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PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL
LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER

Report of the Secretary-General

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* A/41/150.

I. INTRODUCTION

1. On 11 December 1985, the General Assembly adopted resolution 40/67 entitled "Progressive development of the principles and norms of international law relating to the new international economic order". By that resolution, the Assembly, aware that the period of time available for consideration of the analytical study submitted at the thirty-ninth session by the United Nations Institute for Training and Research (A/39/504/Add.1, annex III), had been relatively short and that only a limited number of Member States had been able to submit their views and comments thereon (see A/40/446 and Add.1 and Add.1/Corr.1) pursuant to paragraph 2 of resolution 39/75, urged Member States that had not done so to submit, not later than 30 June 1986, their views and comments with respect to the study, including proposals concerning further action and procedures to be adopted within the framework of the Sixth Committee with regard to the consideration of the analytical study.
2. The Secretary-General accordingly addressed to Governments of Member States a note dated 6 February 1986 inviting them to communicate to him views and comments they might wish to send pursuant to resolution 40/67.
3. The present report reproduces the replies that had been received from Governments as at 15 September 1986. Further replies will be reproduced in addenda to the present report.

II. VIEWS AND COMMENTS SUBMITTED BY GOVERNMENTS

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[24 July 1986]

1. The Byelorussian SSR has already commented on the question of the progressive development of the principles and norms of international law relating to the new international economic order (see A/40/446/Add.1) and at the current stage, in addition to those comments, it wishes to state the following views.
2. The establishment of international economic relations on a just and democratic basis is one of the most important tasks facing mankind. The progressive development, consolidation and codification of the fundamental norms of international law relating to the new international economic order is of great significance in solving the overall problems of improving international economic relations, strengthening equal, non-discriminatory trade, economic, scientific and technical ties and ensuring the economic security of States. Now as never before it is important to find ways of not only normalizing international economic relations, but also of consolidating peace and creating a comprehensive system of international security, including economic security. The adoption by the General Assembly at its fortieth session of resolution 40/173 of 17 December 1985 entitled

"International economic security" demonstrates that the broader approach to the problem of normalizing international economic relations enjoys the support of the States Members of the United Nations.

3. The questions of establishing equitable international economic relations on a non-discriminatory basis should be the subject of broad international discussion. The world community must display concern about ensuring the economic security of States and peoples. International economic security involves the elimination of unlawful discrimination from the practice of international relations, a just solution of the problem of foreign indebtedness, the establishment of a new international economic order and the solving of other economic problems. In this connection, the well-known proposal by the Soviet Union concerning the future convening of a world congress on problems of economic security, at which the range of factors complicating world economic ties could be discussed, is very timely.

4. The Byelorussian SSR believes that the codification of the principles and norms of international law relating to the new international economic order should be directed in the first place at excluding from the sphere of inter-State relations economic blockades and sanctions, where they are not directly provided for by decisions of the Security Council, and all forms of discrimination and diktat. The resort to blackmail and military threats, financial boycott and economic and trade sanctions is hindering the restructuring of international economic relations, impeding the economic development of States and hampering the establishment of international economic co-operation for the benefit of all peoples. The economic boycott and sanctions imposed by the United States against Nicaragua and the Libyan Arab Jamahiriya, which are struggling for their freedom and independence, are extremely dangerous.

5. As a result of the policy followed by the leading capitalist States in international economic relations, a sharp deterioration has occurred in the international economic climate and in foreign exchange, financial, scientific and technical relations among States, accompanied by a worsening of the economic situation of the developing countries. The development and codification of international legal norms in the economic sphere should serve to eradicate all types of sanctions not envisaged in recommendations of the world community. The work on codification should aim at ensuring the equal economic security of States. International economic relations should be restructured in such a way that all countries are able to develop their economies and move forward along the path of development under conditions of peace, justice and mutually advantageous co-operation. This objective would also be served by the strict observance by all countries of such principles enshrined in the Charter of the United Nations as the sovereign equality of States, the non-use of force or the threat of force, respect for national independence and sovereignty, non-interference in the internal affairs of States, and others.

6. The most serious world-wide problem is the impoverished situation of developing countries. The current confrontation and the arms race place an enormous burden on them. Many have been drawn into the arms race, which is absorbing enormous material resources and is having an adverse effect on the economy. The imperialist States and transnational corporations are pursuing a

neo-colonial policy of exploitation of the natural, human and financial resources of the developing countries. The recent special session of the General Assembly on the critical economic situation in Africa revealed that the leading capitalist countries are blocking the economic liberation of Africa. This policy does not contribute to the establishment of truly just international economic relations.

