INTERNATIONAL JUSTICE AND PEACEFUL COEXISTENCE

INTRODUCTION

The present study is limited to the examination of the relation of peaceful coexistence to international justice. International justice is identified with international tribunals and arbitration bodies. As to peaceful coexistence it is understood as peaceful coexistence of states with different social and economic structures. No generally accepted interpretation of the concept of peaceful coexistence nor of its bearing on international jurisdiction being available, a wide variety of opinions advanced by lawyers representative of various law systems must be taken into consideration. Differences of opinion exist even among jurists educated in the same legal philosophy, and, therefore it is dangerous to generalise and to lump together various attitudes under one label, for instance socialist countries, or capitalist states etc. While a detailed study of all opinions would be of interest, the technical reasons prompt to deal with the most characteristic voices only.

I. *Peaceful Coexistence Discussed in International Law Groups*

The term peaceful coexistence appeared on the international scene in the Indian-Chinese declaration and treaty in 1954 (Panch Shila). While

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Soviet lawyers maintain that it is a leninist principle that guided, from the very beginning of the existence of the Soviet state, its foreign policy, the term itself used already on June 17, 1920 by the Soviet people's commissar for foreign affaire G. V. Chicherin, discussions as to its meaning started about ten years ago. [1] This term appears in various declarations and treaties, among which the Bandung conference is usually mentioned although the final comunique of the Asian-African conference in Bandung, April 18-24, 1955, held by 29 countries, listed 10 principles and omitted reference to peaceful coexistence. The phrase "live together in peace" was employed, this phrase to be found in the preamble of the charter of the United Nations.

[1] TUNKIN, G. I., "Principles of peaceful co-existence — general line of the foreign policy activities of the CPSU and of the Soviet State" (in Russian), in Sovetskoe Gosudarstvo i Pravo, 1963, No. 7, July, pp. 26-37, pp. 26-27.

TUNKIN, G. I., *Problems of theory of international law* (in Russian), Moscow, 1962, esp. p. 48-52.

TUNKIN, G. I., *Co-existence and International Law*, 95 Hague Academy, Recueil des Cours 1 (1958, III).

KOROVIN, E. L., *Fundamental Problems of Contemporary International Relations*. Moscow, 1959 (in Russian), esp. p. 5.

DURDENEWSKI, W. N. and LASAREW, M. I., *Für den Frieden zwischen den Völkern. Die fünf Prizipien der friedlichen Koexistenz* (translated from Russian), Berlin, 1959, esp. pp. 13 y 18.

TUNKIN, G. I., *Forty Years of Co-existence and International Law* (in Russian), in "Sovetski ezegodnik mezdunarodnovo prava" 1958, pp. 15-42, in English, pp. 42-49.

TUNKIN, G. I., *Success of the Policy of Peaceful Co-existence*, in "Sovetski ezegodnik mezdunarodnovo prava", 1962, pp. 21-24.

FIFIELD, Russel, *Five Principles of Peaceful Co-existence*, in "American Journal of International Law", 1958, No. 3, esp. pp. 504-506. Bibliography on peaceful co-existence can be found in the reports on the 1960 and 1962 "International Law Associations conferences", in an annex to the reports of the Committee on Peaceful Co-existence. (1962 — pp. 305-306; 1960 — pp. 368-370).

TUNKIN, G. I. *Le droit international de la coexistence pacifique*, in "Mélanges Rolin", 1964, esp. p. 407.

KHRUSHCHOV, N. S., *On Peaceful Co-Existence*, Moscow, 1961.

JENKS, C. W., *Interdependence as the Basic Concept of Contemporary International Law*, "Mélanges Rolin", 1964, pp. 147-156.

BASTID, Mme, *Les conditions juridiques de la coexistence*, in "Politique étrangère", Février 1955, pp. 9-18.

KULSKI, *Peaceful Coexistence*.

BARTOS, M., *Aspect juridique de la coexistence pacifique entre États*, Report of the 47th Conference of the International Law Association (1956), pp. 17-39.

TRISKA and SLUSSER, *Treaties and Other Sources of Order in International Relations*, 52 AJIL 699 (1958).

TRISKA and SLUSSER, *The Theory, Law and Policy of Soviet Treaties*, 1962 (exception has been taken in "Sovetskoe Gosudarstvo i Pravo" in 1964).

SCHMITTHOF, C., *A New Approach to East-West Trade*, (1958), "Journal of Business Law", p. 141.

"Association internationale des sciences juridiques", *Aspects juridiques du commerce avec les pays d'économie planifiée*, 1961.

As to discussions and studies on peaceful coexistence by various international law groups they seem to start in 1955-1956.[2] Thus the rapporteur of the discussion at the round table organized by the International Political Science Association in Stockholm, August 20-30, 1955 stated the puspose of the meeting to be consideration of "the particular contribution that political science might make to the study of peaceful coexistence".

At the meeting of law professors at UNESCO House in Paris, February 17-21, 1956 the Eastern European delegates requested to select for discussion a theme relating to problems of coexistence. The meeting of various specialists in Geneva in July 1956 selected for interdisciplinary research under UNESCO's auspices the topic: "The general theory and historical evolution of coexistence and peaceful cooperation".

International lawyers discussed widely peaceful coexistence at the conferences of the International Law Association in 1956, 1958, 1960, 1962 and 1964.[3]

At the ILA conferences in 1956 and 1958 the Yugoslav professors Radojkovic and Bartos dealt very extensively with active pacific coexistence, the adjective *active*, showing the positive aspect in international relations, being a Yugoslav contribution.

During the discussions in the International Law Association very little has been said about ways and means of settlement of international disputes and about international jurisdiction.

ZILE, Z. L., *A Soviet Contribution to International Adjudication: Professor Krylov's Jurisprudential Legacy*, AJIL, April. 1964, pp. 359-388.

LAPENNA, I. *Conceptions soviétiques de droit international public*, 1954.

PISAR, S., *Communist System of Foreign Trade Adjudication*, 72 "Harvard Law Review" 1409 (1959).

McWHINNEY, Edward, *Peaceful Co-existence*, 1964.

HAZARD, J. N., *Co-existence Codification Reconsidered*, AJIL 1963, pp. 88-97.

BENJAMIN, P., *The Work of the Economic Commission for Europe in the Field of International Commercial Arbitration*, ICLQ 1958, pp. 22-30.

REEPINGHEN, P. van, *L'arbitrage dans les différends commerciaux entre organisations de pays à économie planifiée et contractans de pays à économie libre*.

