

United Nations
GENERAL
ASSEMBLY

FORTY-SECOND SESSION

Official Records*



SIXTH COMMITTEE
51st meeting
held on
Monday, 16 November 1987
at 3 p.m.
New York

SUMMARY RECORD OF THE 51st MEETING

Chairman: Mr. AZZAROUK (Libyan Arab Jamahiriya)

CONTENTS

**AGENDA ITEM 128: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF
INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE
SECRETARY-GENERAL (continued)**

*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2 750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.6/42/SR.51
19 November 1987

ORIGINAL: ENGLISH

The meeting was called to order at 3.05 p.m.

AGENDA ITEM 128: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued) (A/42/483 and Add.1; A/42/354-E/1987/110)

1. Mr. MOTSIK (Ukrainian Soviet Socialist Republic) drew attention to document A/42/483/Add.1, containing his Government's views on the topic under consideration. The codification and progressive development of the fundamental principles and norms of international law relating to the new international economic order represented an essential aspect of the stabilization of inter-State relations. His delegation was prepared to continue participating constructively in United Nations efforts in that direction. Such efforts should be aimed first and foremost at eliminating all forms of discrimination from international practice and ensuring equal economic security for all States without exception. That called for the rebuilding of international economic relations, including monetary and financial relations, on an equal and democratic footing in the interests of all States, including developing ones, the establishment of the new international economic order, the elimination of underdevelopment, and a global and just solution to the problem of external indebtedness. In practice, that meant providing legal guarantees under which all countries would enjoy opportunities to promote economic growth and improve the well-being of their peoples. The justice and wisdom of such an approach derived from the fact that international economic security, like international political security, was in the interest of individual States and of mankind as a whole. Conversely, economic pressure and unfair trade practices harmed not only economic, but also political relations, and undermined international law and order.

2. After recalling, in particular, paragraphs 2 and 3 of his Government's reply as set out on page 4 of document A/42/483/Add.1, he said that the elaboration of the principles and norms of international law relating to the new international economic order should be based on fundamental provisions of the Charter of the United Nations calling for international co-operation in encouraging the progressive development of international law. Such principles included, in the first place, sovereign equality of States, refraining from the use or threat of force, non-interference in the internal affairs of States, peaceful settlement of disputes, strict compliance with international obligations, and freedom of each State to choose its own path towards social and economic development. The time had come to establish international legal mechanisms to ease the developing countries' debt burden. Suggestions for possible components of a programme of action to that end were to be found in paragraph 6 of his Government's reply. Useful work could also be done in the elaboration of appropriate principles to govern the use of resources released as a result of disarmament, in accordance with the principle of "disarmament for development" confirmed at the recent international conference on that subject.

3. Mr. KOTSEV (Bulgaria) said that there was an urgent need to intensify United Nations activities in the area of the progressive development of the principles and norms of international law relating to the new international economic order. That task must be undertaken within the framework of the general problem of restructuring international economic relations on a democratic and just basis and ensuring the equal economic security of all States. In that connection, he wished to refer to the document concerning certain aspects of the world economy and the establishment of a new international economic order (A/42/354, annex), adopted at the session of the Political Consultative Committee of the States parties to the Warsaw Treaty, held at Berlin in May 1987. The text in question provided an indication both of the importance of negotiations within the framework of the United Nations, with participation by all States, and of the determination of the State parties to the Warsaw Treaty to contribute to establishing the new international economic order and restructuring international economic relations, to participate effectively in international efforts to that end, and to promote economic stability.

4. In its relations with developing countries, Bulgaria had consistently observed a whole series of major principles. Proceeding from those principles, it believed that the codification process in the field of international relations should be aimed at establishing an international legal basis for the democratization of international economic relations. The legal basis in question should contain guarantees for the economic security of all States that would preclude arbitrariness, politically and ideologically inspired discrimination, the use of international economic relations as a means of political pressure, and interference in the internal affairs of sovereign States. The purpose of the codification process was to establish a universal legal order in the area of economic relations in accordance with the fundamental principles of international law.

