

ARTICLE 37

TEXT OF 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.

NOTE

1. The only instance of the invocation of Article 37 when submitting a dispute occurred in connexion with the submission of the Egyptian question by Egypt which invoked Article 37 together with Article 35. 1/ During consideration of the agenda item "Identic notifications dated 29 September 1948", 2/ one member directly concerned contended that the submission of the question, subsequent to the fulfilment of the obligations laid down in Article 33 (1), constituted compliance with the provisions of Article 37. No clear distinction can, however, be drawn between the proceedings of the Council in the cases mentioned and the proceedings consequent upon communications submitting disputes or situations under Article 35 in which the parties have indicated the prior efforts made by them to seek a peaceful solution.

2. In so far as Article 37 envisages decisions to take action under Article 36, the study on Article 36 is germane to the present study, subject to the reservation that Article 37 relates exclusively to disputes. For discussion on the distinction between the provisions of Article 36 and Article 37, reference should be made to the case history derived from the Greek frontier incidents question. 3/ Reference should also be made to the case history derived from the India-Pakistan question. 4/ In connexion with the draft resolution submitted to the Council by the President consequent upon his initial discussion with the parties to that dispute, the question was raised whether the Council, in view of the inability of the parties to reach agreement by direct negotiation, had reached a stage in the proceedings under Chapter VI at which it was obligated under Article 37 to recommend terms of settlement. In connexion with the draft resolution of 17 April 1948, the President (Colombia) observed that, before submitting the draft resolution, a final effort had been made by the President with a view to informing the parties that, in the event of their failure to reach agreement, the matter would be placed before the Council with recommendations concerning articles of settlement. Thereafter, the Security Council adopted the decision of 21 April 1948. 5/

1/ S C, 2nd yr., No. 59, 159th mtg., S/410, pp. 1343-1345.

2/ S C, 3rd yr., No. 115, 364th mtg., p. 36.

3/ See in this Repertory under Article 36, para. 29.

4/ See in this Repertory under Article 36, paras. 91-102.

5/ See in this Repertory under Article 36, para. 95.

