

# **THE SETTLEMENT OF INTERNATIONAL DISPUTES: BASIC DOCUMENTS**

This collection of documents brings together a large number of primary sources on the peaceful settlement of disputes in a usable and affordable format. The documents included reflect the diverse techniques of international dispute settlement, as recognised in Articles 2(3) and 33 of the UN Charter, such as negotiation, mediation, arbitration and adjudication. The book comprises the most relevant multilateral treaties establishing dispute settlement regimes, as well as examples of special agreements, compromissory clauses, optional clause declarations and relevant resolutions of international organisations. It covers both diplomatic and adjudicative methods of dispute settlement and follows a basic division between general dispute settlement mechanisms, and sectoral regimes in fields such as human rights, WTO law, investment, law of the sea, environmental law and arms control. The book is the first widely-available collection of key documents on dispute settlement. It is aimed at teachers, students and practitioners of international law and related disciplines.

# **THE SETTLEMENT OF INTERNATIONAL DISPUTES: BASIC DOCUMENTS**

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# THE SETTLEMENT OF INTERNATIONAL DISPUTES: BASIC DOCUMENTS

Compiled by  
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## Preface

To facilitate the peaceful settlement of international disputes is an essential purpose of international law. To achieve this purpose, international law provides States and other actors of international law with a broad range of rules, techniques and fora. In recent decades, these rules, techniques and fora have become more diverse and more relevant. Unlike a generation ago, there is now a veritable market for practicing international lawyers. New international courts and tribunals have been created (and existing ones reformed), fuelling debates about ‘proliferation’ and ‘common rules of international adjudication’. At the same time, sectoral regimes in areas such as international environmental law or arms control have moved beyond narrow approaches to dispute settlement and enforcement and instead sought to ‘manage compliance’ through non-binding mechanisms, or decisions of Conferences and Meetings of Parties.

The diversity and relevance of international dispute settlement is reflected in a growing body of literature addressing the available mechanisms and procedures. Textbooks like ‘Merrills’ and ‘Collier and Lowe’, as well as the ‘UN Handbook’, introduce students and practitioners to the main techniques and institutions.<sup>1</sup> Leading publishers now run monograph series focusing exclusively on dispute settlement. And specialized journals focusing exclusively on courts and dispute resolution now complement general international law journals on the shelves (or in the databases) of most universities. Curiously, however, with the exception of the encyclopedic compilation by Andreas Zimmermann and Karin Oellers-Frahm,<sup>2</sup> there is no specialized document collection bringing together basic texts on dispute settlement in an accessible format.

The present book is an attempt to fill that gap. It has grown out of courses on international dispute settlement that we have taught at the University of Glasgow over the last years. In these courses, as in the book, we have sought to reflect the diversity of available dispute settlement techniques, comprising general and special mechanisms just as diplomatic and judicial or quasi-judicial methods. The material is divided into a ‘General Part’ (bringing together techniques and institutions of general scope as well as ‘foundational documents’ of general relevance) and selected ‘Sectoral Regimes’ (comprising dispute settlement in special areas of international law). This distinction is not rigid, as many ‘Sectoral Regimes’ rely on general techniques and institutions; but in our view it provides a useful roadmap through the maze of dispute settlement provisions. In order to be able to provide a meaningful survey of dispute settlement ‘in its infinite variety’, we have only included those provisions of a document that bear on the dispute settlement process. While this takes dispute settlement provisions out of their substantive context, it facilitates the comparison between different approaches and, we believe, is in line with the procedural understanding of dispute settlement that characterises the current literature.

To facilitate navigation within the book, each of the documents has been given a document number, which can be found on the top outside corner of each page. The detailed

<sup>1</sup> JG Merrills, *International Dispute Settlement* (5th edn, CUP, Cambridge 2011); J Collier and AV Lowe, *The Settlement of Disputes in International Law* (OUP, Oxford 1999); United Nations Office of Legal Affairs, *Handbook on the Peaceful Settlement of Disputes between States* (United Nations, New York 1992).

<sup>2</sup> K Oellers-Frahm and A Zimmermann, *Dispute Settlement in Public International Law*, 2 vols (2nd edn, Springer, Berlin 2001).

Table of Contents lists documents by their official title and introduces shorthand titles where the official ones are not well known or inconveniently long. The Table of Contents is complemented by a list of documents in chronological order.

In preparing this collection, we have benefited from comments by Professor Stefan Talmon, and from feedback by LL.M. students at the University of Glasgow. Richard Hart and his team at Hart Publishing have been competent and helpful throughout. To all of these we are grateful.

Any selection of ‘dispute settlement regimes’, and of documents and indeed provisions within each of them is subjective. While not exhaustive, we hope our selection is representative and useful to those interested, or involved, in processes of international dispute resolution. Comments and suggestions for improvement should be sent to [antonios.tzanakopoulos@st-annes.oxon.org](mailto:antonios.tzanakopoulos@st-annes.oxon.org) or [christian.tams@cantab.net](mailto:christian.tams@cantab.net).

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*Köln, December 2011*

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<b>1981</b>	<b>African Charter on Human and Peoples' Rights (Banjul Charter)</b>	<b>32.a</b>
<b>1981</b>	<b>Charter of the Cooperation Council for the Arab States of the Gulf</b>	<b>45.a</b>
<b>1981</b>	<b>Rules of Procedure of the Commission for the Settlement of Disputes (GCC)</b>	<b>45.b</b>
<b>1981</b>	<b>The Claims Settlement Declaration (Iran-US)</b>	<b>62.a</b>
<b>1982</b>	<b>GA Res 37/10 (Manila Declaration)</b>	<b>7.b</b>
<b>1982</b>	<b>United Nations Convention on the Law of the Sea</b>	<b>47.a</b>
<b>1982</b>	<b>Statute of the International Tribunal for the Law of the Sea</b>	<b>47.b</b>
<b>1982</b>	<b>Arbitration under UNCLOS Annex VII</b>	<b>47.e</b>
<b>1982</b>	<b>Special Arbitration under UNCLOS Annex VIII</b>	<b>47.f</b>
<b>1983</b>	<b>Iran-US Claims Tribunal Final Rules of Procedure</b>	<b>62.b</b>
<b>1984</b>	<b>Convention against Torture</b>	<b>29</b>
<b>1985</b>	<b>Vienna Convention for the Protection of the Ozone Layer</b>	<b>51.a</b>
<b>1987</b>	<b>Montreal Protocol on Substances that Deplete the Ozone Layer</b>	<b>51.c</b>
<b>1988</b>	<b>GA Res 43/51 (Declaration on the Prevention and Removal of Disputes)</b>	<b>7.c</b>
<b>1989</b>	<b>Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice (Terms of Reference, Guidelines and Rules)</b>	<b>17.f</b>
<b>1989</b>	<b>Decision VCI/7 on Arbitration Procedure under the Vienna Convention (Ozone)</b>	<b>51.b</b>
<b>1991</b>	<b>Protocol on the Community Court of Justice (ECOWAS)</b>	<b>44.b</b>
<b>1991</b>	<b>SC Res 687 (1991) (Iraq-Kuwait)</b>	<b>63.a</b>
<b>1991</b>	<b>Report of the Secretary-General Pursuant to SC Res 687 (1991)</b>	<b>63.b</b>
<b>1991</b>	<b>US-Argentina BIT</b>	<b>40.c</b>
<b>1992</b>	<b>Convention on Conciliation and Arbitration within the CSCE</b>	<b>16.a</b>
<b>1992</b>	<b>Provisions for a CSCE Conciliation Commission</b>	<b>16.c</b>
<b>1992</b>	<b>Provisions for Directed Conciliation (CSCE)</b>	<b>16.d</b>

<b>1992</b> PCA Optional Rules for Inter-State Arbitration	<b>22.a</b>
<b>1992</b> North American Free Trade Agreement	<b>38</b>
<b>1992</b> United Nations Framework Convention on Climate Change	<b>50.a</b>
<b>1992</b> OSPAR Convention	<b>53.a</b>
<b>1992</b> United Nations Compensation Commission Provisional Rules for Claims Procedures	<b>63.c</b>
<b>1992</b> Rules of the International Humanitarian Fact-Finding Commission	<b>65.b</b>
<b>1993</b> <i>Gabčíkovo-Nagymaros Project</i> Special Agreement (ICJ)	<b>18.a</b>
<b>1993</b> WHA Res 46.40 ( <i>Nuclear Weapons</i> )	<b>21.b</b>
<b>1993</b> Revised Treaty of the Economic Community of West African States	<b>44.a</b>
<b>1993</b> Convention for the Conservation of Southern Bluefin Tuna	<b>49</b>
<b>1993</b> The Chemical Weapons Convention	<b>55.a</b>
<b>1993</b> Annex on Implementation and Verification (CWC)	<b>55.b</b>
<b>1994</b> Declaration of Canada (ICJ)	<b>20.d</b>
<b>1994</b> GA Res 49/75K ( <i>Nuclear Weapons</i> )	<b>21.a</b>
<b>1994</b> Agreement Establishing the World Trade Organization	<b>35.a</b>
<b>1994</b> Dispute Settlement Understanding (WTO)	<b>35.b</b>
<b>1994</b> The Energy Charter Treaty	<b>39</b>
<b>1995</b> GA Res 50/50 (UN Model Rules for Conciliation of Disputes)	<b>13</b>
<b>1995</b> Fish Stocks Agreement	<b>48</b>
<b>1995</b> Treaty on the Southeast Asia Nuclear Weapon-Free Zone	<b>57.a</b>
<b>1995</b> Procedure for a Fact-Finding Mission (Bangkok Treaty)	<b>57.b</b>
<b>1996</b> PCA Optional Conciliation Rules	<b>14</b>
<b>1997</b> PCA Optional Rules for Fact-Finding Commissions of Inquiry	<b>10</b>
<b>1997</b> Rules of the Court of Conciliation and Arbitration within the OSCE	<b>16.b</b>
<b>1997</b> Rules of the Tribunal (ITLOS)	<b>47.c</b>
<b>1997</b> Resolution on the Internal Judicial Practice of the Tribunal (ITLOS)	<b>47.d</b>
<b>1997</b> Kyoto Protocol to UNFCCC	<b>50.b</b>
<b>1997</b> The Ottawa Convention on the Prohibition of Anti-Personnel Mines	<b>58</b>
<b>1998</b> Protocol on the Establishment of an African Court on Human and Peoples' Rights	<b>32.b</b>
<b>1998</b> Non-Compliance Procedure under the Montreal Protocol	<b>51.d</b>
<b>1999</b> CEDAW Optional Protocol	<b>28.b</b>
<b>2000</b> Constitutive Act of the African Union	<b>43.a</b>
<b>2000</b> The Algiers Agreement (Eritrea-Ethiopia)	<b>64.a</b>
<b>2001</b> Eritrea-Ethiopia Claims Commission Rules of Procedure	<b>64.b</b>
<b>2002</b> Resolution on Annual Reports and Monitoring of Trade (CITES)	<b>52.c</b>
<b>2002</b> Eritrea-Ethiopia Boundary Commission Rules of Procedure	<b>64.c</b>
<b>2003</b> <i>The Iron Rhine</i> Special Agreement (PCA)	<b>23.b</b>

