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The Potsdam Agreement as Reflected in Peace Treaties¹

The United Nations had already laid down the conditions for ending the Second World War and provided for the legal form of repairing the damage left in its wake before it actually ended. In doing so, it ruled out the possibility of concluding a separate peace treaty with the aggressor states, in particular the German Reich. These norms are included in both acts of common international law and multilateral agreements concluded by the United Nations. The relevant provisions can be found in the following legal acts:

A. The United Nations Declaration of 1 January 1942 states: “Each Government pledges itself to co-operate with the Governments signatory hereto and not to make a separate armistice or peace with the enemies”. This is an open act as it provides for the possibility of adher-

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ing thereto by other states “[...] which are, or which may be, rendering material assistance and contributions in the struggle for victory over Hitlerism [...]”.

B. The Moscow Declaration of 30 October 1943 on General Security refers in its preamble to the United Nations Declaration of 1 January 1942. It goes on to say that the Great Powers, for the purpose of maintaining international peace and security, will consult with one another and, as occasion requires, with other members of the United Nations both before and after the war ends, with a view to ‘joint action on behalf of the community of nations’. Another Moscow Declaration of the same date sets out the principal measures to be included in the future Italian Peace Treaty. The Moscow Declaration on Austria, defining the legal position of this country, was later cited in the preamble to the State Treaty on the Reconstruction of Independent and Democratic Austria signed in Vienna on 15 May 1955. The Declaration, referred to by the date of its proclamation—that is, as an act of 1 November 1943—regards the annexation imposed on Austria by the German Reich on 15 March 1938 as null and void.

C. The Yalta Conference Agreement of 11 February 1945 also announces common action by the United Nations towards the German Reich after it is defeated “[...] to ensure future world peace and security”. In the chapter on the post-war organisation of Europe, the Yalta Conference Agreement refers twice to the Atlantic Charter.

D. With regard to Japan, the Yalta Agreement of 11 February 1945 announces united action by the Allied Powers to end the war with Japan. In addition, the Agreement provides for the territorial reorganisation of Japan after the Second World War.

E. The Potsdam ultimatum of 26 July 1945 defines the terms for the reorganisation of Japan after the country’s unconditional surrender and

announces that the Allied Powers will also cooperate after the military operations against Japan end.

F. The Potsdam Agreement of 2 August 1945 includes two groups of clauses, which refer to peace treaties to be concluded after the Second World War. The first group comprises formal or procedural provisions, while the second substantive ones that pre-decide—in a pre-treaty manner—what future peace treaties will provide for. The formal law of peace treaties is closely related to the establishment of a Council of Foreign Ministers composed of the representatives of the Five Great Powers (i.e. China included) and authorising it to “[...] prepare treaties of peace with the European enemy States, [...] consider such other matters as member Governments might agree to refer to it”. The Potsdam Agreement commissions this international body to “[...] draw up, with a view to their submission to the United Nations, treaties of peace with Italy, Romania, Bulgaria, Hungary and Finland”. It is also authorised to draft a peace treaty with Germany. The Council of Foreign Ministers may invite any State not represented therein to participate in the discussion and study of questions of direct interest to that State.

As regards the substantive law of peace treaties—that is, pre-treaty decisions recorded in the Potsdam Agreement—this covers both matters concerning enemy States and others of interest to States—members of the United Nations. The pre-treaty decisions of the Potsdam Agreement cover such fields as reparations, certain economic issues, the disposal of the German fleet, questions of territorial trusteeships, etc. Some Potsdam Agreement provisions are related to the activities of the United Nations Organisation that was being organised at that time after the text of the UN Charter had been adopted at a conference in San Francisco.

