

1949 REVISED GENERAL ACT FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Adopted in New York, United States of America on 28 April 1949

CHAPTER I CONCILIATION	3
ARTICLE 1	3
ARTICLE 2	3
ARTICLE 3	3
ARTICLE 4	3
ARTICLE 5	4
ARTICLE 6	4
ARTICLE 7	4
ARTICLE 8	4
ARTICLE 9	5
ARTICLE 10	5
ARTICLE 11	5
ARTICLE 12	5
ARTICLE 13	5
ARTICLE 14	5
ARTICLE 15	6
ARTICLE 16	6
CHAPTER II JUDICIAL SETTLEMENT	6
ARTICLE 17	6
ARTICLE 18	6
ARTICLE 19	7
ARTICLE 20	7
CHAPTER III ARBITRATION	7
ARTICLE 21	7
ARTICLE 22	7
ARTICLE 23	7
ARTICLE 24	8
ARTICLE 25	8
ARTICLE 26	8
ARTICLE 27	8
ARTICLE 28	8

CHAPTER IV GENERAL PROVISIONS.....	8
ARTICLE 29	8
ARTICLE 30	9
ARTICLE 31	9
ARTICLE 32	9
ARTICLE 33	9
ARTICLE 34	10
ARTICLE 35	10
ARTICLE 36	10
ARTICLE 37	10
ARTICLE 38	11
ARTICLE 39	11
ARTICLE 40	11
ARTICLE 41	12
ARTICLE 42	12
ARTICLE 43	12
ARTICLE 44	12
ARTICLE 45	12
ARTICLE 46	13
ARTICLE 47	13

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CHAPTER I CONCILIATION

ARTICLE 1

Disputes of every kind between two or more Parties to the present General Act which it has not been possible to settle by diplomacy shall, subject to such reservations as may be made under article 39, be submitted, under the conditions laid down in the present chapter, to the procedure of conciliation.

ARTICLE 2

The disputes referred to in the preceding article shall be submitted to a permanent or special conciliation commission constituted by the parties to the dispute.

ARTICLE 3

On a request to that effect being made by one of the Contracting Parties to another party, a permanent conciliation commission shall be constituted within a period of six months.

ARTICLE 4

Unless the parties concerned agree otherwise, the Conciliation Commission shall be constituted as follows:

- (1) The Commission shall be composed of five members. The parties shall each nominate one commissioner, who may be chosen from among their respective nationals. The three other commissioners shall be appointed by agreement from among the nationals of third Powers. These three commissioners must be of different nationalities and must not be habitually resident in the territory nor be in the service of the parties. The parties shall appoint the President of the Commission from among them.
- (2) The commissioners shall be appointed for three years. They shall be re-eligible. The commissioners appointed jointly may be replaced during the course of their mandate by agreement between the parties. Either party may, however, at any time replace a commissioner whom it has appointed. Even if replaced, the commissioners shall continue to exercise their functions until the termination of the work in hand.
- (3) Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ARTICLE 5

If, when a dispute arises, no permanent conciliation commission appointed by the parties is in existence, a special commission shall be constituted for the examination of the dispute within a period of three months from the date at which a request to that effect is made by one of the parties to the other party. The necessary appointments shall be made in the manner laid down in the preceding article, unless the parties decide otherwise.

ARTICLE 6

1. If the appointment of the commissioners to be designated jointly is not made within the periods provided for in articles 3 and 5, the making of the necessary appointments shall be entrusted to a third Power, chosen by agreement between the parties, or on request of the parties, to the President of the General Assembly, or, if the latter is not in session, to the last President.
2. If no agreement is reached on either of these procedures, each party shall designate a different Power, and the appointment shall be made in concert by the Powers thus chosen.
3. If, within a period of three months, the two Powers have been unable to reach an agreement, each of them shall submit a number of candidates equal to the number of members to be appointed. It shall then be decided by lot which of the candidates thus designated shall be appointed.

ARTICLE 7

1. Disputes shall be brought before the Conciliation Commission by means of an application addressed to the President by the two parties acting in agreement, or in default thereof by one or other of the parties.
2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution.
3. If the application emanates from only one of the parties, the other party shall, without delay, be notified by it.

