

Repertory of Practice of United Nations Organs

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VOLUME III

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. During the review period, in one instance, the Council reiterated its commitment to make a wider and effective use of the procedures and means enshrined in the provisions of the Charter on the pacific settlement of disputes, particularly Articles 33-38, as one of the essential components of its work to promote and maintain international peace and security.¹

2. Within the framework of the Charter, Article 37 (1) is generally regarded as the provision on the basis of which States shall refer disputes to the Council. During the period under consideration, there were no explicit references to Article 37 in the text of communications

¹ S/PRST/2003/5, fifth paragraph.

requesting the convening of a meeting of the Council to discuss a dispute which might endanger the maintenance of international peace and security.²

3. However, during the period 2000-2009, reference to the Council's practice relating to the provisions enshrined under Article 37 was made during deliberations.³ For instance, during deliberations in connection with the role of the Security Council in the pacific settlement of disputes, the representative of India pointed out that the distinction between the appropriate procedures or methods of adjustment that could be recommended by the Council and the terms of settlement that could be recommended by the Council under Article 37 was not always clear.⁴

4. For detailed information regarding the Council's practice on the pacific settlement of disputes, including in connection with the provisions under Article 37 (referred to in paragraphs 1 - 3 above), see chapter X of the fourteenth and fifteenth supplements and part VI of the sixteenth supplement to the *Repertoire of the Practice of the Security Council*: http://www.un.org/en/sc/repertoire/2000-2003/00-03_10.pdf (during 2000-2003); http://www.un.org/en/sc/repertoire/2004-2007/04-07_10.pdf (during 2004-2007); and http://www.un.org/en/sc/repertoire/2008-2009/Part%20VI/08-09_PartVI.pdf (during 2008-2009).

² See, for instance, fourteenth supplement to the Repertoire of the Practice of the Security Council (2000-2003), chapter X, part I, "Referral of disputes and situations to the Security Council", and see also, for instance, sixteenth supplement to the Repertoire of the Practice of the Security Council (2008-2009), part VI, section I "Referral of disputes or situations to the Security Council".

³ For instance, in connection with the role of the Security Council in the pacific settlement of disputes, see S/PV.4753, p. 6 (Former Personal Representative of the Secretary-General for East Timor); and S/PV.4753 (Resumption 1), pp. 5 – 6 (India).

⁴ See S/PV.4753 (Resumption 1), p. 6 (India).