7. One of the most acute problems for developing countries is foreign indebtedness, which has reached the astronomical sum of \$1 trillion. Payments on foreign loans and credit are so high that they have been threatening not only the long-term development programmes of these countries but even the normal functioning of their economies. It is becoming clear that in order to overcome the crisis of the developing countries, far-reaching measures are needed to eradicate the deep-seated causes of this crisis, which were inherited from colonialism or engendered by neo-colonialism. These measures should be closely co-ordinated with the solution of the problem of disarmament. Every step towards limiting and eliminating weapons, especially nuclear weapons, and preventing an arms race in outer space would not only ensure greater security for everyone but also make it possible to release resources for overcoming the economic backwardness of developing countries. To this end it would be useful to work out principles governing the utilization for the benefit of the world community, and above all the developing countries, of part of the resources released as a result of the reduction of military budgets.

8. The Byelorussian SSR believes that the solution of acute economic problems is inseparable from the struggle against the nuclear danger and the arms race and for the preservation and strengthening of world peace. It is difficult to develop principles and norms of international law relating to the new international economic order in a situation where there is a threat hanging over mankind, when colossal material and financial resources are being used for military purposes and when there is no desire among certain circles to establish equitable and mutually advantageous co-operation.

9. A vital condition for the establishment of a new international economic order is the close co-operation of States in order to solve the global problems of modern times, such as the protection of nature, the peaceful utilization of outer space and the exploitation of the oceans and seas, and the use of new sources of energy. In the view of the Byelorussian SSR, a basic principle to be observed in this respect is a careful attitude towards nature and a rational use of its resources. States must co-operate more closely in the development of nuclear energy. Measures should be agreed upon within the framework of IAEA for co-operation in the interests of the safe development of this form of energy, without which it is difficult to envisage the future of the world economy.

10. The decisions adopted by the United Nations, and above all the Charter of Economic Rights and Duties of States and the Declaration on the Establishment of a New International Economic Order, must be made the basis for the codification of the principles and norms of international law relating to the new international economic order as a vital prerequisite for improving international economic relations. It is regrettable that up to now, because of the policy of certain circles, these programmes are not being put into effect.

11. The Byelorussian SSR supports United Nations efforts to codify the international legal norms regulating economic relations among States since, if these norms are given general force, States will more easily become equal participants in international relations. The progressive development of the principles and norms of international law relating to the new international economic order is a genuine necessity. Further measures on the codification of this important sphere of international law could be discussed in the Sixth Committee during the forty-first session of the General Assembly. In the course of the discussions it would be fitting to determine the United Nations body to which this task could be entrusted.

CUBA

[Original: Spanish]

[15 May 1986]

1. In the view of the Government of Cuba, it is essential, within the framework of the Sixth Committee, to begin adopting measures assigned to develop norms of international law that would regulate the establishment of the new international economic order.
2. In this connection, the Government of Cuba emphasizes the necessity of establishing a group of United Nations experts to explore possible ways of changing the factors responsible for the unjust system of economic relations imposed on the developing countries.
3. One such factor that must be eliminated is the prevailing imbalance in the terms of trade between the developed countries and the so-called third world countries. The latter group of countries should not have to continue selling at low prices raw materials which are processed by the industrialized countries and sent back to them transformed into manufactured goods that they can barely afford to import.
4. Equally pressing concerns are the search for a solution to the problem of the foreign debt which is threatening to smother the already highly precarious economies of the developing countries, and the reduction of the interest rate on that debt, which is rising without regard for the developing countries' capacity to pay and the economic difficulties confronting them.
5. In its deliberations, the working group advocated by the Cuban Government should pay attention to the urgent necessity of establishing an appropriate legal framework for putting an end to both the protectionist measures strangling the developing countries and the unjust monetary policies imposed by the most powerful capitalist countries.
6. It is necessary to establish the legal bases for a more just new international economic order, in which the commodities exported by the developing countries would be more fairly priced, in which favourable credit terms would be envisaged, with acceptable interest rates and repayment periods long enough not to curb the economic development of those countries, and in which account would be taken of

each country's capacity to pay according to its own economic situation. It is on those bases that loans should be re-negotiated.

7. The Government of Cuba further maintains that a way should be found to extend to the developing countries free of charge, technical co-operation and appropriate training in this field. In short, it considers the attainment of just and equitable economic relations an essential premise for safeguarding international peace.

