

SUMMARY RECORD OF THE SEVEN HUNDRED AND SIXTH MEETING

held on Thursday, 18 July 1974, at 3.30 p.m.

Chairman: Mr. AKHUND Pakistan

THE IMPACT OF MULTINATIONAL CORPORATIONS ON THE DEVELOPMENT PROCESS AND ON INTERNATIONAL RELATIONS (agenda item 8) (continued) (E/5500 and E/5500/Add.1 (parts I and II), E/AC.6/L.553, E/AC.6/L.554)

Mr. SCHWEBEL (United States of America), introducing draft resolution E/AC.6/L.553, said that the report of the Group of Eminent Persons to Study the Role of Multinational Corporations on the Development Process and on International Relations (E/5500/Add.1 (parts I and II) had been issued only a short time before the start of the Council's fifty-seventh session, and consequently members of the Economic Committee would not have an opportunity for the kind of discussion the report deserved. He saw much merit in the report, but at the same time had very serious reservations concerning parts of it. He favoured the continued involvement of the United Nations with the subject of multinational corporations and, more generally, with the problems of foreign investment, and agreed with the view expressed in the report that the Council should play a central and continuing role in United Nations concern in the matter. The Group of Eminent Persons had suggested in its report that the Council should consider the subject annually. The United States, for its part, would prefer that questions of international investment relations in general and those of multinational corporations in particular should be considered by the Council as often as significant developments warranted, which need not necessarily be every year. If there were provision for annual consideration of the matter, there might be a tendency for the Council to dwell on the subject for the sake of dealing with an agenda item rather than because the subject required attention.

The Group had recommended that a commission on multinational corporations be established (E/5500/Add.1 (part I), chap. III). In principle, the United States agreed that a commission should be established to serve as a focal point in the United Nations for consideration of the subject of foreign investment in general and multinational corporations in particular and to encourage a dialogue between interested parties. If a commission was established, its work should be carefully co-ordinated with that of other United Nations organs. The General Assembly had already requested UNCITRAL to examine the question of the need for legal rules for multinational corporations. That was the sort of activity which the proposals of the Group embraced, and there seemed to be general agreement in the Council that duplication of effort should be avoided. The title of the proposed commission and its terms of reference should reflect the emphasis placed in the report on the development process as a whole and should encompass the full range of investment problems with which the report dealt; they should not be restricted to multinational corporations.

The Group had recommended that the proposed commission be composed of private persons rather than government representatives. The Secretary-General had endorsed that recommendation. The United States Government viewed that recommendation with caution. It saw some advantages, but also some disadvantages, in a commission so composed. If the commission was composed of individuals acting in their private capacity, that fact should affect its terms of reference. There were certain

activities - such as elaborating codes and agreements and serving as a focal point in the United Nations system for consideration of problems relating to multinational corporations - which, it seemed, would be more appropriately carried out by government representatives. If, however, its terms of reference were to be restricted to receiving reports, facilitating dialogue between interested parties and organizing the collection and analysis of information, a commission composed of private individuals would be appropriate. In that case, however, it should not be a commission of the Council but an advisory committee of the Council.

It would seem premature at the present stage to reach a conclusion concerning the desirability or feasibility either of a code of conduct for multinational corporations and governments or of treaties on the subject. That question could better be decided as institutions evolved, as information was collected and as a better sense of what was possible manifested itself.

The United States supported the proposal for the establishment of an information and research centre on multinational corporations (ibid., third recommendation). Such a centre should form an integral part of the United Nations Secretariat. If such a Secretariat body was established, it should work under the direction of the commission, when that, too, was established. Before such a centre was set up, careful consideration must be given to its terms of reference, for there was an infinite amount of information which might be gathered, and unless it was purposefully gathered the result would be submergence in data rather than clarification. Not the least of the problems in the sphere of information gathering was that of confidentiality; standards in that regard would have to be established. That could not be done quickly. The proposal that the centre should provide technical and advisory services in the sphere of multinational corporations should be approached with caution. It might be better if such services were to be provided through UNDP and UNIDO. While it might be desirable for the United Nations to help countries, at their request, in drafting model investment codes or revising their corporate codes, the propriety of participation by United Nations officials or experts in negotiations between multinational corporations and Governments seemed doubtful.

