schmitt’s article: it starts on p. 885, which lists a table of contents and contains an abstract; the body text starts on p. 886. This particular page, however, does not contain any discussion of the ‘three primary reasons’ referred to by Handler to substantiate her own consensus claim; these are discussed further on in Schmitt's article and are part of *his* own consensus claim. 2 I have taken the liberty here of thinking Handler to refer to p. 81, rather than p. 88 of Daniel Silver’s article. On p. 88 Silver discusses the work of Michael Schmitt and subsequently argues against some of its elements. On p. 81, however, Silver discusses exactly those ‘three primary reasons’ Handler herself employs to argue that force equals armed force. The trackback on Silver’s article included here therefore includes footnotes 28-34 of his article, belonging to the text of p. 81 and the first line of p. 82. 3 I have only included the reference Randelzhofer uses to discuss the meaning of the Charter text – as this is the reason Schmitt refers to Randelzhofer in his footnote 52.4 I have taken the relevant part of Gordon's article to be p. 274, where he discusses the background of Article 2(4) and explicitly relates this to interpreting the prohibition. 5 As copied from Schmitt, 907fn64:‘U.N. GAOR, 24th Sess., Supp. No. 19, at 12, U.N. Doc. A/7619 (1969)’; available at http://www.un.org/ga/search/view\_doc.asp?symbol=A/7619(SUPP) (22 June 2016)6 I have assumed this to be a reference to the whole article, not just its first page (which is 455). 7 These are the following (copied from Szasz, footnotes 2 to 11): ‘UN Doc. ARES/2131 (XX) (1965), at annex, para. 2’; ‘UN Doc. ARES/2625 (XXV) (1970), at annex’; ‘UN Doc. ARES/36/103 (1981)’; ‘UN Doc. A/RES/50/96 (1995)’; ‘UN Doc. ARES/51/22 (1996)’; ‘UN Doc. A/RES/51/103 (1996)’; ‘UN Docs. ARES/52/181 (1997)’; ‘A/RES/52/120 (1997)’; ‘UN Doc. A52/459 (1997)’; ‘UN Docs. ARES/47/19 (1992), 48/16 (1993), 49/9 (1994), 50/10 (1995), 51/17 (1996), and 52/10 (1997).’8 Schmitt’s article on ‘valuation paradigms’ (p. 911fn77) referred to here contains an extensive discussion and analysis of the protection of the environment during armed conflict. Referred to by Schmitt to point the reader in the direction of a discussion of these different ‘valuation paradigms’, the article, however, is too far removed from an interpretation of Article 2(4) to be included here. 9 Duncan’s article is an extensive discussion of the use of non-lethal weapons, but does not contain an analysis of their permissibility under Article 2(4). References have therefore not been taken from this article.  | Acevedo, ‘The US. Measures Against Argentina Resulting from the Malvinas Conflict’,78 *AJIL* 323 (1984); Alfaro in ILC Yearbook 1951 vol. I and vol. II; Arechaga, *Derecho constitucional de las Nacionas Unidas*, Madrid: 1958; Aroneanu, *La Définition de l'agression*, Paris: 1958; Baldwin, *Economic Statecraft*, 1985; Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Bilder, ‘Comments on the Legality of the Arab Oil Boycott’*,* 12 *Texas Journal of International Law* 41 (1977); Bishop, Jr. *International Law: Cases and Materials*, Little, Brown and Company: 1971 (3rd ed.); Boorman, ‘Economic Coercion in International Law: The Arab Oil Weapon and the Ensuing Juridical Issues’, 9 *Journal of International Law and Economics* 205 (1974); Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Bowett, ‘Economic Coercion and Reprisals by States’, 13 *VaJIL* 1 (1972); Bowett, ‘International Law and Economic Coercion’*,* 16 V*irginia Journal of International Law* 245 (1976); Briggs, *The Law of Nations: Cases, Documents, and Notes*, F.S. Crofts and Co,: 1938; Brosche, ‘The Arab Oil Embargo and United States Pressure Against Chile: Economic and Political Coercion and the Charter of the United Nations’, 7 *Case Western Reserve Journal of International Law* 3 (1974); Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Cameron, Developing a Standard for Politically Related State Economic Action, 13 *Michigan Journal of International Law* 218 (1991); Daoudi and Dajani, *Economic Sanctions: Ideals and Experience* (1983); Dempsey, ‘Economic Aggression & Self-Defense in International Law: The Arab Oil Weapon and Alternative American Responses Thereto’, 9 *Case Western Reserve Journal of International Law* 253 (1977); Duncan, ‘A Primer on the Employment of Non-Lethal Weapons’, 45 *Naval Law Review* 1 (1998); Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985); Goodrich and Hambro, *Charter of the United Nations*, 1946 and 1949; Gordon, 'Article 2(4) in Historical Context', 10 *Yale Journal of International Law* 271 (1985); Hufbauer and Schott, *Economic Sanctions in Support of Foreign Policy Goals*, 1983; Joyner, ‘The Transnational Boycott as Economic Coercion in International Law: Policy, Place, and Practice’ 17 *Vanderbilt Journal of Transnational Law* 205 (1984); Kausch, ‘Boycotts for Non-economic Reasons in International Trade: International and German Law Aspects’*,* 48 *Nordisk Tidsskriff for International Ret* 26 (1977); Kelsen, ‘Collective Security under International Law’, *US Naval War College International Law Studies* (1954); Lillich, ‘The Status of Economic Coercion Under International Law: United Nations Norms’*,* 12 *Texas Journal of International Law* 17 (1977); Lowenfeld, ‘‘... Sauce for the Gander’: The Arab Boycott and United States Political Trade Controls’,12 *Texas Journal of International Law* 25 (1977); Muir, ‘The Boycott in International Law’*,* 9 *Journal of International Law and Economics* 187 (1974); Partridge, Jr., ‘Political and Economic Coercion: Within the Ambit of Article 52 of the Vienna Convention on the Law of Treaties?’,5 *The International Lawyer* 755 (1971); Randelzhofer, *Article 2(4),* in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press 1994 and 1995; Reisman, ‘Allocating Competences to Use Coercion in the Post-Cold War World: Practices, Conditions, and Prospects’, in *Law and Force in the New International Order*, p. 26 (Fisler Damrosch & Scheffer eds., 1991); Russell, *A History of the United Nations Charter*, 1958; Schachter, ‘In Defense of International Rules on the Use of Force’, 53 *The University of Chicago Law Review* 113 (1986); Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999); Schmitt, ‘War and the Environment: Fault Lines in the Prescriptive Landscape’, 37 *Archiv des Volkerrechts* 25 (1999) (Schmitt 1999b); Shihata, ‘Destination Embargo of Arab Oil: Its Legality under International Law*,* 68 *AJIL* 591 (1974); Silver, ‘Computer Network Attack as a Use of Force under Article 2(4) of the United Nations Charter’, in ‘Computer Network Attack and International Law’, *International Law Studies*, vol. 76 (2002), Schmitt & O’Donnell (eds.) p. 73-98; Société des Nations, *Document A. La Situation actuelle en Chine*, 1932, 1e partie; Sørensen, ‘Principes de Droit International Public’, 101 *RCADI* III (1960); Szasz, ‘The Law of Economic Sanctions’, in ‘The Law of Armed Conflict: Into the Next Millennium’, *International Law Studies*, vol. 71 (1998) Schmitt & Green (eds.), p. 455-482; Virally, ‘Article 2 Paragraph 4’, in: Cot and Pellet (eds.), *La Charte des Nations Unies*, 1991 (2nd ed.); Verri, *Dictionary of the International Law of Armed Conflict*, (Markee & Mutti trans., 1992); Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Heather Harrison Dinniss, *Cyber Warfare and the Laws of War,* Cambridge University Press 2014*****Consensus claim at*** *41* | ‘The issue of inclusion of political and economic coercion as uses of force prohibited by Article 2(4) of the Charter has been raised repeatedly, particularly by developing and former Eastern Bloc countries, since the San Francisco conference.[20] Although no definitive conclusions have been drawn**, the prevailing and commonly accepted view** put forward by scholars is that the force referred to in Article 2(4) is limited to armed force.**[21]**’ | 1) Randelzhofer (2002/2) 117 [21]2) Dinstein (2001/3) 86 [21] 1 | 1(a) see ‘Randelzhofer (2002/2)’ below2(a) Virally in Cot & Pellet (1985) 120 [14] 22(b) UN Charter [15]2(c) Kearney & Dalton (1970) 534-535 [16]2(d) Randelzhofer (1995) 112-113 [17] 2(e) Wehberg (1951) 69 [18] | 1(a-1) see ‘Randelzhofer (2002/2)’ below2(a-1) Bowett (1958) 2(a-2) Brownlie (1963) 2(a-3) Higgins (1963) 2(a-4) LaCharriere (1984)2(a-5) Sahovic (1972) 2(a-6) Schwebel (1972) 2(a-7) Waldock (1952) 2(a-8) Zourek (1974) 2(b-1) no further references2(c-1) VCLT negotiations, Official Records, First Session (1968) [219-223]2(d-1) Randelzhofer (1995) 112 fn25: see ‘Randelzhofer (2002/2)’ below 4; further references:2(d-2) Virally in Cot & Pellet (1991/2) 122-123 [27, 31]2(d-3) Seidl-Hohenveldern (1992/7) MN 1784 [28]2(d-4) UNCIO VI, pp. 334, 609 [29] 52(d-5) Friendly Relations Declaration [30] 62(d-6) ICJ: *Nicaragua* case (1986) [31, 32]2(d-7) Singh (1984) 213 [36]2(e-1) Goodrich and Hambro (1949) 104 [1]2(e-2) Bentwich and Martin (1950) 13 [1]2(e-3) Société des Nations (1932) 84 [5] | 1 I assumed Harrison Dinniss to refer to p. 80-81, not p. 86, of Dinstein’s book. On p. 86 Dinstein discusses the customary law status of Article 2(4) in relation to Article 2(6) of the UN Charter. He does not pronounce on the meaning of ‘force’; instead, he does this a few pages prior, on p. 80-81. I have therefore included the footnotes concomitant to these two pages in the trackback for Harrison Dinniss’ consensus claim.2 References 2(a-1) to 2(a-8) are the generic bibliography given by Virally at the end of his chapter. They are therefore included here, in grey.4 With regard to Randelzhofer (1995), p. 112: The references listed in the 1995 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter (that is, as far as Randelzhofer’s consensus claim goes, which is substantiated in fn25 of both the 1995 as well as the 2002 edition). The trackback here thus first refers to the 2002 edition for further references. The only difference between the two editions (as far as footnote 25 goes) is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1995 edition in Dinstein’s 2001 book.5 This is a reference to the *travaux préparatoires* of the Charter.6 The inclusion of this reference is not entirely consistent with the method generally applied here, as this is a cross-reference. I have included it here, however, as the *Friendly Relations Declaration* is also mentioned in the text by Randelzhofer. | Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 2001 (3rd ed.); Goodrich and Hambro, *Charter of the United Nations*, 1949; Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford University Press, London: 1963; Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1995 and 2002 (2nd ed.); Sahovic (ed.), *Principles of International Law Concerning Friendly Relations and Cooperation*, Oceana, Dobbs Ferry: 1972; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern, *Völkerrecht*, 1992 (7th ed.); Singh, *Use of Force under International Law*, 1984; Société des Nations, *Document A. La Situation actuelle en Chine*, 1932, 1e partie; Virally, ‘Article 2 Paragraph 4’, in: *La Charte des Nations Unies*, Cot and Pellet (eds.), 1985 and 1991 (2nd ed.); Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Zourek, *L'interdiction de l'Emploi de Ia Force*, Sijthoff: 1974; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Heather Harrison Dinniss, *Cyber Warfare and the Laws of War,* Cambridge University Press 2014*****Consensus claim at*** *43* | ‘The *travaux préparatoires* of Article 2(4) detail a proposal by the foreign minister of Brazil to specifically extend the prohibition to the threat or use of ‘economic measures’ which was firmly rejected.[28] Although Randelzhofer has cited this as evidence that military force is the only intended concern of the prohibition, David Harris states that it is unclear from the texts whether the rejection of the Brazilian amendment is proof that the Article was not intended to prohibit economic force, or that the term force in Article 2(4) was thought sufficient to cover it without specific mention.[29] The latter view appears to stem from the Belgian delegate’s comments regarding Brazil’s proposed amendment and the phrase ‘or any other manner’.[30] Despite this, **writers have generally concluded** that the better view is that Western states were not prepared to admit anything other than armed force.**[31]**’ | No further references in footnote 31.  |  |  |  |  |
