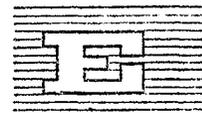


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COMMISSION ON HUMAN RIGHTS
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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

- (a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT
- (b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF DEVELOPING COUNTRIES AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The regional and national dimensions of the right to development as a human right

Study by the Secretary-General

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INTRODUCTION

A. Mandate

1. The present study is submitted in accordance with paragraph 6 of resolution 4 (XXXV) of the Commission on Human Rights of 2 March 1979 which recommended that "the Economic and Social Council should invite the Secretary-General, in co-operation with the United Nations Educational, Scientific and Cultural Organization and other competent specialized agencies, to follow up the study undertaken in pursuance of paragraph 4 of Commission resolution 4 (XXXIII) with a study of the regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of this right, and should make this study available for consideration by the Commission on Human Rights at its thirty-seventh session."

2. This recommendation was endorsed by the Economic and Social Council in decision 1979/29 of 10 May 1979.

3. The subject-matter of this study was elaborated upon in paragraph 2 of resolution 7 (XXXVI) of the Commission on Human Rights, which reads as follows:

"Requests the Secretary-General, in the study he is invited to undertake pursuant to paragraph 6 of Commission resolution 4 (XXXV) of 2 March 1979 and Economic and Social Council decision 1979/29 of 10 May 1979, to elaborate, with due regard to previous studies, in particular document E/CN.4/1334, on the conditions required for the effective enjoyment by all peoples and all individuals of the right to development, paying special attention to the effects on development of the following:

- (a) Recognition of the duty to achieve and strengthen solidarity;
- (b) Establishment of peace and development of friendly relations among nations;
- (c) Control and constant improvement of the environment;
- (d) Establishment of a new international economic order;
- (e) Fair trading;
- (f) Equitable sharing of the common heritage of mankind;
- (g) The unimpeded exercise of the right of peoples to self-determination and hence their inalienable right to their natural wealth and resources;
- (h) Just and sincere co-operation among all nations;
- (i) Free choice by every people of its model for development;
- (j) Participation by the masses in the definition and application of the development policy;
- (k) Non-discrimination of any kind in the exercise of the right to development;

(l) Existence of effective safeguards against arbitrary action and in favour of respect for human rights, in the interests of peoples, minorities and individuals;

(m) Conclusion of regional agreements for optimum exploitation of wealth, and effective enjoyment of human rights in the framework of real co-operation".

B. Sources of information

4. The present study, as requested by the Commission, is a "follow up" of the study on the international dimensions of the right to development, prepared in accordance with Commission resolution 4 (XXXIII). 1/ This first study was noted with satisfaction by the Commission in paragraph 1 of its resolution 4 (XXXV). The Secretary-General was further requested in paragraph 2 of resolution 7 (XXXVI) to "pay due regard to previous studies, in particular document E/CN.4/1334." The Secretary-General has, therefore, continued to rely on the basic concepts of his earlier study and he has taken into account, as appropriate, the information and views contained therein.

5. Other "previous studies" on human rights within the framework of the United Nations which are of relevance to the present endeavour include, in chronological order, documents regarding: the exploitation of labour through illicit and clandestine trafficking; 2/ the realization of economic, social and cultural rights; 3/ the impact on the enjoyment of human rights of assistance to racist régimes in southern Africa; 4/ the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa; 5/ the historical and current development of the right to self-determination; 6/ the implementation of United Nations resolutions relating to the right to self-determination of peoples under colonial and alien domination; 7/ the rights of non-citizens 8/; and the duties of the individual to the community 9/. Various aspects of the Programme for the Decade for Action to Combat Racism and Racial Discrimination are relevant. Closely related to the subject-matter of the present study is that of the study on the new international economic order and the promotion of human rights undertaken by the Sub-Commission 10/.

1/ E/CN.4/1334.

2/ E/CN.4/Sub.2/L.640.

3/ The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress (United Nations publication, Sales No. E.75.XIV.2).

4/ Assistance to Racist Régimes in southern Africa: Impact on the Enjoyment of Human Rights (United Nations publication, Sales No. E.79.XIV.3).

5/ E/CN.4/Sub.2/425 and Add.1-7.

6/ E/CN.4/Sub.2/404.

7/ The Right to Self-Determination: Implementation of United Nations Resolutions (United Nations publication, Sales No. E.79.XIV.5).

8/ International Provisions Protecting the Human Rights of Non-Citizens (United Nations publication, Sales No. E.80.XIV.2).

