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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

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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 300th and 301st meetings, on 22 February, and during the 2nd and 3rd meetings of the Working Group of the Whole, on 24 and 25 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, paragraph 3, and 33 of the Charter of the United Nations.
3. A number of delegations referred to the ongoing situation in Ukraine and condemned the military operations conducted by the Russian Federation, which they considered to be a violation of the prohibition of the threat or use of force against the sovereignty and territorial integrity of a Member State of the United Nations under international law, in particular Article 2, paragraph 4, of the Charter. As stated during the general debate, it was emphasized that applying international instruments, such as treaties, resolutions and declarations, fully and in good faith was key to maintaining international peace and security. Other delegations considered that tensions in Eastern Europe had been increased by Western States, that civilians had been targeted for a number of years and that ongoing military operations had a humanitarian purpose. It was also stated that the Special Committee was not the appropriate forum to make political statements on the situation.
4. Delegations highlighted the significance of the Manila Declaration on the Peaceful Settlement of International Disputes¹ and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in

¹ General Assembly resolution [37/10](#), annex.



accordance with the Charter of the United Nations² and expressed support for the commemoration of the fortieth anniversary of the Manila Declaration. Several delegations emphasized the right of States to freely choose peaceful means to settle international disputes and maintained that those means should be used in good faith and on the basis of the mutual consent of the parties to the dispute, and should not be subject to abuse.

5. 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.

6. 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. Some delegations stressed the importance of the implementation of the decisions of international adjudicative bodies.

7. 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, and they voiced their support for the Special Committee's continuing to analyse all means envisaged in Article 33 of the Charter. It was also emphasized that the input collected within that process could provide a valuable basis for further consideration by the Committee.

8. 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 judicial settlement

9. In accordance with paragraph 6 (a) of General Assembly resolution [76/115](#), delegations focused their debate on the subtopic "Exchange of information on State practices regarding the use of judicial settlement".

10. Delegations reiterated the importance that they attached to all peaceful means of dispute settlement under Article 33 of the Charter, including judicial settlement, stressing the responsibility of States to prevent inter-State armed conflict and to use the instruments and forums available for the peaceful settlement of disputes. It was noted that the International Court of Justice had stated that the obligation to seek the peaceful settlement of international disputes also had the status of customary law.³

11. Several delegations underscored the freedom of choice of means of peaceful settlement of disputes, as recognized in Article 33. Delegations also highlighted the requirement of consent of the parties to judicial dispute settlement. In this connection, the Declaration on Friendly Relations and the Manila Declaration were recalled. It was also noted that the International Court of Justice had stated that nothing in the Charter required States to resort to a particular means of dispute settlement.⁴

² General Assembly resolution [2625 \(XXV\)](#), annex.

³ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 14.

⁴ *Obligation to Negotiate Access to the Pacific Ocean (Bolivia v. Chile)*, Judgment, I.C.J. Reports 2018, p. 507, para. 165.

However, the Court's dictum that a lack of jurisdiction did not relieve States of their obligation to settle disputes by peaceful means was also recalled.⁵

12. Delegations highlighted the central role of the International Court of Justice, the principal judicial organ of the United Nations, in the peaceful resolution of the disputes submitted to it by States. It was stated that the judgments of the Court consolidated the rule of law at the international level and contributed to stability and consistency in international relations. It was recalled that the Statute of the Court was an integral part of the Charter and that all Member States were party ipso facto to the Statute. Delegations emphasized that, under Article 94 of the Charter, Member States had undertaken to comply with the decisions of the Court in cases to which they were parties. States were urged to fully abide by and implement the final decisions in cases to which they were parties.