<b>2003</b>	Protocol of the Court of Justice of the African Union	<b>43.b</b>
<b>2003</b>	Rules of the International Humanitarian Fact-Finding Commission	<b>65.b</b>
<b>2004</b>	Declaration of the United Kingdom (ICJ)	<b>20.b</b>
<b>2004</b>	US Model BIT 2004	<b>40.d</b>
<b>2004</b>	Guide to CITES Compliance Procedures	<b>52.b</b>
<b>2005</b>	Rules of Procedure of the Human Rights Committee	<b>26.c</b>
<b>2005</b>	Protocol on the Community Court of Justice (ECOWAS)	<b>44.b</b>
<b>2005</b>	Procedures and Mechanisms Relating to Compliance under the Kyoto Protocol	<b>50.c</b>
<b>2005</b>	OSPAR Commission Rules of Procedure	<b>53.b</b>
<b>2006</b>	GA Res 60/251 (Establishment of Human Rights Council)	<b>34.a</b>
<b>2006</b>	ICSID Institution Rules	<b>36.b</b>
<b>2006</b>	ICSID Arbitration Rules	<b>36.c</b>
<b>2006</b>	Additional Facility Rules (ICSID)	<b>36.d</b>
<b>2006</b>	Additional Facility Arbitration Rules (ICSID)	<b>36.e</b>
<b>2007</b>	HRC Res 5/1 (Institution Building Package, including Rules of Procedure)	<b>34.b</b>
<b>2007</b>	Treaty on European Union	<b>42.a</b>
<b>2007</b>	Treaty on the Functioning of the European Union	<b>42.b</b>
<b>2007</b>	Statute of the Court of Justice of the European Union	<b>42.c</b>
<b>2008</b>	ICESCR Optional Protocol	<b>27.b</b>
<b>2008</b>	China-New Zealand Free Trade Agreement	<b>41</b>
<b>2008</b>	Rules of Procedure of the Compliance Committee of the Kyoto Protocol	<b>50.d</b>
<b>2009</b>	Practice Directions (ICJ)	<b>17.c</b>
<b>2009</b>	Revised Germany-Pakistan BIT	<b>40.b</b>
<b>2009</b>	Rules of the Tribunal (ITLOS)	<b>47.c</b>
<b>2010</b>	Working Procedures for Appellate Review (WTO)	<b>35.c</b>
<b>2010</b>	UNCITRAL Arbitration Rules	<b>37</b>
<b>2010</b>	Resolution on Compliance and Enforcement (CITES)	<b>52.d</b>
<b>2011</b>	Rules of Court (ECtHR)	<b>31.b</b>
<b>2011</b>	Practice Directions (ECtHR)	<b>31.c</b>
<b>2012</b>	List of States that Have Submitted Optional Clause Declarations (ICJ)	<b>20.f</b>
	– PCA Model Arbitration Clauses	<b>22.b</b>
	– Model Complaint Form for Communications under ICCPR-OP I, CAT, CERD	<b>30.a</b>
	– Model Form for Submission of Communications under CEDAW-OP	<b>30.b</b>

A

General Part



# 1 Foundational Documents

## 1 Treaty of Amity, Commerce, and Navigation, between His Britannick Majesty and The United States of America (The Jay Treaty)

Date: 19 November 1794

Source: D Hunter Miller (ed), *Treaties and Other International Acts of the United States of America* (vol 2, 1776–1818)

[http://avalon.law.yale.edu/18th\\_century/jay.asp](http://avalon.law.yale.edu/18th_century/jay.asp)

### Preamble

His Britannick Majesty and the United States of America, being desirous by a Treaty of Amity, Commerce and Navigation to terminate their Differences in such a manner, as without reference to the Merits of Their respective Complaints and Pretensions, may be the best calculated to produce mutual satisfaction and good understanding: And also to regulate the Commerce and Navigation between Their respective Countries, Territories and People, in such a manner as to render the same reciprocally beneficial and satisfactory; They have respectively named their Plenipotentiaries, and given them Full powers to treat of, and conclude, the said Treaty, that is to say; His Brittanick Majesty has named for His Plenipotentiary, The Right Honourable William Wyndham Baron Grenville of Wotton, One of His Majesty's Privy Council, and His Majesty's Principal Secretary of State for Foreign Affairs; and The President of the said United States, by and with the advice and Consent of the Senate thereof, hath appointed for Their Plenipotentiary The Honourable John Jay, Chief Justice of the said United States and Their Envoy Extraordinary to His Majesty, who have agreed on, and concluded the following Articles

...

### Article 4.

Whereas it is uncertain whether the River Mississippi extends so far to the Northward as to be intersected by a Line to be drawn due West from the Lake of the woods in the manner mentioned in the Treaty of Peace between His Majesty and the United States, it is agreed, that measures shall be taken in Concert between His Majesty's Government in America, and the Government of the United States, for making a joint Survey of the said River, from one Degree of Latitude below the falls of St Anthony to the principal Source or Sources of the said River, and also of the parts adjacent thereto, And that if on the result of such Survey it should appear that the said River would not be intersected by such a Line as is above mentioned; The two Parties will thereupon proceed by amicable negotiation to regulate the Boundary Line in that quarter as well as all other Points to be adjusted between the said Parties, according to Justice and mutual Convenience, and in Conformity, to the Intent of the said Treaty.

### Article 5.

Whereas doubts have arisen what River was truly intended under the name of the River St Croix mentioned in the said Treaty of Peace and forming a part of the boundary therein

described, that question shall be referred to the final Decision of Commissioners to be appointed in the following Manner.

One Commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and Consent of the Senate thereof, and the said two Commissioners shall agree on the choice of a third, or, if they cannot so agree, They shall each propose one Person, and of the two names so proposed one shall be drawn by Lot, in the presence of the two original Commissioners. And the three Commissioners so appointed shall be Sworn impartially to examine and decide the said question according to such Evidence as shall respectively be laid before Them on the part of the British Government and of the United States. The said Commissioners shall meet at Halifax and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a Secretary, and to employ such Surveyors or other Persons as they shall judge necessary. The said Commissioners shall by a Declaration under their Hands and Seals, decide what River is the River St Croix intended by the Treaty.

The said Declaration shall contain a description of the said River, and shall particularize the Latitude and Longitude of its mouth and of its Source. Duplicates of this Declaration and of the State meets of their Accounts, and of the Journal of their proceedings, shall be delivered by them to the Agent of His Majesty, and to the Agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective Governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject of dispute or difference between them.

#### **Article 6.**

Whereas it is alleged by divers British Merchants and others His Majesty's Subjects, that Debts to a considerable amount which were bona fide contracted before the Peace, still remain owing to them by Citizens or Inhabitants of the United States, and that by the operation of various lawful Impediments since the Peace, not only the full recovery of the said Debts has been delayed, but also the Value and Security thereof, have been in several instances impaired and lessened, so that by the ordinary course of Judicial proceedings the British Creditors, cannot now obtain and actually have and receive full and adequate Compensation for the losses and damages which they have thereby sustained: It is agreed that in all such Cases where full Compensation for such losses and damages cannot, for whatever reason, be actually obtained had and received by the said Creditors in the ordinary course of Justice, The United States will make full and complete Compensation for the same to the said Creditors; But it is distinctly understood, that this provision is to extend to such losses only, as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such Insolvency of the Debtors or other Causes as would equally have operated to produce such loss, if the said impediments had not existed, nor to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the Claimant.

For the purpose of ascertaining the amount of any such losses and damages, Five Commissioners shall be appointed and authorized to meet and act in manner following. Two of them shall be appointed by His Majesty, Two of them by the President of the United States by and with the advice and consent of the Senate thereof, and the fifth, by the unanimous voice of the other Four; and if they should not agree in such Choice, then the Commissioners named by the two parties shall respectively propose one person, and



of the two names so proposed, one shall be drawn by Lot in the presence of the Four Original Commissioners. When the Five Commissioners thus appointed shall first meet, they shall before they proceed to act respectively, take the following Oath or Affirmation in the presence of each other, which Oath or Affirmation, being so taken, and duly attested, shall be entered on the Record of their Proceedings:

‘I, A.B., one of the Commissioners appointed in pursuance of the 6th Article of the Treaty of Amity, Commerce and Navigation between His Britannic Majesty and The United States of America, do solemnly swear (or affirm) that I will honestly, diligently, impartially, and carefully examine, and to the best of my Judgement, according to Justice and Equity decide all such Complaints, as under the said Article shall be preferred to the said Commissioners; and that I will forbear to act as a Commissioner in any Case in which I may be personally interested’.

Three of the said Commissioners shall constitute a Board, and shall have power to do any act appertaining to the said Commission, provided that one of the Commissioners named on each side, and the Fifth Commissioner shall be present, and all decisions shall be made by the Majority of the Voices of the Commissioners then present. Eighteen Months from the Day on which the said Commissioners shall form a Board, and be ready to proceed to Business are assigned for receiving Complaints and applications, but they are nevertheless authorized in any particular Cases in which it shall appear to them to be reasonable and just to extend the said Term of Eighteen Months, for any term not exceeding Six Months after the expiration thereof. The said Commissioners shall first meet at Philadelphia, but they shall have power to adjourn from Place to Place as they shall see Cause.

The said Commissioners in examining the Complaints and applications so preferred to them, are empowered and required in pursuance of the true intent and meaning of this article to take into their Consideration all claims whether of principal or interest, or balances of principal and interest, and to determine the same respectively according to the merits of the several Cases, due regard being had to all the Circumstances thereof, and as Equity and Justice shall appear to them to require. And the said Commissioners shall have power to examine all such Persons as shall come before them on Oath or Affirmation touching the premises; and also to receive in Evidence according as they may think most consistent with Equity and Justice all written positions, or Books or Papers, or Copies or Extracts thereof. Every such Deposition, Book or Paper or Copy or Extract being duly authenticated either according to the legal Forms now respectively existing in the two Countries, or in such other manner as the said Commissioners shall see cause to require or allow.

The award of the said Commissioners or of any three of them as aforesaid shall in all Cases be final and conclusive both as to the Justice of the Claim, and to the amount of the Sum to be paid to the Creditor or Claimant. And the United States undertake to cause the Sum so awarded to be paid in Specie to such Creditor or Claimant without deduction; and at such Time or Times, and at such Place or Places, as shall be awarded by the said Commissioners, and on Condition of such Releases or assignments to be given by the Creditor or Claimant as by the said Commissioners may be directed; Provided always that no such payment shall be fixed by the said Commissioners to take place sooner then twelve months from the Day of the Exchange of the Ratifications of this Treaty.

#### **Article 7.**

Whereas Complaints have been made by divers Merchants and others, Citizens of the United States, that during the course of the War in which His Majesty is now engaged

they have sustained considerable losses and damage by reason of irregular or illegal Captures or Condemnations of their vessels and other property under Colour of authority or Commissions from His Majesty, and that from various Circumstances belonging to the said Cases adequate Compensation for the losses and damages so sustained cannot now be actually obtained, had and received by the ordinary Course of Judicial proceedings; It is agreed that in all such Cases where adequate Compensation cannot for whatever reason be now actually obtained, had and received by the said Merchants and others in the ordinary course of Justice, full and Complete Compensation for the same will be made by the British Government to the said Complainants. But it is distinctly understood, that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the Claimant. That for the purpose of ascertaining the amount of any such losses and damages Five Commissioners shall be appointed and authorized to act in London exactly in the manner directed with respect to those mentioned in the preceding Article, and after having taken the same Oath or Affirmation (*mutatis mutandis*). The same term of Eighteen Months is also assigned for the reception of Claims, and they are in like manner authorised to extend the same in particular Cases. They shall receive Testimony, Books, Papers and Evidence in the same latitude, and exercise the like discretion, and powers respecting that subject, and shall decide the Claims in question, according to the merits of the several Cases, and to Justice Equity and the Laws of Nations. The award of the said Commissioners or any such three of them as aforesaid, shall in all Cases be final and conclusive both as to the Justice of the Claim and the amount of the Sum to be paid to the Claimant; and His Britannic Majesty undertakes to cause the same to be paid to such Claimant in Specie, without any Deduction, at such place or places, and at such Time or Times as shall be awarded by the said Commissioners and on Condition of such releases or assignments to be given by the Claimant, as by the said Commissioners may be directed. And whereas certain merchants and others, His Majesty's Subjects, complain that in the course of the war they have sustained Loss and Damage by reason of the Capture of their Vessels and Merchandize taken within the Limits and Jurisdiction of the States, and brought into the Ports of the same, or taken by Vessels originally armed in Ports of the said States:

It is agreed that in all such cases where Restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond dated at Philadelphia September 5th 1793, a Copy of which is annexed to this Treaty, the Complaints of the parties shall be, and hereby are referred to the Commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed in the like manner relative to these as to the other Cases committed to them, and the United States undertake to pay to the Complainants or Claimants in specie without deduction the amount of such Sums as shall be awarded to them respectively by the said Commissioners and at the times and places which in such awards shall be specified, and on Condition of such Releases or assignments to be given by the Claimants as in the said awards may be directed: And it is further agreed that not only to be now existing Cases of both descriptions, but also all such as shall exist at the Time, of exchanging the Ratifications of this Treaty shall be considered as being within the provisions intent and meaning of this article.