LACHS, Manfred, *Legal Principles of Co-existence — The Need for their Elaboration*, in "Polish Perspectives", December 1963, pp. 3-10.

HARASZTI, Gyorgy, *The Problem of International Jurisdiction*, in "Questions of International Law", Budapest, 1964, pp. 24-41.

USTOR, Andre, *The Codification of Principles of International Law Relating to Peaceful Co-existence of States*, in "Questions of International Law", Budapest, 1962, pp. 86-103.

GROMYKO, A. A., ed., *Peaceful Co-existence — Leninist direction of Foreign Policy of the Soviet Union* (in Russian), Moscow, 1962, pp. 303.

LACHS, Manfred, *On the Need to Formulate the Legal Principles of Co-existence* (in Polish), in "Panstwo i Prawo", May 1963, pp. 776-789.

[2] HAZARD, J. H., *Legal Research on Peaceful Co-Existence*, 51 Am. J. of I. L. 63 (1957).

[3] Reports of the 1956, 1958, 1960 and 1962. Conferences of the International Law Association. Report, p. 17-39. Report, p. 417-420; 447-467.

The Soviet attitude has been formulated in the report of the Soviet branch of the International Law Association as follows:

> States should settle disputes arising between them solely by peaceful methods with recourse to peaceful means (direct negotiations, good offices and mediation, international arbitration, etc.)
>
> It should here be particularly emphasized that the view advanced by certain Western lawyers regarding compulsory arbitration in the settlement of disputes between states, which they contrast with direct negotiations between the parties, does not conform to the principle of State sovereignty. The parties are free to choose any form for the peaceful settlement of their disputes.
>
> Neither are they bound to enter into any preliminary agreement on compulsory arbitration, though it is of course their sovereign right to do so. There is no universal principle of compulsory arbitration in modern international law, and the introduction of such a rule in the code of peaceful coexistence would, in practice, entail the curtailment of the sovereign rights of States. [4]

Among the Western lawyers mentioned in the Soviet report were the French. The French Branch of the International Law Association submitted in 1960 that it should not be forgotten that in order to eliminate the settlement of disputes by force a system of compulsory international jurisdiction must be established. The French report emphasized the necessity of applying the majority rule.

> On parle de la nécessité d'une coexistence pacifique et on oublie que, si l'on veut éviter les solutions par la force des problèmes internationaux, on devrait créer les institutions nécessaires pour assurer une vie internationale pacifique des peuples et, notamment, des instances aptes à résoudre obligatoirement même les problèmes les plus épineux par voie de négociations, par les décisions prises à la majorité des voix des Assemblées ou des Conseils internationaux, par la sentence d'une Cour d'arbitrage, ou par le jugement d'un tribunal international. Il est évident que l'ONU . . . est une institution insuffisante pour assurer une coexistence pacifique . . .
>
> Le recours à la Cour de Justice n'étant pas obligatoire cette Cour est bien loin de pouvoir assurer le règlement des litiges d'ordre juridique et n'est pas non plus qualifiée pour sauvegarder la coexistence. Un Tribunal d'Equité, appelé à trancher les différends politiques, n'existe pas. [5]
>
> The Canadian Branch advocated the maintenance and strengthening of the "empirically-based approach to resolving fundamental international conflicts." [5a]

The American branch opposed the term "peaceful coexistence" because "a struggle of power rather than cooperation is suggested (by it); the

[4] Report of the 1962, ILA Conference, p. 359.

[5] Report of the 1960, ILA Conference, p. 378.

[5a] Report of the 1964, ILA Conference, p. 808. See also *ib.* Edward Mc Whinney, p. 781-787 and Report of the 1962, ILA Conference, p. 266-267.

problem is related solely to a bipolar world in which the proletariat is confronted with aggresive capitalists".

The American branch submitted a draft code which contains, inter alia, the following wording": "The General Assembly of the United Nations ... urges the leaders of every State, whether participating in the United Nations or not, to adhere, in the conduct of relations with the peoples and leaders of other States, to those principles: ... 2. Disputes between States shall if not settled by negotiation, be referred to third parties for mediation, conciliation or arbitration, or to the International Court of Justice or other international tribunal for decision in accordance with international law." [6]

Prof. J. N. Hazard (Columbia University of New York), a well known American expert in Soviet law, stressed at the 1960 International Law Association conference the danger resulting form the "overwhelming bargaining power" of some states. He stated that "It is no answer to argue that disputed matters should be resolved by diplomatic negotiations, for these negotiations necessarily favour the stronger state". He made also the remark that "Claimants in the United States object to jurisdiction of the International Court of Justice because they see domination of the Court by socialist minded elements. Yet statesmen in the East object to the Court because they think it dominated by anti-socialist mentality". [7]

And further he mentioned that "Constant reservation against jurisdiction of the International Court of Justice ... must be discouraged by the scholars of the world".

At the Brussels conference of the International Law Association, held in 1962, Prof. Hazard summed up the work done in the international Law Association in the following words:

> During the six years that the question has been before the Association we have established several points. The major one is that the concept of peaceful coexistence is the designation of those elements and institutions of international law that are of priority in maintaining peace at this moment of history.
>
> There is no rejection of international law as a whole with substitution of an entirely new set of rules regulating the relations between the States. The task of the Committee members has been the selection of international law principles requiring in the opinion of each member, first attention. [8]

After a long discussion which dealt with the possibility to vote a declaration or to codify the principles of peaceful coexistence, the International Law Association decided against such steps.

[6] Report of the 1960, ILA Conference, p. 344.

[7] Report of the 1960, ILA Conference, pp. 341-342.

[8] HAZARD, J. N., *Codifying Peaceful Co-existence*, 55 Am. J. I. L. 109 (1961). Report of the 1962, ILA Conference, p. 264.

The 1962 International Law Association resolution "charges the Committee with the continuation of the examination of the problems of peaceful co-existence and particularly the question of disarmament (with the help, if necessary, of expert opinion) and the following particular problems: . . .

a) peaceful settlement of disputes".

Further it states: 2) "It is resolved to rename the Committee on the Juridical Aspects of Co-existence as the Committee on the questions of International Law concerning friendly relations and cooperation among States". [9]

The change of the name resulted from the opinion of several lawyers that "peaceful co-existence" contains a hostile concept of struggle. Furthermore the new name corresponded to the term used by the committee of the General Assembly of the United Nations.

