



GENERAL

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Fifth session

REQUEST FOR THE INCLUSION OF AN ADDITIONAL ITEM
IN THE AGENDA OF THE FIFTH REGULAR SESSION

Letter dated 26 September 1950 addressed to the Secretary-General
by the Vice-President and Minister of Foreign Affairs of
the Federal People's Republic of Yugoslavia

New York, 26 September 1950

On behalf of the Government of the Federal People's Republic of Yugoslavia, I have the honour to request that the necessary steps be taken so that the following item be included in the agenda of the fifth regular session of the General Assembly:

ESTABLISHMENT OF A PERMANENT COMMISSION OF GOOD OFFICES

An explanatory memorandum is enclosed in accordance with rule 20 of the rules of procedure of the General Assembly.

(Signed) Edvard KARDELJ
Vice-President and Minister of Foreign Affairs
of the Federal People's Republic of Yugoslavia

/ESTABLISHMENT
A/1401

ESTABLISHMENT OF A PERMANENT COMMISSION OF GOOD OFFICES

Yugoslavia: draft resolution

Considering that it is the purpose of the United Nations to be a centre for harmonizing the actions of nations in order to maintain relations of good neighbourhood among them (paragraph 2 of the Preamble and paragraph 4 of Article 1 of the Charter), this being a precondition of international peace and security,

Bearing in mind the responsibility of the General Assembly for promoting international co-operation in the political field (paragraph 1 of Article 13 of the Charter,

Considering that the international tension prevailing in the world today makes it imperative, on the one hand, for States to make a further effort in order to ensure the peaceful settlement of the largest possible number of disputes and litigious questions, but that, on the other hand, this tension makes it more difficult to open negotiations and set about the solution of international disputes and litigious questions,

Taking into account that it is the primary duty of parties to a dispute to seek by their own efforts, and especially through negotiations, to settle their disputes (paragraph 1 of Article 33 of the Charter) and that it is the imperative duty of Members of the United Nations to find agreed solutions to litigious questions, so as to "develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace" (paragraph 2 of Article 1 of the Charter),

Taking into account that there does not exist a United Nations organ designed to facilitate the opening of direct negotiations between parties for the settlement of their disputes, as well as direct negotiations between States for an agreed solution to litigious questions,

The General Assembly

A. Recommends to all States, whether they are Members of the United Nations or not, to exert a further effort and develop in future the greatest measure of initiative in view of direct negotiations and other means for the peaceful settlement of disputes, in accordance with the terms of paragraph 1 of Article 33

/of the Charter

of the Charter, and to enter into direct conversations for the solution of litigious questions pending between them, and recommends particularly that States should, in the course of such negotiations or conversations, display, to the greatest possible extent, mutual understanding, tolerance and respect, as well as a persistent desire to seek such solutions to disputes and litigious questions as would be acceptable to both parties, or to all parties concerned, and would be in conformity with the principles of the United Nations Charter:

B. Resolves to establish, as its subsidiary organ, a Permanent Commission of Good Offices, for the purpose of facilitating the opening of direct negotiations or conversations, and of applying other means for the peaceful settlement of international disputes;

C. Instructs the Permanent Commission to exercise its terms of reference in the following manner:

1. The Permanent Commission shall consider all international disputes and litigious questions on the agenda of the General Assembly and of the Security Council with a view to applying means appropriate for achieving agreed solutions. The Permanent Commission shall, in each particular case, ascertain whether the dispute or the litigious question is susceptible of settlement through direct negotiations or conversations of the States concerned. Should the Permanent Commission find that such means are applicable, but have not yet been fully resorted to, it shall, if it deems it appropriate, advise the parties to the dispute or the States mainly concerned with the litigious question to open, or resume, direct negotiations or conversations. The Permanent Commission may, at the request of one or more of the parties to a dispute, or of the State mainly concerned with the litigious question, on its own initiative or on that of any Member of the United Nations, consider, in accordance with the above, international disputes and litigious questions which are not on the agenda of the General Assembly or of the Security Council, but which the Permanent Commission considers to be definitely of a nature to affect adversely general international relations;

2. Should the Permanent Commission find that an international dispute in the technical sense of the word is susceptible of
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settlement, either through the mediation of the Commission itself or of a State or of an individual, the Commission will advise the parties to the dispute to accept such mediation and will make its services available both in the negotiations concerning the acceptance of the mediation procedure or in the course of this procedure itself. Should one of the parties to the dispute suggest some other means for the settlement of the dispute (conciliation, inquiry, arbitration or judicial settlement), the Permanent Commission may offer its good offices to the parties for the purpose of facilitating negotiations regarding the acceptance and application of the proposed means for the peaceful settlement of the dispute. The Permanent Commission will make its services available for the application of the means of peaceful settlement thus accepted, if both parties to the dispute so desire and to the extent to which both parties agree;

3. The Commission shall take note of, examine and communicate to the parties concerned all suggestions relating to the peaceful settlement of the substance of the dispute or of the litigious questions on its agenda; it shall not, however, pass judgment upon such suggestions;

D. Resolves that this Commission should be composed of the representatives of twelve Members of the United Nations. Six of the twelve States represented will be the non-permanent members of the Security Council, while the remaining six will be specially elected by the General Assembly from among Member States other than the permanent members of the Security Council. These States will be elected for a term of two years. Three seats on the Commission will be renewed every year. Those members of the Commission, elected at the time of the establishment of the Commission, whose term will be limited to one year, will be drawn by lot;

The States thus elected which, during their term, become non-permanent members of the Security Council, will cease being members of the Commission by virtue of their election on the day when their term in the Security Council begins, and will become members of the Commission by virtue of their membership in the Security Council. The seats thus left vacant will be filled by the election of other Member States for terms lasting as long

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as the terms of States in whose stead they have been elected;

The Commission shall elect its own officers and adopt its rules of procedure. The Commission shall, both in establishing its rules of procedure and in its further activities, take the necessary steps in order to avoid all unnecessary publicity. It shall, therefore, as a general rule, hold closed meetings;

The Commission shall submit annual reports on its activities to the General Assembly at its regular sessions;

E. Requests the Secretary-General to make available to the Commission the necessary staff and to provide it with the other facilities necessary for the accomplishment of its terms of reference.