...

## **2 Treaty between Great Britain and the United States for the Amicable Settlement of All Causes of Difference between the Two Countries (The Treaty of Washington)**

Date: 8 May 1871

Source: C Parry, *Consolidated Treaty Series* (vol 143, 145) (1969) 145

[http://www.archive.org/stream/treatyofwashingt00cush/treatyofwashingt00cush\\_djvu.txt](http://www.archive.org/stream/treatyofwashingt00cush/treatyofwashingt00cush_djvu.txt)

### **Article I.**

Whereas differences have arisen between the Government of the United States and the Government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the “Alabama Claims”:

And whereas Her Britannic Majesty has authorized her High Commissioners and Plenipotentiaries to express, in a friendly spirit, the regret felt by Her Majesty’s Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty’s Government, the High Contracting Parties agree that all the said claims, growing out of acts committed by the aforesaid vessels and generically known as the “Alabama Claims,” shall be referred to a Tribunal of Arbitration to be composed of five Arbitrators, to be appointed in the following manner, that is to say: One shall be named by the President of the United States, one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or, in the event of either of the said Arbitrators omitting or declining or ceasing to act as such, the President of the United States, or Her Britannic Majesty, or His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, as the case may be, may forthwith name another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such Head of a State.

And in the event of the refusal or omission for two months after receipt of the request from either of the High Contracting Parties of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, to name an Arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such Arbitrator, His Majesty the King of Sweden and Norway shall be requested to name one or more persons, as the case may be, to act as such Arbitrator or Arbitrators.

### **Article II.**

The Arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine

and decide all questions that shall be laid before them on the part of the Governments of the United States and Her Britannic Majesty respectively. All questions considered by the Tribunal, including the final award, shall be decided by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its agent to represent it generally in all matters connected with the arbitration.

### **Article III.**

The written or printed case of each of the two Parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the agent of the other Party as soon as may be after the organization of the Tribunal, but within a period not exceeding six months from the date of the exchange of the ratifications of this Treaty.

### **Article IV.**

Within four months after the delivery on both sides of the written or printed case, either Party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the agent of the other Party, a counter-case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other Party.

The Arbitrators may, however, extend the time for delivering such counter-case, documents, correspondence, and evidence, when, in their judgment, it becomes necessary, in consequence of the distance of the place from which the evidence to be presented is to be procured.

If in the case submitted to the Arbitrators either Party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

### **Article V.**

It shall be the duty of the agent of each Party, within two months after the expiration of the time limited for the delivery of the counter-case on both sides, to deliver in duplicate to each of the said Arbitrators and to the agent of the other party a written or printed argument showing the points and referring to the evidence upon which his Government requires ; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel upon it ; but in such case the other Party shall be entitled to reply either orally or in writing, as the case may be.

### **Article VI.**

In deciding the matters submitted to the Arbitrators, they shall be governed by the following three rules, which are agreed upon by the High Contracting Parties as rules to be taken as applicable to the case, and by such principles of International Law not inconsistent therewith as the Arbitrators shall determine to have been applicable to the case.

**Rules.**

A neutral Government is bound —

First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace ; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to war-like use.

Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing rules as a statement of principles of International Law which were in force at the time when the claims mentioned in Article I arose; but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that, in deciding the questions between the two countries arising out of those claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules.

And the High Contracting Parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers, and to invite them to accede to them.

**Article VII.**

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The said Tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfill any of the duties set forth in the foregoing three rules, or recognized by the principles of International Law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the Tribunal find that Great Britain has failed to fulfill any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it ; and in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the award.

The award shall be in duplicate, one copy whereof shall be delivered to the agent of the United States for his Government, and the other copy shall be delivered to the agent of Great Britain for his Government.

**Article VIII.**

Each Government shall pay its own agent, and provide for the proper remuneration of the counsel employed by it and of the Arbitrator appointed by it, and for the expense of

preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

**Article IX.**

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

**Article X.**

In case the Tribunal finds that Great Britain has failed to fulfill any duty or duties as aforesaid, and does not award a sum in gross, the High Contracting Parties agree that a Board of Assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure, as to each vessel, according to the extent of such liability as decided by the Arbitrators.

The Board of Assessors shall be constituted as follows: One member thereof shall be named by the President of the United States, one member thereof shall be named by Her Britannic Majesty, and one member thereof shall be named by the Representative at Washington of His Majesty the King of Italy, and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the Board of Assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the Governments of the United States and of Great Britain respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government, as counsel or agent. A majority of the Assessors in each case shall be sufficient for a decision.

The decision of the Assessors shall be given upon each claim in writing, and shall be signed by them respectively and dated.

Every claim shall be presented to the Assessors within six months from the day of their first meeting; but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The Assessors shall report to each Government at or before the expiration of one year from the date of their first meeting the amount of claims decided by them up to the date of such report; if further claims then remain undecided, they shall make a further report at or before the expiration of two years from the date of such first meeting; and in case any claims remain undetermined at that time, they shall make a final report within a further period of six months.

The report or reports shall be made in duplicate, and one copy thereof shall be delivered to the Secretary of State of the United States, and one copy thereof to the Representative of Her Britannic Majesty at Washington.



All sums of money which may be awarded under this article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

The Board of Assessors may employ such clerks as they shall think necessary.

The expenses of the Board of Assessors shall be borne equally by the two Governments, and paid from time to time, as may be found expedient, on the production of accounts certified by the Board. The remuneration of the Assessors shall also be paid by the two Governments in equal moieties in a similar manner.

#### **Article XI.**

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration and of the Board of Assessors, should such Board be appointed, as a full, perfect, and final settlement of all the claims hereinbefore referred to; and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the Tribunal or Board, shall, from and after the conclusion of the proceedings of the Tribunal or Board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

#### **Article XII.**

The High Contracting Parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of Her Britannic Majesty, arising out of acts committed against the persons or property of citizens of the United States during the period between the thirteenth of April, eighteen hundred and sixty-one, and the ninth of April, eighteen hundred and sixty-five, inclusive, not being claims growing out of the acts of the vessels referred to in Article I. of this Treaty, and all claims, with the like exception, on the part of corporations, companies, or private individuals, subjects of Her Britannic Majesty, upon the Government of the United States, arising out of acts committed against the persons or property of subjects of Her Britannic Majesty during the same period, which may have been presented to either Government for its interposition with the other, and which yet remain unsettled, as well as any other such claims which may be presented within the time specified in Article XIV. of this Treaty, shall be referred to three Commissioners, to be appointed in the following manner, that is to say: One Commissioner shall be named by the President of the United States, one by Her Britannic Majesty, and a third by the President of the of United States and Her Britannic Majesty conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date of the exchange of the ratifications of this Treaty, then the third Commissioner shall be named by the Representative at Washington of His Majesty the King of Spain. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment; the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet at Washington at the earliest convenient period after they have been respectively named; and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to justice and equity, all such claims as shall be laid before them on the part of the Governments of the United States and of Her Britannic Majesty, respectively; and such declaration shall be entered on the record of their proceedings.

**Article XIII.**

The Commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to them. They shall investigate and decide such claims in such order and such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the respective Governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective Governments in support of, or in answer to, any claim, and to hear, if required, one person on each side, on behalf of each Government, as counsel or agent for such Government, on each and every separate claim. A majority of the Commissioners shall be sufficient for an award in each case. The award shall be given upon each claim in writing, and shall be signed by the Commissioners assenting to it. It shall be competent for each Government to name one person to attend the Commissioners as its agent, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The High Contracting Parties hereby engage to consider the decision of the Commissioners, as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

**Article XIV.**

Every claim shall be presented to the Commissioners within six months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the Commissioners, and then, and in any such case, the period for presenting the claim may be extended by them to any time not exceeding three months longer. The Commissioners shall be bound to examine and decide upon every claim within two years from the day of their first meeting. It shall be competent for the Commissioners to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this Treaty.

**Article XV.**

All sums of money which may be awarded by the Commissioners on account of any claim shall be paid by the one Government to the other, as the case may be, within twelve months after the date of the final award, without interest, and without any deduction save as specified in Article XVI of this Treaty.

**Article XVI.**

The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary, and any other necessary officer or officers, to assist them in the transaction of the business which may come before them.

Each Government shall pay its own Commissioner and agent or counsel. All other expenses shall be defrayed by the two Governments in equal moieties.

The whole expenses of the Commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the Commissioners, provided always that such deduction shall not exceed the rate of five per cent, on the sums so awarded.



**Article XVII.**

The High Contracting Parties engage to consider the result of the proceedings of this Commission as a full, perfect, and final settlement of all such claims as are mentioned in Article XII of this Treaty upon either Government; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said Commission, shall, from and after the conclusion of the proceedings of the said Commission, be considered and treated as finally settled, barred, and thenceforth inadmissible.

**Article XVIII.**

It is agreed by the High Contracting Parties that, in addition to the liberty secured to the United States fishermen by the Convention between Great Britain and the United States, signed at London on the 20th day of October, 1818, of taking, curing, and drying fish on certain coasts of the British North American Colonies therein defined, the inhabitants of the United States shall have, in common with the subjects of Her Britannic Majesty, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shell-fish, on the sea coasts and shores, and in the bays, harbours, and creeks, of the Provinces of Quebec, Nova Scotia, and New Brunswick, and the Colony of Prince Edward's Island, and of the several islands thereunto adjacent, without being restricted to any distance from the shore, with permission to land upon the said coasts and shores and islands, and also upon the Magdalen Islands, for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with British fishermen, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above mentioned liberty applies solely to the sea fishery, and that the Salmon and shad fisheries, and all other fisheries in rivers and the mouths of rivers, are hereby reserved exclusively for British fishermen.

**Article XIX.**

It is agreed by the High Contracting Parties that British subjects shall have, in common with the citizens of the United States, the liberty, for the term of years mentioned in Article XXXIII of this Treaty, to take fish of every kind, except shellfish, on the eastern sea-coasts and shores of the United States north of the thirty-ninth parallel of north latitude, and on the shores of the several inlands

thereunto adjacent, and in the bays, harbours, and creeks of the said sea-coasts and shores of the United States and of the said islands, without being restricted to any distance from the shore, with permission to land upon the said, coasts of the United States and of the Islands aforesaid

for the purpose of drying their nets and curing their fish; provided that, in so doing, they do not interfere with the rights of private property, or with the fishermen of the United States, in the peaceable use of any part of the said coasts in their occupancy for the same purpose.

It is understood that the above mentioned liberty applies solely to the sea fishery, and that salmon and shad fisheries and all other fisheries in rivers and mouths of rivers, are hereby reserved exclusively for fishermen of the United States.

**Article XX.**

It is agreed that the places designated by the Commissioners appointed under the first Article of the treaty between Great Britain and the United States, concluded at Washington on the 5th of June, 1854, upon the coasts of Her Britannic Majesty's Dominions and the United States, as places reserved from the common right of fishing under that Treaty, shall be regarded as in like manner reserved from the common right of fishing under the preceding Articles. In case any question should arise between the Governments of the United States and of Her Britannic Majesty as to the common right of fishing in places not thus designated as reserved, it is agreed that a Commission shall be appointed to designate such places and shall be constituted in the same manner, and have the same powers, duties, and authority as the Commission appointed under the said first Article of the Treaty of the 5th of June, 1854.

**Article XXI.**

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, fish oil and fish of all kinds, (except fish of the inland lakes and of the rivers falling into them, and except fish preserved in oil,) being the produce of the fisheries of the United States, or of the Dominion of Canada, or of Prince Edward's Island, shall be admitted into each country, respectively, free of duty.

