

# Strikes against the Houthis: The Relationship between Resolution 2722 (2024) and the Right of Self-Defense

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Following their strikes against Houthi positions in Yemen, both the United States and the United Kingdom have based their actions on the inherent right of individual self-defense ([S/2024/55](#) and [S/2024/56](#)). Interestingly, both States have also made direct reference to the wording used in the third paragraph of the recently adopted UN Security Council (UNSC) [Resolution 2722 \(2024\)](#) in justifying these strikes. The third paragraph of that resolution notes “the right of Member States, in accordance with international law, *to defend their vessels from attacks*, including those that undermine navigational rights and freedoms” (emphasis added).

The wording of the resolution’s third paragraph has since proved somewhat controversial, repeatedly being addressed by the UNSC in somewhat contradictory terms. This post considers the implications of the Resolution 2722 (2024) reference to the “defence of vessels from attacks,” its subsequent reference in the United States’ and United Kingdom’s Article 51 communique, and the impact of Resolution 2722 (2024) on the right of self-defense.

## No (Implicit) Authorization of Force under Resolution 2722 (2024)

As has been pointed out by other scholars, Resolution 2722 (2024) does not authorize the use of military force against the Houthi movement. That much is clear from both the wording of the resolution and subsequent UNSC deliberations (S.PV/9531, 3, 7, 8; see also, Talmon). Resolution 2722 (2024) contains none of the characteristics of an authorizing resolution. For example, there is no Article 39 determination of a threat to international peace and security, no invocation of Chapter VII, and no authorizing language capable of an interpretation in favor of military force, such as “all necessary means/measures.”

The resolution contains no characteristics of an “implicit” authorization either. Notwithstanding arguments against the possibility of such a form of authorization, and unlike previous resolutions which have been open to (sometimes expansive) interpretations in favor of the use of force, Resolution 2722 (2024) does not leave sufficient room for reading an authorization for the use of force into its provisions.

### **Legitimizing the Use of Force Without Authorizing It?**

Curiously, in their Article 51 communiques to the Security Council, both the United States and the United Kingdom have directly referenced the third paragraph of Resolution 2722 (2024) concerning the “right of Member States . . . to defend their vessels from attacks . . . .” The very inclusion of this provision within the resolution raises questions. Chief among these is whether the resolution, though not authority for the use of force, recognizes Member States’ right of self-defense (and thereby legitimizes or encourages its invocation). Before answering this question, however, some fundamental basics need rehashing.

As one of the exceptions to the Article 2(4) prohibition of the use of force, the inherent right of individual and collective self-defense stands as a separate legal basis for employing force. Whether or not the UNSC encourages Member States to make use of this right does not detract from the fact that it remains at the disposal of States. Equally true is that Member States may rely on the right of self-defense without UNSC involvement or authorization.

At the same time, it is also true that the UNSC has more recently adopted a number of ambiguous resolutions relating to force. These resolutions seem to suggest that while the UNSC does not itself authorize force, it may be encouraging or at least recognizing a separate legal basis for the resort to force.

The UNSC’s recognition of Member States’ right of self-defense is a prime example. The most notable resolutions in this regard include S/RES/1368 and S/RES1373 (2001). The UNSC adopted these resolutions following the 9/11 terrorist attacks against the United States in recognition of “the inherent right of individual or collective self-defence in accordance with the [UN] Charter” (S/RES/1368 (2001)) and in reaffirmation of the same later on (S/RES/1373 (2001)). More specifically, whereas the former explicitly recognized the right of

self-defense without invoking Chapter VII, the latter reaffirmed that acts of terrorism constitute a threat to international peace and security and invoked Chapter VII. Whether Resolution 2722 (2024) similarly recognizes a right of self-defense in this regard is less clear.

### **Does Resolution 2722 (2024) Recognize a Right of Self-Defense Against the Houthis?**

Unlike its resolutions following the 9/11 attacks, Resolution 2722 (2024) does not seem to explicitly recognize the right of self-defense within the meaning of Article 51. While “the inherent right of individual or collective self-defence in accordance with the [UN] Charter” was *explicitly* recognized in the 2001 resolutions, Resolution 2722 (2024) merely *takes note* of Member States’ right to “defend their vessels from attacks.”

This precise and limited choice of wording suggests that the reference in the third paragraph is not one of self-defense, but merely that States may take certain immediate measures to counter attacks on their vessels. In addition, it is worth noting that the resolution also *reaffirms* that the legal framework applicable to activities in the oceans, including countering illicit activities, is “reflected in the United Nations Convention on the Law of the Sea.”

The Council deliberations during the adoption of Resolution 2722 (2024) paint a contradictory picture. The Russian Federation unsuccessfully proposed an amendment to the third paragraph which would have removed any reference to the right of States to “defend their vessels from attack,” which Russia viewed as “non-existent.”

The United States voted against this amendment. Explaining its vote, the U.S. Ambassador to the UN, Linda Thomas-Greenfield, stated, “It is long-established that States have a right to defend merchant and commercial vessels from attacks.” This suggests the United States interpreted the resolution’s third paragraph as encompassing the right of self-defense.

In contrast, following the resolution’s adoption, Russia’s statement that the third paragraph gives “a free hand at loosely interpreting the right to defend their ships for the purpose of self-defence” suggests another permanent member contemplates the possibility of such an interpretation. Despite foreseeing this possible interpretation, the Russian Federation did not make use of its veto (yet continues to protest the subsequent reliance on self-defense, see S/2024/90).