The Executive Council of the International Law Association decided on October 22, 1962: "1) To request the Committee on the Juridical Aspects of Peaceful Co-existence to submit to the 1964 conference a list of the principles or rules of peaceful coexistence. 2) That this Committee should be dissolved with effect from the end of the 1964 Conference". [10]

The 51 st Conference of the International Law Association in Tokyo (August 1964) accepted the report of the Committee on Juridical Aspects of Co-existence and took note of the report of its rapporteur, "without prejudging the issue of the definitive character of the list of principles contained therein or the question whether these principles shall be deemed to be juridical principles of co-existence or principles of international law". The Conference requested the Executive Council to select, in consultation with the Committee, which henceforth shall have the name of the Committee on Principles of International Security and Co-operation, the principles which shall be the object of profound and detailed study by the Committee in the sphere of international security and cooperation "notably . . . 2. The obligation of States to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered". The Conference invited the Secretary General of the International Law Association to inform the organs of the United Nations concerned of the results at which the International Law Association has arrived since its Conference in Dubrovnik in 1956. [10a]

Thus during its eight years work the International Law Association was unable to achieve more than a general statement on settlement of disputes 1) by peaceful means; 2) in such manner that international peace and security are not endangered and 3) justice has been included in this

[9] Report of the 1962, ILA Conference, p. 301.
[10] Report of the 1962, ILA Conference, p. 302.
[10a] Report of the 1964, ILA Conference, p. XV.

statement. It could be hardly considered a progress in international jurisdiction.

II. *Peaceful Coexistence and the Less Developed States*

While the main divergent points of view seemed to be those of socialist (East European) lawyers as compared with the West European, American and Canadian lawyers, there were voices heard that the juridical aspect of peaceful co-existence should not be considered with respect to the relations between the capitalist and socialist blocs, but rather between the rich and the poor world.

Thus Prof. B. Boutros-Ghali of UAR remarked at the International Law Association Conference in 1960:

> Ce qui frappe, au premier abord, un lecteur du "Tiers monde" quand il lit le rapport consacré à la coexistence pacifique, c'est que ce concept nouveau, ou encore cette doctrine politique, ait été élaboré uniquement pour mettre fin à l'antinomie qui existe entre le bloc dit capitaliste et le bloc dit socialiste". "En effet, le rôle premier de la coexistence pacifique n'est pas tant d'amener l'amélioration des situation résultant des différences entre deux systèmes différents que de régler les rapports entre le monde riche et le monde pauvre, entre les États qui possèdent et ceux qui ne possèdent pas. [11]

The principle of the compulsory jurisdiction of international tribunals advocated by West European and American jurists found support also among certain lawyers of the less developed countries. Thus S. P. Khambatta, an Indian lawyer submitted that "the recent events on the frontier of India and China have proved the inadequacy of the five principles proclaimed at Bandung".

Khambatta lists several principles of coexistence absolutely necessary if co-existence between States is to become a reality, among them:

> 3. The issue of the observance or violation of the provisions of the Charter of the United Nations must be submitted by the States to the International Court of Justice where the decision of the Security Council of the General Assembly of the United Nations is not acceptable to the State.
>
> 4. All solutions to international problems must be sought in decision of International Assemblies or International Councils or International Arbitration Tribunals or the International Court of Justice.
>
> 5. All States shall accept the jurisdiction of the International Court of Justice within the limits specified in the Report of the New York Conference of the International Law Association". [12]

[11] Report of the 1960, ILA Conference, p. 343.
[12] Report of the 1962, ILA Conference, p. 346.

Other jurists asked the question whether peaceful co-existence means permanent peace. Thus Dr. Ezzeldin Foda (United Arab Republic) expressed that "What is most interesting to us is the discussion whether co-existence is to be merely an armistice—a mere modus vivendi intended to preserve the status quo in the world situation or is it to be a positive and permanent state of affairs leading forward to a lasting peace and to international cooperation? [13]

III. *Peaceful Co-existence in the 1961 Programme of the Communist Party of the USSR*

As the USSR is rules by a communist party it is worthwhile to examine its programme with reference to international jurisdiction.

The chapter entitled "Peaceful coexistence and the struggle for world peace" contains the statement that "peaceful coexistence implies renunciation of war as a means of settling international disputes and their solution by negotiation". International jurisdiction is not mentioned therein. Another reference to peaceful coexistence explains that it "serves as a basis for the peaceful competition between socialism and capitalism on an international scale and constitutes a specific form of class struggle between them". [14]

The chapter on "The International Revolutionary Movement of the Working Class" contains the following passage: "The success of the struggle which the working class wages for the victory of the revolution will depend on how well the working class and its party master the use of all forms of struggle—peaceful and non peaceful, parliamentary and extra-parlamentary and how well they are prepared for any swift and sudden replacement of one form of struggle by another form of struggle". [15]

And in the chapter on "The Exposure of Bourgeois Ideology" there is the following restriction: "The peaceful coexistence of states with different social systems does not imply any easing of the ideological struggle. The Communist Party will go on exposing the anti-popular, reactionary nature of capitalism and all attempts to paint bright pictures of the capitalist system. The Party will steadfastly propagate the great advantages of socialism and communism over the declining capistalist system". [16]

The refusal to include the problems of ideology into the concept of peaceful coexistence has been repeatedly maintained by Soviet lawyers.

[13] Report of the 1962, ILA Conference, p. 279.

[14] Programme of the Communist Party of the Soviet Union, adopted by the 22nd Congress of the CPSU, October 31, 1961, Supplement to "New Times", No. 48, Nov. 29, 1961, p. 27.

[15] idem, p. 19.

[16] idem, p. 49.

Thus when at the sixth annual meeting of the Soviet International Law Association A-P. Movchan submitted his paper, devoted to codification of the principles of international law dealing with peaceful coexistence, several leading professors endorsed this point limiting peaceful coexistence to "practical matters".

In fact E. A. Korovin, I. P. Blischchenko, V. M. Koretskii, P. E. Nedbailo, D. B. Levin, L. A. Mordzhovian, K. V. Adzharov and A. V. Talasov are reported to state that: "The Socialist Countries will never agree to peaceful coexistence with the capitalist States in the sphere of ideology".

"But when practical matters are at issue, such as the principles of peaceful coexistence in international law, concessions and compromises are permissible for the purpose of reaching agreements aimed at the strengthening of peace". [16a]

IV. *Peaceful Coexistence and International Law*

An agreement on the very existence of international law and as to its contents is a prerequisite for submission to international justice.

