

ARTICLE 95

TEXT OF 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.

NOTE

1. No decision involving the interpretation of Article 95 was taken by United Nations organs during the period under review. The following declarations of the General Assembly may be considered relevant to Article 95 since they contemplate the settlement of disputes between Members of the United Nations by tribunals other than the International Court of Justice.

2. 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 principle relating to the settlement of international disputes¹ reads as follows:

“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 pacific settlement of international disputes.”

3. In the Declaration on the Occasion of the Twenty-fifth Anniversary of the United Nations, the General Assembly invited all Member States “to resort more often to the peaceful settlement of international disputes and conflicts by the means provided for in the Charter, notably through negotiation, inquiry, mediation, conciliation, arbitration and judicial settlement”.² It encouraged Member States to use as appropriate the relevant

organs of the United Nations as well as the regional agencies or arrangements or other peaceful means of their own choice.²

4. In the Declaration on the Strengthening of International Security, the General Assembly urged “Member States to make full use and seek improved implementation of the means and methods provided for in the Charter for the exclusively peaceful settlement of any dispute or any situation, the continuance of which is likely to endanger the maintenance of international peace and security, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, good offices including those of the Secretary-General, or other peaceful means of their own choice, it being understood that the Security Council in dealing with such disputes or situations 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”.³

5. In 1973, the General Assembly adopted the International Convention on the Suppression and Punishment of the Crime of *Apartheid*,⁴ which provides that “disputes between States Parties arising out of the interpretation, application or implementation of the Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement”.⁵

6. In 1973, the General Assembly also adopted the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents,⁶ which provides that any dispute concerning the interpretation or application of the Convention which is not settled by negotiation shall, at the request of one of the parties, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of them may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.⁷

7. In its resolution on the peaceful settlement of international disputes, the General Assembly:⁸

“1. *Draws the attention* of States to the machinery established under the Charter of the United Nations for the peaceful settlement of international disputes;

“2. *Urges* Member States not already parties to instruments establishing the various facilities and machinery available for the peaceful settlement of disputes to consider becoming parties to such instruments and, in the case of the International Court of

Justice, recognizes the desirability that States study the possibility of accepting, with as few reservations as possible, the compulsory jurisdiction of the Court in accordance with Article 36 of the Statute of the Court;

“3. *Calls upon* Member States to make full use and seek improved implementation of the means and methods provided for in the Charter of the United Nations and elsewhere for the exclusively peaceful settlement of any dispute or any situation, the continuance of which is likely to endanger the maintenance of international peace and security, including negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements,

good offices including those of the Secretary-General, or other peaceful means of their own choice.”

NOTES

¹GA resolution 2625 (XXV), annex.

²GA resolution 2627 (XXV).

³GA resolution 2734 (XXV).

⁴GA resolution 3068 (XXVIII), annex.

⁵*Ibid.*, article XII.

⁶GA resolution 3166 (XXVIII).

⁷*Ibid.*, article XIII.

⁸GA resolution 3283 (XXIX).