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PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

Report of the Secretary-General

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* A/43/150.

CONTENTS (continued)

I. INTRODUCTION

1. On 7 December 1987, the General Assembly adopted resolution 42/150, entitled "Peaceful settlement of disputes between States", paragraphs 1 to 5 of which read as follows:

> "The General Assembly,
>
> "...
>
> "1. Again urges all States to observe and promote in good faith the provisions of the Manila Declaration on the Peaceful Settlement of International Disputes in the settlement of their international disputes;
>
> "2. Stresses the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in this field;
>
> "3. Calls upon Member States to make full use, in accordance with the Charter, of the framework provided by the United Nations for the peaceful settlement of disputes and international problems;
>
> "4. Requests the Secretary-General to submit to the General Assembly at its forty-third session a report containing the replies of Member States, relevant United Nations bodies and specialized agencies, regional intergovernmental organizations and interested international legal bodies on the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes and on ways and means of increasing the effectiveness of this instrument;
>
> "5. Decides that the question of the peaceful settlement of disputes between States shall be considered at its forty-third session as a separate agenda item, in conjunction with the item of the provisional agenda entitled 'Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization'."

2. By a note dated 18 April 1988, the Secretary-General invited the Governments of Member States to submit the replies referred to in paragraph 4 of resolution 42/150. By letters dated 25 April 1988, the request contained in paragraph 4 of the above resolution was transmitted to the President of the Security Council and the President of the International Court of Justice. By a letter dated 4 May 1988 the request contained in paragraph 4 of the resolution was transmitted to the specialized agencies and the International Atomic Energy Agency (IAEA), regional intergovernmental organizations and interested international legal bodies.

3. As at 12 August 1988, replies had been received from Argentina, Botswana, the Federal Republic of Germany (on behalf of the twelve States members of the European Community), Mexico, Peru and Romania, as well as from the International Labour

Organisation (ILO), the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the International Telecommunication Union (ITU), the World Meteorological Organisation (WMO), the United Nations Industrial Development Organisation (UNIDO), the European Community and the Council of Europe.

4. Further replies will be reproduced as addenda to the present report.

II. REPLIES RECEIVED FROM MEMBER STATES

ARGENTINA

[From the Permanent Representative of Argentina to the United Nations]

[Original: Spanish]

[8 June 1988]

1. I should like to take this opportunity to reaffirm my Government's commitment to the principle of the peaceful settlement of disputes as a fundamental aspect of relations between States and as a necessary complement to the principle of the non-use of force in international relations.

2. With regard to the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes, I am pleased to draw your attention to the various measures adopted by the Argentine Government which fully conform in both letter and spirit to that Declaration.

3. Following the adoption of resolution 37/10, the Argentine Republic settled its problem with Chile through the signing of a Peace and Friendship Treaty.

4. Furthermore, with regard to the question of the Malvinas Islands, it has repeatedly expressed its decision to settle the dispute over sovereignty and other pending problems with the United Kingdom of Great Britain and Northern Ireland peacefully and definitively, accepting all the resolutions adopted by the General Assembly on this matter and officially communicating its willingness to enter into immediate negotiations in accordance with those resolutions.

5. Regionally, Argentina has also offered its help in the pacification of Central America, and to that end has joined the Contadora Support Group.

BOTSWANA

[Original: English]

[14 June 1988]

Botswana's fidelity to the principles of the Charter of the United Nations pertaining to the peaceful settlement of disputes and international problems remains unassailable even in the face of repeated acts of aggression perpetrated against it by our neighbour to the south, the Republic of South Africa. Botswana has continued to co-operate with the international community in the search, where it is possible, for peaceful solutions to international problems. And we urge others to do the same.

FEDERAL REPUBLIC OF GERMANY

[On behalf of the twelve States Members of the European Community]

[Original: English]

[27 May 1988]

The twelve States members of the European Community wish to recall the common statement they made by way of an explanation of vote before the Sixth Committee on 23 November 1987, which still reflects their position: 1/

> "We belong to the - unfortunately rather small - category of States which in different contexts of international co-operation have accepted obligatory and binding dispute settlement procedures, be it at the European Court of Justice in Luxembourg, the Human Rights Commission and Court in Strasbourg or other international judicial bodies, for example the International Court of Justice at The Hague.
>
> "This attitude to peaceful settlement of disputes is a fundamental and natural part of the Twelve's view on international relations and it is well known to everybody that we are strongly in favour of any constructive step which may strengthen the principle of peaceful settlement at the universal level. Nevertheless, due to the contents of operative paragraphs 4 and 5, most of us have been unable to support the resolution just adopted.
>
> "With regard to operative paragraph 4 I should like to recall that we joined in the consensus adoption of the Manila Declaration and have not changed our position in that regard. But most of us fail to see the merits of establishing a questionnaire procedure on the implementation of a

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1/ Statement made by the representative of Denmark at the 55th meeting of the Sixth Committee on behalf of the twelve States members of the European Community.

Declaration that was adopted only five years ago and in particular on ways and means to increase its effectiveness. It is obvious that such written replies could not remedy the real problem, namely the widespread lack of political will to use already well-established procedures for peaceful settlement of international disputes.

"What is needed and should be repeated time and again is a strong appeal to Governments to be aware of and to utilize the many existing procedures for settling international disputes that are referred to in the Charter. The logical place for such an appeal is in the resolution on the Charter Committee which already deals with problems relating to dispute settlement. Thus a separate agenda item and a separate resolution concerning this subject as envisaged in operative paragraph 5 seem to be superfluous.

"The reasons stated above have led most of our delegations not to support the resolution, and in particular paragraphs 4 and 5."