The Soviet theory considers that law results from the will of the ruling class. It has been maintained therefore that international law of the capitalist states differs from that of the socialist states.

Present Soviet doctrine admits the existence of a general international law, binding both capitalist and socialist states. As Prof. Tunkin explained in his course at the Hague Academy of International Law, read in 1958. "agreement, as a means of creating norms of contemporary international law, is the result of the co-ordination of wills of their ruling classes". He added that "the norms of general international law are therefore expressing not a "single will" but "co-ordinated wills" of States... Furthermore agreement presupposes that the wills of States are not only "co-ordinated" in relation to recognition of the given norm as a norm of international law but are also mutually conditioned. He continued: "Agreement between States includes a mutual conditioning of wills, the substance of which is that the assent of one state to recognize a particular rule as a norm of international law is conditioned on an analogous assent by the other State. His conclusion is that "The norms of general international law are, therefore, expressing "the coordinated and inter-conditioned wills" of the States belonging to two existing economic systems". [17]

Prof. Tunkin stated that Prof. Korovin qualified as erroneous his own previous asertions. In fact Prof. Korovin elaborated in 1924, 1926 and

[16a] NILIN, V. Sixth Annual Meeting of the Soviet International Law Association, in "Sovetskoe gosudartsvo i pravo", 1963, No. 7. Soviet state and government Law, 63-64, vol. No. 3, pp. 43 and 45.

[17] TUNKIN, G. I., *Co-existence and International Law*, 95 Hage Academy, "Recueil des Cours" (1958, III), pp. 34-36.

continued it still in 1951, a theory that to the states of one "social structure" are inherent certain "international law principles and norms" where as to the states of another "social structure" are inherent other principles of international law. [18]

Another definition offered by Prof. Tunkin in the 1958 Soviet Yearbook of International Law says that the "contemporary general international law (is) the agregate of rules created by agreement between states, regulating their relations in the process of struggle and co-operation in the direction of ensuring peaceful co-existence, expressing the wills of the ruling classes of these states; the compliance with these norms being ensured, whenever necessary, by the states applying enforcement measures individually or collectively". [19]

Prof. Tunkin calls, in his articles published in 1964 in "Mélanges Rolin", the present international law—the law of peaceful co-existence. [20]

Thus the present Soviet theory does not contest the existence of a general international law.

There remains the question what exactly are the norms of the contemporary international law. From time to time certain norms could be considered as outdated, this applies even to treaties, the Soviet doctrine contesting the validity of treaties that have been imposed on a weaker party. Such an attitude creates a permanent uncertainty as to validity of almost any treaty as it is rather seldom that both contracting parties represent the same bargaining strength.

While the existence of a general international law is not denied by the present Soviet theory, [18a] opinions are advanced that, in addition to it,

[18] idem, p. 60.

[18a] Tuke University, *The Soviet Impact on International Law*, Law and Contemporary Problems, vol. XXIX, 1964, No. 4.

Report of the 7th annual meeting of the Soviet Association of International Law (30 January — 1 February 1964) at Moscow, Soviet Yearbook of International Law, 1964-1965, pp. 360-361.

KRYLOV, S., *Les notions principales du droit des gens (la doctrine soviétique du droit international)*, Recueil des cours de l'Académie de droit international de La Haye, vol. 70, 1947, I, pp. 407-476.

RAMUNDO, B. A. and Rusis, A., *The Socialist Theory of International Law*, 1964.

Report of the 5th annual meeting of the Soviet Association of International Law, Soviet Yearbook of International Law, 1962, pp. 238-240.

HAZARD, J. N., *Pashukanis is no traitor*, AJIL, 51 (1957), pp. 385-388.

KRYLOV, S. B., *A Contribution of the Discussion of Questions of the Theory of International Law*, Sovetskoe Gosudarstvo i Pravo, 1954, November, No. 7, pp. 74-79 (in Russian).

SHURSHALOV, V. M., *Some Questions of the Theory of International Law* (in Russian), Sovetskoe Gosudarstvo i Pravo, December 1954, No. 8, pp. 89-92.

EVGENYEV, V. V., *Subjects of Law, Sovereignty and Non-Interference in International Law*, March 1955, Sovetskoe Gosudarstvo i Pravo, No. 2, pp. 75-84 (in Russian).

LAPENNA, I., *Legal Aspects of Co-existence*, 12 ICLQ, 1963, pp. 759-761.

LEVIN, D. B., *International and National Law Correlation* (in Russian), Sovetskoe Gosudarstvo i Pravo, 1964, No. 7, pp. 86-95.

there is a special international law linking the socialist States. Thus Prof. Korovin writing in the 1958 Soviet Yearbook of International Law on "Proletarian Internationalism and International Law" states that the proletarian internationalism is a new type of international relations that "can be defined as all-round co-operation and disinterested fraternal mutual aid of the peoples and countries of the socialist world, based on the Marxist-Leninist principles". He asserts that this principle is found in international law by: "1) application of the generally recognized democratic principles and norms of international law with the introduction into them of the new quality deriving from the socialist nature of the states applying these principles and norms" (fictitious norms become true); "2) creation of new international law forms characterizing the political, economic and cultural co-operation of the socialist countries based on the principle of proletarian internationalism"; "3) the third feature from the standpoint of proletarian internationalism to the institutes which have crystallized in international law is the need for a critical evaluation of the possibilities of their utilization in the interrelations of the socialist states". Prof. Korovin mentions that "the principles of proletarian internationalism are, in the highest degree, also a revolutionary stage in the development of international law. They can be defined as the birth of socialist international law, the international law of the future humanity liberated from capitalist slavery". [21]

As to Prof. Tunkin, he wrote in "Problems of theory of international law" (in Russian), 1962: "To maintain that relations between socialist states should be governed by the principles of general international law only means to deny the existence of a different, class character of the

KOZEVNIKHOV, F. I. (Ed.), *Textbook Course of International Law* (in Russian), 1964, pp. 678. Review by Ushakov, N. A. and Meleshko, E. P. in Sovetskoe Gosudarstvo i Pravo, 1964, No. 10, pp. 153-155.

DRACHKOVITCH, M. M., ed., *Marxism in the Modern World*, 1965.

BLISHCHENKO, I. P., *On the problem of definition of contemporary international law*, in "Problems of theory and practice of international law" (in Russian), Institute of International Relations, Moscow, 1959, pp. 145 ss.