ARTICLE 8

1. Within fifteen days from the date on which a dispute has been brought by one of the parties before a permanent conciliation commission, either party may replace its own commissioner, for the examination of the particular dispute, by a person possessing special competence in the matter.
2. The party making use of this right shall immediately notify the other party; the latter shall, in such case, be entitled to take similar action within fifteen days from the date on which it received the notification.

ARTICLE 9

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall meet at the seat of the United Nations, or at some other place selected by its President.
2. The Commission may in all circumstances request the Secretary-General of the United Nations to afford it his assistance.

ARTICLE 10

The work of the Conciliation Commission shall not be conducted in public unless a decision to that effect is taken by the Commission with the consent of the parties.

ARTICLE 11

1. In the absence of agreement to the contrary between the parties, the Conciliation Commission shall lay down its own procedure, which in any case must provide for both parties being heard. In regard to enquiries, the Commission, unless it decides unanimously to the contrary, shall act in accordance with the provisions of part III of the Hague Convention of 18 October 1907 for the Pacific Settlement of International Disputes.
2. The parties shall be represented before the Conciliation Commission by agents, whose duty shall be to act as intermediaries between them and the Commission; they may, moreover, be assisted by counsel and experts appointed by them for that purpose and may request that all persons whose evidence appears to them desirable shall be heard.
3. The Commission, for its part, shall be entitled to request oral explanations from the agents, counsel and experts of both parties, as well as from all persons it may think desirable to summon with the consent of their Governments.

ARTICLE 12

In the absence of agreement to the contrary between the parties, the decisions of the Conciliation Commission shall be taken by a majority vote, and the Commission may only take decisions on the substance of the dispute if all its members are present.

ARTICLE 13

The parties undertake to facilitate the work of the Conciliation Commission, and particularly to supply it to the greatest possible extent with all relevant documents and information, as well as to use the means at their disposal to allow it to proceed in their territory, and in accordance with their law, to the summoning and hearing of witnesses or experts and to visit the localities in question.

ARTICLE 14

1. During the proceedings of the Commission, each of the commissioners shall receive emoluments the amount of which shall be fixed by agreement between the parties, each of which shall contribute an equal share.

2. The general expenses arising out of the working of the Commission shall be divided in the same manner.

ARTICLE 15

1. The task of the Conciliation Commission shall be to elucidate the questions in dispute, to collect with that object all necessary information by means of enquiry or otherwise, and to endeavour to bring the parties to an agreement. It may, after the case has been examined, inform the parties of the terms of settlement which seem suitable to it, and lay down the period within which they are to make their decision.
2. At the close of the proceedings the Commission shall draw up a procès-verbal stating, as the case may be, either that the parties have come to an agreement and, if need arises, the terms of the agreement, or that it has been impossible to effect a settlement. No mention shall be made in the procès-verbal of whether the Commission's decisions were taken unanimously or by a majority vote.
3. The proceedings of the Commission must, unless the parties otherwise agree, be terminate within six months from the date on which the Commission shall have been given cognizance of the dispute.

ARTICLE 16

The Commission's procès-verbal shall be communicated without delay to the parties. The parties shall decide whether it shall be published.

CHAPTER II JUDICIAL SETTLEMENT

ARTICLE 17

All disputes with regard to which the parties are in conflict as to their respective rights shall, subject to any reservations which may be made under article 39, be submitted for decision to the International Court of Justice, unless the parties agree, in the manner hereinafter provided, to have resort to an arbitral tribunal. It is understood that the disputes referred to above include in particular those mentioned in Article 36 of the Statute of the International Court of Justice.

ARTICLE 18

If the parties agree to submit the disputes mentioned in the preceding article to an arbitral tribunal, they shall draw up a special agreement in which they shall specify the subject of the dispute, the arbitrators selected, and the procedure to be followed. In the absence of sufficient particulars in the special agreement, the provisions of the Hague Convention of 18 October 1907 for the Pacific Settlement of International Disputes shall apply so far as is necessary. If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the Tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the International Court of Justice.