**Article XXII.**

So inasmuch as it is asserted by the Government of Her Britannic Majesty that the privilege accorded to the citizens of the United States under Article XVIII of this Treaty are of greater value than those accorded by Articles XIX and XXI of this Treaty to the subjects of Her Britannic Majesty, and this assertion is not admitted by the Government of the United States, it is further agreed that Commissioners shall be appointed to determine, having regard to the privileges accorded to the United States to the subjects of Her Britannic Majesty, as stated in articles XIX and XXI of this Treaty, the amount of any compensation which, in their opinion, ought to be paid by the Government of the United States to the Government of Her Britannic Majesty in return for the privileges accorded to the citizens of the United States under Article XVIII of this Treaty ; and that any sum of money which the said Commissioners may so award shall be paid by the United States Government, in a gross sum, within twelve months after such award shall have been given.

**Article XXIII.**

The Commissioners referred to in the preceding Article shall be appointed in the following manner, that is to say: One Commissioner shall be named by Her Britannic Majesty, one by the President of the United States and a third by Her Britannic Majesty and the President of the United States conjointly; and in case the third Commissioner shall not have been so named within a period of three months from the date, when this article shall take effect, then the third Commissioner shall be named by the Representative at London of His Majesty the Emperor of Austria and King of Hungary. In case of the death, absence, or incapacity of any Commissioner, or in the event of any Commissioner omitting or ceasing to act, the vacancy shall be filled in the manner hereinbefore provided for making the original appointment, the period of three months in case of such substitution being calculated from the date of the happening of the vacancy.

The Commissioners so named shall meet in the City of Halifax, in the Province of Nova Scotia, at the earliest convenient period, after they have been respectively named, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide the matters referred to them to the best of their judgment, and according to justice and equity; and such declaration shall be entered on the record of their proceedings.

Each of the High Contracting Parties shall also name one person to attend the Commission as its agent, to represent it generally in all matters connected with the Commission.

#### **Article XXIV.**

The proceedings shall be conducted in such order as the Commissioners appointed under Articles XXII and XXIII of this Treaty shall determine. They shall be bound to receive such oral or written testimony as either Government may present. If either Party shall offer oral testimony, the other Party shall have the right of cross-examination, under such rules as the Commissioners shall prescribe.

If in the case submitted to the Commissioners either Party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof; and either Party may call upon the other, through the Commissioners, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Commissioners may require.

The case on either side shall be closed within a period of six months from the date of the organization of the Commission, and the Commissioners shall be requested to give their award as soon as possible thereafter. The aforesaid period of six months may be extended for three months in case of a vacancy occurring among the Commissioners under the circumstances contemplated in Article XXIII of this Treaty.

#### **Article XXV.**

The Commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof, and may appoint and employ a secretary and any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each of the High Contracting Parties shall pay its own Commissioner and agent or counsel; all other expenses shall be defrayed by the two Governments in equal moieties.

#### **Article XXVI.**

The navigation of the river St. Lawrence, ascending and descending, from the forty-fifth parallel of north latitude, where it ceases to form the boundary between the two countries, from, to, and into the sea, shall forever remain free and open for purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain, or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the rivers Yukon, Porcupine, and Stikine, ascending and descending, from, to, and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

**Article XXVII.**

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the State Governments to secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States.

**Article XXVIII.**

The navigation of Lake Michigan shall also, for the term of years mentioned in Article XXXIII of this treaty, be free and open for the purposes of commerce to the subjects of Her Britannic Majesty, subject to any laws and regulations of the United States or of the States bordering thereon not inconsistent with such privilege of free navigation.

**Article XXIX.**

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, goods, wares, or merchandise arriving at the ports of New York, Boston, and Portland, and any other ports in the United States which have been or may from time to time be specially designated by the President of the United States, and destined for Her Britannic Majesty's Possessions in North America, may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the territory of the United States, under such rules, regulations, and conditions, for the protection of the revenue as the Government of the United States may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without the payment of duties, from such Possessions through the territory of the United States for export from the said ports of the United States. It is further agreed that, for the like period, goods, wares, or merchandise arriving at any of the ports of Her Britannic Majesty's Possessions in North America and destined for the United States may be entered at the proper custom-house and conveyed in transit, without the payment of duties, through the said Possessions, under such rules, regulations, and conditions for the protection of the revenue as the Governments of the said Possessions may from time to time prescribe; and, under like rules, regulations, and conditions, goods, wares, or merchandise may be conveyed in transit, without payment of duties, from the United States through the said Possessions to other places in the United States, or for export from ports in the said Possessions.

**Article XXX.**

It is agreed that, for the term of years mentioned in Article XXXIII of this Treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, that a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise from one port or place within the Possessions of Her Britannic Majesty in North America, to another port or place within the said Possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage, and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this Article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the Legislatures of the other Colonies not to impose any export duties on goods, wares, or merchandise carried under this Article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend, during the period that such duties are imposed, the right of carrying granted under this Article in favor of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this Article in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

#### **Article XXXI.**

The Government of Her Britannic Majesty further engages to urge upon the Parliament of the Dominion of Canada and the Legislature of New Brunswick, that no export duty, or other duty, shall be levied on lumber or timber of any kind cut on that portion of the American territory in the State of Maine watered by the river St. John and its tributaries, and floated down that river to the sea, when the same is shipped to the United States from the Province of New Brunswick. And in case any such export or other duty continues to be levied after the expiration of one year from the date of the exchange of the ratifications of this treaty, it is agreed that the Government of the United States may suspend the right of carrying hereinbefore granted under Article XXX of this Treaty for such period as such export or other duty may be levied.

#### **Article XXXII.**

It is further agreed that the provisions and stipulations of Articles XVII T to XXV of this Treaty, inclusive, shall extend to the Colony of Newfoundland, so far as they are applicable. But if the Imperial Parliament, the Legislature of Newfoundland, or the Congress of the United States, shall not embrace the Colony of Newfoundland in their laws enacted for carrying the foregoing Articles into effect, then this Article shall be of no effect; but the omission to make provision by law to give it effect, by either of the legislative bodies aforesaid, shall not in any way impair any other Articles of this Treaty.

#### **Article XXXIII.**

The foregoing Articles XVIII to XXV, inclusive, and Article XXX, of this Treaty, shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain by the Parliament of Canada, and by the Legislature of Prince Edward's Island on the one hand, and by the Congress of the United

States on the other. Such assent having been given, the said Articles shall remain in force for the period of ten years from the date at which they may come into operation; and further until the expiration of two years after either of the High Contracting Parties shall have given notice to the other of its wish to terminate the same ; each of the High Contracting Parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

**Article XXXIV.**

Whereas it was stipulated by Article I of the Treaty concluded at Washington on the 15th of June, 1846, between the United States and Her Britannic Majesty, that the line of boundary between the territories of the United States and those of Her Britannic Majesty from the point on the forty-ninth parallel of north latitude up to which it had already been ascertained, should be continued westward along the said parallel of north latitude “to the middle of the channel which separates the continent from Vancouver’s Island, and thence southerly through the middle of the said channel and of Fuca Straits, to the Pacific Ocean”; and whereas the Commissioners appointed by the two High Contracting Parties to determine that portion of the boundary which runs southerly through the middle of the channel aforesaid, were unable to agree upon the same; and whereas the Government of Her Britannic Majesty claims that such boundary line should, under the terms of the Treaty above recited, be run through the Rosario Straits, and the Government of the United States claims that it should be run through the Canal de Haro, it is agreed that the respective claims of the Government of the United States and the Government of Her Britannic Majesty shall be submitted to the arbitration and award of His Majesty the Emperor of Germany, who, having regard to the above-mentioned Article of the said Treaty, shall decide thereupon, finally and without appeal, which of those claims is most in accordance with the true interpretation of the Treaty of June 15, 1846.

**Article XXXV.**

The award of His Majesty the Emperor of Germany shall be considered as absolutely final and conclusive; and full effect shall be given to such award without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated ; it shall be in whatsoever form His Majesty may choose to adopt it shall be delivered to the Representatives or other public agents of the United States and of Great Britain, respectively, who may be actually at Berlin, and shall be considered as operative from the day of the date of the delivery thereof.

**Article XXXVI.**

The written or printed case of each of the two Parties, accompanied by the evidence offered in support of the same, shall be laid before His Majesty the Emperor of Germany within six months from the date of the exchange of the ratifications of this Treaty, and a copy of such case and evidence shall be communicated by each Party to the other, through their respective Representatives at Berlin.

The High Contracting Parties may include in the evidence to be considered by the Arbitrator such documents, official correspondence, and other official or public statements bearing on the subject of the reference as they may consider necessary to the support of their respective cases.

After the written or printed case shall have been communicated by each Party to the other, each Party shall have the power of drawing up and laying before the Arbitrator a

second and definitive statement, if it think fit to do so, in reply to the case of the other party so communicated, which definitive statement shall be so laid before the Arbitrator, and also be mutually communicated in the same manner as aforesaid, by each Party to the other, within six months from the date of laying the first statement of the case before the Arbitrator.

**Article XXXVII.**

If, in the case submitted to the Arbitrator, either Party shall specify or allude to any report or document in its own exclusive possession without annexing a copy, such Party shall be bound, if the other Party thinks proper to apply for it, to furnish that Party with a copy thereof, and either Party may call upon the other, through the Arbitrator, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrator may require. And if the Arbitrator should desire further elucidation or evidence with regard to any point contained in the statements laid before him, he shall be At liberty to require it from either Party, and he shall be at liberty to hear one counsel or agent for each Party, in relation to any matter, and at such time, and in such manner, as he may think fit.

**Article XXXVIII.**

The Representatives or other public Agents of Great Britain and of the United States at Berlin respectively shall be considered as the agents of their respective Governments to conduct their cases before the Arbitrator, who shall be requested to address all his communications, and give all his notices, to such Representatives or other public agents, who shall represent their respective Governments generally in all matters connected with the arbitration.

**Article XXXIX.**

It shall be competent to the Arbitrator to proceed in the said arbitration, and all matters relating thereto, as and when he shall see fit, either in person, or by a person or persons named by him for that purpose, either in the presence or absence of either or both agents, and either orally, or by written discussion or otherwise.

**Article XL.**

The Arbitrator may, if he think fit, appoint a secretary or clerk, for the purposes of the proposed arbitration, at such rate of remuneration as he shall think proper. This and all other expenses of and connected with the said arbitration, shall be provided for as hereinafter stipulated.

**Article XLI.**

The Arbitrator shall be requested to deliver, together with his award, an account of all the costs and expenses which he may have been put to, in relation to this matter, which shall forthwith be repaid by the two Governments in equal moieties.

**Article XLII.**

The Arbitrator shall be requested to give his award in writing as early as convenient after the whole case on each side shall have been laid before him, and to deliver one copy thereof to each of the said agents.



**Article XLIII.**

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged either at Washington or at London within six months from the date thereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty and have hereunto affixed our seals, done in duplicate at Washington the eighth day of May, in the year of our Lord one thousand eight hundred and seventy-one.

### **3 Convention for the Pacific Settlement of International Disputes (The 1907 Hague Convention on Pacific Settlement)\***

Date: 18 October 1907

Source: JB Scott (ed), *The Hague Conventions and Declarations of 1899 and 1907* (1915)  
[http://avalon.law.yale.edu/20th\\_century/pacific.asp](http://avalon.law.yale.edu/20th_century/pacific.asp)

His Majesty the German Emperor, King of Prussia; the President of the United States of America ....

Animated by the sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Tribunal of Arbitration accessible to all, in the midst of independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an International Agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous, with this object, of insuring the better working in practice of Commissions of Inquiry and Tribunals of Arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure;

Have deemed it necessary to revise in certain particulars and to complete the work of the First Peace Conference for the pacific settlement of international disputes;

The High Contracting Parties have resolved to conclude a new Convention for this purpose, and have appointed the following as their Plenipotentiaries:

[List of Plenipotentiaries]

\* N.B.: The 1907 Hague Convention expands upon the provisions of the Convention on the Pacific Settlement of International Disputes signed at the First Hague Peace Conference of 1899 (in: JB Scott (ed), *The Hague Conventions and Declarations of 1899 and 1907* [1915]; [http://avalon.law.yale.edu/19th\\_century/hague01.asp](http://avalon.law.yale.edu/19th_century/hague01.asp)), eg by providing more detailed provisions on commissions of inquiry and introducing the possibility of summary procedure. In most other respects, the two Conventions are identical.