MEXICO

[Original: Spanish]

[6 July 1988]

1. Mexico has stressed on various occasions in international forums that conflicts of interest must be settled by unrestrictedly applying principles such as the peaceful settlement of disputes, the legal equality of States, the prohibition of the use or threat of force, non-intervention, the self-determination of peoples, respect for sovereignty and territorial integrity, co-operation for development and the strengthening of international forums.

2. Furthermore, the Government of Mexico, being firm in its principles, has always supported the instruments that contribute to the peaceful settlement of disputes and enhance the effectiveness of the United Nations in promoting negotiated settlements among the parties.

3. In this regard, it should be noted that our country, in view of the importance which it attaches to these principles in its foreign policy, has amended article 89, paragraph X, of its Political Constitution, which now reads as follows:

"The powers and duties of the President are the following:

...

X. To direct foreign policy and make international treaties, submitting them to the ratification of the Senate. In the conduct of this policy, the President shall observe the following normative principles: self-determination of peoples; non-intervention; peaceful settlement of disputes; prohibition of the threat or use of force in international relations; legal equality of States; international co-operation for development and the pursuit of international peace and security ..."

4. Mexico therefore feels that the Manila Declaration on the Peaceful Settlement of International Disputes complies to a great extent, and very effectively, with the principle of the peaceful settlement of disputes, and strengthens the ways and means of settling them.

5. Lastly, the Government of Mexico feels that one way to enhance the effectiveness of the Manila Declaration might be to adopt a mechanism for the peaceful settlement of disputes such as a commission of good offices, mediation or conciliation within the United Nations, as proposed by Romania.

PERU

[Original: Spanish]

[6 July 1988]

1. Throughout its international history as an independent State, Peru has given tangible proof of a continued devotion to peace. Imbued with this spirit, it supported resolution 37/10 adopting the Manila Declaration on the Peaceful Settlement of International Disputes in 1982, and it recognises the contribution of the Declaration towards achieving the longed-for peaceful coexistence among States, while fully respecting the principle of the free choice of means to achieve it.

2. Similarly, taking a firm legal position which is well known by the international community, Peru feels that the principle pacta sunt servanda, whose letter and spirit are incorporated in the third preambular paragraph of the Charter of the United Nations and in article 26 of the Vienna Convention on the Law of Treaties, is the cornerstone of peaceful, harmonious, constructive and lasting relations among States.

3. The foregoing has been the general framework in which Peru has very successfully carried out its international activities, both bilaterally and multilaterally. However, Peru is aware that peace should be not only maintained but also strengthened, and it has therefore devoted many efforts, both subregionally and regionally, to enhance co-operation at all levels and to make integration a reality.

4. Peru is also deeply concerned at the persistence of armed conflicts in various regions of the third world. It therefore draws attention to what it considers to be a contribution that could be applied to other developing countries: its proposal for conventional disarmament at the regional level. At the same time, the inauguration of the United Nations Regional Centre for Peace, Disarmament and Development in Latin America, headquartered in Peru, will be beneficial in helping to consolidate peace in the region and in building confidence among States and peoples.

5. Lastly, Peru reasserts its firm intention of continuing to contribute new initiatives which, together with those of the other countries, may remove the obstacles to the implementation of the objectives of the Manila Declaration.

ROMANIA

[Original: English]

[21 July 1988]

1. The replies requested by the Secretary-General in conformity with paragraph 4 of resolution 42/150 of 7 December 1987 on the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes and on the ways and means of strengthening the effectiveness of this document offer a good opportunity for all States to make known their views and the activities undertaken in an essential field of work of the United Nations during the period 1982-1988.

2. In the view of Romania, of President Nicolae Ceausescu, all conflicts, all disputes and all litigious problems, without any exception, irrespective of their nature or form of manifestation, of their cause, of the place or area where they occur can be settled by peaceful means, by negotiations between the parties directly concerned.

3. Owing to the complexity of some conflicts or disputes sometimes various difficulties and complications appear in the process of diplomatic negotiations and further long-time efforts are necessary to overcome them. In such situations it is important, in accordance with the position of Romania, that the parties show patience, in a spirit of responsibility and perseverance, and contribute to paving the way towards an agreement. Even under conditions where negotiations take more time, they are a reasonable alternative, and incomparably preferable, to the tremendous human and material losses caused by resort to force or to military means. Long and difficult as they may be, negotiations are the only way to be followed.

4. Romania believes that the primacy of diplomatic negotiations is applicable not only in the case of inter-State disputes or conflicts, but encompasses a larger area, including any litigious international problems, as well as major problems facing mankind, on which the fate of international peace and security directly depends. Proposals, initiatives and steps undertaken by Romania in relation to major contemporary problems, such as the halting of the arms race and passing to disarmament, first of all nuclear disarmament, the elimination of underdevelopment, the establishment of a new world order, are a part of this approach.

5. Romania has emphasized the decisive role of parties directly concerned in the peaceful settlement of disputes and stressed at the same time the important contribution that should be made by international forums and bodies, thus stimulating the rapprochement of parties and helping them to reach agreements, to begin, to continue, to resume and to undertake direct negotiations among themselves. In this respect, Romania attaches particular importance to the role of the United Nations, which, in accordance with the provisions of the Charter, has the duty to use all means to settle disputes among States, through exclusively peaceful methods. Accordingly, all the main bodies of the United Nations that are given functions and powers in this field and contribute effectively to the peaceful settlement of inter-State disputes should be taken into account. It is a positive

fact that over the last six years the International Court of Justice has managed to settle some important disputes entrusted to it by common agreement of the States parties. Among these disputes mention can be made of those relating to the delimitation of maritime zones, of the continental shelf and of the exclusive economic zone among some States.

