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

CONTENTS

Note by the Secretary-General

At its 1196th plenary meeting, on 18 December 1962, the General Assembly adopted resolution 1815 (XVII) on consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations. In operative paragraph 4 of that resolution, the General Assembly requested Member States to submit to the Secretary-General in writing, before 1 July 1963, any views or suggestions that they might have on that item, and particularly on the subjects enumerated in paragraph 3.

In pursuance of the above-mentioned resolution, the Secretary-General, by a note verbale dated 8 February 1963, requested the Governments of Member States to communicate their views and suggestions before 1 July 1963.

By 16 July 1963, the Governments of Afghanistan, Brazil, Canada, Colombia, Czechoslovak Socialist Republic, Israel, Jamaica, Madagascar, Nigeria, Poland, Sierra Leone, Tanganyika, United Kingdom of Great Britain and Northern Ireland, and Yugoslavia had communicated their observations on the item.

In communications addressed to the Secretary-General, the Governments of Cambodia, Nepal, Norway and Sudan stated that they had no comments.

Any comments received after 5 August 1963 will be circulated later as addenda to the present document.

1. AFGHANISTAN

Transmitted by a note verbale dated 1 May 1963 from the Permanent Mission of Afghanistan

[Original text: English]

The views of Afghanistan on this topic were expressed fully when the item was under the consideration of the Legal Committee of the seventeenth session of the General Assembly. Afghanistan considers this topic of great importance because of the paramount need in our time for friendly relations and co-operation among States.

The Charter of the United Nations, signed on 26 June 1945, was the greatest development in the field of positive international co-operation. The completion of the Charter would not have been possible if the people and Governments had not been motivated by the greatest desire of mankind, namely the maintaining of world peace and security in a world devastated by war. The main objectives of the Charter, as stated in its Preamble and also in Article 1, are the maintenance of international peace and security and the creation by positive action of those conditions of stability and well-being under which peace would be most likely to prevail. The acceptance of these principles by 110 nations, more than twice as many as those which first pledged themselves eighteen years ago, puts the positive international law with its principles of peaceful co-operation and friendly relations on a very high universal ground.

In 1955, a great number of countries, including Afghanistan, in the historic conference which took place in Bandung (Indonesia), pledged themselves to a Declaration. It is in this document that practical steps were taken for creating a better and more happy and friendly world. Afghanistan believes that in any consideration of the principles of international co-operation, a study of the principles of Bandung should take priority.

In 1961, the non-aligned countries produced in Belgrade another declaration of world importance, which could be considered another milestone in the struggle for world peace. Afghanistan took an active part in the drafting of this declaration.

Afghanistan, as shown by its international policy, will always support any measures towards the strengthening of world peace and stability. The Afghan Delegation, during the sixteenth and seventeenth sessions of the General Assembly, took an active part when the topic of "Principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" was under consideration. Afghanistan was also among the co-sponsors of draft resolution A/C.6/L.509, and resolution 1815 (XVII) which was finally adopted by the unanimous vote of the Assembly.

In future Assemblies when this item comes for consideration, Afghanistan will continue to work in co-operation with other Member Nations for the purpose of codification of those principles of international law which will serve peace and create a better world.

2. BRAZIL

Transmitted by a note verbale dated 28 May 1963 from the Permanent Mission of Brazil

[Original text: English]

(a) It is advisable to make explicit the fact that the mere show of force, given the intention of exerting pressure on a State which can be clearly inferred from objective circumstances, constitutes a form of the use of force to be condemned.

(b) One of the aspects of the problem of the peaceful solution of controversies that could be explored is that relating to the creation of a process under the auspices of the United Nations for the consideration of pragmatic and balanced solutions for conflicting economic interests which frequently are at the root of controversies. Isolating these elements during the initial phases of the controversies and seeking to reconcile opposing interests in accordance with the principles and the very philosophy of the United Nations in the field of international economic co-operation might avert excessive politicizing of the controversy or situation and facilitate its solution. It would be a method that would combine some conciliation and some mediation because its end result would be a specific recommendation and because, although it might eventually be handled through a subsidiary organ of the United Nations, it should be free of formalism and also free of publicity, at least in the initial phase.

(c) It would be timely to study some corollaries of the principle of non-intervention as, for example, the duties of States to refrain from interfering in the civil strifes of other States; the obligation, which is absolutely indispensable for friendly relations, to neither foment nor tolerate subversive activities directed against another State, etc.

(d) Certain consequences of the sovereign equality of States should be explored as to their practical effects. Although this equality is a juridical, not a de facto concept, it would be logical that it should in fact produce certain consequences. The least that can be affirmed is that the principle requires that it be presumed that the international agreements and resolutions of international

organisms cannot be interpreted in a manner contrary to it. It can further be admitted that the principle of equality implies, in certain cases, unequal treatment for sovereign States, when required to compensate for the inadequacies of the weaker or less developed States. There is thus a tendency to achieve an approximate balance of interests and to preserve the very essence of the notion of sovereign equality.

One of the fundamental principles of the United Nations, of the greatest importance to friendly relations between States, is that calling for international economic co-operation aiming at the economic and social development of the under-developed States. Outlined in the United Nations Charter, this principle has gradually emerged more clearly, is in the process of being expressed formally in the "Declaration on international economic co-operation" and has been exerting its influence on all United Nations activities in the economic and social spheres. Apart from the specific Declaration cited above and of its treatment by specialized organs, Brazil believes that the principle has taken form sufficiently, has advanced beyond the point of being a principle of political and economic convenience or a moral principle to become a truly general principle of international law, in the light of which both customary and conventional rules on international economic issues must be interpreted or even reviewed. A correct statement of the principle, which should be included among those principles essential to friendly relations among States, is that proposed to the ad hoc Working Group established by resolution 875 (XXXIII) of the Economic and Social Council by certain States for inclusion in the "Declaration on international co-operation". The proposed text is as follows: "International co-operation in the fields of trade, finance and economic relations in general should aim in particular at the achievement of accelerated and self-sustaining economic growth of developing countries and the progressive reduction and elimination of the gap existing between their economies and those of the developed countries, thus contributing to the optimum international division of labour, consistent with the needs and objectives of developing countries".

The allegation that the "Declaration on international economic co-operation" would thus be duplicated is unacceptable for the general principles on friendly relations among States are generally based on already existing document.

3. CANADA

Transmitted by a note verbale dated 31 July 1963 from the Permanent Representative of Canada

[Original text: English]

1. In response to the request for comments addressed to it by the Secretary-General pursuant to resolution 1815 (XVII), the Government of Canada wishes at the outset to underline the importance it attaches to the universal acceptance and application of international law. It is convinced that the well-known principles of international law, including those now incorporated as binding obligations in the Charter of the United Nations, lie at the very root of peaceful and mutually beneficial relations among States. Admittedly some of these principles have, as yet, not undergone full development. However, they do provide a composite and fairly balanced framework within which, given good faith, peace-loving States can regulate their affairs and can work out amicable solutions to such differences as may arise from time to time between them.

2. Priority has been given in the resolution under consideration to only four of the principles of international law that were selected after careful negotiation in San Francisco in 1945 to form Article 2 of the Charter.

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations;

(b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered;

(c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter;

(d) The principle of sovereign equality of States.

3. Each of the principles, however, can be adequately studied only in relation to other intimately associated conceptions in that article and in the light of the Charter as a whole. Thus, for example, it is not possible to give fruitful

consideration to any of the principles listed in the resolution except in the context of paragraph 2 of Article 2, which states:

"All members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter."

