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SPECIAL COMMITTEE ON THE CHARTER OF THE  
UNITED NATIONS AND ON THE STRENGTHENING  
OF THE ROLE OF THE ORGANIZATION

DOCUMENT PREPARED BY THE CHAIRMAN AFTER CONSULTATIONS

Addendum

II. Peaceful settlement of disputes

A. Draft declaration on the peaceful settlement of disputes

1. The following texts reflect the stage reached by the Committee in its consideration of the draft declaration on the settlement of disputes. In certain cases, two or more formulations have been placed between brackets, taking into account the major points which came up during the debate. These texts have been worked out without prejudice to the right of all delegations to propose additional provisions.

Preamble

2. By decision of the Working Group, Mr. Bengt Broms (Finland), Vice-Chairman of the Special Committee, and Mr. Dietmar Hucke (German Democratic Republic), Vice-Chairman of the Special Committee were appointed to co-ordinate the consultations on the Preamble and the provisions in section III. They submitted the following text for the Preamble:

The General Assembly,

Conscious that the Charter of the United Nations embodies the principles and establishes /the means and essential framework/ /means and an essential framework/ for the peaceful settlement of international disputes /the continuance of which is likely to endanger the maintenance of international peace and security/,

Recognizing the important role of the United Nations and the need to enhance its effectiveness /in the peaceful settlement of international disputes and maintenance of international peace and security/ /in the adjustment or settlement of international disputes or situations which might lead to a breach of the peace/, in accordance with the principles of justice and international law, in conformity with the Charter of the United Nations,

Deeply concerned over the continuation of conflict situations including those arising from colonial and racist policies of apartheid, the emergence of new sources of international disputes and tension, particularly the growing tendency to use force or threat of force, including economic aggression to intervene in the internal affairs of States or subject them to aggression or control to pursue a policy of hegemonism, escalation of the arms race, which gravely endangers the independence and security of States, as well as international peace and security,

Reaffirming the principle of the Charter that all States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

Reaffirming also the principle of the Charter that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations,

Stressing the need for all States to desist from any forcible or other action which deprives peoples, in particular those under colonial and racist minority rule, including apartheid and all other forms of racial and foreign domination, of their inalienable right to self-determination, freedom and national independence and to refrain from military and repressive measures aimed at preventing the attainment of independence by all dependent peoples in accordance with the Charter and in furtherance of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960, and to render assistance to the United Nations and, in accordance with the Charter, to the oppressed peoples in their legitimate struggle in order to bring about the speedy elimination of colonialist or any other form of external foreign domination,

Reiterating that no State or group of States has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State,

Bearing in mind the importance of maintaining and strengthening international peace and security and the development of friendly relations among States irrespective of their political, economic and social systems or levels of economic development,

Aware of existing international instruments as well as respective principles of international law concerning the peaceful settlement of disputes, including the principle on the exhaustion of local remedies, whenever applicable,

Reaffirming the principle of international law on the exhaustion of local remedies, whenever applicable,

Determined to promote international co-operation in the political field and to encourage the progressive development of international law and its codification, particularly in relation to the peaceful settlement of international disputes,

3. The stage reached by the Committee in its consideration of section I and paragraphs 1 to 3 of section II is reflected below.

Section I. General Principles

1. All States shall act in good faith and in conformity with the purposes and principles enshrined in the Charter of the United Nations with a view to avoiding disputes among themselves likely to affect friendly relations among States, thus contributing to the maintenance of international peace and security. States shall strengthen international peace and security, live together in peace with one another as good neighbours and strive for the adoption of effective measures in the field of disarmament, the halting of the arms race and the creation of political and legal guarantees of international peace and security.

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

3. International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice or means in conformity with the Charter of the United Nations/ mutual benefit/ the principles of justice and international law. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality of States.

4. When engaged in a process of peaceful settlement of disputes, States shall continue to observe inter alia the principles of international law concerning:

- the independence and the territorial integrity of States;
- equal rights of States and mutual benefit;
- non-use of force or of threat of force in international relations;
- non-recognition of any territorial acquisition or special advantage resulting from the threat or use of force;
- non-interference and non-intervention in internal or external affairs of States;
- equal rights and self-determination of peoples in particular the right to self-determination of peoples under colonial or foreign domination, including apartheid or other forms of racial discrimination;

- inalienable right of every people to freely choose their political, economic and social systems;
- permanent sovereignty of States over their natural resources;
- fulfilment in good faith of obligations under international law.

4. In the settlement of their international disputes all States shall also observe, inter alia, the principles enunciated in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and other relevant pertinent resolutions of the General Assembly. 1

5. States shall seek in good faith and in a spirit of co-operation an early and just settlement of their international disputes by any of the following means: negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice, including good offices. In seeking such a settlement, the parties shall agree on such peaceful means as may be appropriate in the circumstances and the nature of their dispute. If after a reasonable period, the States have been unable to settle their disputes through negotiations, they shall promptly utilize other settlement procedures including those provided for in this Declaration. Any pressure on the parties to a dispute aimed at inducing them to choose a given means of settlement, especially a means involving the intervention of a third party is inadmissible.

6. States parties to regional arrangements or agencies shall make every effort to achieve pacific settlement of their local disputes through such regional arrangements or agencies before referring them to the Security Council. This does not preclude States from bringing any dispute to the attention of the Security Council or of the General Assembly in accordance with the Charter.

7. In the event of failure of the parties to a dispute to reach an early solution by any of the above means of settlement, they shall continue to seek a peaceful solution and shall consult forthwith on mutually agreed means to settle the dispute peacefully. Should the parties fail to settle by any of the above means a dispute the continuance of which is likely to endanger the maintenance of international peace and security, they shall refer it to the Security Council in accordance with the Charter and without prejudice to the responsibilities powers and responsibilities functions and powers authority prerogatives of the Security Council set forth in the relevant provisions of Chapter VI of the Charter of the United Nations.