6. Romania has developed and is developing extensive international activity, using to that end the possibilities of the United Nations for the settlement, in accordance with existing conditions, of conflicts and disputes in various regions of the world. Romania has submitted to United Nations bodies many suggestions on the political settlement of the conflict in the Middle East and on the settlement of conflict situations in other regions of the world, South-East Asia, South-West Asia, the Gulf zone, Central America and Africa.

7. Upon a proposal by Romania an item entitled "Settlement by peaceful means of disputes between States" was included in the agenda of the thirty-fourth session of the General Assembly. The starting point of this initiative was the necessity to review the instruments at the disposal of the world Organisation for the peaceful settlement of international disputes with the aim of improving and furthering its procedures and structures in order to make them more efficient and thus to encourage States to resort to them with more confidence.

8. The presence of this item on the agenda of the General Assembly during 1979-1982 offered an organisational framework for the first large and substantive debate in the period after the Second World War, with the participation of the majority of States, on the ways and means of strengthening the principle of peaceful settlement of disputes in the practice of international relations.

9. This debate entered into a distinct phase of great significance in 1980-1982, as a result of the process of elaboration of the Declaration on the Peaceful Settlement of International Disputes within the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation.

10. In the process of drafting and finalizing the Declaration, on the basis of a draft submitted on 14 February 1980 under the symbol A/AC.182/WG/48/Rev.1 by Egypt, Indonesia, Mexico, Nigeria, the Philippines, Romania, Sierra Leone and Tunisia, many States representing all geographical groups made their contribution. The draft resolution by which the General Assembly approved the text off the Manila Declaration was submitted by 39 co-sponsoring delegations from all regions of the world.

11. On 15 November 1982, the General Assembly, by its resolution 37/10, adopted by consensus the text of the Manila Declaration on the Peaceful Settlement of International Disputes. The adoption took place during a solemn meeting at which the President of the General Assembly and representatives of 11 Member States stressed the particular importance of the event.

12. During the period 1983-1988, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation made new contributions to the debate on the peaceful settlement of disputes by considering

the proposal initially advanced by the Philippines, Nigeria and Romania on resorting to a commission of good offices, mediation or conciliation of the United Nations for the peaceful settlement of disputes.

13. The Manila Declaration of 1982 represents one of the most important documents of international law adopted within the United Nations. Its aim is to ensure the observance of the purposes and principles of the United Nations, to strengthen international legality and, in particular, to eliminate the use of force and the threat of use of force, by promoting the solution by exclusively peaceful means of any dispute between States.

14. This document has a particular value in the present international situation, which continues to be very serious and complex. Thus, in spite of the fact that some steps have been undertaken towards the settlement of problems by negotiation, one cannot say that radical changes have taken place in that direction. Some conflicts and situations of tension in different regions of the world are continuing and even expanding. The policy of the use of force and threat of use of force is maintained, as well as the tendency to resort to violence for the settlement of international problems.

15. In this context, the Manila Declaration stimulated in recent years the adoption of new and significant United Nations documents meant to strengthen the role and the authority of the world Organisation in promoting peaceful relations among all members of the international community. Thus, at the forticth jubilee session of the General Assembly, on 8 November 1985, by its resolution 40/9 the General Assembly adopted the "Solemn appeal to States in conflict to cease armed action forthwith and to settle disputes between them through negotiations, and to States Members of the United Nations to undertake to solve situations of tension and conflict and existing disputes by political means and to refrain from the threat or use of force and from any intervention in the internal affairs of other States". The solemn appeal reaffirms expressis verbis the provisions of the Manila Declaration and stresses in particular the role of the Security Council, the General Assembly and the Secretary-General in the peaceful settlement of disputes and conflicts between States.

16. Recent events have highlighted the positive contribution by the General Assembly in overall efforts for the peaceful settlement of the situation in Central America, as referred to by resolution 42/1 of 7 October 1987, entitled "The situation in Central America: threats to international peace and security and peace initiatives".

17. The Secretary-General has also made a positive contribution, in exercising his good offices, through the efforts and constructive steps taken, especially the diplomatic process initiated by him in the search for a peaceful solution to the situation in Afghanistan. The Secretary-General has undertaken similar efforts in connection with the situation in Cyprus, Kampuchea, as well as with regard to the problem of Western Sahara.

18. A document of great importance and topicality, whose drafting and finalisation have been facilitated by the existence of the Manila Declaration is the Declaration

on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, adopted by the General Assembly on 18 November 1987 by its resolution 42/22. This Declaration contains a number of provisions that happily supplement the provisions of the Manila Declaration.

19. This year, the Manila Declaration found a new reflection in the draft Declaration on the Prevention and Removal of Disputes and Situations which may Threaten International Peace and Security and on the Role of the United Nations in this Field. In fact, this draft - which is to be adopted at the forty-third session of the General Assembly - develops and adapts to the field of preventive diplomacy, as practised by United Nations bodies, the corresponding provisions of the Manila Declaration.

20. In recent years, in connection with the situation in the Middle East, upon proposals of a great number of States, the General Assembly has repeatedly requested the convening under the auspices of the world Organization of an international peace conference on the Middle East under conditions reaffirmed by resolution 42/209 B of 11 December 1987, which corresponds to the spirit and letter of the Manila Declaration.

21. Practically, the provisions of the Manila Declaration have been recalled in all debates in the General Assembly and in the Security Council in connection with various situations of conflict in the world. A specific example in this regard is offered by the debates on the war between Iran and Iraq and in particular those relating to the adoption and implementation of Security Council resolution 598 (1987).

22. At the general European level, among the documents in the elaboration of which Romania was an active participant, an important place is occupied by the document of the Stockholm Conference on Confidence- and Security-building Measures and Disarmament in Europe adopted on 19 September 1986. In this document, the participating States stressed their commitment to the principle of peaceful settlement of disputes, convinced that it is an essential complement to the duty of States to refrain from the threat or use of force, both being essential factors for the maintenance and consolidation of peace and security. They recalled their determination and the necessity to reinforce and to improve the methods at their disposal for the peaceful settlement of disputes and reaffirmed their resolve to make every effort to settle exclusively by peaceful means any dispute between them.

