



សាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និង វិទ្យាសាស្ត្រសេដ្ឋកិច្ច
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សារណាបញ្ចប់ការសិក្សា

អន្តរាគមន៍យោធាអាមេរិច នៅអ៊ូរ៉ាក់ និងភាពស្របច្បាប់

ស្រាវជ្រាវពីថ្ងៃទី ០៣ ខែ មេសា ឆ្នាំ ២០១៧ ដល់ថ្ងៃទី ៣១ ខែ ឧសភា ឆ្នាំ ២០១៧

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លោក ខឿក ពិដោរ

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សេចក្តីថ្លែងអំណរគុណ

ខ្ញុំបាទឈ្មោះ **សាំខ ម៉េងហ៊ុយ** ជានិស្សិតថ្នាក់បរិញ្ញាបត្រ ផ្នែកនីតិសាស្ត្រជំនាន់ទី ១៧ នៃសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច សូមថ្លែងអំណរគុណយ៉ាងជ្រាលជ្រៅចំពោះ ៖

- **លោកឪពុក យឹម សឿន និងអ្នកម្តាយ ចាន់ ណារី** ដែលជាអ្នកមានគុណយ៉ាងធំធេងចំពោះកូនមិនអាចកាត់ថ្លៃបាន។ លោកអ្នកមានគុណទាំងពីរ ជាកម្លាំងចលករមិនអាចកាត់ថ្លៃបានចំពោះកូន បើគ្មានលោកទាំងពីរ គ្មានការទំនុកបំរុងពីលោកទាំងពីរ ក៏កូនគ្មានថ្ងៃនេះដែរ។ ហើយកូនសូមអរគុណអ្នកម្តាយ និងលោកឪពុកចំពោះការបីបាច់ថែរក្សាកូន ព្រមទាំងបញ្ជូនកូនឲ្យសិក្សាបញ្ចប់ថ្នាក់បរិញ្ញាបត្រនីតិសាស្ត្រនេះផងដែរ ។

ឯកឧត្តមសាកលវិទ្យាធិការ សាកលវិទ្យាធិការរងលោកព្រឹទ្ធបុរសលោកព្រឹទ្ធបុរសរង លោកលោកស្រី សាស្ត្រាចារ្យ ព្រមទាំងបុគ្គលិកទាំងអស់ នៃសាកលវិទ្យាល័យភូមិន្ទនីតិសាស្ត្រ និងវិទ្យាសាស្ត្រសេដ្ឋកិច្ច ដែលបានបង្ហាត់បង្រៀនផ្តល់ដំបូន្មានល្អៗ ចំពោះរូបខ្ញុំផ្ទាល់ និងជួយជ្រោមជ្រែងក្នុងការសិក្សារបស់ខ្ញុំ។ លើសពីនេះទៅទៀតគាត់ចំណាយពេលដ៏មានតម្លៃជួយជ្រោមជ្រែង និងលើកទឹកចិត្តខ្ញុំជារៀងៗ ។

លោកសាស្ត្រាចារ្យ **ឡឺក ពិដោរ** ដែលជាសាស្ត្រាចារ្យណែនាំសារណាបញ្ចប់ការសិក្សានេះ។ លើសពីនេះទៅទៀត លោកសាស្ត្រាចារ្យចំណាយពេលវេលា ដ៏មានតម្លៃ ក្នុងការ ដឹកនាំកែតម្រូវឲ្យជាមតិយោបល់ជាច្រើនក្រៃលែងក្នុងការដឹកនាំ។ មិនត្រឹមតែប៉ុណ្ណោះ លោក សាស្ត្រាចារ្យតែងតែផ្តល់ដំបូន្មានល្អៗ ដល់រូបខ្ញុំផ្ទាល់ទាំងការសិក្សាទាំងស្មារតីលើកទឹកចិត្ត ឲ្យខំសិក្សារៀនសូត្រផងដែរ ។

ជាទីបញ្ចប់រូបខ្ញុំផ្ទាល់ សូមអរគុណយ៉ាងជ្រាលជ្រៅដល់ លោកឪពុកអ្នកម្តាយ ឯកឧត្តមសាកលវិទ្យាធិការ សាកលវិទ្យាធិការរង លោកសាស្ត្រាចារ្យ ហើយសូមឲ្យជួបតែសេចក្តីសុខសេចក្តីចម្រើន ព្រមទាំងមានសុខភាពល្អ និងអាយុវែង ។

អារម្ភកថា

សារណាបញ្ចប់ការសិក្សាស្តីពី “អន្តរាគមន៍យោធាអាមេរិចនៅអ៊ីរ៉ាក់ និងភាពស្របច្បាប់” គឺជាលទ្ធផលកើតឡើងដោយស្មោះត្រង់ ដោយស្ថិតក្រោមការណែនាំរបស់សាស្ត្រាចារ្យ ឡឺក ពិដោរ លើសពីនេះទៅទៀត សារណានេះវាចេញជាផ្លូវការទៅបានអាស្រ័យលើការ ខិតខំប្រឹងប្រែងរបស់ខ្ញុំផ្ទាល់ក្នុងការរិះរកគ្រប់វិធីសាស្ត្រទាំងអស់ ដូចជាការវិភាគលើអង្គហេតុ និងអង្គច្បាប់ស្រាវជ្រាវ និងការអង្កេតដោយផ្ទាល់លើធាតុអត្តនាម័តរបស់សហរដ្ឋអាមេរិច និងអ៊ីរ៉ាក់ ថាតើហេតុអ្វីបានជាមានអន្តរាគមន៍យោធាកើតឡើង។ ហើយដើម្បីយល់ឲ្យស៊ីជម្រៅកាន់តែខ្លាំង ក្នុងទំនាក់ទំនងរបស់សហរដ្ឋអាមេរិច និងអ៊ីរ៉ាក់ ។

អន្តរាគមន៍យោធាអាមេរិច នៅអ៊ីរ៉ាក់នេះដែរ វានៅតែមានភាពប្រទាំងប្រទើសគ្នារវាងសហរដ្ឋអាមេរិច ចិន និងរុស្ស៊ី ដែលថាការវាយរបស់អាមេរិចក្នុងឆ្នាំ ២០០៣ គឺជាភាពអធម្មនុញ្ញទៅនឹងអង្គការសហប្រជាជាតិ។ មិនត្រឹមតែប៉ុណ្ណោះ វាក៏អាចប៉ះពាល់ដល់សណ្តាប់ធ្នាប់ពិភពលោកផងដែរ ដែលថាអង្គការសហប្រជាជាតិគ្មានសមត្ថកិច្ចក្នុងការរក្សាសន្តិភាព សុវត្ថិភាពដល់ ពិភពលោក។

មូលហេតុក្នុងការសរសេរសារណាគឺដើម្បី បញ្ចប់បរិញ្ញាបត្រនីតិសាស្ត្រ បន្ទាប់មកទៀតគឺដើម្បីលាតត្រដាងថាតើ ច្បាប់អន្តរជាតិមានអានុភាពប៉ុណ្ណាក្នុងការការពារសន្តិសុខសណ្តាប់ធ្នាប់របស់ពិភពលោក និងថាតើប្រទេសក្នុងពិភពលោកអនុវត្តច្បាប់នេះដែរ ឬយ៉ាងណា។ មូលហេតុចុងក្រោយនេះគឺថា ដើម្បីជាបន្សល់ទុកស្នាដៃដើម្បី ឲ្យសិស្សប្អូនជំនាន់ក្រោយងាយស្រួលស្វែងយល់ចង់ចេះចង់ដឹងពីធាតុពិតនៃនីតិអន្តរជាតិ ។

ពិតប្រាកដណាស់ សារណានេះតែងតែមានចំណុចចន្លោះប្រហោងជាក់ជាមិនខាន ដោយហេតុថា សុទ្ធតែជាភាសាបរទេសទាំងអស់ ហើយលើសពីនេះទៅទៀត ឯកសារក៏ពិបាករកផងដែរ។ ហេតុដូច្នេះខ្ញុំបាទ សូមធ្វើការអភ័យទោសនូវរាល់កំហុសឆ្គងនិងភាពចន្លោះប្រហោង ដែលកើតឡើងជាអចេតនាក្នុងសារណាមួយនេះ ។

មាតិកា

ទំព័រ

សេចក្តីផ្តើម ១

ជំពូកទី១

ក្របខណ្ឌគតិយុត្តនៃអន្តរាគមន៍យោធា

ផ្នែកទី ១ ៖ គោលការណ៍នៃច្បាប់អន្តរជាតិ ៥

កថាខណ្ឌទី១ ៖ ការមិនរត់ទៅរកការប្រើប្រាស់កម្លាំង ៥

១. អញ្ញត្រកម្មនៃកិច្ចការពារជាធម្មនុរូប ៨

កថាខណ្ឌទី២ ៖ វិធីដើម្បីធានាការគោរពនៃការកំណត់ព្រំដែន ៩

១. ការត្រួតពិនិត្យប្រឆាំងនឹង ការប្រើប្រាស់ខុសច្បាប់ ១

១.១. វិធីនៃប្រតិកម្មជាសហគមន៍ ដោយមិនមានការបង្ខិតបង្ខំ និងទណ្ឌកម្ម សេដ្ឋកិច្ច
និងហិរញ្ញវត្ថុ ៩

១.២. សកម្មភាពសន្តិសុខនិងប្រតិបត្តិការទ្រង់ទ្រាយធំក្នុងការថែរក្សាសន្តិភាព ៩

២. ការតាំងបទបញ្ជាអន្តរជាតិស្តីពីសព្វាវុធ ១០

២.១. ការតាំងបទបញ្ជាស្តីពីអាវុធបំផ្លាញទូទៅ ១០

៣. ការដកទ័ពចេញពីតំបន់មួយចំនួន ១១

ផ្នែកទី ២ ៖ ការតាំងបទបញ្ជានៃការប្រើប្រាស់កម្លាំង (Jus in Bello) ១១

កថាខណ្ឌទី១ ៖ វិធានត្រូវបានរៀបចំតាក់តែង ១១

១. ច្បាប់សង្គ្រាម ១២

២. ច្បាប់មនុស្សធម៌ ១៣

៣. ការវាយតម្លៃបទល្មើសអន្តរជាតិ ១៣

៣.១. ឧក្រិដ្ឋកម្មសង្គ្រាម ១៣

៣.២. ឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ ១៣

៣.៣. ឧក្រិដ្ឋកម្មប្រល័យពូជសាសន៍ ១៤

កថាខណ្ឌទី២ ៖ តុលាការអន្តរជាតិ ១៤

១. ការចោទប្រកាន់តាមផ្លូវតុលាការ ១៤

២. តុលាការអន្តរជាតិអាជ្ញ ហុក (Ad Hoc) ១៤

៣. តុលាការព្រហ្មទណ្ឌ ១៥

សេចក្តីសន្និដ្ឋានជំពូក១	១៦
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ជំពូកទី២

អន្តរាគមន៍យោធារបស់សហរដ្ឋអាមេរិចនៅអ៊ីរ៉ាក់

ផ្នែកទី១៖ អន្តរាគមន៍យោធារបស់អាមេរិចនៅអ៊ីរ៉ាក់ ឆ្នាំ ១៩៩១	១៧
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កថាខណ្ឌទី១៖ មូលហេតុនៃការកាន់កាប់អ៊ីរ៉ាក់	១៧
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១.ការឈ្លានពានរបស់អ៊ីរ៉ាក់	១៧
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កថាខណ្ឌទី២ ៖ ទណ្ឌរបស់អ៊ីរ៉ាក់	២០
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១.ទណ្ឌកម្មរបស់អង្គការសហប្រជាជាតិ ដាក់លើអ៊ីរ៉ាក់	២០
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ផ្នែកទី២៖ អន្តរាគមន៍យោធារបស់សហរដ្ឋអាមេរិចនៅអ៊ីរ៉ាក់ឆ្នាំ ២០០៣	២២
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កថាខណ្ឌទី១៖ មូលហេតុការកាន់កាប់អ៊ីរ៉ាក់	២២
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១.ទិដ្ឋភាពច្បាប់ និង នយោបាយ (ដោយ Madjid)	២២
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២.ការស្វែងរកនៃភាពស្របច្បាប់ នៃការកាន់កាប់	២៣
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៣.ការកាន់កាប់ប្រទេសអ៊ីរ៉ាក់ និង ដំណោះស្រាយរបស់ក្រុមប្រឹក្សាសន្តិសុខ	២៣
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កថាខណ្ឌទី២ ៖ ទណ្ឌកម្មរបស់អ៊ីរ៉ាក់	២៦
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១.របបនៃការកាន់កាប់	២៦
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២.ភាពស្វែងរកភាពស្របច្បាប់ចំពោះការកាន់កាប់	២៧
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៣.បញ្ហានៃការធ្វើប្រជាធិបតេយ្យនីយកម្មអ៊ីរ៉ាក់	២៧
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៤.ស្ថាប័នបណ្តោះអាសន្នថ្មីរបស់អ៊ីរ៉ាក់	២៨
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សេចក្តីសន្និដ្ឋាន	៣០
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អនុសាសន៍	៣១
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គន្ថនិទេស

ឧបសម្ព័ន្ធ

បញ្ជីតារាងសម្គាល់អក្សរកាត់

- G7 (Global 7)
- ICC (International Criminal court)
- ICJ (International Court of Justice)
- UN (United Nation)
- UNSCOM (United Nation Commission)

សេចក្តីផ្តើម

សេចក្តីផ្តើម

សង្គ្រាមឈ្លងសមុទ្រ ឬសង្គ្រាមគុយវ៉ែតហៅថា “សង្គ្រាមឈ្លងសមុទ្រលើកទី២” បើប្រៀបធៀបទៅនឹងសង្គ្រាមអ៊ីរ៉ាក់ជាជម្លោះមួយដែលប្រឆាំងអ៊ីរ៉ាក់របស់ សាធារណរដ្ឋសេនជាមួយ នឹងសម្ព័ន្ធមិត្ត និង ទ័ពចំរុះដែលមាន ៣៤ រដ្ឋគាំទ្រដោយអង្គការសហប្រជាជាតិចន្លោះឆ្នាំ ១៩៩០ ទៅដល់ឆ្នាំ ១៩៩១។ ជ័យជំនះដែលបានគ្រោងទុក របស់កងទ័ពចម្រុះទៅរំដោះបាន ប្រទេសគុយវ៉ែតដែលប្រទេសនេះបានឈ្លានពានក្នុងឆ្នាំ ១៩៩០ ដោយយោធាអ៊ីរ៉ាក់បានបង្កឲ្យមានការចាប់ផ្តើមជម្លោះ។ សង្គ្រាមនេះស្ថិតក្នុងជម្លោះមួយខ្សែ ដែលប៉ះពាល់ដល់ឈ្លងសមុទ្រពេញលេញ

ដោយចាប់ផ្តើមក្នុងទសវត្សឆ្នាំ ១៩៨០ “សង្គ្រាមឈ្លងសមុទ្រមុន” បានប្រព្រឹត្តិទៅរួចជាស្រេច នៅក្នុងឈ្លងសមុទ្រក្នុងទសវត្ស ១៩៨០ ជាឧទាហរណ៍ មានសង្គ្រាមអ៊ីរ៉ាក់ឆ្នាំ ១៩៨០ ទៅ១៩៨៨ ហើយមានសង្គ្រាមឈ្លងសមុទ្រមួយទៀត ហៅថាសង្គ្រាមអ៊ីរ៉ាក់ត្រូវបានដឹកនាំក្នុងឆ្នាំ ២០០៣ ដោយសហរដ្ឋអាមេរិក ចក្រភពអង់គ្លេស និងប្រទេសសម្ព័ន្ធមិត្តផ្សេងទៀតប្រឆាំងអ៊ីរ៉ាក់។ នៅក្នុងសង្គ្រាមឈ្លងសមុទ្រក្នុងឆ្នាំ១៩៩០ ដល់១៩៩១ សម្ព័ន្ធមិត្តអន្តរជាតិបានប្រើប្រាស់ឧត្តមភាពខាងផ្នែកផ្លូវអាកាសរបស់ខ្លួន ដើម្បីកម្ទេចឧស្សាហកម្មយោធា ដ៏ស្មុគស្មាញរបស់អ៊ីរ៉ាក់ បន្ទាប់មកទៀតការវាយលុកផ្លូវគោកមួយ ដែលមានការកំណត់ដោយផ្ដើមចេញពី អាវ៉ាប៊ីសាអូឌីតបានបំផ្លាញកម្លាំងយោធាអ៊ីរ៉ាក់។

ពាក្យពេចន៍នៃបុព្វកថានៃធម្មនុញ្ញអង្គការសហប្រជាជាតិបង្ហាញឲ្យឃើញពីគោលបំណងរួម និងការថែរក្សាសន្តិសុខអន្តរជាតិ ដែលគេបានដឹងច្បាស់ក្នុង ការហាមមិនឲ្យរត់ទៅរកការប្រើប្រាស់កម្លាំង។ ដូច្នេះចំពោះរដ្ឋសមាជិកត្រូវធ្វើសកម្មភាពក្នុងអភិក្រមនៃ សន្តិសុខរួមដែលពួកគេយល់ឃើញថាត្រូវធ្វើ និងនៅក្នុងផលប្រយោជន៍របស់ពួកគេ។ ប៉ុន្តែស្វ័យប្រវត្តិកម្មនៃយន្តកម្មមិនដែលមានលក្ខណៈដាច់ខាតទាល់តែសោះ ក្នុងន័យដែលថារដ្ឋមួយចំនួនគេចផុតពីតក្កនេះ ។

ជាភស្តុតាងភាពពិការដែល ក្រុមប្រឹក្សាសន្តិសុខបានជួបក្នុងរយៈពេល ៤០ឆ្នាំការបែងចែកប៉ូលទាំងពីរញ៉ាំងឲ្យមិនអាចទៅរួចការប្រើប្រាស់ឧបករណ៍ ដែលត្រូវបានផ្តល់ឲ្យខ្លួនដែលធម្មនុញ្ញដើម្បីថែរក្សាសន្តិភាព និងសន្តិសុខ។ ក៏ប៉ុន្តែប្រសិនបើ ការបញ្ចប់សង្គ្រាមត្រជាក់បានទុកឲ្យប្រកាសប្រាប់ឲ្យដឹងមុនការលើចេញ “នៅសណ្តាប់ធ្នាប់ពិភពលោកថ្មីមួយ” និងការវិលត្រលប់ទៅរកពាក្យពេចន៍ធម្មនុញ្ញនោះអន្តរាគមន៍អ្វីតង់នៅកូសូវ៉ូក្នុងឆ្នាំ ១៩៩៩ គ្រាន់ជាការបំភ្លៃជាក់ស្តែងមួយប៉ុណ្ណោះ។ ដូច្នេះគេនឹងឃើញមានការមិនបាត់បង់អំណាចរបស់ក្រុមប្រឹក្សាសន្តិសុខ និងការរំលោភច្បាប់អន្តរជាតិកម្លាំងចម្រុះបានរត់ទៅរក ការប្រើប្រាស់កម្លាំងដោយពុំមានអាណត្តិរបស់អង្គការសហប្រជាជាតិ។ ភាពមិនសូវស្រួលដែលកើតចេញពីនេះនិងរីកសាយថែមទៀតជាមួយ និងអន្តរាគមន៍យោធាឆ្នាំ២០០៣ នៅអ៊ីរ៉ាក់ដឹកនាំដោយសហរដ្ឋអាមេរិក និងសម្ព័ន្ធមិត្តរបស់ខ្លួន។

ដូច្នេះ ត្រូវកត់សម្គាល់ឲ្យឃើញថា បទពិសោធន៍ជាអន្តរជាតិនៃសតវត្សទី២០ ដែលសំដៅដាក់ការប្រើប្រាស់កម្លាំងឲ្យនៅក្រោមអធិបតេយ្យ ហាក់បីដូចជាត្រូវបានបញ្ចប់ទៅវិញជាមួយនឹងភាពគ្មានអំណាចរបស់អង្គការសហប្រជាជាតិ នៅពេលប្រតិបត្តិការ Iraqi freedom ធ្វើឡើងជាឯកតោភាគីដោយមហាអំណាចសហរដ្ឋអាមេរិចថ្ងៃទី២០ ខែមិនា ឆ្នាំ២០០៣។ ហើយប្រសិនបើដូចជា រឿងពិតថាជម្លោះតែងតែត្រូវបានវិភាគតាមរយៈ ភាពចម្រុះនៃទិដ្ឋភាពច្បាប់របស់វាយ៉ាងហោចណាស់នាំនូវការបំភ្លឺមួយជាក់ស្តែងស្តីពីការមិនដំណើរការ នៃប្រព័ន្ធសន្តិសុខរួម ។

សំខាន់ជាងនេះទៅទៀតទុកមួយឡែកសិន ថា ពួកអាមេរិចកាំងសម្ព័ន្ធមិត្ត បានសាកល្បងបកស្រាយច្បាប់អន្តរជាតិ និងសេចក្តីសម្រេចចិត្តរបស់ក្រុមប្រឹក្សាសន្តិសុខធ្វើយ៉ាងណាឲ្យខ្លួនអាចបញ្ជាក់បានពីអន្តរាគមន៍យោធានោះ។ ដំបូងត្រូវកម្រិតឲ្យឃើញថា ចាប់តាំងពីការបញ្ចប់សង្គ្រាមល្បួងសមុទ្រទីមួយមកសេចក្តីសម្រេចចិត្ត៦៨៧ បានដាក់ក្រុមប្រឹក្សាសន្តិសុខអង្គការសហប្រជាជាតិនៅចំណុចដោយសារ ការបង្កើតគណៈកម្មការពិសេសហៅថា UNSCOM ដែលមានតួនាទីវាយតម្លៃពីការដកអាវុធចេញពីប្រទេសអ៊ីរ៉ាក់។ ក៏ប៉ុន្តែបន្ទាប់ពីការធ្លាក់ចុះនៃកិច្ចសហប្រតិបត្តិការពីអ៊ីរ៉ាក់នាំទៅដល់ភាពជាប់គាំងនៃការដកអាវុធនេះ អាមេរិចប្រញាប់ប្រញាល់ដោយបដិសេធចោលពីកង្វះខាតពីប្រសិទ្ធភាពនៃការគ្រប់គ្រងរបស់អង្គការសហប្រជាជាតិ ។

នៅចំពោះមុខភាពមិនអាចទៅរួច របស់សហរដ្ឋអាមេរិច ក្នុងការឈាន ដល់ការអនុម័តនៃសេចក្តីសម្រេចទី២ ដែលអនុញ្ញាតយ៉ាងច្បាស់ឲ្យប្រើប្រាស់កម្លាំង ហើយជាពិសេសដោយសារ Veto របស់ប្រទេសបារាំងការដាក់អោយអនុវត្តប្រព័ន្ធសន្តិសុខរួមនិង ត្រូវបញ្ចប់តាមការជំនួសតក្កការទូតពហុភាគី និងជាស្ថាប័នដែលសេចក្តីសម្រេច ១៩៩១មានចែងដោយតក្ក នៃសង្គ្រាមឯកតោភាគីដែលរំលោភច្បាប់អន្តរជាតិ។ រាល់ចំណងសកម្មភាពយោធាត្រូវបានកាត់ផ្តាច់ជាមួយ និងសេចក្តីសម្រេចរបស់ក្រុមប្រឹក្សាសន្តិសុខ ហើយដោយសារគោលដៅលាក់បាំងនៃរដ្ឋបាល Bush ក្នុងការចង់ផ្លាស់ប្តូររបប...។ ដូច្នេះវាជាសកម្មភាពជាឯកតោភាគី និងតាមទំនើងចិត្តដែលភាពស្របច្បាប់ជាអន្តរជាតិត្រូវបានជំទាស់យ៉ាងខ្លាំងក្នុងករណីណាដែល គ្មានអណត្តិណាមួយរបស់អង្គការសហប្រជាជាតិអនុញ្ញាតឲ្យធ្វើ។ ការរំលោភធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិមានយ៉ាងពិតប្រាកដប្រសិនបើ កងទ័ពចម្រុះបានប៉ុនប៉ងបញ្ជាក់ពីសកម្មភាពរបស់ខ្លួន ចំពោះគោលការណ៍នៃបុព្វជា នៃធម្មនុញ្ញ ដែលទាក់ទងទៅនឹងការការពារសិទ្ធិមនុស្សហើយដែលចែងថា“ ត្រូវដោះស្រាយជនចេញពីជនផ្តាច់ការដំបង្ខំឈាមម្នាក់”។ ត្រង់នឹងហើយមូលដ្ឋានគតិយុត្តបែបនេះមិនអាចទទួលយកបានទេក្នុងករណីណាដែល វាមិនមែនជាការរំលោភសិទ្ធិមនុស្ស ដែលស្ថិតនៅក្នុងបញ្ហាប៉ុន្តែជាការកាន់កាប់អាវុធបំផ្លាញលោក។ ការលើកយកក្រុមប្រឹក្សាសន្តិសុខមកនិយាយក្នុងរឿងនេះនឹងត្រូវ

បញ្ចប់ជាមួយ និងសមាហរណកម្មរបស់វាឡើងវិញ ក្នុងដំណាក់កាលក្រោយជម្លោះគឺជាការដាក់ឱ្យមានភាពស្របច្បាប់ខ្លះឡើងវិញនៅក្នុងស្ថានភាពនេះផ្ទុយនឹងច្បាប់។ រឿងនេះនឹងពន្យល់បានតាមរយៈដំណោះស្រាយជាច្រើនដែលក្នុងចំណោមនោះនៅមានខ្លះអាចជជែកគ្នាបាននៅឡើយ ។

បន្ទាប់មកទៀតសេចក្តីសម្រេច១៥១១ ឆ្នាំ២០០៣ និងត្រូវបានអនុម័តដែលតាមរយៈនេះក្រុមប្រឹក្សាសន្តិសុខ និងផ្សេងទៀតលើផ្នែកដែលតភ្ជាប់ពីព្រោះខ្លួនទើបតែយល់ព្រមផ្តល់ឱ្យនូវមូលដ្ឋានគ្រឹះផ្នែកច្បាប់ចំពោះវត្តមានសហរដ្ឋអាមេរិចនិងចក្រភពអង់គ្លេស នៅអ៊ីរ៉ាក់ដោយវាយតម្លៃប្រទេសទាំងពីរនេះថា “កម្លាំងពហុជាតិ” ជាអាជ្ញាធរដែលចេញនូវ រាល់វិធានចាំបាច់ដើម្បី ថែរក្សាសន្តិភាពនិងសន្តិសុខនិងដើម្បីការពារបេសកកម្មអង្គការសហប្រជាជាតិនៅអ៊ីរ៉ាក់។ នេះជាអនុញ្ញាតឱ្យប្រើប្រាស់កម្លាំង ។

ដូច្នេះត្រូវកត់ហេតុឱ្យឃើញថា ករណីអ៊ីរ៉ាក់ហើយជាទូទៅសករាជ Bush ឆ្លុះបញ្ចាំងឱ្យភាពខ្វះចន្លោះនៃប្រព័ន្ធសន្តិសុខរួម ដែលក្រុមប្រឹក្សាសន្តិសុខជាសសរស្តង់ ។ ម្យ៉ាងដោយសារសហរដ្ឋអាមេរិច បានបោះបង់គំនិតទទួលបានការយល់ព្រមពី អង្គការសហប្រជាជាតិ កាលណា វាជារឿងច្បាស់ដំណោះស្រាយមួយ មិនត្រូវបានអនុម័តចេញទាល់តែសោះ។ គឺដូច្នេះហើយអគ្គលេខាធិការ កូហ្វីអាណាន់ តាមរលកធាតុអាកាសរបស់ BBC បានគូសបញ្ជាក់ថាសង្គ្រាមនៅ អ៊ីរ៉ាក់គឺខុសច្បាប់ហើយបានអះអាងថា “តាមយោបល់យើង និងតាមយោបល់ធម្មនុញ្ញគឺខុសច្បាប់”។ ដូច្នេះហាក់បីដូចជាមិនអាចបដិសេធបានទេថា ប្រទេសទាំងអស់អនុគ្រោះដល់អន្តរាគមន៍ យោធានៅអ៊ីរ៉ាក់គឺជាការជួតជើងដាក់អង្គការសហប្រជាជាតិអន្តរាគមន៍ចុងក្រោយនេះស្ថិតនៅក្នុង ស្ថានភាពជាប់គាំងឬបណ្តាលមកពីការមិនយល់ស្របគ្នាខ្លាំងរវាងរដ្ឋសមាជិករបស់ក្រុមប្រឹក្សាសន្តិសុខ។ ដូច្នេះអង្គការសហប្រជាជាតិក្លាយជាក្របខណ្ឌមិនដាច់ខាត ហើយក៏មិនផ្តាច់មុខនៃសេចក្តីសម្រេចក្នុងការប្រើកម្លាំង។ ម្យ៉ាងទៀតអង្គការសហប្រជាជាតិបានបាត់ភាពស្របច្បាប់របស់ខ្លួនពីព្រោះរដ្ឋនៃកងកម្លាំងចម្រុះទោះជាមិន មានសេចក្តីសម្រេចណាមួយត្រូវបានអនុម័តក៏ដោយ ដើម្បីអនុញ្ញាតឱ្យមានអន្តរាគមន៍យោធាបានធ្វើហួសពីអវត្តមាននៃក្របខណ្ឌច្បាប់នេះ។ ទីបញ្ចប់ករណីអ៊ីរ៉ាក់គេទុកអសមត្ថភាពរបស់ក្រុមប្រឹក្សាសន្តិសុខមួយឡែកក្នុងការចេញវិធានការបង្ខិតបង្ខំ ឆ្ពោះទៅរកប្រទេសមួយដែលមិនបានគោរពកាតព្វកិច្ចរបស់ខ្លួនចំពោះសហគមន៍អន្តរជាតិ ។