4. Reflected throughout Article 2 and, indeed, throughout the Charter is the determination of Member States to maintain "international peace and security". Article 2 is, therefore, central to their undertaking, for it lays down a binding code of national conduct designed (a) to facilitate collective action in the interests of peace and (b) still to safeguard the kind of sovereign individuality which member nations had fought bitterly to achieve and to preserve.

5. Accordingly, it is useful to consider the original scope and intention of the important principles embodied in Article 2 as they were understood at San Francisco. It was not by accident that the first principle was particularly addressed to the question of sovereignty. The enjoyment of the rights and benefits of sovereignty are, by definition, of primordial interest to national states. However, as formulated in the first principle, the outline of sovereignty so familiar in international law has been subtly altered by the addition of the notion of "equality". Taken together the two words "sovereign equality" convey a meaning of justice, democracy and order for the sake of both individual and common good, that is, of the very essence of the United Nations conception.

6. The phrase first emerged to public importance in the 1942 Moscow Declaration. Paragraph 4 of that Declaration reads:

"That they, (the Governments of the United States, the United Kingdom, the Soviet Union and China) recognize the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving states, and open to membership of all such states, large and small, for the maintenance of international peace and security."

7. This first formulation at once established two notions which have ever since been linked to "sovereign equality". The first was the suggestion that only "peace-loving States" were sovereign equals. The second was recognition of the necessity that each Member would have to accord mutual respect to other Member States if there was to be any hope of forming a durable association to serve the cause of peace.

8. Both at Dumbarton Oaks and at San Francisco the terminology "sovereign equality" was the subject of some discussion. In the event, it was incorporated unchanged in the Charter on the assumption and understanding, recorded in the report of the rapporteur of sub-committee I/1/A to Committee I/1, that it conveyed the following:

(1) That States are juridically equal;

(2) That they enjoy the rights inherent in their full sovereignty;

(3) That the personality of the State is respected, as well as its territorial integrity and political independence;

(4) That the State should, under international order, comply faithfully with its international duties and obligations.

9. It will be apparent that "sovereign equality" explicitly and implicitly sums up the other principles in Article 2. Put the other way round, Article 2 can be said to be a codification of the fundamental notion of sovereign equality on which, in turn, the whole United Nations system is predicated.

10. Member States could hardly enjoy a status of sovereign equality if others did not fulfil their solemn obligations in good faith. Each failure to do so would inevitably diminish the rights of others. Again, juridical equality could have little practical meaning if powerful States were free to advance their interests by resorting to threats or the use of force rather than by recourse to the rule of law through peaceful procedures. Certainly sovereign equality would be meaningless if the territorial integrity and the political independence of Member States - which are indispensable aspects of national "personality" - were not held to be inviolate. Nor would the status be of real significance if the United Nations either singly or in concert were entitled to intervene in the essentially domestic affairs of Member States. Without such an exception, the central objective of effective collective security would be quite out of the reach of the Organization.

11. Another important derogation from the full freedom of action normally associated with national sovereignty was the decision that the United Nations should act by majority vote. However, once again with the real interests of the peace-keeping functions in mind, it was agreed in 1945 (a) to give the great Powers permanent seats in the Security Council and (b) that the rule of great Power unanimity should apply to the important decisions of that organ.

12. The obligations comprehended in the principles of Article 2 are in part obligations assumed by Member States and in part limitations on the corporate activities of the Organization as such. It is significant that the objective of both is to protect the principle of "sovereign equality" and that this springs from a realization that, in the final analysis, the world organization could not exist without the continued mutual respect of all Members.

13. Article 2 represents a codification of "sovereign equality" but the Charter as a whole must also be taken into account in assessing the full value of that fundamental principle. The Charter seeks in many ways to recognize the need and inevitability of peaceful change. To this end it stresses the necessity of co-operative action to advance human rights and social and economic well-being for all peoples. To this end, also, it offers in place of the right to resort to threat or the use of force, a variety of methods for the peaceful settlement of international disputes.

14. In the view of the Canadian Government, many of the principles of international law embodied in Article 2 of the Charter require little if any further codification. While international law clearly requires continuing adaptation, and in some cases fuller elaboration, the progressive development and codification of law in the abstract is not helpful unless the law can be effectively applied.

15. It is central to the problem of the more effective application of the law that account be taken of the necessity to determine whether a question may be considered as essentially legal or political. This complex question, requiring, in each case, a fine judgement, may itself provide a useful area of study.

16. However, there is one principle which does lend itself readily to study from the more strictly legal point of view. That is the obligation on Member States to "settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered". The Canadian Government is convinced that it would be rewarding to concentrate the studies enjoined by resolution 1815 (XVII) at this time on improving and making more readily usable the various means provided in the Charter for the effective application of that principle. The provisions of Article 33 would, of course, require careful examination. Perhaps of even greater importance would be an

intensive study of the role of the International Court of Justice, including in particular the part that can be played by the compulsory jurisdiction clause of the Court's statute, in furthering the application of the rule of law to an ever-widening area in the affairs of States.

17. The United Nations Charter recognizes the close causal relationship between peace and justice, and that procedures for peaceful settlement of disputes provide a link between the two. One of the purposes of the United Nations is to bring about by peaceful means and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. Article 33 outlines some of the means for achieving these ends. It indicates that these means should include seeking a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or resort to regional agencies or arrangements. Articles 1 and 7 establish the International Court of Justice as one of the principal organs of the United Nations and its principal judicial organ.

18. The Canadian Government recognizes the need to further the development of all means of peaceful settlement, including those suggested by Article 33, and considers that a study should be made by the Sixth Committee of the desirability of developing procedures for peaceful settlement of international disputes. Of the many means available none is alone sufficient; each can be apt in particular circumstances; the existence of a variety of choices of means of peaceful settlement increases the likelihood of utilization of the pacific approach itself; the mere existence of well-developed procedures can have far-reaching substantive effects.

19. Of the various means available for peaceful settlement of disputes, settlement by an impartial authority, particularly by judicial settlement, provides, in the view of the Canadian Government, the surest guarantee of the sovereign equality of states. The International Court of Justice, consisting of permanently existing machinery of a highly refined form, readily available for the judicial settlement of international disputes, comprises just such an authority. It is the view of the Canadian Government that the continuing development and increasing application of the Rule of Law internationally represents a vital factor in the maintenance of peace. The Canadian Government

recognizes, however, that the mere existence of such machinery is ineffective unless coupled with the will on the part of Member States to utilize them.

20. It is commonly accepted that the International Court has not played the role which was envisaged for it, and that one of the major reasons for this unfortunate situation is the reluctance of the nations of the world to submit to its jurisdiction. While wider acceptance of the compulsory jurisdiction of the Court would not in itself resolve this problem, such action would, in the view of the Canadian Government, contribute considerably to the enhancement of the status of the Court and as a consequence, further the development of the rule of law amongst nations.

4. COLOMBIA

Transmitted by a note verbale dated 2 July 1963 from the Permanent Mission of Colombia

/Original text: Spanish/

The Secretary-General of the United Nations, in his note of 8 February 1963, invites the views and suggestions of the Ministry of Foreign Affairs of Colombia on the points contained in United Nations General Assembly resolution 1815 (XVII) of 18 December 1962.

Specifically, the subject submitted for the consideration of the Ministry of Foreign Affairs is the following:

> "Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations."

Moreover, paragraph 2 of this resolution reads as follows:

> "...a study of the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter with a view to their progressive development and codification, so as to secure their more effective application".