The Yalta Conference Agreement, the Agreement regarding Japan and the Potsdam Ultimatum do not repeat the expression which mentions ruling out the possibility of concluding a separate armistice or

a peace treaty. There was no specific need to repeat these kinds of rules, laid down by the United Nations, in all other legal acts, because this series of legal acts is bound together in two ways: first, by the fact that they were made by the same States or Great Powers, acting on behalf of the United Nations and second, by their continuing binding force being underscored by invoking them in almost all the texts of these documents. The consolidation of these legal acts is so obvious that their basic phrases were copied almost unaltered from diplomatic acts and multilateral agreements to bilateral agreements. This is particularly true of the rule precluding the possibility of making a separate armistice or a separate peace treaty.

The Potsdam Agreement as Reflected in Seven Peace Treaties

Peace treaties following the Second World War were made by the United Nations, on behalf of which a significant portion of preparatory work was done by the Council of Foreign Ministers. The States concluding peace treaties invoked the Potsdam Agreement directly or declared interest in implementing its provisions.

In two cases, the Great Powers, parties to the Potsdam Agreement, have not signed a peace treaty with an enemy State from the time of World War II. The peace treaty with Finland has not been signed by the United States, because it was not in a state of war with Finland. The Japanese Peace Treaty has not been signed by the USSR for reasons detailed at a conference in San Francisco in 1951. Generally, however, it can be claimed that the Great Powers, parties to the Potsdam Agreement, also continued the work of giving a concrete form to acts of international law from the time of World War II by concluding peace treaties.

All the peace treaties—with the exception of deviations in the treaty with Japan—are based on the Potsdam Agreement. However, in the course of a separate peace conference with Japan, the Potsdam Agree-

ment was at the centre of discussion, as was the question of implementing this Agreement through the 1947 peace treaties. Established by the Potsdam Agreement, the Council of Foreign Ministers immediately set out to draw up peace treaties with enemy States. The unavailability of Council records prevents their legal analysis. All that can be said is that the work of the Council produced the draft texts of six peace treaties, namely, with Italy, Romania, Bulgaria, Hungary, Finland and—much later—Austria. The work took a great deal of time and effort to reach compromise solutions, which could be seen in many different political pronouncements. The solutions were reached by the consensus of all the Great Powers and signed by all the Great Powers, parties to the Potsdam Agreement and by those States, members of the United Nations, that were parties to the peace treaties. This leads to the conclusion that the formal law of the peace treaties, as laid down in the Potsdam Agreement, not only should but also may be applied to all other peace treaties aimed at repairing the damage left by World War II. This conclusion is vital for preparatory work on a peace treaty with Germany, which can be drafted only according to the Potsdam Agreement.

All the peace treaties concluded after 1945 refer to acts of international law from the time of World War II. This must be stressed, especially as the treaties are distinguished by exceptional brevity. The Italian Peace Treaty has 90 articles, the treaty with Romania—40 articles, with Bulgaria—38 articles, with Hungary—42 articles, with Finland—36 articles, Austrian State Treaty—38 articles, and a separate treaty with Japan—27 articles. This brevity of the peace treaties is possible mainly because they invoke the Potsdam Agreement or other legal acts from the time of World War II on many occasions. A single reference to these acts often replaces the whole treaty chapter, which would run into dozens of articles. The Italian Peace Treaty refers in several articles to pre-treaty decisions on reparations and economic matters. The peace treaty with Romania makes such references in Articles 16, 17, 18, 26 and 28. It is worth mentioning that in Article 26, the peace treaty with Romania

makes reference to the activities of the Allied Control Council over Germany and in Article 28 it states that Romania will provide for the restitution of property in accordance with the “regulations that will be made by the Powers in occupation of Germany”. The peace treaty with Bulgaria refers to legal acts regulating the situation of “Germany as a whole” in Articles 15, 16, 17, 21, 24 and 26. These provisions define the relation of Bulgaria to the Allied Control Council over Germany and its legislation. In the peace treaty with Hungary, the following articles refer to legal acts concerning “Germany as a whole”: 17, 18, 19, 28 and 30. The peace treaty with Finland makes such references in Articles 19, 20, 21 and 28. The Austrian State Treaty invokes the Potsdam Agreement in Articles 11 and 22. The Japanese Peace Treaty does not invoke any legal act of the United Nations, but does contain a general definition of its relation to selected matters concerning Germany, provided for elsewhere. The above list supports the conclusion that references of this kind not only make for the brevity of the peace treaties, but above all bind them with the legal acts of the United Nations into a single legal system.

