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PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

Report of the Sixth Committee

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I. INTRODUCTION

1. The item entitled "Peaceful settlement of disputes between States" was included in the provisional agenda of the thirty-seventh session of the General Assembly in accordance with paragraph 6 of Assembly resolution 36/110 of 10 December 1981.
2. On the recommendation of the General Committee, the General Assembly, at its 4th plenary meeting, on 24 September 1982, decided to include the item in the agenda of its thirty-seventh session and to allocate it to the Sixth Committee.
3. In connection with the item, the Committee had before it section II of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, 1/ entitled "Draft Manila declaration on the peaceful settlement of international disputes" which reproduced its text finalized by the Special Committee and submitted to the General Assembly for consideration and adoption.
4. The following documents were also circulated under this item:
 - (a) Note verbale dated 22 June 1982 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/37/305);

1/ Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 33 (A/37/33).

- (b) Letter dated 22 June 1982 from the Chargé d'Affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General (A/37/333-S/15278);
- (c) Letter dated 1 July 1982 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/37/323);
- (d) Letter dated 3 September 1982 from the Chargé d'Affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General (A/37/428-S/15387);
- (e) Letter dated 8 September 1982 from the Chargé d'Affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General (A/37/430);
- (f) Letter dated 28 October 1982 from the Permanent Representative of Iran to the United Nations addressed to the Secretary-General (A/37/584-S/15471).

5. At its 9th meeting, on 5 October 1982, the Sixth Committee agreed on a time-table whereby four meetings were allocated to item 122 (Peaceful settlement of disputes between States) and six to item 127 (Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization), it being understood, in view of the elements common to the two items, that the delegations could deal with the two items in the way which seemed to them to be the most convenient.
6. The Committee considered the item at its 20th to 30th meetings, from 18 to 28 October. The summary records of those meetings (A/C.6/37/SR.20-30) contain the views of representatives who spoke on the item.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/37/L.2

7. At the 29th meeting, on 27 October, the representative of Romania introduced a draft resolution (A/C.6/37/L.2) sponsored by the Bahamas, Bangladesh, Chile, Costa Rica, Cyprus, Ecuador, Egypt, Ethiopia, Finland, the German Democratic Republic, Greece, Guinea, Guyana, Indonesia, Italy, Japan, Madagascar, Mali, Mexico, Morocco, Nigeria, the Philippines, Romania, Rwanda, Sierra Leone, Singapore, Spain, Sri Lanka, the Sudan, the Upper Volta, Uruguay, Yugoslavia, Zaire and Zambia, later joined by Australia, the Congo, Guinea-Bissau, Togo, Uganda and the United Republic of Cameroon.
8. At the same meeting, the Committee adopted by consensus draft resolution A/C.6/37/L.2 and the draft declaration annexed to it (see para. 10) and decided without a vote to recommend to the General Assembly that the item entitled "Peaceful settlement of disputes between States" should be included in the provisional agenda of the thirty-eighth session (see para. 11).
9. At the 30th meeting, on 28 October, the representatives of Israel and Nicaragua made statements in explanation of their respective positions on the above-mentioned decisions.

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Peaceful settlement of disputes between States

[Original: English/French]

The General Assembly,

Having examined the item entitled "Peaceful settlement of disputes between States",

Recalling its resolutions 34/102 of 14 December 1979, 35/160 of 15 December 1980 and 36/110 of 10 December 1981,

Reaffirming the need to exert utmost efforts in order to settle any conflicts and disputes between States exclusively by peaceful means and to avoid any military action and hostilities, which can only make more difficult the solution of those conflicts and disputes,

Considering that the question of the peaceful settlement of disputes should represent one of the central concerns for States and for the United Nations and that the efforts to strengthen the process of the peaceful settlement of disputes should be continued,

Convinced that the adoption of the Manila Declaration on the Peaceful Settlement of International Disputes should enhance the observance of the principle of peaceful settlement of disputes in the relations between States and contribute to the elimination of the danger of recourse to force or to the threat of force, to the relaxation of international tensions to the promotion of a policy of co-operation and peace and of respect for the independence and sovereignty of all States, to the enhancing of the role of the United Nations in preventing conflicts and settling them peacefully and, consequently, to the strengthening of international peace and security,

Considering the need to ensure a wide dissemination of the text of the Declaration,

1. Approves the Manila Declaration on the Peaceful Settlement of International Disputes, the text of which is annexed to the present resolution;
2. Expresses its appreciation to the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for its important contribution to the elaboration of the text of the Declaration;
3. Requests the Secretary-General to inform the Governments of the States Members of the United Nations or members of specialized agencies, the Security

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Council and the International Court of Justice of the adoption of the present Declaration;

4. Urges that all efforts be made so that the present Declaration becomes generally known and be fully observed and implemented.

ANNEX

Manila Declaration on the Peaceful Settlement of International Disputes

The General Assembly,

Reaffirming the principle of the Charter of the United Nations 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,

Conscious that the Charter of the United Nations embodies the 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 the maintenance of international peace and security, in accordance with the principles of justice and international law, in conformity with the Charter of the United Nations,

Reaffirming the principle of the Charter of the United Nations 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,

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,

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, 2/

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,

2/ Resolution 2625 (XXV), annex.

Reaffirming the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations 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 and in other relevant resolutions of the General Assembly,

Stressing the need for all States to desist from any forcible action which deprives peoples, particularly peoples under colonial and racist régimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence, as 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,

Mindful of existing international instruments as well as respective principles and rules concerning the peaceful settlement of international disputes, including 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,

Solemnly declares that:

I

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. They shall live together in peace with one another as good neighbours and strive for the adoption of meaningful measures for strengthening international peace and security.
2. Every State shall settle its 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 of means in conformity with obligations under the Charter of the United Nations and with 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 the sovereign equality of States.
4. States parties to a dispute shall continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning the sovereignty, independence and territorial integrity of States, as well as other generally recognized principles and rules of contemporary international law.