ជាសរុប អន្តរាគមន៍នៅអ៊ីរ៉ាក់ដែលធ្វើឡើង ដោយទ័ពចំរុះនៅ ឆ្នាំ២០០៣ គ្រាន់តែជាការឆ្លុះបញ្ចាំងចាស់ទុំមួយនៃ លិខិតុបសារនីយកម្មនៃច្បាប់អន្តរជាតិ ដែលត្រូវមានការបកស្រាយនៃការប្រើប្រាស់កាលៈទេសៈ និងរឿងនេះដើម្បីធ្វើឱ្យផលប្រយោជន៍ និងតម្លៃនៃមហាអំណាច និងមជ្ឈិមប្រទេសលេចធ្លោដូចផលប្រយោជន៍និងតម្លៃរបស់សហគមន៍អន្តរជាតិដែរ។ លិខិតុបសារនីយកម្ម

នេះអាចធ្វើទៅបាន ពីព្រោះត្រូវផ្អែកលើទំនាក់ទំនងនៃអំណាចសម្ភារៈប្រជាធិបតេយ្យបស្ចិមប្រទេស មានឧត្តរមានុភាពទាក់ទង និងមហាអំណាចប៉ូលតែមួយរបស់សហរដ្ឋអាមេរិច ។

នៅក្នុងការស្រាវជ្រាវលើប្រធានបទនេះខ្ញុំបានចែកជា២ ជំពូកដោយ ជំពូក១និយាយពីក្រប ខណ្ឌគតិយុត្តនៃអន្តរាគមន៍យោធា និងជំពូក២ និយាយពីអន្តរាគមន៍យោធារបស់សហរដ្ឋអាមេរិច នៅអ៊ីរ៉ាក់។

ជំពូក១

**ក្របខណ្ឌគតិយុត្តនៃ
អន្តរាគមន៍យោធា**

ជំពូកទី១

ក្របខណ្ឌគតិយុត្តនៃអន្តរាគមន៍យោធា

ផ្នែកទី១៖ គោលការណ៍នៃច្បាប់អន្តរជាតិ

ពាក្យពេចន៍នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិ បានបង្ហាញអំពីគោលបំណងរួមក្នុងការការពារសន្តិសុខអន្តរជាតិដែលជាសារជាតិស្តែងមួយ នៅក្នុងការហាមឃាត់មិនឲ្យរត់ទៅរកការប្រើប្រាស់កម្លាំងដូច្នេះចំពោះរដ្ឋសមាជិក គឺត្រូវធ្វើសកម្មភាពនៅក្នុងអភិក្រមមួយនៃសន្តិសុខរួមដែលយល់ឃើញដោយពួកគេនៅក្នុង ផលប្រយោជន៍របស់ពួកគេ។ ប៉ុន្តែប្រព័ន្ធស្វ័យប្រវត្តិកម្មនៃយន្តការមិនដែលមានលក្ខណៈដាច់ខាតទាល់តែសោះក្នុងន័យដែលថា រដ្ឋមួយចំនួនកិច្ចផុតពីតក្កនេះ។

កថាខណ្ឌទី១ ៖ ការមិនរត់ទៅរកការប្រើប្រាស់កម្លាំង

តាមគោលការណ៍នៃ នីតិអន្តរជាតិសាធារណៈការប្រើប្រាស់កម្លាំងនៅក្នុង ទំនាក់ទំនងអន្តរជាតិត្រូវហាមដាច់ខាត ។

អនុសញ្ញា Drago-Porter¹ ចែងថា៖ ក្នុងអនុសញ្ញានេះរដ្ឋភាគីត្រូវបានហាមមិនឲ្យប្រើកម្លាំងដើម្បីប្រមូលបំណុលខាងកិច្ចសន្យានោះទេ។ រដ្ឋត្រូវបានផ្ដន្ទាទោសពីរាល់ការប្រមូលបំណុលតាមរយៈការបង្ខិតបង្ខំតាមផ្លូវយោធា។ ប៉ុន្តែការបញ្ចប់សង្គ្រាមលោកទីមួយសន្ធិសញ្ញាទីក្រុង វ៉ែសេត្រូវបានធ្វើឡើងដោយការបង្ខិតបង្ខំដោយកម្លាំងដែលអ្វីដែលពួកអាឡឺម៉ង់ហៅថា Diktat។ ការប្រើកម្លាំងកាលនោះហាក់បីដូចជាត្រូវបានច្បាប់អន្តរជាតិទទួលយកពីព្រោះវាជាផលវិបាកជាធម្មតានៃអំពើខុសច្បាប់ប្រព្រឹត្តឡើងដោយអាឡឺម៉ង់។ ការអះអាងបែបនេះត្រូវបានរិះគន់យ៉ាងខ្លាំងដោយ ពួកអ្នកទ្រឹស្តីដូចជា Chales de vissher , George scelle...¹

កតិកាសញ្ញានៃសង្គមប្រជាជាតិ¹ ចែងថា៖ ហាមមិនអោយធ្វើសង្គ្រាមនៅក្នុងទំនាក់ទំនងអន្តររដ្ឋទេកតិកាសញ្ញានេះអនុញ្ញាតអោយធ្វើសង្គ្រាម បន្ទាប់ពីការប្រើនីតិវិធីមួយចំនួននិងផុតរយៈពេលបីខែ ឧទាហរណ៍មាត្រា១២ នៃកតិកាសញ្ញាចែងថា រដ្ឋត្រូវរត់ទៅរកអាជ្ញាកណ្តាល ឬអន្តរាគមន៍នៃក្រុមប្រឹក្សានៃសង្គមប្រជាជាតិ ។

សន្ធិសញ្ញា Locarno (1923)² ចែងថា : សន្ធិសញ្ញានេះទាត់ចោល រាល់សង្គ្រាម អាឡឺម៉ង់ប៊ែលហ្ស៊ិក និងបារាំង ។

កតិកាសញ្ញា Briand Kellogg³ ឆ្នាំ១៩២៨ ចែងថា៖ ហាមដាច់ខាតមិនឲ្យដោះស្រាយជម្លោះដោយធ្វើសង្គ្រាមនោះទេ។ កតិកាសញ្ញានេះបានដាក់សង្គ្រាមអោយនៅក្រៅច្បាប់។ នេះជាអន្តរាគមន៍

¹ Covenant of the League of Nation (10 january 1920), Article 12.

² The Treaties of Locarno (1994).

លើកទី១ បន្ទាប់ពីសង្គ្រាមលោកលើកទីមួយ នៃគោលការណ៍នៃច្បាប់អន្តរជាតិទាក់ទងទៅនឹងការមិនប្រើប្រាស់កម្លាំង។ មាត្រា៣៣ នៃជំពូក៦ ស្តីពីដំណោះស្រាយជម្លោះដោយសន្តិវិធី នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ ក៏បានចែងអំពីការហាមមិនរត់ទៅរក ការប្រើប្រាស់កម្លាំងនៅក្នុងទំនាក់ទំនងអន្តរជាតិហើយបានចែងអំពីដំណោះស្រាយដោយ អហិង្សាតាមការចរចាដោយសន្តានកម្ម ការជួយដោយអ្នកទីបី (Good Office) ការផ្សះផ្សារតាមផ្លូវអាជ្ញាកណ្តាល តាមតុលាការអន្តរជាតិ និងតាមមធ្យោបាយផ្សេងៗទៀត។ មាត្រា៣ នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិត្រូវបានពង្រឹងដោយមាត្រា៥២ នៃអនុសញ្ញាទីក្រុងវៀនស្តីពីច្បាប់សន្តិសញ្ញា១៩៦៩ ធ្វើឡើងរវាងរដ្ឋបានចែងថា៖ សន្តិសញ្ញាមួយចាត់ទុកជាមោឃ ប្រសិនបើត្រូវបានចុះហត្ថលេខា ដោយការគំរាមកំហែងការប្រើប្រាស់កម្លាំងដោយរំលោភគោលការណ៍នីតិអន្តរជាតិ ដូចមានចែងក្នុងធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ ។

គោលការណ៍ត្រូវសង្ខេបមកត្រឹម ការហាមផ្សព្វផ្សាយមិនអោយប្រើនៅរាល់ ទម្រង់នៃការប្រើប្រាស់កម្លាំងនៅក្នុងទំនាក់ទំនងអន្តរជាតិ។ មាត្រា២ កថាខណ្ឌ នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិចែងថា "សមាជិករបស់អង្គការនៅក្នុងទំនាក់ទំនងរបស់ខ្លួនមិនត្រូវរត់ទៅរកការគំរាមកំហែង ឬការប្រើប្រាស់កម្លាំង ឬមួយប្រឆាំង និងបូរណៈទឹកដី ឬមួយប្រឆាំងនឹងឯករាជ្យភាពនយោបាយ នៃគ្រប់រដ្ឋ ឬមួយតាមមធ្យោបាយផ្សេងៗទៀតវិសមិតភាពជាមួយ និងគោលបំណងរបស់ធម្មនុញ្ញអង្គការសហប្រជាជាតិ" ។

ដោយផ្អែកលើមូលដ្ឋាននេះ គេអាចជឿជាបឋមថា បទបញ្ញត្តិនេះមានតំលៃតែសម្រាប់សមាជិករបស់អង្គការសហប្រជាជាតិប៉ុណ្ណោះ ប៉ុន្តែតាមពិតវាជាគោលការណ៍ជាមូលដ្ឋាននៃនីតិអន្តរជាតិទំនៀមទម្លាប់។ គោលការណ៍នេះមានសុពលភាពចំពោះគ្រប់រដ្ឋទាំងអស់ដែលជាសមាជិករបស់អង្គការសហប្រជាជាតិ ឬ មិនមែនជាសមាជិក ។

ដូច្នេះ ការរំលោភវានឹងនាំឲ្យមានការជួសជុល និងទណ្ឌកម្មពីព្រោះវាគឺជាអំពើឈ្លានពាន។ គោលការណ៍នៃ ការហាមការរត់ទៅរកការប្រើប្រាស់កម្លាំងសង្កត់ធ្ងន់ជាពិសេស នៅជុំវិញការហាមការឈ្លានពាន ការហាមនេះត្រូវបានកំណត់ដោយសេចក្តីសម្រេចចិត្តដោយមហាសន្និបាតអង្គការសហប្រជាជាតិ ថ្ងៃទី១៤ ខែធ្នូ ឆ្នាំ១៩៧៤ ទុកដូចជា "ការប្រើប្រាស់កម្លាំងយោធាដោយរំលោភធម្មនុញ្ញដោយរដ្ឋមួយដែលជា អ្នកប្រព្រឹត្តមុនគេ"។ ទាញចេញពីនិយមន័យនេះមានលក្ខណៈបួនយ៉ាងមិនអាចប្រកែកបាន នៃអំពើឈ្លានពានដោយ នៃមែនបញ្ជីពេញលេញនៃប្រភេទផ្សេងៗនៃអំពើឈ្លានពាននោះត្រូវប្រកាន់យកទុក ដូចជាធាតុដែលតម្រូវអោយមាននៃអំពើឈ្លានពានទៅបួនលក្ខណៈវិនិច្ឆ័យ ៖

- អំពើឈ្លានពានត្រូវតែប្រដាប់អាវុធ៖ រឿងនេះនាំឲ្យកើតមានអំពើឈ្លានពានសេដ្ឋកិច្ច និង មនោគមន៍វិជ្ជាលើកឡើងដោយ រដ្ឋមួយចំនួនមិនអាចប្រដូចបានទៅនឹងអំពើឈ្លានពានដែលជា កម្មវត្ថុនៃការហាមនោះទេ៖ អំពើឈ្លានពានផ្នែកយោធា ។

- អំពើឈ្លានពានត្រូវធ្វើអន្តរាគមន៍នៅក្នុង មជ្ឈដ្ឋានអន្តរជាតិ៖ រឿងនេះគឺស្ថិតនៅក្នុងដែន នៃអំពើឈ្លានពាន គឺការរត់ទៅរកការបង្ខិតបង្ខំដោយរដ្ឋមួយនៅលើទឹកដីមួយ ដោយយោងទៅលើ អធិបតេយ្យរបស់រដ្ឋនោះ ប៉ុន្តែការពន្លាតពិសេសត្រូវអនុញ្ញាតដោយធម្មនុញ្ញអង្គការសហប្រជាជាតិ ឧទាហរណ៍ ប្រសិនបើការប្រើប្រាស់កម្លាំងដោយរដ្ឋមួយនៅលើទឹកដីមួយប៉ះពាល់ដល់ការប្រើប្រាស់ សិទ្ធិស្វ័យសម្រេចរបស់ប្រជាជនភ្លាមនោះវាមានលក្ខណៈខុសច្បាប់ ហើយអាចវាយតំលៃជាអំពើ ឈ្លានពាន ។

- អំពើឈ្លានពានត្រូវតែព្រឹត្តទៅដោយសង្គ្រាម៖ រឿងនេះសម្មតថាវាជាអំពើឈ្លានពានដើម្បី អាចវាយតម្លៃយ៉ាងនេះ បានត្រូវអន្តរាគមន៍នៅក្រៅក្របខណ្ឌនៃ សង្គ្រាមមួយពេលគឺ អន្តរាគមន៍ មុនការប្រកាសសង្គ្រាម ។

- អំពើឈ្លានពានត្រូវជាការប្រើប្រាស់កម្លាំង “ប្រឆាំងនឹងបូរណភាពទឹកដី ឬឯករាជ្យភាព នយោបាយនៃគ្រប់រដ្ឋ ឬគ្រប់របៀបផ្សេងទៀតវិសមិតភាពជាមួយ គោលបំណងនៃធម្មនុញ្ញអង្គការ សហប្រជាជាតិ (មាត្រា២នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិ) ។

ជាទូទៅលក្ខណៈទាំងនេះ គ្រប់គ្រាន់ហើយដើម្បីវាយតម្លៃបាន ពីអំពើឈ្លានពានថាជាអំពើ មួយ។ ប៉ុន្តែជាលក្ខណៈបន្ទាប់បន្សំ គេព្រឹត្តិអំពើឈ្លានពានជាសមូហភាពអោយដាច់ចេញពីអំពើ ឈ្លានពានជាបុគ្គល និងអំពើឈ្លានពានដោយផ្ទាល់ឲ្យដាច់ចេញពីអំពើឈ្លានពានដោយប្រយោល ។

- ប៉ុន្តែ វាជាការលំបាកក្នុងការអះអាងភ្លាម ទោះជាផ្នែកលើលក្ខណៈវិនិច្ឆ័យទាំងនេះក៏ដោយ ថាការវាយលុកមួយគឺជា អំពើឈ្លានពានមួយតាមសេចក្តីសម្រេចចិត្ត⁴ ៣៣១៤ របស់អង្គការស ហប្រជាជាតិនៅថ្ងៃទី១៤ ខែធ្នូ ឆ្នាំ១៩៧៤ ស្តីអំពីនិយមន័យ នៃការឈ្លានពាន គឺជាសមត្ថកិច្ចរបស់ ក្រុមប្រឹក្សាសន្តិសុខក្នុងការសន្និដ្ឋានអោយស្របទៅនឹង ធម្មនុញ្ញថាតើអំពើឈ្លានពានមួយត្រូវបាន ប្រព្រឹត្តឡើង ឬមិនត្រូវបានប្រព្រឹត្តឡើងហើយពិចារណាទៅលើកាលៈទេសៈផ្សេងទៀត និងវិចារ ណាទៅលើភាពធ្ងន់ធ្ងរនៃអំពើដែលចោទឡើង ។

គឺដូច្នេះហើយ ដែលត្រូវទទួលស្គាល់ថា ជាអញ្ញត្រកម្មនៃការហាមការប្រើប្រាស់កម្លាំងកិច្ច ការពារធម្មានុរូប ។

⁴ United Nation General Assembly, Article 3(a)

រូបតាមគោលការណ៍មានលក្ខណៈបណ្តោះអាសន្នកាលណាសកម្មភាពរបស់ក្រុមប្រឹក្សា ត្រូវបានចាត់ទុកថា ជាធាតុសំខាន់ដើម្បីប្រឈម និងអំពើឈ្លានពាន។ ការខ្វះចន្លោះរបស់ក្រុមប្រឹក្សាបានបង្ហាញឲ្យឃើញថា ភាគច្រើនកិច្ចការពារជាធម្មនុបមិនត្រូវបន្តធ្វើឡើងទៀតទេ។ តែជាអកុសលជាដំបូង រៀបចំសកម្មភាពរបស់ក្រុមប្រឹក្សាកិច្ចការពារជាធម្មនុប ចង់មានគោលដៅផ្ទាល់របស់ខ្លួនវាក្លាយជាមធ្យោបាយតែមួយគត់ក្នុងការឆ្លើយតបទៅនឹងអំពើឈ្លានពាន ហើយបើពុំមានការត្រួតពិនិត្យណាមួយនោះទេជួនកាលវាបំភ្លៃអំពើឈ្លានពានផ្ទាល់តែម្តង ។

កថាខណ្ឌទី២ ៖ វិធីដើម្បីធានាការគោរពនៃការកំណត់ព្រំដែន

មានការត្រួតពិនិត្យប្រឆាំងនឹងការប្រើកម្លាំងខុសច្បាប់ហើយ និងការត្រួតពិនិត្យការតាំងបទបញ្ជាអន្តរជាតិស្តីពីសញ្ញាផ្ទៃ ។

១. ការត្រួតពិនិត្យប្រឆាំងនឹង ការប្រើប្រាស់ខុសច្បាប់

១.១.វិធីនៃប្រតិកម្មជាសហគមន៍ដោយមិនមានការបង្ខិតបង្ខំ និងទណ្ឌកម្ម

សេដ្ឋកិច្ច និងហិរញ្ញវត្ថុ

វិធីទាំងនេះទាក់ទងនឹងគំនាបនៃមតិសាធារណៈអន្តរជាតិ និងការមិនទទួលស្គាល់លទ្ធផលដែលទទួលបានតាមកម្លាំង។ អ្វីទាក់ទងនឹងទណ្ឌកម្មសេដ្ឋកិច្ចវត្ថុវាមានមូលដ្ឋានរបស់វា គឺជំពូក៧នៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ^៦ ច្បាស់ជាងនេះទៅទៀតមាត្រា៤០ និង៤១ ដែលចែងរៀងគ្នាពីការអនុម័តវិធានការបណ្តោះអាសន្ន ឬសេចក្តីសម្រេចទណ្ឌកម្មដែលមិន មានការប្រើប្រាស់កម្លាំងទេ។ វិធានការទាំងនេះជូនកាលត្រូវគេហៅថា ការរាំងខ្ទប់ខាងផ្នែកសេដ្ឋកិច្ច (Economic blockade) ។

១.២.សកម្មភាពសន្តិសុខនៃប្រតិបត្តិការប្រឆាំងនឹងការប្រើប្រាស់កម្លាំង

សកម្មភាពសន្តិសុខនៃប្រតិបត្តិការប្រឆាំងនឹងការប្រើប្រាស់កម្លាំង គឺជាវិធានការអន្តរជាតិមន្តសាស្ត្រ ដែលអនុញ្ញាតដោយអង្គការសហប្រជាជាតិដើម្បីឲ្យ សម្ព័ន្ធមិត្តនៃរដ្ឋរៀបចំសណ្តាប់ធ្នាប់ឡើងវិញ បន្ទាប់ពីស្ថានភាពឈ្លានពាន។ ប៉ុន្តែត្រូវតែឲ្យដឹងថាចេញពីកិច្ចការពារជាធម្មនុប ពីព្រោះវាមិនត្រូវការការអនុញ្ញាតជាមុនរបស់ក្រុមប្រឹក្សាសន្តិសុខទេ។ សកម្មភាពសហគមន៍ត្រូវតែឲ្យដឹងថាចេញផងដែរពីសង្គ្រាមវាជាវិធានការស្របច្បាប់នៃការបង្ក្រាបប្រឆាំងនឹងអំពើស្របច្បាប់ ។

ប្រតិបត្តិការប្រឆាំងនឹងការប្រើប្រាស់កម្លាំងអាចមាន២យ៉ាង ៖

- ប្រតិបត្តិការនៅក្នុងក្របខណ្ឌរបស់អង្គការសហប្រជាជាតិ
- ប្រតិបត្តិការនៅក្នុងអង្គការអន្តរជាតិថ្នាក់តំបន់ ។

⁶Charter of the United Nation, Article 40 & 41

នៅក្នុងក្របខណ្ឌនៃអង្គការសហប្រជាជាតិ គឺស្ថិតនៅការបញ្ជូន “ទ័ពម្នាក់ខៀវBlue Helmet” លើទឹកនៃផ្ទាល់ដើម្បីថែរក្សា ឬបង្កើតសន្តិភាពឡើងវិញ។ វិធានការដូចនេះចែងដោយជំពូក៧ (មាត្រា៤២ និងបន្ទាប់) មាត្រានេះចែងថាប្រសិនបើខ្លួនយល់ថា ទណ្ឌកម្មដោយមិនមានការប្រើប្រាស់ កម្លាំងមិនសមស្រប ហើយមិនទាន់គ្រប់គ្រាន់អាចចេញធ្វើប្រតិបត្តិការយោធាទៀតទេ។ ទណ្ឌកម្ម ទាំងនោះអាចអាចតម្រូវឲ្យ មាននៅក្នុងបេសកកម្មបញ្ជូនទ័ពទៅ ត្រួតពិនិត្យតាមឃ្លាំ មើលបទល្មើសបាញ់គ្នា ឬក្នុងបេសកកម្មដូចតទៅ៖ ការដោះមិនការទម្លាក់អាវុធចេញពីភាគីបំបែកខ្លួន ការធ្វើអព្យាក្រឹតកម្មការផ្សះផ្សារជាតិ និងជំនួយមនុស្សធម៌ ។

នៅក្នុងក្របខណ្ឌនៃអង្គការថ្នាក់តំបន់វិញ ប្រតិបត្តិការថែរក្សាសន្តិភាពអាចមានទម្រង់ជា ការការពារខ្លួនជាសហគមន៍ ឬទម្រង់ជាសកម្មភាពសន្តិសុខរួម។ ឧទាហរណ៍ ដើម្បីឲ្យវាជា សកម្មភាពការពារមាត្រូវមានការអនុញ្ញាតជាមុនដោយក្រុមប្រឹក្សាសន្តិសុខ។ ប្រតិបត្តិការទាំងនោះ ត្រូវមានមូលដ្ឋាននៅក្នុងមាត្រា៥២-៥៣ និង៥៥ នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិ^៧។ តាមមាត្រា ទាំងនេះអង្គការថ្នាក់តំបន់ត្រូវបានគេអញ្ជើញរួមចំណែក ក្នុងការថែរក្សាសន្តិភាព ។

២. ការតាំងបទបញ្ជាអន្តរជាតិស្តីពីសព្វាវុធ

ចាប់តាំងពីសតវត្សទី ១៩ មកក្នុងគោលបំណងបញ្ចប់ភាពភ័យខ្លាច សង្គ្រាមនៅក្នុងពិភព លោកការទម្លាក់អាវុធបានក្លាយជាកង្វល់ចំបងក្នុងនយោបាយអន្តរជាតិ ឧទាហរណ៍ក្នុង ឆ្នាំ១៩៧៨ សម័យប្រជុំវិសមញ្ញរបស់មហាសន្និបាតអង្គការសហប្រជាជាតិស្តីពី ការទម្លាក់អាវុធបានរៀបចំ តាក់តែង “ឯកសារចុងក្រោយ” ដែលនិយាយអំពីអទិភាពទម្លាក់អាវុធជាទូទៅ និងពេញលេញ ក៏ប៉ុន្តែដោយធានាសិទ្ធិអប្បបរមាចំពោះរដ្ឋនីមួយៗ ក្នុងការអះអាងពីសន្តិសុខ។ មានសន្និសីទ ជាច្រើនផងដែរ ស្តីពីការតំបន់សព្វាវុធបានបង្កើតឲ្យមានសនិទានកម្មមួយនៅក្នុងការប្រើប្រាស់ អាវុធដោយមហាអំណាច។ មានបទបញ្ជាមួយចំនួនត្រូវបានអនុម័តក្នុងរឿងនេះ ។

២.១. ការតាំងបទបញ្ជាស្តីពីអវុធបំផ្លាញទូទៅ

ការតាំងបទបញ្ជានេះមានទំនាក់ទំនងជាមួយនឹង ការសាកល្បងអាវុធទុយក្លែង ការមិនរីក សាយអាវុធទុយក្លែង អាវុធគីមីជីវសាស្ត្រ៖

- ការសាកល្បងអាវុធទុយក្លែង ៖ សន្និសីទទីក្រុងម៉ូស្គូ^៨ ថ្ងៃទី៥ ខែសីហា ឆ្នាំ១៩៦៣ បានចែងថាហាម នៅរាល់ការបំផ្ទុះអាវុធទុយក្លែងនៅក្នុងបរិយាកាស ប៉ុន្តែមិនបានហាមការ សាកល្បងក្រោមដីទេក្នុងលក្ខខណ្ឌណាមិនអាចលេចចេញកម្ទេចវិទ្យុសកម្មក្រៅទឹកដីជាតិ។

⁷ Charter of the United Nation, Article 52, 53 & 55.

⁸ Treaty banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (Moscow, August 5 1963)

ឧទាហរណ៍ ក្នុងឆ្នាំ១៩៦៧ គេសន្និដ្ឋានថា គ្មានកម្មវត្ថុណាមួយស្តីពីអាវុធនុយក្លេអ៊ែរ (ផ្កាយរណបនុយក្លេអ៊ែរ ការប្រឆាំងផ្កាយរណបការស្ម័គ្រចិត្ត X) ឬរាល់ប្រភេទអាវុធបំផ្លាញទូទៅ ដែលមិនអាចដាក់ទៅលើសុញ្ញអាកាសនៅលើផែនដីបានពោលគឺនៅលំហអន្តរភព។ ដូច្នេះត្រូវតែប្រើលំហអន្តរភពប្រាស់ជាលក្ខណៈផ្តាច់មុខក្នុងគោលបំណងសន្តិភាព។ គឺក្នុងឆ្នាំ ១៩៧១រដ្ឋបានហាមមិនឲ្យសាកល្បងទាំងនៅក្នុងបាតសមុទ្រ និងនៅក្នុងមហាសមុទ្រ ។

- ការរីកសាយអាវុធនុយក្លេអ៊ែរ៖ សន្ធិសញ្ញាមិនរីកសាយអាវុធនុយក្លេអ៊ែរត្រូវបានចុះហត្ថលេខានៅក្នុងឆ្នាំ១៩៦៨ បានហាមមិនឲ្យរដ្ឋដែលមានអាវុធនុយក្លេអ៊ែរ ក្នុងការបញ្ជូនអាវុធនុយក្លេអ៊ែរទៅឲ្យរដ្ឋដែលមិនមាន ហើយរដ្ឋចុងក្រោយនេះក៏សន្យាផងដែរថាមិនទទួលយក ឬផលិតអាវុធនុយក្លេអ៊ែរ។ ដូច្នេះ រដ្ឋសន្យាដាក់ខ្លួននៅក្រោមការត្រួតពិនិត្យរបស់ភ្នាក់ងារអន្តរជាតិនៃថាមពលអាតូមមិក ទទួលបន្ទុកតាមដានមើលការប្រើប្រាស់ឧបករណ៍នុយក្លេអ៊ែរ ក្នុងគោលដៅសន្តិភាព។

- អាវុធគីមីជីវសាស្ត្រ៖ សន្ធិសញ្ញាថ្ងៃ១០ ខែមេសា ឆ្នាំ១៩៧២ ចែងថា ហាមមិនអោយផលិត និងការស្តុកទុកអាវុធគីមីជីវសាស្ត្រ និងអាវុធជាតិពុល ។

៣.ការដកដីចេញពីតំបន់មួយចំនួន

តំបន់មួយចំនួនត្រូវបានកំណត់ថាមិនឲ្យបានដាក់ទ័ព។ ជាពិសេសទ្វីបអង់តាកទិច និងភពផ្សេងទៀត។

អ្វីទាក់ទងទៅនឹងតាកទិចសន្ធិសញ្ញា^៩ ថ្ងៃ ១ ខែធ្នូ ឆ្នាំ ១៩៥៩ ស្តីពី អង់តាកទិចចែងថាមានតែសកម្មភាពសន្តិភាពប៉ុណ្ណោះ ដែលត្រូវអនុញ្ញាត ហើយរាល់វិធានការយោធាតូចៗ ការបង្កើតមូលដ្ឋានយោធា ការកសាងកំពែង ការធ្វើសមយុទ្ធ និង រាល់ការសាកល្បងអាវុធគ្រប់គុណត្រូវហាមឃាត់។

វិធានការ ទាំងឡាយសំដៅ កំណត់ការរត់ទៅរកការប្រើប្រាស់កម្លាំង បញ្ជាក់បានពីអត្ថប្រយោជន៍ច្រើន ឬ តិច។ ប៉ុន្តែ ការរត់ទៅរកសង្គ្រាមមិនបានដាច់ចេញទេ ប្រសិនបើវាគោរពលក្ខខណ្ឌដែលមានចែង (សង្គ្រាមស្របច្បាប់ និងត្រឹមត្រូវ) តើវិធានដែលចែង ពីរឿងនេះមានអ្វីខ្លះទៅ ?