| **Oona A. Hathaway et al., ‘The Law of Cyber-Attack’, 100 *California Law Review* 817 (2012)*****Consensus claim at*** *842* | ‘The precise scope of the international prohibition on the threat or use of force has been the subject of intense international and scholarly debate. Weaker states and some scholars have argued that Article 2(4) broadly prohibits not only the use of armed force, but also political and economic coercion. Nonetheless, **the consensus is** that Article 2(4) prohibits only armed force.**[90]**’ | 1) Silver (2002) 80-82 [90] 1 | 1(a) Dinstein (1994/2) 81 [24] 21(b) Randelzhofer (1994) 112 [24] 31(c) Schmitt (1999) 904-908 [26, 27, 31, 34]1(d) Gordon (1985) no page nrs. [28]1(e) Friendly Relations Declaration [29]1(f) General Assembly Resolution 42/22 (1988) [30]1(g) ICJ: *Nicaragua* case [32, 33] | 1(a-1) no further references 1(b-1) Randelzhofer (1994) 112 fn25: see ‘Randelzhofer (2002/2)’ below; further references:1(b-2) Virally in Cot & Pellet (1991/2) 122-123 [27, 31]1(b-3) Seidl-Hohenveldern (1992/7) 1784 [28] 1(b-4) *travaux préparatoires* UN Charter [29]1(b-5) Friendly Relations Declaration [30]1(b-6) ICJ: *Nicaragua* case [31]1(c-1) Randelzhofer (1995) 112 [52] 1(c-2) Wehberg (1951) 69 [52] 1(c-3) UN Charter [54]1(c-4) *travaux préparatoires* UN Charter [58, 59] 41(c-5) Inter-American Treaty of Reciprocal Assistance [60] 1(c-6) Pact of the League of Arab States [60] 1(c-7) Charter of the Organization of American States [61] 1(c-8) Friendly Relations Declaration [63, 65, 66]1(c-9) negotiating texts Friendly Relations Declaration [64] 5 1(c-10) Report of the Special Comm. on Friendly Relations, U.N. GAOR, 24th Sess., Supp. No. 19, at 12, U.N. Doc. A/7619 (1969) [64]1(c-11) Bowett (1972) 1 [64] 1(c-12) General Assembly Resolution 42/22 (1988) [67]1(c-13) Szasz (1998) 455 [69] 1(c-14) Kelsen (1954) 57n5 [70]1(c-15) Brownlie (1963) 362 [70] 1(d-1) Bishop (1971) 1010 [5, 6]1(d-2) General Treaty for the Renunciation of War as an Instrument of National Policy, 46 Stat. 234546, 94 L.N.T.S. 63 (1929) [7]1(d-3) Briggs (1938) 716-717 n2 [8]1(d-4) Atlantic Charter, 55 Stat. 1603 (1941-1942) [9]1(d-5) ‘Plan for the Establishment of an International Organization for the Maintenance of International Peace and Security’ in Russell (1958) 991 [10]1(e-1) no further references1(f-1) no further references1(g-1) no further references | 1 In footnote 90 Hathaway et al. mention the existing ambiguity as to the inclusion of non-military force under Article 2(4), referring to p. 82-83 of Silver’s article. As they do not pronounce on this, I have left pages 82-83 of Silver’s article out of the trackback for Hathaway et al.’s article.2 Silver takes both Dinstein and Randelzhofer as exemplary of this position. I understood the reference to p. 18 of Dinstein’s book to be a typographical error, as on this page Dinstein discusses ‘Wartime Status Mixtus’. On p. 81, his discussion of the contemporary prohibition on the use of force starts, so I have only included here the footnotes on that particular page.3 With regard to Randelzhofer (1994), p. 112: The references listed in the 1994 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter (that is, as far as Randelzhofer’s consensus claim goes, which is substantiated in fn25 of both the 1994 as well as the 2002 edition). The trackback here thus first refers to the 2002 edition for further references. The only difference between the two editions (as far as footnote 25 goes) is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition).4 As copied from Schmitt p. 905fns58 and 59: ‘Doc. 784, I/1/27, 6 U.N.C.I.O. Docs. 331, 334, 609 (1945)’; ‘Doc. 1123 I/8, 6 U.N.C.I.O. Docs. 65, 68 (1945)’ and ‘Doc. 2, G/7 (e)(4), 3 U.N.C.I.O. Docs. 251, 253-54 (1945).’5 As copied from Schmitt p. 907fn64:‘U.N. GAOR Special Comm. On Friendly Relations, 24th Sess., 114th mtg., U.N. Doc.; A/AC.125/SR. 114 (1970)’. | Bishop, Jr. *International Law: Cases and Materials*, Little, Brown and Company: 1971 (3rd ed.); Bowett, ‘Economic Coercion and Reprisals by States’, 13 *VaJIL* 1 (1972); Briggs, *The Law of Nations: Cases, Documents, and Notes*, F.S. Crofts and Co, New York: 1938; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 1994 (2nd ed.); Gordon, ‘Article 2(4) in Historical Context’, 10 *Yale Journal of International Law* 271 (1985); Kelsen, ‘Collective Security under International Law’, *US Naval War College International Law Studies* (1954); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 and 1995; Russell, *A History of the United Nations Charter*, 1958; Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999); Seidl-Hohenveldern, *Völkerrecht*, 1992 (7th ed.); Silver, ‘Computer Network Attack as a Use of Force under Article 2(4) of the United Nations Charte’, in ‘Computer Network Attack and International Law’, *International Law Studies*, vol. 76 (2002), Schmitt & O’Donnell (eds.) p. 73-98; Szasz, ‘The Law of Economic Sanctions’, in ‘The Law of Armed Conflict: Into the Next Millennium’ *International Law Studies*, vol. 71 (1998) Schmitt & Green (eds.), p. 455-482; Virally, ‘Article 2 Paragraph 4’, in: *La Charte des Nations Unies*, Cot and Pellet (eds.) 1991 (2nd ed.); Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Georg Kerschischnig, *Cyberthreats and International Law*, Eleven International Publishing 2012*****Consensus claim at*** *106* | ‘The scope of the notion of force is not undisputed[3]; since the drafting of the Charter, including in the *travaux préparatoires*, the prohibition has only been confined to armed force - *i.e.* physical, military (or maybe better: state-controlled) force - but does not apply to other forms of coercion, in particular economic coercion.[4] **It is widely agreed** that many unfriendly actions, regardless of their scale, do not reach the threshold of a use of force. Those include, for instance, severance of diplomatic relations, unfavorable trade policies, economic boycotts, and sanctions**.[5]** *Brownlie*, however, notes that the prohibition could also apply to force other than armed force, while he doubts an application to economic coercion. [6] Arguably, if the drafters had intended to limit Article 2(4) UN Charter, they would have done so by using the term “armed force”, which they had done elsewhere in the Charter on more than one occasion.[7]’ | 1) Owens (2009) 242 [5] | 1(a) no further references |  |  | Owens, Dam, and Lin (eds.) Committee on Offensive Information Warfare, National Research Council, *Technology, Policy, Law, and Ethics Regarding U.S. Acquisition and Use of Cyberattack Capabilities*, 2009; available at http://www3.nd.edu/~cpence/eewt/Owens2009.pdf (1 March 2015) |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Georg Kerschischnig, *Cyberthreats and International Law*, Eleven International Publishing 2012*****Consensus claim at*** *110* | ‘Despite the mentioning of economic and political coercion in the declaration [on Non-use of Force - LB], and notwithstanding continuous efforts of developing countries to hold economic coercion as use of force, **the prevailing view** is that these measures are generally understood as mere coercion. In contrast to armed force, these measures of coercion are accordingly not banned by the prohibition of the use of force. However, they could very well fall under the principle of non-intervention...**[32]**’  | 1) Gray (2006) 592 [32] 2) Schachter (1991) 111 [32]3) Schmitt (1999) 14 et seq. [32] 1 | 1(a) no further references 2(a) UNGA res. 3281 (XXIX) (1974) [9]3(a) Randelzhofer (1995) 112 [52] 23(b) Wehberg (1951) 69 [52] 3(c) UN Charter [54, 74, 76]3(d) *travaux préparatoires* UN Charter and Dumbarton Oaks proposal [58, 59]3(e) Inter-American Treaty of Reciprocal Assistance [60]3(f) Pact of the League of Arab States [60]3(g) Charter of the Organization of American States [61]3(h) Friendly Relations Declaration [63, 65, 66]3(i) negotiating texts Friendly Relations Declaration [64]3(j) Report of the Special Comm. on Friendly Relations, page 12 [64] 33(k) Bowett (1972) 1 [64]3(l) General Assembly Resolution 42/22 (1988) [67] and 2131 [87]3(m) Szasz (1998) 455 [69] 43(n) Kelsen (1954) 57n5 [70]3(o) Brownlie (1963) 362 [70, 79]3(p) ICJ: *Nicaragua* case [71]3(q) Cameron (1991) 218 [73]3(r) Reisman (1991) 45 [74] 3(s) Schmitt (1999b) no page nrs. [77]3(t) Duncan (1998) 1 [80]3(u) Additional Protocol I, reprinted in Levie (1980) 174, 337 [84, 85]3(v) Verri (1992) 90 [84]3(w) 1108 UNTS 151 [86] 3(x) Definition of Aggression [114]3(y) Schachter (1986) 127 [123]3(z) ILC Report (1980) 53n176 [123] | 1(a-1) no further references2(a-1) no further references3(a-1) Virally in Cot & Pellet (1991/2) 122-123 [27]3(b-1) Goodrich and Hambro (1949) 104 [1]3(b-2) Bentwich and Martin (1950) 13 [1]3(b-3) Société des Nations (1932) 84 [5]3(c-1) no further references3(d-1) no further references3(e-1) no further references3(f-1) no further references3(g-1) no further references3(h-1) no further references3(i-1) no further references3(j-1) no further references 3(k-1) Friendly Relations Declaration negotiation [6]3(l-1) no further references3(m-1) Randelzhofer (1994) 112 [1]3(m-2) other UN/General Assembly documents [2-11] 53(n-1) no further references3(o-1) Sørensen (1960) 237 [4]3(o-2) Arechaga (1958) 84-85 [4, 7] 3(o-3) UN documents on Disarmament [6, 7]3(o-4) Alfaro in ILC Yearbook (1951) vol I. p. 111, paras. 