23. The provisions of the Manila Declaration have been also reflected in treaties, agreements, joint declarations and communiqués and in other bilateral documents of the Member States of the United Nations. From the numerous elements offered by the practice of Romania in this field, the following can be mentioned as examples:

(a) In the press communiqué agreed upon at New Delhi on 12 March 1987 on the official visit of the President of the Socialist Republic of Romania, Nicolae Ceausescu, to the Republic of India, "It was stated in most resolute terms that all military conflicts should be resolved solely by peaceful means, and through direct negotiations between the States concerned";

(b) In the Cairo joint communiqué of 25 November 1987 on the official friendship visit of the President of the Socialist Republic of Romania, Nicolae Ceausescu, to the Arab Republic of Egypt it is stated that, "the President of Romania and the President of Egypt stood for the settlement of all litigious problems and conflicts between States by peaceful means as the only sensitive way for the confidence-building, détente and co-operation, for the elimination of force in international relations";

(c) In the communiqué of Jakarta of 10 April 1988 on the official visit of the President of the Socialist Republic of Romania, Nicolae Ceausescu, to the Republic of Indonesia, the following is stressed:

> "Expressing their deep concern over the maintenance and widening of the centres of tension and conflict existing in the world, President Nicolae Ceausescu and President Soeharto stated in most resolute terms that all the issues between States should be resolved solely by peaceful means, through negotiations".

24. In the period 1982-1987, the debates in the Sixth Committee of the General Assembly on the agenda item "Peaceful settlement of disputes between States" have stimulated the formulation of numerous considerations, specific suggestions and proposals on negotiations, good offices, mediation, conciliation, inquiry, arbitration, judicial settlement, resort to regional agencies or arrangements, in the context of the analysis of the modalities of the peaceful settlement of disputes. These considerations, suggestions and proposals deserve to be further discussed in an appropriate organisational framework.

25. Some of the proposals submitted are being considered in a thorough manner by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organisation. In that body the proposals on resorting to a commission of good offices, mediation or conciliation and the preparation of a handbook on the peaceful settlement of disputes are in an advanced phase of elaboration. The report of the Special Committee on its 1988 session contains relevant elements in that regard.

26. Resolution 42/150 of 7 December 1987 of the General Assembly emphasized the need to continue efforts to strengthen the process of the peaceful settlement of disputes through progressive development and codification of international law and through enhancing the effectiveness of the United Nations in this field.

27. This provision is particularly topical in the conditions of the maintenance and even widening of some conflicts and situations of tension in different regions of the world. It proves that the peaceful settlement of conflicts and disputes has not yet become a general practice and a central concern for all United Nations Member States. The observance of the provisions of the Charter of the United Nations, of the Manila Declaration and of other relevant documents adopted by consensus by the General Assembly is not universally ensured. There is some progress and some positive steps have been taken. There is a beginning of understanding of the necessity to respect the obligation to settle solely by peaceful means all international litigious problems. It is not by chance that this

beginning is simultaneous with the general efforts undertaken at the United Nations for the strengthening of the principle of the peaceful settlement of disputes. For this reason, there is a need to continue these efforts, which pertain to the implementation of one of the essential functions of the world Organisation.

28. In the light of the request made by resolution 42/150 that the Secretary-General submit a report containing the replies of Member States on ways and means of increasing the effectiveness of the Manila Declaration, the General Assembly and the Member States could take into account the following measures:

(a) The reaffirmation, by a resolution of the General Assembly, of the necessity that every effort be made so that the Declaration is fully observed and implemented by all States and becomes universally known;

(b) The finalisation, as soon as possible, of the draft document on resorting to a commission of good offices, mediation or conciliation and of a handbook on the peaceful settlement of disputes;

(c) The continuation within the Sixth Committee and the Special Committee on the Charter of the United Nations on the Strengthening of the Role of the Organisation, of the consideration of the issue of the peaceful settlement of disputes in all its aspects. The adoption of the Manila Declaration has by no means exhausted this item. It is only a beginning, meant to stimulate the work of codification and progressive development of norms and procedures for the peaceful settlement of disputes, as well as the efforts of Member States for enhancing the power of action of the United Nations in this field;

(d) The consideration and the determination of a framework and of some international machinery, with the participation of the parties concerned and of the United Nations, possibly of other States to which resort could be made, on a case-by-case basis, for the settlement of such conflicts and disputes involving several countries and parties;

(e) In that context, the opportunity to elaborate and adopt a general treaty on the peaceful settlement of disputes could be considered. Such a treaty should correspond to the present requirements of international relations and would replace the General Act for the Peaceful Settlement of Disputes adopted by the Assembly of the League of Nations in 1928 and revalidated within the United Nations in 1949;

(f) The inclusion of the peaceful settlement of disputes as a priority element in the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

29. Romania believes that the implementation by all States of all provisions of the Manila Declaration on the Peaceful Settlement of International Disputes will contribute to the strengthening of world peace and security and will give a new impetus to the accomplishment of its supreme mission to save present and succeeding generations from the scourge of war.

III. REPLIES RECEIVED FROM INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

A. United Nations specialized agencies

INTERNATIONAL LABOUR ORGANISATION

[Original: English]

[24 May 1988]

Articles 26-34 and article 37 of the ILO Constitution, which refer to the possibility of referring disputes to the International Court of Justice, seem to be the only point in the ILO legal system relevant to the [present] report.