His delegation realized that there might be some differences of opinion on the procedural points he had mentioned. Accordingly, under the draft resolution it had submitted (E/AC.6/L.553), the Council would be afforded the necessary time to think the matter out. The draft resolution took account of the fact that the consideration the Council would be able to give to the report on multinational corporations at its current session would of necessity be preliminary. It also took account of the continuing importance of the role of multinational corporations in the development process and in international relations. Thus, the Council would take note of the report and of the comments by members of the Group and would express its appreciation to the members of the Group for their efforts. Operative paragraph 3 of the draft resolution was most important, because he did not think that the analyses of the report on the basis of which the Council would act should be limited either to the brief discussions in the Economic Committee or to the views of the Council alone; all Members of the United Nations should be invited to consider the report and express their opinions on it. The proposals to be prepared by the Secretary-General under operative paragraph 4 should set out the proposed functions and budgetary implications of the information and research centre. His delegation hoped that in preparing his proposals, the Secretary-General would take full account of the views expressed on the matter by members of the Economic Committee. The United States, at any rate, did not fully endorse the terms of reference for the

centre recommended in the report. In order to expedite a decision on the matter, his delegation had proposed, in operative paragraph 5, that an item concerning multinational corporations should be placed on the agenda for the fifty-eighth session of the Economic and Social Council. At that time there could be an in-depth discussion of the report and a decision should be taken on the establishment of the commission on multinational corporations. His delegation was not prepared to take such a decision yet, because opinions were divided concerning the mandate and composition of the proposed Commission. At the 705th meeting, the representative of the United Kingdom had suggested that should the Economic Committee be unable, in the short time at its disposal, to settle the differences of opinion concerning procedural matters, it might be useful to establish an ad hoc committee of the Economic Committee to consider and make recommendations on the proposals of the Group of Eminent Persons and of the Secretary-General regarding the creation of new machinery on multinational corporations. That was a sensible proposal which his delegation would support should it commend itself to the members of the Economic Committee.

Mr. EKBLÖM (Finland) said that it was highly appropriate that, at a time when the international community was focusing attention on the real meaning of the principle of permanent sovereignty over natural resources, and when international monetary instability was bringing disorder into the world economy, serious consideration should be given to the impact of the multinational corporations. The report of the Group of Eminent Persons to Study the Role of Multinational Corporations on Development and on International Relations (E/5500/Add.1 (parts I and II)) had been studied quite thoroughly and with great interest by a large segment of the competent authorities in Finland. On the whole, they agreed that there was a need to continue the study on a permanent basis with a view to obtaining information for an objective rather than a polemical debate on the matter. It seemed useless to pass any generalizing judgment on either the negative or the positive impact of the multinational corporations on development or on international relations as a whole. What was needed was not accusation or defence, but appropriate machinery for maximizing the positive effects of the presence of those corporations and bringing its undesirable consequences under control. His Government agreed that such machinery should be established. In that context, he stressed the importance of providing for the collection of objective data. In principle, his Government favoured the establishment of a commission as recommended in part I, chapter III, of the report. His delegation welcomed the Group's emphasis on the importance of co-ordination and the need to avoid duplication of work already being done by various international organizations.

His Government considered that although the report concentrated on the problems of the developing countries, the industrialized countries should be fully integrated in the scheme for investigating and analysing the impact of the multinational corporations. The problems of the developing countries and the negotiating positions of those countries were, of course, different from those of industrialized countries. Nevertheless, the multinational corporations raised many problems for the industrialized countries, too. In the opinion of his delegation, insufficient attention had been given to that aspect of the matter in the report.

In the movement towards a new economic international order, the relations between the multinational corporations and their host countries must be scrutinized and the problems to which they gave rise must be tackled. Balanced solutions had to be found for those problems, and the interests of both parties must be taken into account.

It was essential that the corporations should bear the host country's economic and social interests in mind in making their decisions, and the host country in turn must have some say in the activities of multinational corporations when the latter, by pursuing a policy of independent profit-making, hampered its economic and social development. That was definitely an area of international relations for which a code of conduct was required.

