

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in triplicate, at the cities of London, Moscow and Washington, this twenty-ninth day of March, one thousand nine hundred and seventy-two.

CHAPTER 13

THE PEACEFUL SETTLEMENT OF DISPUTES

13.1 Introduction

I. PRINCIPLE OF THE PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

A Charter of the United Nations

1 The Charter of the United Nations provides in its Chapter I (Purposes and Principles) that the Purposes of the United Nations are:

To maintain international peace and security, and to that end, to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace (Article 1, para 1).

The Charter also provides in the same Chapter that the Organisation and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with, among others, the following principle: 'All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered' (Article 2, para 3). It furthermore, in Chapter VI (Pacific Settlement of Disputes), states that:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice (Article 33, para 1).

B Declarations and Resolutions of the General Assembly

2 The principle of the peaceful settlement of disputes has been reaffirmed in a number of General Assembly Resolutions, including Resolutions 2627 (XXV) of 24 October 1970, 2734 (XXV) of 16 December 1970 and 40/9 of 8 November 1985. It is dealt with comprehensively 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 (Resolution 2625 (XXV), annex), in the section entitled 'The principle that states shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered', as well as in the Manila Declaration on the Peaceful Settlement of International Disputes (Resolution 37/10, annex), in the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this field (Resolution 43/51, annex) and in the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (Resolution 46/59, annex).

C Corollary and related principles

3 The principle of the peaceful settlement of international disputes is linked to various other principles of international law. It may be recalled in this connection that under the Declaration on Friendly Relations, the principles dealt with in the Declaration – namely, the principle that states shall refrain in their international relations from the threat or use of force against the territorial

integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations; the principle that states shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered; the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any state, in accordance with the Charter; the duty of states to co-operate with one another in accordance with the Charter; the principle of equal rights and self-determination of peoples; the principle of sovereign equality of states; and the principle that states shall fulfil in good faith the obligations assumed by them in accordance with the Charter – are interrelated in their interpretation and application and each principle should be construed in the context of other principles.

4 The Final Act of the Conference on Security and Co-operation in Europe, adopted at Helsinki on 1 August 1975, states that all the principles set forth in the Declaration on Principles Guiding Relations between Participating states – ie, sovereign equality, respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; equal rights and self-determination of peoples; co-operation among states; and fulfilment in good faith of obligations under international law – ‘are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others.’

5 The links between the principle of the peaceful settlement of disputes and other specific principles of international law are highlighted both in the Friendly Relations Declaration and in the Manila Declaration as follows:

1 *Principle of non-use of force in international relations*

6 The interrelation between this principle and the principle of peaceful settlement of disputes is highlighted in the fourth preambular paragraph of the Manila Declaration and is also referred to in section I, para 13, thereof, under which neither the existence of a dispute nor the failure of a procedure of peaceful settlement of disputes shall permit the use of force or threat or force by any of the states parties to the dispute.

7 The links between the principle of peaceful settlement of disputes and the principle of non-use of force are also highlighted in a number of other international instruments, including the 1945 Pact of the League of Arab States (art 5), the 1948 American Treaty on Pacific Settlement (Pact of Bogota) (art I), the 1947 Inter-American Treaty of Reciprocal Assistance (arts 1 and 2) and the last paragraph of section II of the Declaration on Principles Guiding Relations between Participating states contained in the Final Act of the Conference on Security and Co-operation in Europe.

2 *Principle of non-intervention in the internal or external affairs of states*

8 The interrelation between this principle and the principle of the peaceful settlement of disputes is highlighted in the fifth preambular paragraph of the Manila Declaration.

9 The links between the principle of peaceful settlement of disputes and the principle of non-intervention are also highlighted in Article V of the 1948 Pact of Bogota.