9/ E/CN.4/Sub.2/432/Rev.1 and Add.1-7.

10/ Commission on Human Rights resolution 13 (XXXVI) and Economic and Social Council decision 1980/126.

6. Many studies and reports of United Nations bodies concerned with economic and social development have been taken into account, including the most recent World Economic Surveys and World Social Surveys, reports issued in preparation for the new international development strategy and in implementation of the Programme of Action on the Establishment of a New International Economic Order, reports submitted to the United Nations Commission on Transnational Corporations, and various reports of UNCTAD, UNIDO and the regional economic commissions.

7. Relevant studies by the specialized agencies have also been taken into account, including various ILO and UNESCO documents, in particular: the 1976 report of the ILO Director-General entitled "Employment, Growth and Basic Needs: A One-World Problem"; the 1976 ILO report entitled "Meeting Basic Needs: Strategies for eradicating Mass Poverty and Unemployment"; the 1976 report of the Director-General of UNESCO entitled "Moving Towards Change - Some Thoughts on the New International Economic Order" and the report and papers of the 1979 UNESCO Experts' meeting on "Human Rights, Human Needs and the Establishment of a New International Economic Order" 11/.

8. A number of studies by regional intergovernmental organizations have been taken into account.

9. In accordance with paragraph 2 of the Commission resolution 4 (XXXV), the Secretary-General transmitted the first study and the relevant documents prepared by the United Nations Educational, Scientific and Cultural Organization to Governments, specialized agencies, regional intergovernmental organizations, inviting their comments on the study, with a view to continuing the work connected with it. As requested under paragraph 8, the Secretary-General brought resolution 4 (XXXV) to the attention of the competent economic organs of the United Nations for their comments.

10. As of 1 November 1980, the following substantive replies had been received under paragraphs 2 and 8 of resolution 4 (XXXV):

(a) From Governments:

Austria, Belgium, Brazil, Central African Republic, France, German Democratic Republic, Haiti, the Netherlands, Nicaragua, Pakistan, Senegal, Seychelles, Ukrainian SSR, USSR and Yugoslavia.

(b) From the competent economic organs of the United Nations ^{12/}:

Centre for Social Development and Humanitarian Affairs, Centre on Transnational Corporations, Economic Commission for Western Asia, and United Nations Development Programme.

11/ UNESCO document SS-78, Conf. 630/12 (1979), circulated by the Secretary-General to Governments and organizations under Commission on Human Rights resolution 4 (XXXV).

12/ In accordance with paragraph 8 of Commission resolution 4 (XXXV), summaries of the comments of economic organs of the United Nations are being submitted to the Commission in a separate document.

(c) From Specialized Agencies:

International Labour Office, Food and Agriculture Organization, General Agreement on Tariffs and Trade, International Fund for Agricultural Development, United Nations Educational, Scientific and Cultural Organization and World Health Organization.

(d) From Non-Governmental Organizations:

International Commission of Jurists, International Federation of University Women, Women's International Democratic Federation and World Association of World Federalists.

11. All these replies have been taken into account by the Secretary-General. In particular, as requested in paragraph 6 of resolution 4 (XXXV), full attention has been paid to the information and comments which the specialized agencies have offered with a view to co-operating in the preparation of the study. The replies of some agencies have been elaborated upon, in certain respects, through exchange of views between secretariats.

12. The Secretary-General has taken into consideration the views expressed during the relevant debates in the Commission on Human Rights, particularly at the thirty-fifth 13/ and thirty-sixth sessions. 14/

13. The Secretary-General has further taken into account a wide range of United Nations conventions, declarations and resolutions on matters of relevance to the subject of the present study.

14. As in the preparation of his earlier study, the Secretary-General has also used the reports of various conferences, seminars and other meetings on relevant subjects held in recent years, as well as the writings of recognized scholars and scientists.

C. Main considerations which have been taken into account in the preparation of the study

15. The following basic concepts, as confirmed in various resolutions, have been carried over from the earlier study: 15/

(a) The central purpose of "development" will be understood as "the realization of the potentialities of the human person in harmony with the community". 16/ This is a broad concept which transcends the notion of economic growth. The concept of development bears on all the rights recognized in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other instruments of the United Nations on Human Rights. A guiding principle for the study proclaimed notably in General Assembly resolution 32/150, is the indivisibility and interdependence of economic, social and cultural rights and civil and political rights.

13/ Official Records of the Economic and Social Council, 1979, Supplement No.6 (E/1979/36), paras. 106-134; E/CN.4/SR.1483, 1486, 1488-1492, 1504.