RWANDA

[Original: French]

[4 August 1986]

1. The Government of the Rwandese Republic has taken note of UNITAR's analytical study identifying important principles relating to the new international economic order concerning economic relations among States, international organizations and other entities of public international law and, in that connection, has made the following comments.
2. The establishment of a new international economic order should be consecrated by the adoption of ad hoc legal norms and by the implementation of new forms of international administration which would be directly operational.
3. In view of the foregoing, the Government of the Rwandese Republic is convinced that the study prepared by UNITAR is within the ambit of the progressive development of international law and its codification and that the principles and norms of international law relating to the new international economic order as identified to date derive from two fundamental principles enshrined in the Charter of the United Nations (sovereign equality of States and the duty of States to co-operate with one another), fit into it and derive their impact therefrom in their application to international economic relations.
4. Each of the principles identified in the UNITAR study is, of course, important in its own way and is designed to govern a very important aspect of the new international economic order aimed at achieving a greater degree of substantive equality in the international community, not only in the sharing of the outputs of the international economic system, but also in its structures and the modalities of its functioning.
5. The Government of the Rwandese Republic believes that in addition to the list of the norms and principles relating to the new international economic order prepared by UNITAR, the following principles should be taken into account in order to reinforce them: equity and mutual assistance in economic relations, the elimination of economic (and customs) barriers, renunciation of aggression or economic pressure and settlement by peaceful means of any dispute between States (developed States versus developing States and vice versa), including economic disputes. It is the view of the Government of the Rwandese Republic that these principles, in addition to the principles identified in the UNITAR study and

approved by the General Assembly, are destined to contribute in one way or another, not only to the clear enunciation of the rights and obligations of States, but also to the establishment of codes of conduct to ensure the development of just and equitable economic relations.

6. The analytical study prepared by UNITAR proves in many respects that the establishment of a new international economic order will be a basic fact of world history from this day forth. With the advent of solidarity as a critical value, this new international economic order will require the promotion of new relations based on respect for the independence and sovereignty of States, full equality of rights, and the inalienable right of each State freely to choose its economic system. It will also require the promotion of new international trade relations and economic co-operation with a view to guaranteeing mutual benefits on the basis of the principles of equality, solidarity and complementarity. Furthermore, the Rwandese Government considers that there is now an imperative need to formulate and clarify the norms relating to the right of States to develop their economic systems. It considers it even more important that the forms and methods of co-operation for the development of all States and particularly the developing States should be properly defined and elaborated.

7. At the same time, Rwanda, as a developing country wishes to place particular emphasis on three of the principles adopted by the General Assembly, without which the attainment of the goals of the new international economic order would be jeopardized, namely:

(a) Preferential treatment for favour of developing countries

If we accept that the main purpose of the new international economic order is to "re-equilibriate the international economic system in order to make it a more congenial environment for, and conducive in its mechanisms to, the development of third world countries," then their trading partners should grant them preferential, non-reciprocal and non-discriminatory treatment, thereby establishing a basis of corrective action, whether remedial or "affirmative", to address the situation of economic inequality.

(b) Full and effective participation on the basis of equality of all countries in the solving and treatment of world economic problems

All States, and the developing countries in particular, aspire to the democratization of international relations which would entail, firstly, the participation of all States, on the basis of equality of rights, in the consideration and solving of world problems in the common interest, inter alia, development and peace, both of which can be achieved through the establishment of a new international economic order. The objective of this claim, asserted by most of the developing countries is, as emphasized by Mohammed Bedjaoui in Pour un Nouvel Ordre Economique International, "participation by all States concerned in every phase of the decision-making process. This presupposes, firstly, participation in consideration of the questions and ..." in the definition of the problems to be discussed. Secondly, it presupposes participation in the adoption of the actual decision according to procedures which differ - and may or may not involve voting - but which, in any case, respect the principle of participatory equality. Lastly,

it means participation in monitoring the implementation of the decision taken, which is only as good as its application". 1/ The Government of the Rwandese Republic attaches particular importance to such participation of all States in decision-making in an area of such importance. It hopes that this participation will be full and effective and believes that non-participation by a State in decisions affecting it would amount to a negation of its sovereignty and of its right to self-determination.