Who, after deposited their full powers, found in good and due form, have agreed upon the following:

### **Part I. The maintenance of General Peace**

#### **Article 1**

With a view to obviating as far as possible recourse to force in the relations between States, the Contracting Powers agree to use their best efforts to ensure the pacific settlement of international differences.

### **Part II. Good Offices and Mediation**

#### **Article 2**

In case of serious disagreement or dispute, before an appeal to arms, the Contracting Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

#### **Article 3**

Independently of this recourse, the Contracting Powers deem it expedient and desirable that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

#### **Article 4**

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

#### **Article 5**

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

#### **Article 6**

Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

#### **Article 7**

The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

#### **Article 8**

The Contracting Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they entrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

### **Part III. International Commissions of Inquiry**

#### **Article 9**

In disputes of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of facts, the Contracting Powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

#### **Article 10**

International Commissions of Inquiry are constituted by special agreement between the parties in dispute.

The Inquiry convention defines the facts to be examined; it determines the mode and time in which the Commission is to be formed and the extent of the powers of the Commissioners.

It also determines, if there is need, where the Commission is to sit, and whether it may remove to another place, the language the Commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint Assessors, the Convention of Inquiry shall determine the mode of their selection and the extent of their powers.

#### **Article 11**

If the Inquiry Convention has not determined where the Commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, cannot be altered by the Commission except with the assent of the parties.

If the Inquiry Convention has not determined what languages are to be employed, the question shall be decided by the Commission.

#### **Article 12**

Unless an undertaking is made to the contrary, Commissions of Inquiry shall be formed in the manner determined by Articles 45 and 57 of the present Convention.

**Article 13**

Should one of the Commissioners or one of the Assessors, should there be any, either die, or resign, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

**Article 14**

The parties are entitled to appoint special agents to attend the Commission of Inquiry, whose duty it is to represent them and to act as intermediaries between them and the Commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the Commission.

**Article 15**

The International Bureau of the Permanent Court of Arbitration acts as registry for the Commissions which sit at The Hague, and shall place its offices and staff at the disposal of the Contracting Powers for the use of the Commission of Inquiry.

**Article 16**

If the Commission meets elsewhere than at The Hague, it appoints a Secretary-General, whose office serves as registry.

It is the function of the registry, under the control of the President, to make the necessary arrangements for the sittings of the Commission, the preparation of the Minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

**Article 17**

In order to facilitate the constitution and working of Commissions of Inquiry, the Contracting Powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

**Article 18**

The Commission shall settle the details of the procedure not covered by the special Inquiry Convention or the present Convention, and shall arrange all the formalities required for dealing with the evidence.

**Article 19**

On the inquiry both sides must be heard.

At the dates fixed, each party communicates to the Commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.

**Article 20**

The Commission is entitled, with the assent of the Powers, to move temporarily to any place where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.

**Article 21**

Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.

**Article 22**

The Commission is entitled to ask from either party for such explanations and information as it considers necessary.

**Article 23**

The parties undertake to supply the Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the Commission.

If the witnesses or experts are unable to appear before the Commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

**Article 24**

For all notices to be served by the Commission in the territory of a third Contracting Power, the Commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.

The Commission will equally be always entitled to act through the Power on whose territory it sits.

**Article 25**

The witnesses and experts are summoned on the request of the parties or by the Commission of its own motion, and, in every case, through the Government of the State in whose territory they are.

The witnesses are heard in succession and separately in the presence of the agents and counsel, and in the order fixed by the Commission.

**Article 26**

The examination of witnesses is conducted by the President.

The members of the Commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the President to put such additional questions to the witness as they think expedient.

**Article 27**

The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the President to consult notes or documents if the nature of the facts referred to necessitates their employment.

**Article 28**

A Minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

**Article 29**

The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the Commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

**Article 30**

The Commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the Commission.

If a member declines to vote, the fact must be recorded in the Minutes.

**Article 31**

The sittings of the Commission are not public, nor the Minutes and documents connected with the inquiry published except in virtue of a decision of the Commission taken with the consent of the parties.

**Article 32**

After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the President declares the inquiry terminated, and the Commission adjourns to deliberate and to draw up its Report.

**Article 33**

The Report is signed by all the members of the Commission.

If one of the members refuses to sign, the fact is mentioned; but the validity of the Report is not affected.

**Article 34**

The Report of the Commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the Report is given to each party.

**Article 35**

The Report of the Commission is limited to a statement of facts, and has in no way the character of an Award. It leaves to the parties entire freedom as to the effect to be given to the statement.

**Article 36**

Each party pays its own expenses and an equal share of the expenses incurred by the Commission.

**Part IV. International Arbitration**  
**Chapter I. The System of Arbitration**

**Article 37**

International arbitration has for its object the settlement of disputes between States by Judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the Award.

**Article 38**

In questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Contracting Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the Contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

**Article 39**

The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

**Article 40**

Independently of general or private Treaties expressly stipulating recourse to arbitration as obligatory on the Contracting Powers, the said Powers reserve to themselves the right of concluding new Agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

**Chapter II. The Permanent Court of Arbitration**

**Article 41**

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the Contracting Powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

**Article 42**

The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special Tribunal.

**Article 43**

The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The Contracting Powers undertake to communicate to the Bureau, as soon as possible, a certified copy of any conditions of arbitration arrived at between them and of any Award concerning them delivered by a special Tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the Awards given by the Court.

**Article 44**

Each Contracting Power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of Arbitrator.

The persons thus elected are inscribed, as Members of the Court, in a list which shall be notified to all the Contracting Powers by the Bureau.

Any alteration in the list of Arbitrators is brought by the Bureau to the knowledge of the Contracting Powers.

Two or more Powers may agree on the selection in common of one or more Members.

The same person can be selected by different Powers. The Members of the Court are appointed for a term of six years. These appointments are renewable.

Should a Member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

**Article 45**

When the Contracting Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the Arbitrators called upon to form the Tribunal with jurisdiction to decide this difference must be chosen from the general list of Members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued:

Each party appoints two Arbitrators, of whom one only can be its national or chosen from among the persons selected by it as Members of the Permanent Court. These Arbitrators together choose an Umpire.

If the votes are equally divided, the choice of the Umpire is intrusted to a third Power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the Umpire is made in concert by the Powers thus selected.

If, within two months' time, these two Powers cannot come to an agreement, each of them presents two candidates taken from the list of Members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be Umpire.

**Article 46**

The Tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their 'Compromis', and the names of the Arbitrators.

The Bureau communicates without delay to each Arbitrator the 'Compromis', and the names of the other members of the Tribunal.

The Tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the Tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

**Article 47**

The Bureau is authorized to place its offices and staff at the disposal of the Contracting Powers for the use of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the parties are agreed on recourse to this Tribunal.

**Article 48**

The Contracting Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

The Bureau must at once inform the other Power of the declaration.

**Article 49**

The Permanent Administrative Council, composed of the Diplomatic Representatives of the Contracting Powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as President, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with regard to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employees of the Bureau.

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the Contracting Powers without delay the regulations adopted by it. It furnishes them with an annual Report on the labours of the Court, the working of the administration, and the expenditure. The Report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article 43, paragraphs 3 and 4.

**Article 50**

The expenses of the Bureau shall be borne by the Contracting Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

The expenses to be charged to the adhering Powers shall be reckoned from the date on which their adhesion comes into force.



### Chapter III. Arbitration Procedure

#### Article 51

With a view to encouraging the development of arbitration, the Contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

#### Article 52

The Powers which have recourse to arbitration sign a 'Compromis', in which the subject of the dispute is clearly defined, the time allowed for appointing Arbitrators, the form, order, and time in which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The 'Compromis' likewise defines, if there is occasion, the manner of appointing Arbitrators, any special powers which may eventually belong to the Tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

#### Article 53

The Permanent Court is competent to settle the 'Compromis', if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of:

1. A dispute covered by a general Treaty of Arbitration concluded or renewed after the present Convention has come into force, and providing for a 'Compromis' in all disputes and not either explicitly or implicitly excluding the settlement of the 'Compromis' from the competence of the Court. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the Treaty of Arbitration confers upon the Arbitration Tribunal the power of deciding this preliminary question.

2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the 'Compromis' should be settled in some other way.

#### Article 54

In the cases contemplated in the preceding Article, the 'Compromis' shall be settled by a Commission consisting of five members selected in the manner arranged for in Article 45, paragraphs 3 to 6.

The fifth member is President of the Commission *ex officio*.

#### Article 55

The duties of Arbitrator may be conferred on one Arbitrator alone or on several Arbitrators selected by the parties as they please, or chosen by them from the Members of the Permanent Court of Arbitration established by the present Convention.

Failing the constitution of the Tribunal by direct agreement between the parties, the course referred to in Article 45, paragraphs 3 to 6, is followed.

**Article 56**

When a Sovereign or the Chief of a State is chosen as Arbitrator, the arbitration procedure is settled by him.

**Article 57**

The Umpire is President of the Tribunal *ex officio*.

When the Tribunal does not include an Umpire, it appoints its own President.

**Article 58**

When the 'Compromis' is settled by a Commission, as contemplated in Article 54, and in the absence of an agreement to the contrary, the Commission itself shall form the Arbitration Tribunal.

**Article 59**

Should one of the Arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

**Article 60**

The Tribunal sits at The Hague, unless some other place is selected by the parties.

The Tribunal can only sit in the territory of a third Power with the latter's consent.

The place of meeting once fixed cannot be altered by the Tribunal, except with the consent of the parties.

**Article 61**

If the question as to what languages are to be used has not been settled by the 'Compromis', it shall be decided by the Tribunal.

**Article 62**

The parties are entitled to appoint special agents to attend the Tribunal to act as intermediaries between themselves and the Tribunal.

They are further authorized to retain for the defence of their rights and interests before the Tribunal counsel or advocates appointed by themselves for this purpose.

The Members of the permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them Members of the Court.

**Article 63**

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the Tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the 'Compromis'.

The time fixed by the 'Compromis' may be extended by mutual agreement by the parties, or by the Tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consists in the oral development before the Tribunal of the arguments of the parties.

**Article 64**

A certified copy of every document produced by one party must be communicated to the other party.

**Article 65**

Unless special circumstances arise, the Tribunal does not meet until the pleadings are closed.

**Article 66**

The discussions are under the control of the President. They are only public if it be so decided by the Tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the Secretaries appointed by the President. These minutes are signed by the President and by one of the Secretaries and alone have an authentic character.

**Article 67**

After the close of the pleadings, the Tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

**Article 68**

The Tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the Tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

**Article 69**

The Tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the Tribunal takes note of it.

**Article 70**

The agents and the counsel of the parties are authorized to present orally to the Tribunal all the arguments they may consider expedient in defence of their case.

**Article 71**

They are entitled to raise objections and points. The decisions of the Tribunal on these points are final and cannot form the subject of any subsequent discussion.

**Article 72**

The members of the Tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the Tribunal in the course of the discussions, can be regarded as an expression of opinion by the Tribunal in general or by its members in particular.

**Article 73**

The Tribunal is authorized to declare its competence in interpreting the 'Compromis', as well as the other Treaties which may be invoked, and in applying the principles of law.

**Article 74**

The Tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

**Article 75**

The parties undertake to supply the Tribunal, as fully as they consider possible, with all the information required for deciding the case.

**Article 76**

For all notices which the Tribunal has to serve in the territory of a third Contracting Power, the Tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They cannot be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the Power on whose territory it sits.

**Article 77**

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the President shall declare the discussion closed.

**Article 78**

The Tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the Tribunal.

**Article 79**

The Award must give the reasons on which it is based. It contains the names of the Arbitrators; it is signed by the President and Registrar or by the Secretary acting as Registrar.

**Article 80**

The Award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

**Article 81**

The Award, duly pronounced and notified to the agents of the parties, settles the dispute definitively and without appeal.