The Ministry of Foreign Affairs of Colombia considers resolution 1815 (XVII) adopted by the United Nations General Assembly at its 1962 session to be of the greatest interest and importance.

It considers, furthermore, that the stated purposes of development, codification and effectiveness of the principles of international law and the aims of increased friendly relations and co-operation among States in accordance with the provisions of the United Nations Charter would undoubtedly be strengthened and assisted to the extent that a complete and detailed practical programme for the teaching and promotion of international law in all its aspects could be developed.

It is evident that international law has acquired outstanding importance in our time and that it has achieved undeniable advances in doctrine, particularly with reference to the formulation of principles and procedures affecting peaceful relations and international co-operation. It seems, therefore, that

what must now be done is to promote and disseminate by the best available means all the advances in doctrine that have made it possible to introduce the rule of law and principles of co-operation into relations among States.

The Government therefore attaches fundamental importance to resolution 1816 (XVII), adopted by the United Nations General Assembly on 18 December 1962, under which provision is made for a ten-year plan to carry out a detailed programme for the teaching, dissemination and promotion of international law.

This is a sound and praiseworthy endeavour which will undoubtedly ensure the success of the aspirations and purposes of General Assembly resolution 1815 (XVII).

For further information in this matter, the Ministry of Foreign Affairs draws attention to the memorandum sent to our Permanent Mission to the United Nations concerning General Assembly resolution 1816 (XVII).

5. CZECHOSLOVAK SOCIALIST REPUBLIC

Transmitted by a note verbale dated 24 July 1963 from the Permanent Mission of the Czechoslovak Socialist Republic

/Original text: English/

1. The Czechoslovak Socialist Republic attaches primordial importance to effective measures - within the framework of the United Nations - aimed at a progressive development and codification of the principles of peaceful coexistence. It considers that the ultimate aim of all efforts in this field must be a marked enhancement of the role of international law in international relations and enforcement of its strict and undeviating observance by all States. The responsibility for this task rests with the General Assembly which, under Article 13, paragraph 1, of the Charter, is called upon to initiate studies and make recommendations for the purpose of promoting international co-operation in the political, economic and other fields and encouraging the progressive development of international law and its codification.

The discussion of this question in the Sixth Committee of the General Assembly at its fifteenth, sixteenth and seventeenth sessions has, in the opinion of the Czechoslovak Government, demonstrated the overwhelming belief of Member States in the necessity of an intensification of the United Nations activities in the legal field and their demands for a direct participation of the United Nations General Assembly in the codification work as well as assumption by the Sixth Committee of the General Assembly of the concrete codification tasks in the field of the fundamental principles of international law having a bearing on peaceful coexistence of States.

In its resolutions 1686 (XVI) and 1815 (XVII), the General Assembly outlined the scope and the main purpose of the codification task which it had assumed.

2. In the opinion of the Czechoslovak Government, the ultimate aim of the task set under resolution 1686 (XVI) should be the formulation and enunciation of the main principles of international law governing peaceful coexistence between States with different social and political systems, in accordance with the United Nations Charter. In the spirit of sincere co-operation and guided by the desire to contribute to a constructive approach to this question, the Czechoslovak

delegation to the seventeenth session of the General Assembly submitted a draft declaration of the principles of peaceful coexistence (A/C.6/L.505) containing the formulation of the following main principles of contemporary international law: obligation to take measures for the maintenance of peace and international security; principle of peaceful settlement of disputes; prohibition of the threat or use of force; prohibition of weapons of mass destruction; principle of general and complete disarmament; prohibition of war propaganda; principle of collective security; principle of State sovereignty; principle of territorial integrity; respect for the independence of States; principle of sovereign equality; right of States to participate in international relations; principle of non-intervention; right of nations to self-determination; principle of the elimination of colonialism in all its forms; principle of the respect for human rights; principle of the observance of international obligations; principle of State responsibility.

The Czechoslovak draft declaration is firmly based in the purposes and principles of the United Nations Charter and takes into account all the important elements in the development of the legal principles and institutions as they emerged over the recent period and as correspond to the progressive trend of development of the contemporary international community. It is therefore the purpose of the draft declaration to contribute to the progressive development of the fundamental principles of international law and so to enhance its authority in international relations.

3. The Czechoslovak Government is of the opinion that in dealing step by step with the fundamental legal principles of peaceful coexistence, starting with the four principles mentioned in paragraph 3 of the operative part of resolution 1815 (XVII), the General Assembly should proceed from the consideration that the results of the work will be incorporated in one or several documents which - without prejudice as to their form - will codify the basic legal principles of peaceful coexistence in their progressive shape. At the same time, the General Assembly should urge States to respect them strictly and unconditionally.

4. As regards consideration of the four principles mentioned in paragraph 3 of the operative part of resolution 1815 (XVII) at the eighteenth session of the General Assembly of the United Nations, the Czechoslovak Government believes that in its deliberations, the General Assembly should proceed from the Czechoslovak

draft declaration submitted at its seventeenth session as well as from the other proposals and suggestions put forward in the course of the General Assembly.

(a) Prohibition of the threat or use of force. In discussing and formulating this principle, it is necessary to refer to the provisions of Article 2, paragraph 4, of the United Nations Charter and to such important documents as the Statute of the International Military Tribunal for the trying of the principal war criminals of the European States of the Axis, the Declaration of the Bandung Conference of 1955 and others. In the Czechoslovak draft declaration of 1962, this principle is formulated as follows:

> "The use of force in international relations and wars between States are barbaric methods for the solution of international disputes extrinsic to the dignity and respect of the human being, and have been repudiated and outlawed by nations. In conformity with the generally recognized rules of international law, the Charter of the United Nations in particular, the threat or use of force against its territorial integrity or political independence of any State, as well as plotting, preparing or unleashing of an aggressive war, shall be prohibited."

(b) The principle of peaceful settlement of disputes. In discussing and formulating the principle enunciated under Article 2, paragraph 3, of the Charter, it is necessary to pay attention to the basic and most wide-spread method of settling disputes - direct negotiation between the parties concerned. Furthermore, it is necessary to give full expression to the rule that the parties to the dispute are entitled to choose, on the basis of mutual agreement and with regard to the nature of the dispute, such means for its solution as can best secure the fulfilment of their principal obligation - to settle the dispute by peaceful means. In the Czechoslovak draft declaration of 1962, this principle is formulated as follows:

> "Disputes between States and international situations of any origin and nature must be settled by peaceful means, in particular by direct negotiations, so that international peace and security, and justice are not endangered. States are free, when using other methods of settlement, to choose the most appropriate means for such a settlement on the basis of agreement and with regard to the nature of the dispute."

(c) The principle of non-intervention. The principle of non-intervention is an integral part of general international law and is binding upon all States without exception. It is both explicitly and implicitly expressed in the United Nations Charter and embodied in a number of other important documents,

such as the Declaration of the Bandung Conference, the Charter of the Organization of American States, the Charter of the Organization of African Unity, etc. In discussing this principle, due regard must be taken to other international treaties (bilateral and multilateral), to the resolutions of the United Nations General Assembly and other documents of international law which define the individual aspects of this principle. In the Czechoslovak draft declaration of 1962, this principle is formulated as follows:

> "The States shall be obliged to avoid any direct or indirect interference with internal or external affairs of other State and any other impairment of its rights. No State has the right to impose on other State or nation one or another social or constitutional system."