14/ Official Records of the Economic and Social Council, 1980, Supplement No.3 (E/1980/13), paras. 106-139.

15/ E/CN.4/1334, paras. 14-63.

16/ E/CN.4/1334, para. 27.

(b) The existence of a right to development is being increasingly recognized. While it cannot be dissociated from the human rights set forth in international instruments, it is more than the sum total of all those rights. A dynamic element must be included, the right to development being viewed as a claim to participate in, and to benefit from, a wide range of inter-related processes. These processes, on the national and international levels, are designed to eliminate obstacles in the way of the realization of human rights, to create the political, economic, social and cultural conditions for such realization, to stimulate progress, in a balanced manner, towards greater enjoyment of economic, social and cultural rights in larger freedom for all without discrimination, and to ensure adequate protection for these rights and freedoms. Development is a dynamic concept, also, because the human rights to be promoted are not defined ne varietur, but may evolve in response to new problems.

(c) The right to development has strong ethical foundations and is being increasingly considered as having reached the status of positive law, in the domestic sphere as well as at the international level. The earlier study mentioned in this regard, inter alia, Articles 55 and 56 of the Charter, articles 2, 3, 22, 23 and 29 of the Universal Declaration, articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights and the ILO Declaration of Philadelphia. Since the publication of the earlier study, some new resolutions within the United Nations system, including General Assembly resolutions 33/73 and 34/46, Commission resolution 5 (XXXV), paragraph 1 and the UNESCO Declaration on Race and Racial Prejudice, article 3, appear to be relevant as regards the nature of the right to development.

(d) The subjects and beneficiaries of the right to development identified in the earlier studies included States, peoples, minorities and individuals. General Assembly resolution 34/46 and Commission resolution 6 (XXXVI), paragraph 2, have affirmed that "equality of opportunity for development is as much a prerogative of nations as of individuals within nations".

(e) The earlier study had shown further that realization of the right to development requires the fulfilment of duties by the international community, international organizations, States - in particular industrialized countries and former colonial powers - regional and subregional State groupings, other transnational entities, and individuals. Such duties were referred to in some recent resolutions, including, for instance, paragraph 5 of Commission resolution 4 (XXXV), which stresses the duty of all members of the international community jointly and severally to create the necessary conditions for realization of the right to development."

16. The Secretary-General was requested, by resolution 4 (XXXV) to pay "particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of [the right to development]". The importance of this aspect was underlined by the sponsors of the resolution and many other speakers in the Commission's debates. 17/ The Secretary-General has therefore concentrated, in all parts of this study, on identifying the main obstacles faced by developing countries and on measures and policies to eliminate or reduce these difficulties.

17/ See, for instance, Official Records of the Economic and Social Council, 1979, Supplement No. 6 (E/1979/36), para. 127, E/CN.4/SR.1504 and Official Records of the Economic and Social Council, 1980, Supplement No. 3 (E/1980/13), para. 128.

17. It was stated during the debates that the study should consider both internal obstacles, such as lack of participation in the domestic sphere, and external difficulties. 18/ Certain external obstacles were the subject of special emphasis at the Commission.

18. External difficulties which were most strongly denounced were "the effects of the existing unjust international economic order". 19/ These problems, including inequality in the terms of trade, have been given prominence in Commission resolutions 5 (XXXV) and 6 (XXXVI) and in General Assembly resolution 34/46, paragraph 10. Detailed attention was paid by the Commission and the General Assembly to the organization of a seminar on that subject. 20/ In preparing this study the Secretary-General has therefore paid due attention to the impact in the domestic sphere of the unjust economic conditions which exist on the international plane.

19. The study takes as a most important guiding principle, already emphasized in the earlier report, the conviction that the establishment of a new international economic order "will permit the achievement of balanced development levels in all countries, thus turning into reality the principles contained in the Universal Declaration of Human Rights which recognizes the equal rights of all human beings to enjoy an adequate standard of living." 21/ In this regard, the conclusions and recommendations which were adopted by consensus at the 1980 Geneva seminar are fully taken into account. 22/

20. Other factors which are wholly, or to a sizeable extent, international in character, were stressed in pertinent resolutions, inter alia, self-determination and permanent sovereignty over natural resources; 23/ the establishment of peace and the development of friendly relations between peoples; 24/ and the struggle against colonialism and foreign occupation. 25/

21. In the light of these considerations, it has been deemed advisable to devote Part One of the study to "the impact of some international factors on realization of the right to development at the national and regional levels." The factors considered are: self-determination in its international aspects; the right to peace and disarmament; international migrations; international trade; the activities of transnational corporations; and, international development aid. This approach has the advantage of showing to the reader in the clearest manner the continuity between the present report on the regional and national dimensions of the right to development and the earlier study concerning the global dimensions of that right. Part One is not,

18/ Official Records of the Economic and Social Council, 1979, Supplement No. 6, (E/1979/36), para. 127.