ARTICLE 19

If the parties fail to agree concerning the special agreement referred to in the preceding article, or fail to appoint arbitrators, either party shall be at liberty, after giving three months' notice, to bring the dispute by an application direct before the International Court of Justice.

ARTICLE 20

1. Notwithstanding the provisions of article 1, disputes of the kind referred to in article 17 arising between Parties who have acceded to the obligations contained in the present chapter shall only be subject to the procedure of conciliation if the parties so agree.
2. The obligation to resort to the procedure of conciliation remains applicable to disputes which are excluded from judicial settlement only by the operation of reservations under the provisions of article 39.
3. In the event of recourse to and failure of conciliation, neither party may bring the dispute before the International Court of Justice or call for the constitution of the arbitral tribunal referred to in article 18 before the expiration of one month from the termination of the proceedings of the Conciliation Commission.

CHAPTER III ARBITRATION

ARTICLE 21

Any dispute not of the kind referred to in article 17 which does not, within the month following the termination of the work of the Conciliation Commission provided for in chapter I, form the object of an agreement between the parties, shall, subject to such reservations as may be made under article 39, be brought before an arbitral tribunal which, unless the parties otherwise agree, shall be constituted in the manner set out below.

ARTICLE 22

The Arbitral Tribunal shall consist of five members. The parties shall each nominate one member, who may be chosen from among their respective nationals. The other two arbitrators and the Chairman shall be chosen by common agreement from among the nationals of third Powers. They must be of different nationalities.

ARTICLE 23

1. If the appointment of the members of the Arbitral Tribunal is not made within a period of three months from the date on which one of the parties requested the other party to constitute an arbitral tribunal, a third Power, chosen by agreement between the parties, shall be requested to make the necessary appointments.
2. If no agreement is reached on this point, each party shall designate a different Power, and the appointments shall be made in concert by the Powers thus chosen,

3. If, within a period of three months, the two Powers so chosen have been unable to reach an agreement, the necessary appointments shall be made by the President of the International Court of Justice. If the latter is prevented from acting or is a subject of one of the parties, the nominations shall be made by the Vice-President. If the latter is prevented from acting or is a subject of one of the parties, the appointments shall be made by the oldest member of the Court who is not a subject of either party.

ARTICLE 24

Vacancies which may occur as a result of death, resignation or any other cause shall be filled within the shortest possible time in the manner fixed for the nominations.

ARTICLE 25

The parties shall draw up a special agreement determining the subject of the disputes and the details of procedure.

ARTICLE 26

In the absence of sufficient particulars in the special agreement regarding the matters referred to in the preceding article, the provisions of the Hague Convention of 18 October 1907 for the Pacific Settlement of International Disputes shall apply so far as is necessary.

ARTICLE 27

Failing the conclusion of a special agreement within a period of three months from the date on which the Tribunal was constituted, the dispute may be brought before the Tribunal by an application by one or other party.

ARTICLE 28

If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute enumerated in Article 38 of the Statute of the International Court of Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.

CHAPTER IV GENERAL PROVISIONS

ARTICLE 29

1. Disputes for the settlement of which a special procedure is laid down in other conventions in force between the parties to the dispute shall be settled in conformity with the provisions of those conventions.

2. The present General Act shall not affect any agreements in force by which conciliation procedure is established between the Parties or they are bound by obligations to resort to arbitration or judicial settlement which ensure the settlement of the dispute. If, however, these agreements provide only for a procedure of conciliation, after such procedure has been followed without result, the provisions of the present General Act concerning judicial settlement or arbitration shall be applied in so far as the parties have acceded thereto.

ARTICLE 30

If a party brings before a Conciliation Commission a dispute which the other party, relying on conventions in force between the parties, has submitted to the International Court of Justice or an arbitral tribunal, the Commission shall defer consideration of the dispute until the Court or the Arbitral Tribunal has pronounced upon the conflict of competence. The same rule shall apply if the Court or the Tribunal is seized of the case by one of the parties during the conciliation proceedings.

