



REPUBLIC OF POLAND
PERMANENT MISSION TO THE UNITED NATIONS

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**Report of the International Law Commission
on the work of its seventy first session**

Part III

Agenda item 79

S T A T E M E N T

BY

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***DEPUTY PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF POLAND
TO THE UNITED NATIONS IN NEW YORK***

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Mr. Chairman,

Succession of States in respect of State responsibility

Poland would like to thank you for your third report prepared in your capacity of the Special Rapporteur for the topic “Succession of States in respect of State responsibility”. We take note of the draft articles proposed in this report. We would also like to thank the Secretariat for its memorandum containing information on treaties which might be of relevance for the future work of the Commission on the topic.

As we stated on several occasions, my delegation is of the view that the examples of succession of states in respect of state responsibility are to large extend context-specific. Thus we agreed with the Special Rapporteur on the subsidiary nature of the work done by the Commission and on the priority to be given to agreements between the States concerned. Given that fact and taking into account that scarcity of state practice, we invite the Commission to reconsider whether draft articles should be the objective of this endeavor. There are examples from the past where the ILC pragmatically changed its attitude with respect to the final outcome and preferred, for example, adopting a “final report” instead of draft articles.

Mr. Chairman,

General principles of law

Allow me now to turn to the topic “General principles of law”. In its last year’s statement Poland welcomed the decision of the Commission to include the topic “General principles of law” in its programme of work. Thus, we would like to thank the Special Rapporteur Mr. Marcelo Vázquez-Bermúdez for his first report in that respect. In the past, the Commission did important work on the other two sources listed in Article 38 of the ICJ Statute: treaties and customary international law. However, general principles of law, although more rarely used, are still a distinctive source of international law, which also requires appropriate consideration. Thus, we would like to express our hope that, as in case of the topic on identification of customary international law, the ILC will explain and clarify application of this source of international law. At the same time, we are of the view that the Commission’s goal should not be to catalogue the general principles of law, nor to produce an illustrative list in this respect. Furthermore, my delegation holds the position that the general principles of law should not be equated with the general principles of international law for example mentioned in General Assembly resolution 2625 from 1970.

As a preliminary observation, we consider that international organization can contribute to the formulation of general principles of law. Still, we agree with the Special Rapporteur that for a general principle of law to exist it must be generally recognized by States.

Thank you Mr. Chairman.