ផ្នែកទី២ ៖ ការកាន់កាប់បញ្ជានៃការប្រើប្រាស់កម្លាំង (Jus in bello)

មានវិធានជាច្រើនត្រូវបានបង្កើតឡើង ដើម្បីគ្រប់គ្រងសង្គ្រាមហើយ ជាទូទៅគ្រប់គ្រងការប្រើប្រាស់កម្លាំង ។

កថាខណ្ឌទី១ ៖ វិធានត្រូវបានរៀបចំតាក់តែង

គឺ ច្បាប់សង្គ្រាម និង ច្បាប់មនុស្សធម៌ ។

⁹ ANTARCTIC TREATY (1959).

១. ប្រាមសង្គ្រាម

គំនិតបែបនេះសន្មតថា មធ្យោបាយរំខានដល់សត្រូវត្រូវបានកំណត់គេអាចវែកញែកចំពោះ រឿងនេះ ការកំណត់ព្រំដែនដែលចេញពីគោលការណ៍មនុស្សធម៌ និងព្រំដែនដែលទាញចេញពី សញ្ញាណនៃការការពារអ្នកមិនមែនជាយុទ្ធជន និងប្រជាជនស៊ីវិល ។

- គោលការណ៍មនុស្សធម៌: គោលការណ៍នេះបញ្ជាក់ថាស្របច្បាប់តែមួយគត់ មធ្យោបាយ ដែលបញ្ជាក់ដោយភាពចាំបាច់ខាងយោធា។ ជាប្រការដែលផាត់ចេញពីអំពើព្រៃផ្សៃ។ សញ្ញាណនៃ “ភាពចាំបាច់ផ្នែកយោធា” នៅតែមិនច្បាស់លាស់ឯការអនុវត្តរបស់វាត្រូវកំណត់ដោយបទដ្ឋានអនុ សញ្ញា និងទំនៀមទម្លាប់ដែលទាក់ទងការហាមឃាត់មួយចំនួន និងវិធីសាស្ត្រធ្វើសង្គ្រាមមួយចំនួន។

មានអត្ថបទពីរប្រភេទដោយស្តែងចេញច្បាស់លាស់ពីការប្រើអាវុធហាមឃាត់: ពិធីសារឆ្នាំ១៩២៥ ទាក់ទងនឹងការប្រើនៅពេលមានសង្គ្រាម ឧស្ម័នថប់ដង្ហើមឧស្ម័នជាតិពុល និងប្រហាក់ប្រហែល និងមធ្យោបាយបាក់តេរី។ អាវុធគីមី ក៏ត្រូវហាមឃាត់ដែលដោយពិធីសារ១៩២៥។ អនុសញ្ញាថ្ងៃទី ១០ ខែមេសា ឆ្នាំ១៩៨១ក៏ហាមផងដែរអាវុធអនុសញ្ញាមួយចំនួន ការប្រើប្រាស់ចម្រើនអាវុធដែល មានសភាពខាងក្រៅជាកម្មវត្ថុមិនគ្រោះថ្នាក់នៃគ្រាប់មីន និងចម្រើននៃអាវុធបាញ់ឆេះអាវុធនុយក្លេអ៊ែ គួរបញ្ជាក់ថា ក្នុងនាមគោលការណ៍ មនុស្សធម៌វិយាបច្ចេកវិទ្យាមួយចំនួនត្រូវបានហាមឃាត់។ អនុសញ្ញា ទីក្រុងឡាអេ¹⁰ ឆ្នាំ១៩០៧ ចែងថាការមិនឲ្យប្រើជាតិពុល ឬអាវុធបំពុលហាមបាញ់ ឬធ្វើឲ្យសត្រូវ របួសដែលបានទម្លាក់អាវុធឬលែងមានមធ្យោបាយការពារខ្លួនបានចុះចូលហាមប្រើអាវុធក្បាលគ្រាប់ ហើយហាមដាច់ខាតមិនឲ្យប្រើសញ្ញាសម្គាល់យោធា និងឯកសណ្ឋានសត្រូវកម្ទេចចោល ឬចាប់យក កម្មសិទ្ធិសត្រូវលើកលែងតែ ការបំផ្លាញទាំងនោះការចាប់យកទាំងនោះត្រូវស្មើឡើងដោយភាព ចាំបាច់នៃសង្គ្រាមដាច់ខាត(...)។ បទបញ្ញត្តិទាំងនេះមិនមានពេញលេញត្រូវបំពេញដោយពិធីសារ ឆ្នាំ១៩៧៧។ ការហាមផ្សេងទៀតគឺទាក់ទងនឹងការប្រើប្រាស់ដែលមានគោលដៅយោធាអង្គភាព ឬអាកាសយានដ្ឋានសុខាភិបាល មានការប្រើរំលោភនៃសញ្ញាមួយចំនួនឬសញ្ញានិមិត្តរូបមួយចំនួន នៅទីបញ្ចប់ការហាមមិនឲ្យប្រយុទ្ធបុគ្គលស្ថិតនៅក្រៅការប្រយុទ្ធជូរជូននេះដែរទ្រព្យសម្បត្តិសុខាភិ បាលលាតសន្ធឹងដោយទឹកនៃឆ្នេរ វប្បធម៌ដែលជាបេតិកភណ្ឌវប្បធម៌ និង សាសនារបស់ប្រជាជន។

- គោលការណ៍នៃការការពារប្រជាជនស៊ីវិល:

គោលការណ៍នេះចែងដោយមាត្រា៤នៃពិធីសារ: “ដើម្បីធានាការគោរពប្រជាជនស៊ីវិល”។ ក្នុងនាមគោលការណ៍នេះត្រូវហាមការវាយលុក ដោយមានការរើសអើងឬប្រឆាំងនឹងទ្រព្យចាំបាច់ សម្រាប់ការរស់រៀនរបស់ ប្រជាជនការប្រើប្រាស់ប្រឆាំងនឹងជនស៊ីវិល នៃកម្លាំងក៏ដូចគ្នាដែរការ វាយលុកដែលបង្កឲ្យមានការខាតបង់ធ្ងន់ធ្ងរដល់ប្រជាជនស៊ីវិល ។

¹⁰ The Hague (18 October 1907).

បទដ្ឋានទាំងនេះត្រូវអនុវត្តផងដែរទាំងចំពោះជម្លោះប្រដាប់អាវុធអន្តរជាតិនិងជម្លោះផ្ទៃក្នុង។

២. ច្បាប់មនុស្សធម៌

ការការពារជនរងគ្រោះមានមូលដ្ឋានមកពីអនុសញ្ញាទីក្រុងស៊ីណែរ¹¹ ឆ្នាំ១៩៤៩ បួនបំពេញបន្ថែមដោយពិធីសារឆ្នាំ១៩៧៧ ។ អនុសញ្ញាទាំងនោះកំណត់លំអិតពី៖

វិធានដែលទាក់ទងទៅនឹងការការពារ និងការថែទាំជំងឺដែលអ្នករូសត្រូវទទួលបានផលពីនោះដោយមិនមានការរើសអើង ហើយមិនគិតពីសញ្ជាតិនៃកម្លាំងប្រដាប់អាវុធរបស់ពួកគេ (ជនរួមជាតិក្តីសត្រូវក្តី ឬសម្ព័ន្ធមិត្តក្តី)។ វិធានដូចគ្នានេះដែរទាក់ទងទៅនឹងអ្នកជំងឺ អ្នករូស និងអ្នកលង់ទឹកនៅក្នុងសមុទ្រ និងការការពារនាវាពេទ្យ ។

លក្ខន្តិកនៃឈ្លីយស័កៈ វិធានដែលត្រូវអនុវត្តចំពោះប្រជាជនស៊ីវិល ក្នុងករណីនៃការកាន់កាប់ទឹកដីរបស់ពួកគេដោយកម្លាំងយោធាសត្រូវ។ អនុសញ្ញាទីក្រុងស៊ីណែរត្រូវបានយកមកអនុវត្តជាមួយ និង“មហាអំនាចការពារ” ដែលទទួលបានបន្ទុកការពារផលប្រយោជន៍ភាគីជម្លោះ។ ការមិនគោរពបទបញ្ញត្តិទាំងនេះសម្មតថា និងមានទណ្ឌកម្មចែងដោយច្បាប់នៃជម្លោះប្រដាប់អាវុធ ។

៣. ការវាយតម្លៃបទល្មើសអន្តរជាតិ

បទល្មើសដែលប្រព្រឹត្តឡើងដោយ រដ្ឋនៅពេលមានសង្គ្រាមជានិច្ចកាល ត្រូវវាយតម្លៃថាជាបទឧក្រិដ្ឋរក្សាភាពធ្ងន់ធ្ងររបស់វា។ ជាទូទៅមានបទល្មើសអន្តរជាតិបីប្រភេទនៅពេលមានជម្លោះប្រដាប់អាវុធ ។

៣.១. ឧក្រិដ្ឋកម្មសង្គ្រាម

ឧក្រិដ្ឋកម្មសង្គ្រាមតាមលក្ខន្តិក នៃតុលាការព្រហ្មទណ្ឌអន្តរជាតិជាបទល្មើស ធ្ងន់ធ្ងរចំពោះអនុសញ្ញាទីក្រុងស៊ីណែរឆ្នាំ ១៩៤៩ និងការរំលោភធ្ងន់ធ្ងរនៃច្បាប់ និងទម្លាប់ដែលត្រូវអនុវត្តចំពោះទម្លាប់ និង ច្បាប់នៃជម្លោះប្រដាប់អាវុធអន្តរជាតិ ។

ត្រូវចាត់ទុកជាបទឧក្រិដ្ឋ៖ ឃាតកម្មប្រព្រឹត្តិកម្មដ៏អាក្រក់ ឬការបញ្ជូនមនុស្សយកទៅឲ្យធ្វើការងារដោយបង្ខំ ឬរាល់គោលបំណងផ្សេងទៀត ប្រជាជនក្នុងទឹកដីដែលកាន់កាប់។ ឃាតកម្មឬឧក្រិដ្ឋកម្ម ដ៏អាក្រក់នៃឈ្លីយស័ក ឬជននៅក្នុងសមុទ្រការសម្លាប់ចំនាត់ខ្លាំង អំពើប្លន់យកទ្រព្យសម្បត្តិសាធារណៈ ឬឯកជនការបំផ្លិចបំផ្លាញដោយគ្មានមូលហេតុពិតក្រុង និង ភូមិ ។

៣.២. ឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ

គឺជាអំពើធ្វើឡើង ក្នុងក្របខណ្ឌនៃការវាយលុកជាទូទៅ ឬ ជាស្វ័យប្រវត្តិដឹកនាំប្រឆាំងនឹងប្រជាជនស៊ីវិលហើយដឹងពីអំពើការ វាយលុកនោះ។ មាត្រា៧ វាក្យខណ្ឌទី១ នៃលក្ខន្តិកតុលាការព្រហ្មទណ្ឌអន្តរជាតិ¹² ចាត់ទុកជាឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ អំពើចោរកម្មទាសករផ្លូវភេទ បេស្យាចារដោយបង្ខំមានផ្ទៃពោះដោយបង្ខំ កំផ្លាមិនឲ្យមានកូនដោយបង្ខំ និងទម្រង់ហិង្សាផ្លូវភេទ

¹¹ Geneva Convention (;) on Wounded and Sick in Armed Forces in the Field (12 August 1949).

¹² STATUE OF THE INTERNATIONAL COURT OF JUSTICE (San Francisco, 24 October 1945), Article 7

ផ្សេងៗទៀត ដែលធ្ងន់ធ្ងរដូចគ្នា។ និយាយឲ្យខ្លីវាប្រមូលផ្តុំនៅរាល់ភាព សាហាវយង់ឃ្នង និងរាល់ អំពើអនុស្សធម៌ដទៃទៀតធ្វើឡើងប្រឆាំងប្រជាជនស៊ីវិលមុន ឬក្នុងពេលសង្គ្រាម ។

៣.៣.ឧក្រិដ្ឋកម្មប្រល័យពូជសាសន៍

ជាបណ្តើរៗ វាផ្តាច់ចេញពីឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ ដើម្បីបង្កើតនូវ ប្រភេទស្វ័យយ័ត មួយ ។ យោងតាមមាត្រា ២ នៃអនុសញ្ញាស្តីពី ការបង្ការបង្ក្រាបឧក្រិដ្ឋកម្មប្រល័យពូជសាសន៍ដែល អនុម័ត ថ្ងៃទី០៩ ខែ ធ្នូ ឆ្នាំ ១៩៤៨ ដោយមហាសន្និបាតអង្គការសហប្រជាជាតិ “ បទប្រល័យពូជ សាសន៍ជា អំពើណាមួយ ក្នុងចំណោមអំពើដូចខាងក្រោម ដែលប្រព្រឹត្ត ក្នុងគោលបំណងបំផ្លិច បំផ្លាញទាំងស្រុង ឬ មួយផ្នែកក្រុមជនជាតិមួយ ជនជាតិភាគតិច ជាលក្ខណៈ ពូជសាសន៍ ឬ សាសនាតួយ៉ាង :

- a.ការសម្លាប់សមាជិកនៃក្រុម
- b.ការប៉ះពាល់ធ្ងន់ធ្ងរបូរណភាពរូបរាងកាយ
- c.ការដាក់ក្រុមដោយចេតនាឲ្យស្ថិតនៅក្រោម លក្ខខណ្ឌអត្ថិភាពមួយចំនួន ដែលត្រូវនាំឲ្យ មានការបំផ្លាញរូបវន្តទាំងស្រុង ឬដោយផ្នែកចោល
- d.វិធានការរំខានដល់កំនើតក្នុងរង្វង់នៃក្រុម
- e.ការបញ្ជូនកុមារនៃក្រុមដោយបង្ខំទៅក្នុងក្រុមមួយផ្សេងទៀត ”។

កថាខណ្ឌទី២ ៖ តុលាការអន្តរជាតិ

១.ការចោទប្រកាន់តាមផ្លូវតុលាការ

ការចោទប្រកាន់អាចធ្វើឡើងជាលក្ខណៈជាតិ និងអន្តរជាតិ។ ប៉ុន្តែអានុភាពនៃការចោទ ប្រកាន់លើឆាកជាតិត្រូវកំណត់ ប៉ុន្តែយើងផ្ដោតសំខាន់ទៅលើការចោទប្រកាន់ជាអន្តរជាតិ ប៉ុណ្ណោះ ប៉ុន្តែត្រូវលើកឧទាហរណ៍ជាក់ស្តែងនៃការចោទប្រកាន់ថ្នាក់ជាតិ ក្នុងករណីនៃបទល្មើសនៅពេល មានសង្គ្រាម ករណីសាដាមហ្វេសេន (Saddam Hussein) ដែលនឹងឆ្លើយតបនៅចំពោះមុខតុលាការ អ៊ីរ៉ាក់ជាឧក្រិដ្ឋកម្មសង្គ្រាម ឧក្រិដ្ឋកម្មប្រឆាំងសន្តិភាព ឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ ដែលគាត់ត្រូវ បានចោទប្រកាន់ ។

២.តុលាការអន្តរជាតិអាដហុក (Ad hoc)

តុលាការយោធា Nuremberg និងTokyo ត្រូវបានទុកចោលមួយឡែក ជាយូរមកហើយ។ ប៉ុន្តែ ភាពយង់ឃ្នងនៃឧក្រិដ្ឋកម្មដែលបានប្រព្រឹត្តក្នុងទ្រង់ទ្រាយធំ នៅអតីតយូហ្គោស្លាវីជាដំបូង បន្ទាប់មកទៀតនៅរវ៉ង់ដា (Rwanda) បាននាំទៅដល់ កាលលើកឡើងនៃអភិក្រមផ្តើមឡើងបន្ទាប់ ពីសង្គ្រាម។ តុលាការព្រហ្មទណ្ឌអន្តរជាតិអាដហុកត្រូវបានបង្កើតឡើង។ ប៉ុន្តែតុលាការប្រភេទ

នេះមានសមត្ថកិច្ចកំណត់បង្គោលក្នុងពេលវេលា និងនៅក្នុងលំហ។ ក្របខណ្ឌសកម្មភាពរបស់វាត្រូវបានកំណត់ ។

៣.តុលាការព្រហ្មទណ្ឌ

មាត្រា ៦ នៃអនុសញ្ញាស្តីពី បទប្រល័យពូជសាសន៍នៅអមនឹង តុលាការរបស់រដ្ឋលើទឹកដីដែលឧក្រិដ្ឋកម្មបានប្រព្រឹត្តបានចែងពីសមត្ថកិច្ចនៃតុលាការឧក្រិដ្ឋកម្មអន្តរជាតិ (ICC)។ ប៉ុន្តែគឺអនុសញ្ញាទីក្រុងរ៉ូម¹³ ថ្ងៃទី១៧ ខែកក្កដា ឆ្នាំ១៩៩៨ បានចែងស្តីពី ការបង្កើតតុលាការព្រហ្មទណ្ឌអន្តរជាតិ ដែលទីបញ្ចប់បានដោះស្រាយបញ្ហានៃស្ថាប័នតុលាការអចិន្ត្រៃយ៍អន្តរជាតិ ដែលមានសមត្ថកិច្ចសំរាប់ឧក្រិដ្ឋកម្មធ្ងន់ធ្ងរ៖ ឧក្រិដ្ឋកម្មឈ្លានពានឧក្រិដ្ឋកម្មប្រឆាំងមនុស្សជាតិ ឧក្រិដ្ឋកម្មសង្គ្រាម និងឧក្រិដ្ឋកម្មប្រល័យពូជសាសន៍ ។

និយាយអោយច្បាស់ទៅ កាលណាមានភាពសហការយោរយោនៃបទឧក្រិដ្ឋអន្តរជាតិត្រូវបានទទួលស្គាល់មានបទបញ្ញត្តិពិសេស ដើម្បីបង្កើតរដ្ឋដែលល្មើស ។

¹³ ROME STATUTE OF THE INTERBATIONAL CRIMINAL COURT (12 July 1998)

សង្ឃឹម

សន្និដ្ឋាន

សង្គ្រាមជាច្រើនដែលមនុស្សជាតិបាន ជួបបង្ហាញឲ្យឃើញថា រដ្ឋតែងតែប្រើប្រាស់កម្លាំង ដើម្បីដោះស្រាយជម្លោះរបស់ខ្លួន។ ពីទម្រង់តាមបុព្វកាលមកដល់ទិដ្ឋភាពទំនើបជម្លោះអន្តរជាតិ ធំៗ មានលក្ខណៈផ្សេងៗពីគ្នា។ ប្រសិនបើសង្គ្រាមលោកលើកទី២ស្ថិតនៅក្នុងការចងចាំនៅឡើយ ដែលមានមនុស្សស្លាប់៥៥ លាននាក់សង្គ្រាមត្រជាក់ និងជម្លោះដាច់ដោយឡែកផ្សេងទៀតមិនអញ្ចឹង ទេរហូតមកដល់ពេលនេះ ប៉ុន្តែវានៅតែជាសង្គ្រាមប្រល័យលោកខ្លាំងបង្អស់ដែរ។ សង្គមប្រជាជាតិ បានបរាជ័យនៅក្នុងបេសកកម្មថែរក្សាសន្តិភាព និងសន្តិសុខអន្តរជាតិរបស់ខ្លួន និងព្រឹត្តិការណ៍ របស់អង្គការសហប្រជាជាតិគឺ ធំសំបើមខ្លាំងណាស់សម្រាប់សង្គមអន្តរជាតិ។ ជាការពិតអង្គការ សហប្រជាជាតិសម្រេចបានល្អ ឬអក្រក់ក៏ដោយ ប៉ុន្តែជានិច្ចកាលពិភពលោកនៅតែធ្វើឲ្យបញ្ហា ដែលបានកើតឡើងថយចុះដោយស្ថានភាពកម្លាំងខុសច្បាប់ផ្សេងៗ។

ដូចនេះដែរ គេជជឹកសួរថាតើច្បាប់អន្តរជាតិទោះជាមានបម្រាមច្រើនរបស់វាយ៉ាងម៉េចក៏ ដោយអាចធ្វើឲ្យមានសន្តិភាពទំនាក់ទំនងរវាងរដ្ឋ និងរដ្ឋបានដែរ ឬទេ? ហើយរដ្ឋលែងរត់ទៅរកការ ប្រើប្រាស់កម្លាំងនៅក្នុងមជ្ឈដ្ឋានអន្តរជាតិដែរ ឬទេ ?

ជំពូក ២

**អន្តរាគមន៍យោធារបស់
សហរដ្ឋអាមេរិចនៅអ៊ីរ៉ាក់**

ជំពូកទី២

អន្តរាគមន៍យោធារបស់អាមេរិកនៅអ៊ីរ៉ាក់

ផ្នែកទី១ ៖ អន្តរាគមន៍យោធារបស់អាមេរិកនៅអ៊ីរ៉ាក់ឆ្នាំ១៩៩១

ការរំលោភច្បាប់អន្តរជាតិដោយអ៊ីរ៉ាក់ គឺជាអំពើផ្ទុយដាក់ស្នែង និងសីលធម៌សង្គម។ ជួនកាលគេមិនអាចអត់ឱនឲ្យបានទេនៅក្នុងកាលៈទេសៈបែបនេះកិច្ចការពារជាធម្មនុបរដ្ឋប្រហារ ជាមួយនឹង ការបន្តបរដ្ឋាភិបាលក្លែងក្លាយជាការបង្កឲ្យមាននូវរឿងអ្វីក៏អាចទៅបានដែរ។ នៅទីនេះ គឺ ពីខាងរដ្ឋសមាជិករបស់អង្គការសហប្រជាជាតិមួយ ត្រូវបានគេឈ្លានពានប្រឆាំងនឹងទឹកដីរបស់ រដ្ឋអធិបតេយ្យមួយហើយក៏ជាសមាជិករបស់អង្គការសហប្រជាជាតិផងដែរ ហើយក៏ជាសមាជិកសម្ព័ន្ធ អាវ៉ាប់ផងដែរ។ ការរំលោភនេះត្រូវបានតាមដានពីរ បី ថ្ងៃក្រោយមកទៀតទាក់ទងនឹងការប្រកាស បញ្ចូលរដ្ឋគុយវ៉ែតជាឧបសម្ព័ន្ធ។ បន្ថែមលើរឿងហ្នឹងមានចំណាប់ខ្លាំងរយៈពេលជាច្រើនសប្តាហ៍ អនិកជនរបស់លោកខាងលិចជាមួយនឹង បំណងប្រកាសយកពួកអ្នកទាំងនោះមកប្រើធ្វើជាកំពែង ការពារ ការរំលោភអភ័យឯកសិទ្ធិកាទូត ដែលបានតែងតាំងឲ្យទៅធ្វើការនៅប្រទេសគុយវ៉ែត។ ការប្រកាសប្រើនូវ គ្រប់អាវុធទាំងអស់ត្រូវបានហាម ជាផ្លូវការដោយច្បាប់សង្គ្រាមដែល អ៊ីរ៉ាក់បាន ចុះហត្ថលេខា។

អង្គហេតុទាំងនេះ មិនត្រូវបានខ្ចាស់អ្វីទាល់តែសោះដល់អ៊ីរ៉ាក់ផ្ទុយនឹងគោលការណ៍ជាមូល ដ្ឋាននៃធម្មនុញ្ញរបស់អង្គការសហប្រជាជាតិ ហើយជាពិសេសផ្ទុយនឹងមាត្រា២ កថាខណ្ឌ៤ ដែល បានចែងថា “សមាជិករបស់អង្គការសហប្រជាជាតិ នៅក្នុងទំនាក់ទំនងអន្តរជាតិនឹង រត់ទៅរកការ គំរាមកំហែងឬប្រើប្រាស់កម្លាំង ឬមួយប្រឆាំងបូរណភាពទឹកដី ឬមួយឯករាជ្យភាពនយោបាយនៃរដ្ឋ ឬដោយរបៀបផ្សេងទៀតវិសមិតភាពជាមួយនឹង គោលបំណងរបស់អង្គការសហប្រជាជាតិ។” ការ គរកាន់តែច្រើននៃ ការរំលោភទាំងនេះ ទោះជាមានការផ្ទុកមួយឡើងក្រៃលែង ៗ ការទូតទ្វេ និងពហុ ភាគីមិនបានកត់ហេតុពី បំណងញុះញង់ក៏ដោយ ក៏ប៉ុន្តែមានការមើលស្រាលដល់សមត្ថភាពធ្វើ ប្រតិកម្មតបរបស់អង្គការសហប្រជាជាតិ ។

កថាខណ្ឌទី១ ៖ មូលហេតុនៃការកាន់កាប់អ៊ីរ៉ាក់

១.ការឈ្លានពានរបស់អ៊ីរ៉ាក់

ក្នុងភាពមិនអាចទៅរួច ក្នុងការទទួលយកអំពើឈ្លានពានមួយ យ៉ាងច្បាស់ក្រឡែត សហគមន៍អន្តរជាតិបានមាន ប្រតិកម្មជាលើកទីមួយប្រតិកម្មពីក្រោយសង្គ្រាម ដោយសារការ បញ្ចប់នៃការប្រឈមមុខដាក់គ្នារវាងលោកខាងកើតនិងខាងលិច ដែលអាចសម្រេចទៅបានជាមួយ ការយល់ព្រមរបស់អង្គការសហប្រជាជាតិ ការប្រើប្រាស់ពេញលេញ នៃមធ្យោបាយផ្ទាល់ខ្លួនជំហរ

រួមគ្នានៃសមាជិកអចិន្ត្រៃយ៍នៃក្រុមប្រឹក្សាសន្តិសុខ ស្តីពីការផ្តោតទៅលើការឈ្លានពានរបស់ អ៊ីរ៉ាក់អាចមានការអនុវត្តជំពូក៧ ដែលផ្តល់ដោយក្រុមប្រឹក្សានូវ លទ្ធភាពនៃ ការចេញសេចក្តី សម្រេច និងប្រើប្រាស់កម្លាំង។ ដូច្នេះរាល់ភាពស្របច្បាប់ដែលត្រូវអនុម័តសេចក្តីសម្រេចចិត្តរបស់ ក្រុមប្រឹក្សាលេខ៦៦០¹⁴ចាប់តាំងពីលើកដំបូង នៅថ្ងៃទី២ ខែសីហា ឆ្នាំ១៩៩០ ត្រូវបានអនុម័ត ជាឯកច្ឆន្ទទាមទារឲ្យមានការដកជាបន្ទាន់ និងគ្មានលក្ខខណ្ឌនៃរាល់កម្លាំងអ៊ីរ៉ាក់ ទាំងអស់រហូត ដល់សេចក្តីសម្រេចចុងក្រោយលេខ៦៧៨¹⁵នៅថ្ងៃទី២៩ ខែវិច្ឆិកា ឆ្នាំ១៩៩០ ដែលអនុញ្ញាតឲ្យរាល់ សមាជិកសហការជាមួយរដ្ឋាភិបាលគុយវ៉ែត ប្រសិនបើនៅថ្ងៃ ទី១៥ ខែមករា ឆ្នាំ១៩៩១ អ៊ីរ៉ាក់មិន បានអនុវត្តពេញលេញសេចក្តីសម្រេចដូចបានរៀបរាប់ខាងលើនោះទេ(...)បើគ្រប់ធៀបបាយចាំបាច់ ដើម្បីធ្វើឲ្យគោរពនិងអនុវត្តសេចក្តីសម្រេចលេខ៦៦០(...)ហើយ ដែលស្នើឲ្យគ្រប់រដ្ឋទាំងអស់គាំទ្រ ចំពោះវិធានការដែលកំពុងធ្វើនៃសេចក្តីសម្រេចចិត្តចំពោះមុននេះ ។

តាមផ្លូវច្បាប់មានការជំទាស់ពីរ ត្រូវបានលើកឡើងមិនមែនលើកឡើងដោយអ៊ីរ៉ាក់ទេប៉ុន្តែ លើកឡើងដោយអ្នកច្បាប់មួយចំនួនដែលខ្វល់ខ្វាយពីសន្តិភាព ហើយជឿថាអាចតវ៉ានឹងភាពស្រប ច្បាប់នៃអន្តរាគមន៍ជាបន្តបន្ទាប់ចំពោះសេចក្តីសម្រេចចិត្តនេះ។ ដំបូងត្រូវលើកពីមាត្រា២៧ កថា ខណ្ឌ ៣ នៃធម្មនុញ្ញពួកគេនៃអ្នកច្បាប់ទាំងនោះ បានធ្វើឲ្យមាន ការកត់សម្គាល់ថាការអនុម័តរបស់ ក្រុមប្រឹក្សាចំពោះ សេចក្តីសម្រេចចិត្តលេខ៦៧៨ មិនបានសម្រេច “ដោយការអនុម័តវិជ្ជមាន នៃសមាជិក៩ ក្នុងចំណោមសមាជិករបស់ខ្លួនក្នុងនោះមានសម្លេងសមាជិកអចិន្ត្រៃយ៍ទាំងអស់” ពីព្រោះរដ្ឋមិនបានអនុប្បវាទ។ ទឡើងករណីនេះមិនអាចទទួលយកបានទេ ក្នុងករណីដែលទម្លាប់ របស់ក្រុមប្រឹក្សាបង្ហាញថា អវត្តមានរបស់សមាជិកអចិន្ត្រៃយ៍ម្នាក់មិនអាចចេញ សេចក្តីសម្រេច បានទេ។