In conclusion, he said that his delegation fully endorsed the statement made by the Chairman of the Group of Eminent Persons at the 705th meeting that the report was only the first chapter in a continuing process of investigation and analysis. It was to be hoped that that view would be stressed in any resolution the Economic Committee might adopt on the subject.

Mr. BERLIS (Canada), introducing draft resolution E/AC.6/L.554, said that the draft reflected the views set out in his statement at the 705th meeting concerning the need for the Council to concentrate, at its current session, on the establishment of machinery to carry forward work on multinational enterprises and on the mandate and terms of reference for such machinery. His delegation had attempted to keep the text of the draft resolution as brief as possible while not omitting any essential elements on which decision seemed desirable at the current stage. Operative paragraph 1 had been drafted in such a way as to admit discussion on various options regarding the composition of a new body before any final conclusions were reached. Operative paragraphs 2 to 6 were concerned with the mandate and terms of reference of the new body and were largely self-explanatory.

His delegation was prepared to meet other delegations to discuss the draft resolution. It hoped that other members of the Economic Committee would find in the draft a basis of agreement for launching a new stage in United Nations activity on that most important subject.

Mr. RIDDELL (International Confederation of Free Trade Unions), speaking at the invitation of the Chairman, said that the International Confederation of Free Trade Unions (ICFTU) welcomed the reports of the Secretary-General (E/5500) and the Group of Eminent Persons (E/5500/Add.1 (parts I and II)) and also most of the conclusions, recommendations and proposals they contained, although it had had to decline an invitation to appear before the Group because the Group's members had not included any accredited trade union representative.

He was the more gratified by the international community's recognition of the importance of the problem under discussion since it was the international trade union movement which had first drawn the attention of world public opinion to the significance of the role of multinational corporations in economic, social and political affairs. That movement had also been the first organized social group to undertake collective action to counteract the negative effects of the growth of multinational companies, as well as to limit and ultimately bring under social control their largely unregulated activities.

The trade unions' interest in the matter was not surprising, for at an early stage in their history they had become aware of the dangers which the international operations of capital could represent to the exercise of trade unions' rights, workers' earnings and security of employment.

Many Governments were aware of the need to build some form of countervailing power to that of the multinationals, and some of them recognized that, in the social field at least, only the trade union movement could provide a solid basis for such a power. The trade unions realized however, that efforts to build a countervailing power to that of the multinational companies could not be limited to the social field, and that, as in the case of certain other of their objectives, collective bargaining procedures might not be sufficient in themselves for dealing with all the various problems involved. Political action with a view to the introduction of appropriate legislation was also required. In the first instance, such legislation would of course be national in scope, but steps should be taken at the same time to generalize and co-ordinate it at the international level. The only outcome of isolated national attempts to control the companies' activities would be to direct multinational investment into the countries which imposed the least controls.

The International Confederation and the international trade secretariats associated with it had for some time been co-ordinating their strategy and action on multinational company problems through a joint working party. Besides pooling information, and when necessary, helping to organize solidarity in support of workers engaged in disputes with those companies, the working party had promoted research on the kind of legislative action required for imposing the necessary social controls. His organization had thus called for measures to control foreign direct investment, both at the point of departure and at the point of entry; it had also proposed that outward investment controls be used for bringing pressure on totalitarian governments to observe human rights. Other areas in which the need for legislative measures had been indicated were international take-overs, public accountability, taxation, monetary speculation, restrictive business practices and investment incentives.

In matters of social legislation, multinational companies must obviously be subject to the same laws as domestic enterprises; exemption from certain obligations of that kind, sometimes granted as an investment incentive by the governments of developing countries, was socially undesirable and should be withdrawn. Certain additional obligations, however, should be imposed on multinational companies. With regard to industrial democracy, for example, it was evidently not sufficient to insist on 50 per cent labour representation on a supervisory board, if the board itself was not autonomous, but subject to control from a parent body in another country.

In developing countries, the companies should be obliged to make a substantial contribution from the profits made in those countries to the development of their socio-economic infrastructure. Since few governments of such countries would wish to incur the risk of inhibiting the flow of badly-needed investment by unilateral measures of that kind, that, too, was a matter for international agreement.