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

[Original: English]

[30 May 1988]

FAO has no comments to make on the implementation of the Manila Declaration on the Peaceful Settlement of International Disputes, nor on ways and means of increasing the effectiveness of that instrument.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]

[24 June 1988]

1. The contribution of UNESCO to the resolution in question is contained in Major Programme XIII, "Peace, International Understanding, Human Rights and the Rights of Peoples", and particularly in subprogramme XIII.1.1, "Reflection on the Factors Contributing to Peace".

2. Activities since 1987 have been designed to develop the role of UNESCO in the teaching and study of international law, including humanitarian law. Essentially, they have taken the following forms: an informal consultation on teaching and research in public international law (UNESCO, 2-4 February 1987); an international seminar on educational, scientific and cultural factors conducive to peace, including regional co-operation; a post-graduate regional training course on international law; UNESCO publications on international law and peace.

Informal consultation on teaching and research in public international law

3. At its headquarters on 2-4 February 1987, UNESCO held an informal consultation on teaching and research in public international law, which reviewed the organisation's activities since the mid-1960s. The discussions essentially revolved around the following points:

(a) Teaching

4. Most of the participants said that there had been a certain regression in the teaching of public international law. This regression is manifested in two ways. On the one hand, in many States there has been a fragmentation of programmes for the teaching of international law, meaning that, at the teaching level, there has been an increase in the number of specialised courses limited to more or less specific areas of international law. This orientation is due to several factors: an increase in the technical nature of international law, its extension to an increasing number of areas previously left to national law and, without doubt, the expectation by students that they will acquire immediately marketable skills.

5. Although the development of international law requires inevitable specialisation, as is true in other legal disciplines, it must be remembered that the different parts of international law form an indissoluble whole, whose dominant principles and rationale must be understood. Excessive specialisation may entail neglecting the fundamental principles that underlie the general tenor of international law, at each period of its development. Thus, specialisation may also mask the deep significance of international law as an expression of a certain culture, based on values which have acquired universal scope over time, and which are essential to the maintenance of world peace and the rapprochement of peoples.

6. The second manifestation of the regression in the teaching of international law can be seen in the optional nature of international law courses. Indeed, this discipline is not always compulsory, even for jurists and, a fortiori, economists or political scientists, not to mention other students of social or human sciences. As a general rule, even when the courses are compulsory, the number of hours devoted to them is often clearly insufficient.

7. This exchange of views led the participants to express the hope that UNESCO would try to obtain a commitment from States that all students in the faculties of law, economics and political sciences will be required to take a course containing a minimum of general knowledge, in order to incorporate the values embodied in the fundamental principles of international law as an important element of general education.

(b) Research

8. Several participants underlined the need to adopt a more critical approach to "traditional" international law - which originated in an era when international society was much less heterogeneous than it is now - in view of the diversification of social groups and the appearance of new actors on the international scene. Such

an approach would take into account the aspirations of the third world States that have long been excluded from the development of international law. The participants advocated taking a number of different approaches.

9. In particular, it seems that, essentially, customary law is nothing more than law originating in the practice of Western States. However, today a practice is developing in the third world States which must be brought to the fore by preparing, with the aid of UNESCO, repertories of prevailing practice in these States and in the regional and subregional organisations created by them.

10. It was noted that, from the point of view of documentation - without which there could be no research - it would be helpful to distinguish between long-term, medium-term and short-term policy. While it is desirable to have repertories of practice, such a goal can be reached only in the long term because of the sizeable resources required and the difficulty of gathering the available materials.

11. On the other hand, in the short term, it is no doubt easier to gear the research towards what can be learned about international State practice in yearbooks of public international law, such as those published in some States, or at least in regional yearbooks. Such initiatives should be encouraged by UNESCO.

12. A number of practical problems must be solved fairly rapidly in order to facilitate the teaching of international law, particularly in third world States, which are not as likely as the developed States to have the tools needed to carry out the research such as the basic current or older texts, general or specialized bibliographies, data banks or lists of organisations that could provide easily accessible documentation on a particular problem. On this point, UNESCO can make a decisive contribution by helping to solve, in co-operation with other institutions, the documentation problem. The preparation of a UNESCO handbook on public international law is a step in this direction.

International seminar on the educational, scientific and cultural factors conducive to peace, including regional co-operation

13. UNESCO held an international seminar on 12-15 October 1987 at Rio de Janeiro, Brazil, in co-operation with the International Peace Research Association and the Brazilian Education Society. Thirty specialists from 12 countries of different regions of the world participated in the seminar.

14. The purpose of the seminar was to consider, in particular, a prepared study on the causes and consequences of violations of the principles enshrined in the Charter of the United Nations, the use or threat of force, foreign intervention, interference in the internal affairs of States or armed aggression. The conclusions and recommendations of this seminar are attached hereto (see sect. I of the annex to the present report).

Post-graduate training course in Africa on international law

15. UNESCO held a post-graduate training course on international law at Bujumbura on 7-13 January 1988, in co-operation with the University of Burundi. An international team of professors of international law taught the training course in question, in which about 60 persons participated, including teachers, national officials, ministry advisers and judges.

16. The participants were divided into working groups to prepare a mock tribunal to arbitrate a dispute among three States concerning the right of transit. To enable the participants to assess the possible ramifications of a dispute of this nature and of the other problems that might ensue from it related questions on land-locked States, State succession in respect of treaties, State responsibility, etc., were also discussed.

Publications on international law and peace

17. UNESCO has published several volumes since 1986:

- Edward McWhinney. Les Nations Unies et la formation du droit. Relativisme culturel et idéologique et formation du droit international pour une époque de transition. Paris, Pedone/UNESCO, 1986. 292 pages. This work is a translation of United Nations Law Making; cultural and ideological relativism and international law making for an era of transition. New York/London/Paris, Holmes & Meier/UNESCO, published in 1984 (274 p.).