19/ Commission resolution 6 (XXXVI) and General Assembly resolution 34/46, para. 10.

20/ Commission resolution 7 (XXXVI), para. 2(g). The report of the seminar, which took place at Geneva from 30 June to 11 July 1980, appears in document ST/HR/SER.A/8.

21/ Commission resolution 5 (XXXV), para. 4.

22/ ST/HR/SER.A/8, para. 131.

23/ Commission resolution 7 (XXXVI), para. 2(g).

24/ Ibid., para. 2(b).

25/ Commission resolution 5 (XXXV), para. 3.

however, a repetition of the first report: rather than describing the international factors as such, the present study tries to show the modalities and extent of their influence on the efforts of developing countries to achieve development as a human right.

22. Part Two is intended to deal with promotion of the right to development at the national level. Taking fully into account the international factors mentioned earlier, Chapter VII, in Part Two, will aim at identifying the principal conditions which affect realization of the right to development in relation to the whole range of human rights in the domestic sphere, especially in the Third World.

23. Chapter VIII, in Part Two, will describe the principal methods and policies for promoting the right to development at the national level.

24. Chapter IX will be devoted to the fundamental issue of integration of human rights in development policies and processes at the national level. This aspect had been elaborated in the earlier study 26/ and emphasized in several United Nations resolutions. 27/

25. Part Three of the study will deal with promotion of the right to development at the regional level. Action by the United Nations regional economic commissions and other economic bodies will be recalled, as will the impact of human rights regional activities on realization of the right to development. Current efforts within the United Nations system to promote co-operation for development between developing countries will be considered.

D. Progress of work

26. The present document contains the introduction and Part One of the study. Subsequent parts will be issued as addenda. The Division of Human Rights is making every effort, within the limits of its present resources, to complete the study as speedily as possible. These efforts have been considerably hampered, however, by recurrent difficulties concerning the availability of staff with the required expertise. The need for such staff has become greater as a result of the broadening of the scope of the study pursuant to paragraph 2 of Commission resolution 7 (XXXVI).

26/ E/CN.4/1334, Concluding Observations, para. 314.

27/ See for instance, Commission resolutions 4 (XXXV), para. 3, 6 (XXXVI), para. 2, and 7 (XXXVI), para. 1.

PART ONE. IMPACT OF CERTAIN INTERNATIONAL FACTORS ON
REALIZATION OF THE RIGHT TO DEVELOPMENT AT
THE REGIONAL AND NATIONAL LEVELS

I. International aspects of self-determination

27. On several occasions the Commission on Human Rights has emphasized that the right of peoples to self-determination, "by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development", 1/ is an "essential element" and a "prerequisite" for achieving the right to development. 2/ The relationship between the right to self-determination and the right to development has been considered in the earlier report of the Secretary-General and in other recent analyses. 3/ In the present chapter some of the external obstacles encountered by the developing countries in their efforts to secure enjoyment of the right to self-determination and thus also of the right to development are examined.

28. The rapid and widespread process of decolonization which followed the adoption by the General Assembly in 1960 of the Declaration on the Granting of Independence to Colonial Countries and Peoples 4/ (paragraph 2 of which proclaims the right to self-determination) was hailed by the Assembly in 1974 as "the greatest and most significant achievement during the last decades". 5/ In the same resolution, however, the Assembly noted that "remaining vestiges of alien and colonial domination, foreign occupation, racial discrimination, apartheid, and neo-colonialism in all its forms continue to be among the greatest obstacles to the full emancipation and progress of the developing countries". 6/ The nature and extent to which the realization of human rights and fundamental freedoms is affected by such situations, as well as by refusal to recognize the fundamental rights of peoples to self-determination and of every nation to the exercise of full sovereignty over its wealth and natural resources, are to be the subject of a report by the Secretary-General to the General Assembly at its thirty-sixth session. 7/ Thus, in order to avoid duplication the present analysis focuses only on selected issues which are of particular importance

1/ Article 1 of both International Covenants on Human Rights.

2/ Official Records of the Economic and Social Council, 1979, Supplement No. 6, (E/1979/36), para. 124.