8. States parties to an international dispute, as well as other States, shall refrain from any action whatsoever which may aggravate the situation so as to endanger the maintenance of international peace and security and make more difficult or impede the peaceful settlement of the dispute, and shall act in this respect in accordance with the purposes and principles of the United Nations. 2

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1/ It was also suggested to delete this paragraph.

2/ In relation to paragraph 9, see the tenth and eleventh paragraphs of the preamble above.

10. States should consider concluding conclude agreements for the peaceful settlement of disputes which may arise among them. They should also consider including include in bilateral agreements and multilateral conventions to be concluded, as appropriate, effective provisions for the peaceful settlement of disputes arising therefrom.

11. For the purpose of settling international disputes States shall enhance the role and the effectiveness make greater use of international tribunals established by multilateral treaties to which they are parties.

11. States which are parties to treaties establishing specialized international tribunals shall co-operate in order to ensure the full attainment of the purposes for which they were established.

11 bis. States should more frequently resort to direct negotiation which is the most flexible and effective means of peaceful settlement of international disputes.

12. States shall , in accordance with international law, implement in good faith all aspects of agreements concluded by them on the terms modalities of settlement of their disputes for the settlement of their disputes.

13. The provisions of this Declaration shall apply to the authentic representatives of a people recognized by the respective regional organization and by the United Nations, in the exercise of their right to self-determination and independence in any process of peaceful settlement.

13. In the exercise of their right to self-determination and independence as it derives from the Charter, peoples subjected to colonial racist domination and apartheid and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations may have recourse to the relevant provisions of this Declaration. 3/

14. Neither the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat of force by any of the States parties to the dispute.

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3/ It was suggested to delete this paragraph. It was also suggested in connexion with the second alternative (1) to reformulate the text in a negative form ("Nothing in this Declaration can be construed as impairing the exercise of the right to self-determination and independence of peoples, in particular peoples subjected to colonial racist domination and apartheid ..."); (2) to insert after "apartheid" "or to any other form of alien domination"; (3) to insert "hegemonism" after "apartheid"; (4) to insert "in accordance with that Declaration" after "United Nations" and (5) to add at the end: "in accordance with their inalienable right to participate fully and on an equal basis in any process of peaceful settlement of disputes to which they are parties".

15. Nothing in this Declaration shall be construed as in any way enlarging or diminishing the scope of the Charter including its provisions concerning cases in which the use of force is lawful, particularly the right of self-defence in accordance with Article 51 of the Charter. 4/

Section II. Role of the United Nations

1. Member States should make full use of the procedures and means provided for in provisions of the Charter of the United Nations, particularly Chapter VI, concerning peaceful settlement of disputes.

2. Member States in fulfilling in good faith their obligations under the Charter shall give due respect/ weight/ to/, should respect the recommendations of the General Assembly and the Security Council concerning peaceful settlement of disputes.

3. Member States should strengthen the role of the General Assembly in the peaceful settlement of disputes as well as in the peaceful adjustment of any situation be fully aware of the role of the General Assembly in the peaceful settlement of disputes. To this end they should:

(a) Bear in mind the provisions of the Charter according to which the General Assembly may consider disputes as well as the provisions according to which the General Assembly may recommend measures Make full use of the provisions of the Charter in order that the General Assembly may consider such situations or disputes before they develop into conflicts and to recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations;

(b) Make full use of the General Assembly in the peaceful settlement of international disputes, including the utilization of the existing mechanisms and the establishment of subsidiary organs or any other machinery which may be required/ Utilize subsidiary organs which the General Assembly may establish in the exercise of the powers vested in it according to the relevant provisions of the Charter of the United Nations;

(c) Consider the establishment, if requested by all the parties to a dispute of an informal ad hoc group which would extend good offices to the parties to bring about the peaceful settlement of the dispute. 5/

Section III. Final provisions/ General part

4. By decision of the Working Group, Mr. Bengt Broms (Finland), Vice-Chairman of the Special Committee and Mr. Dietmar Hucke (German Democratic Republic), Vice-Chairman of the Special Committee, were appointed to co-ordinate the consultations on the Preamble and the provisions in section III. They submitted the following text for the provisions in section III.

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4/ In relation to para. 15, see para. 2 of sect. III below.

5/ It was also suggested to delete this paragraph.

III. Final provisions / General part

1. Appeals to / Urges all States to observe and promote / to apply in good faith the provisions of this Declaration in the peaceful settlement of their international disputes;

2. Declares that nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights and duties of States spelled out therein, including its provisions concerning cases in which the use of force is lawful.

2. Declares that nothing in this Declaration shall imply in any way enlarging or diminishing the scope of the Charter and its provisions or shall be construed as prejudicing in any manner the right and duties of States, or the scope of the function and powers of the United Nations in particular those relating to the peaceful settlement of international disputes.

3. Declares further that the provisions of this Declaration shall in no way impair the legitimate right of peoples under colonial and racist domination to struggle by all means for their national independence and self-determination / nothing in this Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right, and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist régimes or other forms of alien domination, nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration.

4. Considers that the conclusion of a general treaty on peaceful settlement of disputes could facilitate or contribute towards the attainment of just and equitable international relations thereby enhancing the maintenance of international peace and security.

4 / 5 / Stresses the need to continue the efforts aimed at codifying and promoting the progressive development of the / principles of the Charter, including the / principle / s and norms governing / of the peaceful settlement of international disputes.

Proposal to delete paragraphs 2 and 3 of the draft declaration.

Proposal to have a disclaimer or safeguards clause re the Charter.

Proposal to either revise the titles of all sections or possibly to delete them.