The uniformity of peace treaties after World War II is evident in the clause contained in these treaties on the mutual recognition of the peace treaties that have been concluded pursuant to the Potsdam Agreement. The Italian Peace Treaty says in Article 18:

Italy undertakes to recognise the full force of the Treaties of Peace with Romania, Bulgaria, Hungary and Finland, and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Austria, Germany and Japan for the restoration of Peace.

Article 7 of the peace treaty with Romania recognises the peace treaties concluded with Italy, Bulgaria, Hungary and Finland, as well as—in the future—with Austria, Germany and Japan. Article 6 of the peace treaty with Bulgaria recognises the peace treaties with Italy, Ro-

mania, Hungary and Finland and promises the recognition of peace treaties with Austria, Germany and Japan in the future. Identical clauses are contained in the peace treaty with Hungary, in Article 7, the peace treaty with Finland, in Article 10, and the Austrian State Treaty, in Article 11. The Japanese Peace Treaty does not have such a clause. These clauses are almost identical in all the peace treaties except for the treaty with Japan.

It must be stressed that in the peace treaties the enemy States undertook to recognise the peace treaties that would be concluded with Germany and Japan in the future. In 1947 and 1955, the content of a peace treaty with Germany could not be known since the treaty had yet to be signed. This blind legal obligation is based, no doubt, on the enemy States recognizing the Potsdam Agreement and all the legal acts related thereto. Furthermore, they also recognised that these legal acts would serve as the principal basis for a future peace treaty with Germany. The close connection between these peace treaties and the Potsdam Agreement could be seen especially clearly in the diplomatic records concerning the revision of some provisions of the Italian Peace Treaty.

A future peace treaty with Germany should include a clause about the recognition of peace treaties made with Bulgaria, Finland, Romania, Hungary and Italy. Such a clause—which is in fact included in Article 6 of the Soviet draft of a peace treaty with Germany—will complete the chain of mutual obligations of World War II enemy States. A peace treaty with Germany should also entail the recognition of the full force of the Austrian State Treaty. Detailed provisions in this respect are made in Article 13 of the Soviet draft.

The Potsdam Agreement Sets the Procedure for all Peace Treaties

All the procedural issues of all the peace treaties of 1947 and 1955 were settled pursuant to the Potsdam Agreement.

The Italian Peace Treaty is based on the provisions of the Potsdam Agreement. Poland is also a party of this peace treaty. It does not invoke directly the Potsdam Agreement, but refers on several occasions to legal institutions established by the Agreement. By way of example, Article 21(3) of the treaty may be cited, in which the competence to perform certain legal acts is transferred to the Council of Foreign Ministers. The procedure of the Italian Peace Treaty deserves more attention, as this is the first peace treaty drafted by bodies established for this purpose in the Potsdam Agreement.

The procedural connections between the Potsdam Agreement and the peace treaties with Romania, Bulgaria, Hungary and Finland can be described globally. Poland is not a party to any of these four peace treaties. These treaties are based on the procedural rules set by the Potsdam Agreement, all were drafted by the Council of Foreign Ministers and invoke legal institutions established in the Potsdam Agreement.