45a-49, vol. II para. 41 [7] 3(o-5) Aroneanu (1958) 106 [7]3(p-1) no further references3(q-1) Boorman (1974) 205 [2]3(q-2) Brosche (1974) 3 [2]3(q-3) Dempsey (1977) 254 [2]3(q-4) Baldwin (1985) 336-347 [5, 34] and 340n17 [78]3(q-5) Farer (1985) 405 [5] and 410 [79]3(q-6) Muir (1974) 187 [5]3(q-7) Daoudi & Dajani (1983) 3 [9, 10]3(q-8) Bowett (1976) 245 [34, 78]3(q-9) Kausch (1977) 31 [34, 78]3(q-10) Lillich (1977) 236 [34] and 234 [78]3(q-11) UN Charter [35]3(q-12) Goodrich and Hambro (1946) 70 [37]3(q-13) Bowett (1958) 148 [37] 3(q-14) General Assembly Resolution 3171 (1974) voting record [77]3(q-15) Hufbauer & Schott (1983) 15 [101] and 14-22 [140]3(q-16) Joyner (1984) 214 [101] 3(q-17) Bilder (1977) 41 [5, 108]3(q-18) Shihata (1974) 591 [108]3(q-19) Lowenfeld (1977) 25 [112]3(q-20) US practice and Court decision [114-122, 139]3(q-21) ICJ: *Nicaragua* case [123, 141]3(q-22) Acevedo (1984) 323 [124] 3(q-23) VCLT [134]3(q-24) Partridge (1971) 756-761 [136] and 767-768 [137]3(r-1) no further references3(s-1) no further references 63(t-1) no further references 73(u-1) no further references3(v-1) no further references2(w-1) no further references2(x-1) no further references2(y-1) no further references2(z-1) no further references | 1 Michael Schmitt’s 1999 *Columbia Journal* article was also published as a paper in 1999; the texts of both are completely similar, but page numbering differs. The paper can be found at http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA471993 (1 March 2015). Kerschischnig refers to p. 14 et seq. of this paper (which coincides with p. 905 of the *Columbia Journal* article), which I have taken to imply p. 14- 30, which is the last page of the paper. 2 I have only included the reference Randelzhofer uses to discuss the meaning of the Charter text – as this is the reason Schmitt refers to Randelzhofer in his footnote 52.3 As copied from Schmitt, 907fn64:‘U.N. GAOR, 24th Sess., Supp. No. 19, at 12, U.N. Doc. A/7619 (1969)’; available at http://www.un.org/ga/search/view\_doc.asp?symbol=A/7619(SUPP) (22 June 2016).4 I have assumed this to be a reference to the whole article, not just its first page (which is 455). 5 These are the following (copied from Szasz, footnotes 2 to 11): ‘UN Doc. ARES/2131 (XX) (1965), at annex, para. 2’; ‘UN Doc. ARES/2625 (XXV) (1970), at annex’; ‘UN Doc. ARES/36/103 (1981)’; ‘UN Doc. A/RES/50/96 (1995)’; ‘UN Doc. ARES/51/22 (1996)’; ‘UN Doc. A/RES/51/103 (1996)’; ‘UN Docs. ARES/52/181 (1997)’; ‘A/RES/52/120 (1997)’; ‘UN Doc. A52/459 (1997)’; ‘UN Docs. ARES/47/19 (1992), 48/16 (1993), 49/9 (1994), 50/10 (1995), 51/17 (1996), and 52/10 (1997).’6 Schmitt’s article on ‘valuation paradigms’ (p. 911fn77) referred to here contains an extensive discussion and analysis of the protection of the environment during armed conflict. Referred to by Schmitt to point the reader in the direction of a discussion of these different ‘valuation paradigms’, the article, however, is too far removed from an interpretation of Article 2(4) to be included here. 7 Duncan’s article is an extensive discussion of the use of non-lethal weapons, but does not contain an analysis of their permissibility under Article 2(4). References have therefore not been taken from this article.  | Acevedo, ‘The US. Measures Against Argentina Resulting from the Malvinas Conflict’,78 *AJIL* 323 (1984); Alfaro in ILC Yearbook 1951 vol. I and vol. II; Arechaga, *Derecho constitucional de las Nacionas Unidas*, Madrid: 1958; Aroneanu, *La Définition de l’agression*, Paris 1958; Baldwin, *Economic Statecraft*, 1985; Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Bilder, ‘Comments on the Legality of the Arab Oil Boycott’*,* 12 *Texas Journal of International Law* 41 (1977); Boorman, ‘Economic Coercion in International Law: The Arab Oil Weapon and the Ensuing Juridical Issues’, 9 *Journal of International Law and Economics* 205 (1974); Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Bowett, ‘Economic Coercion and Reprisals by States’, 13 *VaJIL* 1 (1972); Bowett, ‘International Law and Economic Coercion’*,* 16 V*irginia Journal of International Law* 245 (1976); Brosche, ‘The Arab Oil Embargo and United States Pressure Against Chile: Economic and Political Coercion and the Charter of the United Nations’, 7 *Case Western Reserve Journal of International Law* 3 (1974); Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Cameron, ‘Developing a Standard for Politically Related State Economic Action’, 13 *Michigan Journal of International Law* 218 (1991); Daoudi and Dajani, *Economic Sanctions: Ideals and Experience*, 1983; Dempsey, ‘Economic Aggression & Self-Defense in International Law: The Arab Oil Weapon and Alternative American Responses Thereto’, 9 *Case Western Reserve Journal of International Law* 253 (1977); Duncan, ‘A Primer on the Employment of Non-Lethal Weapons’, 45 *Naval Law Review* 1 (1998); Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985); Goodrich and Hambro, *Charter of the United Nations*, 1946 and 1949; Gray, ‘The Use of Force and the International Legal Order’, in *International Law* vol. 2 (Malcolm Evans, ed.) Oxford University Press: 2006, p. 589-619; Hufbauer and Schott, *Economic Sanctions in Support of Foreign Policy Goals*: 1983; Joyner, ‘The Transnational Boycott as Economic Coercion in International Law: Policy, Place, and Practice’, 17 *Vanderbilt Journal of Transnational Law* 205 (1984); Kausch, ‘Boycotts for Non-economic Reasons in International Trade: International and German Law Aspects’*,* 48 *Nordisk Tidsskriff for International Ret* 26 (1977); Kelsen, ‘Collective Security under International Law’, *US Naval War College International Law Studies* (1954); Lillich, ‘The Status of Economic Coercion Under International Law: United Nations Norms’*,* 12 *Texas Journal of International Law* 17 (1977); Lowenfeld, ‘‘... Sauce for the Gander’: The Arab Boycott and United States Political Trade Controls’,12 *Texas Journal of International Law* 25 (1977); Muir, ‘The Boycott in International Law’*,* 9 *Journal of International Law and Economics* 187 (1974); Partridge, Jr., ‘Political and Economic Coercion: Within the Ambit of Article 52 of the Vienna Convention on the Law of Treaties?’,5 *The International Lawyer* 755, (1971); Randelzhofer, *Article 2(4),* in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press 1994 and 1995; Reisman, ‘Allocating Competences to Use Coercion in the Post-Cold War World: Practices, Conditions, and Prospects’, in: *Law and Force in the New International Order*, p. 26 (Fisler Damrosch & Scheffer eds., 1991); Schachter, ‘In Defense of International Rules on the Use of Force’, 53 *The University of Chicago Law Review* 113 (1986); Schachter, *International Law in Theory and Practice*, Nijhoff: 1991; Schmitt, *Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework*, Research Publication 1 Information Series June 1999; Schmitt, ‘War and the Environment: Fault Lines in the Prescriptive Landscape’, 37 *Archiv des Volkerrechts* 25 (1999) (Schmitt 1999b); Shihata, ‘Destination Embargo of Arab Oil: Its Legality under International Law*,* 68 *AJIL* 591 (1974); Société des Nations, *Document A. La Situation actuelle en Chine, 1932*, 1e partie; Sørensen, *Principes de Droit International Public*, 101 RCADI III (1960); Szasz, ‘The Law of Economic Sanctions’, in ‘The Law of Armed Conflict: Into the Next Millenium’, *International Law Studies*, vol. 71 (1998) Schmitt & Green (eds.), p. 455-482; Virally, ‘Article 2 Paragraph 4’, in: Cot and Pellet (eds.), *La Charte des Nations Unies*, 1991 (2nd ed.); Verri, *Dictionary of the International Law of Armed Conflict*, (Markee & Mutti trans., 1992); Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Sheng Li, ‘When Does Internet Denial Trigger the Right of Armed Self-Defense?’, 38 *Yale Journal of International Law* 179 (2013)*****Consensus claim at*** *184* | ‘**The prevailing view** among scholars, which is supported by the *travaux préparatoires* of the Charter, is that Article 2(4)’s prohibition is confined to armed force and does not apply to political, psychological, or economic coercion, such as trade sanctions or propaganda.**[28]** By declaring that “[n]othing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs,”[29] Article 51 carves out an exemption to this prohibition and permits recourse to armed force in self-defense.’ | 1) Randelzhofer (1994) 112 [28] 12) Gordon (1985) no page numbers [28] | 1(a) Randelzhofer (1994) 112 fn25: see ‘Randelzhofer (2002/2)’ below 2; further references:1(b) Virally in Cot & Pellet (1991/2) 122-123 [27, 31] 31(c) Seidl-Hohenveldern (1992/7) 1784 [28] 41(d) *travaux préparatoires* [29]1(e) Friendly Relations Declaration [30]1(f) ICJ: *Nicaragua* case [31]2(a) Bishop (1971) 1010 [5, 6]2(b) General Treaty for the Renunciation of War as an Instrument of National Policy, 46 Stat. 234546, 94 L.N.T.S. 63 (1929) [7]2(c) Briggs (1938) 716-717 n2 [8]2(d) Atlantic Charter, 55 Stat. 1603 (1941-1942) [9]2(e) ‘Plan for the Establishment of an International Organization for the Maintenance of International Peace and Security’ in Russell (1958) 991 [10] | 1(a-1) see ‘Randelzhofer 2002/2’ below1(b-1) ICJ: *Nicaragua* case [1]1(b-2) Bowett (1958)1(b-3) Brownlie (1963)1(b-4) Higgins (1963) 1(b-5) LaCharriere (1984) 1(b-6) Sahovic (1972) 1(b-7) Schwebel (1972) 1(b-8) Treves (1987) 1(b-9) Waldock (1952) 1(b-10) Zourek (1974)1(c-1) no further references 1(d-1) no further references1(e-1) no further references1(f-1) no further references2(a-1) Nuremberg Tribunal [205]2(b-1) no further references2(c-1) International Law Association (1934) 1-70 [2]2(d-1) no further references2(e-1) no further references | Note that Li’s article is mostly about Article 51, not 2(4).1 Li uses Randelzhofer and Gordon as exemplary of this interpretation.2 With regard to Randelzhofer (1994), p. 112: The references listed in the 1994 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter (that is, as far as Randelzhofer’s consensus claim goes, which is substantiated in fn25 of both the 1994 as well as the 2002 edition). The trackback here thus first refers to the 2002 edition for further references. The only difference between the two editions (as far as footnote 25 goes) is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1994 edition in Dinstein’s 2001 book.3 References 1(b-2) to 1(b-10) are the generic bibliography given by Virally at the end of his chapter. They are therefore included here, in grey.4 Randelzhofer specifically refers to Seidl-Hohenveldern and Stein to support his argument that the permissibility of economic coercion under Article 2(4) is necessary to allow states some means of coercion, otherwise ‘states would be left with no means of exerting pressure on other states that violate international law’ (p. 112). In MN 1784 of Seidl-Hohenveldern and Stein’s book, they elaborate on this argument without providing further references. They *do*, earlier in the same paragraph, elaborate on the distinction between economic and military force, and they *do* offer further references in that section – but this is not the reason Randelzhofer refers to their work. Hence, the tertiary references column lists here ‘no further references’. | Bishop, Jr. *International Law: Cases and Materials*, Little, Brown and Company: 1971 (3rd ed.); Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Briggs, *The Law of Nations: Cases, Documents, and Notes*, F.S. Crofts and Co, New York: 1938; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Gordon, ‘Article 2(4) in Historical Context’, 10 *Yale Journal of International Law* 271 (1985); Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford University Press, London: 1963; International Law Association (1934) 1-70; de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994; Russell, *A History of the United Nations Charter*, 1958; Sahovic (ed.), *Principles of International Law Concerning Friendly Relations and Cooperation*, Oceana, Dobbs Ferry: 1972; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern, *Völkerrecht*, 1992 (7th ed.); Treves, ‘La Declaration des Nations Unies sur le renforcement de l'Efficacite du Principe du non Recours a la Force’, *AFDI* 1987; Virally, ‘Article 2 Paragraph 4’, in: *La Charte des Nations Unies*, Cot and Pellet (eds.) 1991 (2nd ed.); Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Zourek, *L’interdiction de l’Emploi de Ia Force*, Sijthoff: 1974 |