- The International Bill of Human Rights; normative and institutional developments 1948-1985. Twentieth anniversary of the International Covenants (1966-1986). Utrecht, The Netherlands, Institute of Human Rights (SIM), 1986. 198 p. Will appear in French in 1988.

- International Law. News and information from Asia and the Pacific. Liaison bulletin published semi-annually since December 1986. Bangkok, UNESCO Regional Unit for Social and Human Sciences, Principal Regional Office for Asia and the Pacific.

- Chart of Ratification of Major International Human Rights Instruments as of 1 January 1988. Bilingual, English/French. Paris, UNESCO.

- Directory of international law research and training institutions. (Reports and Papers in the Social Sciences, No. 56). Paris, UNESCO, 1987. 280 p.

- René-Jean Dupuy. La communauté internationale entre le mythe et l'histoire. Paris, Economica/UNESCO (New Challenges to International Law), 1987. 182 p.

- Nigel Rodley. The treatment of prisoners under international law. Paris/London, UNESCO/Clarendon Press (New Challenges to International Law, No. 4), 1987. 374 p.

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INTERNATIONAL TELECOMMUNICATION UNION

[Original: English]

[8 June 1988]

1. Although ITU has no particular observations to formulate in respect of the Manila Declaration on the Peaceful Settlement of International Disputes, it considers it worthwhile to refer to "the need" - stressed by the General Assembly in paragraph 2 of its resolution 42/150 - "to continue efforts to strengthen the process of peaceful settlement of disputes through progressive development and codification of international law".

2. In this respect, it is brought to the United Nations attention that ITU - within its own international legal framework - has developed and codified a mechanism for the peaceful settlement of disputes, which is contained in the provisions of articles 50 and 82 of the International Telecommunication Convention, Nairobi, 1982, as well as in the provisions of the Optional Additional Protocol thereto on the Compulsory Settlement of Disputes, both instruments being presently in force (see section II of the annex to the present report).

WORLD METEOROLOGICAL ORGANIZATION

[Original: English]

[2 June 1988]

The principles embodied in the Manila Declaration on the Peaceful Settlement of International Disputes are fully shared and supported by WMO. WMO is aware of the possibility of requesting advisory opinions of the International Court of Justice on legal questions arising within the scope of the activities of the Organisation. Owing most likely to the very specialised nature of WMO activities, there has been no such request since the creation of the Organisation.

UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

[Original: English]

[12 July 1988]

1. The UNIDO Constitution, which was adopted on 8 April 1979, provides in its article 22 for the settlement of disputes among two or more members concerning the interpretation or application of the Constitution. In particular, article 22.1 (a) provides that such disputes shall be settled by negotiation and, if this fails, be referred to the Industrial Development Board unless the parties agree on another mode of settlement. For disputes that are not settled in the aforementioned manner to the satisfaction of any party to the dispute, article 22.1 (b) provides that the dissatisfied party may refer the dispute to the International Court of Justice or to an arbitral tribunal, if the parties so agree, or otherwise to a conciliation commission. Furthermore, paragraph 2 of article 22 provides that the General Conference or the Industrial Development Board are separately empowered, subject to authorization from the General Assembly of the United Nations, to request an advisory opinion from the International Court of Justice on any legal question arising within the scope of the Organization's activities. The requisite authorization for both the General Conference and the Industrial Development Board was granted by article 12 of the Agreement concerning the Relationship between the United Nations and UNIDO, which was concluded pursuant to Article 57 of the Charter of the United Nations and article 18 of the Constitution of UNIDO and which entered into force on 17 December 1985. So far, there has been no dispute where article 22 had to be invoked.

2. From the above it appears that the UNIDO Constitution in fact implements many of the provisions of the Manila Declaration, inter alia, paragraphs 9 and 11 of part I and paragraph 5 of part II.

3. With respect, in particular, to the penultimate subparagraph of paragraph 5 of part II, it is the consistent practice of the secretariat of UNIDO, when it concludes agreements with States concerning arrangements for meetings or the implementation of technical co-operation projects or other activities in the respective Member States, to include appropriate clauses on the settlement of any dispute that is not settled amicably. Since the formal procedure provided for in these clauses has in practice not been invoked, it is not unlikely that the mere existence of the dispute settlement clauses have in fact encouraged and persuaded the parties to reach an amicable settlement by negotiation.

4. In its practice the secretariat of UNIDO has confirmed the applicability of section 30 of the Convention on the Privileges and Immunities of the United Nations and of the corresponding section 32 of the Convention on the Privileges and Immunities of the Specialised Agencies, both provisions calling for advisory opinions from the International Court of Justice. Thus, questions arising under either of the Conventions are subject to this procedure, while for other questions that may arise under the particular agreement, the practice of the secretariat is to provide for the settlement of disputes through arbitration. A typical example of such arbitration clauses is contained in article XIII of the Standard Basic Co-operation Agreement between UNIDO and Governments receiving assistance from UNIDO.

B. Other international intergovernmental organizations

EUROPEAN COMMUNITY

[Original: English]

[18 July 1988]

1. The Manila Declaration on the Peaceful Settlement of International Disputes, approved by the General Assembly and annexed to its resolution 37/10, is undoubtedly an important restatement and further development of one of the most fundamental principles of international law, namely, the principle of the peaceful settlement of international disputes.

2. The European Community enjoys observer status with the United Nations Organization. This is to say that in principle the provisions of section II cannot be applied to it, since these are directed to Member States of the United Nations, which can avail themselves of the provisions of Chapter VI of the Charter of the United Nations, and to States, which can be parties to a dispute before the Court (Article 34, para. 1, of the Statute of the Court).

3. However, we consider that this should be regarded as a purely formal impediment to the application of a part of the Manila Declaration. The European Community, when it operates as an international legal person in its own right, of course, is bound to respect the principle of peaceful settlement of disputes, and all that it entails, in its relations with third States.