The Austrian State Treaty of 15 May 1955 was signed by the Four Great Powers. From the formal point of view, this treaty differs from the others in both its name and the principal purpose of its conclusion. The concept of 'state treaty' was introduced for the purpose of emphasizing that it was not an international agreement identical with a peace treaty. After its annexation, Austria was *de facto* a part of the German Reich. It did not participate in the war as an independent state out of its free will. Therefore, the main purpose of the so-called Austrian State Treaty is the restitution of the *status quo ante bellum* announced in fact in the legal acts from the time of World War II. The issue of repairing the damage left by the war, as pertinent to the relations between Austria and the United Nations, were discussed at the Yalta and Potsdam conferences. The groundwork for the Austrian State Treaty had been laid by the Moscow Declaration of 30 October 1943. The preamble to the Treaty confirms the principles specified in the Declaration. The Treaty itself was drafted by the Council of Foreign Ministers pursuant to the Potsdam Agreement. When the Western Powers attempted to transfer the drafting of the Treaty to the UN, the USSR government protested by stressing that the rules of cooperation be-

tween the Four Powers ruled out any possibility of drafting a treaty with Austria otherwise than is specified in the Potsdam Agreement.

The Japanese Peace Treaty was signed in San Francisco on 8 September 1951 after a short conference convened by the United States and a group of cooperating states. The USSR took part in the conference, but refused to sign the Treaty. Poland was represented at the San Francisco Conference but did not sign the Treaty either. The Japanese Peace Treaty should have been drawn up according to the same Potsdam Agreement rules that governed the conclusion of all the other treaties after World War II. When the Potsdam Agreement came into force, the war with Japan was still raging and the terms of its termination and the rules for post-war relations had been set out and announced in other legal acts. There is no doubt, however, that the formal law established for peace treaties in the Potsdam Agreement also applies also to the Japanese Peace Treaty. On these grounds, the Polish delegate to the San Francisco Conference demanded that the same procedure be used that had formed the basis of the Paris Peace Conference in 1946–1947. The legal arguments presented at the San Francisco Conference are crucial for assessing the grounds of all the peace treaties after World War II. The San Francisco Conference breached the procedure for concluding peace treaties established by the Potsdam Agreement and the United Nations Declaration of 1 January 1942, including an undertaking not to make a separate peace with enemy States.

The Pre-Treaty Decisions of the Potsdam Agreement as an Integral Part of Peace Treaties

When analysed, the peace treaties concluded after World War II reveal that in terms of substantive law they have adopted the pre-treaty decisions included in the Potsdam Agreement or in other legal acts of the United Nations.

The Italian Peace Treaty adopted pre-treaty decisions concerning such issues as colonial territories, reparations, boundaries, etc. A consid-

erable number of these decisions were incorporated into the provisions of the Potsdam Agreement. Thus, it can be generally said that the Potsdam Agreement, when it comes to pre-treaty decisions regarding Italy, has been performed by this peace treaty.

The peace treaty with Romania adopted all the pre-treaty decisions of the Potsdam Agreement which were, as a matter of fact, respected in the preparatory work done by the Council of Foreign Ministers. These decisions concerned changes to Romania's state borders, the legal status of the Danube, some military issues, reparations, etc.

The peace treaty with Hungary incorporated pre-treaty decisions included, among others, in the Potsdam Agreement. They concerned such issues as changes to state borders, the legal status of the Danube, reparations and some military, and economic matters.

Analogous regularities can be found in the peace treaties with Bulgaria and Finland. Pre-treaty decisions were also incorporated into the Austrian State Treaty.

The Moscow Declaration of 30 October 1943 is invoked in this treaty several times. Article 11 of the Austrian State Treaty is an undertaking to recognise the full force of the peace treaties made with Italy, Romania, Bulgaria, Hungary and Finland. In Article 3, in turn, the Four Great Powers undertake to “[...] incorporate in the German Peace Treaty provisions for securing from Germany the recognition of Austria's sovereignty and independence, and the renunciation by Germany of all territorial and political claims in respect of Austria and Austrian territory”. The legal nature of this undertaking by the Four Great Powers is analogous to the pre-treaty decisions in the Potsdam Agreement. In Article 22, the Austrian State Treaty invokes the Potsdam Agreement three times. Other articles of the Treaty adopt the pre-treaty decisions of the Potsdam Agreement word for word, often without citing it. As regards substantive law, the Austrian State Treaty thus implements the pre-treaty decisions of the Four Great Powers included in the legal acts of the United Nations.