3/ E/CN.4/1534, paras. 209-218 and the references cited therein. See also UNESCO doc. SS.78/Conf.630/12 (1978) paras. 71-104.

4/ General Assembly resolution 1514 (XV).

5/ General Assembly resolution 3201 (S-VI), para. 1.

6/ Ibid.

7/ General Assembly resolution 34/46, para. 12.

in the context of promoting of the right to development in relation with other human rights. These must necessarily include some of the themes which have dominated international development thought and action in recent years, such as: achievement of the objectives of the new international economic order; the need to promote national and collective self-reliance of the developing countries; the need for institutional and structural reforms at all levels; the need to abolish old and new forms of domination; and the need for special assistance to the least developed countries. 8/

29. The indivisibility of all facets of the right of self-determination was stressed during the travaux préparatoires for the International Covenants when it was said that a people or nation that could not freely determine its political status could hardly determine its economic, social and cultural status and vice versa. 9/ Yet it has been claimed that "sovereignty has been transferred but in a sense without its substance". 10/ Another commentator has written of the "froth and veneer of decolonization" and of "phantom sovereignties" and has concluded that "formal and fictitious sovereignty was bound to remain an institutional mirage so long as there was not a modern conception of sovereignty incorporating the dimension of economic independence". 11/

30. Viewed from this perspective, it can be seen that the creation of a new international economic order is directed towards promoting realization of the right to self-determination in its fullest sense. Such an objective is relevant not only for former colonies but for all States. It is of crucial importance for developing countries.

31. With a view to promoting realization of the right to development, the international community, as well as individual States, have a duty to remove the obstacles, including external obstacles, to self-determination in its fullest sense, which embraces the right to permanent sovereignty over natural wealth and resources. 12/

8/ These have been recurrent themes in international conferences and instruments. See in particular General Assembly resolution 33/193 concerning preparations for a new international development strategy.

9/ Official Records of the General Assembly, Tenth Session, Annexes, document A/2929, chap. IV, para. 14.

10/ Barbara Ward, Introduction, in Shridath Ramphal, One World to Share: Selected Speeches of the Commonwealth Secretary-General, 1975-9 (London, Hutchinson Benham, 1979) p. XX.

11/ Mohammed Bedjaoui, Towards a New International Economic Order (Paris, UNESCO, 1979) p.87.

12/ Thus a recent OECD report has proposed that one of the guiding principles which might govern the OECD countries' relations with the Third World is the abolition of "rules and practices which impede [emphasis added] equality of economic opportunity within and among nations". Interfutures: Facing the Future (Paris, Organization for Economic Co-operation and Development, 1979) p. 279.

This does not exhaust their obligations, however: they have also the duty to assist in establishing conditions which are conducive to positive realization of the right to development. As was shown in the Secretary-General's earlier study, these obligations flow from the fundamental principles of solidarity, interdependence, international justice and equity, and collective responsibility for development. The Charter of Economic Rights and Duties of States states, in the eleventh paragraph of the Preamble, that "responsibility for the development of every country rests primarily upon itself but that concomitant and effective international co-operation is an essential factor for the full achievement of its own development goals". 13/ In its 1979 report, the Committee for Development Planning noted that the efforts of developing countries may be frustrated or even paralysed in the absence of appropriate international action. In the view of the Committee, a primary goal of the international development strategy should be to create the favourable external conditions in which the developing countries will be able to pursue successfully their national objectives of self-sustained development. 14/ From this perspective, some of the main issues are indicated below.

(i) Self-reliance

32. The importance of a self-reliant approach to development has been a recurrent theme of the policies endorsed by recent world conferences such as those on primary health care, 15/ technical co-operation among developing countries, 16/ agrarian reform and rural development, 17/ and science and technology for development. 18/ According to the Vienna Programme of Action on Science and Technology for Development "self-reliance does not mean autarchy but the ability, in essence, to take and implement autonomous decisions for the solution of national problems, and the strengthening of national independence". 19/ The General Assembly has also

13/ General Assembly resolution 3281 (XXIX). See also article 9 of the Declaration on Social Progress and Development (General Assembly resolution 2542 (XXIV) which reads: "Social progress and development are the common concerns of the international community, which shall supplement, by concerted international action, national efforts to raise the living standards of peoples."

14/ Official Records of the Economic and Social Council, 1979, Supplement No. 7 (E/1979/37), para. 33.

15/ Primary Health Care. Report of the International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978 (Geneva, WHO, 1978) p. 79.

16/ Report of the United Nations Conference on Technical Co-operation among Developing Countries, Buenos Aires, 30 August - 12 September 1978 (United Nations publication, Sales No. E.78.II.A.11).