LUKIN, P. I., *Sources of International Law* (in Russian), Moscow, 1960.

HAZARD, J. N., *Post-Disarmament International Law*, Vol. 61, AJIL, 1967, pp. 78-83.

LISSITZYN, O. J., *International Law in a Divided World*, 1963.

KARPETS, I. I., *International Association of Jurists-Democrats. Law in Service of Peace*, Sovetskoe Gosudarstvo i Pravo 1964, No. 6, pp. 71-77 (in Russian).

MOVCHAN, A. P., *On Significance of Codification of Principles of International Law*, Sovetskoe Gosudarstvo i Pravo, 1965, No. 1, pp. 46-55 (in Russian).

LISOVSKYI, V. I., *International Law* (in Russian), 2nd ed., Moscow, 1961.

LEVIN, D. B., *Main Problems of Contemporary International Law* (in Russian), Moscow, 1958.

[19] p. 43.
[20] p. 418.
[21] pp. 70-72.

relations between the countries of socialism, it means to roll down on the non-partisan track, into the mud of bourgeois normativism."

This would mean "to lower the relations between the states of the socialist camp, to dilute them in the (general) mass, to impair their unity, to weaken them in their struggle for a more rapid construction of socialism and communism and against the attacks by the imperialists".[22]

This theory of a special socialist international law does not mean necessarily that in their relations with non-socialist states the socialist camp cannot apply and conform to the general international law, this aspect however is worthy of a separate study.

V. *Soviet Writers on the International Court of Justice*

While the statements on peaceful co-existence do not mention the International Court of Justice it seems advisable to consult Soviet legal literature on this subject.

The first book on the International Court of Justice has been published in 1951 by N. N. Polianski, in Russian, entitled "International Court".

His attitude as to its use for the Soviet state is a sceptical one. He writes: ..."the Soviet Union maintained consistently the position that in case of a dispute with another state, such a dispute having a political character, and no solution being possible by way of direct negotiations, the issue should be decided in the Security Council alone, and not by the International Court. In the latter the voice of the judge-Soviet citizen might be drowned by the voices of members of the Court, guided by anti-democratic political organizations and legal concepts".

Furthermore he stated: "It depends on that, how long will the imperialist states consider themselves masters of the Unites Nations where, with the aid of the 'voting machine' they can dispose as they like. As long as such a state will continue, the International Court is not in any sense an organ on which one can count in the struggle for peace."[23]

This pessimist attitude is not characteristic for Prof. Krylov's book on the "International Court of the Organization of United Nations", published in 1958 (in Russian).

There the author maintains the position favouring the facultative and non compulsory jurisdiction of the Court.

As to its activity he expresses mixed feelings but generally takes a positive attitude. The following words of a former judge of the International Court of Justice seem to express his main ideas: "The majority of the Court lead a discriminatory policy, as well to the essence as to the form, against the European states of people's democracy. The Court assumed the position of a colonizer in the case on the Territory of

[22] p. 327.
[23] p. 75.

South West Africa, and in the case on privileges of the United States in Morocco. It should not be forgotten that most of the judges defended the interests of imperialist states. Notwithstanding, however, the unsatisfactory decisions and conclusions of the Court, it has to be admitted that its certain members served and serve the cause of development of international law and of strengthening of the intenational legality."

Krylov mentions here judges MacNair and Basdevant.

Furthermore he says: "If a question is asked whether the Court served during ten years of its existence the cause of international legality, the cause of peaceful coexistence, than, even taking into consideration the imperfections in its practice and its generally modest rôle in international life, such a question should be answered necessarily in a positive way." Krylov refers here to the judgment in the Anglo-Iranian case and to the advisory opinion on the peace treaties.[24] In the IXth chapter of a collective book on International Law, published in English in Moscow, after Krylov's death, similar theses of this author have been repeated. As to the activities of the Court: "The majority in the United Nations have tried to use the International Court of Justice to infringe the United Nations Charter and to replace the Security Council. As a result the International Court of Justice declared without foundation that Albania was liable in the Corfu channel incident, and in the Franco-American dispute approved the outmoded capitulations regime for US citizens in Morocco. In advisory opinions regarding the Peace Treaties with Bulgaria, Hungary and Rumania the International Court of Justice adopted a point of view hostile to the People's Democracies, although it did not allow the arbitration procedure incorrectly initiated by Great Britain and U.S.A. continue, while in its opinion regarding the regime of South-West Africa it gave an incorrect interpretation of United Nations charter regarding the trusteeship regime.

At the same time... the Court in a number of instances gave correct judgements and well founded advisory opinions",[25]

As to compulsory jurisdiction Krylov states: "The USSR... did not give the undertaking under Article 36 (2) of the statute, on the grounds that the jurisdiction of the Court should be voluntary". And elsewhere: "Like the decisión of arbitration, a decision of the International Court of Justice is binding upon the parties to a dispute. Like appeal to arbitration, appeal to the International Court is not obligatory but voluntary".[26]

Even in respect to the advisory opinions of the international Court of Justice the socialist judges contended that the Court's jurisdiction

[24] p. 163.
[25] p. 396.
[26] p. 393.

depended exclusively upon the agreement between the parties in the same way as in contentious cases. [26a]

In the Corfu Channel case the Security Council of the United Nations recommended on April 9, 1947 that Albania and Great Britain submit this dispute to the International Court of Justice (art. 36 of the UN Charter). The judges Winiarski, Zoricic and Krylov asserted that even in this case the Court's jurisdiction can be established only by agreement of the parties. [26b]

Krylov recognizes the "obligatory nature of the use of peaceful means to settle international disputes". He elaborates: "Given the existence of normal relations between states, the majority of questions arising in the day-to-day practice of international affairs are settled by peaceful means, in the first instance through diplomatic channels, through direct negotiation or with some form of participation by Third Powers (good offices, mediation). Nor should other peaceful means of solving international disputes, such as reconciliation procedures, arbitration and judicial settlement, be ignored". [27]

Thus the majority only and not all disputes are solved by peaceful means. Arbitration and judicial settlement are seemingly considered as the last resort.

While the contemporary Soviet theory recognizes the existence of a general international law, some of the Soviet jurists promote the application of socialist law.