| **Stephen Moore, ‘Cyber Attacks and the Beginnings of an International Cyber Treaty’, 39 *North Carolina Journal of International Law & Commercial Regulation* 223 (2013)*****Consensus claim at*** *236* | ‘Some states argue force should include both economic and political coercion.[93]However,it is **generally accepted** that force requires “armed force.” **[94]** Nations interpret “armed force” broadly.[95] Once force (p. 237) comprises armed force, the question becomes whether a given cyber attack rises to the level of armed force.’  | 1) Harrison Dinniss (2012) 41 [94]  | 1(a) Randelzhofer (2002/2) 117 [21]2(a) Dinstein (2001/3) 86 [21] 1 | 1(a-1) see ‘Randelzhofer (2002/2)’ below2(a-1) Virally in Cot & Pellet (1985) 120 [14]2(b-1) UN Charter [15]2(c-1) Kearney & Dalton (1970) 534-535 [16]2(d-1) Randelzhofer (1995) 112-113 [17] 2(e-1) Wehberg (1951) 69 [18] | Moore cites Harrison Dinniss in footnote 94: ‘Although no definitive conclusions have been drawn, the prevailing and commonly accepted view put forward by scholars is that the force referred to in Article 2(4) is limited to armed force’, thereby supposedly adopting her caveat with regard to the meaning of force (Note the ‘[a]lthough no definitive conclusions have been drawn...’)1 I have taken the liberty to assume Harrison Dinniss to refer to p. 80-81, not p. 86, of Dinstein’s book. On p. 86 Dinstein discusses the customary law status of Article 2(4) in relation to Article 2(6) of the UN Charter. He does not pronounce on the meaning of ‘force’; instead, he does this a few pages prior, on p. 80-81. I have therefore included the footnotes concomitant to these two pages in the trackback for Harrison Dinniss’ consensus claim.  | Harrison Dinniss, *Cyber Warfare and the Laws of War*, Cambridge University Press: 2012; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 2001 (3rd ed.); Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1995 and 2002 (2nd ed.); Virally, ‘Article 2 Paragraph 4’, in: *La Charte des Nations Unies* 113, Cot and Pellet (eds.): 1985; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951)  |
| **Todd A. Morth, ‘Considering Our Position: Viewing Information Warfare as a Use of Force Prohibited by Article 2(4) of the UN Charter’, 30 *Case Western Reserve Journal of International Law* 567 (1998)*****Consensus claim at*** *592-593* | ‘It has been argued that economic aggression or coercion may constitute a prohibited use of force under Article 2(4).[160]...According to this view, Article 2(4) authorizes a state to use force to protect itself from economic (573) coercion against its interests. [162] ...However, the **general consensus** of scholars is that economic coercion, such as sanctions or embargoes, does not violate Article 2(4).**[169]**’ | 1) Sadurska (1988) 253-254 [169]2) Farer (1985) 410 [169] | 1(a) Farer (1985) 411 [70]1(b) Definition of Aggression, GA Res. 3314 (XXIX) [70]1(c) US/France arbitral tribunal (1978) 443 [71]1(d) ICJ: *Nicaragua* case [72]1(e) Seidl-Hohenveldern (1985) 14 [72]1(f) Wallensteen (1983) 127 [72]1(g) Deese (1983) 169 [72]2(a) no further references | 1(a-1) no further references1(b-1) no further references1(c-1) no further references1(d-1) no further references1(e-1) Seidl-Hohenveldern (1979) 1294 [30]1(e-2) Seidl-Hohenveldern (1980) 985 [30]1(e-3) Lindemeyer (1981) 16 [30]1(f-1) no further references1(g-1) no further references2(a-1) no further references | A few pages prior to this consensus claim Morth states that ‘[t]he general acceptance of the view that the term “force,” in Article 2(4), indicates “armed force” has caused most scholars to ignore or push to the periphery inquiries regarding the question of, “what is force?”’[145] (Morth, p. 590). Moreover, in footnote 169 Morth includes a book by Belatchew Asrat arguing against this consensus opinion: ‘[Asrat argues] that no clear consensus exists on the prohibition of economic force, and the charter framework should be flexible enough to include such actions if the need arises’.  | Deese, ‘The Vulnerability of Modern Nations: Economic Diplomacy in East-West Relations’ (155-182) and Wallensteen, ‘Economic Sanctions: Ten Modern Cases and Three Important Lessons’ (87-130), both in *Dilemmas of Economic Coercion: Sanctions in World Politics*, Nincic & Wallensteen (eds.) Praeger Publishers: 1983; Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985); Lindemeyer, ‘Das Handelsembargo als wirtschaftliches Zwangsmittel der staatlichen Auβenpolitik’, *Recht der internationalen Wirtschaft*, 1981; Sadurska, 'Threats of Force', 82 *AJIL* 239 (1988); Seidl-Hohenveldern, *Völkerrecht*, 1979; Seidl-Hohenveldern, ‘The Right of Economic Self-Determination’, *Melanges Dendias*: 1980; Seidi-Hohenveldern, ‘The United Nations and Economic Coercion’, 18 *Revue Belge de Droit International* 9 (1985) |
| **Titiriga Remus, ‘Cyber-Attacks and International Law of Armed Conflicts: A ‘Jus Ad Bellum’ Perspective’, 8 *Journal of International Commercial Law and Technology* 179 (2013)** ***Consensus claim at*** *181* | ‘The scope of Article 2(4) may be discovered through its *travaux preparatoires*. During the negotiations of the Charter, the Brazilian delegation proposed a reference to ‘armed and economic force’, but this proposal was later rejected. [10] Today it is a **general agreement** in doctrine that the “use of force” covers “armed force” and not economic or psychological pressure. **[11]** On the basis of the above explanation we can proceed to derive the first legal characteristics of cyber warfare. If cyber means in their direct appearance could be assimilated to armed force, any further discussion would be superfluous, since Article 2(4) undeniably encompasses “armed force”.[12]’ | 1) Dinstein (2005/4) 86 [11] 1  | 1(a) Kearney and Dalton (1970) 534-535 [16]1(b) Randelzhofer (2002/2) 117-118 [17]1(c) Wehberg (1951) 69 [18] | 1(a-1) VCLT negotiations, Official Records, First Session (1968) [219-223]1(b-1) Randelzhofer (2002/2) 117: see ‘Randelzhofer (2002/2)’ below;Randelzhofer (2002/2) p. 118: 1(b-2) Virally in Cot & Pellet (1991/2) 122-123 [27, 31]1(b-3) Seidl-Hohenveldern and Stein (2000/10) MN 1784 [28]1(b-4) *travaux préparatoires* [29] 1(b-5) Friendly Relations Declaration [30] 21(b-6) ICJ: *Nicaragua* case (1986) [31, 32]1(c-1) Goodrich and Hambro (1949) 104 [1]1(c-2) Bentwich and Martin (1950) 13 [1]1(c-3) Société des Nations (1932) 84 [5]  | 1 Remus only refers to p. 86 of Dinstein’s book; hence Dinstein’s references to Virally and the UN Charter have not been included (both references are on p. 85).2 The inclusion of this reference is not entirely consistent with the method generally applied here, as this is a cross-reference. I have included it here, however, as the *Friendly Relations Declaration* is also mentioned in the text by Randelzhofer. | Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 2005 (4th ed.); Goodrich and Hambro, *Charter of the United Nations*, 1949; Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 2002 (2nd ed.); Seidl-Hohenveldern and Stein, *Völkerrecht*, 2000 (10th ed.); Société des Nations, *Document A. La Situation actuelle en Chine*, 1932, 1e partie; Virally in Cot and Pellet (eds.) *La Charte des Nations Unies*, *Commentary*, 1991 (2nd ed.); Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951) |
| **Michael N. Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999)*****Consensus claim at*** *907-908* | ‘Again, while the Declaration [on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations - LB] does not definitively resolve the reach of the term (p. 908) “force,” its general tenor, and the varying contexts in which armed, economic, and political coercion arise, suggest that although economic and political coercion may constitute threats to international stability and therefore are precluded by the principle of non-intervention..., the concept of the use of force is **generally understood** to mean armed force.**[68]**’ | Footnote 68 only contains a reference to the Vienna Convention on the Law of Treaties 1  |  |  | 1 Footnote 68: ‘As to both declarations [Schmitt also discusses the Friendly Relations Declaration in this section - LB], recall that by Article 31(3) of the Vienna Convention subsequent agreement regarding interpretation of a Treaty is an appropriate interpretive consideration. *See* Vienna Convention, *supra* note 5 1, art. 31(3).’ |  |
| **Walter G. Sharp, Sr., *CyberSpace and the Use of Force*, Aegis Research Corporation 1999*****Consensus claim at*** *88* | ‘**The prevailing view**, according to one authoritative text, is that Article 2(4) does not prohibit “any possible kind of force, but is…limited to armed force.” **[218]** Political and economic coercion may be a lawful and “permissible means of exerting pressure on other states that violate international law.”[219]’  | 1) Randelzhofer (1994) 112 [218] | 1(a) see ‘Randelzhofer 2002/2’ below 1  | 1(a-1) see ‘Randelzhofer 2002/2’ below | Note that Sharp invokes the, according to him, prevailing opinion, to ultimately argue against its interpretation. 1 As Sharp cites from Randelzhofer’s chapter here, I have only included the references in the footnote following this quote (footnote 25). The references listed in the 1994 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter. The trackback here thus refers to the 2002 edition for further references. The only difference between the two editions is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1995 edition in Dinstein’s 2001 book.  | Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 |