17/ Report of the World Conference on Agrarian Reform and Rural Development, Rome, 12-20 July 1979 (Rome, FAO, 1979).

18/ Report of the United Nations Conference on Science and Technology for Development, Vienna, 20-31 August 1979 (United Nations publication, Sales No. E.79.I.21).

19/ Ibid., Vienna Programme of Action on Science and Technology for Development, para. 12.

emphasized that the new international development strategy should contribute to the promotion of the objective of national and collective self-reliance of the developing countries. 20/ International policies which facilitate the pursuit of a degree of self-reliance, as opposed to self-sufficiency, are therefore an essential factor in promotion of the right of peoples to self-determination and in realization of the right to development. Thus conceived, the concept of self-reliance is an important factor in promoting realization of the individual's human rights, including the right to development, since it "can only be fostered in an environment which promotes the democratization of the development process, i.e. the active participation of the people". 21/

(ii) Endogenous development

33. Closely linked to the concept of self-reliance is that of endogenous development which emphasizes the need for each nation to pursue its own development path, appropriate to its specific socio-economic conditions and cultural traditions and facilitating development patterns that bring benefits to the entire population. International policies which are conducive to the promotion of social and cultural self-determination 22/ can thus facilitate the emergence of endogenous patterns of development.

(iii) Assistance to the least developed countries

34. As attested by a wide range of specially designed policies and programmes, it is now recognized throughout the United Nations system that the basic structural and economic problems facing the least developed countries are so severe that special measures are warranted. 23/ Potentially the most significant of these programmes is the Comprehensive New Programme of Action for the Least Developed Countries set forth in United Nations Conference on Trade and Development resolution 122 (V) adopted by UNCTAD at its fifth session in May 1979 24/ and strongly endorsed by the

20/ General Assembly resolution 33/193, part I, para 5. See also the "Arusha Programme for Collective Self-Reliance and Framework for Negotiations", adopted by the Fourth Ministerial Meeting of the Group of 77 held in Arusha, United Republic of Tanzania, from 6 to 16 February 1979 (TD/236).

21/ Adebayo Adedeji, "Perspectives of Development and Economic Growth up to the Year 2000", What Kind of Africa by the Year 2000? (Addis Ababa, OAU, 1979) p. 8.

22/ See generally "The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs with particular reference to the promotion and protection of human rights and fundamental freedoms" study by Mr. Aureliu Cristescu, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/404, paras. 548-678.

23/ Some of these programmes and policies are considered in Wil Verwey, "The Recognition of the Developing Countries as Special Subjects of International Law Beyond the Sphere of United Nations Resolutions" and Abdulgawi Yusuf, "Differential Treatment as a Dimension of the Right to Development"; both papers presented to the Hague Academy of International Law's Workshop on the Right to Development at the International Level, The Hague, October 1979. See generally Alain Pellet, Le droit international du développement (Paris, Presses Universitaires de France, 1978).

24/ See Proceedings of the United Nations Conference on Trade and Development, Fifth Session, vol. I, Report and Annexes (United Nations publication, Sales No. E.79.II.D.14), part one, sect. A.

General Assembly at its thirty-fourth session. 25/ Other categories of countries for which special measures have been adopted include land-locked and island developing countries and countries most seriously affected by energy problems, natural disasters and some other factors. It is not possible within the confines of the present report to examine the full range of relevant policies and programmes which have been adopted. It is appropriate, however, to note that these measures, when taken together, appear strongly to reinforce the existence of the right to development and attest to the world community's acknowledgement of the duties which flow from the existence of this right.

(iv) International accountability for promotion of the right to development

35. In his earlier report, the Secretary-General proposed that consideration should be given to procedures whereby the human rights impact 26/ of various activities could be assessed with a view to promoting realization of human rights in harmony with development. 27/ Closely connected with this approach is the concept of accountability, which has gained increasing support in recent years and which the concept would appear to have considerable potential significance as a means of promoting realization of the right to development.

36. Proposals for policy guidelines and codes of conduct to govern foreign investment and the activities of transnational corporations have received widespread support within the United Nations system. 28/ It may be that the international community should now consider promoting the wider application of the principles underlying such proposals. Thus, for example, the objective of promoting greater public accountability in connection with a variety of development activities was proposed during discussion at the thirty-second session of the Sub-Commission. 29/ Similarly, a recent OECD report has noted that governments should learn to take account in their decisions of the diseconomies which their policies are liable to inflict on others, regardless of their level of development. 30/ A symposium held at Scheveningen, the Netherlands, in July 1979, under the authority of the United Nations General Assembly and entitled "Towards a New International Development Strategy", emphasized the need for a system of international accountability of each State for the impact of its national development, or maldevelopment, on the progress

25/ General Assembly resolution 34/210.