F. I. Kozhevnikov describing the International Court of Justice and its activity in the year 1957 says: "Many of the socialist states are members (of the ICJ). And in view of that the systems of socialist law should find wider application in the International Court of Justice." [28]

While a more positive attitude of the Soviet jurists towards the International Court of Justice is to be noted it is however less encouraging to read various warlike statements even in the field of science. Thus V. A. Tumanov writes in the collective work published in 1962 in Russian under the title "Against the contemporary legal ideology of imperialism the following amazing statement." The Soviet social science, through its important branches, among them the legal science, and the science on state and law, led and leads succesful struggle against the bourgeois political and legal ideology."

[26a] Interpretation of Peace Treaties case (1950), I.C.J. Rep. 65, 101-102 (advisory opinion) (Zoricic, Dissenting): 111 (Krylov J., Dissenting).

[26b] Corfu Chanel Case (1948) I.C.J. Rep. 15, 51.

[27] p. 377.

[28] GRZYBOWSKI, K., *Socialist Judges in the International Court of Justice*, "Duke Law Journal", 1964, No. 3, pp. 536-549, esp. 537 on sovereignty.

The International Court of Justice and its Activity in 1957, (Some Theoretical Problems), in "Sovetskii ezegodnik mezdunarodnovo prava", 1958, in Russian 314-324, in English 324-326, esp. p. 324.

Or elswhere: ... "the bourgeois ideology hastens, in a still higher degree than at any previous time, to falsify the acute political problems of state and law". [29]

It seems furthermore that at least certain Soviet authors do not believe in international justice with regard to national liberation. Thus Tuzmukhamedov in 1963: "The principle of peaceful coexistence does not prohibit a war of national liberation as a forced means to solve the contradiction between the oppressed and oppressors, to solve anti-colonial, anti-imperialist problems." [30]

VI. *Chinese People's Republic*

The Chinese People's Republic declared in several treaties the intention to conform to "principles and objectives of the United Nations" (Chinese-Soviet treaty of Feb. 14, 1950) or to fundamental principles of the charter of the United Nations (Chinese-Afghan treaty of August 26th, 1960) or to respect completely and support the principles of the UN charter (Chinese-Czechoslovak treaty of March 27th, 1957). The Chinese People's Republic took part in the Bandung conference, April 18-24, 1955, the final communique of which contains as the 8th principle "Peaceful settlement of international disputes". The declaration of Bandung has been incorporated into the treaty with Ghana of August 18th, 1961, it was mentioned in the treaties with: Indonesia of April 1st, 1961, Cambodia of December 19th, 1960, Afghanistan of August 26th, 1960. The principles of peaceful co-existence have been refered to in the treaties with Guinea of September 13, 1960 and Nepal of April 28th, 1960. Hight treaties, and namely with Yemen, Birma, Nepal, Afghanistan, Guinea, Cambodia, Indonesis and Ghana, signed in 1960-1961, contain clauses on the reciprocal obligation to settle disputes by peaceful means, some of these treaties specifying such means as negociations. [31]

Premier Chou En-lai declared that China has consistently advocated peaceful coexistence with other countries, mutual non-agression and the settling of disputes by peaceful means (1960). [32]

In December 1963 Chou-En-lai declared to a representative of French television, at the time of his visit to Morocco, that a "world war between the socialist camp and the imperialist camp is not inevitable". [33]

[29] p. 6.

[30] *Peaceful Co-existence and the War for National Liberation* (in Russian), in "Sovetskoe Gosudarstvo i Pravo", March 1963, No. 3, 87-94, esp. p. 93-94.

[31] FOCSEANU, Lazar, *Les grands traités de la République Populaire de Chine*, in "Annuaire Français de Droit International", 1962, 139-177, esp. 153, 158, 160, 161.

[32] Premier Chou En-lai, *On the Current International Situation and China's Foreign Relations*, in "Peking Review", April 12, 1960, p. 9.

[33] in "La Presse", Montréal, 31 décembre 1963, p. 1.

It does not appear that the leaders of the People's China ever mentioned their willingness to submit to an international jurisdiction.

According to recent Soviet reports the People's China does not seem to admit the existence of a general international law. I. I. Karpetz, vice-president of the International Association of Jurist Democrats, reported in the June 1964 issue of the Soviet monthly "Soviet State and Law" that at the VIIIth congress of that association held in Budapest, March 30-April 5, 1964 "an absolute majority of the delegates supported the idea of peaceful coexistence of the states with different social systems" and that the general resolution included peaceful coexistence. He complained however that the Chinese, Albanese, North-Vietnamese and Japanese (communist) delegates caused obstruction at the congress. He related that "without any argumentation the Chinese delegates declared that international law is a tool in the hands of American imperialism, having "forgotten" that norms of international law govern not only the relations between capitalist states, and between capitalist and socialist states, but also between the socialist states, having "forgotten" that the establishment of diplomatic relations between the Chinese People's Republic and France is also within the field of international law".

Karpetz reminds that "N. S. Khrushchov underlined several times, that norms of international law serve as powerful means of defense of the interests of all states and especially of the young states in defense of their sovereignty". [34]

VII. *General Assembly of the United Nations and Peaceful Coexistence*

On October 1, 1957, the General Assembly of the United Nations decided without objetion to inscribe on the agenda of its 12th session a proposal of the Soviet Union requesting a declaration relative to the principles of peaceful co-existence. [35]

On December 14, 1957, the General Assembly, by a vote of 77 to 0 with Nationalist China abstaining, adopted a resolution submitted by India, Yugoslavia and Sweden calling, inter alia, for "peaceful and tolerant relations" and "friendly and cooperative relations" among States. The expression "peaceful co-existence" was not used in the text. [36] The USSR delegation considered its draft resolution "more precise and more consequential" but found "nothing objectionable" to the proposal of India, Sweden and Yugoslavia.

By resolution 1966 adopted in December 1963 the General Assembly decided to establish a Special Committee on Principles of International Law Concerning Friendly Relations and Co-operation Among States

[34] pp. 72-76.
[35] UN Doc. A/3673, Sept. 20, 1957.
[36] UN Doc. A/3802, Dec. 14, 1957.

which would draw up a report containing, for the purpose of the progressive development and codification of the four principles (among them "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") so as to secure their more efective application, the conclusions of its study and its recommendations, taking into account particularly:

a) The practice of the United Nations and of States in the application of the principles established in the Charter of the United Nations;

b) The comments submitted by Governments on this subject in accordance with para. 4 of resolution 1815 (XVII session);

c) The views and suggestions advanced by the representatives of Member States during the 17th and 18th sessions of the General Assembly.

