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VOLUME III

ARTICLE 36

TEXT OF 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.

NOTE

1. During the review period, in one decision, 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 The Council's practice in connection with the provisions enshrined under Article 36,

¹ S/PRST/2003/5, fifth paragraph.

including reference to the role of the International Court of Justice, were the subject of deliberations in the Council during the period 2000 to 2009.²

2. According to Article 36 (3) of the Charter, the Security Council, in making recommendations under this Article, should 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. The importance of the role of the International Court of Justice in peaceful settlement of disputes was emphasized by the Secretary-General in his report entitled “Prevention of armed conflict”, in which he urged the Security Council to consider recommending, pursuant to Article 36 of the Charter, that States submit disputes to the Court while noting that the more States that accepted compulsory jurisdiction of the Court, the higher the chances that potential disputes could be expeditiously resolved through peaceful means.³

3. During the deliberations of the Council, Member States debated the question of whether the Council could make more frequent recourse to the provisions of Article 36.⁴ On a number of occasions, Member States explicitly drew attention to Article 36 (3) of the Charter and encouraged the Council to make more use of the Article’s provision.⁵

4. For detailed information regarding the Council’s practice on the pacific settlement of disputes , including in connection with the provisions under Article 36 (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*:

² See, for instance, fifteenth supplement to the *Repertoire of the Practice of the Security Council* (2004-2007), chapter X, part IV, “Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter”, and sixteenth supplement to the *Repertoire of the Practice of the Security Council* (2008-2009), part VI, section IV “Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter”.

³ See, S/2001/574, para. 48.

⁴ See, for instance, fourteenth supplement to the *Repertoire of the Practice of the Security Council* (2000-2003), chapter X, part IV, “Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter”, and fifteenth supplement to the *Repertoire of the Practice of the Security Council* (2004-2007), part VI, section IV “Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter”.

⁵ For instance, in connection with the role of the Security Council in the pacific settlement of disputes, see S/PV.4753, p. 11 (Mexico); S/PV.4753 (Resumption 1), pp. 5-6 (India); and in connection with strengthening international law: rule of law and maintenance of international peace and security, see S/PV.5474, p. 23 (Greece).

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).