(c) Principle of the common heritage of mankind

This principle is firmly established, for it was given specific application in two sets of major multilateral instruments on relating to the sea-bed and ocean floor and the subsoil thereof, and outer space. This principle has to do with the need to recognize the rights of all mankind to resources of every kind situated beyond the limits of national jurisdiction. In this context, the Rwandese Government believes that the developing and non-aligned countries should take immediate action to establish an international régime and an international mechanism to ensure that the technologically advanced countries are not the only ones to benefit from their access to these two areas and their resources. The régime and mechanism would operate in such a way that capital and technology would be made to work for mankind, represented by an international authority such as the United Nations, to ensure that exploitation of these areas would provide genuine benefits for all. For this reason, the concept of a common heritage of mankind is of fundamental importance to the establishment of a new international economic (and legal) order and could play a part in furthering its goals.

8. There is another principle on which the developing countries are currently focusing special attention: the right of every State to have access to science and technology. As the very essence of this principle is to ensure for developing countries access to the achievements of modern science and technology, the Government of the Rwandese Republic is convinced that science and technology, as tools capable of providing rational solutions to the acute economic problems of all mankind, cannot be eternally appropriated for the almost exclusive promotion of a type of development which would benefit a limited number of countries and peoples only. In this connection, the Government of the Rwandese Republic appeals to the entire international community to support actively and resolutely all efforts undertaken, or yet to be undertaken, in this area, and hopes that the results of scientific and technological research will be utilized rationally, positively, and for humanitarian purposes. It should be noted that this wish of the Rwandese Government is in harmony with the concerns of the General Assembly which, in 1975, emphasized in its resolution 3384 (XXX) that progress in science and technology should be used in the interests of peace and mankind. That right is also enshrined in the Charter of Economic Rights and Duties of States (see General Assembly resolution 3281 (XXIX)) and it is an acknowledged right of every State: the right to benefit from the advances and developments in science and technology for the acceleration of its economic and social development (art. 13).

9. Given the importance of this subject with respect to the norms and principles in the ambit of the new international economic order, the Government of the Rwandese Republic believes it would be best if the codification of this were

entrusted to the International Law Commission (ILC). The relevant documents and working materials are available, but it should be duly taken into account that some of the principles identified by UNITAR actually are within the purview of international law relating to the new international economic order, while others are still in an embryonic stage or in the process of being elaborated.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[20 August 1986]

1. The Ukrainian Soviet Socialist Republic favours the intensification of United Nations work on the progressive development of the principles and norms of international law relating to the new international economic order. Their development and codification are one of the most important and complex factors in the overall task of normalizing international economic relations, establishing equal and totally non-discriminatory trade and economic ties between countries, and guaranteeing the economic security of States.
2. A number of questions requiring immediate solution has now emerged in the area of international economic relations. A solution is essential in order not only to normalize economic relations between States but also to improve the international climate and create a comprehensive system of international security. The adoption at the fortieth session of the General Assembly, on the basis of a proposal by the Soviet Union, of resolution 40/173 of 17 December 1985 entitled "International economic security" testifies to this broader understanding by the international community of the problem of restructuring economic relations on a just and democratic basis and of establishing a new international economic order as an inseparable component of a comprehensive system of international security. International economic security must be predicated upon the elimination of discrimination from international relations, the just solution of the problem of foreign indebtedness, the establishment of a new international economic order and the solution of other vital economic problems in the interests of the entire world community.
3. The progressive development and codification of international legal principles and norms in the area of international economic relations must be designed to guarantee equal economic security for all States, regardless of their social and economic orientation and level of development. This means the creation of such legal guarantees as would enable all countries to enjoy economic growth and a rise in living standards.
4. Important provisions which should underlie the activities of States in improving international economic relations and eliminating negative factors in this area are contained in the Charter of the United Nations. Reference here is primarily to the fact that one of the purposes of the United Nations under Article 1, paragraph 3, of the Charter is to achieve international economic co-operation in solving international problems of an economic and social

character. The achievement of this goal requires in particular the preparation of legal instruments which will make it possible to free international economic intercourse from such negative phenomena as discrimination and diktat, the use of trade and economic ties to exert pressure, economic sanctions not called for by decisions of the Security Council, and the various forms of economic aggression. Such actions are a flagrant violation of the principles and norms of contemporary international law. They undermine the international legal order and are completely incompatible with efforts to restructure international economic relations on a just and democratic basis. In this connection, the unlawful economic sanctions and the boycott imposed by the imperialist forces against Nicaragua and the Libyan Arab Jamahiriya must be lifted. The pursuit by these same forces of a policy of economic blackmail as a means of exerting pressure on States Members of the United Nations deserves special condemnation when this universal international organization considers a number of items on the agenda of its bodies. The Ukrainian SSR feels that it is important to convene in the future a world congress on the problems of economic security which could examine in their entirety all negative phenomena in international economic relations and suggest ways to eliminate them.

