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.

Every state has the duty to promote through joint and separate action universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter.

The establishment of a sovereign and independent state, the free association or integration with an independent state or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

Every state has the duty to refrain from any forcible action which deprives peoples referred to above in the elaboration of the present principle of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their right to self-determination, such peoples are entitled to seek and to receive support in accordance with the purposes and principles of the Charter.

The territory of a colony or other non-self-governing territory has, under the Charter, a status separate and distinct from the territory of the state administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or non-self-governing territory have exercised their right of self-determination in accordance with the Charter, and particularly its Purposes and Principles.

Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principles of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed, or colour.

Every state shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country.

The principle of sovereign equality of states

All states enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

In particular, sovereign equality includes the following elements:

(a) states are juridically equal;

(b) each state enjoys the rights inherent in full sovereignty;

(c) each state has the duty to respect the personality of other states;

(d) the territorial integrity and political independence of the state are inviolable;

(e) each state has the right freely to choose and develop its political, social, economic and cultural systems;

(f) each state has the duty to comply fully and in good faith with its international obligations and to live in peace with other states.

The principle that states shall fulfil in good faith the obligations assumed by them in accordance with the Charter

Every state has the duty to fulfil in good faith the obligations assumed by it in accordance with the Charter of the United Nations.

> Every state has the duty to fulfil in good faith its obligations under the generally recognised principles and rules of international law.
>
> Every state has the duty to fulfil in good faith its obligations under international agreements valid under the generally recognised principles and rules of international law.
>
> Where obligations arising under international agreements are in conflict with the obligations of Members of the United Nations under the Charter of the United Nations, the obligations under the Charter shall prevail.
>
> 2 *Declares that:*
>
> In their interpretation and application the above principles are interrelated and each principle should be construed in the context of the other principles.
>
> Nothing in this Declaration shall be construed as prejudicing in any manner the provisions of the Charter or the rights of peoples under the Charter, taking into account the elaboration of these rights in this Declaration,
>
> 3 *Declares further that:*
>
> The principles of the Charter which are embodied in this Declaration constitute basic principles of international law, and consequently appeals to all states to be guided by these principles in their international conduct and to develop their mutual relations on the basis of the strict observance of these principles.

The peaceful methods of international dispute settlement that exist can be divided into diplomatic and legal settlement. Legal settlement refers to modes of dispute settlement which result in binding decisions and will involve either arbitration or judicial settlement. The following can be identified as forms of diplomatic settlement:

- negotiation and consultation;
- good offices;
- mediation;
- conciliation;
- inquiry.

What constitutes an 'international dispute' is a matter for objective determination. In the *Mavrommatis Palestine Concessions (Jurisdiction)* case (1924) the PCIJ stated that a dispute could be regarded as 'a disagreement over a point of law or fact, a conflict of legal views or of interests between two persons'. In the *Interpretation of Peace Treaties* case (1950) the ICJ, in an Advisory Opinion, confirmed that the existence of an international dispute was a matter of objective determination stating:

> The mere denial of the existence of a dispute does not prove its non-existence ... There has thus arisen a situation in which two sides hold clearly opposite views concerning the question of the performance or non-performance of treaty obligations. Confronted with such a situation, the Court must conclude that international disputes have arisen.

13.2 Negotiation and consultation

Negotiation is by far the most popular means of dispute settlement and consists of discussions between the interested parties. It is distinguished from other diplomatic means of settlement in that there is no third party involvement. Negotiations are normally conducted through 'normal diplomatic channels' (foreign ministers, ambassadors, etc),[2] although some states have set up semi-permanent 'mixed commissions' consisting of an equal number of representatives of both parties which can deal with disputes as and when they arise, for example the Canadian-US Joint Commission. Negotiation is used to try and prevent disputes arising in the first place and will also often be used at the start of other dispute Resolution procedures. In the *Mavrommatis Palestine Concessions (Jurisdiction)* case (1924) the PCIJ indicated that negotiation should be a preliminary to bringing a case before the Court in order that the subject matter of a dispute be clearly defined. In the *Free Zones of Upper Savoy* case (1932) the PCIJ stated that:

> Before a dispute can be made the subject of an action at law, its subject matter should have been clearly defined by diplomatic negotiations.[3]

It is clear that states are under a general obligation to negotiate in good faith:

> The parties are under an obligation to enter into negotiations with a view to arriving at an agreement, and not merely to go through a formal process of negotiation of a sort of prior condition for the automatic application of a certain method of delimitation in the absence of agreement; they are under an obligation so to conduct themselves that the negotiations are meaningful, which will not be the case when either of them insists upon its own position without contemplating any modification of it.[4]

13.3 Good offices

'Good offices' involves the involvement of a third party, with the consent of the states in dispute, to help them establish direct contacts or to take up negotiations. The person providing the 'good offices' will usually be a neutral party who is trusted by both sides. The UN Secretary General is often used in this role to facilitate communication between contending parties, and he may, on behalf of a concerned international community, play an active role in encouraging negotiations and promoting a successful outcome.

> Furthermore, the Security Council and other organs of the United Nations have entrusted the Secretary General with various tasks which broadly entail the exercise of good offices. This is a very flexible term as it may mean very little or very much. But, in an age in which negotiations have to replace confrontation, I feel that the Secretary General's good offices can significantly help in encouraging member states to bring their disputes to the negotiating table. Negotiations today have a character quite different from what they had in the past. Talleyrand called negotiations '*l'art de laisser les autres suivre votre propre*

2 Negotiation, consultation, diplomacy, 'through the usual diplomatic channels' tend to be used interchangeably to mean the same thing.

3 *PCIJ* Ser A, No 22, p 13.

4 *North Sea Continental Shelf* case [1969] *ICJ Rep* at p 47, para 85 (a).

voie'. That, however, was true of a world which no longer exists. Today, negotiations need to take account of the great political and economic changes of our world. In order to succeed, and if the vital interests of all concerned are taken sufficiently into consideration, no party will consider it a sign of weakness to listen to a cogent argument, and accept a demonstrably reasonable outcome. The parties may retain their different outlooks, but wherever they confront one another, life imposes upon them the obligation to seek all possible means of *rapprochement* and try to reduce the elements of contention and conflict. The task of the United Nations and the purpose of good offices of the Secretary General is to make the discharge of this obligation easier. In view of the complexity of the issues which arise in our dynamic world, traditional diplomacy can no longer suffice. New methods and devices have become important.

The process involved contributes to the growth of international law, for every Resolution of a dispute, every new agreement, adds a new building stone to the edifice of law. More immediately, it answers the need of peace-making. It is a very complex task, requiring great discretion. One of my predecessors rightly remarked that, 'while the Secretary General is working privately with the parties in an attempt to resolve a delicate situation, he is criticised publicly for his inaction or even lack of interest'. In situations of confrontation, the parties to a dispute are extremely sensitive and this makes it important that they should have confidence in the impartiality or the objectivity of the United Nations and its Secretary General. The only instrument I can use is persuasion. When successful, it is a more powerful weapon that constraint, for it makes the persuaded party an ally of the solution. But to be able to persuade, you must prove the virtues of a solution, demonstrate the need to compromise and convince the party concerned that an agreement today is much more advantageous for it than a doubtful victory tomorrow. It is here that inventiveness is essential. We have to stretch our imagination to discern points of potential agreement even where at first sight they look non-existent. Even more important is patience, the refusal to give up in the face of apparently hopeless odds. Patience is greatly helped by the realisation that in so many areas some of the great problems of today reflect the accumulation of violations, mistakes and passivity stretching over long periods. Hence, the difficulty of reconciling different positions, and hence also, its acute urgency.

As Secretary General of the United Nations, I am encouraged when states respond positively to the offer of my services. if two parties are unable or unwilling to sit down at the same table, action from some third quarter – such as the United Nations – is indispensable. But, in such a situation, each party must feel that it will not incur a disadvantage by responding to my good offices. And in making my good offices available, timing is of critical importance.[5]

13.4 Mediation

Whereas in good offices the third party is doing little more than providing a channel for communication, in mediation the third party plays a more active role by offering advice and proposals for a solution of the dispute. In practice it is often hard to establish a clear distinction between the two. What may begin as provision of good offices may end up as mediation.