3 *Principle of equal rights and self-determination of peoples*

10 The links between this principle and the principle of peaceful settlement of disputes are highlighted in the Manila Declaration which (1) reaffirms in its

eighth preambular paragraph the principle of equal rights and self-determination as enshrined in the Charter and referred to in the Friendly Relations Declaration and in other relevant Resolutions of the General Assembly; (2) stresses in its ninth preambular paragraph the need for all states to desist from any forcible action which deprives peoples, particularly peoples under colonial and racist regimes or other forms of alien domination, of their inalienable right to self-determination, freedom and independence; (3) refers in section I, para 12, to the possibility for parties to a dispute to have recourse to the procedures mentioned in the Declaration 'in order to facilitate the exercise by the peoples concerned of the right to self-determination'; and (4) declares in its penultimate paragraph that 'nothing in the present Declaration could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter, of peoples forcibly deprived of that right and referred to 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, particularly peoples under colonial or racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end and to seek and receive support, in accordance with the principles of the Charter and in conformity with the above-mentioned Declaration'.

4 *Principle of the sovereign equality of states*

11 The links between this principle and the principle of the peaceful settlement of disputes are highlighted in the fifth paragraph of the relevant section of the Friendly Relations Declaration which provides that 'International disputes shall be settled on the basis of the sovereign equality of states' as well as in section I, para 3 of the Manila Declaration.

5 *Principles of international law concerning the sovereignty, independence and territorial integrity of states*

12 Paragraph 4 of section I of the Manila Declaration enunciates the duty of states parties to a dispute to continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning the sovereignty, independence and territorial integrity of states.

6 *Good faith in international relations*

13 The Manila Declaration enunciates in its section I, para 1, the duty of states to 'act in good faith', with a view to avoiding disputes among themselves likely to affect friendly relations among states. Other references to good faith are to be found in para 5, under which good faith and a spirit of co-operation are to guide states in their search for an early and equitable settlement of their disputes; in para 11, which provides that states shall in accordance with international law implement in good faith all the provisions of agreements concluded by them for the settlement of their disputes; in para 2 of section II, under which Member states shall fulfil in good faith the obligations assumed by them in accordance with the Charter of the United Nations; and in one of the concluding paragraphs of the declaration, whereby the General Assembly urges all states to observe and promote in good faith the provisions of the declaration in the peaceful settlement of their international disputes.

14 A provision similar to para 5 of section I of the Manila Declaration is to be found in the third paragraph of section V of the Declaration on Principles Guiding Relations between Participating states contained in the Final Act of the Conference on Security and Co-operation in Europe.

7 *Principles of justice and international law*

15 The 'principles of international law' are mentioned together with the principles of justice in Article 1, para 1 of the Charter under which one of the

purposes of the United Nations is 'to bring about, by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace'. The principles of international law are also mentioned jointly with the principles of justice in section I, para 3 of the Manila Declaration under which '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 in conformity with obligations under the Charter of the United Nations and with the principles of justice and international law'.

16 Paragraph 4 of section I of the Manila Declaration provides that 'States Parties to a dispute shall continue to observe in their mutual relations ... generally recognised principles and rules of contemporary international law'.

17 'Justice' is referred to in Article 2, para 3, of the Charter and in the first paragraph of the relevant section of the Friendly Relations Declaration, both of which provide for the settlement of international disputes 'by peaceful means in such a manner that international peace and security and justice are not endangered'.

8 *Other corollary and related principles and rules*

18 In its tenth preambular paragraph, the Manila Declaration singles out among 'respective principles and rules concerning the peaceful settlement of international disputes', 'the exhaustion of local remedies whenever applicable'. Article VII of the 1948 Pact of Bogota contains a similar provision.

D Free choice of means

19 The principle of free choice of means is laid down in Article 33, para 1, of the Charter of the United Nations and reiterated in the fifth paragraph of the relevant provisions of the Friendly Relations Declaration and in section I, paras 3 and 10, of the Manila Declaration. As indicated above, both the Friendly Relations Declaration and the Manila Declaration make it clear that recourse to, or acceptance of, a settlement procedure freely agreed to with regard to existing or future disputes shall not be regarded as incompatible with the sovereign equality of states. The principle of free choice of means has also found expression in a number of other international instruments, including the Pact of Bogota (art III) and the Declaration on Principles Guiding Relations between Participating States contained in the Final Act of the Conference on Security and Co-operation in Europe (third paragraph of section V).

