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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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Draft report

Rapporteur: Ms. Alis Lungu (Romania)

III. Peaceful settlement of disputes

1. The Special Committee considered the question of the peaceful settlement of disputes during the general exchange of views held at its 293rd and 294th meetings, on 18 February, and during the 2nd meeting of the Working Group of the Whole, on 20 February.
2. During the general exchange of views and in the Working Group of the Whole, delegations expressed their support for all efforts to promote the peaceful settlement of disputes. Delegations recalled that States should refrain from the threat or use of force and instead settle disputes by peaceful means pursuant to Articles 2 (3) and 33 of the Charter. Several delegations emphasized the right of States to freely choose peaceful means to settle international disputes. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution [2625 \(XXV\)](#), annex) was recalled in that respect. The importance of State sovereignty, territorial integrity and non-interference in internal affairs was also noted.
3. Several delegations asserted the importance of preventive diplomacy in conflict prevention and the peaceful settlement of disputes. The importance of the participation of women in all stages of conflict resolution was also underlined. Several delegations also pointed out the importance of multilateralism and the role of regional arrangements in the peaceful settlement of disputes.
4. Several delegations reaffirmed the role of the International Court of Justice, as the principal judicial organ of the United Nations, in promoting the peaceful settlement of disputes. The usefulness of the Court's advisory opinions on legal questions was also noted.
5. The significance of the Manila Declaration on the Peaceful Settlement of International Disputes, approved by the General Assembly in 1982 and annexed to its resolution [37/10](#), was highlighted by many delegations. It was stressed that the



Declaration, as the first comprehensive consolidation of the legal framework for the peaceful settlement of international disputes, was one of the landmark outcomes of the work of the Special Committee in clarifying and promoting general international law and the provisions of the Charter. It was announced that a proposal would be submitted to the Special Committee at its 2021 session, encouraging the United Nations and its Member States to commemorate the fortieth anniversary of the Declaration through appropriate activities.

6. A number of delegations stated that the annual thematic debate on the means for the settlement of disputes contributed to the more efficient and effective use of peaceful means and promoted a culture of peace among Member States, voicing support for the Special Committee continuing to analyse all means envisaged in Article 33 of the Charter.

7. Delegations reiterated their preference that, in accordance with the mandate of the Special Committee, the question of the peaceful settlement of disputes remain on its agenda.

A. Means for the settlement of disputes: exchange of information on State practices regarding the use of conciliation

8. In accordance with paragraph 6 (a) of General Assembly resolution 74/190, delegations focused their debate on the subtopic “Exchange of information on State practices regarding the use of conciliation”.

9. Delegations reiterated the importance that they attached to all peaceful means of dispute settlement under Article 33 of the Charter, including conciliation. It was noted that, while conciliation was not used as widely as other dispute settlement mechanisms, it remained an important alternative provided for in many bilateral and multilateral treaties, including the Vienna Convention on the Law of Treaties (1969), the United Nations Convention on the Law of the Sea (1982) and the American Treaty on Pacific Settlement (Pact of Bogotá, 1948). The Timor Sea conciliation (*Timor-Leste v. Australia*) was mentioned as a recent example of the use of the conciliation provisions under the United Nations Convention on the Law of the Sea.

10. Delegations generally described conciliation as a third party dispute settlement process involving voluntariness, flexibility, confidentiality, good faith, equity and fair treatment. They noted that conciliation was more structured than mediation and that the non-binding nature of conciliation distinguished it from judicial and arbitral processes. It was asserted that conciliation played an important role in easing tensions and narrowing the gaps between the positions of the parties, as well as in creating an environment conducive to the peaceful settlement of disputes. Delegations also viewed conciliation as enabling the restoration of social relations on the basis of fundamental values, such as human dignity, respect for human rights, the right to life and the right to physical and psychological integrity.

11. Delegations underlined that conciliation should be applied in accordance with the Charter and that consent to conciliation by the parties to a dispute was essential. They also noted that, where a matter had already been resolved by treaty or judicial or arbitral means, the principles of *res judicata* and *pacta sunt servanda* prevented it from being reopened through other means such as conciliation.

12. Delegations noted that conciliation could be applicable to various domains, such as conflict prevention, crisis management and maritime and land boundaries. It was mentioned that conciliation could also be used to settle commercial and economic disputes, with the United Nations Commission on International Trade Law offering a set of rules that could be utilized by parties in that regard. Delegations also mentioned

that conciliation could play a role in supporting peaceful and credible elections and settling labour and industrial disputes.

13. Delegations mentioned the importance of supporting States in setting up conciliation mechanisms and in using conciliation to peacefully settle disputes, highlighting the role of the United Nations in that regard. Mention was made in that context of the United Nations Model Rules for the Conciliation of Disputes between States (General Assembly resolution [50/50](#), annex), the United Nations Conciliation Commission for Palestine and the lists of conciliators and arbitrators maintained by the Secretary-General under annexes V and VII to the United Nations Convention on the Law of the Sea.

14. The Special Committee recommends that the thematic debate to be held at its 2021 session be on the subtopic “Exchange of information on State practices regarding the use of [arbitration]”.