5. In recent years, the extremely difficult economic situation of many developing countries has become one of the world's most serious problems. The imperialist States, which are the parties mainly responsible for the tragic events being experienced by these countries, are trying to force them to renounce the introduction of progressive social and economic reforms, to curtail the State sector of the economy, and to repeal legislative measures aimed at protecting national industry, thereby opening the doors to uncontrolled domination by foreign capital. A reliable international legal barrier must be erected against these and other such unlawful actions. The problem of the foreign indebtedness of developing countries, which has recently assumed catastrophic proportions and is a direct consequence of the existence of an unjust international economic order imposed by imperialism, also requires a just legal solution.

6. The Ukrainian Soviet Socialist Republic, which regards the United Nations as an effective instrument for solving the vital problems of mankind, expresses its deep concern over the absence of genuine progress in the Organization's work to improve international economic relations. The time has come for the United Nations to intensify its efforts in this area, and particularly to work out specific measures to counteract the negative developments imposed by the imperialist States in the area of economic relations. One of the primary tasks here is to end the arms race, eliminate nuclear and chemical weapons, drastically curtail the military expenditure of States and thereby release most resources, some of which could be allocated to the economic and social development needs of all countries, and primarily the developing ones. To that end it would be useful to formulate appropriate principles for the use of these resources. The Ukrainian Soviet Socialist Republic regrets that this year, because of the obstructionist tactics of certain States, it was not possible to hold a conference on disarmament and development, and it insists that one must be held. The task of this forum must be to make the principle of "disarmament for development" effective.

7. A vital condition for establishing a new international economic order and guaranteeing international economic security is the expansion of co-operation among States in solving mankind's global problems, such as the peaceful conquest of space and the oceans and seas, security, the promotion of food for the planet's growing population, action to combat environmental pollution and the mastery and use of the atom for peace purposes. The solution of these problems requires a constructive approach by all members of the international community and must be implemented on the basis of faithful observance of the principles and norms of contemporary international law.

8. The Charter of Economic Rights and Duties of States, the Declaration on the Establishment of a New International Economic Order and certain other progressive United Nations decisions could serve as a basis for the codification of international legal principles and norms concerning the restructuring of international economic relations along just and democratic lines. It is regrettable that so far these programme decisions have not been put into effect, because of the destructive policy pursued in international affairs by certain circles.

9. The elaboration of international legal principles and norms that would serve the restructuring of international economic relations on a just and equal basis and the guaranteeing of the economic security of all States without exception is a complicated process. Progress here obviously means moving in those areas where some progress has already been achieved. The preparation of further codification measures in this area and the solution of the question as to which United Nations body might best be entrusted with this task could be discussed in the Sixth Committee at the forty-first session of the General Assembly.

10. This information is communicated as a supplement to the Ukrainian SSR's previous reply (A/40/446/Add.1) to a similar questionnaire from the Secretary-General.

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]

[9 July 1986]

1. The following observations, supplementary to those already supplied by the Soviet Union to the United Nations Secretariat (see A/40/446/Add.1), are hereby submitted.

2. The development and codification of principles and norms of international law relating to the new international economic order constitutes an important and complicated aspect of a general problem: how to improve international economic relations, consolidate equal, discrimination-free trading, economic, scientific and technological links, and guarantee States' economic security. At present there has accrued in this sphere a series of burning cardinal issues which need to be resolved in order not only to normalize international economic relations but to

consolidate peace, and establish an all-embracing system of international security, including economic security. Evidence of the recognition by members of the United Nations of this kind of broader approach to the problem of normalizing world economic links and establishing a new international economic order can be found, for example, in the approval by the General Assembly at its fortieth session of resolution 40/173 of 17 December 1985, on international economic security, which was presented at the initiative of the USSR.

3. The Soviet delegation to the special session of the General Assembly on the critical economic situation in Africa (27-31 May 1986) emphasized that international economic security as an organic part of an all-embracing system of international security, requires the elimination from international practice of unlawful discrimination, a just resolution to the problem of external debt, the introduction of a new international economic order, and the solution of other pressing economic problems which affect the fate of all civilization. The USSR attaches importance to the future convening of a world congress on economic security issues where all impediments to world economic relations can be discussed together.