The provisions of the Japanese Peace Treaty were drawn up by one country, i.e. the United States. The draft of the Treaty was presented by the US government in the *aide-mémoire* of 26 October 1950 addressed to the USSR government. This document does not make any reference to a legal act of the Four Powers from the time of World War II. The note of the US government of 27 December 1950 on the Japanese Peace Treaty takes issue with the United Nations Declaration of 1 January 1942, Cairo Declaration of 1943 and legal acts of the United Nations. The draft of the Treaty released by the US and UK governments on 13 August 1951 cites the Potsdam Declaration of 26 July 1945. Article 20 of the draft refers to the Potsdam Agreement in the context of the rights of the Powers to dispose of the property assets of the former German Reich. Article 26 mentions the United Nations Declaration of 1 January 1942. The interpretation given to World War II legal acts by the US government in the preparatory work leading to the Treaty is inconsistent with both the letter and intention of these acts. Therefore, the USSR government and other members of the United Nations—Poland among them—rejected this interpretation. Legally, only the Council of Foreign Ministers is the body called upon to draw up a peace treaty with Japan. In such a case, on this international body—next to the Four Powers, parties to the Potsdam Agreement—China should be represented as well. At the San Francisco Conference, the Polish delegate demanded that all pre-treaty decisions included in the legal acts of the time of World War II be incorporated in the Japanese Peace Treaty. In sum, it can be claimed that the substantive law of the 1951 Treaty contravenes the legal acts of the United Nations. The contraventions also involve a unilateral breach of the pre-treaty decisions included in those legal acts.

To present the complete picture of the connections between the peace treaties and pre-treaty decisions included in the legal acts of the United Nations it is necessary to observe that some countries protested against specific provisions of the peace treaties they had signed. Italy lodged

a formal protest against the selected provisions of the peace treaty after its signing. The protest, read out on the radio by the Italian Foreign Minister, said that the Italian government had not taken proper part in the drafting of the final version of the peace treaty. The Italian note protested against some territorial, economic and military provisions and said that Italy would make efforts to have some provisions of the treaty revised.

Formal protests were also lodged by other countries. Romania called some provisions of the treaty it had signed too far-reaching or unjust. Bulgaria, in turn, in a protest note, criticised some provisions of the peace treaty it had signed, relating to borders, reparations and certain economic matters. Hungary lodged a protest note against some decisions relating to state borders, the deportation of minority populations from Czechoslovakia, etc. All these countries announced that they would make efforts to have indicated provisions of respective peace treaties revised. The only World War II Axis state that signed a peace treaty without protest was Finland.

As regards the question of adopting pre-treaty decisions by the above-mentioned peace treaties, it is worth mentioning that the question involves not only the Potsdam Agreement. The peace treaties adopted also pre-treaty decisions from armistice agreements. In World War II, hostilities ended in two kinds of armistice agreements.

One kind comprises the armistice agreements with Italy and the German Reich. They are distinct in that they were issued by the United Nations after the signing of unconditional military surrenders to provide for the situation of the surrendering states. Having been announced in the preceding military acts, these additional agreements settled issues other than military ones, such as territorial, political and economic, and others concerning transportation, reparations, general rules of occupation and control, etc.

The other kind is made up of the armistice agreements with Romania, Bulgaria, Hungary and Finland, which in a single legal act include all provisions: both military and territorial, political, occupation ones, etc.