5. States shall seek in good faith and in a spirit of co-operation an early and equitable 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 to the circumstances and the nature of their dispute.

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 of the United Nations.

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 of the United Nations and without prejudice to the functions and powers 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.

9. States should consider concluding agreements for the peaceful settlement of disputes among them. They should also include in bilateral agreements and multilateral conventions to be concluded, as appropriate, effective provisions for the peaceful settlement of disputes arising from the interpretation or application thereof.

10. States should, without prejudice to the right of free choice of means, bear in mind that direct negotiations are a flexible and effective means of peaceful settlement of their disputes. When they choose to resort to direct negotiations, States should negotiate meaningfully, in order to arrive at an early settlement acceptable to the parties. States should be equally prepared to seek the settlement of their disputes by the other means mentioned in the present Declaration.

11. States shall in accordance with international law implement in good faith all the provisions of agreements concluded by them for the settlement of their disputes.

12. In order to facilitate the exercise by the peoples concerned of the right to self-determination as 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, the parties to a dispute may have the possibility, if they agree to do so and as appropriate, to have recourse to relevant procedures mentioned in the present Declaration, for the peaceful settlement of the dispute.

13. 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.

II

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

2. Member States shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations. They should, in accordance with the Charter, as appropriate, duly take into account the recommendations of the Security Council relating to the peaceful settlement of disputes. They should also, in accordance with the Charter, as appropriate, duly take into account the recommendations adopted by the General Assembly, subject to Articles 11 and 12 of the Charter in the field of peaceful settlement of disputes.

3. Member States reaffirm the important role conferred on the General Assembly by the Charter of the United Nations in the field of peaceful settlement of disputes and stress the need for it to discharge effectively its responsibilities. Accordingly, they should:

(a) Bear in mind that the General Assembly may discuss any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations and, subject to Article 12 of the Charter, recommend measures for its peaceful adjustment;

(b) Consider making use, when they deem it appropriate, of the possibility of bringing to the attention of the General Assembly any dispute or any situation which might lead to international friction or give rise to a dispute;

(c) Consider utilizing, for the peaceful settlement of their disputes, the subsidiary organs established by the General Assembly in the performance of its functions under the Charter;

(d) Consider, when they are parties to a dispute brought to the attention of the General Assembly, making use of consultations within the framework of the General Assembly, with the view to facilitating an early settlement of their dispute.

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4. Member States should strengthen the primary role of the Security Council so that it may fully and effectively discharge its responsibilities, in accordance with the Charter of the United Nations, in the area of the settlement of disputes or of any situation the continuance of which is likely to endanger the maintenance of international peace and security. To this end they should:

(a) Be fully aware of their obligation to refer to the Security Council such a dispute to which they are parties if they fail to settle it by the means indicated in Article 33 of the Charter;

(b) Make greater use of the possibility of bringing to the attention of the Security Council any dispute or any situation which might lead to international friction or give rise to a dispute;

(c) Encourage the Security Council to make wider use of the opportunities provided for by the Charter in order to review disputes or situations the continuance of which is likely to endanger international peace and security;

(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 make wider use, as a means to promote peaceful settlement of disputes, of the subsidiary organs established by it in the performance of its functions under the Charter;

(f) Bear in mind that the Security Council may, at any stage of a dispute of the nature referred to in Article 33 of the Charter or of a situation of like nature, recommend appropriate procedures or methods of adjustment;

(g) Encourage the Security Council to act without delay, in accordance with its functions and powers, particularly in cases where international disputes develop into armed conflicts.

5. States should be fully aware of the role of the International Court of Justice which is the principal judicial organ of the United Nations. Their attention is drawn to the facilities offered by the International Court of Justice for the settlement of legal disputes especially since the revision of the Rules of the Court.

States may entrust the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

States should bear in mind:

(a) 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;

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- (b) That it is desirable that they:
- (i) Consider the possibility of inserting in treaties, whenever appropriate, clauses providing for the submission to the International Court of Justice of disputes which may arise from the interpretation of application of such treaties;
 - (ii) Study the possibility of choosing, in the free exercise of their sovereignty, to recognize as compulsory the jurisdiction of the International Court of Justice in accordance with Article 36 of its Statute;
 - (iii) Review the possibility of identifying cases in which use may be made of the International Court of Justice.

The organs of the United Nations and the specialized agencies should study the advisability of making use of the possibility of requesting advisory opinions of the International Court of Justice on legal questions arising within the scope of their activities, provided that they are duly authorized to do so.

Recourse to judicial settlement of legal disputes, particularly referral to the International Court of Justice, should not be considered an unfriendly act between States.

6. The Secretary-General should make full use of the provisions of the Charter of the United Nations concerning the responsibilities entrusted to him. The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. He shall perform such other functions as are entrusted to him by the Security Council or by the General Assembly. Reports in this connexion shall be made whenever requested to the Security Council or the General Assembly.

Urges all States to observe and promote in good faith the provisions of the present Declaration in the peaceful settlement of their international disputes,

Declares that nothing in the present 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,

Declares that nothing in the present 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,

Stresses the need, in accordance with the Charter of the United Nations, to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law, as appropriate, and through enhancing the effectiveness of the United Nations in this field.

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11. The Sixth Committee also recommends that the General Assembly include in the provisional agenda of its thirty-eighth session the item entitled "Peaceful settlement of disputes between States".