5 Statement of the UN Secretary General, SG/SM/3525, pp 4–5.

13.5 Conciliation

Conciliation also involves the use of third parties, but the third party plays a more detached role. Rather than becoming involved in the negotiations, the conciliator will investigate the dispute and present formal proposals for a solution. Conciliation is often undertaken by a commission of conciliation acting as a formal body. In 1922 the League of Nations adopted a Resolution encouraging states to submit their disputes to conciliation commissions which would undertake both a mediation and an inquiry role.

GENERAL ACT ON PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES[6]

CHAPTER 1 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 nations 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

6 93 LNTS 345. Done at Geneva on 26 September 1928, entered into force on 16 August 1929. The following states are parties: Australia, Belgium, Canada, Denmark, Ethiopia, Finland, France, Greece, India, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, Pakistan, Peru, Spain (denunciation, 8 April 1934), Switzerland, Turkey, United Kingdom (denunciation, 8 February 1974).

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 in the manner laid down in the preceding article, unless the parties shall 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 the request of the parties, to the Acting President of the Council of the League of Nations.

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 of it.

Article 8

1 Within 15 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 15 days from the date on which it received the notification.

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 inquiries, 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 duties 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 inquiry 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 h as 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 terminated within six months from the date on which the Commission shall have been given cognisance 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.

13.6 Inquiry

Inquiries prove useful where a dispute is largely concerned with issues of fact. The need for some independent inquiry procedures was illustrated by events leading to the Spanish-American War of 1898. In February 1898 a US warship, at anchor in Cuba, was destroyed by an explosion which killed large numbers of US sailors. Relations between Spain and the US were already strained and the US quickly blamed Spain for the explosion. Spain held a commission of inquiry which found that the explosion was caused by factors present on the ship whilst a US inquiry found that the ship had been destroyed by a mine. The conflicting findings of the two inquiries only served to exacerbate the situation.

At the Hague Peace Conference 1899 the Russians proposed the establishment of international commissions of inquiry which would be able, impartially, to decide disputes of fact and which would put an end to the type of dispute between the US and Spain. The proposals were accepted and formed the basis for Articles 9 to 14 of the Hague Convention for the Pacific Settlement of Disputes 1899. In 1904 a Committee of Inquiry, established under the provisions of the Hague Convention, was held to look into the sinking of a number of UK trawlers by Russian warships. The Committee consisted of representatives from the UK and Russia and also France, the US and Austro-Hungary. The inquiry made a finding of fact and the dispute between Russia and the UK was settled amicably.

The rules relating to inquiries were further refined by the Hague Convention for the Pacific Settlement of Disputes 1907 (Articles 9–35).

> In disputes of an international nature involving neither honour nor essential interests, and arising from a difference of opinion on points of fact, the Contracting Parties deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy should, as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.[7]

There has been little use of inquiries as a means of settling disputes since the establishment of a World Court which can decide questions of both law and fact. The last international inquiry to be held was the *Red Crusader Inquiry* (1962) which investigated an incident involving a UK trawler and a Danish fisheries protection vessel. The *Red Crusader Inquiry* itself was the first to be held for 40 years. There has been much greater use of slightly less formal 'fact-finding missions', particularly under the auspices of the United Nations, in the context of dispute prevention and Resolution.

13.7 Arbitration

> 168 The 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes described the object of international arbitration as the settlement of disputes between states by judges chosen by the parties themselves

7 Hague Convention for the Pacific Settlement of International Disputes 1907 article 9.

> and on the basis of respect for law.[8] They further provided that recourse to the procedure implied submission in good faith to the award of the tribunal. Accordingly, one of the basic characteristics of arbitration is that it is a procedure which results in binding decisions upon the parties to the dispute.
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> 169 The power to render binding decisions is, therefore, a characteristic which arbitration shares with the method of judicial settlement by international courts whose judgments are not only binding but also, as in the case of the International Court of Justice, final and without appeal, as indicated in Article 60 of the ICJ Statute. For this reason arbitration and judicial settlement are both usually referred to as compulsory means of settlement of disputes.
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> 170 However, while both arbitration and judicial settlement are similar in that respect, the two methods are nevertheless structurally different from each other. Arbitration, in general, is constituted by mutual consent of the states parties to a specific dispute where such parties retain considerable control over the process through the power of appointing arbitrators of their own choice.[9, 10]

The modern history of international arbitration is traced back to the Treaty of Ghent 1814 between the US and the UK whereby the two states agreed that certain disputes should be arbitrated by national commissioners with reference to a disinterested third party. The earlier Jay Treaty 1794 between the two states had made provision for arbitration by national commissioners. Throughout the 19th century arbitration was frequently used, its popularity increasing markedly following the successful *Alabama Claims Arbitration* (1872) between the UK and the US in which both sides nominated a member of the arbitration tribunal as did Brazil, Italy and Switzerland.