**Article 82**

Any dispute arising between the parties as to the interpretation and execution of the Award shall, in the absence of an Agreement to the contrary, be submitted to the Tribunal which pronounced it.

**Article 83**

The parties can reserve in the 'Compromis' the right to demand the revision of the Award.

In this case and unless there be an Agreement to the contrary, the demand must be addressed to the Tribunal which pronounced the Award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the Award and which was unknown to the Tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the Tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The 'Compromis' fixes the period within which the demand for revision must be made.

**Article 84**

The Award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the Signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the Award is equally binding on them.

**Article 85**

Each party pays its own expenses and an equal share of the expenses of the Tribunal.

**Chapter IV. Arbitration by Summary Procedure****Article 86**

With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

**Article 87**

Each of the parties in dispute appoints an Arbitrator. The two Arbitrators thus selected choose an Umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the Members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the Umpire is determined by lot.

The Umpire presides over the Tribunal, which gives its decisions by a majority of votes.

**Article 88**

In the absence of any previous agreement the Tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

**Article 89**

Each party is represented before the Tribunal by an agent, who serves as intermediary between the Tribunal and the Government who appointed him.

**Article 90**

The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The Tribunal has, for its part, the right

to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

## **Part V. Final Provisions**

### **Article 91**

The present Convention, duly ratified, shall replace, as between the Contracting Powers, the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899.

### **Article 92**

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the Representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to those Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.

### **Article 93**

Non-Signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

The Power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.

This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

### **Article 94**

The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the present Convention shall form the subject of a subsequent Agreement between the Contracting Powers.

### **Article 95**

The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

**Article 96**

In the event of one of the Contracting Parties wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherland Government.

**Article 97**

A register kept by the Netherland Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article 92, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 93, paragraph 2) or of denunciation (Article 96, paragraph 1) have been received.

Each Contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the Plenipotentiaries have appended their signatures to the present Convention.

Done at The Hague, the 18th October 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the Contracting Powers.

## **4 Convention for the Establishment of a Central American Court of Justice**

Date: 20 December 1907

Source: (1908) 2 American Journal of International Law (Suppl) 231

**Preamble**

The Governments of the Republics of Costa Rica, Guatemala, Honduras, Nicaragua and Salvador, for the purpose of efficaciously guaranteeing their rights and maintaining peace and harmony inalterably in their relations, without being obliged to resort in any case to the employment of force, have agreed to conclude a Convention for the constitution of a Court of Justice charged with accomplishing such high aims, and, to that end, have named as Delegates:

[Names of delegates.]

**Article I.**

The High Contracting Parties agree by the present Convention to constitute and maintain a permanent tribunal which shall be called the "Central American Court of Justice," to which they bind themselves to submit all controversies or questions which may arise among them, of whatsoever nature and no matter what their origin may be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding.

**Article II.**

This Court shall also take cognizance of the questions which individuals of one Central American country may raise against any of the other contracting Governments, because of the violation of treaties or conventions, and other cases of an international character; no matter whether their own Government supports said claim or not; and provided that the remedies which the laws of the respective country provide against such violation shall have been exhausted or that denial of justice shall have been shown.

**Article III.**

It shall also take cognizance of the cases which by common accord the contracting Governments may submit to it, no matter whether they arise between two or more of them or between one of said Governments and individuals. It shall also have jurisdiction over cases arising between any of the Contracting Governments and individuals, when by common accord they are submitted to it.

**Article IV.**

The Court can likewise take cognizance of the international questions which by special agreement any one of the Central American Governments and a foreign Governments may have determined to submit to it.

**Article V.**

The Central American Court of Justice shall sit at the City of Cartago in the Republic of Costa Rica, but it may temporarily transfer its residence to another point in Central America whenever it deems it expedient for reasons of health, or in order to insure the exercise of its functions, or of the personal safety of its members.

**Article VI.**

The Central American Court of Justice shall consist of five Justices, one being appointed by each Republic and selected from among the jurists who possess the qualifications which the laws of each country prescribe for the exercise of high judicial office, and who enjoy the highest consideration, both because of their moral character and their professional ability.

Vacancies shall be filled by substitute Justices, named at the same time and in the same manner as the regular Justices and who shall unite the same qualifications as the latter. The attendance of the five justices who constitute the Tribunal is indispensable in order to make a legal quorum in the decisions of the Court.

**Article VII.**

The Legislative Power of each one of the five contracting Republics shall appoint their respective Justices, one regular and two substitutes.

The salary of each Justice shall be eight thousand dollars, gold, per annum, which shall be paid them by the Treasury of the Court. The salary of the Justice of the country where the Court resides shall be fixed by the Government thereof. Furthermore each State shall contribute two thousand dollars, gold, annually toward the ordinary and extraordinary expenses of the Tribunal. The Governments of the contracting Republics bind themselves to include their respective contributions in their estimates of expenses and to remit quarterly in advance to the Treasury of the Court the share they may have to bear on account of such services.



**Article VIII.**

The regular and substitute Justices shall be appointed for a term of five years, which shall be counted from the day on which they assume the duties of their office, and they may be reelected.

In case of death, resignation or permanent incapacity of any of them, the vacancy shall be filled by the respective Legislature, and the Justice elected shall complete the term of his predecessor.

**Article IX.**

The regular and substitute Justices shall take oath or make affirmation prescribed by law before the authority that may have appointed them, and from that moment they shall enjoy the immunities and prerogatives which the present Convention confers upon them. The regular Justices shall likewise enjoy thenceforth the salary fixed in Article VII.

**Article X.**

Whilst they remain in the country of their appointment the regular and substitute Justices shall enjoy the personal immunity which the respective laws grant to the magistrates of the Supreme Court of Justice, and in the other contracting Republics they shall have the privileges and immunities of Diplomatic Agents.

**Article XI.**

The office of Justice whilst held is incompatible with the exercise of his profession, and with the holding of public office. The same incompatibility applies to the substitute Justices so long as they may actually perform their duties.

**Article XII.**

At its first annual session the Court shall elect from among its own members a President and Vice-President; it shall organize the personnel of its office by designating a Clerk, a Treasurer, and such other subordinate employees as it may deem necessary, and it shall draw up the estimate of its expenses.

**Article XIII.**

The Central American Court of Justice represents the national conscience of Central America, wherefore the Justices who compose the Tribunal shall not consider themselves barred from the discharge of their duties because of the interest which the Republics, to which they owe their appointment, may have in any case or question. With regard to allegations of personal interest, the rules of procedure which the Court may fix, shall make proper provision.

**Article XIV.**

When differences or questions subject to the jurisdiction of the Tribunal arise, the interested party shall present a complaint which shall comprise all the points of fact and law relative to the matter, and all pertinent evidence. The Tribunal shall communicate without loss of time a copy of the complaint to the Governments or individuals interested, and shall invite them to furnish their allegations and evidence within the term that it may designate to them, which, in no case, shall exceed sixty days counted from the date of notice of the complaint.

**Article XV.**

If the term designated shall have expired without answer having been made to the complaint, the Court shall require the complainant or complainants to do so within a further term not to exceed twenty days, after the expiration of which and in view of the evidence presented and of such evidence as it may ex officio have seen fit to obtain, the Tribunal shall render its decision in the case, which decision shall be final.

**Article XVI.**

If the Government, Governments, or individuals sued shall have appeared in time before the Court, presenting their allegations and evidence, the Court shall decide the matter within thirty days following, without further process or proceedings; but if a new term for the presentation of evidence be solicited, the Court shall decide whether or not there is occasion to grant it; and in the affirmative it shall fix therefore a reasonable time. Upon the expiration of such term, the Court shall pronounce its final judgment within thirty days.

**Article XVII.**

Each one of the Governments or individuals directly concerned in the questions to be considered by the Court has the right to be represented before it by a trustworthy person or persons, who shall present evidence, formulate arguments, and shall, within the terms fixed by this Convention and by the rules of the Court of Justice do everything that in their judgment shall be beneficial to the defense of the rights they represent.

**Article XVIII.**

From the moment in which any suit is instituted against any one or more governments up to that in which a final decision has been pronounced, the court may at the solicitation of any one of the parties fix the situation in which the contending parties must remain, to the end that the difficulty shall not be aggravated and that things shall be conserved in statu quo pending a final decision.

**Article XIX.**

For all the effects of this Convention, the Central American Court of Justice may address itself to the Governments or tribunals of justice of the contracting States, through the medium of the Ministry of Foreign Relations or the office of the Clerk of the Supreme Court of Justice of the respective country, according to the nature of the requisite proceeding, in order to have the measures that it may dictate within the scope of its jurisdiction carried out.

**Article XX.**

It may also appoint special commissioners to carry out the formalities above referred to, when it deems it expedient for their better fulfillment. In such case, it shall ask of the Government where the proceeding is to be had, its cooperation and assistance, in order that the Commissioner may fulfill his mission. The contracting Governments formally bind themselves to obey and to enforce the orders of the Court, furnishing all the assistance that may be necessary for their best and most expeditious fulfillment.

**Article XXI.**

In deciding points of fact that may be raised before it, the Central American Court of Justice shall be governed by its free judgment, and with respect to points of law, by the

principles of international law. The final judgment shall cover each one of the points in litigation.

**Article XXII.**

The Court is competent to determine its jurisdiction, interpreting the Treaties and Conventions germane to the matter in dispute, and applying the principles of international law.

**Article XXIII.**

Every final or interlocutory decision shall be rendered with the concurrence of at least three of the Justices of the Court. In case of disagreement, one of the substitute Justices shall be chosen by lot, and if still a majority of three be not thus obtained other Justices shall be successively chosen by lot until three uniform votes shall have been obtained.

**Article XXIV.**

The decisions must be in writing and shall contain a statement of the reasons upon which they are based. They must be signed by all the Justices of the Court and countersigned by the Clerk. Once they have been notified they can not be altered on any account; but, at the request of any of the parties, the Tribunal may declare the interpretation which must be given to its judgments.

**Article XXV.**

The judgments of the Court shall be communicated to the five Governments of the contracting Republics. The interested parties solemnly bind themselves to submit to said judgments, and all agree to lend all moral support that may be necessary in order that they may be properly fulfilled, thereby constituting a real and positive guarantee of respect for this Convention and for the Central American Court of Justice.

**Article XXVI.**

The Court is empowered to make its rules, to formulate the rules of procedure which may be necessary, and to determine the forms and terms not prescribed in the present Convention. All the decisions which may be rendered in this respect shall be communicated immediately to the High Contracting Parties.

**Article XXVII.**

The High Contracting Parties solemnly declare that on no ground nor in any case will they consider the present Convention as void; and that, therefore, they will consider it as being always in force during the term of ten years counted from the last ratification. In the event of the change or alteration of the political status of one or more of the Contracting Republics, the functions of the Central American Court of Justice created by this Convention shall be suspended ipso facto; and a conference to adjust the constitution of said Court to the new order of things shall be forthwith convoked by the respective Governments; in case they do not unanimously agree the present Convention shall be considered as rescinded.

**Article XXVIII.**

The exchange of ratifications of the present Convention shall be made in accordance with Article XXI of the General Treaty of Peace and Amity concluded on this date.

**Provisional Article.**

As recommended by the five Delegations an Article is annexed which contains an amplification of the jurisdiction of the Central American Court of Justice, in order that the Legislatures may, if they see fit, include it in this Convention upon ratifying it.

**Annexed Article.**

The Central American Court of Justice shall also have jurisdiction over the conflicts which may arise between the Legislative, Executive and Judicial Powers, and when as a matter of fact the judicial decisions and resolutions of the National Congress are not respected.

Signed at the city of Washington on the twentieth day of December, one thousand nine hundred and seven.

## **5 General Act (Pacific Settlement of International Disputes)\***

Date: 26 September 1928

Source: 93 LNTS 344

### **CHAPTER I.**

#### **Conciliation.**

**Article 1.**

Disputes of every kind between two or more Parties to the present General Act which it has not been possible to settle by diplomacy shall, subject to such reservations as may be made under Article 39, be submitted, under the conditions laid down in the present Chapter, to the procedure of conciliation.