(d) The principle of sovereign equality. In discussing and formulating the principle of sovereign equality of States proclaimed under Article 2, paragraph 1 of the Charter, it is above all necessary to take into account that the equality of States emanates from the sovereignty of States as subjects of international law, that all States, irrespective of their differing social and economic systems, have equal right to participate in international relations and that sovereign equality must apply in all fields of relations between States, including the sphere of international treaties. In the Czechoslovak draft declaration of 1962, this principle is formulated as follows:

> "Relations among States must rest upon the basis of sovereign equality. States have equal rights and obligations as subjects of international law and no reasons of political, economic, geographical or other nature can limit the capability of the State to act and assume obligations as an equal member of the international community."

5. The Czechoslovak Government is of the opinion that after having disposed of the aforesaid four principles at its eighteenth session, the General Assembly should atits next session proceed to the consideration and formulation of the remaining principles listed under paragraph 1 of the operative part of resolution 1815 (XVII), i.e. the principle of co-operation of States, the principle of equal rights and self-determination of peoples and the principle of respect for international obligations. At the same time a decision should be taken with regard to the order of priority for the consideration of the other principles of peaceful coexistence, not included in the said list.

6. Submitting these basic comments and suggestions, the Czechoslovak Government reserves the right to expound in more detail its position on these

questions during the eighteenth session of the General Assembly of the United Nations and, if necessary, to submit its further remarks and suggestions.

The Deputy Permanent Representative of the Czechoslovak Socialist Republic to the United Nations avails himself of this opportunity to renew to the Secretary-General of the United Nations the assurance of his highest consideration.

6. ISRAEL

Transmitted by a note verbale dated 29 July 1963 from the Permanent Mission of Israel

[Original: English]

1. The Government of Israel has studied with interest resolution 1815 (XVII) in the light of the debates at the sixteenth and seventeenth sessions of the General Assembly, and wishes to make the following general observations thereon.

2. The significance of the previous debates is that they have drawn attention to a number of deficiencies in the United Nations machinery. These deficiencies are placing obstacles in the way of two major purposes of the Charter, namely the effective pacific settlement of international disputes and the effective development of international co-operation, in all spheres, for the attainment of the aims of the United Nations. These two aspects are inter-linked, for it is difficult to see how, in the complex international society of today, international co-operation can be furthered so long as a number of serious international disputes and situations of tension continue to persist and to distort treatment of other matters which come before the different United Nations organs. Resolution 1815 (XVII) is therefore understood as constituting the point of departure for consideration in practical terms of various principles of the Charter with the object of supplementing them by means of agreed texts - regardless of their legal form - which will indicate how the general principles appearing in the Charter are to be realized in practice. Some of these principles might be susceptible of concretization by means of declarations adopted by the General Assembly, while for others, the full concretization of which might require the voluntary assumption of legal obligations by Member States, this result could only be attained by means of formal legal instruments.

3. For that reason it appears neither necessary nor desirable that each of the principles of the Charter to be subjected to specific study should be given identical treatment, or that all of them should be dealt with simultaneously. Nor does it seem practical to envisage that identical procedures should be employed for the study envisaged for each different principle. What is needed is a

flexible and empiric approach which will enable each selected principle to be studied and amplified, and ultimately concretized, be means of such methods as will be most appropriate to it.

4. It is considered that the four principles listed in paragraph 3 of resolution 1815 (XVII) are each of equal urgency and that the eighteenth session of the General Assembly would perform a valuable service if it were to initiate a study and action for each one of them. This Government attaches particular importance to the early elaboration of principles (a), (c) and (d), and believes that a sincere implementation by all members of their obligations arising out of these principles would come to constitute a substantial measure towards the achievement of the purposes and principles of the Charter.

5. In the view of this Government, the obligation to refrain from threats or use of force against any other State (paragraph 3 (a) of resolution 1815 (XVII)), as well as the obligation to seek a resolution by peaceful means of any dispute the continuance of which is likely to endanger international peace and security (paragraph 3 (b) of resolution 1815 (XVII)), exist irrespective of whether the States concerned do or do not maintain normal relations. Such obligations among Member States arise from their membership in the Organization and from the provisions of the Charter.

6. With regard to principle (b), this Government wishes to reiterate what was stressed by its representatives in the First and Sixth Committees of the General Assembly during the sixteenth and seventeenth sessions, that the necessity for amplification of the provisions of the Charter regarding the pacific settlement of international disputes must be considered in the light of developments in the sphere of disarmament. The two problems are linked in the following way. On the one hand, the prohibition on the use of force and the reduction of armaments are designed to maintain a general peaceful state of affairs and prevent the danger of the outbreak of war. On the other hand, they do not in themselves lead to the settlement of those disputes the existence of which, as all experience shows, is liable to provoke an outbreak of violence. The relative lack of contemporary interest in the General Act for the Pacific Settlement of International Disputes of 1928, even in its revised form of 1949, suggests that it is not adequate to present-day needs. It is therefore felt that a constructive approach to

principle (b) should have as its objective the elaboration of a formal instrument which, within the framework of the Charter, and taking into consideration the discussions relating to the problem of disarmament, would supplement the existing machinery and, by making available to States a series of fully integrated methods for the pacific settlement of disputes, would give form and substance to the general exhortation contained in Article 33 of the Charter, and facilitate the implementation by States of their obligations to bring about by peaceful means the adjustment or settlement of their disputes which might lead to a breach of the peace.

7. This Government wishes to suggest that within the framework of future discussions on the topic the General Assembly should give consideration to the related question of participation by Member States in various general multilateral conventions drawn up under the auspices of the United Nations, the number of which is now considerable. The initiation by organs of the United Nations of the conclusion of such conventions should be followed by systematic and regular examination of the status of participation by Member States in those conventions. Hitherto such action has been undertaken sporadically - an example is found in resolution 1841 (XVII) of 19 December 1962 regarding the Slavery Conventions - and the suggestion here made is that the General Assembly, implementing the principle of the duty of States to co-operate with one another in accordance with the Charter, referred to in paragraph 1 of resolution 1815 (XVII), should take this question under advisement.

8. Importance is attached to emphasizing that any activities undertaken by the General Assembly in pursuance of resolution 1815 (XVII) should not involve, whether directly or indirectly, explicitly or implicitly, amendment or revision of the Charter unless such amendment or revision is consummated in accordance with the provisions of the Charter itself. This, however, does not mean that Member States should not be encouraged to take upon themselves specific obligations which are additional to those contained in the Charter.

9. The foregoing observations are essentially of a technical character. But the Government is convinced that the full realization of the purposes of

resolution 1815 (XVII) cannot be achieved merely by technical improvements and adjustments. Friendly relations and co-operation amongst States in accordance with the Charter is, above all, a matter of fundamental attitude. It would be regrettable if excessive preoccupation with the technical aspects, highly important though they are, should cause the real objective of the resolution to be lost to view.

7. JAMAICA

Transmitted by a note verbale dated 11 July 1963 from the Permanent Mission of Jamaica

[Original text: English]

The views expressed are not intended to be an exhaustive treatment of the subject, which my Government feels would be impossible at this time. Certain specific recommendations have been made in regard to the items listed by the Secretary-General, and there has been an attempt to show that - in respect of recognition and neutrality - new principles of International Law could be attempted.

Consideration of principles of International Law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations

(Article 13 (a) of the Charter provides that:

> "The General Assembly shall initiate studies and make recommendations for the purpose of promoting international co-operation in the political field and encouraging the progressive development of international law and its codification.")

The matter for consideration is General Assembly resolution 1815 (XXII) of 18 December 1962, relevant to:

> "Consideration of principles of international law concerning friendly relations and co-operation among states in accordance with the Charter of the United Nations."