ARTICLE 31

1. In the case of a dispute the occasion of which, according to the municipal law of one of the parties, falls within the competence of its judicial or administrative authorities, the party in question may object to the matter in dispute being submitted for settlement by the different methods laid down in the present General Act until a decision with final effect has been pronounced, within a reasonable time, by the competent authority.
2. In such a case, the party which desires to resort to the procedures laid down in the present General Act must notify the other party of its intention within a period of one year from the date of the aforementioned decision.

ARTICLE 32

If, in a judicial sentence or arbitral award, it is declared that a judgment, or a measure enjoined by a court of law or other authority of one of the parties to the dispute, is wholly or in part contrary to international law, and if the constitutional law of that party does not permit or only partially permits the consequences of the judgment or measure in question to be annulled, the parties agree that the judicial sentence or arbitral award shall grant the injured party equitable satisfaction.

ARTICLE 33

1. In all cases where a dispute forms the object of arbitration or judicial proceedings, and particularly if the question on which the parties differ arises out of acts already committed or on the point of being committed, the International Court of Justice, acting in accordance with Article 41 of its Statute, or the Arbitral Tribunal, shall lay down within the shortest possible time the provisional measures to be adopted. The parties to the dispute shall be bound to accept such measures.
2. If the dispute is brought before a conciliation commission, the latter may recommend to the parties the adoption of such provisional measures as it considers suitable.
3. The parties undertake to abstain from all measures likely to react prejudicially upon the execution of the judicial or arbitral decision or upon the arrangements proposed by the Conciliation Commission and, in general, to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ARTICLE 34

Should a dispute arise between more than two Parties to the present General Act, the following rules shall be observed for the application of the forms of procedure described in the foregoing provisions:

- (a) In the case of conciliation procedure, a special commission shall invariably be constituted. The composition of such commission shall differ according as the parties all have separate interests or as two or more of their number act together.

In the former case, the parties shall each appoint one commissioner and shall jointly appoint commissioners nationals of third Powers not parties to the dispute, whose number shall always exceed by one the number of commissioners appointed separately by the parties.

In the second case, the parties who act together shall appoint their commissioner jointly by agreement between themselves and shall combine with the other party or parties in appointing third commissioners.

In either event, the parties, unless they agree otherwise, shall apply article 5 and the following articles of the present Act, so far as they are compatible with the provisions of the present article.

- (b) In the case of judicial procedure, the Statute of the International Court of Justice shall apply.
- (c) In the case of arbitral procedure, if agreement is not secured as to the composition of the Tribunal, in the case of the disputes mentioned in article 17, each party shall have the right, by means of an application, to submit the dispute to the International Court of Justice ; in the case of the disputes mentioned in article 21, the above article 22 and following articles shall apply, but each party having separate interests shall appoint one arbitrator and the number of arbitrators separately appointed by the parties to the dispute shall always be one less than that of the other arbitrators.

ARTICLE 35

1. The present General Act shall be applicable as between the Parties thereto, even though a third Power, whether a Party to the Act or not, has an interest in the dispute.
2. In conciliation procedure, the parties may agree to invite such third Power to intervene.

ARTICLE 36

1. In judicial or arbitral procedure, if a third Power should consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit to the International Court of Justice or to the Arbitral Tribunal a request to intervene as a third party.
2. It will be for the Court or the Tribunal to decide upon this request.

ARTICLE 37

1. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar of the International Court of Justice or the Arbitral Tribunal shall notify all such States forthwith.

2. Every State so notified has the right to intervene in the proceedings; but, if it uses this right, the construction given by the decision will be binding upon it.

ARTICLE 38

Accessions to the present General Act may extend:

- A. Either to all the provisions of the Act (chapters I, II, III and IV);
- B. Or to those provisions only which relate to conciliation and judicial settlement (chapters I and II), together with the general provisions dealing with these procedures (chapter IV);
- C. Or to those provisions only which relate to conciliation (chapter I), together with the general provisions concerning that procedure (chapter IV).

The Contracting Parties may benefit by the accessions of other Parties only in so far as they have themselves assumed the same obligations.