ការជំទាស់ទី២ ចេញមកពីមាត្រា៤៣ ដែលចែងពីការចុះហត្ថលេខាលើកិច្ចព្រមព្រៀងដែល អនុញ្ញាតតាមរយៈរដ្ឋសមាជិកឲ្យប្រើប្រាស់កម្លាំងយោធាចាំបាច់ដើម្បីថែរក្សាសន្តិភាពហើយ មាត្រា ៤៦ បញ្ជាក់ថា “ផែនការដើម្បីប្រើកម្លាំងយោធាត្រូវរៀបចំបង្កើតដោយក្រុមប្រឹក្សាសន្តិសុខដែលមាន គណៈកម្មាធិការនៃបញ្ហាការដ្ឋាន “បទបញ្ញត្តិទាំងនេះអាចជាលក្ខខណ្ឌចាំបាច់នៃការប្រើ ប្រាស់កម្លាំង រួមគ្នា។ ការជំទាស់ទី២ នេះក៏មិនបានអាចទទួលយកបានដូចលើកទីមួយដែរពីព្រោះវាកើតពី អត្ថិភាពមាត្រា៤២ ដែលចែងថា “ក្រុមប្រឹក្សាអាចចាប់ផ្តើមតាមផ្លូវអាកាសនាវាដីគោកនូវរាល់ សកម្មភាពដែលខ្លួនយល់ឃើញថាចាំបាច់ ឬរៀបចំសន្តិភាព និងសន្តិសុខអន្តរជាតិជាតិឡើងវិញ”។

¹⁴ Security Council Resolution 660 (2 August 1990)

¹⁵ Security Council Resolution 678 (29 November 1990)

ហើយមាត្រានេះបន្ថែមថា “សកម្មភាពនេះអាចមានព្យុះហាយត្រាវិធានការរាំងខ្ទប់សេដ្ឋកិច្ច និងប្រតិបត្តិការផ្សេងទៀត អនុវត្តដោយកម្លាំងទ័ពអាកាសនាវា ឬផ្លូវគោកនៃសមាជិករបស់អង្គការសហប្រជាជាតិ។” គឺពិតជាមាត្រា៤២ នេះហើយដែលត្រូវបានប្រើក្នុងរឿងក្តីឈ្នងសមុទ្រ។ គឺមិនមែនប្រតិបត្តិការរបស់អង្គការសហប្រជាជាតិទេដែលគេឃើញមាន ប៉ុន្តែការអនុវត្តដោយបង្ខិតបង្ខំនៃសេចក្តីសម្រេចចិត្តមួយរបស់ក្រុមប្រឹក្សាសន្តិសុខ ជាប្រតិបត្តិការដែលសម្រេចឡើងដោយសម្ព័ន្ធមិត្តរបស់គុយវ៉ែតជាមួយការព្រមព្រៀង និងតាមសំណើរបស់ក្រុមប្រឹក្សា ។

តាមច្បាប់អន្តរជាតិ ការបញ្ចូលរដ្ឋគុយវ៉ែតជា ឧបសម្ព័ន្ធដោយអ៊ីរ៉ាក់ ហាក់បីដូចជាមិនអាចការពារបានទេ ហើយអន្តរាគមន៍របស់សម្ព័ន្ធមិត្ត ក្នុងឈ្នងសមុទ្រស្របនឹងធម្មនុញ្ញ។ ជាការពិតគឺអ្វីដែលអាចឲ្យអ្នកនយោបាយជាច្រើន ចាប់ផ្តើមដោយប្រធានាធិបតេយ្យ George Bush និងនីតិវិធីដោយការលើកឡើង នៃច្បាប់អន្តរជាតិដែលកម្រត្រូវបានគេផ្តល់កិត្តិយសបែបនេះណាស់។ ប៉ុន្តែការយោងជាប្រចាំទៅនឹងច្បាប់នេះ មានការព្រួយបារម្ភខ្លះធ្វើឲ្យអ្នកដែលលើកឡើងត្រូវការច្បាស់ពីខ្លួនឯង ។

ប៉ុន្តែសង្គ្រាមនេះមិនដូចសង្គ្រាមដទៃទៀតទេ។ តើនេះពិតជាសង្គ្រាមមួយមែនឬ? តើរដ្ឋមន្ត្រីការពារជាតិបារាំងមិនបានប្រកាសថា ប្រទេសបារាំងមិនបានធ្វើសង្គ្រាមប្រឆាំងនឹងអ្នកណាមួយទេមែនឬ? ហើយប្រទេសបារាំងគ្រាន់តែអនុវត្តសេចក្តីសម្រេចចិត្តរបស់ក្រុមប្រឹក្សាសន្តិសុខតែប៉ុណ្ណោះឬ? រដ្ឋមន្ត្រីការពារជាតិមុនទើបលាឈប់ពីតំណែងដោយមានទស្សនៈខុសគ្នាខ្លាំងនៃស្ថានភាព។ ប្រសិនបើរដ្ឋាភិបាលច្រើនតាមរយៈរដ្ឋាភិបាលខ្លួន ហាក់បីដូចជាត្រូវគ្នាជាមួយសម្ព័ន្ធមិត្តរបស់គុយវ៉ែតគេកត់ហេតុឃើញថា នីតិសាធារណៈមានការចែករំលែកច្រើនជាងគេ នៅក្នុងរដ្ឋអារ៉ាប់ក្នុងប្រទេសម៉ូស្លីម និងប្រទេសដទៃទៀតលើពិភពលោកដែលរាប់បញ្ចូលនៅក្នុងប្រទេសលោកខាងលិចផងដែរ។ ប្រសិនបើ មានការបំបាក់ និងការសង្ស័យលើនីត្យានុកូលភាពជាទម្រង់នៃសេចក្តីសម្រេចរបស់អង្គការសហប្រជាជាតិ វាហាក់បីដូចជាថារបៀបដែលវាត្រូវបានអនុវត្តនោះត្រូវជំទាស់តវ៉ាដោយប្រទេសជាច្រើនទុកជាការប្រឆាំងទៅនឹងច្បាប់ ដែលមិនមានការត្រូវគ្នាជាមួយនឹងនីតិអញ្ជឹង។ ការពិនិត្យស្ថានភាពតាមរយៈអ្នកដែល ព្រមដកខ្លួនចេញពីវិជ្ជមាននិយម គតិយុត្តិដ៏ចង្អៀតមួយនាំទៅដល់ ការកត់ហេតុឃើញមួយចំនួន ដែលរំខានដល់ភាពស្មោះត្រង់របស់អ្នកច្បាប់ ។

ការថែរក្សាសន្តិភាពពិតជាឆ្លើយតបយ៉ាងច្បាស់ ទៅនឹងច្បាប់ដូចដែលមានចែងក្នុងជំពូក៦ និង៧ នៃធម្មនុញ្ញអង្គការសហប្រជាជាតិ។ ប៉ុន្តែដោយមិនចង់បង្កើតនៅចំណងមួយរវាងស្ថានភាពពិសេសការដែលធ្វើយ៉ាងម៉េចមិនទទួលយកការអនុវត្តនៃច្បាប់នេះបាននោះ ដែលមានលក្ខណៈប្រែប្រួលតិចតួចនោះ? ដើម្បីនិយាយតែពី តំបន់មជ្ឈិមបូព៌ា បញ្ហាទឹកដីបានចោទឡើងចំពោះ

ប្រជាជនជិតខាងបី គឺប៉ាឡេស្ទីន លីបង់ និងគុយវ៉ែត។ អង្គការសហប្រជាជាតិបានមានឱកាសផ្ដោតទៅលើបញ្ហាទាំងអស់នេះ ហើយអនុម័តនៅសេចក្ដីសម្រេចចិត្តនៅករណីបី។ ការអនុវត្តសេចក្ដីសម្រេចចិត្តទាំងនេះខុសគ្នាស្រឡះ។ សេចក្ដីសម្រេចចិត្តជាងមួយរយស្តីពីប៉ាឡេស្ទីន មិនបានឈានដល់ដំណោះស្រាយនោះទេ ។

ប្រទេសលីបង់កំពុងលិចបាត់ក្នុងភាពព្រងើយកន្ដើយទូទៅ។ ប៉ុន្តែប្រទេសគុយវ៉ែតវិញដោយសារតែមានភាពឯកច្ឆន្ទនៅក្នុងក្រុមប្រឹក្សាសន្តិសុខ និងដោយសារផលប្រយោជន៍បានមកពីធនធានប្រេងកាតរបស់ខ្លួន នោះត្រូវបានការពារដោយសម្ព័ន្ធមិត្តចម្រុះពិសេសដែលមើលស្រាលដោយអ្នកឈ្លានពានរបស់ខ្លួនទៅវិញ។ សកលភាពនៃនីតិអន្តរជាតិហាក់បីដូចជាមិនច្បាស់លាស់ទេ កាលនោះពីព្រោះវាទទួលទៅតាមពេលវេលាទៅតាមសម័យកាល និងទៅតាមអ្នកប្រើប្រាស់នៃការអនុវត្តខុសៗគ្នាយ៉ាងខ្លាំង។ ប្រសិនបើគេធ្វើឲ្យស្របច្បាប់ស្ថានភាពស៊ីវិលនៅលីបង់ ឬស្ថានភាពអ៊ីស្រាអែលក្នុងទឹកដីកាន់កាប់របស់ប៉ាឡេស្ទីន វិញតើមានមនសិការនឹងនរណាម្នាក់ក្នុងការវាយតម្លៃជម្លោះនៃតំបន់ឈូងសមុទ្រ?

នីតិ គឺជាសាច់កំណាច ដ៏ត្រជាក់មួយដែលយកចិត្តទុកដាក់ការអនុវត្តច្បាប់ឬ? តើមិនដឹងឮពីទំហំសេដ្ឋកិច្ចនៃជម្លោះទេឬ? ប្រទេសគុយវ៉ែតអាចមិនធ្វើឲ្យអ្វីកាន់កាប់អារម្មណ៍ ក៏ដូចជាមហាអំណាចលោកខាងលិច ប្រសិនបើប្រទេសនេះមិនមែនជាប្រទេសទីពីរ នាំចេញប្រេងកាតទេនោះ។ គេមិនយល់ថាហេតុអ្វី បានជាទិដ្ឋភាពនេះត្រូវលាក់បាំងសេដ្ឋកិច្ច មិនមែនសកម្មភាពគួរឲ្យអៀនខ្មាស់ទេលំនឹង ផែនដីអាស្រ័យលើវាហើយ។ ដូច្នេះ ត្រូវចោទសួរទៅលើការប្រើប្រាស់ធនធានដ៏សំបើមរបស់ប្រទេស ដ៏តូចនេះ បញ្ហាគួរលើកឡើងនៅសតវត្សទី ២១ ការទស្សន៍ទាយទុកមុនទុកឲ្យយល់ថា រដ្ឋទាំងឡាយនៃឧបទ្វីបអារ៉ាប់ដែលនឹងផ្គត់ផ្គង់នៅប្រេងកាត ចាំបាច់ទៅឲ្យប្រទេសឧស្សាហកម្ម។ តែថាអ្នកណាគេបានឆក់យកឱកាសពីរឿងនេះរហូតមកដល់បច្ចុប្បន្ននោះ? តើមិនយល់ថាវាមាននៃធនធានដែលសន្សំទុកដ៏សំបើម ដោយប្រទេសមួយចំនួនតូចនៅក្បែរនឹងប្រទេសបងប្អូនដែលស្លាប់នឹងការអត់ឃ្លានយ៉ាងម៉េចទៅ (មិនមែនអ្វីកាន់កាប់ទេ ប៉ុន្តែប្រទេសអារ៉ាប់ដែលគ្មានធនធានប្រេងកាតពិតជាប៉ះពាល់ដល់ស្ថានភាពជម្លោះយ៉ាងម៉េចដែរ? ត្រង់នឹងហើយទំហំ ជើងត្បូងនៅក្នុងជម្លោះនៃតំបន់ឈូងសមុទ្រជាប្រទេសជម្លោះទីមួយ និងប្រកាសប្រាប់ឲ្យដឹងអំពីការបែងចែកថ្មីនៃពិភពលោក ដែលលែងជាកើត-លិចទៀតហើយ ។

កថាខណ្ឌទី២ ៖ ទណ្ឌកម្មរបស់អ៊ីរ៉ាក់

១.ទណ្ឌកម្មរបស់អង្គការសហប្រជាជាតិ ដាក់លើអ៊ីរ៉ាក់

ទណ្ឌកម្មនៃការឈ្លានពានគឺ ត្រូវមកជួយជនរងគ្រោះ ដើម្បីឲ្យ គេបានទឹកដីរបស់ខ្លួនមកវិញ ដូច្នេះទើបមានសេចក្ដីសម្រេចរបស់អង្គការសហប្រជាជាតិ។ បន្ទាប់ពីការប៉ុនប៉ងឥតប្រយោជន៍

កាលបរិច្ឆេទចុងក្រោយត្រូវកំណត់ដោយសេចក្តីសម្រេចលេខ២៧៨ សម្រាប់បង្ខំឲ្យ Saddam Hussein កែសម្រួលឥរិយាបថរបស់ខ្លួន ជាអកុសលដោយប្រមុខរដ្ឋបារាំង បាននិយាយអញ្ចឹង “គ្មានសញ្ញាសម្គាល់ណាមួយ គ្មានពាក្យណាមួយរបស់ទីក្រុងបាគដាដបានអនុញ្ញាតឲ្យសង្ឃឹមថា គេទាមទារឲ្យមានការគោរពច្បាប់នោះទេ។” ការរត់ទៅរកការប្រើប្រាស់កម្លាំង ប្រដាប់អាវុធកាលនោះស្របច្បាប់។ ដូច អគ្គលេខាធិការអង្គការសហប្រជាជាតិបានបញ្ជាក់អញ្ចឹង “គឺសង្គ្រាមស្របច្បាប់ក្នុងន័យដែលថា សង្គ្រាមនេះត្រូវបានអនុញ្ញាតដោយក្រុមប្រឹក្សាសន្តិសុខ។” នៅបញ្ហានៃទំហំនៃសង្គ្រាមនេះនៅមាន ហើយលើចំណុចនេះ សេចក្តីសម្រេចលេខ២៧៨ មានន័យទូលាយខ្លាំងអត្ថបទនេះចែងឲ្យអំពាវ នាវនូវ “គ្រប់មធ្យោបាយចាំបាច់ទាំងអស់។” អ៊ីរ៉ាក់បានបង្កើតយោធា មួយដែលជាយោធាលំដាប់ទីបួន នៅលើពិភពលោកការប្រយុទ្ធគ្នាមានទំហំធំខ្លាំងធ្វើម៉េចមិនចោទសួរ ទៅលើសមាមាត្រនៃទណ្ឌកម្ម ទៅលើការបំផ្លិចបំផ្លាញនៃសក្តានុពលភាពនៃយោធាមួយ ដែលប៉ះពាល់ដល់អាយុជីវិតជនស៊ីវិល ទៅលើយថាភាព ទៅលើការប្រើប្រាស់អាវុធមិនមានចែងក្នុងអនុសញ្ញាលើហានិភ័យ នៃការរីកសាយ នៃជម្លោះទៅលើការវិលត្រលប់ទៅរកសម្ព័ន្ធមិត្តក្រោមគំនាបផ្ទៃក្នុងនៃមតិអារ៉ាប់ ធ្វើឲ្យមានលក្ខណៈ ហួសហេតុ ដោយការកម្ទេចជនជាតិបងប្អូនមួយនោះយ៉ាងម៉េច?

នៅទីបញ្ចប់នៅមានវិសាលភាពលំបាកក្នុងការ វាយតម្លៃប៉ុន្តែនៅតែមានយ៉ាងច្បាស់ នោះគឺទីដ្ឋភាពឥស្លាម ។ ប្រទេសលោកខាងលិច មើលងាយ ពីភាពខុសគ្នាទៅនឹង សង្គ្រាម សាសនាដែលបានកើតមានច្រើនលើកច្រើនសារដោយ ពួកអ្នកផ្តាច់ការម្នាក់ ដែលទាមទារនូវការ បង្កើតបក្សនយោបាយដែលជាគ្រហស្ថម្ភ ។ តើធ្វើដូចម្តេចបានមិនមើលប្រមុខរដ្ឋអ៊ីរ៉ាក់ ពីការប៉ុន ប៉ង ដ៏គ្រោតគ្រោតមួយនៃការញុះញង់នោះ ? ជាការពិតប្រទេសអារ៉ាប់ ហាក់បីដូចជា ចូលខ្លួនបាន យ៉ាងងាយ នៅសតវត្សទី ២០ ទៅក្នុងទំនាក់ទំនងអន្តរជាតិ ដែលមានពួកគេចុះហត្ថលេខាលើ ធម្មនុញ្ញហើយជា សមាជិកនៃស្ថាប័នអង្គការសហប្រជាជាតិ ជាច្រើនទៀត ពួកគេទទួលស្គាល់ គោលការណ៍ជាមូលដ្ឋាន នៃសង្គមអន្តរជាតិដែលផ្អែកលើ ប៉ុន្តែការប្រកាន់យកជំហរ របស់ពួកគេ ជូនកាល ធ្វើឲ្យមានការភ្ញាក់ផ្អើល ហើយការពិនិត្យប្រវត្តិសាស្ត្រ ដ៏សំបូរបែបរបស់ ពិភពអារ៉ាប់ បង្ហាញឲ្យឃើញថា គំនិតជាច្រើនដែលច្បាប់អន្តរជាតិផ្អែកលើការពិតខុសគ្នាពីពិភពវប្បធម៌របស់ ខ្លួន។ គឺករណីនៃរដ្ឋអធិបតេយ្យផ្ទាល់តែម្តង គឺករណីនៃព្រំដែនភូមិសាស្ត្រ គឺករណីនៃការកសាង សហព័ន្ធ នៃសង្គមអន្តរជាតិមួយករណី នៃសិទ្ធិមនុស្សដែលជាគ្រហស្ថឲ្យដូចគ្នាទាំងអស់ នៃជន គ្រប់រូប។ គឺភាពប្រជុំប្រសងគ្នានៃអតីតកាលមួយដែលបានចាក់ស្រេះទៅលើការយោងដ៏ចំណាស់ ទៅនឹង អូម៉ា (Omma) ដែលសាជាម ហួសនូវលើកឡើងជាមួយនឹងការបង្ហាញ អំណាចយោធា របស់ខ្លួន ដូចអ្នកដែលបានធ្វើឲ្យមានការរស់រវើកឲ្យរស់ឡើងវិញនូវរឿងព្រេងនៃ អាយុមាស នៃឥស្លាមមួយដ៏ មានមហិទ្ធិបូជ្ញ និង បង្រួបបង្រួមនៅជុំវិញ Calife ថ្មីមួយ ។

ចូលទៅក្នុងសង្គមអន្តរជាតិទំនើបប្រទេសអារ៉ាប់បានទទួលយកក្របខណ្ឌនេះ ប៉ុន្តែពួកគេ អាចទុកមួយផ្នែករវាងការសន្យាអន្តរជាតិរបស់ខ្លួន និងកាតព្វកិច្ចកើតចេញពីការសន្យាបែបនេះ។ រវាងសេចក្តីសម្រេចរបស់ក្រុមប្រឹក្សានៃសំដីអាទិទេពដែល មានចែងក្នុងកូរ៉ង់ តើពួកគេរារាំងយ៉ាង ដូចម្តេច? គឺការពិចារណានេះហើយដែល សាដាមហូសេនសង្ឃឹមថាអាចប្រើប្រាស់វាដើម្បីបញ្ជាក់ពី សង្គ្រាមដែលខ្លួនដឹកនាំនេះបើតាមទស្សនៈស្តីពីការស្វែងរកការវាយបកវិញនោះ។

បរិមាត្រទាំងអស់ត្រូវគេមិនដឹងឮ ឬ មើលស្រាលជាច្រើនឆ្នាំមកហើយដោយមហាអំណាច ដែលចង់លើករឿងនេះនៅមជ្ឈិមបូព៌ានោះ។ ដូច្នេះវាជាការលំបាកក្នុងការអនុវត្តនីតិអន្តរជាតិ ដែល ព្រងើយកន្តើយយ៉ាងខ្លាំងទៅនឹងបញ្ហាពិភពអារ៉ាប់ និង ប្រទេសតតិយលោក។ ច្បាប់អន្តរជាតិដែល ត្រូវជឿជាន់ពេលណាៗទាំងអស់នោះ នឹងមិនត្រូវគេយល់ថាមិនត្រូវបានអនុម័តដោយប្រទេសទើប ជាសមាជិកថ្មីៗ...បដិសេធចោលនៅរាល់ចំណងរវាងរឿងរ៉ាវនៃតំបន់ឈូងសមុទ្រ និងរាល់បញ្ហា ដែលចោទឡើងនៅក្នុងពិភពអារ៉ាប់ ឬនៅក្នុងប្រទេសតតិយលោក គឺជាមធ្យោបាយគ្មានដំណោះ ស្រាយអ្វីឡើយ ។ បណ្តោយទុកឲ្យមិនមានប្រតិកម្មតប កាលបញ្ចូលជាឧបសម្ព័ន្ធ នៃរដ្ឋមួយអាច បញ្ជាក់បានពីការបញ្ចប់ របស់អង្គការសហប្រជាជាតិ និងភាពជាអវិជ្ជមាននៃច្បាប់អន្តរជាតិ។ អង្គការសហប្រជាជាតិទើប ទទួលស្គាល់បរាជ័យនៃសង្គ្រាមស្លាប់រស់មួយ ហើយអាចជាសង្គ្រាម យូរ ។ សណ្តាប់ធ្នាប់អន្តរជាតិថ្មី បានប្រកាសប្រាប់ឲ្យដឹង បន្ទាប់ពីការខិតខំតតាតកើត-លិច និងមិន កសាងឡើងដោយផ្អែកលើការប្រឈមមុខដាក់គ្នាជើង-ត្បូងនោះទេ។

ផ្នែកទី២ ៖ អន្តរាគមន៍យោធារបស់អាមេរិចនៅអ៊ីរ៉ាក់ឆ្នាំ២០០៣

កថាខណ្ឌទី ១ ៖ មូលហេតុការកាន់កាប់អ៊ីរ៉ាក់

១.ទិដ្ឋភាពច្បាប់ និង នយោបាយ (ដោយ Madjid¹⁶)

នៅថ្ងៃទី០១ ខែឧសភា ឆ្នាំ២០០៣ប្រធានាធិបតេយ្យ សហរដ្ឋអាមេរិចប្រកាសពីការបញ្ចប់“ ប្រតិបត្តិការយោធាចំបងប្រឆាំង និងអ៊ីរ៉ាក់”។ ការកាន់កាប់អ៊ីរ៉ាក់ចាប់ផ្តើមរៀបចំឡើង។ ទោះបីជា មានការដាច់បង្អៀរនៃ យោធាអ៊ីរ៉ាក់យ៉ាងណាក៏ដោយ ក៏ប្រតិបត្តិការយោធា និងវិទ្យុឡូនានៅតែជា រឿងដែលគេនិយាយមុនគេជាអន្តរជាតិ។ អ្វីៗប្រព្រឹត្តទៅហាក់បីដូចជា ជ័យជំនះយោធាមិនអាចឲ្យ ធានាបាននូវការរកសន្តិភាព ឬការបញ្ឈប់ភាពប្រទូសរ៉ាយដ៏បង្ខំរយាម ។

សម្មតិកម្មនៃ គោលដៅដែលកំណត់បំផ្លាញ ឬកម្ទេចចោលនូវរបបផ្តាច់ការមួយហើយ កសាងលទ្ធិប្រជាធិបតេយ្យមួយ ដែលពិបាកដែលធ្វើឲ្យមានភាពជាក់ស្តែងមួយ។ សហរដ្ឋអាមេរិច ដែលជួយដោយចក្រភពអង់គ្លេសត្រូវការសម្ព័ន្ធមិត្តធនធានមនុស្ស និងហិរញ្ញវត្ថុដែលខ្លួនប៉ុនប៉ង

¹⁶ Madjid គឺជា Professeur à la Faculté de Droit de l'Université de Cergy-Pontoise(France)។

រកនៅលើឆាកអន្តរជាតិដើម្បីកាត់បន្ថយបន្ទុកនិងចំណាយនៃការកាន់កាប់។ ដើម្បីសម្រេចបាននូវ លក្ខខណ្ឌល្អបំផុតធ្វើឲ្យគេភ្លេចនៅភាពមិនស្របច្បាប់ នៃអន្តរាគមន៍យោធាដោយទទួលបាននូវ ភាពស្របច្បាប់ នៃការកាន់កាប់ជាពិសេសដោយសារដំណោះស្រាយ នៃក្រុមប្រឹក្សាសន្តិសុខ ។

ការអល់អែកដែលមាននៅក្នុងសហគមន៍អន្តរជាតិ នាំឲ្យសហរដ្ឋអាមេរិច រកការទទួលស្គាល់ នៃភាពស្របច្បាប់នៃគម្រោងរបស់ខ្លួនក្នុងការធ្វើប្រជាធិបតេយ្យកម្ពុជា។ ក៏ប៉ុន្តែគម្រោងនេះ និងបញ្ហាសេដ្ឋកិច្ចនិង យុទ្ធសាស្ត្រដែលកើតមាននៅជុំវិញបញ្ហានេះអាចជំទាស់ដោយភាពហិង្សា នៃការតស៊ូរបស់អ៊ីរ៉ាក់ ប្រសិនបើប្រជាជនអ៊ីរ៉ាក់ឈានទៅកំណត់បាន ហើយទៅនឹងទឹកនៃនាំផ្លូវ របស់ខ្លួនផ្ទាល់ឆ្ពោះទៅរកដំណាក់កាលបណ្តោះអាសន្ននៃប្រជាធិបតេយ្យ ។

២.ការស្វែងរកនៃភាពស្របច្បាប់នៃការកាន់កាប់

ការរត់ទៅរកការប្រើប្រាស់កម្លាំង ប្រឆាំងអ៊ីរ៉ាក់ នៅខែមេសា ឆ្នាំ២០០៣ មិនចូលទៅក្នុង ប្រភេទនៃកិច្ចការពារជាធម្មនុប ហើយក៏មិននៅក្នុងប្រភេទ នៃវិធានការដែលអនុញ្ញាតដោយ ក្រុមប្រឹក្សាសន្តិសុខស្របទៅនឹងជំពូក ៧ នៃធម្មនុញ្ញ អង្គការសហប្រជាជាតិ។ អន្តរាគមន៍នេះ ខុសច្បាប់ហើយ នៅក្នុងលក្ខខណ្ឌទាំងនេះទោះ បីជាវាចង់បញ្ចប់ភាពផ្តាច់ការមួយ និងការឃុំទុក អាវុធបំផ្លាញលោក ដែលលើសពីនេះទៅទៀត គណៈកម្មការអធិការកិច្ចអង្គការ សហប្រជាជាតិ វាយតម្លៃថាអាចមានតិចតួច ។

ការរត់ទៅរកការប្រើប្រាស់ កម្លាំងខុសច្បាប់ជាការពិតនាំឲ្យមានការកាន់កាប់ខុសច្បាប់ដែរ គឺលក្ខណៈនៃភាពមិនស្របច្បាប់នេះហើយ ដែលមហាអំណាចកាន់កាប់និង ខិតខំប្រឹងប្រែង លុបបំបាត់ចោលដើម្បីសម្រេចឲ្យបានល្អប្រសើរនៃគោលដៅដែលពួកគេកំពុងធ្វើ។ ក្នុងជ្រុងទស្សនៈ នេះការអនុម័តយល់ព្រម នៃការកាន់កាប់របស់ ក្រុមប្រឹក្សាសន្តិសុខមានសារៈសំខាន់ខ្លាំងណាស់។ សេចក្តីសម្រេចចិត្តរបស់ក្រុមប្រឹក្សាសន្តិសុខទាក់ទងទៅនឹង ការកាន់កាប់ជាការអនុម័តយល់ព្រម មួយមែនឬ?ដូច្នេះត្រូវពិនិត្យរឿងនេះមុននឹង ចាប់អារម្មណ៍ដល់ច្បាប់អន្តរជាតិមនុស្សធម៌ នាអំឡុង ពេលនៃការកាន់កាប់ប្រទេសអ៊ីរ៉ាក់ ។

៣.ការកាន់កាប់ប្រទេសអ៊ីរ៉ាក់ និង ដំណោះស្រាយរបស់ក្រុមប្រឹក្សាសន្តិសុខ

សហរដ្ឋអាមេរិចយ៉ាងប្រញាប់ជាការពិត លើកទឹកចិត្តដោយចក្រភពអង់គ្លេស បានខិតខំ ទទួលបាននូវការអនុម័តយល់ព្រម នៃក្រុមប្រឹក្សាសន្តិសុខដើម្បីគ្របដណ្តប់ នៃការកាន់កាប់ នៅអ៊ីរ៉ាក់។ ពួកសហរដ្ឋអាមេរិចបាន អង់អែលក្តីសង្ឃឹមដែលភាពឆាប់រហ័ស នៃជ័យជំនះរបស់ខ្លួន និងការដួលរលំនៃប្រព័ន្ធយោធាយមួយ ដែលមានការតវ៉ាច្រើនជំរុញរដ្ឋជាច្រើន និងមតិសាធារណៈ មកជួបជុំនៅជំហររបស់ខ្លួនដែល យោធាឈ្លានពានអាចក្លាយជាយោធារំដោះ។ កងកម្លាំងអ៊ីរ៉ាក់