It is understood that in accordance with the resolution, this item has been placed on the provisional agenda of the eighteenth session of the General Assembly.

2. The Secretary-General has invited views or suggestions on this item, with particular reference to -

(a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or

political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

(b) In principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered.

(c) The duty not to interfere in matters within the domestic jurisdiction of any State, in accordance with the Charter.

(d) The principle of sovereign equality of States. These principles at (a) to (d) are in essence a re-statement of the main principles enunciated in Article 2 of the Charter. Therefore, both in content and objective, the terms of the resolution and the particular respects on which the Secretary-General has invited views or suggestions, involve fundamental principles on which the Charter is based; it is in the furtherance and progressive development of these principles that this memorandum is directed.

3. It is important to recognize that unless codification of international law is based on existing principles then the ultimate result might well be the creation of a novel international society governed by a completely new legal order.

The existing principles governing international law are basically sound, but the advance of science and technology, and the emergence of several new States to independence have demonstrated the need for either:

(i) A clearer definition of existing principles, or

(ii) A declaration of new principles supplementing existing ones.

4. Re 2 (a) herein (i.e. paragraph 3 (a) of the Secretary-General's note), the renunciation of war as an instrument of foreign policy - a specific provision under Article 2 of the Charter - has deep historical roots. The Hague Peace Conferences of 1899 and 1907, the Covenant of the League of Nations and the Briand-Kellog Pact of 1928 made significant declarations against aggressive war. All these declarations have a common factor about them - the recognition that the greatest welfare of mankind could only be pursued through peace.

There are moral issues involved in war but in our age the question of "War or peace" is perhaps better settled by a sober appraisal of its consequences than by reference to moral principles; because the heterogenity of states comprising the international society, makes it unlikely that there can be a universally

accepted moral standard of judgement on this issue. What may be justified on moral grounds by some States may justifiably be viewed with opprobrium by others.

War - modern war, that is, - involves one major issue in its consequences: the question of survival of the human race. It is a universally accepted premise that war in the nuclear age, goes to the very existence of civilization. History has shown that major wars usually have insignificant beginnings. Therefore, if war in our time is to be avoided, force in all its form has to be eliminated in States' relationship.

The principle of "threat or use of force against the territorial integrity or political independence of any State" as it is commonly understood, has to be reviewed in the light of the existing realities affecting the international society.

(a) In considering this principle, an intensified effort must again be made to arrive at an acceptable definition of "aggression". Admittedly it may act be possible to exhaustively define "aggression", but it should be possible to recognize the more frequent forms in which aggression has been manifesting itself in modern times.

(b) It must also be recognized that "force" in its original form has almost disappeared from contemporary international relations. No doubt, the Charter provisions are partly responsible for this. However, "force" in a subtler form has been seriously undermining international peace and security.

Therefore serious consideration should be given to the various aspects of "psychological" warfare in order to determine whether this constitutes "force" within the meaning of the Charter.

5. Re 2 (b) herein, (i.e. the principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered) peaceful settlement of disputes necessitates:

(a) Willingness of States to settle their disputes;

(b) The existence of machinery for the settlement of disputes; and

(c) Appropriate procedural details for the successful operation of the machinery.

Now, under Article 33,"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".

Also under Article 36 "the Security Council may at any stage of a dispute of the nature referred to in Article 33 of of a situation of the like nature, recommend appropriate procedures or methods of adjustments".

The willingness of many States to resort to Article 33 tends to vary with the importance of the issue.

Quite often the Security Council is not informed of a dispute until it has reached a stage when the disputing parties find it difficult to retreat from position taken on the issue. Consequently, the dispute becomes more difficult in all its phases at this stage. The principle of "settlement of international dispute by peaceful means" would be generally enhanced if a clearly defined procedure be laid down with regard to the operation of Article 33.

(a) In this connexion, since direct contact between the States concerned, is of paramount importance, the parties would be expected to first exhaust the negotiating machinery. Then if negotiation fails, within a specified time the dispute should be referred to;

(b) The next appropriate machinery which would be determined by the very nature of the dispute itself. (If the nature of the dispute makes it difficult to determine which would be the next appropriate machinery, then "enquiry" should be resorted to with a view to determining the next appropriate machinery);

(c) Without prejudice to the discretionary authority of the Security Council under Article 36, in respect of all disputes fullest possible use should be made of the machinery listed under Article 33 before the matter is referred by any of the disputing parties to the Security Council.

(d) The movement of the dispute from one stage to the next should, as far as possible, be made within a specified time, in order that the dispute may be settled without undue delay.

If States are to solve their disputes by peaceful means then greater reliance has to be placed on the machinery and procedure established under Article 33.

In this respect the International Court of Justice plays a most important part. The influence and work of the Court would certainly be far more effective if members were to liberalize their attitude to the compulsory jurisdiction of the Court. There are instances where the reservations made by some members under Article 36 of the Court's Statute are so wide as to leave the Court with no compulsory jurisdiction at all.

It is not here being suggested that States should, at the exclusion of all considerations, submit to the compulsory jurisdiction of the Court. It is difficult to believe, however, that all the interests of some States are so peculiarly vital that there is no room for the compulsory jurisdiction of the Court.

The question of extending the compulsory jurisdiction of the Court is vitally important in the pacific settlement of disputes. As to how it is possible for this to be done, could possibly be the subject of special deliberations among members under the aegis of the United Nations.

6. Re (c) ("the duty not to intervene in matters within the domestic jurisdiction of any State in accordance with the Charter"), encroachment on the area of domestic jurisdiction of a State can only be justified if it is done in pursuance of, or in keeping with, some rule of international law. For example, the changing factors affecting the international society may necessitate an extension of United Nations activities to embrace matters formerly within the domestic jurisdiction of a State. In this connexion another State, acting in compliance with a request by the United Nations, may not be held to be intervening in the domestic jurisdiction of the other State concerned.

There is also the problem of who should determine what is domestic jurisdiction - and in some cases this is a difficult problem. It would be helpful if international decision in the form of a rule of international law could be made in respect of the known instances where the concept of domestic jurisdiction has been hotly contested.

There is urgent need for the clearest possible definition of "intervention", especially in regard to acts which may be of an indirect nature. Intervention usually takes the form of gratuitous interference, but then there is no reason why, in modern times, it should be considered limited to overt acts in terms of words or deeds.

Subversive action in all its manifestation is as much intervention as direct interference by words or deeds on the part of an external power.

The principle of "non-intervention in matters of domestic jurisdiction" would be considerably strengthened if subversive activities (organized or assisted by or on behalf of an external power) be embraced as part of the existing declared principle of international law.

7. Re (d), ("the principle of sovereign equality of States"), as States are equally sovereign only by reference to international law, it is only by international law that the status of "sovereign equality" should be affected.

It has always been considered inconsistent with the concept of sovereign equality of States that they be considered bound by decisions to which they have not consented. In this connexion, the League Covenant and the United Nations Charter departed from the general rule. This was done in response to the changing needs of the international society.

There is need today for the continued "progressive" departure from the unanimity rule in regard to international decisions, particularly those of a generally wide, international significance.

International law would tend to develop along more progressive lines if rules could be agreed upon whereby States would be considered bound by international decisions of great significance, provided these decisions are approved by the vast majority of States and their non-acceptance would create inconvenience to the international society. There is but little difference between this position and that in which, irrespective of a State's consent, it is considered bound by existing principles of customary international law, of a general nature.