| **Daniel B. Silver, ‘Computer Network Attack as a Use of Force under Article 2(4) of the United Nations Charter’, in *Computer Network Attack and International Law* (Michael N. Schmitt and Brian T. O’Donnell, eds.) International Law Studies vol. 76 (2002) at 73-98*****Consensus claim at*** *80* | ‘Virtually since the Charter was adopted, controversy has existed as to whether measures of economic and political coercion constitute force under Article 2(4). The **weight of scholarly opinion** supports the negative view, **[24]** but that does not appear to have put the question to rest, at least as applied to CNA [Computer Network Attack - LB].’ | 1) Dinstein (1994/2) 18 [24] 1 2) Randelzhofer (1994) 112 [24] | 1(a) no further references 2(a) Randelzhofer (1994) 112 fn25: see ‘Randelzhofer (2002/2)’ below 2; further references:2(b) Virally in Cot & Pellet (1991/2) 122-123 [27, 31] 32(c) Seidl-Hohenveldern (1992/7) 1784 [28] 42(d) *travaux préparatoires* [29]2(e) Friendly Relations Declaration [30]2(f) ICJ: *Nicaragua* case [31] | 1(a-1) no further references2(a-1) see ‘Randelzhofer 2002/2’ below2(b-1) ICJ: *Nicaragua* case [1]2(b-2) Bowett (1958)2(b-3) Brownlie (1963)2(b-4) Higgins (1963) 2(b-5) LaCharriere (1984) 2(b-6) Sahovic (1972) 2(b-7) Schwebel (1972) 2(b-8) Treves (1987) 2(b-9) Waldock (1952) 2(b-10) Zourek (1974)2(c-1) no further references2(d-1) no further references2(e-1) no further references2(f-1) no further references | Silver uses Randelzhofer and Dinstein as exemplary of this interpretation.1 I understood the reference to p. 18 of Dinstein’s book to be a typographical error, as on this page Dinstein discusses ‘Wartime Status Mixtus’. On p. 81, he discusses the origins of the prohibition on the use of force.2 With regard to Randelzhofer (1994), p. 112: The references listed in the 1994 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter (that is, as far as Randelzhofer’s consensus claim goes, which is substantiated in fn25 of both the 1994 as well as the 2002 edition). The trackback here thus first refers to the 2002 edition for further references. The only difference between the two editions (as far as footnote 25 goes) is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1994 edition in Dinstein’s 2001 book.3 References 2(b-2) to 2(b-10) are the generic bibliography given by Virally at the end of his chapter. They are therefore included here, in grey.4 Randelzhofer specifically refers to Seidl-Hohenveldern and Stein to support his argument that the permissibility of economic coercion under Article 2(4) is necessary to allow states some means of coercion, otherwise ‘states would be left with no means of exerting pressure on other states that violate international law’ (p. 112). In MN 1784 of Seidl-Hohenveldern and Stein’s book, they elaborate on this argument without providing further references. They *do*, earlier in the same paragraph, elaborate on the distinction between economic and military force, and they *do* offer further references in that section – but this is not the reason Randelzhofer refers to their work. Hence, the tertiary references column lists here ‘no further references’. | Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 1994 (2nd ed.); Gordon, Article 2(4) in Historical Context’, 10 *Yale Journal of International Law* 271 (1985); Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford University Press, London: 1963; de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 and 2002 (2nd ed.); Sahovic (ed.), *Principles of International Law Concerning Friendly Relations and Cooperation*, Oceana, Dobbs Ferry: 1972; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern, *Völkerrecht*, 1992 (7th ed.); Virally in Cot and Pellet (eds.), *La Charte des Nations Unies*, *Commentary*, 1991 (2nd ed.); Treves, ‘La Declaration des Nations Unies sur le renforcement de l’Efficacite du Principe du non Recours a la Force’, *AFDI* 1987; Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Zourek, *L’interdiction de l’Emploi de Ia Force*, Sijthoff: 1974. |
| **Matthew J. Sklerov, ‘Solving the Dilemma of Sate Responses to Cyberattacks: A Justification for the Use of Active Defenses against States Who Neglect Their Duty to Prevent’, 201 *Military Law Review* 1*****Consensus claim at*** *37* | ‘Reprisals may not involve the use of force contrary to Article 2(4) of the U.N. Charter;[246] however, the **consensus** among international scholars is that this prohibition really only amounts to a prohibition against armed force.**[247]** While this article contends that states should treat certain cyberattacks as armed attacks, and deal with them using self-defense and anticipatory self-defense legal principles, reprisals provide an important alternate theory for dealing with cyberattacks to those who contend that cyberattacks fall short of the armed attack threshold.[248]’ | 1) Wingfield (2000) 87 [247] 1 | 1(a) Randelzhofer (1994) 112 | 1(a-1) see ‘Randelzhofer 2002/2’ below 2 | 1 Sklerov himself points out in footnote 247 that Wingfield cites Randelzhofer: ‘See *id.* at 87 (quoting THE CHARTER OF THE UNITED NATIONS: A COMMENTARY 112 (Bruno Simma ed. 1994)).’ (emphasis and capitalization in original)2 As Wingfield cites from Randelzhofer’s chapter here, I have only included the references in the footnote following this quote (footnote 25). The references listed in the 1994 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter. The trackback here thus refers to the 2002 edition for further references. The only difference between the two editions is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1995 edition in Dinstein’s 2001 book. | Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1994 ; Wingfield, *The Law of Information Conflict: National Security Law in Cyberspace*, Aegis Research Corporation: 2000  |
| **Nicholas Tsagourias, ‘The Tallinn Manual on the International Law Applicable to Cyber Warfare: A Commentary on Chapter II - The Use of Force’, in *Yearbook of International Humanitarian Law 2012* (Terry D. Gill et al., eds.) vol. 15 (2014) at 19-43*****Consensus claim at*** *22* | ‘How “force” is defined is of critical importance, but it is one of the perennial questions that affect the scope of the rule prohibiting the threat or use of force. The Manual rejects an instrument-based approach to force and adopts an effects-based one. [10] This reflects the **widely held opinion,** which decouples force from the instrument that produces it. **[11]** Prohibited force is thus any force, including cyber force, that produces harmful effects in the form of human death or injury and/or physical damage, and which are equivalent to those produced by military force. [12]’ | 1) ICJ: *Nuclear Weapons* Advisory Opinion, para. 39 [11] | 1(a) no further references |  |  |  |
| **Matthew C. Waxman, ‘Cyber-Attacks and the Use of Force: Back to the Future of Article 2(4)’, 36 *Yale Journal of International Law* 421 (2011)*****Consensus claim at*** *427-428* | ‘The dominant view in the United States and among its major allies has long been that the Article 2(4) prohibition of force and the complementary Article 51 right of self-defense apply to military attacks or armed violence.[25] (p. 428) ... The plain meaning of the text supports this view, as do other structural aspects of the U.N. Charter...There are textual counter-arguments, such as that Article 51’s more specific limit to “armed attacks” suggests that drafters envisioned prohibited “force” as a broader category not limited to particular methods. However, the discussions of means throughout the Charter and the document’s negotiating history strongly suggest the drafters’ intention to regulate armed force differently and more strictly than other coercive instruments.[29] This interpretation has **generally prevailed** over alternatives outlined below.’ | No further references |  |  |  |  |
| **Johann-Christoph Woltag, *Cyber Warfare: Military Cross-Border Computer Network Operations under International Law*, Intersentia 2014*****Consensus claim at*** *136* | ‘According to the **prevailing view**, the term is limited only to “armed force”, thereby excluding political, economic and non-military physical force. **[229]** This is substantiated by several arguments.’ | 1) Randelzhofer & Dörr (2012) paras. 16-28 [229] 1 2) Dinstein (2005/4) 86 [229] 3) Dörr (2011) para. 11 [229]4) Derpa (1970) no page nrs. [229] 2 | 1(a) see ‘Randelzhofer (2002/2)’ below [28] 31(b) Virally in Cot & Pellet (1991/2) 122-123 [30] 41(c) Stein and Buttlar (2012/13) MN 775, 774 [31, 44]1(d) *travaux préparatoires* [32] 1(e) Friendly Relations Declaration [335, 54]1(f) ICJ: *Nicaragua* case [34, 35, 55, 59, 63]1(g) Singh (1984) 213 [39]1(h) Dinstein (2012/5) 88 [42] 1(i) Bothe (2010) MN 10 and further references [42]1(j) Dörr (2011) MN 13 [43] 91(k) Goodrich, Hambro and Simons (1969/3) 50 [44] 1(l) Randelzhofer (2000) 1250 [44, 46]1(m) Verdross and Simma (1984/3) 481 [44] 1(n) Dohna (1973) 60 [44] 1(o) Derpa (1970) 20 and further references [44]1(p) Schachter (1984) 1625 [44]1(q) Schindler (1986) 33 [44] 1(r) Lamberti Zanardi (1986) 111 [44] 1(s) Neuhold (1977) 76-79 [51] and 228-229 [56] 1(t) Bruha (1980) 169-172 [51]1(u) Repertory of Practice of United Nations Organs 51, 30-48 (esp. 31, 39-43) [53]1(v) ICJ: *Armed Activities* case [55]1(w) Kewenig (1971) 187-188 [58] 2(a) Kearney and Dalton (1970) 534-535 [16]2(b) Randelzhofer (2002/2) 117-118 [17]2(c) Wehberg (1951) 69 [18] 3(a) Randelzhofer (2002/2) MN 18 64(a) 2 | 1(a-1) see ‘Randelzhofer (2002/2)’ below1(b-1) ICJ: *Nicaragua* case [1]1(b-2) Bowett (1958)1(b-3) Brownlie (1963)1(b-4) Higgins (1963) 1(b-5) LaCharriere (1984) 1(b-6) Sahovic (1972) 1(b-7) Schwebel (1972) 1(b-8) Treves (1987) 1(b-9) Waldock (1952) 1(b-10) Zourek (1974)1(c-1) no further references1(c-2) ICJ: *Nicaragua* case 81(d-1) no further references1(e-1) no further references1(f-1) no further references1(g-1) Brownlie (1963) 362-363 [11]1(h-1) Dinstein (2001) 103 [491]1(i-1) Stein & Marauhn (2000) 1ff [39]1(i-2) Greenberg (1997) no page nrs. [39] 1(i-3) Jacobson (1998) 1ff [39]1(i-4) Schmitt (1999) 885ff [39] 1(i-5) Busuttil (1999) 37ff [39] 1(i-6) Stelter (2007) 26ff, 60ff [39]1(j-1) no further references1(k-1) General Assembly and Security Council Res. [90-92] 121(l-1) no further references1(m-1) Dohna (1973) 60 f [49]1(n-1) Friendly Relations Declaration [40]1(n-2) Berber (1969/2) 43 [43]1(n-3) Brownlie (1958) 734 [43]1(n-4) Dahm (1958) 199 [43]1(n-5) Fawcett (1971) 497 f. [43]1(n-6) Goodrich, Hambro and Simons (1969) 50 [43]1(n-7) Higgins (1963) 177 f. [43]1(n-8) Menzel (1962) 350 [43]1(n-9) Rosenstock (1971) 720 [43]1(n-10) Schwarzenberger (1968) 51 [43]1(n-11) Wengler (1967) 13 f. [43]1(n-12) Kewenig (1971) 181 f., 187[43]1(o-1) 101(p-1) no further references1(q-1) no further references1(r-1) no further references1(s-1) GA Resolutions [76-79] 131(s-2) ILC (1954) vol 2 p. 112 et seq. [80]1(s-3) Duroselle (1966/4) 521-522, 580-581 [81]1(s-4) Higgins (1963) 191 et seq. [82]1(s-5) Friendly Relations Declaration 141(t-1) Definition of Aggression 151(t-2) Bothe (1975) 132 [34]1(t-3) US and Russian views on Def. of Aggression [39, 40]1(t-4) GAOR, XXIX, Suppl. No. 19, S. 39 [48]1(u-1) 111(v-1) no further references1(w-1) no further references2(a-1) VCLT negotiations, Official Records, First Session (1968) [219-223]2(b-1) Randelzhofer p. 117: see ‘Randelzhofer 2002/2’ belowRandelzhofer p. 118: 2(b-2) Virally in Cot & Pellet (1991/2) 122-123 [27, 31]2(b-3) Seidl-Hohenveldern and Stein (2000/10) MN 1784 [28] 2(b-4) UNCIO VI, pp. 334, 609 [29] 72(b-5) Friendly Relations Declaration [30] 52(b-6) ICJ: *Nicaragua* case (1986) [31, 32]2(c-1) Goodrich and Hambro (1949) 104 [1]2(c-2) Bentwich and Martin (1950) 13 [1]2(c-3) Société des Nations (1932) 84 [5] 3(a-1) Virally in Cot & Pellet (1991/2) 122-123 [27]3(a-2) Seidl-Hohenveldern and Stein (2000/10) MN 1784 [28]3(a-3) *travaux préparatoires* [29]4(a-1) 2 | 1 The inclusion of paras. 