ARTICLE 39

1. In addition to the power given in the preceding article, a Party, in acceding to the present General Act, may make his acceptance conditional upon the reservations exhaustively enumerated in the following paragraph. These reservations must be indicated at the time of accession.
2. These reservations may be such as to exclude from the procedure described in the present Act:
 - (a) Disputes arising out of facts prior to the accession either of the Party making the reservation or of any other Party with whom the said Party may have a dispute;
 - (b) Disputes concerning questions which by international law are solely within the domestic jurisdiction of States;
 - (c) Disputes concerning particular cases or clearly specified subject-matters, such as territorial status, or disputes falling within clearly defined categories.
3. If one of the parties to a dispute has made a reservation, the other parties may enforce the same reservation in regard to that party.
4. In the case of Parties who have acceded to the provisions of the present General Act relating to judicial settlement or to arbitration, such reservations as they may have made shall, unless otherwise expressly stated, be deemed not to apply to the procedure of conciliation.

ARTICLE 40

A Party whose accession has been only partial, or was made subject to reservations, may at any moment, by means of a simple declaration, either extend the scope of his accession or abandon all or part of his reservations.

ARTICLE 41

Disputes relating to the interpretation or application of the present General Act, including those concerning the classification of disputes and the scope of reservations, shall be submitted to the International Court of Justice.

ARTICLE 42

The present General Act shall bear the date of 28 April 1949.

ARTICLE 43

1. The present General Act shall be open to accession by the Members of the United Nations, by the non-member States which shall have become parties to the Statute of the International Court of Justice or to which the General Assembly of the United Nations shall have communicated a copy for this purpose.
2. The instruments of accession and the additional declarations provided for by article 40 shall be transmitted to the Secretary-General of the United Nations, who shall notify their receipt to all the Members of the United Nations and to the non-member States referred to in the preceding paragraph.
3. The Secretary-General of the United Nations shall draw up three lists, denominated respectively by the letters A, B and C, corresponding to the three forms of accession to the present Act provided for in article 38, in which shall be shown the accessions and additional declarations of the Contracting Parties. These lists, which shall be continually kept up to date, shall be published in the annual report presented to the General Assembly of the United Nations by the Secretary-General.

ARTICLE 44

1. The present General Act shall come into force on the ninetieth day following the receipt by the Secretary-General of the United Nations of the accession of not less than two Contracting Parties.
2. Accessions received after the entry into force of the Act, in accordance with the previous paragraph, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the United Nations. The same rule shall apply to the additional declarations provided for by article 40.

ARTICLE 45

1. The present General Act shall be concluded for a period of five years, dating from its entry into force.
2. It shall remain in force for further successive periods of five years in the case of Contracting Parties which do not denounce it at least six months before the expiration of the current period.
3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations, who shall inform all the Members of the United Nations and the non-member States referred to in article 43.

4. A denunciation may be partial only, or may consist in notification of reservations not previously made.
5. Notwithstanding denunciation by one of the Contracting Parties concerned in a dispute, all proceedings pending at the expiration of the current period of the General Act shall be duly completed.

ARTICLE 46

A copy of the present General Act, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat. A certified true copy shall be delivered by the Secretary-General to each of the Members of the United Nations, to the non-member States which shall have become parties to the Statute of the International Court of Justice and to those designated by the General Assembly of the United Nations.

ARTICLE 47

The present General Act shall be registered by the Secretary-General of the United Nations on the date of its entry into force.

Herbert V. EVATT

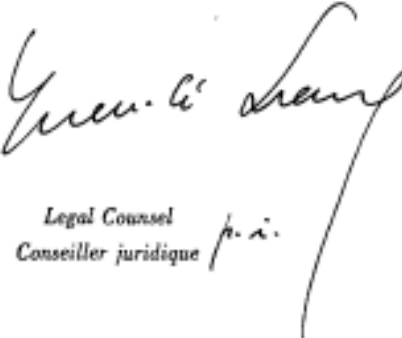
President of the General Assembly of the United Nations

Trygve LIE

Secretary-General of the United Nations

Certified true copy.

For the Secretary-General:



Yuen-tsi Cheng
Legal Counsel
Conseiller juridique *p. i.*