13. Delegations welcomed the contribution of the Court to the development of international law. A number of delegations recalled that their States had been parties to cases before the Court, emphasizing that the experience was positive. Some delegations recalled particular cases, noting the effective resolution of the relevant dispute and the jurisprudential value of the Court's decisions.⁶ The importance of the jurisprudence of the Court and its predecessor, the Permanent Court of International Justice, as a subsidiary means for the determination of international law in line with Article 38, paragraph 1 (d), of the Statute of the Court was underscored. The importance of the judgment of the Permanent Court of International Justice in the *SS Lotus* case for the development of international maritime law was recalled.⁷ Judicial bodies were encouraged to be decisive in their judgments, as well as innovative and practical in their approach.

14. The Court's integral role in the United Nations architecture for the maintenance of international peace and security was underscored. The Security Council was encouraged, in dealing with disputes or situations the continuance of which was likely to endanger the maintenance of international peace and security, to take into consideration the fact that legal disputes should as a general rule be referred by the parties to the Court, in accordance with its Statute.

15. The sustained high level of the Court's activity was welcomed. It was noted that, to date, the Court had been seized of more than 180 cases concerning various areas of international law and involving geographically diverse parties. The flexibility of the Court's procedures was applauded, and the various means to establish its jurisdiction were recalled. The procedures in article 79 of the Rules of Court to respond to cases with an outstanding question of jurisdiction were highlighted. The Court's ability to create special chambers at the request of the parties to a case was recalled. It was noted that the permanent character of international judicial bodies distinguished judicial settlement from international arbitration.

16. States were encouraged to submit their disputes to the International Court of Justice for settlement. Certain delegations emphasized their own commitments to accepting the Court's jurisdiction, including through compromissory clauses in bilateral or multilateral treaties or through declarations accepting the compulsory jurisdiction of the Court. The relevance of the American Treaty on Pacific Settlement (Pact of Bogota)⁸ as a basis for the jurisdiction of the Court and its contribution to regional peace and security were emphasized by a delegation. An initiative launched

⁵ *Aerial Incident of 10 August 1999 (Pakistan v. India)*, *Jurisdiction of the Court, Judgment*, I.C.J. Reports 2000, p. 12, para. 53.

⁶ *North Sea Continental Shelf (Germany v. Denmark)*, *Judgment*, I.C.J. Reports 1969, p. 3; and *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, *Judgment*, I.C.J. Reports 2009, p. 61.

⁷ *S.S. "Lotus" (France v. Turkey)*, *Judgment No. 9*, P.C.I.J. Reports, series A, No. 10.

⁸ United Nations, *Treaty Series*, vol. 30, No. 449.

by several States in 2021 to promote the broader recognition of the Court's jurisdiction in the form of a declaration was highlighted. Member States were encouraged to endorse the declaration.

17. Delegations recalled the role of advisory jurisdiction of the Court, and international organizations were encouraged to make use of that tool. It was noted that the Court's advisory jurisdiction was reserved for questions of general international law and not for bilateral disputes. Support was expressed for several calls for requests for advisory opinions that had been previously discussed before the Committee.

18. General Assembly resolution [75/129](#) of 14 December 2020 was recalled, and the importance of a trust fund for the Judicial Fellowship Programme of the International Court of Justice to facilitate participation from development countries was noted. The Secretary-General's trust fund to assist States in the settlement of disputes through the International Court of Justice was also highlighted.

19. Delegations referred to the contributions to the judicial settlement of international disputes of other international courts and tribunals, including regional human rights courts. It was also noted that the Court of Justice of the European Union has contributed greatly to the settlement of disputes related to the application and interpretation of the European Union treaties among the member States of that organization. It was recalled that, in addition to States, some international organizations might institute or be subject to proceedings before some international adjudication bodies, such as the International Tribunal for the Law of the Sea. While the International Criminal Court did not resolve disputes between States, the relevance of its decisions for the States parties to the Rome Statute was emphasized. The Security Council and its members were also invited to take into consideration their responsibilities under the Rome Statute.

20. The Special Committee recommends that the thematic debate to be held at its 2023 session be on the subtopic "Exchange of information on State practices regarding the [resort to regional agencies or arrangements]".
