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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

### Provisions on which discussion has not yet been exhausted

1. Paragraphs 4 to 7 of section II - and the related proposals which were presented in the course of the session - on which discussion has not yet been exhausted are reproduced below.

#### Paragraph 4

Member States should strengthen the role of the Security Council in the settlement of any dispute or situation the continuance of which is likely to endanger international peace and security. To this end, they should:

(a) Inform the Security Council of action which they have taken in order to settle their disputes which they have not previously referred or brought to the attention of the Security Council in accordance with the Charter;

(b) With respect to any such dispute or situation, to request the Security Council to meet on it in formal session or to request informal consultations among the members of the Council;

(c) Encourage the Security Council to make wider use of the opportunity provided for by the Charter and of the information presented by the Secretary-General on the request of the Security Council in order to review periodically situations or disputes of potential threat to international peace and security, as well as to consider greater use of informal consultations for the discharge of the Council's functions under Chapter VI;

(d) Consider making greater use of the fact-finding capacity of the Security Council in accordance with the Charter;



(e) Encourage the Security Council to consider as a means to promote pacific settlement the increased use of observer missions in areas of tension, dispute or conflict with the consent of States in whose territory the missions are to exercise their functions.

Related proposals

United States

In the chapeau insert after "international peace and security", "and support the involvement of the Security Council in any situation or dispute the continuation of which is likely to endanger the maintenance of international peace and security".

Subamendment by the Philippines

Insert the words "and support the involvement" after the words "strengthen the role".

Alternative suggested by Finland

Insert "and support its involvement" after "the Security Council".

Egypt

Insert at the end of the opening sentence:

"and the Council should discharge its responsibilities in accordance with the Charter."

Algeria

Replace the opening sentence by the following:

"Member States should enable the Security Council to fully play its role."

USSR

Replace the opening sentence by the following:

"Member States should strengthen the role of the Security Council in the implementation of its powers in accordance with the Charter in the area of the settlement of any dispute or situation the continuation of which is likely to endanger the maintenance of international peace and security."

France

Reword the chapeau taking into account Article 34 of the Charter.

India

Delete subparagraphs (a) and (b) unless it can be made clear that the dispute referred to are those the continuance of which is likely to endanger the maintenance of international peace and security.

/...



USSR

Delete subparagraph (b).

India

Delete the end of subparagraph (b) from the words "in formal session" and replace it by "in accordance with the Charter".

USSR

Replace subparagraph (c) by the following:

"The Security Council should be encouraged to make wider use of the opportunity provided by Articles 28 and 29 of the Charter of the United Nations and of information presented by the Secretary-General on the request of the Council and the members of the Security Council should be encouraged to consider greater use of informal consultations for the discharge of the Council's functions under Chapter VI of the Charter of the United Nations."

United States

In subparagraph (c) delete the words: "on the request of the Security Council".

USSR

Delete subparagraph (e).

Yugoslavia

Insert an additional subparagraph (f) reading as follows:

"(f) Encourage the Security Council to act without delay in cases where international disputes develop into armed conflicts."

Paragraph 5

Member States of the United Nations should strive to enhance the role of the International Court of Justice and to increase its effectiveness by more frequent recourse to the Court. To this end, they should:

(a) Consider the possibility of accepting the compulsory jurisdiction of the International Court of Justice in accordance with Article 36 of its Statute;

(b) Refer to the Court any legal dispute the continuation of which could endanger international peace and security unless that dispute is capable of expeditious settlement by other means;

(c) Consider extending the range of cases in which an advisory opinion may be requested from the International Court of Justice;

/...



(d) Consider including in treaties, where appropriate, clauses providing for the submission to the International Court of Justice of disputes which may arise from the interpretation or application of such treaties.

Related proposals

France

Redraft paragraph 5 as follows:

"The attention of Members of the United Nations is drawn to the facilities offered by the International Court of Justice for the peaceful settlement of legal disputes, especially since the reform of its rules of procedure. States are reminded:

"(a) That the International Court of Justice is the principal judicial organ of the United Nations:

"(b) That the jurisdiction of the Court is based on their consent and that recognition of the jurisdiction of the International Court of Justice as compulsory is a matter of their own choice;

"(c) That they may insert in treaties, whenever they consider it possible and appropriate, clauses providing for the submission to the International Court of Justice of disputes which may arise from the interpretation or application of such treaties."

Italy

Redraft paragraph 5 as follows:

"Member States of the United Nations should strive to enhance procedures for peaceful settlement of disputes in which independent international bodies, such as conciliatory commissions of all kinds, arbitration tribunals or judicial organs are involved and exercise jurisdiction based upon the consent of the parties to the dispute.