When analysed, the connections between the armistice agreements and peace treaties made after 1945 help reveal a certain regularity. The peace treaties adopt the provisions of the armistice agreements and elaborate on them in more detailed provisions. Worthy of special attention are the armistice agreement provisions on changes to the borders of enemy States. A study of the peace treaties made after 1945 shows that the pre-treaty decisions of armistice agreements are an integral part of these treaties. The armistice with Italy of 3 September 1943 is a military act, but its Article 12 announces additional political, economic and financial terms to be imposed on Italy later. This announcement was performed in an annex to the armistice agreement with Italy of 29 September 1943. It changed Italy's borders as well. The final territorial changes were made in the Italian Peace Treaty, in this sense that the Treaty adopted the pre-treaty decisions in this respect. The Romanian Peace Treaty adopted the armistice agreement provisions of 12 September 1944. The nature of the armistice agreement in this case differs from the armistice with Italy. The armistice agreement with Romania is a provisional, so to speak, peace treaty, containing all kinds of provisions focused on the damage left by the war, including changes to state borders. These pre-treaty decisions form an integral part of the Romanian Peace Treaty. The Bulgarian Peace Treaty, too, adopts territorial decisions made in the armistice agreement with Bulgaria of 28 October 1944, with the exception of one change that was additionally introduced to this peace treaty. The Hungarian Peace Treaty adopts the pre-treaty decisions on changes to state borders made in the armistice agreement with Hungary of 20 January 1945. In contrast, the Finnish Peace Treaty is different. Independently of the armistice agreement of 19 September 1944, which provides for changes to state borders, the Treaty makes reference to a previous peace treaty concluded between Finland and the USSR prior to 1940. An annex to the armistice agreement with Finland, signed in Moscow on 19 September, mostly covers territorial matters.

Certain differences can also be found also in the Austrian State Treaty. As regards the territory, it follows the principle of *restitutio ad integrum* by stating in Article 5 that the borders of Austria will be those which had existed on 1 January 1938.

The 1951 Japanese Peace Treaty does not make any references to the legal acts of the United Nations nor to the unconditional surrender of Japan. It makes territorial changes in comparison to the borders of Japan that until the commencement of World War II hostilities had not been formally questioned. These territorial changes are based on the legal acts from the time of World War II announced after the conferences in Cairo, Yalta and Potsdam. In this regard, the view has been expressed that a peace treaty very often makes territorial changes that in the course of normal peaceful international relations could not be made in this manner.

The finding that peace treaties concluded after 1945 adopt pre-treaty decisions made in the legal acts of the United Nations as their integral part is of major importance for the drafting of a future peace treaty with Germany. All pre-treaty decisions should be taken into account in such a treaty and introduced to it in a form meeting the requirements of the legal acts of the United Nations and following the practice of concluding peace treaties after World War II. This refers in particular to the pre-treaty decisions made in the Potsdam Agreement. It is obvious that a peace treaty with Germany may not constitute an exception in this regard. This is crucial for Poland, because the Polish-German border is delineated in the Potsdam Agreement. Its pre-treaty decisions on this matter—as all pre-treaty decisions made in it and concerning many other countries—should be implemented in a peace treaty with Germany in the same manner as the pre-treaty decisions of the armistice agreements and other legal acts of the United Nations were implemented by all the other peace treaties.

Poland Considers the Potsdam Agreement to be the Foundation of a Peace Treaty with Germany

The records documenting Poland's attitude to preparations for making a peace treaty with Germany show that Poland abides by the provisions of the United Nations Declaration of 1 January 1942 that ban its signatories from making a separate armistice or peace with the Axis states from the time of World War II. The Treaty between Poland and the USSR of 21 April 1945 on Friendship, Mutual Assistance and Post-War Cooperation states in Article 5 that the two countries will not conclude, without mutual agreement, an armistice or peace with the Nazi government or any other authority in Germany that may pose a threat to the territorial integrity or security of the two countries. The renewed treaty between Poland and the USSR of 8 April 1965 also invokes the Potsdam Agreement.