20 The following means are listed in Article 33 of the Charter, in the second paragraph of the relevant section of the Friendly Relations Declaration and in para 5 of section I of the Manila declaration: negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements or agencies or other peaceful means of the parties' own choice. Among those 'other peaceful means', the Manila Declaration singles out good offices. Under the Friendly Relations Declaration (second paragraph of the relevant section) and the Manila Declaration (para 5 of section I), it is for the parties to agree on such peaceful means as may be appropriate to the circumstances and the nature of their dispute.¹

1 United Nations, Office of Legal Affairs, *Handbook on the Peaceful Settlement of Disputes between States*, 1992, New York: United Nations at pp 3–7.

**DECLARATION ON PRINCIPLES OF INTERNATIONAL
LAW CONCERNING FRIENDLY RELATIONS AND
CO-OPERATION AMONG STATES IN ACCORDANCE
WITH THE CHARTER OF THE UNITED NATIONS**

**ANNEX TO RESOLUTION 2625 (XXV) OF THE UNITED
NATIONS GENERAL ASSEMBLY ADOPTED WITHOUT
A VOTE 24 OCTOBER 1970**

PREAMBLE

The General Assembly

Reaffirming in the terms of the Charter that the maintenance of international peace and security and the development of friendly relations and co-operation between nations are among the fundamental purposes of the United Nations,

Recalling that the peoples of the United Nations are determined to practise tolerance and live together in peace with one another as good neighbours,

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for fundamental human rights and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Bearing in mind also the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations.

Considering that the faithful observance of the principles of international law concerning friendly relations and co-operation among states and the fulfilment in good faith of the obligations assumed by states, in accordance with the Charter, is of the greatest importance for the maintenance of international peace and security and for the implementation of the other purposes of the United Nations,

Noting that the great political, economic and social changes and scientific progress which have taken place in the world since the adoption of the Charter of the United Nations give increased importance to these principles and to the need for their more effective application in the conduct of states wherever carried on,

Recalling the established principle that outer space, including the moon and other celestial bodies, is not subject to national appropriation by claims of sovereignty, by means of use or occupation, or by any other means, and mindful of the fact that consideration is being given in the United Nations to the question of establishing other appropriate provisions similarly inspired,

Convinced that the strict observance by states of the obligation not to intervene in the affairs of any other state is an essential condition to ensure that nations live together in peace with one another, since the practice of any form of intervention not only violates the spirit and letter of the Charter, but also leads to the creation of situations which threaten international peace and security,

Recalling the duty of states to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any state,

Considering it essential that all states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations,

Considering it equally essential that all states shall settle their international disputes by peaceful means in accordance with the Charter,

Reaffirming, in accordance with the Charter, the basic importance of sovereign equality and stressing that the purposes of the United Nations can be implemented only if states enjoy sovereign equality and comply fully with the requirements of this principle in their international relations,

Convinced that the subjection of peoples to alien subjugation, domination and exploitation constitutes a major obstacle to the promotion of international peace and security,

Convinced that the principle of equal rights and self-determination of peoples constitutes a significant contribution to contemporary international law, and that its effective application is of paramount importance for the promotion of friendly relations among states, based on respect for the principle of sovereign equality,

Convinced in consequence that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a state or country or at its political independence is incompatible with the purposes and principles of the Charter,

Considering the provisions of the Charter as a whole and taking into account the role of the relevant Resolutions adopted by the competent organs of the United Nations relating to the content of the principles,

Considering that the progressive development and codification of the following principles:

- (a) The principle that states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations;
- (b) The principle that states shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;
- (c) The duty not to intervene in matters within the domestic jurisdiction of any state, in accordance with the Charter;
- (d) The duty of states to co-operate with one another in accordance with the Charter;
- (e) The principle of equal rights and self-determination of peoples;
- (f) The principle of sovereign equality of states;
- (g) The principle that states shall fulfil in good faith the obligations assumed by them in accordance with the Charter;

so as to secure their more effective application within the international community would promote the realisation of the purposes of the United Nations, *Having considered* the principles of international law relating to friendly relations and co-operation among states,

1 *Solemnly proclaims* the following principles:

The principle that states shall refrain in their international relations from threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations

Every state has the duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. Such a threat or use of force constitutes a violation of international law and the Charter of the United Nations and shall never be employed as a means of settling international issues.