Two non-permanent members also made important remarks on the third paragraph. The first was Switzerland, which did not link the third paragraph to a right of self-defense and underscored that the rights mentioned in the third paragraph are “strictly limited to military measures to intercept attacks against merchant vessels and warships to protect said vessels and the persons on board.” It would therefore seem that Switzerland distinguishes between the right of States to defend their vessels from attack and that of a right of self-defense as provided for in Article 51. Switzerland emphasized this position two days later saying that

“any military operation that goes beyond the immediate need to protect said vessels and persons is disproportionate and therefore not covered by the aforementioned resolution” (S.PV/9532, p. 9).

Slovenia, on the other hand, seems to have interpreted the third paragraph as providing for a response in line with international law, which includes the right of self-defense. “[O]ur interpretation of operative paragraph 3 provides that any response to attacks in the Red Sea must be in line with international law, in particular international humanitarian and human rights law, and within the strict conditions of the exercise of self-defence” (S.PV/9527, p. 8). “What is also clear,” remarked Slovenia’s representative merely two days later, “is that any action to defend vessels from attacks must be undertaken in full compliance with international law, including international humanitarian law and international human rights law. That means that the principles of distinction, necessity, proportionality and precaution should be upheld at all times” (S.PV/9532, p. 6). Slovenia’s interpretation in this regard seems to take into account that the third paragraph provides a right to defend vessels “in accordance with international law” and that such international law includes the right of self-defense.

At a meeting of the Security Council two days later, the United States repeated its interpretation of the third paragraph, noting how the resolution “referenced the inherent right of Member States to defend, in accordance with international law, their vessels from attacks” (S.PV/9532, p. 5). The reference to “inherent right” presumably refers to the inherent right of self-defense under Article 51. Yet neither the U.S. nor the UK communique directly relies on the third paragraph of the resolution. They rely instead on the inherent right of self-defense as reflected in and in accordance with Article 51 of the UN Charter.

### **Does Resolution 2722 (2024) Limit or Suspend the Right of Self-Defense?**

Article 51 of the UN Charter provides that the right of self-defense persists “until the Security Council has taken measures necessary to maintain international peace and security.” The question therefore arises as to whether, by virtue of the UNSC’s adoption of Resolution 2722 (2024), the right of self-defense has been limited or extinguished.

First, to qualify this, the UNSC would need to be taking “measures” that are “necessary to maintain international peace and security.” Resolution 2722 (2024) does not seem to have taken any binding measures. No invocation of Chapter VII is made and the UNSC has, despite its condemnations, demands, and affirmations, seemingly taken no such measures. In addition, despite the generally titled “maintenance of international peace and security” agenda item under which Resolution 2722 (2024) was adopted, it does not determine the Houthi attacks nor the situation in the Red Sea amount to a threat to international peace and security correspondingly requiring measures to maintain or restore that peace and security, as contemplated in Article 39.

Second, it is well-argued that even if the UNSC were to take measures to maintain international peace and security (whether military or non-military in nature), this would not automatically extinguish the right of self-defense ([Wood](#), p. 656; [Gill](#), p. 747-48). Only where the UNSC's measures remove the necessity for resort to force in self-defense is the corresponding right of self-defense extinguished ([Gill](#), p. 747; [Berman](#), p. 154-55).

Despite its firm language in places, the resolution's demands for an end to the Houthi attacks have not been met. In fact, the frequency between successive attacks by the Houthis only seems to have increased. Resolution 2722 (2024) therefore has no impact on the right of self-defense; its provisions neither recognize this right explicitly in the current context nor do they limit/suspend the right in question.

## **Conclusion**

Resolution 2722 (2024) does not authorize the use of force in the current context of the U.S. and UK strikes against Houthi positions. Despite references to the resolution's somewhat controversial third paragraph, neither State has claimed authorization under the Resolution. Instead, these States place their justification for these strikes within the confines of the inherent right of individual self-defense, evidenced by their Article 51 communiques (the most recent of which includes [S/2024/103](#); but see also subsequent statements in [S.PV/9532](#), p. 11).

The reference to the third paragraph of the Resolution in these communiques does not necessarily suggest they interpret the provision as giving rise to an independent basis for the use of force. Rather, the communiques note the involvement of the UNSC in addressing the Houthi attacks. Despite the United States' position during UNSC deliberations, subsequent statements, letters, and briefings by U.S. and UK authorities do not suggest either State interprets the resolution's third paragraph as recognizing a right of self-defense.

Rather, reliance is consistently placed with the inherent right of self-defense itself, as shown by the absence of any reference to the resolution or its third paragraph in several subsequent statements by both States (see UK Prime Minister [statement](#) on 11 January strikes; summary of the UK legal position on the strikes of [11 January](#) and [22 January](#); House of Commons Library [Research Briefing](#), p. 22-23; White House joint statements of [11 January](#) and [23 January](#)).

If the ongoing Houthi attacks are considered an armed attack within the meaning of Article 51 (as both the United States and United Kingdom consider them to be), then States may indeed exercise this right. The right of self-defense exists independently of the UNSC; authorization for the use of force in self-defense is not required, nor does the UNSC need to recognize the existence of the right in a specific situation. The adoption of Resolution 2722 (2024) neither limits nor suspends any right of self-defense coalition States may have.

Finally, I stress that any action taken in the exercise of the inherent right of self-defense should be judged not by its recognition within a UNSC resolution, but whether such exercise satisfies the conditions imposed on this right (i.e., that the use of force is necessary and proportionate and in response to an armed attack).

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