ដែលកើតចេញពីការកាន់កាប់សហការគ្នា រវាងកម្លាំងបរទេសយ៉ាងស្មិតមូត។ គ្មាននរណាម្នាក់ ក្នុងសម្ព័ន្ធកម្មនេះអាចនិយាយការពារ ពីភាពខុសច្បាប់នៃការកាន់កាប់បានទេ។ ដូច្នេះគេអាច និយាយថាការអំពាវនាវនៃប្រជាជនអ៊ីរ៉ាក់ ត្រូវបានគេស្តាប់ឮដោយសហរដ្ឋ អាមេរិចទោះបីជាដួរ របស់សាដាម ហូសេននៅធ្វើជាអេក្រង់ក៏ដោយ។ អធិបតេយ្យរបស់រដ្ឋអ៊ីរ៉ាក់ ជាការពិតត្រូវបាន រំលោភ ប៉ុន្តែ ជារដ្ឋផ្តាច់ការដែលធ្វើឲ្យសញ្ញាណអធិបតេយ្យក្រឡាប់ចាក់អស់ហើយនៅពេលប្រើវា ដើម្បីការពារប្រជាជនរបស់ខ្លួននោះ។ នៅក្នុងលក្ខខណ្ឌទាំងនេះ អធិបតេយ្យអាចលើកយកមក សំអាងបានដើម្បីប្រឆាំងនឹងសិទ្ធិស្វ័យសម្រេចរបស់ប្រជាជន ។

ក៏ប៉ុន្តែ នៅទីក្រុងបាកដាដគ្មានក្រុមដែលសប្បាយរីករាយ និងការកើនឡើងនៃវិទ្យុឡូនា និងការលូចបង្កប់គ្រប់បែកធ្វើឲ្យស្ថានភាពកាន់តែពិបាកចំពោះកម្លាំងសហរដ្ឋអាមេរិច និងចក្រភពអង់គ្លេស ដែលកាលនោះគ្មានកម្លាំងនៃការកាន់កាប់។ ក្នុងលក្ខខណ្ឌទាំងនោះសម្ព័ន្ធកម្ម នៃការតស៊ូមួយចំពោះការកាន់កាប់ក្លាយជារឿងកាន់តែធ្វើឲ្យមានការជឿជាក់ ។

លើឆាកអន្តរជាតិវិញ ផលវិបាកនៃភាពខុសច្បាប់ទៅនឹង ការប្រើប្រាស់កម្លាំងត្រូវបាន គេដឹងគ្រប់គ្នា។ រដ្ឋផ្សេងទៀតមានការគាំទ្រតិចតួចណាស់ត្រូវប្រឈមទៅនឹងការចេសវឹងរូសនៃ ការរិះគន់នៃសមាជិកជាច្រើននៃ ក្រុមប្រឹក្សាសន្តិសុខ។ ប្រទេសបារាំង អាឡឺម៉ង់ រុស្ស៊ី ចិន ឥណ្ឌា និងប្រទេសផ្សេងទៀតប្រឆាំងឥតឈប់ឈរ និងភាពគ្រោះថ្នាក់នៃការកាន់កាប់អ៊ីរ៉ាក់ និងស្ថេរភាព នៃតំបន់។ នៅសហរដ្ឋអាមេរិចកម្លាំងនយោបាយមួយចំនួនបានមករួមគ្នាជាមួយនឹងសង្គមស៊ីវិល ជាពិសេសគណបក្សប្រឆាំង និង ការចំណាយមនុស្សរបស់ខ្លួនច្រើន។

នៅក្នុងលក្ខខណ្ឌទាំងនេះ ការរត់ទៅរកក្រុមប្រឹក្សាសន្តិសុខ ដើម្បីទទួលបានការពាក់ ព័ន្ធក្នុងការកាន់កាប់ដោយ លើកប្រាប់ក្រុមប្រឹក្សាសន្តិសុខកាន់តែខ្លាំងឡើង ពីនយោបាយដឹកនាំ ដោយសហរដ្ឋអាមេរិចដែលនឹងបង្ហាញអំពីសារៈសំខាន់យ៉ាងខ្លាំង។ ប្រសិនបើក្រុមប្រឹក្សាសន្តិសុខ សហប្រតិបត្តិការក្នុងរឿងនេះ សហរដ្ឋអាមេរិច សង្ឃឹមទទួលបានការធ្វើមិនខុសច្បាប់ និងភាព ស្របច្បាប់ ដែលអនុម័តយល់ព្រមរបស់អង្គការសហប្រជាជាតិបានប្រគល់ឲ្យ ។

តាមគោលការណ៍រដ្ឋ និងអង្គការអន្តរជាតិ ខ្វល់ខ្វាយពីរឿងការគោរពច្បាប់អន្តរជាតិ គួរតែ មិនលូកដៃចូលក្នុង ប្រតិបត្តិការនៃការ ថែរក្សាសណ្តាប់ធ្នាប់ និង ការគ្រប់គ្រងនៃការកាន់កាប់ ដែលច្បាប់អន្តរជាតិថ្កោលទោស។ ប៉ុន្តែឥរិយាបថរបស់រដ្ឋនិង អង្គការអន្តរជាតិជានិច្ចកាលមិនទៅ ក្នុងន័យនេះទេ។

ក្នុងករណីនៃការកាន់កាប់គុយវ៉ែត សេចក្តីសម្រេចលេខ៦៨៧¹⁷ នៅថ្ងៃទី៨ ខែមេសា ឆ្នាំ១៩៩១ បានសម្រេចថាអ៊ីរ៉ាក់ជាអ្នកទទួលខុសត្រូវដោយយោងលើច្បាប់អន្តរជាតិ ពីរាល់ការខាតបង់រាល់

¹⁷ Security Council Resolution 687 (3 April 1991)

ព្យាសនកម្ម ដែលរាប់បញ្ចូលការប៉ះពាល់ដល់បរិស្ថាន នៃការបំផ្លិចបំផ្លាញធនធានធម្មជាតិទទួលបាន ដោយប្រទេសគុយវ៉ែត ដោយសារការវាយទន្ទ្រានយក និងការកាន់កាប់នៃទឹកដីរបស់ខ្លួន។ ធនធាន អ៊ីរ៉ាក់មួយផ្នែក ត្រូវទទួលស្គាល់ដោយក្រុមប្រឹក្សាសន្តិសុខ សម្រាប់ការទូទាត់ ជាការខូចខាតដោយ សារសង្គ្រាម។ ក្នុងករណីខ្លះទៀតបញ្ហានៃការជួសជុលជាទូទៅត្រូវដោះស្រាយ តាមកិច្ចព្រមព្រៀង រវាងភាគីពាក់ព័ន្ធក្នុងលក្ខខណ្ឌ ដែលអាចឲ្យសង្គ្រោះកិច្ចសហប្រតិបត្តិការរវាងសត្រូវចាស់ ។

ក្នុងករណីនៃការកាន់កាប់ អ៊ីរ៉ាក់គ្មានទណ្ឌកម្មណាមួយ ត្រូវបានសម្រេច ដោយក្រុមប្រឹក្សា សន្តិសុខទេ។ សេចក្តីសម្រេចលេខ ១៤៨៣¹⁸ ១៥០០និង ១៥១១ អំពាវនាវឲ្យធ្វើកិច្ច សហប្រតិបត្តិ ការអន្តរជាតិជ្រើសតាំងមហាអំណាចកាន់កាប់ទាំងពីរ អនុម័តយល់ព្រមលើការសម្រេចសំខាន់ៗ របស់ពួកគេនិង បង្កើតបេសកកម្មជំនួយរបស់អង្គការសហប្រជាជាតិនៅ អ៊ីរ៉ាក់និង កម្លាំងពហុជាតិ ក្រោមការបញ្ជារួមគ្នា។ ដើម្បីពិនិត្យថាតើ ក្រុមប្រឹក្សាសន្តិសុខផ្តល់ភាពត្រឹមត្រូវតាមច្បាប់សម្រាប់ អនាគតចំពោះការកាន់កាប់ ដែលដើមដំបូងចាត់ទុកជាខុសច្បាប់នោះគួរពិនិត្យ សេចក្តីសម្រេច សំខាន់ៗ ដែលបានអនុម័ត។

មានសេចក្តីសម្រេចលេខ១៤៨៣ ថ្ងៃទី២២ ខែឧសភា ឆ្នាំ២០០៣ ហាក់បីដូចជាមិនមាន គោលដៅផ្តល់លក្ខណៈនៃភាពត្រឹមត្រូវតាមច្បាប់ទៅដល់ការកាន់កាប់អ៊ីរ៉ាក់នោះទេ។ ការចូលរាយ យកដ៏ចម្រូងចម្រាសគ្នាថ្មីៗ បំផុត និងជម្លោះរវាងសមាជិកក្រុមប្រឹក្សាសន្តិសុខ ខ្លាំងក្លានៅឡើយ ដើម្បីសង្ឃឹមនូវសេចក្តីសម្រេចមួយលើរឿងនេះ។ តាមទស្សនៈនេះសេចក្តីសម្រេចលេខ ១៤៨៣ មិនបានផ្តល់នូវភាពពេញចិត្តទាំងស្រុង ដល់សហរដ្ឋអាមេរិច និងចក្រភពអង់គ្លេសទេ។ មហា អំណាចទាំងពីរនេះត្រូវបានគេចាត់ទុកថា ជាមហាអំណាចកាន់កាប់ដែលស្ថិតនៅក្រោមច្បាប់អន្តរ ជាតិមនុស្សធម៌។ ពួកគេត្រូវបានអញ្ជើញដូចរដ្ឋសមាជិកដទៃទៀតដែរ ហើយធ្វើសកម្មភាព ដើម្បី កសាងអ៊ីរ៉ាក់ឡើងវិញ អង្គការសហប្រជាជាតិត្រូវដើរតួនាទីដ៏សំខាន់បំផុត ។

ប៉ុន្តែតួនាទីសំខាន់របស់ អង្គការសហប្រជាជាតិក៏ដូចជាបេសកកម្មជំនួយ សេចក្តីសម្រេច លេខ១៥០០ បានបង្កើតថ្ងៃទី១៦ ខែសីហា ឆ្នាំ២០០៣ ទុកអង្គការអន្តរជាតិឲ្យនៅក្នុងតួនាទី ជំនួយមនុស្សធម៌ ធ្វើអ្នកជួយសម្រួលក្នុងការកសាងសេដ្ឋកិច្ច និងស្ថាប័នឡើងវិញ។ ក្រុមប្រឹក្សា សន្តិសុខលើកទឹកចិត្តដល់រដ្ឋសមាជិកជាពិសេស G៧ និងធនាគារឲ្យរួមចំណែកខាងផ្នែកហិរញ្ញ វត្ថុនិងបច្ចេកវិទ្យាចំពោះការកសាងឡើងវិញ... ។

ការពិតសេចក្តីសម្រេចលេខ១៤៨៣ ទៅឆ្ងាយជាងនេះ ក្នុងន័យនៃការអនុវត្តយល់ព្រម អន្តរាគមន៍ របស់សហរដ្ឋអាមេរិច និងចក្រភពអង់គ្លេស។ នៅក្នុងលក្ខខណ្ឌទាំងនេះក្រុមប្រឹក្សា

¹⁸ Security Council Resolution 1483 (2003)

សន្តិសុខ អំពាវនាវឲ្យធ្វើសហប្រតិបត្តិការ នៃរដ្ឋសមាជិកដើម្បីរួមចំណែកចំពោះស្ថេរភាពសន្តិសុខ នៃអ៊ីរ៉ាក់ ដែលផ្តល់នូវបុគ្គលិកគ្រឿងបំពាក់សម្ភារៈ និងធនធានក្រោមការដឹកនាំរបស់អាជ្ញាធរ បណ្តោះអាសន្ន នៃការកាន់កាប់ដែលបង្កើតឡើងរបស់សហរដ្ឋអាមេរិច និងចក្រភពអង់គ្លេស។ នេះមិនមែនជាការទទួលស្គាល់ជាលក្ខណៈទម្រង់ធម្មតានោះទេ នៃស្ថានភាព នៃអង្គហេតុមួយ ឧទាហរណ៍ ករណីកាលណារដ្ឋតិចតួចមានទំនាក់ទំនងជាមួយនឹង អ្នកកាន់កាប់ដើម្បីប្រាប់អ្នក កាន់កាប់ពីកាតព្វកិច្ចរបស់ខ្លួន និងការការពារផលប្រយោជន៍របស់ខ្លួន។ នេះជាកិច្ចសហប្រតិបត្តិការ ដ៏សកម្មមួយក្រោមការដឹកនាំរបស់អាជ្ញាធរនៃការកាន់កាប់ និងក្នុងក្របខណ្ឌ នៃយុទ្ធសាស្ត្រ និង នយោបាយដែលកំណត់ដោយសហរដ្ឋអាមេរិច ។

សេចក្តីសម្រេចលេខ១៥០០¹⁹ ថ្ងៃទី១៤ ខែសីហា ឆ្នាំ២០០៣ អះអាងបញ្ជាក់ពីបទបញ្ញត្តិល្អៗ ទាំងនោះរបស់ក្រុមប្រឹក្សាសន្តិសុខ ដើម្បីគាំទ្រគំនិតផ្តួចផ្តើមរបស់អាជ្ញាធរ... ។

សេចក្តីសម្រេចលេខ ១៥១១²⁰ ថ្ងៃទី ១៦ ខែតុលាឆ្នាំ ២០០៣ ទៅឆ្ងាយជាងការអនុម័តដោយ អង្គការសហប្រជាជាតិ ពីការកាន់កាប់អ៊ីរ៉ាក់។ ដោយពុំទៅដល់រហូតប្រកាសថាការកាន់កាប់នឹង អំណះតទៅវាត្រឹមត្រូវតាមច្បាប់នោះទេ។ សេចក្តីសម្រេចថ្កោលទោស អំពើភេរវកម្មវិទ្យុឡា ដែល កម្លាំងនៅអ៊ីរ៉ាក់ចាត់ទុកជាអំពើតស៊ូទេ អ្វីដែលខុសគ្នារវាងសេចក្តីសម្រេចលេខ១៥១១ និង ១៤៨៣ គឺការបង្កើតកម្លាំងពហុជាតិ។ នៅក្នុងទំនាក់ទំនងកម្លាំងបច្ចុប្បន្នលើឆាក អន្តរជាតិ គឺសហរដ្ឋអាមេរិច ហាក់បីដូចជា មហាអំណាចតែមួយគត់ ហើយគ្មានមហាអំណាចមួយណាផ្សេង ទៀតអាចប្រឆាំង បានផ្ទុយទៅវិញរដ្ឋចុះថយក្នុងការបង្ហាញឆន្ទៈរបស់ខ្លួនក្នុងការសហប្រតិបត្តិរបស់ពួកគេ ។

ក្នុងករណីអ៊ីរ៉ាក់ការពន្យល់លើកទីពីរអាចបំពេញលើកមុនបាន។ ដូច្នេះក្រោយបីឆ្នាំនៃស្ថាន ភាពសេដ្ឋកិច្ច ដ៏លំបាកគ្មានមហាអំណាចណាមួយអាចទៅឆ្ងាយពី កិច្ចសន្យាប្រេងកាត និងត្រូវឧស្សា ហកម្មដែលអ៊ីរ៉ាក់សន្យាថា នឹងកសាងឡើងវិញ។ រុស្ស៊ី អាឡឺម៉ង់ និងបារាំង ដែលបានរិះគន់ការធ្វើ អន្តរាគមន៍យោធាតែងតែលើក អំពីឆន្ទៈរបស់ខ្លួនឥតឈប់ឈរថានឹង ចូលរួមក្នុងការកសាងអ៊ីរ៉ាក់ ឡើងវិញ ឬមួយសន្យាថានឹង លុបចោលបំណុលមួយផ្នែក ឬចង់ទៅក្បែរស្ថាប័នបណ្តោះអាសន្ន ដែរ។ អ៊ីរ៉ាក់មានមធ្យោបាយកសាងប្រទេស របស់ខ្លួនឡើងវិញ ដែលជាប្រទេសមួយក្នុងចំណោម ប្រទេសផលិតប្រេងធំបំផុតលើពិភពលោក ។

កថាខណ្ឌទី២ ៖ ទណ្ឌកម្មរបស់អ៊ីរ៉ាក់

១. របបនៃការកាន់កាប់

សេចក្តីសម្រេចលេខ ១៤៨៣ និង១៥១១ របស់ក្រុមប្រឹក្សាសន្តិសុខរដ្ឋាភិបាល កាតព្វកិច្ចនៃ មហាអំណាចកាន់កាប់ឲ្យគោរពបទបញ្ញត្តិ ជាក់ស្តែងនៃច្បាប់អន្តរជាតិ ដោយបំពេញកាតព្វកិច្ច

¹⁹ Security Council Resolution 1500 (14 August 2003)
²⁰ Security Council Resolution 1511 (16 October 2003)

និស្សិត សាំង ម៉េងហ៊ុយ ២៦ សាស្ត្រាចារ្យណែនាំ ឡឺក ពិដោរ

របស់ខ្លួនឲ្យបានជាពិសេសកាតព្វកិច្ចនៃអនុសញ្ញា ឆ្នាំ ១៩៤៩ និង ដំណោះស្រាយទីក្រុងឡាអេ ឆ្នាំ ១៩០៧។ ការរើកនេះ គឺយោងតាមការអនុវត្តនៃច្បាប់អន្តរជាតិមនុស្សធម៌ ក្នុងអំឡុងនៃរយៈពេលកាន់កាប់។ របបនេះ មិនធ្វើបុរេវិនិច្ឆ័យណាមួយ ពីការវាយតម្លៃនៃការរត់ទៅរកការប្រើប្រាស់កម្លាំងដែលនាំឲ្យការកាន់កាប់ខុសច្បាប់នោះទេ។

តាមសេចក្តីសម្រេចលេខ ១៤៨៣ មហាអំណាចកាន់កាប់ត្រូវ អនុវត្តច្បាប់មនុស្សធម៌អន្តរជាតិទាំងស្រុង។ ច្បាប់អន្តរជាតិមនុស្សធម៌ទាមទារឲ្យ មានការគោរពសេចក្តីថ្លៃថ្នូរនៃអ្នកទោស និង ប្រជាជនដែលគេកត់ហេតុឃើញថាអ្នកទទួលខុសត្រូវនយោបាយនិង យោធាដែលចាប់បានត្រូវបានឃុំ ឃាំង ជាសម្ងាត់ក្នុងលក្ខខណ្ឌ ដែលមិនអាចត្រួតពិនិត្យពីការអនុវត្តអនុសញ្ញា ឆ្នាំ ១៩៤៩... ។

២. ការស្វែងរកភាពស្របច្បាប់ចំពោះការកាន់កាប់

ការវាយចូលនិង កាន់កាប់អ៊ីរ៉ាក់ត្រូវបានផ្តល់ យុត្តិកម្មដោយភាពចាំបាច់នៃការបញ្ចប់ការគំរាមកំហែងដែលទម្លាក់បន្ទុកដល់សហគមន៍អន្តរជាតិនិងប្រជាជនបស្ចិមបូព៌ា ដោយសារការកាន់កាប់អាវុធបំផ្លាញលោកដោយរបបផ្តាច់ការមួយដែល គេបានដឹងថារបបនោះមិនខ្លាចរំអែងនិងប្រើអាវុធគីមីប្រឆាំងនឹង ប្រជាជនខ្លួនឯងផ្ទាល់។ ដើម្បីលុបបំបាត់ការគំរាមកំហែងនេះត្រូវបំផ្លាញចោលរបបផ្តាច់ការ និងធ្វើប្រជាធិបតេយ្យនីយកម្មអ៊ីរ៉ាក់។

៣. បញ្ហានៃការធ្វើប្រជាធិបតេយ្យនីយកម្មអ៊ីរ៉ាក់

ការធ្វើប្រជាធិបតេយ្យនីយកម្មអ៊ីរ៉ាក់ភ្លាមៗ ហាក់បីដូចជា គោលដៅមួយដោយគ្មានការផ្តល់ភាពស្របច្បាប់ដល់ការចូលលុកលុយទេនោះ អាចដាក់អ្នកកាន់កាប់នៅក្នុងស្ថានភាព នយោបាយនិងសីលធម៌មួយដោយមានការធានាច្រើនជាងទាំងនៅលើឆាកនយោបាយជាតិរបស់ខ្លួន និងទាំងនៅលើឆាកអន្តរជាតិ។ គោលដៅក្នុងការធ្វើប្រជាធិបតេយ្យនីយកម្ម អ៊ីរ៉ាក់ផ្តល់ទៅឲ្យកម្លាំងកាន់កាប់នូវបេសកកម្មមួយ ដែលអាចធ្វើឲ្យឆន្ទៈត្រួតពិនិត្យធនធានប្រេងកាតនៅពីក្រោយ និងដាក់បង្ខំនូវយុទ្ធសាស្ត្រសហរដ្ឋអាមេរិចនៅក្នុងតំបន់។

គោលដៅធ្វើប្រជាធិបតេយ្យនីយកម្មអ៊ីរ៉ាក់អាចធ្វើឲ្យការកាន់កាប់ ជាកល្បិចនៃការរំដោះនិងការអភិវឌ្ឍ។ ដូច្នេះ គោលដៅបែបនេះគឺ ជាការធ្លាក់ចុះយ៉ាងខ្លាំងនៃរបបផ្តាច់ការមួយ។ ការធ្វើឲ្យជាក់ស្តែងឡើងនៃគោលដៅនេះទាមទារពេលវេលា និងមធ្យោបាយយ៉ាងច្រើន។ វាបញ្ជាក់ពីការសន្យាផ្នែកយោធា និងការចំណាយដ៏ច្រើនសន្ធឹកសន្ធាប់។ លើកឆាកអន្តរជាតិវិញគ្មានរដ្ឋណាមួយជំទាស់ទៅនឹងប្រជាធិបតេយ្យនីយកម្មនៃ អ៊ីរ៉ាក់នោះទេក៏ប៉ុន្តែ រដ្ឋដែលមិនជំទាស់ទៅនឹងការចូលលុកលុយមិនមើលឃើញរឿងនឹងដូចគ្នាទេ។ ចំពោះប្រទេសបារាំងសម្មតិកម្មនៃគោលដៅនេះគឺការ

វិលត្រលប់អធិបតេយ្យរបស់អ៊ីរ៉ាក់វិញ។ ជាការពិតរាល់សេចក្តីសម្រេចរបស់ក្រុមប្រឹក្សាសន្តិសុខ បានអះអាងជាប្រចាំពីអធិបតេយ្យរបស់អ៊ីរ៉ាក់ ជាការពិតដោយបញ្ជាក់យ៉ាង ដូច្នេះ ថាការកាន់កាប់ ក្នុងទម្រង់ទំនើបរបស់រ៉ាម៉ូនអាចព្រៀបបានទៅនឹង ទម្រង់ដែលមានប៉ុន្មាន ទសវត្សមុននេះ។ ក៏ប៉ុន្តែ ការម្នឹកនេះបានធ្វើឲ្យបរាជ័យដោយតថភាព និងការបំផ្លាញរដ្ឋអ៊ីរ៉ាក់ទៅវិញ។ ប្រទេសបារាំងផ្តល់នូវ ន័យមួយខុសពីគោលដៅនៃប្រជាធិបតេយ្យនីយកម្ម។ រដ្ឋមន្ត្រីការបរទេសរបស់ខ្លួនចាត់ទុកថា “ភាពបន្ទាន់ក្នុងការផ្ទេរអធិបតេយ្យទៅឲ្យប្រជាជនអ៊ីរ៉ាក់ ដើម្បីធានាអះអាងចំពោះពួកគេ នូវការទទួល ខុសត្រូវ យ៉ាងពេញលេញរបស់ខ្លួន[...] មានតែទស្សនៈវិស័យ នៃសាសនាសហប្រជាជាតិអធិបតេយ្យ មួយប៉ុណ្ណោះអាចផ្តល់នូវក្តីសង្ឃឹមនិង កសាងសង្គមអ៊ីរ៉ាក់ឡើងវិញ”។ ទង្វើនេះរដ្ឋមន្ត្រីបារាំងរិះគន់ ផ្លូវដែលជ្រើសរើសដោយសហរដ្ឋអាមេរិច ។

៤. ស្ថាប័នបណ្តោះអាសន្នថ្មីរបស់អ៊ីរ៉ាក់

បន្ទាប់ពីភាពអាណាធិបតេយ្យនៃការចូលរាយលុករបស់សហរដ្ឋអាមេរិច បង្កើតនៅស្ថាប័ន មួយចំនួន។ ការបង្កើតស្ថាប័នយោបាយទាំងនេះនិង យោធាថ្មីឆ្លើយតបទៅនឹងគោលដៅរបស់រដ្ឋថ្មី មួយ។ ស្ថាប័នស៊ីវិលសម្រាប់ពេលនោះ ជាស្ថាប័នបណ្តោះអាសន្ន។ មានក្រុមប្រឹក្សាក្រុងសម្រាប់ សេវាសាធារណៈ បន្ទាប់បន្សំទោះជាមានដំណើរការតិចតួចក៏ដោយ។ ការបង្កើតដ៏គួរឲ្យចាប់ អារម្មណ៍ជាងគេនោះគឺនៅថ្ងៃទី១២ ខែកក្កដា ឆ្នាំ២០០៣ ក្រុមប្រឹក្សារដ្ឋាភិបាលប៉ុណ្ណោះអាសន្ន។ ក្រុមប្រឹក្សានេះមានសមាជិកមន្ត្រី៥រូបជ្រើសតាំងឡើងដោយផ្អែកលើជនជាតិភាគតិច និងសាសនា ដែលអាជ្ញាធរបង្កើតឡើងដោយ មហាអំណាចកាន់កាប់ដោយធ្វើការរួមគ្នាជាមួយនិង កម្លាំងនយោ បាយជនជាតិភាគតិចនិងសាសនាអ៊ីរ៉ាក់... ។ គណៈកម្មការរដ្ឋធម្មនុញ្ញ បណ្តោះអាសន្នកើតឡើង ថ្ងៃទី១១ ខែសីហា ឆ្នាំ២០០៣។ គោលដៅរបស់គណៈកម្មការ គឺសិក្សាពីទម្រង់បែបបទ នៃការតាក់តែង និងអនុម័តនូវរដ្ឋធម្មនុញ្ញថ្មី។ តាមអគ្គលេខាធិការអង្គការសហប្រជាជាតិនេះ បានស្នើឲ្យសេចក្តីព្រាង រដ្ឋធម្មនុញ្ញ ត្រូវបានតាក់តែងដោយអង្គការមួយបោះឆ្នោតដោយចំពោះ និងជាសម្ងាត់បន្ទាប់មកទៀត ដាក់ឲ្យប្រជាជនទាំងមូលក្នុងក្របខណ្ឌប្រជាមតិមួយត្រួតពិនិត្យដោយ អង្គការសហប្រជាជាតិ។

ជាការពិតវានៅតែរឿងដែលត្រូវដឹងថាគឺ ភាពតំណាងនៃស្ថាប័នទាំងនេះវាយ៉ាងម៉េច។ ភាពតំណាងនៃក្រុមប្រឹក្សារដ្ឋាភិបាល ពិតជាសំខាន់ខ្លាំងណាស់ ដើម្បីឲ្យតម្លៃពីភាពជាប់លាប់នៃ គំរោងប្រជាធិបតេយ្យនីយកម្ម និងទស្សនៈដែលអ្នកកាន់កាប់មានបច្ចុប្បន្នសម្រាប់ អនាគតរបស់ អ៊ីរ៉ាក់ដូច យើងបានឃើញហើយ ការបង្កើតក្រុមប្រឹក្សារដ្ឋាភិបាល ត្រូវធ្វើឲ្យមានភាពលេចធ្លោ ដោយគំនិតទាក់ទងនឹង សាសនា និងជនជាតិភាគតិចអ៊ីរ៉ាក់ ភាពខុសប្លែកគ្នានៃប្រជាជនអ៊ីរ៉ាក់ ដែលគេចង់រៀបចំឡើងវិញ ឆ្លើយតបទៅនឹង កង្វល់ក្នុងការកាត់ផ្តាច់ជាមួយនិង ភាពផ្តាច់មុខនៃ

អំណាចដែល អនុម័តតែដោយ គ្រួសារស៊ីយ៉ាត (Sunnite) ពីរបីនៅជុំវិញពួកតាក្រិត (Takrit) របស់សាដាមហូសេន។ ក៏ប៉ុន្តែក្រុមប្រឹក្សារដ្ឋាភិបាល ដែលមានសមាសភាពបែបនេះអាចនឹង ពិបាកជំរុញឲ្យមានលទ្ធិប្រជាធិបតេយ្យ ពីព្រោះជំនឿសាសនា និងវិធីបុណ្យនានា ត្រួតត្រាដោយ និកាយមួយចំនួន និងឧបករណ៍មួយចំនួន ហើយឆ្លងតាមសង្គមដោយពុំគិតគូរពី បំណងនយោបាយសេដ្ឋកិច្ច និងសង្គមរបស់ពួកគេ។ ជាមួយនិងការលើកទឹកចិត្តដល់សាសនារបស់ខ្លួន និងជនជាតិភាគតិចដើម្បីកំណត់ពី រចនាសម្ព័ន្ធនៃអ៊ីរ៉ាក់ថ្មី។ រចនាសម្ព័ន្ធថ្មី របស់អ៊ីរ៉ាក់អាជ្ញាធរ កាន់កាប់ហាក់បីដូចជាផ្តល់អវិភាព ដល់ទស្សនៈសហគមន៍ជៀសជាងផ្តល់ទៅឲ្យ ទស្សនៈជាតិ ដោយផ្អែកលើកម្លាំងនយោបាយដែលអ៊ីរ៉ាក់គួរត្រូវលើកទឹកចិត្ត អំពីសាសនារបស់គេ។ ជាការពិតមូលដ្ឋានជំនឿ និងជនជាតិភាគតិចគឺជាចំណុចចាប់ផ្តើមដ៏ងាយស្រួល ដែលការវាស់ស្ទង់ថាតើជីវភាពនយោបាយ និងពួកបក្សនិយមត្រូវបានគេលុបបំបាត់ចោលដោយរបបផ្តាច់ការនៃគណបក្ស Bass ដែរ ឬទេ? ទស្សនៈនេះអាចឲ្យមានការគោរពរចនាសម្ព័ន្ធជាប្រពៃណី ដែលមាននៅសម័យផ្តាច់ការ។ ក៏ប៉ុន្តែ វាក៏ជាចំណុចផ្តើមមួយផងដែរ វាអាចមានឧបសគ្គច្រើនសម្រាប់អនាគតប្រជាធិបតេយ្យនៃអ៊ីរ៉ាក់ ។