A war of aggression constitutes a crime against the peace, for which there is responsibility under international law.

In accordance with the Purposes and Principles of the United Nations, states have the duty to refrain from propaganda for wars of aggression.

Every state has the duty to refrain from the threat or use of force to violate the existing international boundaries of any state or as a means of solving international disputes, including territorial disputes and problems concerning frontiers of states.

Every state likewise has the duty to refrain from the threat or use of force to violate international lines of demarcation, such as armistice lines, established by or pursuant to an international agreement to which it is a party or which it is otherwise bound to respect. Nothing in the foregoing shall be construed as prejudicing the positions of the parties concerned with regard to the status and effects of such lines under their special regimes or as affecting their temporary character.

States have a duty to refrain from acts of reprisal involving the use of force.

Every state has the duty to refrain from any forcible action which deprives peoples referred to in the elaboration of the principle of equal rights and self-determination and freedom and independence.

Every state has the duty to refrain from organising or encouraging the organisation of irregular forces or armed bands, including mercenaries, for incursion into the territory of another state.

Every state has the duty to refrain from organising, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organised activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force.

The territory of a state shall not be the object of military occupation resulting from the use of force in contravention of the provisions of the Charter. The territory of a state shall not be the object of acquisition by another state resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognised as legal. Nothing in the foregoing shall be construed as affecting:

- (a) provisions of the Charter or any international agreement prior to the Charter regime and valid under international law; or
- (b) the powers of the Security Council under the Charter.

All states shall pursue in good faith negotiations for the early conclusion of a universal treaty on general and complete disarmament under effective international control and strive to adopt appropriate measures to reduce international tensions and strengthen confidence among states.

All states shall comply in good faith with their obligations under the generally recognised principles and rules of international law with respect to the maintenance of international peace and security, and shall endeavour to make the United Nations security system based on the Charter more effective.

Nothing in the foregoing paragraphs shall be construed as enlarging or diminishing in any way the scope of the provisions of the Charter concerning cases in which the use of force is lawful.

The principle that states shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered

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.

State 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.

The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any state, in accordance with the Charter

No state or group of states has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the state or against its political, economic and cultural elements, are in violation of international law.

No state may use or encourage the use of economic, political or any other types of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Also, no state shall organise, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another state, or interfere in civil strife in another state.

The use of force to deprive peoples of their national identity constitutes a violation of their inalienable rights and of the principle of non-intervention.

Every state has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another state.

Nothing in the foregoing paragraphs shall be construed as affecting the relevant provisions of the Charter relating to the maintenance of international peace and security.

The duty of states to co-operate with one another in accordance with the Charter

States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences.

To this end:

- (a) states shall co-operate with other states in the maintenance of international peace and security;
- (b) states shall co-operate in the promotion of universal respect for and observance of human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;
- (c) states shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;
- (d) states Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.

States should co-operate in the economic, social and cultural fields as well as in the field of science and technology and for the promotion of international cultural and educational progress. states should co-operate in the promotion of economic growth throughout the world, especially that of the developing countries.

The principle of equal rights and self-determination of peoples

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every state has the duty to respect this right in accordance with the provisions of the Charter.

Every state has the duty to promote, through joint and separate action, realisation of the principle of equal rights and self-determination of peoples, in accordance with the provisions of the Charter, and to render assistance to the United Nations in carrying out the responsibilities entrusted to it by the Charter regarding the implementation of the principle, in order:

- (a) to promote friendly relations and co-operation among states; and
- (b) to bring a speedy end to colonialism, having due regard to the freely expressed will of the peoples concerned;

and bearing in mind that subjection of peoples to alien subjugation, domination and exploitation constitutes a violation of the principle, as well as a denial of fundamental human rights, and is contrary to the Charter.