5. Achievement of that goal would depend on the solution of two basic problems. Firstly, the fundamental principles of international law must be codified and developed in a manner compatible with the specific nature of international economic relations and the objective requirements of contemporary international life. Particular attention should be paid to the progressive development and codification of the principle of co-operation, with a view to dealing with international economic problems and contributing to the promotion of international economic stability, the well-being of the peoples of the world and international economic progress. Secondly, the principle of non-use of force in international relations must be explicitly defined, and, in connection with the international use of various forms of economic pressure, a distinction must be drawn between lawful and unlawful acts. The progressive development of the principles and norms in question should be based upon the Charter of Economic Rights and Duties of States and the Declaration and Programme of Action on the Establishment of a New International Economic Order.

6. United Nations efforts should be directed at formulating universal and generally accepted norms of conduct. A broadly representative intergovernmental organ, in the form of a Sixth Committee working group or sub-committee, would be the most appropriate forum to be entrusted with that task. It would not be

(Mr. Kotsev, Bulgaria)

advisable to entrust the United Nations Institute for Training and Research (UNITAR) with the task. The issue of the procedure to be followed in considering the progressive development of the principles and norms of international law relating to the new international economic order should not be addressed until the forum to be entrusted with the task was determined. Moreover, the consensus method should be adopted for the elaboration and adoption of the principles and norms in question.

7. Mr. SCHMIDT (German Democratic Republic) said there was growing agreement among States that a restructuring of international economic relations was a pre-condition for the enjoyment by all peoples of the right to development and for the safeguarding of international peace and security. After the Berlin session of their Political Consultative Committee in May 1987, the States parties to the Warsaw Treaty had once again drawn attention to the urgent need to adopt appropriate measures to deal with the serious world economic situation, and had put forward a number of pertinent proposals. Disarmament must take place in the interest of development, and a new international economic order offering equal economic security to all States must be established. Formulation of the principles and norms relating to the new international economic order must therefore continue. That vital, complex task should be assigned to a group of State representatives, thus ensuring that account was taken of all aspects of the democratization of international economic relations and of the legitimate rights of all groups of States. A working group of the Sixth Committee might be appropriate. A policy of dialogue and co-operation was the only way of concluding agreements that would make the world more secure and advance the development of all peoples. Further substantive discussion of the agenda item before the Committee should be seen as being closely related to the issue of international economic security. Discussion should primarily focus on such issues as peace and the comprehensive international security of States. In that connection, he wished to refer to the important tasks in the field of international law referred to in paragraph 8 of his Government's reply, which was reproduced in document A/42/483.

8. Such international instruments as the Declaration and Programme of Action on the Establishment of a New International Economic Order, the Charter of Economic Rights and Duties of States and the Final Act of the Helsinki Conference on Security and Co-operation in Europe already contained the basic guidelines for the codification of principles and norms of international law relating to the new international economic order.

9. Mr. VALDERRAMA (Philippines) said that, in accordance with Article 1 of the Charter, which proclaimed international co-operation in solving international problems of an economic character to be one of the purposes of the United Nations, economic relations of States at different levels of development and having different economic systems should be governed by international economic law, in other words, the law of the new international economic order. The principles and norms relating to that order had developed gradually, and the developing countries had fully participated in the process. That represented a significant departure from the old process of law-making, which had been based on the interests of a small number of powerful States.

(Mr. Valderrama, Philippines)

10. In recent years, the international economy had moved through a series of crises which the international community had been unable to tackle in a co-ordinated and integrated manner. Although the objectives of the new international economic order remained uncontested in principle, the developing countries' efforts to alleviate their situation had not had the desired results. For its part, the Philippines continued to encourage a system of collective self-reliance and mutual co-operation among developing countries, with a view to enhancing their capability to meet development needs and to strengthen their bargaining position with the developed countries. It was regrettable that the developed countries' attitude towards those efforts was not more supportive. As the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD) had pointed out in 1976, the mechanisms which linked the economies of the two groups of countries suffered from basic weaknesses manifested in each of the major areas of economic relations between them. That problem would be resolved if the developed countries came to recognize that a restructured world economic order was intended to serve the interests of all countries, developed and developing alike.