4. When considering in particular paragraph 5 of section I of the Manila Declaration, the following remarks can be made. Among the means of settling disputes peacefully, the Community, in its treaty relations with third States, provides most often for negotiation. A particular characteristic is that such negotiations very often take place in common organs instituted by the agreements concluded by the Community with third States. Such organs are called Mixed Committees in the free trade agreements between the Community and the member countries of the European Free Trade Association and a number of other non-member States. They are called Association Councils in the Co-operation and Association Agreements with Mediterranean countries (Algeria, Egypt, Jordan, Lebanon, Morocco, the Syrian Arab Republic and Tunisia). Negotiations on the settlement of disputes that have arisen in the framework of these agreements take place within these Mixed Committees and Association Councils. In the case of the Association Agreement with Turkey, the Association Council may refer the dispute to the European Court of Justice or any other existing court or tribunal.

5. In addition, the so-called third ACP-EEC Convention of Lomé (1984) concluded between the Community and its member States on the one hand and a large number of States from Africa, the Caribbean and the Pacific on the other hand contains a provision (article 278) that, in case a dispute on the interpretation or application of the Convention cannot be solved by negotiation or a "good offices" procedure in the EEC-ACP Council of Ministers or Council of Ambassadors, provides for an obligatory arbitration procedure.

6. From the above it is clear that the European Community fully respects the spirit and the particular provisions of the Manila Declaration in so far as these can be readily applied to it.

COUNCIL OF EUROPE

[Original: English]

[19 May 1988]

European Convention for the Peaceful Settlement of Disputes of 29 April 1957

The table below indicates the present state of signatures and ratification of the Convention.

Opening for signature
Place: Strasbourg
Date: 29/04/57

Entry into force
Conditions: 2 ratifications
Date: 30/04/58

Member States	Date of signature	Date of ratification or accession	Date of entry into force	R: Reservations D: Declarations T: Territorial application
Austria	13/12/57	15/01/60	15/01/60	
Belgium	29/04/57	20/04/70	20/04/70	D
Cyprus				
Denmark	29/04/57	17/07/59	17/07/59	
France	29/04/57			D
Germany, Federal Republic of	29/04/57	18/04/61	18/04/61	T
Greece	29/04/57			
Iceland	29/04/57			

Member States	Date of signature	Date of ratification or accession	Date of entry into force	R: Reservations D: Declarations T: Territorial application
Ireland	29/04/57			
Italy	29/04/57	29/01/60	29/01/60	D
Liechtenstein	11/12/79	18/02/80	18/02/80	
Luxembourg	29/04/57	05/07/61	05/07/61	
Malta	12/12/66	28/02/67	28/02/67	R/D
Netherlands	29/04/57	07/07/58	07/07/58	D/T
Norway	29/04/57	27/03/58	30/04/58	
Portugal				
Spain				
Sweden	29/04/57	30/04/58	30/04/58	D
Switzerland	15/04/64	29/11/65	29/11/65	
Turkey	08/05/58			
United Kingdom of Great Britain and Northern Ireland	29/04/57	07/12/60	07/12/60	R/D/T

ANNEX

I. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

Recommendations of the International Seminar

1. The Seminar examined four studies on regional co-operation and peace (Africa, Asia, Europe and Latin America) and a study on the causes and consequences of the violations of the Charter of the United Nations.

2. The following considerations were stressed:

(a) Regional co-operation is an essential step towards the elimination of conflicts and tensions;

(b) The need to shift from military-centred security policies to more economic, social and cultural-oriented policies through means of regional co-operation was emphasized;

(c) Regional co-operation should focus on specific and concrete peace and security policies able to respond to regional diversities and particularities;

(d) Regional co-operation should be viewed as a process of convergence around specific policies to be implemented through a diversity of existing and/or new institutions;

(e) Regional co-operation should be shaped in such a way as to prevent external interference and promote rapprochement between East and West;

(f) Regional co-operation should abide by and strengthen the basic principles contained in the Charter of the United Nations and in particular those pertaining to the non-recourse to force, the right of peoples to self-determination and international co-operation;

(g) Regional and international co-operation are two aspects that are closely linked and strengthen each other;

(h) Science and technology should be viewed as important fields of co-operation, which can help to remove international and regional imbalances and social tensions that endanger peace;

(i) The contribution brought to these processes by non-governmental organizations and academic institutions should be stressed.

3. The following specific recommendations were addressed to UNESCO:

(a) UNESCO should facilitate comparative social science research in a multidisciplinary perspective, for the study of the various dimensions of security, as developed in the different regions;

(b) UNESCO should stimulate the examination of confidence-building measures and policies in various regions of the world and encourage the adoption of such measures so as to foster international peace and understanding;

(c) UNESCO should facilitate interregional co-operation in the fields of conflict and peace research and draw attention to regional peace initiatives, in its field of competence, such as the South American Commission for Peace, Democracy and Regional Security;

(d) UNESCO should initiate studies on new approaches to sovereignty in the framework of regional co-operation;

(e) UNESCO should make better known concrete examples of problem-oriented co-operation, related to civilian concern in security policies and bringing into interaction both governmental agencies and non-governmental organizations;

(f) UNESCO should broaden the involvement of non-governmental organisations in the study of all aspects of conflict and conflict resolution;

(g) UNESCO should broaden the geographic scope and coverage in its up-dated World Directory of Peace Research and Training Institutions;

(h) UNESCO should make better known existing experience and facilitate exchange of information related to the promotion by the media of positive approaches related to peace and security;

(i) UNESCO, in addition to its valuable work within the associated school system, aimed at international understanding, co-operation and peace should develop an educational programme addressed to policy- and decision-makers;

(j) UNESCO should promote better knowledge of the existence of international juridical institutions and procedures, as instruments of settlement of disputes between States, in particular the International Court of Justice.