Other social legislation needing amendment in many countries was legislation banning sympathy strikes and other forms of international solidarity action among or in support of the workers in multinational companies.

National legislation for controlling multinational companies often needed to be supplemented - and sometimes even preceded - by international agreements with machinery for supervision and, if need be, enforcement. That was true where the nature of the practices calling for control was intimately connected with the international character of the companies. It was also true of almost any control measures to be applied by small countries whose total budget might be less than one-tenth of the annual turnover of some of the huge concerns they had to deal with. Such countries obviously needed the moral, material and institutional support of the international community.

There could therefore be no doubt that a new international agency under United Nations auspices was urgently needed for the control of multinational company activities. It would be the task of that agency to elaborate the international agreements of a social, economic, trading, technological, fiscal and financial nature required to co-ordinate, complement and reinforce national legislation in the matter. The agency would of course work in close co-operation with other United Nations bodies concerned with particular aspects of the problem. In the absence of such an agency, concerned exclusively with multinational company problems and having the power to apply socially useful solutions, discussion might go on for years without leading to any action.

The report of the Group of Eminent Persons had certain obvious weaknesses and lacunae, particularly chapter VII, dealing with employment and labour, which repeated, for example, the old untruth that multinational companies payed above-average wages. In chapter IX, on competition and market structure, there was a noticeable lack of emphasis on the need for national legislation to control mergers and take-overs, and on the need to take proper account of the social effects of that kind of concentration.

The section outlining the programme of work of the proposed commission could be considerably strengthened by casting it in the form of clearly-stated objectives with some indication of the manner in which they might be achieved. In particular, the main objective should be clearly spelled out as the conclusion of a multilateral treaty governing the activities of multinational companies, together with machinery for its application in the form of an intergovernmental agency.

In the view of the international trade union movement which he represented, however, the merits of the report far outweighed all its shortcomings. He welcomed, in particular, the recommendation to include trade union representatives on the proposed commission, for the aim would never be achieved without the active support of the world's workers and their trade union organizations.

The recommendations before the Council were quite unprecedented, but so were the economic and social problems with which they were designed to cope. The Confederation was confident that the Council would not miss that historic opportunity of taking a bold first step towards the establishment of the new economic order to which the United Nations, as well as the world labour movement, was so deeply committed.

STUDY OF THE PROBLEMS OF RAW MATERIALS AND DEVELOPMENT: CONSIDERATION OF DRAFT RESOLUTIONS REFERRED TO THE COUNCIL BY THE GENERAL ASSEMBLY (agenda item 5)
(continued)* / (E/L.1599)

Mr. PEREZ TOMAS (Argentina) said he considered that the establishment of the new machinery proposed in all the draft resolutions (E/L.1599) was unnecessary; the existing agencies could be strengthened in order to carry out the contemplated tasks and UNCTAD, acting together with other bodies, seemed most suited for that purpose.

* / Resumed from the 704th meeting.

He saw some merit in the idea of an economic observatory, but if, as was proposed in draft resolution I, such an observatory was established it should concern itself not only with raw materials but also with manufactured goods, and attempt to establish a link between the prices of raw materials exported by developing countries and those of the manufactured goods they imported.

The real problem as indicated by the Australian representative (704th meeting), was access to markets; until the barriers erected against exports from the developing countries were removed it was idle to talk of improving the situation of those countries.

The Venezuelan delegation had proposed that the Secretary-General should bear in mind draft resolution II, and the observations made at the Council's present session, in preparing the report requested of him in Council resolution 1761 B (LIV). He thought that proposal deserved the Committee's attention.

He might wish to speak later on draft resolutions III and IV.

Mr. KACIMAIWAI (Fiji) said that developing countries were worried about the real value of their raw materials after exploitation, and he agreed with the Australian representative that access to markets was an important factor. There were common elements in all four draft resolutions, and they were to some extent complementary; for example, the work of the group of eminent persons proposed in the United States draft resolution would be complementary to the functions envisaged for the economic observatory. Overlapping would certainly result if all the various bodies proposed in the draft resolutions were established. It would seem reasonable, therefore, to make use, if possible of the existing machinery in the United Nations system.

The meeting rose at 4.35 p.m.