11. Turning to the analytical study on the topic under consideration submitted to the General Assembly at its thirty-ninth session by UNITAR (A/39/504/Add.1, annex III), he recalled that his delegation had at previous sessions qualified the study as a positive contribution to the Sixth Committee's work, and had placed particular emphasis on three principles identified therein, namely, preferential treatment for developing countries, participatory equality of developing countries, and the common heritage of mankind.

12. The principles and norms set forth in such instruments as the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the Declaration and Programme of Action on the Establishment of a New International Economic Order, the Charter of Economic Rights and Duties of States and other related documents constituted the basis for the construction of a legal framework containing definite principles and norms of international law which should be binding upon members of the international community. It was time to systematize, develop and consolidate those numerous principles and norms in a single instrument which would govern the conduct of States, international organizations, transnational corporations and other subjects of international law. At the conclusion of its seventh session, at which the interdependence of the economies of the developed and developing countries had been recognized and confrontational attitudes had been avoided, UNCTAD had adopted a final document which was an example of a consensus approach to negotiations. There was thus no reason for the international community to be timid or pessimistic about a new international economic order. The task of codification and progressive development of the related principles and norms would doubtless be complex as well as slow, but a slow process was surely better than none at all.

13. Ms. RECHNAGEL (Denmark), speaking on behalf of the European Community and its member States, said that in recent years, progress had been made in meeting the developing countries' special needs in the area of international economic co-operation, as demonstrated at the seventh session of UNCTAD. The Community and

(Ms. Rechnagel, Denmark)

its member States had participated actively in that process, and continued to attach considerable importance to initiatives in that field. The study conducted by UNITAR on the subject was a valuable survey of the development and refinement of the principles and techniques adopted so far in the field of international economic co-operation, as well as of different opinions on the legal situation in the field. The progress made so far had been based on a variety of instruments. Some of those instruments reflected adjustments made nationally by developing countries. Where the others, which had been adopted in an international context, were concerned, some were legally binding, while others did not seek to impose legal obligations. The latter approach was the more useful one. In that connection, she wished to refer to General Assembly resolution 41/73, paragraph 3.

14. The time was not ripe for a codification process, since it was difficult to establish any direct link between the various international texts, on the one hand, and the concept of a new international economic order, on the other hand. Before there way any codification of international law relating to a new international economic order, a sufficient degree of identification and acceptance by the international community of legal principles and norms should have developed. That requirement had not been met. International economic co-operation was a continuous process and, as such, did not appear to call for further action by the Sixth Committee at the current stage.

15. Mr. SOKOLOVSKIY (Byelorussian Soviet Socialist Republic), reiterating the views and comments submitted by his Government (A/42/483/Add.1), said that, in addition to excluding from international economic relations the harmful practices listed in paragraph 4 of the reply, the system of international economic security should ensure free access to international markets for the products of developing countries, establish a fair correlation between prices of commodities, agricultural products and manufactured goods, and remove barriers to the developing countries' access to the latest scientific and technological advances. Developing countries should also be given active support in the training of personnel, and firm measures should be taken to stop the "brain drain" from the developing to the developed world.

16. The codification and progressive development of international law relating to the new international economic order should not stop with the UNITAR study, but should be continued in a working group of the Sixth Committee. The work should take the form of identifying those principles and norms of international law on which a measure of consensus already existed, as well as those on which there was no consensus. As those principles and norms were still in the formative stage, the task of their codification and progressive development was an extremely important, complex and urgent one. A possible first step might be to review and codify the provisions of such instruments as the Declaration and Programme of Action on the Establishment of a New International Economic Order, the Charter of Economic Rights and Duties of States, the Lima and Manila Declarations, and other documents. That would facilitate the consideration of practical tasks involved in establishing international legal machinery to deal with problems related to indebtedness, economic backwardness, environmental protection, disease control and other priority areas of activity to be defined by the international community.