The legal grounds of post-war relations between Poland and Germany are by and large the Potsdam Agreement. It is on these grounds that many matters have been regulated. The state of war between Poland and Germany has been ended. Poland maintains diplomatic and consular relations with one German state and has made clear its readiness to normalise its relations with the other German state. A final settlement has been reached on such matters as the Polish-German border and many other matters listed in the Polish memorandum of January 1947. Many other matters are still outstanding and await regulation after establishing relations with the FRG. It is obvious that a future peace treaty with Germany may include above all provisions embodying pre-treaty decisions recorded in the Potsdam Agreement or other legal acts, repairing the damage left by the war between Poland and "Germany as a whole".

Poland has consistently recognised and upheld the full legal force of the Potsdam Agreement and demands that all states do the same. The Polish government has done its duty with respect to the preparation of a peace treaty with Germany. Poland is not responsible for not hold-

ing a peace conference until this day or not drawing up such a draft of a peace treaty with Germany that would be agreed by all powers. The Polish position has been clarified in the following statement by Władysław Gomułka:

The Western countries reject our draft treaty, without proposing—so far—their own. Adenauer speaks in a tone as if in that war, it had not been Germany that was defeated. A treaty with Germany will be concluded anyway regardless of the position taken by the Western countries and Adenauer. Germany is represented now by two German states: the GDR—a peace-loving socialist German state governed by German workers and farmers for the first time in history—and the FRG—a capitalist state in which German militarism is gaining ground. The former is willing to make a peace treaty, the latter is not. Thus, we shall make a peace treaty with Germany represented by the GDR if the FRG does not go along with it. It is not our fault that two German states came into being. It was not the socialist states that proclaimed the cold war. It was proclaimed by the West. The FRG was both: a product of the cold war and an instrument to inflame it.

Polish diplomacy emphasises that it is ready to make a peace treaty with both German states. Such a treaty should cover all outstanding matters as well as those that have been already settled otherwise. The Polish government has declared on many occasions its readiness to normalise state relations with the FRG, treating such a normalisation seriously and not for the sake of appearances. However, the point of departure for any normalisation of relations between the FRG and Poland is that the FRG government should renounce its programme of territorial revisionism.

The principal document relating to a peace treaty with Germany is a memorandum submitted by the Polish government at the conference of deputy foreign ministers on Germany, convened in London in January 1947. The speech by the Polish delegate at that conference, made on 27 January 1947, at the outset drew the attention of the participants to

the difficulties faced by the conference. It was entrusted with the task of preparing materials for a peace treaty with Germany by the Council of Foreign Ministers. Assessing the role of Great Powers in the task, the Polish delegate said: “[...] We are fully aware that the main burden of sustaining peace falls on the Great Powers and that it is their unanimity that guarantees most significantly and realistically our own and common security [...].” In his speech, he cited many times the Potsdam Agreement and the legislation of the Allied Control Council over Germany. The speech also referred on several occasions to the Yalta Agreement and the Declaration by the Three Great Powers published after the Tehran Conference. The memorandum said that “the decisions made at these conferences have been received by the peoples of the world with confidence as the chief principles of the international order”.

The Polish memorandum set out the chief principles of a planned treaty with Germany in 24 points. The Potsdam Agreement and legislation of the Allied Control Council over Germany are cited over a dozen times in the 24 points. In addition, the memorandum cites the following acts of international law: the Moscow Declaration on the Punishment of War Crimes of 30 October 1943, London Agreement on War Criminals of 8 August 1945, the United Nations Declaration of 1943 and certain legislation of the Allied Control Council over Germany.

This principal document submitted by Poland in January 1947 has the form of an outline peace treaty with Germany. It is a catalogue, so to speak, of issues of particular interest to Poland to be covered by the treaty. For every issue listed by Poland, legal grounds are provided. In the conclusions, the Polish government says it is ready to present its point of view on the issues raised, as it believes to be necessary, ‘in the course of further work on the drafting of a peace treaty’. Finally, the Polish government proposes that a peace treaty with Germany be signed in Warszawa. It must be emphasised that this is the principal Polish published document on which work can proceed to draft a peace treaty with Germany.