As to possible instruments of settlement of disputes resolution 1967 requested the Special Committee to study "the feasibility and desirability of establishing a special international body for fact-finding or of entrusting to an existing organization factfinding responsabilities complementary to existing arrangements and without prejudice to the right of parties to any dispute to seek other peaceful means of settlement of their own choice". [37]

The discussion on consideration of principles of international law concerning friendly relations and co-operation among states in accordance with the Charter of the United Nations revealed different points of view as to the principle of the peaceful settlement of disputes. Czechoslovakia stressed the negociations as a means of settlement of disputes. Several speakers maintained that to regard direct negotiations as the fundamental means of settling disputes was a nationalist and backward step which limited the means set forth in Art. 33 to negotiation. Wider recourse to the International Court of Justice was requested. [38] Other representatives maintained that certain states were reluctant to submit their disputes to the Court because, on the one hand, geographical distribution and the representation of the world's principal legal systems in the Court were not satisfactory and, on the other hand, because the Court applied only the law of the so-called "civilized nations" in the formulation of which those states had not taken part. [39]

A number of representatives held that it was impossible to conceive of a genuine system of peace without a treaty on the peaceful settlement of

[37] Resolutions adopted by the General Assembly during its XVIIIth session 17 Sept.-17 Dec. 1963.

[38] Un Doc. A/5671, 13 Dec. 1963., Consideration of Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, Report of the Sixth Committee, p. 20.

[39] idem p. 21.

disputes for, when a dispute arose, it was not enough to apply one of the means of peaceful settlement specified in Art. 33 of the Charter; the parties should known what means of recourse were available and should have reached a prior agreement on that point in a special legal instrument. A general treaty based on regional experiences could offer a solution to the problem. [40]

Other representatives maintained that the proposal to establish a fact finding body constituted a first step towards a judicial or quasi-judicial settlement of disputes which would be compulsory and therefore unacceptable. [41]

VIII. *Foreign Trade Disputes*

It is well know that the international traders are reluctant to submit their disputes to courts, they prefer arbitration. There are several reasons for such an attitude, for instance the possibility to choose the arbitrators among experts in the given branch of trade, confidential character of proceedings, less delays, etc.

The East West trade followed this course. In contradistinction to the countries of free economy, foreign trade is a state monopoly in socialist countries. These states conduct their foreign trade throgh their foreign trade organizations, generally considered as separate legal entities, their liabilities to be met from the capital under their administration and not by other state resources.

Socialist countries, called sometimes also "centrally planned states", have also Chambers of Commerce or Chambers of Foreign Trade (Poland and East Germany), *Federal Economic Chamber* (*Yogoslavia*) *or*, in China, a body called the China Council for the Promotion of International Trade. [42]

Foreign trade organizations or corporations of socialist countries engage in import and export trade in a manner very much alike to that of capitalist international traders, following the general rules and customs of international trade. In fact it seems that, except political governmental interventions, there are no fundamental differences between the international trade activities of the socialist and capitalist traders, both want to sell at a good price, avoid unnecessary risks, purchase at a low price, their attitude modified sometimes by currency restrictions, and, of course, both expect that other contracting party will comply with the terms of the contract. [42a]

[40] idem, p. 21, No. 73.

[41] idem, p. 22, No 77.

[42] Foreign Trade Corporations of the Centrally Planned Republics, The London Chamber of Commerce, 1964, p. 67.

[42a] The centrally directed foreign trade policy may justify a sale of a given commodity, at a price bolow cost, in order to use the foreign at a favourable price

Furthermore the socialist states, while conforming to general customs of international trade tend also to follow the general trend towards uniform trade laws.

For example Bulgaria, Hungary and Yugoslavia joined 29 non-socialist states in the elaboration of the conventions relating to uniform laws: *a*) on the international sale of goods and *b*) on the formation of contracts for the international sale of goods, both conventions dated July 1st, 1964.

Moreover representatives from West and East European countries joined in the drafting of optional general conditions of international sale dealing with a given type of goods, such conditions taking into account specific requeriments of trade in a given branch. This experience has shown that for instance the East-West general conditions for the supply of plant and machinery for export, know as No 574, are almost identical as to its contents with the previously prepared conditions, know under No 188, used in Western Europe. The difference is limited to the contents of the "force majeure" and arbitration clauses.

Similar general conditions or standard contract forms have been worked out for international sale of coal, cereal, different types of lumber, etc.

While both the free economy as well as the planned economy traders favoured arbitration, problems arose as to the choice of arbitrators and of the seat of the arbitration board.

The USSR created in 1930 the Maritime Arbitration Commission and in 1932 the Foreign Trade Arbitration Commission, both at the USSR Chamber of Commerce [43] Soviet foreign trade organs usually tried to insert in their international trade contracts a clause providing for arbitration of possible disputes, that could result therefrom, in Moscow, before arbitrators chosen from among the members of one of the said commissions, [43a] West European traders prefered to choose arbitrators from among persons know to them and to avail themselves of the services of the Court of Arbitration of the International Chamber of Commerce or of specialized arbitration established in various branches of international trade. This was also the case of American traders who sometimes referred to the American and Inter-American arbitration systems.

In consequence the contents of the arbitration clause depended on the Bargaining power of the parties. Several disputes have been arbitrated in Moscow; the decisions rendered there appeared, generally, im-

(see Holzman Franklyn D., *Some Financial Aspects of Soviet Foreign Trade*, in "Comparisons of the United States and Soviet Economies", Washington: 1959, pp. 427-443, 429).

[43] Maritime Arbitration Commission and Foreign Trade Arbitration Commission, *The USSR Chamber of Commerce*, Moscow 1962.

[43a] See Berman, Harold J., *The Legal Framework of Trade between Planned and Market Economies: The Soviet-American Example*, in "Law and Contemporary Problems", summer 1959, pp. 482-528, 485.

partial and well founded. Other clauses provided for arbitration in a third country, for instance in Stockolm, Zurich, or sometimes, it seems, in the West Eurepean country. (The Arbitration Institute of the Stockholm Chamber of Commerce informed that no East-West trade disputes have ever been submitted to this Institute).[44]

It is however difficult to learn the contents of arbitration clauses used in practice as, obviously the contracts have a confidential character. Even in cases of disputes settled by arbitration it is not very often that the decision, and a fortiori the arbitral proceedings, are published. Furthermore several international trade associations (for instance cotton) have their own arbitration bodies, and, therefore, there is no central source of Information. The Moscow commissions publish from time to time some information on their practice.