17. Mr. KAZI (Pakistan) said that the item under consideration was of particular importance to the developing countries, whose efforts to obtain more equitable treatment from more fortunate States had met with strong resistance. The principle of sovereign equality of States and the duty to co-operate lost their essence in a world marked by the growing disparity between the developed and the developing countries. The world's economic difficulties could be overcome only through joint action by those countries with a view to channelling trade surpluses into development; reviving growth in flagging economies and thus overcoming debt difficulties; expanding export access for the developing countries and stabilizing commodity prices; regulating currency flows and exchange rates more closely; and providing emergency relief and assistance to the poorest countries. The framework for a just and efficient international economic system must be established on the basis of full participation by the developing countries in the related international decision-making processes. There was a need to comprehend the importance of the following: preferential treatment for developing countries in trade; respect for the permanent sovereignty of States over their natural resources; the observance of the principles governing the transfer of resources and technology; and recognition of the imperatives of interdependence, which called for a more equitable management of the international economic system. A just and equitable international economic order was essential for world peace.

18. The United Nations Commission on International Trade Law (UNCITRAL) had already considered a number of important items in that connection. Moreover, UNITAR had carried out an important analytical study on the matter, thus laying a solid foundation for a systematic examination of the issues involved. Pakistan would support further study of the matter by a working group of the Sixth Committee.

19. There had been significant development of international law in the economic field through the adoption of multilateral conventions, the practice of international economic institutions and State practice. The development of economic law would continue within the framework of such agencies and institutions as UNCTAD, GATT, UNCITRAL and the United Nations Industrial Development Organization, and would therefore require the establishment of an appropriate central body.

20. Mr. GEVORGIAN (Union of Soviet Socialist Republics) said that the means were available to provide the world's population with food, education, housing and health care; in general, there was now a prospect of ensuring decent living conditions for everybody. At the same time, new dangers had arisen in the form of mass malnutrition, stifling debts and widespread environmental problems. New rules were therefore necessary for the communal life of States, and it had to be clearly understood that a new order in their economic relations could be established only by consolidating the economic security of every member of the international community. Whether they liked it or not, all States had an interest in the consolidation of international legal principles and norms aimed at encouraging the broadest co-operation. Economic interests were so varied and contradictory that it would be difficult to reach agreement on a new international economic order, but an understanding of the interdependence of the modern world and of the imperative need to solve a number of very acute economic problems had to prevail.

(Mr. Gevorgian, USSR)

21. The Soviet Union therefore considered the codification and progressive development of the principles and norms relating to the new international economic order to be an important instrument for restructuring inter-State relations in the economic sphere. The difficulty was that such principles and norms were only in the formative stage. They were reflected in the most general way in various United Nations documents, whose basic principles should be preserved and utilized in current work. However, they required rethinking and development in the light of contemporary problems and the prospects of organizing real international co-operation.

22. Work on the legal foundations of a new international economic order would be long-term and must be carried out in stages. Efforts could be concentrated initially on solving a number of immediate problems. An integrated programme of action to ease the debt burden of the developing countries could be worked out which might incorporate international legal machinery for its implementation.

23. The embodiment of the principle of "disarmament for development" in international law could become an important avenue for the progressive development of the norms relating to the new international order. The release of material and intellectual resources for the solution of global economic problems was a goal of disarmament which international law should actively help to realize.

24. The establishment of priorities by general agreement among States would be an important practical step towards developing international law on the new international economic order. The fact that the progressive development of the norms in that field was being considered by the United Nations was very important. However, work on the subject should be more purposeful and more precisely organized. His delegation considered that the organizational framework provided by the Sixth Committee was appropriate. It was prepared to give positive consideration to any specific proposals along those lines.

