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**Seventy-Third session of the General Assembly**

**Report of the International Law Commission  
on the work of its seventieth session**

**Part I**

Agenda item 82

*S T A T E M E N T*

*BY*

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*Mr. Chairman,*

At the outset, let me congratulate the Chairman of the International Law Commission (ILC), Mr. Eduardo Valencia-Ospina, on presenting the Commission's Report on the ILC's seventieth session.

This year's 70<sup>th</sup> anniversary of the Commission's work is a unique opportunity to assess the ILC's achievements on the one hand, and to consider challenges and methods for future actions on the other hand. With regard to the former, the Commission's acquis is undoubtedly invaluable and includes *i.a.* draft international agreements in the field of the law of treaties, the law of state responsibility, the law of the sea, diplomatic and consular law, international criminal law, immunity from jurisdiction and non-navigational uses of international watercourses, as well as a number of conclusions, guidelines, and reports on such topics as the fragmentation of international law, *aut dedere aut iudicare*, reservations to treaties and particular sources of international law.

My delegation highly values the ILC's contribution to strengthening the rule of law in international relations. In this context it is worth recalling that upholding international law is one of the priorities of Poland's current non-permanent membership of the Security Council. We take note of the fact that the Commission's work right now concentrates to a large extent on the preparation of guidelines rather than on the drafting of treaties. In Poland's view, however, such a shift should not be considered as an indication of the Commission's declining importance for the codification and progressive development of international law.

This was proved this year when the Commission adopted a set of 16 draft conclusions, together with commentaries thereon, on the **identification of customary international law**, and a set of 13 draft conclusions, together with commentaries thereon, on **subsequent agreements and subsequent practice in relation to the interpretation of treaties**. In general, Poland supports the work done by the Commission in this regard and in particular, we would like to congratulate the respective Special Rapporteurs Mr. Michael Wood and Professor Georg Nolte for their outstanding contribution to finalizing these topics. We think that both of these projects can be extremely useful to the state organs obliged to apply international law, especially courts and tribunals.

### **Specific issues on which comments would be of particular interest to the Commission**

*Mr. Chairman,*

Poland welcomes the Commission's readiness to consider topics that States may wish to propose for inclusion in its long-term programme of work. In this context Poland would like to reiterate the suggestion we made in 2014 about a new topic of work for the Commission, namely "The duty of non-recognition as a lawful situation created by a State's serious breach of an obligation arising under a peremptory norm of general international law". We continue to hold the view that it fulfils the ILC's criteria for selection as a new topic, and my delegations already presented a detailed statement of reasons in that regard in 2014.

My delegation subscribes to the opinion that the Commission "should not restrict itself to traditional topics, but could also consider those that reflect new developments in international law and pressing concerns of the international community as a whole". Against this background the Commission could consider whether to evaluate the phenomenon of widespread use of the Internet from the perspective of international law. In particular, Poland is of the view that the Jurisdiction of States in Cyberspace is a topic that requires the ILC's attention.

### **Other decisions and conclusions of the Commission**

With reference to chapter XIII of the ILC Report "Other decisions and conclusions of the Commission," Poland welcomes the decision of the Commission to include the topic "General principles of law" in its programme of work. As we mentioned last year, it is the only source of law applied by the International Court of Justice that has regrettably not been a subject of ILC studies so far. My delegation expects that the Commission's work will systematize and structuralize this subject matter taking into account the wide array of approaches to determining general principles of law as pursued by international courts and tribunals.

With respect to other matters, Poland supports the inclusion of rising sea levels in relation to international law among the topics of the Commission's work.

*Thank you Mr. Chairman*