26/ For an indication of the meaning given to the term "impact" in the context of United Nations development activities see the report of the Joint Inspection Unit entitled "Glossary of Evaluation Terms" (JIU/REP/78) which the Secretary-General transmitted to members of the General Assembly under document A/34/286.

27/ E/CN.4/1334, para. 314.

28/ See "Transnational corporations: code of conduct; formulations by the Chairman" (E/C.10/AC.2/8) and "Report of the [Commission on Transnational Corporations] Working Group on a code of conduct on its fifth, sixth and seventh sessions" (E/C.10/46).

29/ Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session, Geneva, 20 August - 7 September 1979, (E/CN.4/1350), para. 61.

30/ Interfutures: Facing the Future: Mastering the Probable and Managing the Unpredictable (Paris, Organization for Economic Co-operation and Development, 1979), p. 415, para. (3).

of other nations. Such a system was said to be "especially relevant to rich and powerful countries having disproportionate access to, and use of, world resources and pursuing a lifestyle and technology that produces the bulk of environmental hazards for the world". 31/

37. The conclusions adopted by another seminar, co-sponsored by the United Nations Environment Programme and the Economic Commission for Europe and held in Ljubljana, Yugoslavia, in December 1979, include among issues which will require special attention and action by industrialized countries, in close co-operation with developing countries, the:

"examination of policies relating to trade, investments, technology, food systems, development assistance and cultural and social questions, so as to avoid negative impact on the development potential, the natural resources and the environment of developing countries." 32/

38. The concept of accountability would appear to be of central importance in promoting realization of the right to full self-determination and of the right to development as a human right. Such an approach would also be consistent with the duty of every State "to promote all-round, mutually advantageous and equitable political, economic, social and cultural co-operation with other States" and "the duty to take up actions conducive to the furtherance of the ideals of peace, humanism and freedom". 33/

31/ A/34/467, annex para. 23. See also Ignachy Sachs, "Looking into Interdependence", International Foundation for Development Alternatives, Dossier, No. 13, November 1979, p. 115.

32/ Report of the UNEP/ECE Regional Seminar on Alternative Patterns of Development and Lifestyles, ENV/SEM.11/2, para. 81 (b).

33/ Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 33/73, sect. I, subpara. 4.

II. THE RIGHT TO PEACE AND DISARMAMENT

39. The Secretary-General's study on the "international dimensions of the right to development as a human right" stressed the interdependence of the right to peace and the right to development ^{1/} and expressed the view that "disarmament is crucial to realization of the right to development as it is to realization of the right to peace ...". ^{2/}

40. At the thirty-fifth and thirty-sixth sessions of the Commission on Human Rights, the importance of the cessation of the arms race and the strengthening of international peace and security for development purposes was emphasized by many representatives. They pointed out that disarmament would release many resources for use in development activities. ^{3/} In paragraph 4 of its resolution 4 (XXXV) the Commission noted that "exercise of the right to development implies a reign of peace and the establishment of an international economic order based on respect for human rights" and a similar statement was made in paragraph 2 (b) of Commission resolution 7 (XXXVI).

A. Right to peace

41. Originally proclaimed at Commission level in Commission resolution 5 (XXXII), ^{4/} the concept of the right to peace has been receiving since then growing recognition and support in various international instruments. Thus, one of the principles laid down in the Declaration on the Preparation of Societies for Life in Peace, adopted by the General Assembly at its thirty-third session reads:

"Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace ...". ^{5/}

42. This concept was further elaborated in the Declaration on International Co-operation for Disarmament, adopted by the General Assembly at its thirty-fourth session. In this Declaration, the Assembly stressed:

"the inalienable right of every nation and every human being to live in peace, free from the threat of war, in freedom and independence, as was solemnly reaffirmed by the United Nations in the Declaration on the Preparation of Societies for Life in Peace, the strict observance of which is in the highest interests of mankind and is an essential prerequisite for its full development". ^{6/}

^{1/} E/CN.4/1334, paras. 149-151.

^{2/} Ibid., para. 229.

^{3/} See, for example, Official Records of the Economic and Social Council, 1979, Supplement No. 6 (E/1979/36), para. 115; Ibid., 1980, Supplement No. 3 (E/1980/13), para. 115.