**Article 2.**

The disputes referred to in the preceding article shall be submitted to a permanent or special Conciliation Commission constituted by the parties to the dispute.

**Article 3.**

On a request to that effect being made by one of the Contracting Parties to another Party, a permanent Conciliation Commission shall be constituted within a period of six months.

**Article 4.**

Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

\* N.B.: In 1949, the UN General Assembly 'instruct[ed] the Secretary-General to prepare a revised text of the [1928] General Act ... and to hold it open to accession by States, under the title "Revised General Act for the Pacific Settlement of International Disputes" (GA Res 268 [III]). The 'Revised Act', which—but for references to UN organs—is almost identical, can be found in 71 UNTS 101.

- (1) The Commission shall be composed of five members. The parties shall each nominate one commissioner, who must be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third Powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties. The parties shall appoint the President of the Commission from among them.
- (2) The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace a commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.
- (3) Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

**Article 5.**

If, when a dispute arises, no permanent Conciliation Commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

**Article 6.**

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in Articles 3 and 5, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or on request of the parties, to the Acting President of the Council of the League of Nations.

2. If no agreement is reached on either of these procedures, each party shall designate a different Power, and the appointment shall be made in concert by the Powers thus chosen.

3. If, within a period of three months, the two Powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

**Article 7.**

1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two parties acting in agreement, or in default thereof by one or other of the parties.

2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.

3. If the application emanates from only one of the parties, the other party shall, without delay, be notified by it.

**Article 8.**

1. Within fifteen days from the date on which a dispute has been brought by one of the parties before a permanent Conciliation Commission, either party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.

2. The party making use of the right shall immediately notify the other party; the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which it received the notification.

**Article 9.**

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the League of Nations, or at some other place selected by its President.

2. The Commission may in all circumstances request the Secretary-General of the League of Nations to afford it his assistance.

**Article 10.**

The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the parties.

**Article 11.**

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of Part III of the Hague Convention of October 18, 1907, for the Pacific Settlement of International Disputes.

2. The parties shall be represented before the Conciliation Commission by agents, whose duty shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable shall be heard.

3. The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both parties, as well as from all persons it may think desirable to summon with the consent of their governments.

**Article 12.**

In the absence of agreement to the contrary between the parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the Commission may only take decisions on the substance of the dispute if all its members are present.

**Article 13.**

The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all the relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

**Article 14.**

1. During the proceedings of the Commission, each of the commissioners shall receive emoluments the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the Commission shall be divided in the same manner.

**Article 15.**

1. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decisions.

2. At the close of the proceedings the Commission shall draw up a *procès-verbal* stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the *procès-verbal* of whether the Commission's decisions were taken unanimously or by a majority vote.

3. The proceedings of the Commission must, unless the parties otherwise agree, be terminated within six months from the date on which the Commission shall have been given cognisance of the dispute.

**Article 16.**

The Commission's *procès-verbal* shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

## **CHAPTER II.**

### **Judicial Settlement.**

**Article 17.**

All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under Article 39, be submitted for decision to the Permanent Court of International Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal.

It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the Permanent Court of International Justice.

**Article 18.**

If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, and the procedure to be followed. In the absence of sufficient particulars in the special agreement, the provisions of the Hague Convention of October 18<sup>th</sup>, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the Permanent Court of International Justice.

**Article 19.**

If the parties fail to agree concerning the special agreement referred to in the preceding article, or fail to appoint arbitrators, either party shall be at liberty, after giving three month's notice, to bring the dispute by an application direct before the Permanent Court of International Justice.

**Article 20.**

1. Notwithstanding the provisions of Article 1, disputes of the kind referred to in Article 17 arising between parties who have acceded to the obligations contained in the present chapter shall only be subject to the procedure of conciliation if the parties so agree.

2. The obligation to resort to the procedure of conciliation remains applicable to disputes which are excluded from judicial settlement only by the operation of reservations under the provisions of Article 39.

3. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the Permanent Court of International Justice or call for the constitution of the arbitral tribunal referred to in Article 18 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

### **CHAPTER III. Arbitration.**

**Article 21.**

Any dispute not of the kind referred to in Article 17 which does not, within the month following the termination of the work of the Conciliation Commission provided for in Chapter I, form the object of an agreement between the parties, shall, subject to such reservations as may be made under Article 39, be brought before an arbitral tribunal which, unless the parties otherwise agree, shall be constituted in the manner set out below.

**Article 22.**

The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The two other arbitrators and the Chairman shall be chosen by common agreement from among the nationals of third Powers. They must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties.

**Article 23.**

1. If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointments.

2. If no agreement is reached on this point, each party shall designate a different Power, and the appointments shall be made in concert by the Powers thus chosen.

3. If, within a period of three months, the two Powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the President of the Permanent Court of International Justice. If the latter is prevented from acting or is a subject of one of the parties, the nominations shall be made by the Vice-President. If the



latter is prevented or is a subject of one the parties, the appointments shall be made by the oldest member of the Court who is not a subject of either party.

**Article 24.**

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

**Article 25.**

The parties shall draw up a special agreement determining the subject of the disputes and the details of the procedure.

**Article 26.**

In the absence of sufficient particulars in the special agreement regarding the matters referred to in the preceding article, the provisions of the Hague Convention of October 18<sup>th</sup>, 1907, for the Pacific Settlement of International Disputes shall apply so far as is necessary.

**Article 27.**

Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal by an application by one or other party.

**Article 28.**

If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute enumerated in Article 38 of the Statute of the Permanent Court of International Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.

## CHAPTER IV. General Provisions.

**Article 29.**

1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

2. The present General Act shall not affect any agreements in force by which conciliation procedure is established between the Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present General Act concerning judicial settlement or arbitration shall be applied in so far as the parties have acceded thereto.

**Article 30.**

If a party brings before a Conciliation Commission a dispute which the other party, relying on conventions in force between the parties, has submitted to the Permanent Court of International Justice or an Arbitral Tribunal, the Commission shall defer consideration of the dispute until the Court or the Arbitral Tribunal has pronounced upon the conflict of

competence. The same rule shall apply if the Court of the Tribunal is seized of the case by one of the parties during the conciliation proceedings.

**Article 31.**

1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present General Act until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.

2. In such a case, the party which desires to resort to the procedures laid down in the present General Act must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

**Article 32.**

If, in a judicial sentence or arbitral award, it is declared that a judgment, or a measure enjoined by a court of law or other authority of one of the parties of the dispute, is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially permits the consequences of the judgment of measure in question to be annulled, the parties agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction.

**Article 33.**

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the Permanent Court of International Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures.

2. If the dispute is brought before a Conciliation Commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.

3. The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

**Article 34.**

Should a dispute arise between more than two Parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described in the foregoing provisions:

- (a) In the case of conciliation procedure, a special commission shall invariably be constituted. The composition of such commission shall differ according as the parties all have separate interests or as two or more of their number act together.

In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners nationals of third Powers not parties to the dispute, whose number shall always exceed by one the number of commissioners appointed separately by the parties.

In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves and shall combine with the other party or parties in appointing third commissioners.

In either event, the parties, unless they agree otherwise, shall apply Article 5 and the following articles of the present Act, so far as they are compatible with the provisions of the present article.

- (b) In the case of judicial procedure, the Statute of the Permanent Court of International Justice shall apply.
- (c) In the case of arbitral procedure, if agreement is not secured as to the composition of the tribunal, in the case of the disputes mentioned in Article 17, each party shall have the right, by means of an application, to submit the dispute to the Permanent Court of International Justice; in the case of the disputes mentioned in Article 21, the above Article 22 and following articles shall apply, but each party having separate interests shall appoint one arbitrator and the number of arbitrators separately appointed by the parties to the dispute shall always be one less than that of the other arbitrators.

#### **Article 35.**

1. The present General Act shall be applicable as between the Parties thereto, even though a third Power, whether a party to the Act or not, has an interest in the dispute.

2. In conciliation procedure, the parties may agree to invite such third Power to intervene.

#### **Article 36.**

1. In judicial or arbitral procedure, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the Permanent Court of International Justice or to the arbitral tribunal a request to intervene as a third party.

2. It will be for the Court or the tribunal to decide upon this request.

#### **Article 37.**

1. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the Permanent Court of International Justice or the arbitral tribunal shall notify all such States forthwith.

2. Every State so notified has the right to intervene in the proceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

#### **Article 38.**

Accessions to the present General Act may extend:

- A. Either to all the provisions of the Act (Chapters I, II, III and IV);
- B. Or to those provisions only which relate to conciliation and judicial settlement (Chapters I and II), together with the general provisions dealing with these procedures (Chapter IV);
- C. Or to those provisions only which relate to conciliation (Chapter I), together with the general provisions concerning that procedure (Chapter IV).

The Contracting Parties may benefit by the accessions of other Parties only in so far as they have themselves assumed the same obligations.

**Article 39.**

1. In addition to the power given in the preceding article, a Party, in acceding to the present General Act, may make his acceptance conditional upon the reservations exhaustively enumerated in the following paragraph. These reservations must be indicated at the time of accession.

2. These reservations may be such as to exclude from the procedure described in the present Act:

- (a) Disputes arising out of facts prior to the accession either of the Party making the reservation or of any other Party with whom the said Party may have a dispute;
- (b) Disputes concerning questions which by international law are solely within the domestic jurisdiction of States;
- (c) Disputes concerning particular cases or clearly specified subject-matters, such as territorial status, or disputes falling within clearly defined categories.

3. If one of the parties to a dispute has made a reservation, the other parties may enforce the same reservation in regard to that party.

4. In the case of Parties, who have acceded to the provisions of the present General Act relating to judicial settlement or to arbitration, such reservations as they may have made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.

**Article 40.**

A Party whose accession has been only partial, or was made subject to reservations, may at any moment, by means of a simple declaration, either extend the scope of his accession or abandon all or part of his reservations.

**Article 41.**

Disputes relating to the interpretation or application of the present General Act, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the Permanent Court of International Justice.

**Article 42.**

The present General Act, of which the French and English texts shall both be authentic, shall bear the date of the 26<sup>th</sup> of September, 1928.

**Article 43.**

1. The present General Act shall be open to accession by all the Heads of States or other competent authorities of the Members of the League of Nations and the non-Member States to which the Council of the League of Nations has communicated a copy of this purpose.

2. The instruments of accession and the additional declarations provided for by Article 40 shall be transmitted to the Secretary-General of the League of Nations, who shall notify their receipt to all the Members of the League and the non-Member States referred to in the preceding paragraph.

**Article 44.**

1. The present General Act shall come into force on the ninetieth day following the receipt by the Secretary-General of the League of Nations of the accession of not less than two Contracting Parties.

2. Accessions received after the entry into force of the Act, in accordance with the previous paragraph, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the League of Nations. The same rule shall apply to the additional declaration provided for by Article 40.

**Article 45.**

1. The present General Act shall be concluded for a period of five years, dating from its entry into force.

2. It shall remain in force for further successive periods of five years in the case of Contracting Parties which do not denounce it at least six months before the expiration of the current period.

3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non-Member States referred to in Article 43.

4. A denunciation may be partial only, or may consist in notification of reservations not previously made.

5. Notwithstanding denunciation by one of the Contracting Parties concerned in a dispute, all proceedings pending at the expiration of the current period of the General Act shall be duly completed.

**Article 46.**

A copy of the present General Act, signed by the President of the Assembly and by the Secretary-General of the League of Nations, shall be deposited in the archives of the Secretariat; a certified true copy shall be delivered by the Secretary-General to all the Members of the League of Nations and to the non-Member States indicated by the Council of the League of Nations.

**Article 47.**

The present General Act shall be registered by the Secretary-General of the League of Nations on the date of its entry into force.

*The President of the ninth ordinary session of the  
Assembly of the League of Nations:*

*(Signed)* Herluf Zahle.

The Secretary-General:

*(Signed)* Eric Drummond.