លើសពីនេះទៅទៀត តើគេអាចកសាងគម្រោងលិទ្ធិប្រជាធិបតេយ្យ មួយអាចជឿជាក់បានដែរឬទេ ចំពោះប្រជាជនកាលណាប្រជាជនទាំងនេះរស់នៅក្នុងការកាន់កាប់បរទេសភាពហិង្សា និងឯកជនភាពនីយកម្មនោះ។

អ្វីដែលគេអាចនិយាយបាននោះ គឺថាក្រុមប្រឹក្សាបណ្តោះអាសន្ននោះ បានធ្វើការជាមួយ និងអាជ្ញាធរដឹកនាំដោយអ្នកតំណាងអាមេរិចឈ្មោះ Paul Bremer។ រដ្ឋមន្ត្រីអ៊ីរ៉ាក់ម្នាក់ៗ ត្រូវត្រួតពិនិត្យដោយទីប្រឹក្សាសហរដ្ឋអាមេរិចភាពតំណាងនៃក្រុមប្រឹក្សារបស់រដ្ឋាភិបាល ដែលអគ្គលេខាធិការអង្គការសហប្រជាជាតិ វាយតម្លៃយ៉ាងទូលាយការពិត គឺជាបញ្ហាកម្មដែលបញ្ជាក់ថា អធិបតេយ្យរបស់អ៊ីរ៉ាក់ ត្រូវលុបបំបាត់ចោលដោយសេចក្តីសម្រេច របស់ក្រុមប្រឹក្សាសន្តិសុខ ។

សេចក្តីសន្និដ្ឋាន

សេចក្តីសន្និដ្ឋាន

យោងតាមការបកស្រាយខាងលើ ប្រធានបទនេះបានផ្តល់នូវ ចំណេះដឹងជាច្រើនដែល ពាក់ព័ន្ធអង្គការអន្តរជាតិមួយចំនួនដូចជា អង្គការសហប្រជាជាតិ និង តុលាការព្រហ្មទណ្ឌអន្តរជាតិ ជាពិសេសទាក់ទងនឹងនីតិអន្តរជាតិតែម្តងថា តើប្រទេសទាំងអស់ក្នុងពិភពលោក គោរពច្បាប់ អន្តរជាតិដែរ ឬយ៉ាងណា។ ប៉ុន្តែអ្វីដែលសំខាន់នោះអង្គការសហប្រជាជាតិវាជាអង្គការមួយដែល កើតឡើងក្រោយសង្គ្រាមលោកលើកទី២ ហើយអង្គការនេះមានអង្គការតូចៗ ៦ ទៀត។ លើសពី នេះទៅទៀតអង្គការដែលសំខាន់បំផុតនោះ គឺក្រុមប្រឹក្សាសន្តិសុខអង្គការសហប្រជាជាតិដែល អង្គការនេះមានសមាជិកអចិន្ត្រៃយ៍ចំនួន ៥ ប្រទេស មានដូចជា ប្រទេសបារាំង រុស្ស៊ី ចិន សហរដ្ឋអាមេរិក និងចក្រភពអង់គ្លេស។ ក្រុមប្រឹក្សាសន្តិសុខអង្គការសហប្រជាជាតិ ដើរតួសំខាន់ បំផុតក្នុងពិភពលោកគឺ ដើម្បីដោះស្រាយវិបត្តិផ្សេងៗ ដូចជា សង្គ្រាមរវាងរដ្ឋ និងរដ្ឋហើយជា អង្គការមួយដែលមានសិទ្ធិដាក់ទណ្ឌកម្មផ្នែកសេដ្ឋកិច្ចទៅលើ ប្រទេសដែលបង្កភាពគម្រាមកំហែង លើពិភពលោក និងអាចអន្តរាគមន៍យោធាទៅលើប្រទេសណាដែលបង្កសង្គ្រាមទៅប្រទេសដទៃទៀត ដូចករណីសង្គ្រាមឈូងសមុទ្រទី២ ឆ្នាំ១៩៩១ ដែលដឹកនាំដោយសហរដ្ឋអាមេរិក និងសម្ព័ន្ធមិត្ត។ ប៉ុន្តែផ្ទុយមកវិញ បើក្រុមប្រឹក្សាសន្តិសុខចង់ដាក់ទណ្ឌកម្មអ្វីមួយទៅដល់ ប្រទេសដទៃ ដែលគម្រាម កំហែងសន្តិសុខពិភពលោកនោះ បើសិនជាសមាជិកអចិន្ត្រៃយ៍ណា មួយបានជំទាស់ ឬVeto ហើយនោះក្រុមប្រឹក្សានោះគ្មានអានុភាពក្នុងការដាក់ទណ្ឌកម្មទៅលើ ប្រទេសនោះទេ ។

ដូច្នេះហើយ អង្គការមួយនេះនូវតែមានភាពចន្លោះ ប្រហោងឧទាហរណ៍ជាក់ស្តែង សង្គ្រាមអ៊ីរ៉ាក់ឆ្នាំ ២០០៣ ដែលសហរដ្ឋអាមេរិកបានឈ្លានពានអ៊ីរ៉ាក់ ឬរំលោភអធិបតេយ្យភាព ប្រទេសមួយនេះដោយការប្រើទ័ពវាយកម្ទេច។ ត្រង់ចំណុចនេះហើយដែលថា គ្មានអង្គការ សហប្រជាជាតិ ឬប្រទេសណាមួយដាក់ទណ្ឌកម្មទៅលើ សហរដ្ឋអាមេរិកទាល់តែសោះ។ បើចង់ឲ្យ យុត្តិធម៌ អង្គការសហប្រជាជាតិ ឬប្រទេសមហាអំណាចធំ ឬប្រទេសទាំងអស់លើពិភពលោក គួរតែដាក់ទណ្ឌកម្មលើសហរដ្ឋអាមេរិក។ ដូចនេះគួរនិយាយថា ច្បាប់អន្តរជាតិ ផ្អែកលើប្រទេស មហាអំណាចមិនមិនផ្អែកទៅលើការដោះស្រាយដោយសន្តិវិធីនោះទេ។ ដូចនេះប្រទេសទាំងអស់ លើពិភពលោកត្រូវតែយកច្បាប់អន្តរជាតិជាធំ ហើយបើមានប្រទេសណាមិនអនុវត្តទេនោះ អង្គការ សហប្រជាជាតិ និងប្រទេសទាំងអស់លើពិភពលោកគួរតែរួមគ្នាដាក់ទណ្ឌកម្មអោយបានធ្ងន់ធ្ងរ ។

អនុសាសន៍

អនុសាសន៍

ដោយឆ្លងតាមការស្រាវជ្រាវ ជាទឹកតាងកន្លងមក ការបង្កើតអង្គការសហប្រជាជាតិ និងធម្មនុញ្ញអង្គការសហប្រជាជាតិ វាត្រូវបានបង្កើតឡើងក្រោយសង្គ្រាមលោកលើកទីពីរដើម្បី ធានានិរន្តរភាព ស្ថេរភាពសន្តិភាព និងសន្តិសុខរបស់ពិភពលោក។ ការបង្កើតអង្គការនេះ ឡើងពិតជាល្អខ្លាំងណាស់ គឺដើម្បីឲ្យ ប្រទេសជាតិលើពិភពលោកទាំងអស់មានសន្តិភាព។ ក៏ប៉ុន្តែ ដោយឆ្លងតាមការស្រាវជ្រាវរបស់ខ្ញុំផ្ទាល់ អង្គការមួយនេះពុំទាន់មានសមត្ថភាពគ្រប់គ្រាន់ក្នុង ការរក្សាសន្តិសុខពិភពលោកនៅឡើយទេ។ អង្គការនេះនៅតែមានចន្លោះប្រហោងពីព្រោះអង្គការ មួយនេះបង្កើតឡើងក៏ពិតមែន តែប្រទេសនៅតំបន់មួយចំនួននៅតែមានសង្គ្រាម និងជម្លោះដ៏រំវៃ ដូចជាសង្គ្រាមឈូងសមុទ្រលើកទីពីរ សង្គ្រាមសហរដ្ឋអាមេរិច និងអ៊ីរ៉ាក់ឆ្នាំ២០០៣ ។ អញ្ចឹងសួរថា តើការបង្កើតអង្គការនេះឡើងវាពិតជាមានសមត្ថកិច្ច ក្នុងការរារាំងសង្គ្រាមដែលកើតមានឡើង ឬអត់? បើនិយាយពីនីតិវិធី ក្នុងក្រុមប្រឹក្សាសន្តិសុខវិញ ដើម្បីឲ្យក្រុមប្រឹក្សាសន្តិសុខអនុវត្ត កាតព្វកិច្ចរបស់ខ្លួនបាន លុះត្រាតែ ប្រទេសណាមួយនៅលើពិភពលោក បានគំរាមកំហែង សុខ សន្តិភាពរបស់ពិភពលោក ទើបសមាជិកក្រុមប្រឹក្សាសន្តិសុខ ដែលមានសមាជិកអចិន្ត្រៃយ៍ ប្រាំប្រទេសបោះឆ្នោតទាំងប្រាំប្រទេសព្រមគ្នា (Veto) ទើបអាចដាក់ទណ្ឌកម្ម ឬប្រើទ័ពសម្ព័ន្ធ ដែលជាទ័ព របស់អង្គការសហប្រជាជាតិ ដើម្បីចូលអន្តរាគមន៍ដើម្បីបញ្ចប់ការគំរាមកំហែងសន្តិសុខ ពិភពលោក។ ដោយឡែក ឆ្លងតាមការវិភាគដ៏ល្អិតល្អន់របស់ខ្ញុំបាទសង្គ្រាមរបស់សហរដ្ឋអាមេរិច នៅអ៊ីរ៉ាក់ក្នុងឆ្នាំ២០០៣ គឺជាភាពអធម្មនុញ្ញ។ ដូច្នេះហើយប្រសិនបើទស្សនៈរបស់ខ្ញុំផ្ទាល់ អគ្គលេខាអង្គការសហប្រជាជាតិ និងសមាជិកក្រុមប្រឹក្សាដទៃទៀតដែលជាសមាជិកអចិន្ត្រៃយ៍ របស់អង្គការសហប្រជាជាតិតែដាក់ទណ្ឌកម្មលើសហរដ្ឋអាមេរិច ឲ្យសងជាសំណងការខូចខាត ផ្សេងៗ ដែលសហរដ្ឋអាមេរិចជាអ្នកបញ្ឆោតសង្គ្រាម ឬក៏បង្កើតគណៈកម្មការចម្រុះមួយដើម្បីដាក់ ទណ្ឌកម្មលើសហរដ្ឋអាមេរិច ។

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1959 ANTARCTIC TREATY

Adopted in Washington, D.C, the United States of America on 1 December 1959

[\[http://www.ats.aq/documents/ats/treaty_original.pdf\]](http://www.ats.aq/documents/ats/treaty_original.pdf)

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The Governments of Argentina, Australia, Belgium, Chile, the French Republic, Japan, New Zealand, Norway, the Union of South Africa, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

RECOGNIZING that it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

ACKNOWLEDGING the substantial contributions to scientific knowledge resulting from international cooperation in scientific investigation in Antarctica;

CONVINCED that the establishment of a firm foundation for the continuation and development of such cooperation on the basis of freedom of scientific investigation in Antarctica as applied during the International Geophysical Year accords with the interests of science and the progress of all mankind;

CONVINCED also that a treaty ensuring the use of Antarctica for peaceful purposes only and the continuance of international harmony in Antarctica will further the purposes and principles embodied in the Charter of the United Nations;

HAVE AGREED AS FOLLOWS:

ARTICLE I

1. Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military manoeuvres, as well as the testing of any type of weapon.

2. The present Treaty shall not prevent the use of military personnel or equipment for scientific research or for any other peaceful purpose.

ARTICLE II

Freedom of scientific investigation in Antarctica and cooperation toward that end, as applied during the International Geophysical Year, shall continue, subject to the provisions of the present Treaty.

ARTICLE III

1. In order to promote international cooperation in scientific investigation in Antarctica, as provided for in Article II of the present Treaty, the Contracting Parties agree that, to the greatest extent feasible and practicable:

a) information regarding plans for scientific programs in Antarctica shall be exchanged to permit maximum economy of and efficiency of operations;

- b) scientific personnel shall be exchanged in Antarctica between expeditions and stations;
 - c) scientific observations and results from Antarctica shall be exchanged and made freely available.
2. In implementing this Article, every encouragement shall be given to the establishment of cooperative working relations with those Specialized Agencies of the United Nations and other technical organizations having a scientific or technical interest in Antarctica.

ARTICLE IV

1. Nothing contained in the present Treaty shall be interpreted as:
- a) a renunciation by any Contracting Party of previously asserted rights of or claims to territorial sovereignty in Antarctica;
 - b) a renunciation or diminution by any Contracting Party of any basis of claim to territorial sovereignty in Antarctica which it may have whether as a result of its activities or those of its nationals in Antarctica, or otherwise;
 - c) prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any other State's rights of or claim or basis of claim to territorial sovereignty in Antarctica.
2. No acts or activities taking place while the present Treaty is in force shall constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in Antarctica or create any rights of sovereignty in Antarctica. No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force.

ARTICLE V

1. Any nuclear explosions in Antarctica and the disposal there of radioactive waste material shall be prohibited.
2. In the event of the conclusion of international agreements concerning the use of nuclear energy, including nuclear explosions and the disposal of radioactive waste material, to which all of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX are parties, the rules established under such agreements shall apply in Antarctica.

ARTICLE VI

The provisions of the present Treaty shall apply to the area south of 60° South Latitude, including all ice shelves, but nothing in the present Treaty shall prejudice or in

any way affect the rights, or the exercise of the rights, of any State under international law with regard to the high seas within that area.

ARTICLE VII

1. In order to promote the objectives and ensure the observance of the provisions of the present Treaty, each Contracting Party whose representatives are entitled to participate in the meetings referred to in Article IX of the Treaty shall have the right to designate observers to carry out any inspection provided for by the present Article. Observers shall be nationals of the Contracting Parties which designate them. The names of observers shall be communicated to every other Contracting Party having the right to designate observers, and like notice shall be given of the termination of their appointment.

2. Each observer designated in accordance with the provisions of paragraph 1 of this Article shall have complete freedom of access at any time to any or all areas of Antarctica.

3. All areas of Antarctica, including all stations, installations and equipment within those areas, and all ships and aircraft at points of discharging or embarking cargoes or personnel in Antarctica, shall be open at all times to inspection by any observers designated in accordance with paragraph 1 of this Article.

4. Aerial observation may be carried out at any time over any or all areas of Antarctica by any of the Contracting Parties having the right to designate observers.

5. Each Contracting Party shall, at the time when the present Treaty enters into force for it, inform the other Contracting Parties, and thereafter shall give them notice in advance, of

- a) all expeditions to and within Antarctica, on the part of its ships or nationals, and all expeditions to Antarctica organized in or proceeding from its territory;
- b) all stations in Antarctica occupied by its nationals; and
- c) any military personnel or equipment intended to be introduced by it into Antarctica subject to the conditions prescribed in paragraph 2 of Article I of the present Treaty.

ARTICLE VIII

1. In order to facilitate the exercise of their functions under the present Treaty, and without prejudice to the respective positions of the Contracting Parties relating to jurisdiction over all other persons in Antarctica, observers designated under paragraph 1 of Article VII and scientific personnel exchanged under sub-paragraph 1(b) of Article III of the Treaty, and members of the staffs accompanying any such persons, shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in

respect of all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions.

2. Without prejudice to the provisions of paragraph 1 of this Article, and pending the adoption of measures in pursuance of subparagraph 1(e) of Article IX, the Contracting Parties concerned in any case of dispute with regard to the exercise of jurisdiction in Antarctica shall immediately consult together with a view to reaching a mutually acceptable solution.

ARTICLE IX

1. Representatives of the Contracting Parties named in the preamble to the present Treaty shall meet at the City of Canberra within two months after the date of entry into force of the Treaty, and thereafter at suitable intervals and places, for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty, including measures regarding:

- a) use of Antarctica for peaceful purposes only;
- b) facilitation of scientific research in Antarctica;
- c) facilitation of international scientific cooperation in Antarctica;
- d) facilitation of the exercise of the rights of inspection provided for in Article VII of the Treaty;
- e) questions relating to the exercise of jurisdiction in Antarctica;
- f) preservation and conservation of living resources in Antarctica.

2. Each Contracting Party which has become a party to the present Treaty by accession under Article XIII shall be entitled to appoint representatives to participate in the meetings referred to in paragraph 1 of the present Article, during such times as that Contracting Party demonstrates its interest in Antarctica by conducting substantial research activity there, such as the establishment of a scientific station or the despatch of a scientific expedition.

3. Reports from the observers referred to in Article VII of the present Treaty shall be transmitted to the representatives of the Contracting Parties participating in the meetings referred to in paragraph 1 of the present Article.

4. The measures referred to in paragraph 1 of this Article shall become effective when approved by all the Contracting Parties whose representatives were entitled to participate in the meetings held to consider those measures.

5. Any or all of the rights established in the present Treaty may be exercised as from the date of entry into force of the Treaty whether or not any measures facilitating the exercise of such rights have been proposed, considered or approved as provided in this Article.

ARTICLE X

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty.

ARTICLE XI

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of the present Treaty, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent, in each case, of all parties to the dispute, be referred to the International Court of Justice for settlement; but failure to reach agreement on reference to the International Court shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 of this Article.

ARTICLE XII

1.

a) The present Treaty may be modified or amended at any time by unanimous agreement of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX. Any such modification or amendment shall enter into force when the depositary Government has received notice from all such Contracting Parties that they have ratified it.

b) Such modification or amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification by it has been received by the depositary Government. Any such Contracting Party from which no notice of ratification is received within a period of two years from the date of entry into force of the modification or amendment in accordance with the provision of subparagraph 1(a) of this Article shall be deemed to have withdrawn from the present Treaty on the date of the expiration of such period.

2.

a) If after the expiration of thirty years from the date of entry into force of the present Treaty, any of the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX so requests by a communication addressed to the depositary Government, a Conference of all the Contracting Parties shall be held as soon as practicable to review the operation of the Treaty.

b) Any modification or amendment to the present Treaty which is approved at such a Conference by a majority of the Contracting Parties there represented, including a majority of those whose representatives are entitled to participate in the meetings provided for under Article IX, shall be communicated by the depositary Government to all Contracting Parties immediately after the termination of the Conference and shall enter into force in accordance with the provisions of paragraph 1 of the present Article

c) If any such modification or amendment has not entered into force in accordance with the provisions of subparagraph 1(a) of this Article within a period of two years after the date of its communication to all the Contracting Parties, any Contracting Party may at any time after the expiration of that period give notice to the depositary Government of its withdrawal from the present Treaty; and such withdrawal shall take effect two years after the receipt of the notice by the depositary Government.

ARTICLE XIII

1. The present Treaty shall be subject to ratification by the signatory States. It shall be open for accession by any State which is a Member of the United Nations, or by any other State which may be invited to accede to the Treaty with the consent of all the Contracting Parties whose representatives are entitled to participate in the meetings provided for under Article IX of the Treaty.

2. Ratification of or accession to the present Treaty shall be effected by each State in accordance with its constitutional processes.

3. Instruments of ratification and instruments of accession shall be deposited with the Government of the United States of America, hereby designated as the depositary Government.

4. The depositary Government shall inform all signatory and acceding States of the date of each deposit of an instrument of ratification or accession, and the date of entry into force of the Treaty and of any modification or amendment thereto.

5. Upon the deposit of instruments of ratification by all the signatory States, the present Treaty shall enter into force for those States and for States which have deposited instruments of accession. Thereafter the Treaty shall enter into force for any acceding State upon the deposit of its instruments of accession.

6. The present Treaty shall be registered by the depositary Government pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XIV

The present Treaty, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the

Government of the United States of America, which shall transmit duly certified copies thereof to the Governments of the signatory and acceding States.

Briand-Kellogg-Pact 1928

Treaty between the United States and other Powers providing for the renunciation of war as an instrument of national policy. Signed at Paris, August 27, 1928; ratification advised by the Senate, January 16, 1929; ratified by the President, January 17, 1929; instruments of ratification deposited at Washington by the United States of America, Australia, Dominion of Canada, Czechoslovakia, Germany, Great Britain, India, Irish Free State, Italy, New Zealand, and Union of South Africa, March 2, 1929; By Poland, March 26, 1929; by Belgium, March 27 1929; by France, April 22, 1929; by Japan, July 24, 1929; proclaimed, July 24, 1929.

THE PRESIDENT OF THE GERMAN REICH, THE PRESIDENT OF THE UNITED STATES OF AMERICA, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF POLAND THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has, come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this Treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present Treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a Treaty and for that purpose have appointed as their respective Plenipotentiaries...

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present Treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This Treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at Washington and the Treaty shall immediately upon such deposit become effective as; between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the Preamble and every Government subsequently adhering to this Treaty with a certified copy of the Treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

DONE at Paris, the twenty seventh day of August in the year one thousand nine hundred and twenty-eight

CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I

PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. 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;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international

disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members 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.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II

MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III ORGANS

Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV

THE GENERAL ASSEMBLY

Composition

Article 9

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

Functions and Powers

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a

Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting

Article 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions

due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Procedure

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V

THE SECURITY COUNCIL

Composition

Article 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the

United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Se-

curity Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

Article 27

1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI

PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. 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, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to inter-

national friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be

employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not

represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Mem-

represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

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2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

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Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Mem-

ber of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII

REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or

agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX

INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and inter-

national cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in

the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X

THE ECONOMIC AND SOCIAL COUNCIL

Composition

Article 61

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General

Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Voting

Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrange-

ments may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI

DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII

INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system,

in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- a. territories now held under mandate;
 - b. territories which may be detached from enemy states as a result of the Second World War; and
 - c. territories voluntarily placed under the system by states responsible for their administration.
2. It will be a matter for subsequent agreement as to which territories in the foregoing categories

will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the

administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with

regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

THE TRUSTEESHIP COUNCIL

Composition

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

- b. accept petitions and examine them in consultation with the administering authority;
- c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

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.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secre-

tary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of

this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin

the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII AMENDMENTS

Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX

RATIFICATION AND SIGNATURE

Article 110

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

3. The Treaties of Locarno

1925

FINAL PROTOCOL OF THE LOCARNO CONFERENCE, 1925

The representatives of the German, Belgian, British, French, Italian, Polish, and Czechoslovak Governments, who have met at Locarno from the 5th to 16th October 1925, in order to seek by common agreement means for preserving their respective nations from the scourge of war and for providing for the peaceful settlement of disputes of every nature which might eventually arise between them,

Have given their approval to the draft treaties and conventions which respectively affect them and which, framed in the course of the present conference, are mutually interdependent:

Treaty between Germany, Belgium, France, Great Britain, and Italy (Annex A).

Arbitration Convention between Germany and Belgium (Annex B).

Arbitration Convention between Germany and France (Annex C).

Arbitration Treaty between Germany and Poland (Annex D).

Arbitration Treaty between Germany and Czechoslovakia (Annex E).

These instruments, hereby initialed *ne varietur*, will bear today's date, the representatives of the interested parties agreeing to meet in London on the 1st December next, to proceed during the course of a single meeting to the formality of the signature of the instruments which affect them.

The Minister for Foreign Affairs of France states that as a result of the draft arbitration treaties mentioned above, France, Poland, and Czechoslovakia have also concluded at Locarno draft agreements in order reciprocally to assure to themselves the benefit of the said treaties. These agreements will be duly deposited at the League of Nations, but M. Briand holds copies forthwith at the disposal of the Powers represented here.

The Secretary of State for Foreign Affairs of Great Britain proposes that, in reply to certain requests for explanations concerning Article 16 of the Covenant of the League of Nations presented by the Chancellor and the Minister for Foreign Affairs of Germany, a letter, of which the draft is similarly attached (Annex F) should be addressed to them at the same time as the formality of signature of the above-mentioned instruments takes place. This proposal is agreed to.

The representatives of the Governments represented here declare their firm conviction that the entry into force of these treaties and conventions will contribute greatly to bring about a moral relaxation of the tension between

nations, that it will help powerfully towards the solution of many political or economic problems in accordance with the interests and sentiments of peoples, and that, in strengthening peace and security in Europe, it will hasten on effectively the disarmament provided for in Article 8 of the Covenant of the League of Nations.

They undertake to give their sincere cooperation to the work relating to disarmament already undertaken by the League of Nations and to seek the realization thereof in a general agreement.

(Signed)

Luther,
Stresemann,
Vandervelde,
Briand,

Chamberlain,
Mussolini,
Skrzynski,
Benes.

TREATY OF MUTUAL GUARANTEE BETWEEN GERMANY, BELGIUM, FRANCE, GREAT BRITAIN, AND ITALY

16 OCTOBER 1925

The President of the German Reich, His Majesty the King of the Belgians, the President of the French Republic, His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Italy;

Anxious to satisfy the desire for security and protection which animates the peoples upon whom fell the scourge of the war of 1914-18;

Taking note of the abrogation of the treaties for the neutralization of Belgium, and conscious of the necessity of ensuring peace in the area which has so frequently been the scene of European conflicts;

Animated also with the sincere desire of giving to all the signatory Powers concerned supplementary guarantees within the framework of the Covenant of the League of Nations and the treaties in force between them;

Have determined to conclude a treaty with these objects, and have appointed as their plenipotentiaries:

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE 1

The high contracting parties collectively and severally guarantee, in the manner provided in the following articles, the maintenance of the territorial status quo resulting from the frontiers between Germany and Belgium and between Germany and France and the inviolability of the said frontiers as fixed by or in pursuance of the Treaty of Peace signed at Versailles on the 28th June, 1919, and also the observance of the stipulations of Articles 42 and 43 of the said treaty concerning the demilitarized zone.

ARTICLE 2

Germany and Belgium, and also Germany and France, mutually undertake that they will in no case attack or invade each other or resort to war against each other. This stipulation shall not, however, apply in the case of:

1. The exercise of the right of legitimate defense, that is to say, resistance to a violation of the undertaking contained in the previous paragraph or to a flagrant breach of Articles 42 or 43 of the said Treaty of Versailles, if such breach constitutes an unprovoked act of aggression and by reason of the assembly of armed forces in the demilitarized zone immediate action is necessary.
2. Action in pursuance of Article 16 of the Covenant of the League of Nations.
3. Action as the result of a decision taken by the Assembly or by the Council of the League of Nations or in pursuance of Article 15, paragraph 7, of the Covenant of the League of Nations, provided that in this last event the action is directed against a State which was the first to attack.

ARTICLE 3

In view of the undertakings entered into in Article 2 of the present treaty, Germany and Belgium and Germany and France undertake to settle by peaceful means and in the manner laid down herein all questions of every kind which may arise between them and which it may not be possible to settle by the normal methods of diplomacy: Any question with regard to which the parties are in conflict as to their respective rights shall be submitted to judicial decision, and the parties undertake to comply with such decision. All other questions shall be submitted to a conciliation commission. If the proposals of this commission are not accepted by the two parties, the question shall be brought before the Council of the League of Nations, which will deal with it in accordance with Article 15 of the Covenant of the League.

The detailed arrangements for effecting such peaceful settlement are the subject of special agreements signed this day.

ARTICLE 4

1. If one of the high contracting parties alleges that a violation of Article 2 of the present treaty or a breach of Articles 42 or 43 of the Treaty of Versailles has been or is being committed, it shall bring the question at once before the Council of the League of Nations.

2. As soon as the Council of the League of Nations is satisfied that such violation or breach has been committed, it will notify its finding without delay to the Powers signatory of the present treaty, who severally agree that in such case they will each of them come immediately to the assistance of the Power against whom the act complained of is directed.

3. In case of a flagrant violation of Article 2 of the present treaty or of a flagrant breach of Articles 42 or 43, of the Treaty of Versailles by one of the high contracting parties, each of the other contracting parties hereby undertakes immediately to come to the help of the party against whom such a violation or breach has been directed as soon as the said Power has been able to satisfy itself that this violation constitutes an unprovoked act of aggression and that by reason either of the crossing of the frontier or of the outbreak of hostilities or of the assembly of armed forces in the demilitarized zone immediate action is necessary. Nevertheless, the Council of the League of Nations, which will be seized of the question in accordance with the first paragraph of this article, will issue its findings, and the high contracting parties undertake to act in accordance with the recommendations of the Council provided that they are concurred in by all the members other than the representatives of the parties which have engaged in hostilities.

ARTICLE 5

The provisions of Article 3 of the present treaty are placed under the guarantee of the high contracting parties as provided by the following stipulations:

If one of the Powers referred to in Article 3 refuses to submit a dispute to peaceful settlement or to comply with an arbitral or judicial decision and commits a violation of Article 2 of the present treaty or a breach of Articles 42 or 43 of the Treaty of Versailles, the provisions of Article 4 shall apply.

Where one of the Powers referred to in Article 3 without committing a violation of Article 2 of the present treaty or a breach of Articles 42 or 43 of the Treaty of Versailles, refuses to submit a dispute to peaceful settlement or to comply with an arbitral or judicial decision, the other party shall bring the matter before the Council of the League of Nations, and the Council shall propose what steps shall be taken; the high contracting parties shall comply with these proposals.