ESTABLISHMENT OF A PERMANENT COMMISSION OF GOOD OFFICES

YUGOSLAV DRAFT RESOLUTION

(Explanatory memorandum)

Considering the present structure of the United Nations, one comes to the conclusion that in the field of safeguarding international peace and security, practices up to the present have not made our Organization a centre for harmonizing the actions of nations in the sphere of promoting relations of good neighbourhood, although it is the task of our Organization to be such a centre.

The reason for this is that the two main organs of our Organization, which are competent in the matter of international peace and security, have in practice such divided functions that the concrete duty of promoting relations of good neighbourhood is neither within the competence of the Security Council nor within the competence of the General Assembly.

On the one hand is the competence of the Security Council. It bears the chief responsibility concerning questions of international peace and security. But, in order to set the machinery of the Security Council into motion, it is necessary that a special situation or conflict should arise menacing peace or international security. On the other hand, the General Assembly, as the supreme organ of the United Nations, deals with the general problems of the world policy of peace and security and, on account of its large membership and non-permanent character, it has not the possibility to examine the particular situations in which good-neighbourly relations between States are disturbed, although such relations are a precondition for international peace.

Therefore, it is the task of the General Assembly of the United Nations, which is responsible for the promotion of international co-operation in the political field, to examine and lay down methods for the purpose of improving these relations and forming a permanent subsidiary organ which would enable the parties to improve the disturbed relations of good neighbourhood.

The delegation of the Federal People's Republic of Yugoslavia has come to the conclusion that among the causes disturbing relations of good neighbourhood and preventing the clearing in time of the obstacles standing in the way of a return to normal conditions, is the failure on the part of the States to carry out their obligations and solve their disputes by direct negotiations as laid down in the Charter, and also to use other means for a peaceful solution of

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international conflicts.

Although the Charter has laid down this obligation, and although the General Assembly has adopted the Revised General Act for the Pacific Settlement of International Disputes, the United Nations has so far had no organ which would take upon itself the initiative to use all the means at its disposal to make adequate use of direct talks as a method for the peaceful solution of conflicts, an organ which would mediate between the parties in conflict before the conflict assumes a character of danger for international peace and security.

The delegation of the Federal People's Republic of Yugoslavia considers that the creation of such an organ would contribute to the parties in conflict manifesting a spirit of compromise and to the maintenance of a peaceful atmosphere, which would in itself facilitate contact between States in conflict and would render possible a fuller co-operation in this field, which is so important for world peace and security.

For this reason the delegation of the Federal People's Republic of Yugoslavia in its draft resolution, proposes the forming of a Permanent Commission of Good Offices. This commission would be a subsidiary organ of the General Assembly and would be composed of twelve Member States of the United Nations. All the members would be chosen among the non-permanent members of the Security Council. This would enable the States which do not possess the right of veto in the Security Council to contribute to the cause of peace and, with their mutual influence, based on friendship and equality, draw the attention of the States in conflict to their duty not to disturb general international relations. Not denying the decisive role of the permanent members of the Security Council in questions of responsibility for international peace and security, the democratic character of the United Nations Organization demands that the other Member States should also make their contribution in matters pertaining to international peace and thus demonstrate the collective responsibility of all Member States for the maintenance of good neighbourly relations.

On the other hand, practice has shown that the great Powers are, as a rule, owing to their specific position in international relations, interested in every international conflict which may arise. Consequently, we may assume that this interest may prove to be an obstacle to the impartial carrying out of the role of mediator. Their participation in the work of the Commission would not

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facilitate the finding of the best ways and means for an agreed solution of conflicts. However, the very non-participation of the great Powers in the Commission would enable the permanent members of the Security Council to find solutions to conflicts in the Security Council, if the intervention of the latter became necessary, without prejudicing their political prestige.

The organ proposed by the draft resolution is new, both with regard to its composition and its competence. At the same time, this organ would not appropriate any of the prerogatives which the Charter gives to other organs. It would not make decisions about conflicts, nor prevent the Security Council from considering conflicts within its competence (Chapters VI and VII of the Charter), because the rules of procedure of the Security Council do not prevent the parties from making their contributions towards the solution of problems. This organ would not infringe the competence of the General Assembly, because it would be its subsidiary organ and would submit to the General Assembly reports on its activities. This organ would not infringe the competence of the International Court of Justice, because it would not pass judgments, but would only facilitate the appearance of the parties before the Court. In the same way, it would not infringe the mandate of the Interim Committee, because this Committee also is only a subsidiary organ of the General Assembly and its competence would not refer to matters that the General Assembly has expressis verbis entrusted to another organ.

For these reasons, believing in the usefulness of the creation of such an organ, and the urgent necessity that this organ should begin to function immediately, and thus remove a practical vacuum for the accomplishment of those tasks which are theoretically within the competence of the General Assembly, the delegation of the Federal People's Republic of Yugoslavia requests that this draft resolution be put on the agenda of the fifth regular session of the General Assembly of the United Nations and sent - as a contribution towards the strengthening of international co-operation and peace - to the First Committee of the Assembly.