4. The progressive development and codification of principles and norms of international law in the sphere of economic relations should in the first instance seek the elimination from international practice of all forms of discrimination, and a repudiation of the policy of economic blockades and sanctions unless directly called for in recommendations by the world community (i.e., decisions of the Security Council). Policies of diktat, discrimination, and the imposition of unequal relations with other countries disrupt economic and political relations between States, hamper their normal development and undermine the rule of international law. A particular threat is posed by the unlawful economic boycott and sanctions adopted by the United States of America in the context of its aggressive policy towards Nicaragua and the Libyan Arab Jamahiriya, which are engaged in a just struggle for freedom and independence and are upholding their inalienable right independently to determine their own destinies.

5. The development and codification of international legal norms in the economic sphere should serve to abolish such "sanctions" and help to strengthen the fundamental provisions of the Charter of the United Nations, which prohibit the threat or use of force (Art. 2, para. 4), call for collective measures for the protection of the peace (Art. 1, para. 1) and so forth. The aim of the codification exercise should be to ensure equal economic security for all States. This implies not only the assurance of States' security from external economic dangers, but also their unhindered exercise of their sovereign rights in the sphere of international economic relations, equal collaboration irrespective of social structure, and economic growth throughout the world, especially in the developing countries.

6. The impoverished situation of the developing countries is one of the greatest problems the world faces. Within the impoverished situation of these countries lie the real sources of many conflicts in Asia, Africa and Latin America.

7. The problem of developing countries' external debts has become more acute than ever before in recent years. When combined with the volume of profits transferred

yearly out of those countries, the accumulated debt in slimmer prospects for development, an unavoidable exacerbation of already crippling social and economic problems, and the sapping of the economic lifeblood of newly independent States. Such a situation, if no just solution is found, is fraught with socio-economic and political implications for international relations.

8. The Charter of the United Nations contains key international legal principles to which action by States to remedy the present unfavourable situation in the sphere of international economic relations must conform. The reference here, first and foremost, is to one of the goals of the United Nations, embodied in Article 1, paragraph 3 of the Charter: to achieve international co-operation in solving international problems of an economic and social character. The development of international legal norms which is taking place in this direction must foster concrete measures to restructure international economic relations on a just and equal basis. A first step in this direction could be to reduce military expenditure and divert the resources towards social and economic development. Every step towards the limitation and abolition of weapons, nuclear weapons in particular, and averting an arms race in space would allow more resources to be released for improving people's living conditions. With this end in view, it would be useful to formulate principles to govern the use for the benefit of the world community, developing countries especially, of part of the resources released as a result of reductions in military expenditure. While advocating the steady implementation of the principle of "disarmament for development", the Soviet Union is pressing for a conference on disarmament and development. Such a conference must be convened, despite blatant attempts by a number of countries to prevent it.

9. One vital prerequisite for an improvement in international economic relations and guaranteed international economic security is the resolution, through States' combined efforts, of the global problems on which the fate of civilization depends. These are the pollution of the environment, the atmosphere and the oceans, the exhaustion of natural resources, and the investigation and peaceful uses of space. No one State or group of States can deal with these universal problems alone. World-wide co-operation and close, constructive interaction among the majority of countries are needed. Such co-operation must take place on the basis of complete equality, respect for the sovereignty of each party, and bona fide compliance with the obligations assumed and the norms of international law. Here the need for effective international procedures and machinery to ensure the rational use of the planet's resources is becoming increasingly apparent. The Soviet Union, notably, has submitted concrete proposals for ensuring closer co-operation among States in the interests of the safe development of nuclear power generation, without which the future of the world economy is hard to imagine. These proposals call for intensified co-operation within the framework of IAEA, and enhancement of the role and scope of that unique organization, including the convening under its auspices of a high-level international conference. The United Nations and its specialized agencies, WHO and UNEP, must become more actively involved in measures to ensure the safe development of peaceful nuclear activities.

10. The 1974 Charter of Economic Rights and Duties of States, the 1974 Declaration and the Programme of Action on the Establishment of a New International Economic Order and other progressive decisions by the United Nations should, in the Soviet

view, serve as the basis for the codification of principles and norms of international law relating to the new international economic order. Unfortunately, owing to the destructive course in international affairs being pursued by the imperialist States, these pivotal texts are not being acted upon. Furthermore, attempts are being made to impugn their practical worth and consign them to oblivion.