II. INTERNATIONAL TELECOMMUNICATION UNION

International Telecommunication Convention, 1982

ARTICLE 50

Settlement of Disputes

188 1. Members may settle their disputes on questions relating to the interpretation or application of this Convention or of the Regulations contemplated in Article 42, through diplomatic channels, or according to procedures established by bilateral or multilateral treaties concluded between them for the settlement of international disputes, or by any other method mutually agreed upon. *

189 2. If none of these methods of settlement is adopted, any Member party to a dispute may submit the dispute to arbitration in accordance with the procedure defined in the General Regulations or in the Optional Additional Protocol, as the case may be.

ARTICLE 82

Arbitration: Procedure

(see Article 50)

631 1. The party which appeals to arbitration shall initiate the arbitration procedure by transmitting to the other party to the dispute a notice of the submission of the dispute to arbitration.

632 2. The parties shall decide by agreement whether the arbitration is to be entrusted to individuals, administrations or governments. If within one month after notice of submission of the dispute to arbitration, the parties have been unable to agree upon this point, the arbitration shall be entrusted to governments.

633 3. If arbitration is to be entrusted to individuals, the arbitrators must neither be nationals of the parties involved in the dispute, nor have their domicile in the countries parties to the dispute, nor be employed in their service.

634 4. If arbitration is to be entrusted to governments, or to administrations thereof, these must be chosen from among the Members which are not parties to the dispute, but which are parties to the agreement, the application of which caused the dispute.

635 5. Within three months from the date of receipt of the notification of the submission of the dispute to arbitration, each of the two parties to the dispute shall appoint an arbitrator.

636 6. If more than two parties are involved in the dispute, an arbitrator shall be appointed in accordance with the procedure set forth in Nos. 634 and 635, by each of the two groups of parties having a common position in the dispute.

637 7. The two arbitrators thus appointed shall choose a third arbitrator who, if the first two arbitrators are individuals and not governments or administrations, must fulfil the conditions indicated in No. 633, and in addition must not be of the same nationality as either of the other two arbitrators. Failing an agreement between the two arbitrators as to the choice of a third arbitrator, each of these two arbitrators shall nominate a third arbitrator who is in no way concerned in the dispute. The Secretary-General shall then draw lots in order to select the third arbitrator.

638 8. The parties to the dispute may agree to have their dispute settled by a single arbitrator appointed by agreement; or alternatively, each party may nominate an arbitrator, and request the Secretary-General to draw lots to decide which of the persons so nominated is to act as the single arbitrator.

639 9. The arbitrator or arbitrators shall be free to decide upon the procedure to be followed.

640 10. The decision of the single arbitrator shall be final and binding upon the parties to the dispute. If the arbitration is entrusted to more than one arbitrator, the decision made by the majority vote of the arbitrators shall be final and binding upon the parties.

641 11. Each party shall bear the expense it shall have incurred in the investigation and presentation of the arbitration. The costs of arbitration other than those incurred by the parties themselves shall be divided equally between the parties to the dispute.

642 12. The Union shall furnish all information relating to the dispute which the arbitrator or arbitrators may need.

OPTIONAL ADDITIONAL PROTOCOL

to the

International Telecommunication Convention

(Nairobi, 1982)

Compulsory Settlement of Disputes

At the time of signing the International Telecommunication Convention (Nairobi, 1982), the undersigned plenipotentiaries have signed the following Optional Additional Protocol on the Compulsory Settlement of Disputes, which forms part of the Final Acts of the Plenipotentiary Conference (Nairobi, 1982).

The Members of the Union, parties to this Optional Protocol to the International Telecommunication Convention (Nairobi, 1982),

expressing the desire to resort to compulsory arbitration, so far as they are concerned, for the settlement of any disputes concerning the interpretation or application of the Convention or of the Regulations mentioned in Article 42 thereof,

have agreed upon the following provisions:

ARTICLE 1

Unless one of the methods of settlement listed in Article 50 of the Convention has been chosen by common agreement, disputes concerning the interpretation or application of the Convention or of the Regulations mentioned in Article 42 thereof shall, at the request of one of the parties to the dispute, be submitted for compulsory arbitration. The procedure to be followed is laid down in Article 82 of the Convention, paragraph 5 of which shall be amplified as follows:

"5. Within three months from the date of receipt of the notification of the submission of the dispute to arbitration, each of the two parties to the dispute shall appoint an arbitrator. If one of the parties has not appointed an arbitrator within this time-limit, this appointment shall be made, at the request of the other party, by the Secretary-General who shall act in accordance with paragraphs 3 and 4 of Article 82 of the Convention."

ARTICLE 2

This Protocol shall be open to signature by the Members which sign the Convention. It shall be ratified in accordance with the procedure laid down for the Convention and any countries which become Members of the Union may accede to it.

ARTICLE 3

This Protocol shall come into force on the same day as the Convention, or on the thirtieth day after the day on which the second instrument of ratification or accession is deposited, but not earlier than the date upon which the Convention comes into force.

With respect to each Member which ratifies this Protocol or accedes to it after its entry into force, the Protocol shall come into force on the thirtieth day after the day on which the instrument of ratification or accession is deposited.

ARTICLE 4

The Secretary-General shall notify all Members:

a) of the signatures appended to this Protocol and of the deposit of instruments of ratification or accession;

b) of the date on which this Protocol shall come into force.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Protocol in each of the Chinese, English, French, Russian and Spanish languages, in a single copy in which, in case of dispute, the French text shall prevail, and which shall remain deposited in the archives of the International Telecommunication Union, which shall forward a copy to each of the signatory countries.

Done at Nairobi, 6 November 1982