The Hague Convention on Pacific Settlement of Disputes 1899 marked the beginning of a new era of arbitration by establishing a Permanent Court of Arbitration (PCA) which began functioning in 1902 and is still in existence. The Permanent Court of Arbitration is a bit of a misnomer since it is neither a court nor is it permanent. The PCA consists of a panel of 300 members (four nominated by each contracting party to the Hague Conventions 1899 and 1907) from whom each disputant can select one or more arbitrators (normally two, one of whom can be a national). The selected arbitrators then choose an umpire who presides over the arbitration. Decision of the arbitration panel is by majority vote. Of course, states do not have to use the PCA procedures and can establish *ad hoc* arbitration tribunals of their own such as the one set up to deal with the *Guinea/Guinea Bissau Maritime Delimitation* case (1985).

Arbitration depends on consent. The law to be applied, the make up of the tribunal, any time limits must all be mutually agreed before the arbitration starts. The mutual agreement under which the parties agree to submit their

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8 See articles 15 and 37 respectively of the 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes.

9 Sometimes the parties may agree in advance to appoint arbitrators from among a pre-existing list. For example, the Hague Convention provides such a list. Similarly the 1982 United Nations Convention on the Law of the Sea provides for a list of arbitrators in accordance with article 2 of annex VII on 'Arbitration' and article VIII on 'Special arbitration'.

10 United Nations, Office of Legal Affairs, *Handbook on the Peaceful Settlement of Disputes between States*, 1992, New York: United Nations at p 55.

dispute to arbitration and under which they agree the procedures and rules to be applied is known as the *compromis*. The *compromis* should also provide that the arbitration decision will be binding on the parties. There do exist model rules of procedure, for example, the Model Rules on Arbitral Procedures which were drawn up by the ILC and adopted by the UN General Assembly in 1958.

Between 1900 and 1932 some 20 disputes went through the PCA procedure, but since then only 3 cases have been heard. Arbitration has revived in popularity more recently especially since the coming into force of the Convention on the Settlement of Investment Disputes 1964 which set up an international arbitration centre in Washington to deal with disputes between states arising out of the expropriation of foreign owned property. Arbitration is most favoured in commercial and technical disputes in which arbitrators can be appointed who have specialist knowledge. It also has the advantage over judicial settlement in that it is usually less expensive.

One question which has been raised recently is whether the decision of an arbitration tribunal is capable of review. It has already been seen that the decisions of such tribunals are to be regarded as final and this would seem to rule out the possibility of review or appeal unless there is a clear error of law. However in *Guinea Bissau v Senegal* (1991)[11] the ICJ was willing to consider whether or not it should declare an arbitration award to be void. Guinea-Bissau alleged that the arbitration tribunal had exceeded its powers, that there was no true majority in favour of the decision, and that the award was based on insufficient reasoning. The Court did not uphold Guinea-Bissau's claims but the fact that it was prepared to investigate the claims would indicate that arbitration awards are susceptible to review by the ICJ. The decision has been criticised by a number of writers on the grounds that it undermines arbitration as a means of achieving final settlement of disputes.

13.8 Judicial settlement

By judicial settlement is meant a settlement brought about by a properly constituted international judicial tribunal, applying rules of law. The most well known of the international judicial tribunals is the International Court of Justice. There are also a number of regional international tribunals and also tribunals with jurisdiction over particular disputes. For example, the Law of the Sea Convention 1982 provides arrangements for the establishment of an International Tribunal for the Law of the Sea and the Sea Bed Disputes Chamber for dealing with disputes arising from the Convention. There is no absolute distinction between arbitration and judicial settlement, although judicial settlement generally involves reference of the dispute to a permanent tribunal which applies fixed rules of procedure.

13.8.1 The World Court

The World Court refers to both the Permanent Court of International Justice (PCIJ) and its successor, the International Court of Justice (ICJ).

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11 [1991] *ICJ Rep* at p 53.