23-28 is a boundary case, as they deal with indirect armed force. Woltag includes these in his footnote, however, and as stated on the cover page of this appendix, the decision whether to in- or exclude a particular reference here is based on how the author in question is doing the referring. Therefore, I have included them here, but hesitantly (this pertains to the secondary references under (1-j) to (1-w), or footnotes 43-63).2 In footnote 229, Woltag refers to Derpa’s book as ‘seminal’ in this regard. Derpa’s treatment of this interpretive issue is too extensive to be included in this overview (it takes up an entire book); the trackback of his work, therefore, ends in the first column. For references following Derpa p. 26fn71, see ‘Randelzhofer 2002’ elsewhere in this document.3 The references in footnote 28 in the Randelzhofer & Dörr (2012/3) edition are almost exactly the same as those in footnote 25 in the Randelzhofer (2002/2) edition. The 2012 edition leaves out references to Virally in Cot and Pellet and to Dahm; furthermore, the reference to Dinstein has been updated to the latest edition of his book (2012/5). Hence, the reference here to Randelzhofer (2002/2).4 References 1(b-2) to 1(b-10) are the generic bibliography given by Virally at the end of his chapter, and are not mentioned in the footnotes on p. 122-123 of his chapter. They are therefore listed here in grey.5 The inclusion of this reference is not entirely consistent with the method generally applied here, as this is a cross-reference. I have included it here, however, as the *Friendly Relations Declaration* is also mentioned in the text by Randelzhofer.6 Dörr’s text contains in-text references, so there is no footnote number following 3(a).7 This is a reference to the *travaux préparatoires* of the UN Charter.8 This is an in-text reference, so this tertiary reference is not followed by a footnote. 9 Randelzhofer and Dörr do not provide the year for this reference to Dörr; they merely refer to the ‘online edition.’ This online edition was updated in 2015, however, and as the chapter of Randelzhofer and Dörr was published in 2012, they could not possibly have referred to the 2015 edition. I have therefore assumed them to refer to the 2011 edition of Dörr’s entry in the MPEPIL.10 As the footnote following Derpa’s claim that Article 2(4) encompasses both indirect as well as direct uses of force takes up almost two pages in his book, I have not included it here for reasons of surveyability.11 The bibliographical data provided by Randelzhofer and Dörr was not sufficient for the purposes of backtracking this reference.12 As copied from footnotes 90-92 of Goodrich, Hambro and Simons, p. 50: ‘GA Res. 193(III)’; ‘UN Doc. S/4023, June 11, 1958’; ‘GA Res. 1237(ES-III), Aug. 21, 1958.’13 As copied from Neuhold, p. 77: ‘GV 110 (I), 290 (IV), 380 (V) und 381 (V).’14 This has been included here, even though the FRD does not appear in a footnote on p. 228-229 of Neuhold’s text: his text is used though, as a further elaboration of the point made about the FRD by Randelzhofer and Dörr, and thus has been included here.15 Bruha’s text is an elaboration of indirect force and the Definition of Aggression, and is therefore included here as such. | Bentwich and Martin, *A Commentary of the Charter of the United Nations*, Routledge & Paul: 1950; Berber, *Lehrbuch des Völkerrechts*, *Band 2: Kriegsrecht*, München-Berlin: 1969 (2nd ed.); Bothe, ‘Die Erklärung der Generalversammlung der Veinten Nationen über die Definition der Aggression’, 18 *JIR* 1975, 127-145; Bothe in Vitzthum (ed.), *Völkerrecht*, De Gruyter: 2010 (5th ed.); Bowett, *Self-Defence in International Law*, Manchester University Press, 1958; Brownlie, ‘International Law and the Activities of Armed Bands’, 7 *ICLQ* 1958, 712-735; Brownlie, *International Law and the Use of Force by States*, Oxford University Press: 1963; Bruha, *Die Definition der Aggression*, Duncker & Humblot: 1980; Busuttil, ‘A Taste of Armageddon: The Law of Armed Conflict as Applied to Cyberwar’, in: *The Reality of International Law*, Goodwin-Gill and Talmon (eds.) Oxford University Press: 1999; de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Dahm, *Völkerrecht, 1. Band*, Stuttgart: 1958; Derpa, *Das Gewaltverbot der Satzung der Vereinten Nationen und die Anwendung nichtmilitiirischer Gewalt,* Athenaeum Bad Homburg: 1970; Dinstein, ‘Computer Network Attacks and Self-Defense’, in ‘Computer Network Attack and International Law’, *International Law Studies*, vol. 76 (2001) Schmitt & O’Donnell (eds.), p. 99-119; Dinstein, *War, Aggression and Self-Defence*, Cambridge University Press: 2005 (4th ed.) and 2012 (5th ed.); Dohna, *Die Grundprinzipien des Völkerrechts über die freundschaftlichen Beziehungen und die Zusammenarbeit zwischen den Staaten*, Duncker & Humblot: 1973; Dörr, ‘Use of Force, Prohibition of’ in Rudiger Wolfrum (ed.) *Max Planck Encyclopedia of Public International Law*, Oxford University Press: 2011; Duroselle, *Histoire diplomatique de 1919 á nos jours*, 1966 (4th ed.); Fawcett, ‘General Course on Public International Law’, *RdC* 132, 1971 I, 365-557; Goodrich and Hambro, *Charter of the United Nations*, 1949 and with Simons, 1969 (3rd ed.); Greenberg et al., *Information Warfare and International Law*, 1997; Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford University Press, London (New York, Toronto – see Dohna): 1963; Jacobson, ‘War in the information age: International law, self‐defense, and the problem of ‘non‐armed’ attacks’, 21 *Journal of Strategic Studies* 1 (1998); Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Kewenig, ‘Gewaltverbot und noch zulässige Machteinwirkung und Interventionsmittel’ in Schaumann (ed), *Völkerrechtliches Gewaltverbot und Friedenssicherung*, Nomos (Baden-Baden – see Dohna): 1971; Lamberti Zanardi, ‘Indirect Military Aggression’ in Cassese (ed), *The Current Legal Regulation of the Use of Force*, Nijhoff: 1986, 111–19; Menzel, *Völkerrecht: Ein* *Studienbuch,* München und Berlin: 1962;Neuhold, *Internationale Konflikte - Verbotene und erlaubte Mittel ihrer Austragung*, Springer: 1977; Randelzhofer and Dörr, *Article 2(4)* in: Simma and others (eds.) *The Charter of the United Nations*, Oxford University Press: 2012 (3rd ed.), and Randelzhofer 2002 (2nd ed.); and Randelzhofer in EPIL IV (2000); Rosenstock, ‘The Declaration of Principles of International Law Concerning friendly Relations: A Survey’, 65 *AJIL* 1971, 713-735; Sahovic (ed.), *Principles of International Law Concerning Friendly Relations and Cooperation*, Oceana, Dobbs Ferry: 1972; Schachter, ‘The Right of States to Use Armed Force’ (1984) 82 *Michigan Law Review* 1620; Schindler, ‘Die Grenzen des völkerrechtlichen Gewaltverbots’ (1986) 26 *DGVR Berichte* 11; Schmitt, ‘Computer Network Attack and the Use of Force in International Law: Thoughts on a Normative Framework’, 37 *Columbia Journal of Transnational Law* 885 (1999); Schwarzenberger, *International Law as applied by International Courts and Tribunals, Volume II,* London: 1968; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern and Stein, *Völkerrecht*, 2000 (10th ed.); Singh, *Use of Force under International Law*, 1984; Société des Nations, *Document A. La Situation actuelle en Chine*, 1932, 1e partie; Stein and Marauhn, ‘Völkerrechtliche Aspekte von Informationsoperationen’, 60 *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 1 (2000); Stein and von Buttlar, *Völkerrecht* , Heymanns 2012 (13th ed.); Stelter, *Gewaltanwendung unter und neben der UN-Charta*, 2007; Treves, ‘La Declaration des Nations Unies sur le renforcement de l’Efficacite du Principe du non Recours a la Force’, *AFDI* 1987; Verdross and Simma, *Universelles Völkerrecht*, Duncker & Humblot: 1984 (3rd ed.); Virally in Cot and Pellet (eds.) *La Charte des Nations Unies*, *Commentary*, 1991 (2nd ed.); Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951); Wengler, *Das völkerrechtliche Gewaltverbot: Probleme und Tendenzen*, Berlin: 1967; Zourek*, L’interdiction de l’Emploi de Ia Force*, Sijthoff: 1974 |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Author, publication**  | **Consensus claim, footnotes in brackets** | **References in footnote** | **Secondary references** | **Tertiary references** | **Comments** | **Full citations, in alphabetic order** |
| **A. Randelzhofer, ‘Article 2(4)’, in *The Charter of the United Nations: A Commentary*, vol. I, Bruno Simma et al. (eds.), 2nd edition, Oxford University Press 2002** 1***Consensus claim at 117 (2002/2); MN 16*** | ‘Even the scope of the fundamental notion of “force” is not undisputed. The term does not cover any possible kind of force, but is, according to the **correct and prevailing view,** limited to armed force.[25]’ | 1) Virally in Cot and Pellet (1991/2) 122-123 [25] 22) Goodrich, Hambro and Simons (1969/3) 49 [25]3) Verdross and Simma (1984/3) para. 476 [25]4) Kelsen and Tucker (1966/2) 86 [25] 5) Brownlie (1963) 362 [25]6) Bowett (1958) 148 [25] 7) Khare (1985) 27-28 [25] 8) Singh (1984) 212 [25] 9) Dahm (1962) 49 [25] 10) Schindler (1986) 14 [25]11) Malanczuk (1987) 244 [25]12) Dinstein (2001/3) 81 [25] 313) Derpa (1970) 26fn71 [25] 4 | 1(a) ICJ: *Nicaragua* case [1]1(b) Bowett (1958)1(c) Brownlie (1963)1(d) Higgins (1963) 1(e) LaCharriere (1984) 1(f) Sahovic (1972) 1(g) Schwebel (1972) 1(h) Treves (1987) 1(i) Waldock (1952) 1(j) Zourek (1974)2(a) General Assembly Resolutions and other discussions within the UN framework [84-86] 53(a) Dohna (1973) 54 et seq. [34]3(b) Derpa (1970) no page nrs [34] 14 3(c) Bowett (VJIL 1976/77) 245 et seq. [34] 63(d) Lillich (1976) no page nrs [34]3(e) Nawaz (1976) 252 et seq. [34]3(f) Kewenig (1982) 11 et seq. [34] 124(a) no further references5(a) Sørensen (1960) 237 [4]5(b) Arechaga (1958) 84-85 [4, 7] 5(c) UN documents on disarmament [6, 7]5(d) Alfaro in ILC Yearbook (1951) vol I. p. 111, paras. 