Finally, there are areas of international law where new principles (as distinct from the extension of existing ones) may be evolved. For example, consideration could be given to:

(a) Under what circumstances (if any) should a State or Government, as a matter of obligation, be recognized as a member of the international society by existing States.

(b) Whether it is possible to review international law as it is commonly understood to apply to neutrality with a view to harmonizing the concept of neutrality with the Charter of the United Nations. For example, the participation in United Nations peace enforcement activities by a neutralized State also membership to the United Nations may, in fact, be recognized by other States as not inconsistent with the concept of neutrality.

The position should be fully explored.

8. A new approach to the problems facing international law and a new approach in respect of States' attitude to the peace and security of mankind are necessary. This "new approach" should be made on the common understanding that it is only through peace and security based on a strong foundation of international law, that the survival of mankind rests.

8. MADAGASCAR

Transmitted by a note verbale dated 8 March 1963 from the Ministry of Foreign Affairs of Madagascar

/Original text: French/

The Malagasy Government fully approves the views expressed in this resolution, which embodies the principles that have always been the basis of Madagascar's attitude towards other nations.

The Minister for Foreign Affairs of the Malagasy Republic would nevertheless point out to the Secretary-General of the United Nations that sub-paragraphs (d), (e) and (g) of paragraph 1 of the resolution are not referred to again in paragraph 3 and therefore have not in practice been submitted to the Sixth Committee for study.

The Malagasy Government would particularly like "the principle of equal rights and self-determination of peoples" to be placed among the principles to be studied.

Self-determination constitutes, for the Malagasy Government, an essential element in the relations among peoples; it is one of the most certain ways of discovering the real will of the peoples and, consequently, of avoiding further bitter disputes in the near future.

Because of its stand on self-determination, the Malagasy Government was unable to approve of the agreement concerning West Irian reached under the auspices of the United Nations. Attaching a people, without its consent and even despite its opposition, to another nation constitutes, in the view of the Malagasy Republic, a violation of the principle of self-determination which is all the more serious and ominous as the peoples of New Guinea and Indonesia have no point in common, whether racial, linguistic, traditional or historic.

The Minister for Foreign Affairs of the Malagasy Republic would therefore be pleased if the principle of self-determination were added, at the eighteenth session, to the other principles enumerated as topics for study in paragraph 3 of resolution 1815 (XVII).

9. NIGERIA

Transmitted by a note verbale dated 19 July 1963 from the Permanent Mission of Nigeria

/Original text: English/

1. The Government of the Federation of Nigeria, as co-sponsor of General Assembly resolution 1815 (XVII) of 18 December 1962, re-affirms its adherence to all the principles enumerated in the resolution and wishes that this item be placed on the provisional agenda of the eighteenth session of the General Assembly.

2. (a) Paragraph 3(a) of resolution

As regards the principle that States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, Nigeria would wish to add that the question of nuclear explosion is a violation of the territorial integrity of a State which may be affected by such an explosion.

(b) Paragraph 3(c) of resolution

Nigeria, while adhering to the principle that it is the duty of States not to intervene in matters within the domestic jurisdiction of any State, unreservedly condemns, in all its forms, political assassination as well as subversive activities on the part of neighbouring States or any other State.

3. For consideration at subsequent sessions, Nigeria would like to propose the following as principles of international law which should also govern friendly relations and co-operation among States in accordance with the Charter of the United Nations:-

(a) The principle of self-determination to all colonial peoples;

(b) The principle of respect for the policy of non-alignment to any ideological or military power bloc adopted by a State;

(c) The principle of racial equality;

(d) The principle that ideological and warlike propaganda should be avoided in the conduct of international relations.

10. POLAND

Transmitted by a note verbale dated 30 July 1963
from the Permanent Mission of Poland

[Original text: English]

Recognizing the importance of progressive development of international law in relations among States of different social and economic systems, the Polish Government considers the elaboration of legal principles concerning coexistence between them a highly purposeful measure.

The Polish Government is of the opinion that basing such principles upon the Charter of the United Nations is a very positive fact since it emphasizes the permanent value of the Charter as the essential part of the contemporary international law binding all States, both Members and non-members of the United Nations.

On the other hand, in view of a considerable lapse of time since the formulation of the Charter of the United Nations, there arises a necessity of a new look upon some of its principles. Without aspiring to change the provisions included in the Charter it is appropriate to reaffirm, from the point of view of the new needs of international life, those principles which, as norms of international law, would become the principles of friendly relations and co-operation among States.

Since fruitful measures in pursuit of this end were initiated by passing the resolution 1815 (XVII) of 18 December 1962, by the General Assembly of the United Nations, it would be good to take a further step and formulate new principles or develop the existing ones with a view to their importance for the progressive development of international law.

It seems that in this connexion referring to the precisely elaborated Czechoslovak draft resolution A/C.6/L.505 would play an especially positive role.

Recognizing the appropriateness of the principles mentioned in paragraph 3 of resolution 1815 (XVII), the Polish Government wishes to pronounce its opinion as to their wording, and to present motions as to the formulation of further principles.

Considering the maintenance of world peace as the imperative requirement of our times one should emphasize the validity of giving priority to the principles of refraining from the threat or use of force in international relations and the principle of peaceful settlement of international disputes (paragraphs 3a and 3b of the resolution). The inclusion of both principles is all the more appropriate as both of them are two sides of the same problem and contain elements facilitating the maintenance of peace and the elimination of acts of aggression.

Speaking of the principles enforced by demands of contemporary life, one cannot ignore such basic condition of maintaining peace and ensuring friendly relations and co-operation among States as the postulates of disarmament which remain in close relation to the former principles. Their meaning for the world is of such weight that they should take their due place in laying down the principle devoted to the problem of disarmament. There are also other considerations speaking for such a necessity.

The provisions of the Charter of the United Nations with regard to this problem, included in article 26 of the Charter, speak only of "a system for the regulation of armaments" which is to contribute "to the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources."

In the era of powerful weapons of mass destruction this wording, coming back to the year 1945, should be given a new emphasis by postulating general and complete disarmament.

Partial measures, e.g. creation of atom-free zones, should also take their place among other disarmament postulates.

The suggested wording of the principle devoted to this problem is as follows:

"General and complete disarmament under international control constitutes the most effective guarantee of friendly relations and peaceful co-operation among States of different political and social systems. With a view to this, all States shall seek to reach agreement on general and complete disarmament under international control within the shortest time possible.

"Aside from the actions relative to the agreement on general and complete disarmament, States shall make every effort to realize measures facilitating and encouraging general and complete disarmament, especially those measures that would provide for the realization of disarmament in definite regions having a great importance to maintaining the world's peace and security."

With regard to other principles included in paragraph 3 of the resolution, they require a more precise wording.

This especially concerns the principle set forth in paragraph 3 (c) of the resolution, which reads as follows: "the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter".

The experience to date shows that the principle of the domestic jurisdiction of a State under Article 2, paragraph 7, of the Charter of the United Nations has been repeatedly utilized in the interest of the States possessing colonies and to the disadvantage of the peoples liberating themselves from colonial rule. In connexion with this, the principle in paragraph 3 (c) should be laid down in the following way:

> "States shall have the duty not to intervene in matters which are within the domestic jurisdiction of any other State, in accordance with the Charter. This principle shall not remain in conflict with the resolution of the General Assembly relating to the matters of decolonization, and, particularly, with the Declaration on the granting of independence to colonial countries and peoples, of 14 December 1950 (resolution 1514 (XV))."