## 6 Charter of the United Nations

Date: 26 June 1945

Source: United Nations Conference on International Organization, Documents, vol XV (1945) 335

<http://www.un.org/en/documents/charter/>

### Preamble

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED  
to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and  
to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and  
to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and  
to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS  
to practice tolerance and live together in peace with one another as good neighbors, and  
to unite our strength to maintain international peace and security, and  
to ensure by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and  
to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

...

### CHAPTER I PURPOSES AND PRINCIPLES

#### Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. 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;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

## **Article 2**

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

...

## **CHAPTER III ORGANS**

### **Article 7**

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

...

## **CHAPTER VI PACIFIC SETTLEMENT OF DISPUTES**

### **Article 33**

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

**Article 34**

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

**Article 35**

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

**Article 36**

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

**Article 37**

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

**Article 38**

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

**CHAPTER VII****ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF  
THE PEACE, AND ACTS OF AGGRESSION****Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures



shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

**Article 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

**Article 41**

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

**Article 42**

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

**Article 43**

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

**Article 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

**Article 45**

In order to enable the United Nations to take urgent military measures Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

**Article 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

**Article 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

**Article 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

**Article 49**

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

**Article 50**

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

**Article 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

**CHAPTER VIII  
REGIONAL ARRANGEMENTS****Article 52**

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

**Article 53**

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

**Article 54**

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

...

## **CHAPTER XIV**

### **THE INTERNATIONAL COURT OF JUSTICE**

#### **Article 92**

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

#### **Article 93**

1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

#### **Article 94**

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

#### **Article 95**

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

#### **Article 96**

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

## **CHAPTER XV**

### **THE SECRETARIAT**

#### **Article 97**

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

#### **Article 98**

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs.

The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

**Article 99**

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

**Article 100**

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

**Article 101**

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

...

## **General Assembly Resolutions Addressing Issues of Dispute Settlement**

### **7.a Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (Friendly Relations Declaration)**

Date: 24 October 1970

Source: UN Doc A/RES/2625 (XXV) (Annex)

<http://www.un.org/documents/ga/res/25/ares25.htm>

**Preamble**

The General Assembly,

Reaffirming in the terms of the Charter of the United Nations that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Bearing in mind also the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations,

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among States and the fulfillment in good faith of the obligations assumed by States, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

Noting that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter give increased importance to these principles and to the need for their more effective application in the conduct of States wherever carried on,

Recalling the established principle that outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

Convinced that the strict observance by States of the obligation not to intervene in the affairs of any other State is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

Recalling the duty of States to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State,

Considering it essential that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Considering it equally essential that all States shall settle their international disputes by peaceful means in accordance with the Charter,

Reaffirming, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if States enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security, Convinced that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among States, based on respect for the principle of sovereign equality,

Convinced in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter,

Considering the provisions of the Charter as a whole and taking into account the role of relevant resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

Considering that the progressive development and codification of the following principles:

- (a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,
- (b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered,
- (c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter,
- (d) The duty of States to co-operate with one another in accordance with the Charter,
- (e) The principle of equal rights and self-determination of peoples,
- (f) The principle of sovereign equality of States,
- (g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more effective application within the international community, would promote the realization of the purposes of the United Nations,

Having considered the principles of international law relating to friendly relations and co-operation among States,

1. Solemnly proclaims the following principles:

**The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations**

Every State has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the purposes and principles of the United Nations, States have the duty to refrain from propaganda for wars of aggression.

Every State has the duty to refrain from the threat or use of force to violate the existing international boundaries of another State or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of States.

Every State likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special regimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every State has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination of their right to self-determination and freedom and independence.



Every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands including mercenaries, for incursion into the territory of another State.

Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a State shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal. Nothing in the foregoing shall be construed as affecting:

- (a) Provisions of the Charter or any international agreement prior to the Charter regime and valid under international law; or
- (b) The powers of the Security Council under the Charter.

All States shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among States.

All States shall comply in good faith with their obligations under the generally recognized principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

**The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered**

Every State shall settle its international disputes with other States by peaceful means in such a manner that international peace and security and justice are not endangered.

States shall accordingly seek early and just settlement of their international disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice. In seeking such a settlement the parties shall agree upon such peaceful means as may be appropriate to the circumstances and nature of the dispute.

The parties to a dispute have the duty, in the event of failure to reach a solution by any one of the above peaceful means, to continue to seek a settlement of the dispute by other peaceful means agreed upon by them.

States parties to an international dispute, as well as other States shall refrain from any action which may aggravate the Situation so as to endanger the maintenance of international peace and security, and shall act in accordance with the purposes and principles of the United Nations.

International disputes shall be settled on the basis of the Sovereign equality of States and in accordance with the Principle of free choice of means. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with sovereign equality.



Nothing in the foregoing paragraphs prejudices or derogates from the applicable provisions of the Charter, in particular those relating to the peaceful settlement of international disputes.

**The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter**

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

No State may use or encourage the use of economic political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

Nothing in the foregoing paragraphs shall be construed as reflecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

...

**7.b Manila Declaration on the Peaceful Settlement of  
International Disputes  
(Manila Declaration)**

Date: 15 November 1982

Source: UN Doc A/RES/37/10 (Annex)

<http://www.un.org/documents/ga/res/37/a37r010.htm>

The General Assembly,

Reaffirming the principle of the Charter of the United Nations that all States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered,

Conscious that the Charter of the United Nations embodies the means and an essential framework for the peaceful settlement of international disputes, the continuance of which is likely to endanger the maintenance of international peace and security,

Recognizing the important role of the United Nations and the need to enhance its effectiveness in the peaceful settlement of international disputes and the maintenance of international peace and security, in accordance with the principles of justice and international law, in conformity with the Charter of the United Nations,

Reaffirming the principle of the Charter of the United Nations that all States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Reiterating that no State or group of States has the right to intervene directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Bearing in mind the importance of maintaining and strengthening international peace and security and the development of friendly relations among States, irrespective of their political, economic and social systems or levels of economic development,

Reaffirming the principle of equal rights and self-determination of peoples as enshrined in the Charter of the United Nations and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and in other relevant resolutions of the General Assembly,

Stressing the need for all States to desist from any forcible action which deprives peoples, particularly peoples under colonial and racist regimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence, as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Mindful of existing international instruments as well as respective principles and rules concerning the peaceful settlement of international disputes, including the exhaustion of local remedies whenever applicable,

Determined to promote international co-operation in the political field and to encourage the progressive development of international law and its codification, particularly in relation to the peaceful settlement of international disputes,

Solemnly declares that:

## I

1. All States shall act in good faith and in conformity with the purposes and principles enshrined in the Charter of the United Nations with a view to avoiding disputes among themselves likely to affect friendly relations among States, thus contributing to the maintenance of international peace and security. They shall live together in peace with one another as good neighbours and strive for the adoption of meaningful measures for strengthening international peace and security.

2. Every State shall settle its international disputes exclusively by peaceful means in such a manner that international peace and security, and justice, are not endangered.

3. International disputes shall be settled on the basis of the sovereign equality of States and in accordance with the principle of free choice of means in conformity with obligations under the Charter of the United Nations and with the principles of justice and international law. Recourse to, or acceptance of, a settlement procedure freely agreed to by States with regard to existing or future disputes to which they are parties shall not be regarded as incompatible with the sovereign equality of States.

4. States parties to a dispute shall continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning the sovereignty, independence and territorial integrity of States, as well as other generally recognized principles and rules of contemporary international law.

5. States shall seek in good faith and in a spirit of co-operation an early and equitable settlement of their international disputes by any of the following means: negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements or agencies or other peaceful means of their own choice, including good offices. In seeking such a settlement, the parties shall agree on such peaceful means as may be appropriate to the circumstances and the nature of their dispute.

6. States parties to regional arrangements or agencies shall make every effort to achieve pacific settlement of their local disputes through such regional arrangements or agencies before referring them to the Security Council. This does not preclude States from bringing any dispute to the attention of the Security Council or of the General Assembly in accordance with the Charter of the United Nations.

7. In the event of failure of the parties to a dispute to reach an early solution by any of the above means of settlement, they shall continue to seek a peaceful solution and shall consult forthwith on mutually agreed means to settle the dispute peacefully. Should the parties fail to settle by any of the above means a dispute the continuance of which is likely to endanger the maintenance of international peace and security, they shall refer it to the Security Council in accordance with the Charter of the United Nations and without prejudice to the functions and powers of the Council set forth in the relevant provisions of Chapter VI of the Charter.

8. States parties to an international dispute, as well as other States, shall refrain from any action whatsoever which may aggravate the situation so as to endanger the maintenance of international peace and security and make more difficult or impede the peaceful settlement of the dispute, and shall act in this respect in accordance with the purposes and principles of the United Nations.

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

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

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

12. In order to facilitate the exercise by the peoples concerned of the right to self-determination as referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the parties to a dispute may have the possibility, if they agree to do so and as appropriate, to have recourse to the relevant procedures mentioned in the present Declaration, for the peaceful settlement of the dispute.

13. Neither the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat of force by any of the States parties to the dispute.

## II

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

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

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

- (a) Bear in mind that the General Assembly may discuss any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations and, subject to Article 12 of the Charter, recommend measures for its peaceful adjustment;
- (b) Consider making use, when they deem it appropriate, of the possibility of bringing to the attention of the General Assembly any dispute or any situation which might lead to international friction or give rise to a dispute;
- (c) Consider utilizing, for the peaceful settlement of their disputes, the subsidiary organs established by the General Assembly in the performance of its functions under the Charter;
- (d) Consider, when they are parties to a dispute brought to the attention of the General Assembly, making use of consultations within the framework of the Assembly, with a view to facilitating an early settlement of their dispute.

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

- (a) Be fully aware of their obligation to refer to the Security Council such a dispute to which they are parties if they fail to settle it by the means indicated in Article 33 of the Charter;
- (b) Make greater use of the possibility of bringing to the attention of the Security Council any dispute or any situation which might lead to international friction or give rise to a dispute;
- (c) Encourage the Security Council to make wider use of the opportunities provided for by the Charter in order to review disputes or situations the continuance of which is likely to endanger the maintenance of international peace and security;
- (d) Consider making greater use of the fact-finding capacity of the Security Council in accordance with the Charter;
- (e) Encourage the Security Council to make wider use, as a means to promote peaceful settlement of disputes, of the subsidiary organs established by it in the performance of its functions under the Charter;
- (f) Bear in mind that the Security Council may, at any stage of a dispute of the nature referred to in Article 33 of the Charter or of a situation of like nature, recommend appropriate procedures or methods of adjustment;

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

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

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

States should bear in mind:

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

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

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

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

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

Declares that nothing in the present Declaration shall be construed as prejudicing in any manner the relevant provisions of the Charter or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter, in particular those relating to the peaceful settlement of disputes;

Declares that nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle

to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration;

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

**7.c 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  
(Declaration on the Prevention and Removal of Disputes)**

Date: 5 December 1988

Source: UN Doc A/RES/43/51 (Annex)

<http://www.un.org/documents/ga/res/43/a43r051.htm>

The General Assembly,

Recognizing the important role that the United Nations and its organs can play in the prevention and removal of international disputes and situations which may lead to international friction or give rise to an international dispute, the continuance of which may threaten the maintenance of international peace and security (hereafter: “disputes” or “situations”), within their respective functions and powers under the Charter of the United Nations,

Convinced that the strengthening of such a role of the United Nations will enhance its effectiveness in dealing with questions relating to the maintenance of international peace and security and in promoting the peaceful settlement of international disputes,

Recognizing the fundamental responsibility of States for the prevention and removal of disputes and situations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the right of all States to resort to peaceful means of their own choice for the prevention and removal of disputes or situations,

Reaffirming the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Manila Declaration on the Peaceful Settlement of International Disputes and the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations,

Recalling that it is the duty of States to refrain in their international relations from military, political, economic or any other form of coercion against the political independence or territorial integrity of any State,

Calling upon States to co-operate fully with the relevant organs of the United Nations and to support actions taken by them in accordance with the Charter relating to the prevention or removal of disputes and situations,

Bearing in mind the obligation of States to conduct their relations with other States in accordance with international law, including the principles of the United Nations,