25. Mr. KASSE (Mali) said that General Assembly resolution 41/73 addressed the need to remedy the shortcomings of the existing international economic order by restructuring economic relations between developed and developing countries through the adoption of suitable legal instruments. In his delegation's opinion, the codification of international economic law posed two fundamental problems, the one concerning the content of the instruments to be drafted and the other the procedure for drafting them.

26. So far as the first was concerned, texts had already been adopted in a number of General Assembly resolutions. However, the principles formulated in those resolutions only had the force of simple recommendations. They should therefore be put into conventions that had binding legal force.

27. As for the codification procedure, the norms in the relevant resolutions provided the necessary material for the progressive development of international law on the new international economic order. They should therefore be recast in international conventions that enumerated the essential ideas and stated precisely

(Mr. Kasse, Mali)

the rights and duties of States parties to them. Such instruments should take account of the legitimate aspirations of developing countries, especially those with exceptional economic or geographical problems. Fundamental principles which had to be laid down included the right to development, the sovereign equality of States, the permanent sovereignty of peoples over their national resources, equality and mutual assistance in international economic relations, and the right to economic self-determination.

28. As for the body to be given the task of drawing up the new legal instruments, his delegation thought that it could be a group of experts and/or a working group of the Sixth Committee.

29. Mr. HAYASHI (Japan) said that his delegation attached great importance to the progressive development and codification of international law. But before a decision was adopted to undertake that process in the case of any particular subject, a careful study had to be made to ensure that there was a good prospect of a measure of agreement. For if there was not, work could continue for years without reaching a conclusion, or a convention might be adopted by a seriously divided vote and remain ineffective. That had happened many times before.

30. His delegation did not think that the principles and norms in question were ripe for progressive development and codification. It recognized the desirability of strengthening international economic co-operation, and shared the developing countries' aspirations for a new, just and equitable international economic order. But the General Assembly resolutions cited as bases for a codification exercise did not enjoy widespread support, and the rights and duties of States which some considered relevant to the new international economic order had not been established as norms of international law. There was therefore no current need to develop and codify international legal principles and norms covering the subject.

31. International law and practice relating to economic development were constantly evolving. Some groups of States had voiced strong reservations about certain aspects of the so-called principles of the new international economic order, many of which were still what some scholars called "soft law". Moreover, what some States regarded as "principles and norms" were contained in a variety of documents, some reflecting adjustments made nationally by developing countries, others in the form of binding or non-binding international instruments, and yet more in the shape of resolutions adopted by the General Assembly and other bodies which had not necessarily received unanimous support.

32. The preparation of various types of instruments on specific questions as the need arose was the best approach to solving problems in the area of economic law. Premature efforts at codification might have a negative influence on progress in that field by freezing law and practice at the current stage of development. His delegation therefore considered any further work on the topic unnecessary and even undesirable.

33. Mrs. SILVERA (Cuba) said that her country's position on the topic under consideration was set out in document A/42/483. The consolidation, development and codification of the norms of international law were of fundamental importance to the establishment of the new international economic order. The existing order was inefficient and required restructuring to take account of the urgent needs of developing countries. Without their active co-operation, no serious effort could be made to solve the acute economic problems facing the international community.

34. Her delegation believed that the United Nations must play a more active part and adopt measures which would enable the new international economic order to be established. The developing countries were the direct victims of the existing imbalance in economic relations. Their external debts were having the most serious consequences for their peoples, and the gulf separating them from the developed world was deepening daily. There was no equality in commercial transactions, and dumping and protectionism were seriously affecting developing countries.

35. Although the progressive development and codification of international legal principles and norms was a slow process, it was not impossible. Her delegation was convinced that one of the most effective and appropriate ways to achieve progress on the matter would be to establish a working group, a group of experts or a combination of the two within the framework of the Sixth Committee, with a specific mandate to elaborate, within a short period of time, the principles and norms of international law that were indispensable for the establishment of the new international economic order.

The meeting rose at 4.30 p.m.