Also the principle of sovereign equality of States, mentioned in paragraph 3 (d), requires a more concrete elaboration upon its contents in the light of rights and duties of States as subjects of international law. It is most unfortunate that not all States as sovereign subjects of international law may enjoy equal rights. An eloquent proof of this is the fact that the rights in the sphere of such an essential manifestation of sovereignty as in the free participation in international turnover have been employed to practically exclude some States from participation in international conferences.

This also concerns a number of discrimination acts barring a number of States from international turnover.

The principle relating to sovereign equality of States should, in this connexion, have the following wording:

> "Participation in international community and relations among States shall be based upon the principle of sovereign equality. States, a subject of international law, have equal rights and duties and, therefore, no political, economic, geographical considerations or other reasons shall limit the capacities of a State for full activity, and free participation in international turnover, including international conferences, multilateral agreements and international organizations."

Aside from the foregoing principles there are other legal principles having a great importance for peaceful and friendly co-operation among States of different political and social systems.

The principle concerning the right to self-determination of peoples, confirmed by the Charter of the United Nations as universally binding, has undergone a definite evolution since its formulation in 1945. The principle of self-determination has, in its development, become more and more explicit in the formulations of many resolutions passed by the General Assembly of the United Nations as a result of growing successes of the struggle for national liberation and the breakdown of the colonial system.

The most distinct expression of it is to be found in the Declaration on the granting of independence to colonial countries and peoples, of 14 December 1960 (resolution 1514 (XV)).

Thus a significant step forward has been made as the Charter of the United Nations, recognizing the existence of non-self-governing territories and peoples (in Chapter XI), creating the Trusteeship System and setting forth methods and forms of its supervision and development (in Chapters ~~VII~~ XII and ~~VIII~~ XIII), approached this problem from the point of view of the situation in 1945.

At the present moment, considering the problem of self-determination from the point of view of the current world situation, in which the existence of remnants of the colonial system is a survival hindering peaceful and friendly co-operation, the principle of self-determination should be laid down as a legal principle of co-existence.

The suggested wording of this principle is the following:

> "Every nation has the right to self-determination, including the creation of its independent and sovereign State; to free choice of its own political, social and economic system, and to full sovereignty over its national resources. States should approach this right of nations with utmost respect and help its realization."

Another very essential problem of co-existence is the question of international trade exchange. As one of the purposes of the United Nations the Charter mentions:

"To achieve international co-operation in solving international problems of an economic character", and postulates "solutions of international economic

problems" with a view to the creation of conditions of stability and well-being necessary for maintaining peaceful and friendly relations among nations (Article 55 of the Charter).

Far-reaching changes have been brought about in the world since the formulation of these postulates in 1945. The connexion between the maintenance of world peace and the development of international economic relations has become clearer and clearer.

The use of trade barriers of a discriminatory character by some States creates obstructions for the implementation of nations' right to international trade exchange.

A very unfortunate thing is the application of limitations, and, in some cases, the issuing of bans on supplies of certain commodities, already after reaching agreements. Such practices not only impair economic turnover, but also lead straight to the violation of break-off of obligations under treaties. It is also impossible to disregard the facts of subjecting the contraction or continuance of economic relations to political conditions or utilizing them as the instrument of political pressure.

Taking into consideration the fact that the use of economic discrimination undermines essential principles of international law as the principles of non-intervention and sovereign and sovereign equality of States, there should be a ban on such actions.

The Polish Government is of the opinion that the principles with regard to international trade exchange could have the following wording:

> "Every nation has the right to free international trade exchange which, in present conditions, creates the best possibility for the stabilization, well-being and social advancement of all peoples. In order to realize this right States shall, in their economic relations, apply the principles of equality, mutual benefit and mutual respect of interests. The use of economic discrimination, as - sui generis - an instrument of political pressure, shall be deemed a breach of the right to free international trade exchange."

Presenting its points of view with regard to the principles of international law relating to friendly relations and co-operation of States, in accordance with the Charter of the United Nations included in paragraph 3 of resolution 1815 (XVII) of the General Assembly as well as other suggested principles of international

law - the Polish Government believes that their acceptance and use may constitute an essential contribution to both basing relations among States upon respect of law and facilitating harmonious and friendly co-operation among them.

At the same time, the Polish Government is of the opinion that the presented principles may, already in their present form, constitute a contribution to the progressive development of international law and may create a basis for further systematic work on the enrichment of the progressive norms of international law.

11. SIERRA LEONE

Transmitted by a note verbale dated 8 March 1963 from the Minister of External Affairs of Sierra Leone

/Original text: English/

The principles mentioned in paragraph 3 of the resolution are in line with Sierra Leone's foreign policy, which is based on respect for the equality, sovereignty and territorial integrity of all nations irrespective of size or wealth. The rule of law - both within the nation and between nations must be paramount in the policies of all countries. There should be no interference in the internal affairs of other countries, but this should not prejudice the duty of one country to protest in any appropriate way against internal conditions in another, which are inhuman or which violate the principles of the United Nations Charter.

Sierra Leone's foreign policy affirms that no non-African nation has any territorial claim over any part of African soil, and that every effort should be made to bring an end to colonial régimes in all parts of Africa. It is also agreed that war is not inevitable, and should not be regarded as a means of settling international disputes, but that such disputes should be settled by peaceful means within the United Nations framework, where necessary.

12. TANGANYIKA

Letter dated 21 February 1963 from the Permanent Secretary of External Affairs and Defence of Tanganyika

/Original text: English/

This Government is in entire accord with the sentiments expressed: it is our view that the time is overripe for putting these principles, which have been enunciated ad nauseam, into practice. The comment of the Tanganyika Government in this regard could best be expressed by the phrase "less talk, more action".

13. UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Transmitted by a letter dated 17 July 1963 from the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland

[Original text: English]

It has always been the view of Her Majesty's Government that respect for the principles of international law is vital to international co-operation between States.

For this reason, Her Majesty's Government look forward to a constructive and fruitful debate in the Sixth Committee at the eighteenth session of the General Assembly on this item. In particular they hope that the debate will result in the reaching of solid agreement on the basic principles in question, as a result of which new possibilities may be opened for international law to play a wider and more important role in the regulation of international relations and in the peaceful settlement of international disputes.

Her Majesty's Government accordingly submit the following comments on two of the four specific subjects mentioned in paragraph 3 of resolution 1815 (XVII); they reserve the right to submit further comments on all the subjects in due course.

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

(1) Her Majesty's Government have consistently advocated and supported the principle that international disputes should be settled by peaceful means and in accordance with the rule of law. It is not enough to regard the United Nations as dedicated exclusively to the proposition that international disputes should be settled by peaceful means. This is indeed the primary objective of the Organization, but it is essential to bear in mind that the Organization is equally dedicated to the maintenance and development of the rule of law. The principle now under consideration requires that States should settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered. It is not necessary here to emphasize the requirement that justice should not be endangered and that justice implies the application of the rule of law:

(2) As the Secretary of State for Foreign Affairs, Lord Home, stated in his address to the General Assembly on 27 September 1962:

> "... the rule of law is a lesson that we have learned from many mistakes and much suffering, and it is only by submitting ourselves to the law that we can reconcile conflicting ambitions and serve the interests of progress."

(3) There is some cause for encouragement in the progress which has been made in recent years in the field of codification and progressive development of the substantive principles of international law. But can the same be said for the other essential element of the rule of law in the international sphere - namely, that there should be orderly, settled procedures for the resolution of international disputes according to law? Unfortunately, no. The machinery for the resolution of such disputes undoubtedly exists. There are the International Court of Justice, the Permanent Court of Arbitration, innumerable bilateral and plurilateral arbitral tribunals and a host of bilateral conciliation commissions. What is lacking in order to make the rule of law in the international sphere truly effective is the will to make use of these procedures.