ARTICLE 6

The provisions of the present treaty do not affect the rights and obligations of the high contracting parties under the Treaty of Versailles or under arrangements supplementary thereto, including the agreements signed in London on the 30th August, 1924.

ARTICLE 7

The present treaty, which is designed to ensure the maintenance of peace, and is in conformity with the Covenant of the League of Nations, shall not be interpreted as restricting the duty of the League to take whatever action may be deemed wise and effectual to safeguard the peace of the world.

ARTICLE 8

The present treaty shall be registered at the League of Nations in accordance with the Covenant of the League. It shall remain in force until the Council, acting on a request of one or other of the high contracting parties notified to the other signatory Powers three months in advance, and voting at least by a two-thirds majority, decides that the League of Nations ensures sufficient protection to the high contracting parties; the treaty shall cease to have effect on the expiration of a period of one year from such decision.

ARTICLE 9

The present treaty shall impose no obligation upon any of the British dominions, or upon India, unless the Government of such dominion, or of India, signifies its acceptance thereof.

ARTICLE 10

The present treaty shall be ratified and the ratifications shall be deposited at Geneva in the archives of the League of Nations as soon as possible.

It shall enter into force as soon as all the ratifications have been deposited and Germany has become a member of the League of Nations.

The present treaty, done in a single copy, will be deposited in the archives of the League of Nations, and the Secretary-General will be requested to transmit certified copies to each of the high contracting parties.

In faith whereof the above-mentioned plenipotentiaries have signed the present treaty.

Done at Locarno, the 16th October, 1925.

LUTHER
STRESEMANN
VANDERVELDE

A. BRIAN
AUSTEN
CHAMBERLAIN
MUSSOLINI

TREATY OF LOCARNO BETWEEN FRANCE AND POLAND**16 OCTOBER 1925**

THE President of the French Republic and the President of the Republic of Poland,

Equally desirous to see Europe spared from war by a sincere observance of the undertakings arrived at this day with a view to the maintenance of general peace:

Have resolved to guarantee their benefits to each other reciprocally by a treaty concluded within the framework of the Covenant of the League of Nations and of the Treaties existing between them;

And have, to this effect, nominated for their plenipotentiaries,
Who, after having exchanged their full powers, found in good and due form, have agreed on the following provisions:

ARTICLE 1

In the event of Poland or France suffering from a failure to observe undertakings arrived at this day between them and Germany, with a view to the maintenance of general peace, France and, reciprocally, Poland, acting in application of Article 16 of the Covenant of the League of Nations, undertake to lend each other immediate aid and assistance, if such a failure is accompanied by an unprovoked recourse to arms.

In the event of the Council of the League of Nations, when dealing with a question brought before it in accordance with the said undertakings, being unable to succeed in securing the acceptance of its report by all its members other than the representatives of the parties to the dispute, and in the event of Poland or France being attacked without provocation, France, or reciprocally Poland, acting in application of Article 15, paragraph 7, of the Covenant of the League of Nations, will immediately lend aid and assistance.

ARTICLE 2

Nothing in the present Treaty shall affect the rights and obligations of the High Contracting Parties as members of the League of Nations, or shall be interpreted as restricting the duty of the League to take whatever action may be deemed wise and effectual to safeguard the peace of the world.

ARTICLE 3

The present Treaty shall be registered with the League of Nations in accordance with the Covenant.

ARTICLE 4

The present Treaty shall be ratified. The ratifications shall be deposited at Geneva with the League of Nations, at the same time as the ratification of the Treaty concluded this day between Germany, Belgium, France, Great Britain and Italy and the ratification of the Treaty concluded at same time between Germany and Poland.

It will come into force and remain in force under the same conditions as the said Treaties.

The present Treaty, done in a single copy, will be deposited in the archives of the League of Nations, and the Secretary-General of the League will be requested to transmit certified copies to each of the High Contracting Parties.

Done at Locarno, the Sixteenth of October, Nineteen Hundred and Twenty-five.

(L.S.)

(L.S.)

(Signed)

(Signed)

ARTSTIDE BRIAN

AL. SKRZYNSKI.

ARBITRATION AGREEMENTS**ARBITRATION CONVENTION BETWEEN GERMANY AND FRANCE****16 OCTOBER 1925**

(An identical Arbitration Convention was concluded between Germany and Belgium)

The undersigned duly authorized,

Charged by their respective Governments to determine the methods by which, as provided in Article 3 of the Treaty concluded this day between Germany, Belgium, France, Great Britain, and Italy, a peaceful solution shall be attained of all questions which cannot be settled amicably between Germany and Belgium, Have agreed as follows:

PART I

ARTICLE 1

All disputes of every kind between Germany and France with regard to which the parties are in conflict as to their respective rights, and which it may not be possible to settle amicably by the normal methods of diplomacy, shall be submitted for decision either to an arbitral tribunal or to the Permanent Court of International Justice, as laid down hereafter. It is agreed that the disputes referred to above include in particular those mentioned in Article 13 of the Covenant of the League of Nations.

This provision does not apply to disputes arising out of events prior to the present Convention and belonging to the past. Disputes for the settlement of which a special procedure is laid down in other conventions in force between Germany and France shall be settled in conformity with the provisions of those conventions.

ARTICLE 2

Before any resort is made to arbitral procedure or to procedure before the Permanent Court of International Justice, the dispute may, by agreement between the parties, be submitted, with a view to amicable settlement, to a permanent international commission styled the Permanent Conciliation Commission, constituted in accordance with the present Convention.

ARTICLE 3

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 the national courts of such party, the matter in dispute shall not be submitted to the procedure laid down in the present Convention until a judgement with final effect has been pronounced, within a reasonable time, by the competent national judicial authority.

ARTICLE 4

The Permanent Conciliation Commission mentioned in Article 2 shall be composed of five members, who shall be appointed as follows, that is to say: the German Government and the French Government shall each nominate a commissioner chosen from among their respective nationals, and shall appoint, by common agreement, the three other commissioners from among the nationals of third Powers; these three commissioners must be of different nationalities, and the German and French Governments shall appoint the president of the Commission from among them. The commissioners are appointed for three years, and their mandate is renewable. Their

appointment shall continue until their replacement and, in any case, until the termination of the work in hand at the moment of the expiry of their mandate

ARTICLE 5

The Permanent Conciliation Commission shall be constituted within three months from the entry into force of the present Convention

ARTICLE 6

The Permanent Conciliation Commission shall be informed by means of a request addressed to the president by the two parties acting in agreement or, in the absence of such agreement, by one or other of the parties. The request, after having given 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 arrive at an amicable settlement. If the request emanates from only one of the parties, notification thereof shall be made without delay to the other party.

ARTICLE 7

Within fifteen days from the date when the German Government or the French Government shall have brought a dispute before the Permanent Conciliation Commission either party may, for the examination of the particular dispute, replace its commissioner by a person possessing special competence in the matter (...).

ARTICLE 8

The task of the Permanent Conciliation Commission shall be to elucidate 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 a period within which they are to make their decision. At the close of its labours the Commission shall draw up a report 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. The labours of the Commission must, unless the parties otherwise agree, be terminated within six months from the day on which the Commission shall have been notified of the dispute.

ARTICLE 9

Commission shall lay down its own procedure failing any provision to the contrary.

ARTICLE 10

President chooses meeting place in absence of agreement by parties to the contrary.

ARTICLE 11

Work of Permanent Conciliation Commission not public unless agreement by parties to the contrary.

ARTICLE 12

The parties shall be represented by agents before the Commission; agents may be assisted by experts; Commission may obtain oral evidence from agents, experts and with the consent of their Government from any person they regard as useful.

ARTICLE 13

Unless otherwise provided in the present Convention, the decisions of the Permanent Conciliation Commission shall be taken by a majority.

ARTICLE 14

The German and French Governments undertake to facilitate the labours of the Permanent Conciliation Commission (...). 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 15

Salary of Commissioners.

ARTICLE 16

In the event of no amicable agreement being reached before the Permanent Conciliation Commission the dispute shall be submitted by means of a special agreement either to the Permanent Court of International Justice under the conditions and according to the procedure laid down by its statute or to an arbitral tribunal under the conditions and according to the procedure laid

down by the Hague Convention of the 18th October 1907, for the Pacific Settlement of International Disputes.

If the parties cannot agree on the terms of the special arrangement after a month's notice one or other of them may bring the dispute before the Permanent Court of International Justice by means of an application.

PART II

ARTICLE 17

All questions on which the German and French Governments shall differ without being able to reach an amicable solution by means of the normal methods of diplomacy the settlement of which cannot be attained by means of a judicial decision as provided in Article 1 of the present Convention, and for the settlement of which no procedure has been laid down by other conventions in force between the parties, shall be submitted to the Permanent Conciliation Commission, whose duty it shall be to propose to the parties an acceptable solution and in any case to present a report.

The procedure laid down in Articles 6-15 of the present Convention shall be applicable.

ARTICLE 18

If the two parties have not reached an agreement within a month from the termination of the labours of the Permanent Conciliation Commission the question shall, at the request of either party, be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.

GENERAL PROVISION

ARTICLE 19

In any case, and particularly if the question on which the parties differ arises out of acts already committed or on the point of commission, the Conciliation Commission or, if the latter has not been notified thereof, the arbitral tribunal or the Permanent Court of International Justice, acting in accordance with Article 41 of its statute, shall lay down within the shortest possible time the provisional measures to be adopted. It shall similarly be the duty of the Council of the League of Nations, if the question is brought before it, to ensure that suitable provisional measures are taken.

The German and French Governments undertake respectively to accept such measures, to abstain from all measures likely to have a repercussion prejudicial to the execution of the decision or to the arrangements proposed by the Conciliation Commission or by the Council of the League of Nations,

and in general to abstain from any sort of action whatsoever which may aggravate or extend the dispute.

ARTICLE 20

The present Convention continues applicable as between Germany and France even when other Powers are also interested in the dispute.

ARTICLE 21

The present Convention shall be ratified. Ratifications shall be deposited at Geneva with the League of Nations at the same time as the ratifications of the treaty concluded this day between Germany, Belgium, France, Great Britain, and Italy. It shall enter into and remain in force under the same conditions as the said treaty.

ARBITRATION TREATY BETWEEN GERMANY AND POLAND

16 OCTOBER 1925¹

PREAMBLE

The President of the German Empire and the President of the Polish Republic;

Equally resolved to maintain peace between Germany and Poland by assuring the peaceful settlement of differences which might arise between the two countries;

Declaring that respect for the rights established by treaty or resulting from the law of nations is obligatory for international tribunals;

Agreeing to recognize that the rights of a State cannot be modified save with its consent;

And considering that sincere observance of the methods of peaceful settlement of international disputes permits of resolving, without recourse to force, questions which may become the cause of division between States;

¹ An identical treaty was concluded between Germany and Czechoslovakia. The terms of this treaty are the same as the Arbitration Convention with two exceptions. Article 22 states that the treaty is in conformity with the Covenant and does not affect the rights of members of the League. But the crucial difference lies in the preamble which does not refer to the Treaty of Mutual Guarantee. This link with the four Guaranteeing Powers is absent; compare with the preamble of the German French Arbitration Convention.

Have decided to embody in a treaty their common intentions in this respect, and have named as their plenipotentiaries the following Who, having exchanged their full powers, found in due and good form, are agreed upon the following Articles (...)

Collective Note to Germany regarding Article 16 of the Covenant of the League of Nations

The German delegation has requested certain explanations in regard to Article 16 of the Covenant of the League of Nations.

We are not in a position to speak in the name of the League, but in view of the discussions which have already taken place in the Assembly and in the commissions of the League of Nations, and after the explanations which have been exchanged between ourselves, we do not hesitate to inform you of the interpretation which, in so far as we are concerned, we place upon Article 16.

In accordance with that interpretation the obligations resulting from the said Article on the Members of the League must be understood to mean that each State Member of the League is bound to cooperate loyally and effectively in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and takes its geographical position into account.



NUCLEAR
WEAPON TESTS

Treaty Series No. 3 (1964)

Treaty

banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water

Moscow, August 5, 1963

[This publication reproduces the copy of the Treaty for which the Government of the United Kingdom act as depositary. The additional signatures shown on pages 5-15 and 20-30 within were made at London between August 8 and October 9, 1963. Instruments of ratification by the Governments of the United Kingdom, the Union of Soviet Socialist Republics and the United States of America were deposited with the said Governments at London, Moscow and Washington on October 10, 1963 and the Treaty entered into force on that date]

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
January 1964*

LONDON
HER MAJESTY'S STATIONERY OFFICE
TWO SHILLINGS NET

Cmnd. 2245

TREATY
banning nuclear weapon tests in
the atmosphere, in outer space
and under water

The Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the United States of America, hereinafter referred to as the "Original Parties,"

Proclaiming as their principal aim the speediest possible achievement of an agreement on general and complete disarmament under strict international control in accordance with the objectives of the United Nations which would put an end to the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons,

Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, and desiring to put an end to the contamination of man's environment by radioactive substances,

Have agreed as follows:

ARTICLE I

1. Each of the Parties to this Treaty undertakes to prohibit, to prevent, and not to carry out any nuclear weapon test explosion, or any other nuclear explosion, at any place under its jurisdiction or control:

- (a) in the atmosphere; beyond its limits, including outer space; or under-water, including territorial waters or high seas; or
- (b) in any other environment if such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted. It is understood in this connection that the provisions of this subparagraph are without prejudice to the conclusion of a treaty resulting in the permanent banning of all nuclear test explosions, including all such explosions underground, the conclusion of which, as the Parties have stated in the Preamble to this Treaty, they seek to achieve.

2. Each of the Parties to this Treaty undertakes furthermore to refrain from causing, encouraging, or in any way participating in, the carrying out of any nuclear weapon test explosion, or any other nuclear explosion, anywhere which would take place in any of the environments described, or have the effect referred to, in paragraph 1 of this Article.

ARTICLE II

1. Any Party may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to this Treaty. Thereafter, if requested

to do so by one-third or more of the parties, the Depositary Governments shall convene a conference, to which they shall invite all the Parties, to consider such amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to this Treaty, including the votes of all of the Original Parties. The amendment shall enter into force for all Parties upon the deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all of the Original Parties.

ARTICLE III

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Original Parties—the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the United States of America—which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by all the Original Parties and the deposit of their instruments of ratification.⁽¹⁾

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force, and the date of receipt of any requests for conferences or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.⁽²⁾

ARTICLE IV

This Treaty shall be of unlimited duration.

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty three months in advance.

ARTICLE V

This Treaty, of which the English and Russian texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

⁽¹⁾ The Treaty entered into force on October 10, 1963.

⁽²⁾ "Treaty Series No. 67 (1946)", Cmd. 7015.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate at the city of Moscow the fifth day of August, one thousand nine hundred and sixty-three.

For the Government of
the United Kingdom
of Great Britain and
Northern Ireland

HOME

For the Government of
the Union of Soviet
Socialist Republics

A. ГРОМЫКО

For the Government of
the United States of
America

DEAN RUSK

[The following Representatives signed in London]

For the Government of Afghanistan

M. KABIR LUDIN

For the Government of Australia

E. J. HARRISON

For the Government of Belgium

J. DE THIER

For the Government of Bulgaria

P. ГРИГОРОВ

For the Government of Canada

GEORGE A. DREW

For the Government of Cyprus

A. G. SOTERIADES

For the Government of Czechoslovakia

ZDENEK TRHLIK

For the Government of Finland

PENTTI TALVITIE

For the Government of Hungary

B. SZILAGYI

For the Government of India

M. C. CHAGLA

High Commissioner for India

For the Government of Iran

ARDESHIR ZAHEDI

For the Government of Ireland

C. C. CREMIN

For the Government of Israel

E. EVRON א. ע. ב. ר. ו. נ.

For the Government of Italy

P. QUARONI

For the Government of Mexico

A. ARMENDARIZ

For the Government of Mongolia

Ж. БАХЗАП

For the Government of New Zealand

G. D. L. WHITE

For the Government of the Philippines

MELQUIADES J. GAMBOA

For the Government of Poland

B. TOMOROWICZ

For the Government of Roumania

G. MACOVESCU

For the Government of Thailand

PLERNG NOBADOL RABIBHADANA

For the Government of Yugoslavia

SRDJA PRICA

For the Government of the United Arab Republic

M. EL KONY

For the Government of Brazil

JOSE COCHRANE DE ALENCAR

For the Government of Argentina

M. M. PADILLA

For the Government of Chile

RAFAEL VERGARA

For the Government of the Congo (Leopoldville)

T. R. KANZA

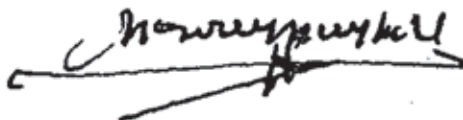
For the Government of Costa Rica

MARIA DEL C. CHITTENDEN

For the Government of Denmark

NILS SVENNINGSSEN

For the Government of Ethiopia



For the Government of Greece

J. A. DRACOULIS

For the Government of The Netherlands

A. BENTINCK

For the Government of Norway.

E. ULSTEIN

For the Government of the Sudan .

A. A. HUSSEIN

For the Government of Turkey

C. AKBAY

For the Government of Libya

A. BUSAIRI

For the Government of Iceland

HENRIK SV. BJÖRNSSON

For the Government of Laos

SOUPHANTHARANGSI

For the Government of the Federation of Malaya

TUNKU JA'AFAR

For the Government of Sweden

CARL JOHAN RAPPE

For the Government of Trinidad and Tobago

L. CONSTANTINE

For the Government of Tunisia

حبيب النطى

For the Government of Jordan

ANASTAS HANANIA

For the Government of Iraq

DJABIR OMAR

For the Government of Jamaica

H. LINDO

For the Government of Lebanon

K. TAKIEDDINE

For the Government of Luxembourg

A. J. CLASEN

For the Government of Nicaragua

J. L. SANDINO

For the Government of the Syrian Arab Republic

ABDALLAH KHANI

For the Government of Algeria

KELLOU

For the Government of Burma

HLA MAUNG

For the Government of Japan

KATSUMI OHNO

For the Government of Pakistan

MOHAMMED YOUSUF

Lt. General

For the Government of Spain

SANTA CRUZ

For the Government of Honduras

GONZ. RODRIG. SOTO

For the Government of Paraguay

RAMIRO RECALDE DE VARGAS

For the Government of Liberia

GEO. T. BREWER, JR.

For the Government of the Federal Republic of Germany

R. THIERFELDER

For the Government of Colombia

B. CAMACHO L.

For the Government of Kuwait

K. M. JAFFAR خالد محمد جعفر

For the Government of Venezuela

IGNACIO IRIBARREN BORGES

For the Government of Bolivia

M. BARRAU

For the Government of Ceylon

G. P. MALALASEKERA

For the Government of El Salvador

J. ANTONIO MELENDEZ P.

For the Government of Indonesia

S. SURYO-DI-PURO

For the Government of Mali

GOURDO SOW

For the Government of Peru

G. N. DE ARAMBURU

For the Government of Nepal

KALI PRASAD UPADHYAY

For the Government of Switzerland

ARMIN DAENIKER

For the Government of Uganda

T. B. BAZARRABUSA

For the Government of the Republic of Korea

HONKON LEE

For the Government of Morocco

الحسن المصدي

For the Government of Nigeria
ANUCHA WACHUKU

For the Government of Dahomey
A. AUTIE

For the Government of Ghana
K. ARMAH

For the Government of Sierra Leone
WILLIAM H. FITZJOHN

For the Government of Western Samoa
T. L. MACDONALD

For the Government of Cameroon
M. EPIE

For the Government of Austria
DR. SCHWARZENBERG

For the Government of Tanganyika
SAM J. NTIRO

For the Government of the Dominican Republic

V. M. CABRAL

For the Government of Mauritania

BAKAR AHMEDOU

For the Government of San Marino

FEDERICO BIGI

For the Government of Senegal

L. BOISSIER-PALUN

For the Government of the Niger

S. AMADOU

For the Government of Uruguay

R. E. MacEACHEN

For the Government of Ecuador

ALBERTO WRIGHT

For the Government of Portugal

MANUEL ROCHETA

Д О Г О В О Р

о запрещении испытаний ядерного оружия
в атмосфере, в космическом пространстве
и под водой

Правительства Соединенного Королевства Великобритании и Северной Ирландии, Союза Советских Социалистических Республик, Соединенных Штатов Америки, ниже именуемые как "Первоначальные Участники",

провозглашая своей главной целью скорейшее достижение соглашения о всеобщем и полном разоружении под строгим международным контролем в соответствии с целями Организации Объединенных Наций, которое положило бы конец гонке вооружений и устранило бы стимул к производству и испытаниям всех видов оружия, в том числе ядерного,

стремясь достичь навсегда прекращения всех испытательных взрывов ядерного оружия, исполненные решимости продолжать переговоры с этой целью и желая положить конец заражению окружающей человека среды радиоактивными веществами, согласились о нижеследующем:

Статья I

I. Каждый из Участников настоящего Договора обязуется запретить, предотвращать и не производить любые испытательные взрывы ядерного оружия и любые другие ядерные взрывы в любом месте, находящемся под его юрисдикцией или контролем:

а) в атмосфере; за ее пределами, включая космическое пространство; под водой, включая территориальные воды и открытое море; и

б) в любой другой среде, если такой взрыв вызывает выпадение радиоактивных осадков за пределами территориальных границ государства, под юрисдикцией или контролем которого проводится такой взрыв. При этом имеется в виду, что положения настоящего подпункта не должны наносить ущерба заключению договора, ведущего к запрещению навечно всех испытательных ядерных взрывов, включая все такие взрывы под землей, к заключению которого Участники, как они заявили в преамбуле к настоящему Договору, будут стремиться.

2. Каждый из Участников настоящего Договора обязуется далее воздерживаться от побуждения, поощрения или какого-либо участия в проведении любых испытательных взрывов ядерного оружия и любых других ядерных взрывов, где бы то ни было, которые проводились бы в любой из сред, названных в пункте I настоящей Статьи, или имели бы указанные в этом I пункте последствия.

Статья II

1. Любой Участник настоящего Договора может предложить поправки к этому Договору. Текст любой предложенной поправки представляется Правительствам-депозитариям, которые рассылают его всем Участникам Договора. Затем, если этого потребует одна треть или более Участников Договора, Правительства-депозитарии созывают конференцию, на которую они приглашают всех Участников Договора для рассмотрения такой поправки.

2. Любая поправка к настоящему Договору должна быть утверждена большинством голосов всех Участников Договора, включая голоса всех Первоначальных Участников Договора. Поправка вступает в силу для всех Участников Договора после сдачи на хранение ратификационных грамот большинством всех Участников Договора, включая ратификационные грамоты всех Первоначальных Участников Договора.

Статья III

1. Настоящий Договор будет открыт для подписания его всеми государствами. Любое государство, которое не подпишет настоящий Договор до вступления его в силу в соответствии с пунктом 3 данной Статьи, может присоединиться к нему в любое время.

2. Настоящий Договор подлежит ратификации государствами, подписавшими Договор. Ратификационные грамоты и документы о присоединении должны быть сданы на хранение Правительствам государств-Первоначальных Участников Договора - Соединенного Королевства Великобритании и Северной Ирландии, Союза Советских Социалистических Республик, Соединенных Штатов Америки, которые настоящим назначаются в качестве Правительств-депозитариев.

3. Настоящий Договор вступит в силу после его ратификации всеми Первоначальными Участниками и сдачи ими на хранение ратификационных грамот.

4. Для государств, ратификационные грамоты или документы о присоединении которых будут сданы на хранение после вступления в силу настоящего Договора, он вступит в силу в день сдачи на хранение их ратификационных грамот или документов о присоединении.

5. Правительства-депозитарии незамедлительно уведомляют все подписавшие и присоединившиеся к настоящему Договору государства о дате каждого подписания, дате сдачи на хранение каждой ратификационной грамоты и документа о присоединении, о дате вступления в силу настоящего Договора, о дате получения любых требований о созыве конференции, а также о других уведомлениях.

6. Настоящий Договор будет зарегистрирован Правительствами-депозитариями в соответствии со статьей 102 Устава Организации Объединенных Наций.

Статья IV

Настоящий Договор является бессрочным.

Каждый Участник настоящего Договора в порядке осуществления своего государственного суверенитета имеет право выйти из Договора, если он решит, что связанные с содержанием настоящего Договора исключительные обстоятельства поставили под угрозу высшие интересы его страны. О таком выходе он должен уведомить за три месяца всех других Участников Договора.

Статья V

Настоящий Договор, английский и русский тексты которого являются равно аутентичными, будет сдан на хранение в архивы Правительств-депозитариев. Должным образом заверенные копии настоящего Договора будут препровождены Правительствами-депозитариями Правительствам государств, подписавших Договор и присоединившихся к нему.

В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся, должным образом на то уполномоченные, подписали настоящий Договор.

СОВЕРШЕНО в трех экземплярах, в городе Москве
августа месяца, пятого дня, тысяча девятьсот шестьдесят
третьего года.

За Правительство
Соединенного Коро-
левства Великобри-
тании и Северной
Ирландии

HOME

За Правительство
Союза Советских
Социалистических
Республик

А. ГРОМЫКО

За Правительство
Соединенных Шта-
тов Америки

DEAN RUSK

За Правителство Австралии

E. J. HARRISON

За Правителство Афганистана

M. KABIR LUDIN

За Правителство Бельгии

J. DE THIER

За Правителство Болгарии

P. ГРИГОРОВ

За Правителство Венгрии

B. SZILAGYI

За Правителство Израиля

E. EVRON י י ר ב ו .א

За Правителство Индии

M. C. CHAGLA

High Commissioner for India

За Правителство Ирана

ARDESHIR ZAHEDI

За Правительство Ирландии

C. C. CREMIN

За Правительство Италии

П. КВАРОНИ

За Правительство Канады

GEORGE A. DREW

За Правительство Мексики

A. ARMENDARIZ

За Правительство Монголии

Ж. БАНЗАР

За Правительство Новой Зеландии

G. D. L. WHITE

За Правительство Польши

B. TOMOROWICZ

За Правительство Румынии

G. MACOVESCU

За Правительство Таиланда
PLERNG NOBADOL RABIBHADANA

За Правительство Филиппинов
MELQUIADES J. GAMBOA

За Правительство Финляндии
PENTTI TALVITIE

За Правительство Чехословакии
ZDENEK TRHLIK

За Правительство Югославии
SRDJA PRICA

За Правительство Объединенной Арабской Республики
M. EL KONY

За Правительство Кипра
A. G. SOTERIADES

За Правительство Бразилии
JOSE COCHRANE DE ALENCAR

За Правительство Аргентины

M. M. PADILLA

За Правительство Греции

J. A. DRACOULIS

За Правительство Дании

NILS SVENNINGSEN

За Правительство Конго (Леопольдвиль)

T. R. KANZA

За Правительство Коста-Рики

MARIA DEL C. CHITTENDEN

За Правительство Нидерландов

A. BENTINCK

За Правительство Норвегии

E. ULSTEIN

За Правительство Судана

A. A. HUSSEIN

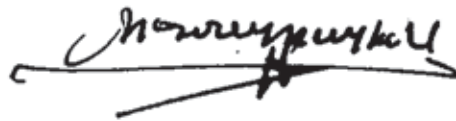
За Правительство Турции

C. AKBAY

За Правительство Чили

RAFAEL VERGARA

За Правительство Эфиопии



За Правительство Ливии

A. BUSAIRI

За Правительство Исландии

HENRIK SV. BJÖRNSSON

За Правительство Лаоса

SOUPHANTHARANGSI

За Правительство Малайской Федерации

TUNKU JA'AFAR

За Правительство Тринидада и Тобаго

L. CONSTANTINE

За Правительство Туниса

حبيب النطى

За Правительство Швеции

CARL JOHAN RAPPE

За Правительство Иордании

ANASTAS HANANIA

За Правительство Ирака

DJABIR OMAR

За Правительство Ливана

K. TAKIEDDINE

За Правительство Люксембурга

A. J. CLASEN

За Правительство Никарагуа

J. L. SANDINO

За Правительство Сирийской Арабской Республики

ABDALLAH KHANI

За Правительство Ямайки

H. LINDO

За Правительство Алжира

KELLOU

За Правительство Бирмы

HLA MAUNG

За Правительство Испании

SANTA CRUZ

За Правительство Пакистана

MOHAMMED YOUSUF

Lt. General

За Правительство Японии

KATSUMI OHNO

За Правительство Гондураса

GONZ. RODRIG. SOTO

За Правительство Парагвая

RAMIRO RECALDE DE VARGAS

За Правительство Либерии

GEO. T. BREWER, Jr.

