Statement by

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

Means for settlement of disputes: Mediation

New York, 21 February 2019

In the Name of Allah, the Most Compassionate the Most Merciful

• The Islamic Republic of Iran appreciates the General Assembly decision to mandate the UN charter committee to hold annual thematic debate on pacific settlement of international disputes. We also commend report of the Committee on State practice regarding the use of negotiation and enquiry. In line with the mandate of the General Assembly to the UN Charter Committee by resolution A/RES/72/118 adopted on 7 December 2017 and in accordance with the resolution A/RES/73/206 adopted on 11 January 2019, our comments will be focused on the means for the settlement of international disputes enshrined in chapter VI of the Charter, including in particular those contained in Article 33 thereof, and specifically in light of the proposed subtopic "Exchange of Information on State Practices regarding the Use of Mediation".

• Article 33 of the Charter of the United Nations, read in light of article 2(3) and 2(4) thereof, enshrines a fundamental principle of international law serving as one of the cornerstones of a peaceful international atmosphere. United Nations Member States are thus under an obligation to resort to peaceful means to settle their international disputes. This is also underlined in other international instruments elaborated by the United Nations in the context of international

disputes settlement. Moreover, any resort to peaceful means of international dispute settlement, including mediation, is subject to respect for the fundamental principles and rules of international law as enshrined in the Charter of the United Nations including non-interference, equal rights of States and more specifically freedom of parties to choose the means of international dispute settlement with their own discretion.

- The Islamic Republic of Iran has always envisaged the means set forth in Article 33 of the Charter as an important component of its interaction with other States; in this connection, we acknowledge the importance of different dispute settlement methods for the promotion and maintenance of international peace and security. There is no doubt that peaceful means which enshrined in Article 33 is essentially related to disputes with an international character in nature and definition and that domestic disputes are excluded from scope of this Article. Also, as a political means for pacific settlement of international disputes, mediation reconciles the views of the parties, narrows the gaps between the parties and as such it makes easier for the parties to recourse to settle their international disputes via a peaceful approach.

- In terms of definition, meditation involves the participation of a third party with the aim of helping parties to the dispute reach a mutually acceptable compromise solution. The mediator must assist the parties in the more direct manner and in the simplest way to effectively communicate parties to each other, to clarify issues, to provide ideas for compromise and the basis for agreement. It should be noted that the mediator, in order to be successful, must assure its independence and impartiality. The confidence of the parties must be maintained throughout the process.

- It should also be noted that act of mediation by a third party for the purpose of settling differences is a friendly act which reduces tensions between the parties. Mediation must be based on international law principles of “free choice of means”

and of “consent”. Accordingly, it is necessary for mediator to obtain the consent of the parties. Mediation cannot be imposed on the parties to an international dispute. Due to voluntary nature of mediation, the parties retain control over the outcome of their dispute, as well as their freedom to accept or reject mediation or mediator’s proposals.

- It is well-known that there are no universally accepted procedural rules governing the use and practice of mediation. Mediation lacks formal enforcement mechanisms under international law. Thus, both the result and the proceeding of mediation are technically not binding on the parties. Proposals of the mediator are only non-binding recommendations. Consequently, no one can impose a solution on any party. Any imposed solution on parties to the dispute would not contribute to object of maintenance of international peace and security. Furthermore, mediation is purely perform on ad hoc basis and for this reason is sufficiently flexible in nature. Hence, any decision about issues such as informality, confidentiality, time limits, end of mediation and etc. are up to the parties. The mediator and parties to the dispute must have the ability to work with prudence and patience and at the same time make their best effort, with due attention to good faith, to make the process effective and efficient.

- Turning to our experiences regarding the use of mediation, there are considerable cases in which the Islamic Republic of Iran successfully played his role as mediator. As an entrusted third party, Iran acted as mediator in plenty of cases at the regional and international levels. Fortunately, acceptance of Iran's mediation has usually been followed by an agreement mutually agreed by the parties. Moreover, in doing his role as mediator, with respect to international rules and principles, Iran has also pursued and observed implementation of its proposals by the parties.