11. The same States are to blame for the cessation of progress on other important initiatives by the developing and non-aligned States for the progressive development of international law in the sphere of a new international economic order, such as the conduct within the United Nations of "global negotiations" on the most pressing world economic issues in accordance with General Assembly resolution 34/138, the formulation of codes of conduct to govern transnational corporations and the transfer of technology, and so forth. Clearly, it would be sensible to seek real progress in areas where some groundwork has already been done. The question of further steps towards codification in this area, and of the specific United Nations body to be entrusted with this task, could be discussed in the Sixth Committee during the forthcoming forty-first session of the General Assembly.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

[22 August 1986]

1. On behalf of the European Community and its twelve member States, the Presidency of which is currently held by the United Kingdom, the Permanent Representative of the United Kingdom, presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the latter's note of 6 February 1986 concerning General Assembly resolution 40/67 of 11 December 1985 entitled "Progressive development of the principles and norms of international law relating to the new international economic order".

2. In his note, the Secretary-General sought the views and comments of Member States with respect to the analytical study prepared by the United Nations Institute for Training and Research pursuant to paragraph 1 of General Assembly resolution 40/67. The member States of the European Community also refer to their note of 31 May 1985 in which they informed the Secretary-General that the UNITAR study required careful consideration by them. What follows are the comments by the Community and its member States on the UNITAR study as contained in UNITAR/DS/5 and UNITAR/DS/6 of 15 August 1982 and 10 October 1983, together with document A/39/504/Add.1 of 23 October 1984 which summarizes both the first mentioned documents. The Community and its twelve member States have prepared a concise selective commentary on the study, highlighting various aspects of importance to them rather than analysing the whole study in detail.

3. UNITAR has produced a substantial study based on extensive research, describing in detail the main instruments by which the international community, particularly within the framework of the United Nations system, has attempted to

adjust international economic relations in the light of new circumstances, in particular the need to take steps to foster development. While the study reveals a considerable measure of agreement within the international community on the nature of the problem and the action which is needed, it does not conceal the difficulties which have been encountered and the differences of opinion which have emerged. In general, it is a valuable survey which permits evaluation of the progress and gradual clarification of the principles and techniques of international economic co-operation.

4. The Community and its member States note with interest the consideration given to its own actions and specific policies in this field. It can be seen to have shown a long-standing awareness of development issues and to have entered at an early stage into extensive international commitments, a course which it will continue to follow.

5. Naturally, bilateral or regional agreements such as those concluded by the Community are binding only on their signatories, although they may, like the Lomé Convention, for instance, constitute a milestone and a model of international economic co-operation.

6. The question is whether such a study can support conclusions of general application and having the character of law, and more specifically whether it can be regarded as giving rise to a set of rules or complete legal system to govern international economic relations. This question requires a careful answer.

7. The United Nations Charter, particularly Articles 1 and 2, sets out the aims and principles of international co-operation, including economic co-operation, and defines Members' obligations. Any rule of law governing international economic relations must derive from recognized sources of international law, notably international conventions and custom.

8. While resolutions of the General Assembly and other United Nations bodies reflect a fairly clear line of approach to the organization of international economic relations, they cannot in themselves constitute a body of law binding on the members of the international community, and indeed the UNITAR study acknowledges that these resolutions have the status of recommendations. In addition, a number of the resolutions are not, either in whole or in part, based on consensus.

9. Overall, the Community and its member States believe that considerable progress has been made in recent years in international economic co-operation, going hand in hand with acknowledgement of the special needs of developing countries and measures to help those countries. While admittedly we have not yet made sufficient progress towards development, many developing countries have nevertheless managed to improve their lot, in some cases by judicious domestic adjustments. This is mirrored by the instruments adopted by the international community. Some of these instruments are binding on the parties, while others, though they reflect trends or map out directions, do not confer legal obligations. The following comments on certain specific aspects of the UNITAR study are to be read with this distinction in mind.

The "right to development aid"

10. Development aid in its various forms is an essential aspect of North-South relations. The flow of external resources is generally held to be an indispensable element of support for the developing countries' own efforts. Aid targets have been set out in a number of internationally-endorsed texts, notably the international development strategies for the second and third United Nations Development Decades, and special treatment is accorded to least-developed countries. Most developed countries have an aid heading in their budget.

11. The Community and its member States devote considerable sums to aid: there are the Member States' bilateral aid, the Community's own programmes - the Lomé Convention, aid to Mediterranean countries and Latin American and Asian developing countries - and multilateral aid contributions.