45a-49, vol. II para. 41 [7] 5(e) Aroneanu (1958) 106 [7]6(a) Waldock (1952) ch. III [7]6(b) *travaux préparatoires* [7]7(a) *travaux préparatoires* [54, 55]8(a) Goodrich, Hambro and Simons (1969) 48-49 [10]8(b) Bentwich and Martin (1969) 13 [10] 8(c) Bowett (1958) 148 [10] 8(d) Brownlie (1963) 361 [10] 9(a) Goodrich and Hambro (1949) 104 [1] 79(b) Wehberg (1951) 68 et seq. [1]9(c) Wehberg (1953) 68f [1]9(d) Waldock (1952) 492 [1]9(e) Schwarzenberger (1952) 318f [1] 139(f) Pompe (1953) 98, 102, 105 [1]9(g) Verdross (1953) 12 [1]9(h) Bowett (1958) 148 [1]9(i) Kunz (1960) 332 [1]9(j) Wright (54 AJ 1960) 529 [1]9(k) *travaux préparatoires* [2]10(a) no further references11(a) no further references12(a) Kearney & Dalton (1970) 534-535 [16]12(b) Randelzhofer (1995) 112-113 [17]12(c) Wehberg (1951) 69 [18]13(a) Wengler (1964) 1061 [71] 813(b) Seidl-Hohenveldern (1965a) 279 Rz. 1294 and (1965b) 591 Anm. 3 [71]13(c) Partsch (Repressalie) 104 and (Selbsterhaltungsrecht) 257 [71]13(d) Kipp (Friedensbruch) [71]13(e) Scheuner (Friedensbedrohung) 571, (Kollektiv Sicherheit) 245, 247, 250 and (Kollektiv Selbstverteidigung) 239 [71]13(f) Dahm (1958) 199 [71]13(g) Sauer (1955) 283 [71]13(h) Meyer-Lindenberg (1969) 127, 191 [71]13(i) Klimmeck (1968) 93 [71]13(j) Rumpf (Integrität) 28 [71] 13(k) Grommes (1966) 136 [71]13(l) Higgins (1963) 175 [71]13(m) Wright (Strengthening) 163 (Prevention) 526, (Proceedings) 82, 84 and (U-2) 846 [71]13(n) Ross (1950) [71]13(o) Art. 2 engl. Def. d. Gewalt, Friendly Relations Special Committee 1964 and 1967 [71]  | 1(a-1) no further references1(b) - 1(j) see comment 1 in the right column2(a-1) no further references3(a-1) views of Western States [25-30]3(a-2) Berber (1960) 44 [32]3(a-3) Bowett (1958) 148 [32] 3(a-4) Kewenig (1971) 190 et seq. [32]3(a-5) Schwarzenberger (1968) 51 [32]3(a-6) Verdross (1964) 552 [32]3(a-7) Waldock (1952) 492 [32]3(a-8) Wengler (1967) 17 [32]3(a-9) Derpa (1970) no page nrs [32]3(b-1) 143(c-1) Friendly Relations Declaration and preparatory texts [3, 4, 23]3(c-2) Bowett (1972) no page nrs. [22]3(d-1) Brosche quoting Bowett (1958) 148 [10]3(d-2) *travaux préparatoires* and subsequent General Assembly Resolutions [11, 15, 16, 19-20] 93(d-3) Friendly Relations Declaration negotiations (1966) [18]3(d-4) Boorman (1974) 230 [28] 3(d-5) Brosche (1974) 27 [28]3(d-6) Muir (1974) 203 [28]3(e-1) McDougal and Feliciano (1961) 207-208 [1]3(e-2) Wright (1960) 836 [2]3(e-3) Brownlie (1962 [1963]) 281 [3]3(e-4) Higgins (1963) 217 [4]3(e-5) Sahovic (1972) 104 [5]3(e-6) Bowett (1958) 110fn2 [23] and 113 [27]3(e-7) UN SC docs [24, 25] 3(e-8) Draft Declaration on the Rights and Duties of States [26] 3(f-1) *travaux préparatoires*3(f-2) UN General Assembly Resolutions3(f-3) Further discussions within the context of the UN4(a-1) no further references5(a-1) no further references5(b-1) no further references5(c-1) no further references5(d-1) no further references5(e-1) UN docs and negotiations [184-188]6(a-1) Goodrich and Hambro (1949) 104 [42fn.1]6(b-1) no further references7(a-1) no further references8(a-1) General Assembly Resolutions and other discussions within the UN framework [84-86] 58(b-1) no further references8(c-1) Waldock (1952) ch. III [7]8(c-2) *travaux préparatoires* [7]8(d-1) UN disarmament Commission [5]8(d-2) Sørensen (1960) 236 [6]8(d-3) Protocol to the Declaration on the Neutrality of Laos [6]9(a-1) Wright (AJIL XXVI) 362 [30]9(b-1) *travaux préparatoires* [68fn1) 9(b-2) ILC (1951) June 1st, p. 25 and June 4th, p. 11 [68fn2]9(b-3) Goodrich and Hambro (1949) 104 [69fn1]9(b-4) Bentwich and Martin (1950) 13 [69fn1]9(b-5) Société des Nations (1932) 84 [69fn5]9(c-1) *travaux préparatoires* [68fn9]9(c-2) ILC 1951 [68fn1]9(c-3) Goodrich and Hambro (1949) 104 [69fn3]9(c-4) Bentwich and Martin (1950) 13 [69fn3]9(c-5) Jessup (?) 174 [73fn9]9(d-1) Goodrich and Hambro (1949) 104 [1] 9(e-1) no further references9(f-1) Goodrich and Hambro (1949) 104 [98fn3]9(f-2) ILC drafts [98fn3]9(g-1) no further references9(h-1) Waldock (1952) ch. III [7]9(h-2) *travaux préparatoires* [7]9(i-1) no further references9(j-1) Sohn (1959) 677ff [23]9(k-1) no further references10(a-1) no further references11(a-1) no further references12(a-1) VCLT negotiations, Official Records, First Session (1968) [219-223]12(b-1) Randelzhofer (1995) 112 fn25: see ‘Randelzhofer (2002/2)’ 10; further references:12(b-2) Virally in Cot & Pellet (1991/2) 122-123 [27, 31]12(b-3) Seidl-Hohenveldern (1992/7) MN 1784 [28]12(b-4) *travaux préparatoires* [29] 12(b-5) Friendly Relations Declaration [30] 1112(b-6) ICJ: *Nicaragua* case (1986) [31, 32]12(b-7) Singh (1984) 213 [36]12(c-1) Goodrich and Hambro (1949) 104 [1]12(c-2) Bentwich and Martin (1950) 13 [1]12(c-3) Société des Nations (1932) 84 [5] 13(a) - 13(o) 813(n-1) Klimmeck (1968) 92 Anm. 1 [71] 13(n-2) Calogeropoulos-Stratis (1954) 207 [71]13(n-3) Reuter (1958/1968(3)) 421, 3. ed. 376 [71] 13(n-4) Wilhem (1958) 94 [71]13(n-5) Giraud (1934) 517 [71]13(n-6) Appadorai (1958) 83 [71] | 1 I understood all references to ‘Randelzhofer (2002/2) 117’ to refer to the consensus claim copied here. It should be noted that Randelzhofer begins his treatment of Article 2(4) with expressing doubts as to the ‘sound basis for approaching the prohibition’ (p. 117). Yet the consensus claim inserted here is unequivocal in its pronouncement as to the ‘correct and prevailing view’, whatever caveats might be added before or after this statement.2 References 1(b) to 1(j) are the generic bibliography given by Virally at the end of his chapter, and are not mentioned in the footnotes on p. 122-123 of his chapter. There is therefore no further trackback of these sources, and they are listed here in grey. 3 Randelzhofer refers only to p. 81, not p. 80 of Dinstein’s chapter. Therefore only fns 16-18 of his chapter have been included here.4 Randelzhofer refers to Derpa (1970) 26fn71 for ‘further references.’5 The Resolutions and UN discussions in footnotes 84-86 of Goodrich et al.’s chapter are the following (as copied from their footnotes): ‘GA Res. 380(V) and 381(V), Nov. 17, 1950’; ‘Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514(XV), Dec. 14, 1960’; ‘UN Doc. S/2322, Sept. 1, 1951’; ‘SCOR/6th Yr./549th-558th Mtgs./July 26-Sept. 1, 1951’; ‘UN Doc. S/4395, July 19, 1960.’6 In footnote 21 of his article, however, Bowett argues that he cannot exclude the possibility of self-defense against economic measures: ‘The present author’s view is that since no absolute distinction between economic and military delicts seems justifiable or accepted, it must follow that the right to use force in self-defense against an economic delict cannot be excluded. Obviously, the economic delict would have to be of such a kind as to pose a threat to the security of a State, and the requirement of proportionality would involve the necessity of proving that there was no other effective means of protection.’ For the elaborated argument he refers to his 1958 book, likewise referred to by Randelzhofer.7 Dahm uses these authors as examples of this particular interpretation.8 As Derpa lists a little under 40 authors, for practical reasons I have underlined those references that match authors referred to by others in this document, both with matching as well as different page numbers (as long as a similar work is referred to). Numbers 13(a)-13(o) in this column thus only list those authors referred to by Derpa that are not referred to by other authors listed in this table. For reasons of surveyability, there is no trackback from the secondary references to the tertiary ones for Derpa, except for the reference to Ross (13(n)) as Derpa uses him to refer to yet another set of authors (footnote 71 in Derpa’s book states ‘A. Ross zit. n.’ [A. Ross refers to]).9 These are, as copied from the following footnotes in Lillich’ article: [fn11]: ‘Doc. 784, I/1/27, 6 U.N.C.I.O. Docs. 331, 334-35 (1945)’; [fn15]: ‘G.A. Res. 2131, 20 U.N. GAOR, Supp. 14, at 11, U.N. Doc. A/6220 (1965), reprinted in 60 AM. J. INT'L L. 662 (1966).’; [fn16] ‘Id. at 12, 60 Am. J. Int’l L. at 663.’; [fn19] ‘G.A. Res. 3171, 28 U.N. GAOR, Supp. 30, at -, U.N. Doc. A/9039 (1974), reprinted in 68 Am. J. Int’l. L. 381 (1974).’; [fn20] ‘Charter of Economic Rights and Duties.’10 With regard to Randelzhofer (1995), p. 112: The references listed in the 1995 edition of Randelzhofer’s chapter are the same as those listed in the 2002 edition of the same chapter (that is, as far as Randelzhofer’s consensus claim goes, which is substantiated in fn25 of both the 1995 as well as the 2002 edition). The trackback here thus first refers to the 2002 edition for further references. The only difference between the two editions (as far as footnote 25 goes) is that the 2002 edition refers to the latest edition, in turn, of Dinstein’s book (the 2001 versus the 1988 edition). Dinstein’s books (as far as the pages referred to go, that is) likewise refer to exactly the same works and concomitant page numbers, with the exception of a reference to Randelzhofer’s 1995 edition in Dinstein’s 2001 book.11 The inclusion of this reference is not entirely consistent with the method generally applied here, as this is a cross-reference. I have included it here, however, as the *Friendly Relations Declaration* is also mentioned in the text by Randelzhofer.12 I have understood pp. 11-14 as the relevant section of Kewenig’s piece, as these pages deal specifically with the relation between economic coercion and the use of force. Kewenig’s text contains no further references, but given his extensive discussion of the *travaux*, some General Assembly Resolutions and further deliberations within the UN context, I have included these here as ‘generic’ further references.13 I have understood pp. 318-321 as the relevant section of Schwarzenberger’s piece.14 Derpa’s treatment of this interpretive issue is too extensive to be included in this overview (it takes up an entire book); the trackback of his work, therefore, ends in the second column. | Alfaro in ILC Yearbook 1951 vol. I and vol. II; Appadorai, *The Use of Force in International Relations*, Bombay, Calcutta, New Delhi, Madras 1958; Arechaga, *Derecho constitucional de las Nacionas Unidas*, Madrid: 1958; Aroneanu, *La Définition de l'agression*, Paris: 1958; Berber, *Lehrbuch des Volkerrechts, Band 1: Allgemeines. Friedensrecht*, 1960; Bentwich and Martin, *Commentary on the Charter of the United Nations*, 1950 and 1969; Boorman, ‘Economic Coercion in International Law: The Arab Oil Weapon and the Ensuing Juridical Issues’, 9 *Journal of International Law and Economics* 205 (1974); Bowett, *Self-Defence in International Law*, 1958; Bowett, ‘Reprisals Involving Recourse to Armed Force’, 66 *AJIL* 1 (1972); Bowett, ‘International Law and Economic Coercion’, 16 *Virginia Journal of International Law* 245 (1976); Brosche, ‘The Arab Oil Embargo and United States Pressure Against Chile: Economic and Political Coercion and the Charter of the United Nations’, 7 *Case Western Reserve Journal of International Law* 3 (1974); Brownlie, *International Law and the Use of Force by States*, 1963; Calogeropoulos-Stratis, ‘Guerre: Le droit de recourir a la guerre d’apres la doctrine et la pratique’, *Revue de droit international pour le Moyen-Orient*, 1954; de LaCharriere, *La Reglementation du Recours a la Force: Les Mots et les Conduites*, Melanges, Pedone: 1984; Dahm, *Völkerrecht, 1. Band*, Stuttgart: 1958; Dahm, ‘Das Verbot der Gewaltanwendung nach Art.2 (4) der UNO-Charta und die Selbsthilfe gegenuber Volkerrechtsverletzungen, die keinen bewaffneten Angriff enthalten’, 11 *JIR* 48 (1962); Derpa, *Das Gewaltverbot der Satzung der Vereinten Nationen und die Anwendung nichtmilitärischer Gewalt*, 1970; Dinstein, *War, Aggression and Self-Defence*, 2001 (3rd ed.); Giraud, ‘Theorie: La theorie de la legitime defense’, *RdC* 1934; zu Dohna, *Die Grundprinzipien des Völkerrechts über die freundschaftlichen Beziehungen und die Zusammenarbeit zwischen den Staaten*, 1973; Goodrich and Hambro, *Charter of the United Nations*, 1949 (2nd ed.); Goodrich, Hambro and Simons, *Charter of the United Nations*, 