(4) A few statistics are sufficient to establish the seriousness of the position. As is well known, all States Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice. There are currently 111 States Members of the United Nations. Of these 111 Members, only thirty-seven have accepted the compulsory jurisdiction of the Court by making declarations under Article 36, paragraph 2 of the Statute of the Court; and only four of the thirty-five admitted to membership of the United Nations since 14 December 1955 have made such declarations.

(5) Furthermore, it is equally well known that a number of declarations made by States under Article 36, paragraph 2 of the Statute of the Court have been made subject to such extensive and far-reaching reservations as to deprive these declarations of much of their value.

(6) The combined effect of these facts is seriously to limit the compulsory jurisdiction of the Court in contentious cases. Simultaneously there has been a significant falling off in the number of cases referred to the Court for an advisory opinion by the organs of the United Nations and of the specialized agencies

competent to request such opinions. Between 1922 and 1940, in the nineteen years of the effective existence of the Permanent Court of International Justice, some twenty-eight cases (of which one was withdrawn) were referred to the Court for an advisory opinion. Between 1946 and 1962, in the seventeen years during which the present Court has functioned, only twelve cases have been referred to the Court for an advisory opinion. Of these twelve cases, six were referred to the Court before 31 December 1950. Accordingly between 1 January 1951 and 31 December 1962 the General Assembly of the United Nations has seen fit to request an advisory opinion from the Court in only four cases, the other two cases having been referred to the Court by two of the specialized agencies (UNESCO and IMCO).

(7) These statistics manifest a marked decline in recent years in the use of judicial procedures. The trend is not, however, irreversible and Her Majesty's Government are encouraged to hope that the forthcoming study of the principle of peaceful settlement of disputes by the Sixth Committee will result in recommendations designed to stimulate increased and more effective acceptance of the compulsory jurisdiction of the Court and to promote greater use of judicial and arbitral procedures in general.

(8) In particular, Her Majesty's Government are of the opinion that the United Nations should draw attention once again to the provisions of the Statute of the Court and should call upon all Member States to give serious consideration to the possibility of making declarations of acceptance of the compulsory jurisdiction of the Court under Article 36, paragraph 2 of the Statute; and that it should equally urge those Member States which have made declarations to re-examine those declarations with a view to cutting down and, if possible, removing certain of the reservations to which their declarations are made subject.

(9) More generally, Her Majesty's Government believe that greater use could and should be made of the facilities for arbitration which can be made available by the Permanent Court of Arbitration. This Court has been in existence since 1902 but its machinery has been very little used. For cases which may not be wholly suitable for judicial settlement by the International Court of Justice, the more flexible machinery of the Permanent Court of Arbitration can be utilized, either to enable the parties to constitute an arbitral tribunal or to provide facilities for an arbitral tribunal or conciliation commission already appointed

by special agreement between the parties. It will be recalled that, last year, Her Majesty's Government and the Government of Denmark agreed to make use of facilities provided by the Permanent Court of Arbitration for the purposes of the Commission of Enquiry appointed by agreement between the two Governments to conduct an investigation into the Red Crusader case.

(10) Finally, Her Majesty's Government would suggest that the Sixth Committee should devote serious attention to the problem of the decline in the number of cases referred to the International Court of Justice for an advisory opinion. The reasons for this decline are no doubt many and various, but it should be a matter for deep concern to all States interested in the maintenance and development of the rule of law in international relations that the organs of the United Nations and of the specialized agencies make so little use of their powers to request advisory opinions on legal questions from the Court.

(d) The principle of the sovereign equality of States

(1) In the opinion of Her Majesty's Government the principle of the sovereign equality of States is fundamental to friendly relations and co-operation between States, and fundamental to the United Nations. This is recognized in the United Nations Charter, where Member States bind themselves (Article 2), in pursuit of the Organization's purposes, to act on certain principles, the first of which is that the Organization is based on the principle of the sovereign equality of all its Members.

(2) The principle embraces the two separate but mutually related concepts of the sovereignty and the equality of States. From acceptance of these two fundamental concepts, certain propositions follow. In this connexion Her Majesty's Government would recall that the San Francisco Conference of 1945 accepted that sovereign equality includes the following elements:

(a) That States are juridically equal;

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

(c) That the personality of the State is respected, as well as its territorial integrity and political independence;

(d) That the State should, under international order, comply faithfully with its international duties and obligations.

Her Majesty's Government submit that it would be useful for the General Assembly in the debate at its eighteenth session to examine more fully the implications of these elements of sovereign equality.

14. YUGOSLAVIA

Transmitted by a note verbale dated 9 July 1963 from the Permanent Mission of Yugoslavia

/Original text: English/

1. The Government of the Socialist Federal Republic of Yugoslavia wishes, in compliance with paragraph 4 of General Assembly resolution 1815 (XVII) to offer certain general observations with regard to the consideration of "principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations" at the Assembly's forthcoming session.

2. The frame of reference of the consideration of this question is defined in resolution 1815 (XVII) which provides for the study of these principles "with a view to their progressive development and codification, so as to secure their more effective application", and then goes on to list seven of these principles, four of which are singled out for examination at the eighteenth session of the General Assembly.

The purpose is thus the progressive development and codification of the principles of international law governing friendly relations and co-operation among States, i.e. their creative elaboration in the light of more recent trends and developments in the field both of international relations and of international law. This will, therefore, require searching examination of their substance within the broader international context within which they have evolved and may be expected to evolve.

3. It will be observed that according to resolution 1815 (XVII) the General Assembly considers the progressive development and codification of these principles as an essential part of the effort towards their more effective application, upon which the maintenance and strengthening of world peace so largely depend. This is a fact which shall have constantly to be borne in mind and which will demand a careful study of the extent to which the observance and non-observance of these principles have affected the course of international relations and have been a reflection thereof.

4. The four principles the General Assembly will be called upon to study at its next session (the prohibition of the threat or use of force in international relations, the peaceful settlement of disputes, non-intervention and sovereign equality of States), into the substance of which we do not intend to enter here, are, quite clearly, among the most essential to the growth of friendly and co-operative relations among States. While of the utmost significance in itself, each of these principles (as well as of the other three principles quoted in resolution 1815 (XVII)) form part of a broader scheme governed by the same general goal - the maintenance and strengthening of world peace. It is this broader scheme and general goal which the Assembly should always have in mind, in the course of the successive steps towards the accomplishment of the important task which is the progressive development and codification of principles governing friendly relations and co-operation among States.

5. It is in the light of these general considerations that the Assembly should, in our opinion, approach the problem of the actual form in which the conclusions arrived at as a result of the consideration of this item should be set forth. These conclusions will naturally be embodied in the appropriate General Assembly resolutions which, it is to be hoped, will gradually merge into a more comprehensive and formal document. The precise nature of this document may be expected to emerge from the course of forthcoming General Assembly deliberations, as will an answer to the other questions that have been posed, such as that of possible further principles to be examined or of the sequence in which the examinations should take place. On these and other questions, the Yugoslav Government will state its position in due course.

6. In concluding, the Government of the Socialist Federal Republic of Yugoslavia wishes to emphasize the very great importance it attaches to the successful pursuance of the endeavours that have now so happily been initiated and which may confidently be expected to have a growing and beneficial impact in the twin fields of international relations and international law.