12. Can we speak of a "right to aid"? The Community's view is that there should certainly be a presumption on the part of the international community that aid is necessary for countries whose development is handicapped by grave structural defects, in particular the poorest and least advanced amongst them. To that extent it may be legitimate to speak of the "expectations" of developing countries, on the understanding that special attention must be devoted to the neediest of them.

13. However, while the circumstances of the developing countries have prompted many aid initiatives on their behalf, this does not at present confer on them a "right" in the strict sense of the word. Instruments such as the international development strategy provide a framework for international action but constitute guidelines rather than legally binding obligations.

The principle of preferential treatment for developing countries

14. The UNITAR study dwells at length on the instruments whereby, over the years, the international community has drawn up preferential, non-reciprocal arrangements designed to correct various imbalances which operate to the detriment of developing countries. One point brought out is that the General Agreement on Tariffs and Trade took an early lead in making special provisions for the developing countries (part IV of the General Agreement), at a time when the concept of a new international economic order did not yet exist. The GATT rules have been fine-tuned still further.

15. UNITAR counts 135 General Assembly resolutions calling for special treatment for the developing countries in 12 main areas of international economic co-operation. As we have already noted, not all these texts reflect consensus, as is clear from the voting details given in the study.

16. In all, the international community has done a great deal and it is noteworthy that much of this is covered by contractual arrangements, either multilateral (e.g. GATT, commodity agreements) or bilateral (e.g. the Lomé Convention).

17. Particular care has been taken in drafting the GATT texts, especially part IV. The study instances Articles XXXVI and XXXVII and the Notes and Supplementary

Provisions in Annex I to the General Agreement. There is also the enabling clause, adopted by GATT in 1979, which deals with differential and more favourable treatment, reciprocity and fuller participation of developing countries.

18. UNITAR gives a sound analysis of these texts and many others. It makes the important point that Articles XXXVI and XXXVII of the General Agreement do not confer any "right" on developing countries. Similarly, the enabling clause allows but does not oblige contracting parties to accord differential and more favourable treatment ("Contracting parties may accord ..."). Thus the Community, like other developed countries, views its scheme of generalized preferences as an autonomous arrangement, though this in no way prevents it taking part in talks at the United Nations Conference on Trade and Development about preferences or trying to improve the scheme to the greatest extent possible.

19. The foregoing at the very least indicates the difficulty of establishing a direct link between various internationally-agreed and by no means categorical texts on the one hand, and the definition of a new international economic order on the other.

Stabilization of developing countries' export earnings

20. UNITAR gives a comprehensive overview of texts and measures adopted by the international community to date in response to the problems of commodity-dependent developing countries. The continuing instability of commodity markets indicates that on the whole the response was justified. The Community was an early pioneer with its Stabex system. Resources have been increased under the current (third) Lomé Convention, and the Community is also preparing to introduce a scheme to compensate least-developed countries which are not Lomé signatories for their losses of export earnings.

21. According to the study, the various international measures to stabilize export earnings reflect a trend towards making compensatory financing a legal obligation. However, this statement calls for a word of caution.

22. In the first place, the very fact that a number of compensation systems - differing in aims, methods and level of participation - exist, does not in the Community's view mean that there is a generalized desire to establish compulsory machinery. The work currently going on in UNCTAD is sufficient indication of the problems and differences of opinion in this field.

23. Secondly, it would probably be a mistake for the international community to fix as a be-all and end-all a type of intervention which, though recognized by the Community as valuable if not indeed essential, does not of itself sufficiently solve the basic problems facing developing countries in the field of commodities.

24. It is clear that the search for other approaches must continue. As the Community has repeatedly pointed out, efforts must also be made to diversify output, increase productivity, and step up processing and marketing activities.

25. In the Community's view, this more comprehensive flexible approach to commodity problems, with due attention paid to long-term market trends, can provide an effective and lasting solution.

Conclusion

26. The Community and its member States consider that the UNITAR study offers an in-depth analysis of the evolution of international economic relations as reflected in the texts adopted in particular within the framework of the United Nations. In the above comments we have stressed the complexity of the issues involved and have indicated some of the areas in which we see particular difficulties. The Community and its member States therefore conclude that, following this comprehensive study, no further work appears to be called for.

Notes

1/ UNESCO, Paris, 1979 (collection) "Nouveaux défis au droit international", p. 200.