An important step forward represents the European Convention on International Commercial Arbitration, prepared under the auspice of the United Nations Economic Commission for Europe, signed en Geneva on April 21, 1961 by representatives of 18 European states, which entered into force on January 7, 1964, after ratification by the USSR, Byelorussian SSR, Ukrainian SSR, Rumania, Yugoslavia, Hungary, Czechoslovakia and Austria.

This convention is a fruit of a long preparatory work.

At the starting point the representatives of the countries of planned economy suggested that the international trade disputes be submitted to the arbitral body of the country of the defendant. On the other side it has been asserted that such a principle may tempt traders to put themselves in the position of defendant in order to have the dispute decided by such trader's country arbitration body.

The main reason however why such a solution has been abandoned was that it was considered an unsuitable principle in general, and not necessarily in the East-West trade, especially between the enterprises of capital exporting and capital importing countries. Such a principle would mean that, generally, disputes would be decided by the arbitral bodies of the capital importing countries. Both, countries of free economy and of planned or socialist economy, act often as capital exporting countries.

Therefore a new solution has been sought as to difficulties that may arise in the implementation of the arbitral clause, and finally this solution has been embodied in Art. IV para. 3 of the convention, and in the annex thereto. Art. IV para. 3 states that:

> Where the parties cannot agree on the appointment of the sole arbitrator or where the arbitrators appointed cannot agree on the measures to be taken, the claimant shall apply for the necessary action, where the place

[44] KIPELMANAS, Lazare, *L'arbitrage dans les rapports commerciaux* Est-Ouest, in "Annales de la Faculté de Droit de Liège", 1964/1-2, pp. 129-140, esp. 138-139.

of arbitration has been agreed upon by the parties, at his option to the President of the Chamber of Commerce of the place of arbitration agreed upon or to the President of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration. Where such a place has not been afreed upon, the claimant shall be entitled at his option to apply for the necessary action either to the President of the competent Chamber of Commerce of the country of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration, or to the Special Committee whose composition and procedure are specified in the Annex to this Convention. Where the claimant fails to exercise the rights given to him under this paragraph the respondent or the arbitrator(s) shall be entitled to do so.

The annex to the convention describes the composition and procedure of the Special Committee composed of two regular members and a chairman. One of the members shall be elected by the Chambers of Commerce of the states where national committees of the International Chamber of Commerce exist (West), the other member-by the Chambers of Commerce of other countries (East). The persons who are to act as chairman shall also be elected in the like manner. The persons elected to the office of chairman shall exercise their functions in rotation, each during a period of two years.

It is hoped that this system will be of a beneficial nature.

CONCLUSION

The policy of peaceful co-existence does not seem to advance the international justice beyond the Charter of the United Nations, and, up to date, does not provide new institutional forms of peaceful settlement of international disputes. Some progress is however to be noted.

1. Recognition of a general international law binding all the states, also with different social and economic structures, is one of the prerequisites of the compulsory jurisdiction of international tribunals.

It seems that, with possible exception of the Chinese People's Republic, Albania and North Vietnam, there is a general agreement as to existence of such general international law. This should be considered as a positive achievement of the peaceful co-existence policy.

2. As to the contents of general international law it is not quite clear which part of it may be considered by some states as invalid or inapplicable. This uncertainty concerns customary law and treaties, claims being made that some of them were imposed or forced upon the weaker party.

3. The refusal to submit to an international jurisdiction leaves unsolved the problem of interpretation of written and unwritten norms of inter-

national law. Soviet doctrine reserves the right of interpretation to the interested state. It is obvious that this method creates the possibility of divergent interpretations.

4. Soviet attitude as to international jurisdiction is governed by the concept of an unlimited sovereignty of the state.

The texts on peaceful co-existence condemn war or even an action which may lead to war and call for peaceful settlement of international disputes.

Negotiations is usually mentioned as means of settlement, while arbitration or judicial settlement appears in some the texts, it is understood that there is no obligation to resort to such means.

A argument is being advanced that negotiation safeguards the sovereignty of the state. In fact the weaker state is always at disadvantage while negotiating with a stronger party. Moreover more often than not the claimant must face a refusal and his negotiations remain fruitless, in consequence injustice will be perpetuated. Art. 33 of the Charter of the United Nations mentions negotiation as one of the means but not as the unique means of settlement of disputes.

5. It is questionable whether the reluctance to submit to compulsory international jurisdiction results form the difference in social and economic structures of the states.

In fact socialist states do not provide for and international compulsory jurisdiction even within the group of socialist states. This is in a contradistinction to other groups linked by regional agreements in support of the charter of the United Nations. Such jurisdiction is foreseen by the American treaty, Bogota Pact of 1948; by the European Convention on Pacific Settlement of Disputes of 1957 and by the Charter of the Organization of African Unity of 1963 and the Protocol of 1964.

6. Objections are sometimes raised that the composition of the International Court of Justice plays in favour of the traditional European powers and that, for instance, the Soviet judge will be always outvoted. Soviet Union could avoid this danger by applying the procedure offered by the Permanent Court of Arbitration, the arbitratiors could be even instructed by the parties to the dispute to apply or to abstain from applying chosen norms of international law. Yet the USSR did not use the mechanism of the Permanent Court of Arbitration.

7. While the difference in economic structures of states is often emphasized it is exactly the economic sphere which shows the greatest progress in the field of international jurisdiction, by way of arbitration. Two trends, one towards uniform laws and the second toward compulsory international arbitration, mark favourably international economic relations. There is no evidence that the mere difference in the ownership of means

of production must cause international disputes. In fact it is difficult to see what major difference is to be noted between the terms of contract desired by a foreign trade organization of a centrally planned (socialist) state and an enterprise of a free economy state? The socialist corporation protects its interests and its capital and endevours to achieve a profitable result, it acts as a capitalist and in fact administers its capital. The contracting parties are interested in prices and quality of goods and not in the organization of factories and workers that produced those goods. There is no evidence that the mere difference in the ownership of means of production causes international disputes. There are of course international disputes due to economic causes, but such disputes happen between countries of free economy, or between countries of planned economy and not exclusively between two countries with different economic structures.

If a final brief conclusion may be risked at all, it could be said that while there is a marked Western trend towards a compulsory international jurisdiction, the Soviet policy peaceful co-existence, while characterized by recognition of existence of a general international law, does not provide instruments of compulsory international jurisdiction, and therefore allows to repair injustice only with consent of its author.

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