



Nineteenth session

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

Comments received from Governments

Addendum

CONTENTS

	<u>Page</u>
Comments received from Governments of Member States	
Poland	2

POLAND

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I. The duty of States to co-operate with one another in accordance with the Charter of the United Nations

The duty of States in the field of mutual co-operation, in accordance with the Charter of the United Nations, results from the right of each State to participate in international relations on the basis of equality and non-discrimination. This principle has become conspicuously reflected in the policy of peaceful co-existence of States with different political and social systems proclaimed by the Socialist countries and constituting the basis of their relations with other States. It has also found its noticeable reflection in the famous principles of Pancha Shila claimed by newly liberated countries that have been gaining more and more importance in international relations.

In the view of the Polish Government, the recognition not only of the right but also of the duty of States in the field of mutual co-operation corresponds to the present stage of development of the international community of nations. The development of economic, cultural and political relations between States constitutes at present an indispensable condition for maintaining peace and international security established in the Charter as a fundamental goal of the United Nations Organization.

Taking into account the above-named considerations, the Polish Government reaffirms its full support for the principle of universality of international organizations.

The development of the contemporary forms of international relations has arrived at present to an unprecedented height. In order to catch up with this progress in the field of technics, science, economics and culture the adoption of new legal forms in organizing our Civitas Magna has become indispensable. The recognition of the duty of co-operation among States in accordance with the United Nations Charter represents an effort in that direction and should be reflected in a positive international law and in practice of States.

II. The principle of equal rights and self-determination of peoples

The United Nations Charter has proclaimed, among its fundamental principles, the right of all peoples to enjoy equal rights and self-determination. Therefore this principle has ceased to be a mere claim or a political programme only, but it has become a generally binding norm of contemporary international law which basic rules have been formulated in the Charter. This principle consists of two elements: equal rights and self-determination. The principle of equal rights of the peoples include their right to self-determination. In accordance with the principle of equal rights no nation may, without violating the law, impose its will upon the other nation for it would mean the legal inequality between them. On the other hand the principle of self-determination of the people signifies the right to a free deciding upon their fate thus implying the right to independence.

In compliance with this principle no one is allowed by exerting pressure to affect the will of the peoples as far as their political existence is concerned. A free and genuine expression of the will of peoples constitutes an essential element of this principle. In the view of the Polish Government, the provisions of the United Nations Charter concerning the colonial countries should be interpreted in this spirit and in particular Chapter XI constituting a declaration regarding non-self-governing territories and the subsequent Chapters XII and XIII of the Charter, establishing an international trusteeship system.

The duty of respecting the principle of self-determination of peoples is incumbent on all Member States of the United Nations Organization. The States which bear the responsibility for administration of non-self-governing and trust territories are especially bound to such a course of proceedings in order to enable the peoples of these territories to avail themselves of their right to self-determination.

Article 1, paragraph 1, of the Charter dealing with the principle of equal rights and self-determination of the peoples provides also for "taking other appropriate measures to strengthen universal peace". This stipulation explains the role and importance played by the above principle in the system of contemporary international law. Its interpretation leads to a conclusion that observation of the principle of equal rights and self-determination of the peoples constitutes a mean for strengthening universal peace.

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A strict observance of the principle of equal rights and self-determination of the peoples which is legal international duty of the Member States of the United Nations, leads to the development of peaceful and friendly relations not only between them but also in respect to peoples who do not have a state of their own. In addition to the provisions of the Charter, a considerable number of legal acts of several organs of the United Nations constitutes an endorsement and interpretation of the principle of self-determination of the peoples proclaimed in the United Nations Charter.

In particular, the Declaration on the granting of independence to colonial countries and peoples, adopted by the General Assembly of the United Nations on 14 December 1960, constitutes such an endorsement. This Declaration solemnly announced the necessity of putting a speedy and unconditional end to colonialism in all its forms and aspects and granted the right to self-determination to all nations. On the ground of this right they freely determine their political status and decide as to their economic, social and cultural development. While taking into account their own interest, they are also entitled to full sovereignty over their natural resources, in accordance with the principle that every nation has a natural right to liberty, sovereignty and integrity of its own territory.

From the principle of sovereignty of each nation, comes the right to establish an independent State organization and consequently the right to secession i.e. separation from a given State, the right to associate with other States, the right to determine freely its State constitutional system. Secession, as an essential element of the principle of self-determination, must, however, result from the desire of the population concerned to detach from the former State. In such case, third States are bound to abstain from any interference. The principle of self-determination and equal rights of peoples constitutes one of the main institutions of the contemporary international law and plays a progressive and important role at organizing peaceful co-existence and co-operation of States and nations.

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

The principle that States shall fulfil in good faith the obligations assumed by them is one of the fundamental principles of international law.

This principle is based on the permanently established practice of States and on their conviction as to the necessity of fulfilling their obligations. This principle has found its expression in the Charter of the United Nations. Paragraph 3 of the preamble of the Charter emphasizes the determination of the nations to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.

In Article 2, paragraph 2, all the Members of the United Nations Organization have undertaken an explicit pledge to fulfil in good faith obligations assumed by them in accordance with the Charter in order to ensure to all the Member States the rights and benefits resulting from their membership in the United Nations.

In the view of the Polish Government, the principle pacta servanda sunt cannot be extended to the obligations inconsistent with the Charter i.e., those sanctioning force, inequality, colonialism or preparation for aggression.

On the other hand this principle should be strictly observed in respect of the obligations consistent with the principles of the United Nations Charter. The observance of the obligations assumed by States constitutes a basis of international co-operation among all States regardless of their political or social systems. This principle is also an indispensable premise of mutual confidence and friendly relations not only in political life but also in all other fields of international relations.

Non-fulfilment of the obligations spoils the spirit of international relations, destroys the mutual confidence and even brings about an aggression as has been indicated by the example of Hitlerite Germany. Nihilist line of approach to these obligations signifies a negation of law in international relations.

Normal relations between States are impossible without mutual and universal fulfilling in good faith the obligations assumed by them in accordance with the Charter. Therefore this principle constitutes an essential element of the peaceful coexistence and is an integral part of the international law of today.