За Правительство Федеративной Республики Германии

R. THIERFELDER

За Правительство Венесуэлы

IGNACIO IRIBARREN BORGES

За Правительство Колумбии

B. CAMACHO L.

За Правительство Кувейта

K. M. JAFFAR خالد محمد جعفر

За Правительство Боливии

M. BARRAU

За Правительство Сальвадора

J. ANTONIO MELENDEZ P.

За Правительство Цейлона

G. P. MALALASEKERA

За Правительство Индонезии

S. SURYO-DI-PURO

За Правительство Мали

GOURDO SOW

За Правительство Перу

G. N. DE ARAMBURU

За Правительство Непала

KALI PRASAD UPADHYAY

За Правительство Швейцарии

ARMIN DAENIKER

За Правительство Уганды

T. B. BAZARRABUSA

За Правительство Республики Кореи

HONKON LEE

За Правительство Марокко

الحسن الممدي

За Правительство Нигерии
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Security Council

Distr.: General

22 May 2003

Resolution 1483 (2003)

**Adopted by the Security Council at its 4761st meeting, on
22 May 2003**

The Security Council,

Recalling all its previous relevant resolutions,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the importance of the disarmament of Iraqi weapons of mass destruction and of eventual confirmation of the disarmament of Iraq,

Stressing the right of the Iraqi people freely to determine their own political future and control their own natural resources, *welcoming* the commitment of all parties concerned to support the creation of an environment in which they may do so as soon as possible, and *expressing* resolve that the day when Iraqis govern themselves must come quickly,

Encouraging efforts by the people of Iraq to form a representative government based on the rule of law that affords equal rights and justice to all Iraqi citizens without regard to ethnicity, religion, or gender, and, in this connection, *recalls* resolution 1325 (2000) of 31 October 2000,

Welcoming the first steps of the Iraqi people in this regard, and *noting* in this connection the 15 April 2003 Nasiriyah statement and the 28 April 2003 Baghdad statement,

Resolved that the United Nations should play a vital role in humanitarian relief, the reconstruction of Iraq, and the restoration and establishment of national and local institutions for representative governance,

Noting the statement of 12 April 2003 by the Ministers of Finance and Central Bank Governors of the Group of Seven Industrialized Nations in which the members recognized the need for a multilateral effort to help rebuild and develop Iraq and for the need for assistance from the International Monetary Fund and the World Bank in these efforts,

Welcoming also the resumption of humanitarian assistance and the continuing efforts of the Secretary-General and the specialized agencies to provide food and medicine to the people of Iraq,

Welcoming the appointment by the Secretary-General of his Special Adviser on Iraq,

Affirming the need for accountability for crimes and atrocities committed by the previous Iraqi regime,

Stressing the need for respect for the archaeological, historical, cultural, and religious heritage of Iraq, and for the continued protection of archaeological, historical, cultural, and religious sites, museums, libraries, and monuments,

Noting the letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security Council (S/2003/538) and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the “Authority”),

Noting further that other States that are not occupying powers are working now or in the future may work under the Authority,

Welcoming further the willingness of Member States to contribute to stability and security in Iraq by contributing personnel, equipment, and other resources under the Authority,

Concerned that many Kuwaitis and Third-State Nationals still are not accounted for since 2 August 1990,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Appeals* to Member States and concerned organizations to assist the people of Iraq in their efforts to reform their institutions and rebuild their country, and to contribute to conditions of stability and security in Iraq in accordance with this resolution;

2. *Calls upon* all Member States in a position to do so to respond immediately to the humanitarian appeals of the United Nations and other international organizations for Iraq and to help meet the humanitarian and other needs of the Iraqi people by providing food, medical supplies, and resources necessary for reconstruction and rehabilitation of Iraq’s economic infrastructure;

3. *Appeals* to Member States to deny safe haven to those members of the previous Iraqi regime who are alleged to be responsible for crimes and atrocities and to support actions to bring them to justice;

4. *Calls upon* the Authority, consistent with the Charter of the United Nations and other relevant international law, to promote the welfare of the Iraqi people through the effective administration of the territory, including in particular working towards the restoration of conditions of security and stability and the creation of conditions in which the Iraqi people can freely determine their own political future;

5. *Calls upon* all concerned to comply fully with their obligations under international law including in particular the Geneva Conventions of 1949 and the Hague Regulations of 1907;

6. *Calls upon* the Authority and relevant organizations and individuals to continue efforts to locate, identify, and repatriate all Kuwaiti and Third-State Nationals or the remains of those present in Iraq on or after 2 August 1990, as well as the Kuwaiti archives, that the previous Iraqi regime failed to undertake, and, in this regard, *directs* the High-Level Coordinator, in consultation with the

International Committee of the Red Cross and the Tripartite Commission and with the appropriate support of the people of Iraq and in coordination with the Authority, to take steps to fulfil his mandate with respect to the fate of Kuwaiti and Third-State National missing persons and property;

7. *Decides* that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and *calls upon* the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;

8. *Requests* the Secretary-General to appoint a Special Representative for Iraq whose independent responsibilities shall involve reporting regularly to the Council on his activities under this resolution, coordinating activities of the United Nations in post-conflict processes in Iraq, coordinating among United Nations and international agencies engaged in humanitarian assistance and reconstruction activities in Iraq, and, in coordination with the Authority, assisting the people of Iraq through:

(a) coordinating humanitarian and reconstruction assistance by United Nations agencies and between United Nations agencies and non-governmental organizations;

(b) promoting the safe, orderly, and voluntary return of refugees and displaced persons;

(c) working intensively with the Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq;

(d) facilitating the reconstruction of key infrastructure, in cooperation with other international organizations;

(e) promoting economic reconstruction and the conditions for sustainable development, including through coordination with national and regional organizations, as appropriate, civil society, donors, and the international financial institutions;

(f) encouraging international efforts to contribute to basic civilian administration functions;

(g) promoting the protection of human rights;

(h) encouraging international efforts to rebuild the capacity of the Iraqi civilian police force; and

(i) encouraging international efforts to promote legal and judicial reform;

9. *Supports* the formation, by the people of Iraq with the help of the Authority and working with the Special Representative, of an Iraqi interim administration as a transitional administration run by Iraqis, until an internationally

recognized, representative government is established by the people of Iraq and assumes the responsibilities of the Authority;

10. *Decides* that, with the exception of prohibitions related to the sale or supply to Iraq of arms and related materiel other than those arms and related materiel required by the Authority to serve the purposes of this and other related resolutions, all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992) of 2 October 1992, shall no longer apply;

11. *Reaffirms* that Iraq must meet its disarmament obligations, *encourages* the United Kingdom of Great Britain and Northern Ireland and the United States of America to keep the Council informed of their activities in this regard, and *underlines* the intention of the Council to revisit the mandates of the United Nations Monitoring, Verification, and Inspection Commission and the International Atomic Energy Agency as set forth in resolutions 687 (1991) of 3 April 1991, 1284 (1999) of 17 December 1999, and 1441 (2002) of 8 November 2002;

12. *Notes* the establishment of a Development Fund for Iraq to be held by the Central Bank of Iraq and to be audited by independent public accountants approved by the International Advisory and Monitoring Board of the Development Fund for Iraq and looks forward to the early meeting of that International Advisory and Monitoring Board, whose members shall include duly qualified representatives of the Secretary-General, of the Managing Director of the International Monetary Fund, of the Director-General of the Arab Fund for Social and Economic Development, and of the President of the World Bank;

13. *Notes further* that the funds in the Development Fund for Iraq shall be disbursed at the direction of the Authority, in consultation with the Iraqi interim administration, for the purposes set out in paragraph 14 below;

14. *Underlines* that the Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq;

15. *Calls upon* the international financial institutions to assist the people of Iraq in the reconstruction and development of their economy and to facilitate assistance by the broader donor community, and *welcomes* the readiness of creditors, including those of the Paris Club, to seek a solution to Iraq's sovereign debt problems;

16. *Requests* also that the Secretary-General, in coordination with the Authority, continue the exercise of his responsibilities under Security Council resolution 1472 (2003) of 28 March 2003 and 1476 (2003) of 24 April 2003, for a period of six months following the adoption of this resolution, and terminate within this time period, in the most cost effective manner, the ongoing operations of the "Oil-for-Food" Programme (the "Programme"), both at headquarters level and in the field, transferring responsibility for the administration of any remaining activity under the Programme to the Authority, including by taking the following necessary measures:

(a) to facilitate as soon as possible the shipment and authenticated delivery of priority civilian goods as identified by the Secretary-General and representatives

designated by him, in coordination with the Authority and the Iraqi interim administration, under approved and funded contracts previously concluded by the previous Government of Iraq, for the humanitarian relief of the people of Iraq, including, as necessary, negotiating adjustments in the terms or conditions of these contracts and respective letters of credit as set forth in paragraph 4 (d) of resolution 1472 (2003);

(b) to review, in light of changed circumstances, in coordination with the Authority and the Iraqi interim administration, the relative utility of each approved and funded contract with a view to determining whether such contracts contain items required to meet the needs of the people of Iraq both now and during reconstruction, and to postpone action on those contracts determined to be of questionable utility and the respective letters of credit until an internationally recognized, representative government of Iraq is in a position to make its own determination as to whether such contracts shall be fulfilled;

(c) to provide the Security Council within 21 days following the adoption of this resolution, for the Security Council's review and consideration, an estimated operating budget based on funds already set aside in the account established pursuant to paragraph 8 (d) of resolution 986 (1995) of 14 April 1995, identifying:

(i) all known and projected costs to the United Nations required to ensure the continued functioning of the activities associated with implementation of the present resolution, including operating and administrative expenses associated with the relevant United Nations agencies and programmes responsible for the implementation of the Programme both at Headquarters and in the field;

(ii) all known and projected costs associated with termination of the Programme;

(iii) all known and projected costs associated with restoring Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992); and

(iv) all known and projected costs associated with the Special Representative and the qualified representative of the Secretary-General identified to serve on the International Advisory and Monitoring Board, for the six month time period defined above, following which these costs shall be borne by the United Nations;

(d) to consolidate into a single fund the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995);

(e) to fulfil all remaining obligations related to the termination of the Programme, including negotiating, in the most cost effective manner, any necessary settlement payments, which shall be made from the escrow accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), with those parties that previously have entered into contractual obligations with the Secretary-General under the Programme, and to determine, in coordination with the Authority and the Iraqi interim administration, the future status of contracts undertaken by the United Nations and related United Nations agencies under the accounts established pursuant to paragraphs 8 (b) and 8 (d) of resolution 986 (1995);

(f) to provide the Security Council, 30 days prior to the termination of the Programme, with a comprehensive strategy developed in close coordination with the Authority and the Iraqi interim administration that would lead to the delivery of all

relevant documentation and the transfer of all operational responsibility of the Programme to the Authority;

17. *Requests further* that the Secretary-General transfer as soon as possible to the Development Fund for Iraq 1 billion United States dollars from unencumbered funds in the accounts established pursuant to paragraphs 8 (a) and 8 (b) of resolution 986 (1995), restore Government of Iraq funds that were provided by Member States to the Secretary-General as requested in paragraph 1 of resolution 778 (1992), and *decides* that, after deducting all relevant United Nations expenses associated with the shipment of authorized contracts and costs to the Programme outlined in paragraph 16 (c) above, including residual obligations, all surplus funds in the escrow accounts established pursuant to paragraphs 8 (a), 8 (b), 8 (d), and 8 (f) of resolution 986 (1995) shall be transferred at the earliest possible time to the Development Fund for Iraq;

18. *Decides* to terminate effective on the adoption of this resolution the functions related to the observation and monitoring activities undertaken by the Secretary-General under the Programme, including the monitoring of the export of petroleum and petroleum products from Iraq;

19. *Decides* to terminate the Committee established pursuant to paragraph 6 of resolution 661 (1990) at the conclusion of the six month period called for in paragraph 16 above and *further decides* that the Committee shall identify individuals and entities referred to in paragraph 23 below;

20. *Decides* that all export sales of petroleum, petroleum products, and natural gas from Iraq following the date of the adoption of this resolution shall be made consistent with prevailing international market best practices, to be audited by independent public accountants reporting to the International Advisory and Monitoring Board referred to in paragraph 12 above in order to ensure transparency, and *decides further* that, except as provided in paragraph 21 below, all proceeds from such sales shall be deposited into the Development Fund for Iraq until such time as an internationally recognized, representative government of Iraq is properly constituted;

21. *Decides further* that 5 per cent of the proceeds referred to in paragraph 20 above shall be deposited into the Compensation Fund established in accordance with resolution 687 (1991) and subsequent relevant resolutions and that, unless an internationally recognized, representative government of Iraq and the Governing Council of the United Nations Compensation Commission, in the exercise of its authority over methods of ensuring that payments are made into the Compensation Fund, decide otherwise, this requirement shall be binding on a properly constituted, internationally recognized, representative government of Iraq and any successor thereto;

22. *Noting* the relevance of the establishment of an internationally recognized, representative government of Iraq and the desirability of prompt completion of the restructuring of Iraq's debt as referred to in paragraph 15 above, *further decides* that, until December 31, 2007, unless the Council decides otherwise, petroleum, petroleum products, and natural gas originating in Iraq shall be immune, until title passes to the initial purchaser from legal proceedings against them and not be subject to any form of attachment, garnishment, or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection, and that proceeds and obligations arising from sales thereof, as well as the Development Fund for Iraq, shall enjoy privileges and

immunities equivalent to those enjoyed by the United Nations except that the above-mentioned privileges and immunities will not apply with respect to any legal proceeding in which recourse to such proceeds or obligations is necessary to satisfy liability for damages assessed in connection with an ecological accident, including an oil spill, that occurs after the date of adoption of this resolution;

23. *Decides* that all Member States in which there are:

(a) funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations, or agencies, located outside Iraq as of the date of this resolution, or

(b) funds or other financial assets or economic resources that have been removed from Iraq, or acquired, by Saddam Hussein or other senior officials of the former Iraqi regime and their immediate family members, including entities owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction,

shall freeze without delay those funds or other financial assets or economic resources and, unless these funds or other financial assets or economic resources are themselves the subject of a prior judicial, administrative, or arbitral lien or judgement, immediately shall cause their transfer to the Development Fund for Iraq, it being understood that, unless otherwise addressed, claims made by private individuals or non-government entities on those transferred funds or other financial assets may be presented to the internationally recognized, representative government of Iraq; and *decides further* that all such funds or other financial assets or economic resources shall enjoy the same privileges, immunities, and protections as provided under paragraph 22;

24. *Requests* the Secretary-General to report to the Council at regular intervals on the work of the Special Representative with respect to the implementation of this resolution and on the work of the International Advisory and Monitoring Board and *encourages* the United Kingdom of Great Britain and Northern Ireland and the United States of America to inform the Council at regular intervals of their efforts under this resolution;

25. *Decides* to review the implementation of this resolution within twelve months of adoption and to consider further steps that might be necessary;

26. *Calls upon* Member States and international and regional organizations to contribute to the implementation of this resolution;

27. *Decides* to remain seized of this matter.



Security Council

Distr.: General
14 August 2003

Resolution 1500 (2003)

**Adopted by the Security Council at its 4808th meeting,
on 14 August 2003**

The Security Council,

Recalling all its previous relevant resolutions, in particular resolution 1483 (2003) of 22 May 2003,

Reaffirming the sovereignty and territorial integrity of Iraq,

Reaffirming also the vital role for the United Nations in Iraq which was set out in relevant paragraphs of resolution 1483 (2003),

Having considered the report of the Secretary-General of 15 July 2003 (S/2003/715),

1. *Welcomes* the establishment of the broadly representative Governing Council of Iraq on 13 July 2003, as an important step towards the formation by the people of Iraq of an internationally recognized, representative government that will exercise the sovereignty of Iraq;

2. *Decides* to establish the United Nations Assistance Mission for Iraq to support the Secretary-General in the fulfilment of his mandate under resolution 1483 in accordance with the structure and responsibilities set out in his report of 15 July 2003, for an initial period of twelve months;

3. *Decides* to remain seized of this matter.

**Security Council**

Distr.: General
16 October 2003

Resolution 1511 (2003)

**Adopted by the Security Council at its 4844th meeting, on
16 October 2003**

The Security Council,

Reaffirming its previous resolutions on Iraq, including resolution 1483 (2003) of 22 May 2003 and 1500 (2003) of 14 August 2003, and on threats to peace and security caused by terrorist acts, including resolution 1373 (2001) of 28 September 2001, and other relevant resolutions,

Underscoring that the sovereignty of Iraq resides in the State of Iraq, *reaffirming* the right of the Iraqi people freely to determine their own political future and control their own natural resources, *reiterating* its resolve that the day when Iraqis govern themselves must come quickly, and *recognizing* the importance of international support, particularly that of countries in the region, Iraq's neighbours, and regional organizations, in taking forward this process expeditiously,

Recognizing that international support for restoration of conditions of stability and security is essential to the well-being of the people of Iraq as well as to the ability of all concerned to carry out their work on behalf of the people of Iraq, and *welcoming* Member State contributions in this regard under resolution 1483 (2003),

Welcoming the decision of the Governing Council of Iraq to form a preparatory constitutional committee to prepare for a constitutional conference that will draft a constitution to embody the aspirations of the Iraqi people, and *urging* it to complete this process quickly,

Affirming that the terrorist bombings of the Embassy of Jordan on 7 August 2003, of the United Nations headquarters in Baghdad on 19 August 2003, of the Imam Ali Mosque in Najaf on 29 August 2003, and of the Embassy of Turkey on 14 October 2003, and the murder of a Spanish diplomat on 9 October 2003 are attacks on the people of Iraq, the United Nations, and the international community, and *deploring* the assassination of Dr. Akila al-Hashimi, who died on 25 September 2003, as an attack directed against the future of Iraq,

In that context, *recalling* and *reaffirming* the statement of its President of 20 August 2003 (S/PRST/2003/13) and resolution 1502 (2003) of 26 August 2003,

Determining that the situation in Iraq, although improved, continues to constitute a threat to international peace and security,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reaffirms* the sovereignty and territorial integrity of Iraq, and *underscores*, in that context, the temporary nature of the exercise by the Coalition Provisional Authority (Authority) of the specific responsibilities, authorities, and obligations under applicable international law recognized and set forth in resolution 1483 (2003), which will cease when an internationally recognized, representative government established by the people of Iraq is sworn in and assumes the responsibilities of the Authority, inter alia through steps envisaged in paragraphs 4 through 7 and 10 below;

2. *Welcomes* the positive response of the international community, in fora such as the Arab League, the Organization of the Islamic Conference, the United Nations General Assembly, and the United Nations Educational, Scientific and Cultural Organization, to the establishment of the broadly representative Governing Council as an important step towards an internationally recognized, representative government;

3. *Supports* the Governing Council's efforts to mobilize the people of Iraq, including by the appointment of a cabinet of ministers and a preparatory constitutional committee to lead a process in which the Iraqi people will progressively take control of their own affairs;

4. *Determines* that the Governing Council and its ministers are the principal bodies of the Iraqi interim administration, which, without prejudice to its further evolution, embodies the sovereignty of the State of Iraq during the transitional period until an internationally recognized, representative government is established and assumes the responsibilities of the Authority;

5. *Affirms* that the administration of Iraq will be progressively undertaken by the evolving structures of the Iraqi interim administration;

6. *Calls upon* the Authority, in this context, to return governing responsibilities and authorities to the people of Iraq as soon as practicable and *requests* the Authority, in cooperation as appropriate with the Governing Council and the Secretary-General, to report to the Council on the progress being made;

7. *Invites* the Governing Council to provide to the Security Council, for its review, no later than 15 December 2003, in cooperation with the Authority and, as circumstances permit, the Special Representative of the Secretary-General, a timetable and a programme for the drafting of a new constitution for Iraq and for the holding of democratic elections under that constitution;

8. *Resolves* that the United Nations, acting through the Secretary-General, his Special Representative, and the United Nations Assistance Mission in Iraq, should strengthen its vital role in Iraq, including by providing humanitarian relief, promoting the economic reconstruction of and conditions for sustainable development in Iraq, and advancing efforts to restore and establish national and local institutions for representative government;

9. *Requests* that, as circumstances permit, the Secretary-General pursue the course of action outlined in paragraphs 98 and 99 of the report of the Secretary-General of 17 July 2003 (S/2003/715);

10. *Takes note* of the intention of the Governing Council to hold a constitutional conference and, recognizing that the convening of the conference will be a milestone in the movement to the full exercise of sovereignty, *calls for* its preparation through national dialogue and consensus-building as soon as practicable and *requests* the Special Representative of the Secretary-General, at the time of the convening of the conference or, as circumstances permit, to lend the unique expertise of the United Nations to the Iraqi people in this process of political transition, including the establishment of electoral processes;

11. *Requests* the Secretary-General to ensure that the resources of the United Nations and associated organizations are available, if requested by the Iraqi Governing Council and, as circumstances permit, to assist in furtherance of the programme provided by the Governing Council in paragraph 7 above, and encourages other organizations with expertise in this area to support the Iraqi Governing Council, if requested;

12. *Requests* the Secretary-General to report to the Security Council on his responsibilities under this resolution and the development and implementation of a timetable and programme under paragraph 7 above;

13. *Determines* that the provision of security and stability is essential to the successful completion of the political process as outlined in paragraph 7 above and to the ability of the United Nations to contribute effectively to that process and the implementation of resolution 1483 (2003), and *authorizes* a multinational force under unified command to take all necessary measures to contribute to the maintenance of security and stability in Iraq, including for the purpose of ensuring necessary conditions for the implementation of the timetable and programme as well as to contribute to the security of the United Nations Assistance Mission for Iraq, the Governing Council of Iraq and other institutions of the Iraqi interim administration, and key humanitarian and economic infrastructure;

14. *Urges* Member States to contribute assistance under this United Nations mandate, including military forces, to the multinational force referred to in paragraph 13 above;

15. *Decides* that the Council shall review the requirements and mission of the multinational force referred to in paragraph 13 above not later than one year from the date of this resolution, and that in any case the mandate of the force shall expire upon the completion of the political process as described in paragraphs 4 through 7 and 10 above, and *expresses* readiness to consider on that occasion any future need for the continuation of the multinational force, taking into account the views of an internationally recognized, representative government of Iraq;

16. *Emphasizes* the importance of establishing effective Iraqi police and security forces in maintaining law, order, and security and combating terrorism consistent with paragraph 4 of resolution 1483 (2003), and *calls upon* Member States and international and regional organizations to contribute to the training and equipping of Iraqi police and security forces;

17. *Expresses* deep sympathy and condolences for the personal losses suffered by the Iraqi people and by the United Nations and the families of those United Nations personnel and other innocent victims who were killed or injured in these tragic attacks;

18. *Unequivocally condemns* the terrorist bombings of the Embassy of Jordan on 7 August 2003, of the United Nations headquarters in Baghdad on 19 August 2003, and of the Imam Ali Mosque in Najaf on 29 August 2003, and of the Embassy of Turkey on 14 October 2003, the murder of a Spanish diplomat on 9 October 2003, and the assassination of Dr. Akila al-Hashimi, who died on 25 September 2003, and *emphasizes* that those responsible must be brought to justice;

19. *Calls upon* Member States to prevent the transit of terrorists to Iraq, arms for terrorists, and financing that would support terrorists, and *emphasizes* the importance of strengthening the cooperation of the countries of the region, particularly neighbours of Iraq, in this regard;

20. *Appeals* to Member States and the international financial institutions to strengthen their efforts to assist the people of Iraq in the reconstruction and development of their economy, and *urges* those institutions to take immediate steps to provide their full range of loans and other financial assistance to Iraq, working with the Governing Council and appropriate Iraqi ministries;

21. *Urges* Member States and international and regional organizations to support the Iraq reconstruction effort initiated at the 24 June 2003 United Nations Technical Consultations, including through substantial pledges at the 23-24 October 2003 International Donors Conference in Madrid;

22. *Calls upon* Member States and concerned organizations to help meet the needs of the Iraqi people by providing resources necessary for the rehabilitation and reconstruction of Iraq's economic infrastructure;

23. *Emphasizes* that the International Advisory and Monitoring Board (IAMB) referred to in paragraph 12 of resolution 1483 (2003) should be established as a priority, and *reiterates* that the Development Fund for Iraq shall be used in a transparent manner as set out in paragraph 14 of resolution 1483 (2003);

24. *Reminds* all Member States of their obligations under paragraphs 19 and 23 of resolution 1483 (2003) in particular the obligation to immediately cause the transfer of funds, other financial assets and economic resources to the Development Fund for Iraq for the benefit of the Iraqi people;

25. *Requests* that the United States, on behalf of the multinational force as outlined in paragraph 13 above, report to the Security Council on the efforts and progress of this force as appropriate and not less than every six months;

26. *Decides* to remain seized of the matter.

IRAQ

Security Council Resolution 660

2 August 1990

The Security Council,

Alarmed by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

Determining that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

Acting under Articles 39 and 40 of the Charter of the United Nations,

1. *Condemns* the Iraqi invasion of Kuwait;
2. *Demands* that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. *Calls upon* Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
4. *Decides* to meet again as necessary to consider further steps with to ensure compliance with the present resolution.

Security Council Resolution 661

6 August 1990

The Security Council,

Reaffirming its resolution 660 (1990) of 2 August 1990,

Deeply concerned that that resolution has not been implemented and that the invasion by Iraq of Kuwait continues with further loss of human life and material destruction,

Determined to bring the invasion and occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait, ...

Affirming the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter,

Acting under Chapter VII of the Charter of the United Nations,

1. *Determines* that Iraq so far has failed to comply with paragraph 2 of resolution 660 (1990) and has usurped the authority of the legitimate Government of Kuwait;
2. *Decides*, as a consequence, to take the following measures to secure compliance of Iraq with paragraph 2 of resolution 660 (1990) and to restore the authority of the legitimate Government of Kuwait;
3. *Decides* that all States shall prevent:

- (a) The import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution;
 - (b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait; ...
 - (c) The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or products, including weapons or any other military equipment...but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait...;
4. *Decides* that all States shall not make available to the Government of Iraq or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources...
6. *Decides* to establish, in accordance with rule 28 of the provisional rules of procedure of the Security Council, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:
- (a) To examine the reports on the progress of the implementation of the present resolution which will be submitted by the Secretary-General;
 - (b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in the present resolution; ...

Security Council Resolution 662
9 August 1990

The Security Council,

Recalling its resolutions 660 (1990) and 661 (1990),

Gravely alarmed by the declaration by Iraq of a "comprehensive and eternal merger" with Kuwait,

Demanding, once again, that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

Determined to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Determined also to restore the authority of the legitimate Government of Kuwait,

1. Decides that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;
2. Calls upon all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;
3. Further demands that Iraq rescind its actions purporting to annex Kuwait;
4. Decides to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

Security Council Resolution 665
25 August 1990

The Security Council,

Recalling its resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and demanding their full and immediate implementation,

Having decided in resolution 661 (1990) to impose economic sanctions under Chapter VII of the Charter of the United Nations,...

1. Calls upon those Member States co-operating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990);
2. Invites Member States accordingly to co-operate as may be necessary to ensure compliance with the provisions of resolution 661 (1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above; ...

Security Council Resolution 670
25 September 1990

The Security Council,

...Determined to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661 (1990),

Determined to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations, ...

Reaffirming its determination to ensure compliance with Security Council resolutions by maximum use of political and diplomatic means, ...

Underlining to the Government of Iraq that its continued failure to comply with the terms of resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 666 (1990) and 667

(1990) could lead to further serious action by the Council under the Charter of the United Nations, including under Chapter VII, ...

Acting under Chapter VII of the Charter of the United Nations,

1. Calls upon all States to carry out their obligations to ensure strict and complete compliance with resolution 661 (1990) and, in particular, paragraphs 3, 4 and 5 thereof;
2. Confirms that resolution 661 (1990) applies to all means of transport, including aircraft;
3. Decides that all States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the present resolution, shall deny permission to any aircraft to take off from their territory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Council or the Committee established by resolution 661 (1990) and in accordance with resolution 666 (1990), or supplies intended strictly for medical purposes or solely for UNIIMOG;
4. Decides further that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly its territory unless:
 - (a) The aircraft lands at an airfield designated by that State outside Iraq or Kuwait in order to permit its inspection to ensure that there is no cargo on board in violation of resolution 661 (1990) or the present resolution, and for this purpose the aircraft may be detained for as long as necessary; or
 - (b) The particular flight has been approved by the Committee established by resolution 661 (1990); or
 - (c) The flight is certified by the United Nations as solely for the purposes of UNIIMOG;...
7. Calls upon all States to co-operate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention, to ensure the effective implementation of the provisions of resolution 661 (1990) or the present resolution;
8. Calls upon all States to detain any ships of Iraqi registry which enter their ports and which are being or have been used in violation of resolution 661 (1990), or to deny such ships entrance to their ports except in circumstances recognized under international law as necessary to safeguard human life; ...

Security Council Resolution 678
29 November 1990

The Security Council,

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of the Charter,

1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;
2. Authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;
3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution;
4. Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution;
5. Decides to remain seized of the matter.

Security Council Resolution 687
3 April 1991

The Security Council, ...

Reaffirming the need to be assured of Iraq's peaceful intentions in the light of its unlawful invasion and occupation of Kuwait, ...

Conscious also of the statements by Iraq threatening to use weapons in violation of its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons and affirming that grave consequences would follow any further use by Iraq of such weapons,...

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

Recalling the objective of the establishment of a nuclear-weapons-free zone in the region of the Middle East,

Conscious of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons, ...

Conscious of the need to take the following measures acting under Chapter VII of the Charter, ...

5. Requests the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Security Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and a demilitarized zone, which is hereby established, extending ten kilometres into Iraq and five kilometres into Kuwait from the boundary referred to in the "Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters" of 4 October 1963; ...

8. Decides that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities;

(b) All ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities; ...

12. Decides that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapons-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; ...

24. Decides that, in accordance with resolution 661 (1990) and subsequent related resolutions and until a further decision is taken by the Security Council, all States shall continue to prevent the sale or supply, or the promotion or facilitation of such sale or supply, to Iraq by their nationals, or from their territories or using their flag vessels or aircraft, of:

(a) Arms and related materiel of all types...;

(b) Items specified and defined in paragraphs 8 and 12 above not otherwise covered above;

(c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in subparagraphs (a) and (b) above;

(d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in subparagraphs (a) and (b) above; ...

Security Council Resolution 688 (No-fly zones)

5 April 1991

The Security Council,

Mindful of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Recalling of Article 2, paragraph 7, of the Charter of the United Nations,

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security in the region,

1. Condemns the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region;
2. Demands that Iraq, as a contribution to remove the threat to international peace and security in the region, immediately end this repression and express the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected; ...