1969 (3rd ed.); Grommes, *Der Verteidigungsfall im interamerikanischen Bündnissystem und nach der SVN*, Diss. Koln: 1966; Higgins, *The Development of International Law through the Political Organs of the United Nations*, Oxford: 1963; Jessup, *A Modern Law of Nations*; Kearney and Dalton, ‘The Treaty on Treaties’, 64 *AJIL* 495 (1970); Kelsen and Tucker, *Principles of International Law*, 1966 (2nd ed.); Kewenig, *Gewaltverbot und noch zulässige Machteinwirkung und Interventionsmittel*, in Schauman: 1971; Kewenig, ‘Die Anwendung wirtschaftlicher Zwangsmassnahmen im Völkerrecht’, 22 *Berichte* *DGVR* (1982); Khare, *Use of Force under the UN Charter*, 1985; Kipp, *Friedensbruch*: Strupp-Schlochauer I; Klimmeck, *Die Zulassigkeit von staatlichen Sanktionen im heutigen VR*, Diss. Koln: 1968; Kunz, 54 *American Journal* 1960; Lillich, ‘Economic Coercion and the New International Economic Order’, 16 *VJIL* 1976; Malanczuk, ‘Countermeasures and Self-Defence as Circumstances Precluding Wrongfulness in the International Law Commission's Draft Articles on State Responsibility’, in *United Nations Codification of State Responsibility* (Spinedi/Simma eds. 1987); McDougal and Feliciano, *Law and Minimum World Public Order*, 1961; Meyer-Lindenberg, *Völkerrecht*, Stuttgart, Dusseldorf, 1969 (2nd ed.); Muir, ‘The Boycott in International Law’, 9 *Journal of International Law and Economics* 187 (1974); Nawaz, ‘Limits of Self-Defence: Legitimacy of Use of Force Against Economic Strangulation?’, 16 *IJIL* (1976); Partsch, *Repressalie*: Strupp-Schlochauer III; Partsch, *Selbsterhaltungsrecht*: Strupp-Schlochauer III; Pompe, *Aggressive War: An International Crime*, 1953; Randelzhofer, *Article 2(4)*, in: Simma (ed.), *The Charter of the United Nations: A Commentary*, Oxford University Press: 1995; Reuter, *Droit international: Droit international public*, Paris: 1958, 1968 (3rd ed.); Ross, *Constitution of the UN*, Kobenhavn: 1950; Rumpf, *Integritat*, Strupp-Schlochauer II; Sahovic (ed.), *Principles of lnternational Law Concerning Friendly Relations and Co-operation,* New York: 1972; Sauer, *Grundlehre des VR*, Koln, Berlin: 1955 (3rd ed.); Scheuner, *Friedensbedrohung*, Strupp-Schlochauer I; Scheuner, *Koll. Selbstverteidigung,* Strupp-Schlochauer II; Scheuner, *Koll. Sicherheit*, Strupp-Schlochauer II; Schindler, ‘Die Grenzen des völkerrechtlichen Gewaltverbots’, 26 *DGVR Berichte* 11 (1986); Schwarzenberger, 5 *Current Legal Problems* 295 (1952); Schwarzenberger, *International Law as applied by International Courts and Tribunals, Volume II*, London: 1968; Schwebel, ‘Aggression, Intervention and Self-Defence in Modern International Law’, *RCADI*, no. 136, 1972; Seidl-Hohenveldern, *Völkerrecht*, Koln, Berlin, Bonn, München: 1965 (1965a); Seidl-Hohenveldern, *Volkerrechtswidrige Akte: Volkerrechtswidrige Akte fremder Staaten vor innerstaatlichen Gerichten*, Recht im Wandel, Koln, Berlin, Bonn, München: 1965 (1965b); Seidl-Hohenveldern, *Völkerrecht*, 1992 (7th ed.); Singh, *Use of Force under International Law*, 1984; Société des Nations, *Document A. La Situation actuelle en Chine*, 1932, 1e partie; Sørensen, ‘Principes de droit international public’, 101 *Hague Recueil* (1960, III), p. 5-245; Sohn ‘The Definition of Aggression’, 45 *Virginia Law Review* 677 (1959); Treves, ‘La Declaration des Nations Unies sur le renforcement de l’Efficacite du Principe du non Recours a la Force’, *AFDI* 1987; Verdross, *Recueil des Cours* 1953 II; Verdross, *Völkerrecht*, Wien: 1964 (5th ed.); Verdross and Simma *Universelles Völkerrecht*, 1984 (3rd ed.); Virally in Cot and Pellet (eds.) *La Charte des Nations Unies*, *Commentary*, 1991 (2nd ed.); Waldock, ‘The Regulation of the Use of Force by Individual States in International Law’, *RCADI*, no. 81, 1952; Wehberg, ‘L’Interdiction du Recours à la Force: Le Principe et les Problèmes qui se Posent’, 78 *RCADI* 1 (1951); Wehberg, *Krieg und Eroberung im Wandel des Völkerrechts*, 1953; Wengler, *Völkerrecht, 2. Band*, Berlin, Gottingen, Heidelberg: 1964; Wengler, *Das völkerrechtliche Gewaltverbot: Problemen und Tendenzen*, Berlin: 1967; Wilhelm, ‘La realisation du droit par la force ou la menace des armes’, *SchwJIR* 1958; Wright, ‘When Does War Exist?’, 26 *AJIL*; Wright, ‘Prevention: The Prevention of Aggression’, *AJIL* 1956; Wright, ‘Proceedings: The Legality of Intervention under the UN Charter’, *Proceedings of the American Society of IL* 1957; Wright, ‘The Strengthening of IL’, *RdC* 1959 III; Wright, 54 *AJIL* 1960; Wright, ‘U-2: Legal Aspects of the U-2 Incident’, *AJIL* 1960; Zourek*, L’interdiction de l’Emploi de Ia Force*, Sijthoff 1974 |
| **Romana Sadurska, ‘Threats of Force’, 82 *American Journal of International Law* 239 (1988)*****Consensus claim at*** *242* | ‘International law is not concerned, of course, with all forms of coercion or, in particular, with all forms of threats.[10] Traditionally, it purports to regulate the use and the threat of armed force.[11] Although Article 2(4) of the Charter does not specify the type of coercion it forbids, **most writers assume** that it refers to the physical use of armed force alone.[12]’ | 1) Goodrich, Hambro and Simons (1969/3) 48 [12] 52) Yale Journal of International Law colloquy [12] 13) Farer (1985) 405 [12] 2 | 1(a) General Assembly Resolutions and other discussions within the UN framework [84-86] 32(a) Bishop (1971) 1010 [Gordon, 5, 6] 2(b) General Treaty for the Renunciation of War as an Instrument of National Policy, 46 Stat. 234546, 94 L.N.T.S. 63 (1929) [Gordon, 7]2(c) Briggs (1938) 716-717 n2 [Gordon, 8] 2(d) Atlantic Charter, 55 Stat. 1603 (1941-1942) [Gordon, 9] 2(e) ‘Plan for the Establishment of an International Organization for the Maintenance of International Peace and Security’ in Russell (1958) 991 [Gordon, 10]2(f) Schachter (1984) no page nrs. [Schachter, 1]3(a) Bowett (1958) [1] | 1(a-1) no further references2(a-1) Nuremberg Tribunal [205]2(b-1) no further references2(c-1) International Law Association (1934) 1-70 [2]2(d-1) no further references2(e-1) no further references2(f-1) Charter of Economic Rights and Duties of States, General Assembly Resolution 3281 (XXIX) [8]2(f-2) Friendly Relations Declaration, General Assembly Resolution 2625 (XXV) [32]2(f-3) Resolution of *Institut de Droit International* on the Principle of Non-Intervention in Civil Wars, 56 ANN. INST. DR. INT. 544-49 (1975) [62, 63]3(a-1) 4    | Notably, Sadurska argues that this conclusion with regard to force is not necessarily supported by the *travaux préparatoires* of the Charter. In footnote 12 she adds: ‘This conclusion, although not contradicted by the *travaux préparatoires* of the Charter, cannot be said to be clearly confirmed by them. The Brazilian proposal to include the words “and from the threat or use of economic measures” was rejected by 26-2 votes. It is not clear, however, why the amendment was rejected. Possibly, the delegates agreed with the representative of Belgium that, given the phrase “or in any other manner,” the change was superfluous.’1 The difficulty with including the Colloquy in this table is that it deals with the issue of non-compliance by states with Article 2(4), not with the exact meaning or interpretation of force. With the exception perhaps of Reisman, however, all five contributors to the Colloquy assume that force does indeed mean armed force. The few secondary references included here are those that come closest to being offered by these authors as substantiations for their own interpretive claims.2 I have taken this reference by Sadurska to indicate the whole of Farer’s article, not just p. 405. Tertiary references are therefore included from the whole piece. It should be noted that, ultimately, Farer concludes that ‘I myself would be willing to go no further than treating economic coercion as aggression when, and only when, the objective of the coercion is to liquidate an existing state or to reduce that state to the position of a satellite...But, if the intention of a boycott or any other act of economic coercion is to influence the foreign policy of one state as part of an effort to cause the transfer of territory where sovereignty is problematical, as in the case of the West Bank, I regard that as a legitimate act of coercion within a decentralized international system.’ (p. 413).3 The Resolutions and UN discussions in footnotes 84-86 of Goodrich et al.’s chapter are the following (as copied from their footnotes): ‘GA Res. 380(V) and 381(V), Nov. 17, 1950’; ‘Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514(XV), Dec. 14, 1960’; ‘UN Doc. S/2322, Sept. 1, 1951’; ‘SCOR/6th Yr./549th-558th Mtgs./July 26-Sept. 1, 1951’; ‘UN Doc. S/4395, July 19, 1960.’4 As this is a reference to Bowett’s entire book, rather than a particular page number, for reasons of surveyability I have not included a trackback here.5 I assumed Sadurska to refer to p. 49, not p. 48 of Goodrich, Hambro and Simons, as on p. 48 they only explain the possible positions towards Article 2(4). On p. 49 they themselves opt for the restrictive interpretation. | Bishop, Jr. *International Law: Cases and Materials*, Little, Brown and Company: 1971 (3rd ed.); Bowett, *Self-Defence in International Law*, Manchester University Press: 1958; Briggs, *The Law of Nations: Cases, Documents, and Notes*, F.S. Crofts and Co, New York: 1938; ‘Special Feature: Restraints on the Unilateral Use of Force: A Colloquy’, 10 *Yale Journal of International Law* 261 (1985); Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985); Goodrich, Hambro and Simons, *Charter of the United Nations: Commentary and Documents*, Columbia University Press, New York and London: 1969 (3rd ed.); Gordon, ‘Article 2(4) in Historical Context’, 10 *Yale Journal of International Law* 271 (1985); 38 International Law Association (1934) 1-70; Resolution of Institut de Droit International on ‘The Principle of Non-Intervention in Civil Wars’, Wiesbaden 1975; Russell, *A History of the United Nations Charter*, 1958; Schachter, ‘The Right of States to Use Armed Force’, 82 *Mich. L. Rev.* 1620 (1984) |
| **Romana Sadurska, ‘Threats of Force’, 82 *American Journal of International Law* 239 (1988)*****Consensus claim at*** *253* | ‘Policy arguments against the individual use of armed force are powerful. The destructive potential of modern technologies of warfare makes any use of armed force, except for the most obvious instances of self-defense, suspect a priori. However, when lesser forms of coercion are considered, the policy against individually applied force loses some of its persuasiveness. With respect to economic coercion, there seems to be a **slowly growing consensus** that “a state’s use of economic power to influence another state is prima facie legitimate or, even if arguably illegitimate, not the sort of delinquency the target state is entitled to regard as ‘aggression.’”[70]’ | 1) Farer (1985) 411 [70]2) Definition of Aggression (1974) [70] | 1(a) no further references2(a) no further references    |    |  | Farer, ‘Political and Economic Coercion in Contemporary International Law’, 79 *AJIL* 405 (1985) |