"In selecting any of such procedures Member States of the United Nations should be aware of their wide variety as developed by recent international practice and therefore of the ease of adapting the procedures to the circumstances, nature and object of any particular dispute. Member States should also bear in mind the opportunity, as appropriate, of resorting to specialized bodies or agencies as well as to regional arrangements.

"As far as judicial settlement of international disputes is concerned, the attention of Members of the United Nations is drawn to the possibilities offered by the International Court of Justice for the peaceful settlement of disputes, especially since the reform of its rules of procedure. States are reminded:

/...



"(a) That the International Court of Justice is the principal judicial organ of the United Nations and that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court;

"(b) That the jurisdiction of the Court is based on their consent and that acceptance of the jurisdiction of the International Court of Justice as compulsory is a matter of their own choice;

"(c) That they may insert in treaties, whenever they consider it possible and appropriate, clauses providing for the submission to the International Court of Justice of disputes which may arise from the interpretation or application of such treaties.

"It is recalled that States are obliged to comply strictly with the decisions taken by the arbitral tribunals or by the International Court of Justice in disputes to which they are a party and that the Security Council may, in the event of non-observance of the decision of the International Court of Justice and at the request of the party which has complied to that decision, make recommendations or decide on steps to be taken to ensure that the judgement is carried out.

"Member States should bear in mind that the advisory function is one of the basic functions of the International Court of Justice and that it should be improved by appropriate measures in accordance with Article 96 of the Charter of the United Nations.

"States Members of the United Nations are also reminded that resort to third-party settlement of international disputes does not exclude, either pending the settlement procedure or thereafter, recourse to direct negotiations between the parties to the dispute, whenever such recourse may appear a more flexible and effective means of bringing about an expeditious settlement of the dispute or, if an arbitral or judicial settlement has been already arrived at, whenever negotiations may facilitate an agreement on ways and means of implementation of the terms of settlement."

Subamendments to the proposal by Italy

France

Replace the first part of paragraph 4 up to the words "Security Council" by the following words:

"It is recalled that whenever States have accepted a binding means of settlement of disputes they are obliged to comply strictly with the decision taken. It is to be stressed, in particular, that the Security Council"

(the rest of the paragraph remains unchanged)



United States

Incorporate in the proposal by Italy subparagraph (a) of paragraph 5 of the draft declaration as contained in document A/C.6/35/L.5.

German Democratic Republic

Delete the paragraph or use the formulation proposed by France.

China

Reflect in the paragraph the idea that the quality of the work of the Court should be improved in order to have more Member States resort to it and envisage the possibility of investigating the reasons for the present situation of the Court.

Paragraph 6

Under the provisions of Article 99 of the Charter, the Secretary-General may bring to the attention of the Security Council any dispute which in his opinion may threaten the maintenance of international peace and security. To this end, the Secretary-General may take steps to acquire information and ascertain facts and may, for this purpose, arrange visits to any State with its consent. Reports on measures thus taken should be submitted, when appropriate, to the Security Council or the General Assembly.

Related proposals

USSR

Delete the last two sentences.

In the first sentence replace "dispute" by "matter".

Italy

In the last sentence, replace "on measures thus taken" by "on such steps", and delete the words "or the General Assembly".

Paragraph 7

Nothing in this Declaration shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes. 1/

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1/ In relation to para. 7 of sect. II, see para. 2 of sect. III above.



B. Other proposals

(a) Questionnaire on the peaceful settlement of disputes

Possible recommendation concerning the Questionnaire submitted by the United States (A/AC.182/WG/47, reproduced in para. 166 of document A/35/33).

(b) Handbook on the peaceful settlement of disputes

Possible recommendation concerning the "Proposed outline of a handbook on the peaceful settlement of disputes" submitted by France (A/AC.182/L.24).

III. Rationalization of existing procedures of the United Nations

A. Possible basis for future work

A recommendation that the Special Committee at its next session should take as a basis of its work on this topic the working papers submitted at the 1979 session of the Committee by the United States (A/AC.182/WG/38, reproduced in document A/34/33, p. 41) and by Romania and the Philippines (A/AC.182/WG/39, reproduced in document A/34/33, p. 52) with a view to the possibility of making specific recommendations in a near future taking into account the relevant decisions made by the General Assembly at its last session.

B. Proposal

1. The General Assembly should review the recommendations on its methods and procedures for dealing with legal and drafting questions, adopted by resolution 684 (VII) of 6 November 1952 and forming annex II of the General Assembly rules of procedure.
2. The task of such a review could be carried out by the Sixth Committee, or by a working group established by it, or it could be entrusted to another Committee such as the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.
3. The Secretary-General should be requested to prepare a report on the practice of the General Assembly and its Main Committees as it relates to the recommendations contained in General Assembly resolution 648 (VII).

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