^{4/} Para. 1 of which states that "everyone has the right to live in conditions of international peace and security ...".

^{5/} General Assembly resolution 33/73, sect. I, sub-para. 1.

^{6/} General Assembly resolution 34/38, fifth preambular para.

The General Assembly thus explicitly recognized that there was a direct link between the right to peace and development in general.

43. The interdependence between peace, development and human rights has also been elaborated upon in international instruments. ^{7/} Thus, in paragraph 3 of the Lima Declaration and Plan of Action on Industrial Development and Co-operation ^{8/} it was stated that "peace and justice encompass an economic dimension helping the solution of the world economic problems, the liquidation of under-development, offering a lasting and definitive solution to the industrialization problem for all peoples and guaranteeing to all countries the right to implement freely and effectively their development programmes". In its resolution 54/100 on the implementation of the Declaration on the Strengthening of International Security, the General Assembly reaffirmed "the close link existing between the strengthening of international peace and security, disarmament, decolonization and development ...". ^{9/} The above-mentioned Declaration on the Preparation of Societies for Life in Peace states that respect for the right to life in peace is "an indispensable condition of advancement of all nations, large and small, in all fields". ^{10/}

44. No specific provisions were found in international instruments which would emphasize any regional or national aspects of the right to peace as distinct from the global formulation of this concept. Especially in this era of scientific and technological progress, peace cannot be regarded as a matter of only regional or national concern. Any local war endangers universal peace and the security of mankind. One author observed that "as the world becomes more interconnected, so war becomes more interconnected". ^{11/}

45. However, the General Assembly has stressed the importance of promoting good relations between neighbouring States for securing global peace and security and for the strengthening of co-operation, inter alia, in the field of development. ^{12/} For example, in its resolution 34/99 on development and strengthening of good neighbourliness between States, the General Assembly again stated that, owing to geographic proximity, there are particularly favourable opportunities for co-operation and mutual advantage between neighbouring countries in many fields and that these opportunities should be further promoted in view of their positive influence on international relations as a whole.

^{7/} See E/CN.4/1334, paras. 132-134, 137-142.

^{8/} Chapter IV of the Report of the Second General Conference of the United Nations Industrial Development Organization which was transmitted to members of the General Assembly by the Secretary-General under document A/10112 of 13 June 1975.

^{9/} Sixth preambular para.

^{10/} General Assembly resolution 33/73, sect. I, sub-para. 1.

^{11/} K.E. Boulding, Stable peace (University of Texas Press, Austin and London, 1973), p. 14.

^{12/} See General Assembly resolutions 1236 (XII) and 1301 (XIII).

46. It has been recognized that, under certain circumstances, the safeguarding of peace in various regions or areas may be of particular significance for promoting global peace and security. Thus, the General Assembly stated in a resolution of its tenth special session that "the establishment of zones of peace in various regions of the world under appropriate conditions ... can contribute to strengthening the security of States within such zones and to international peace and security as a whole". 13/

47. In this respect, specific mention should be made of international action for the implementation of the Declaration of the Indian Ocean as a Zone of Peace. 14/ In its resolution 34/80 the General Assembly reaffirmed its conviction that concrete steps in furtherance of the objectives of the Declaration would be a substantial contribution to the strengthening of international peace and security. Other examples of regional approach to the safeguarding of international peace are the conclusion of the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco), 15/ the General Assembly action on the implementation of the Declaration on the Denuclearization of Africa 16/ and the establishment of nuclear-weapon-free zones in the areas of the Middle East, 17/ in South Asia 18/ and the South Pacific. 19/

48. The General Assembly has identified some obstacles to the safeguarding of peace and security which are of regional origin but have at the same time world-wide implications. For instance, in its resolution 32/105 F on military and nuclear collaboration with South Africa, the General Assembly recognized that the growing militarization of South Africa and its plans for nuclear development greatly aggravated the threat to international peace and security. By resolution 34/39 on Israeli nuclear armament, the Assembly expressed the conviction that the development of nuclear capability by Israel would aggravate the already dangerous situation in the region and further jeopardize international peace and security.

49. It has been recognized by United Nations bodies that threats to peace and security, either global or regional, have a most damaging effect upon realization of the right to development in Third World countries. For example, it was pointed out at the thirty-fifth session of the Commission on Human Rights that imperialist aggression had compelled the developing countries to devote a substantial part of their budgets to military purposes, especially in the case of the front-line States of southern Africa and the Arab States bordering Palestine. 20/ Mention may be made

13/ General Assembly resolution S-10/2, Final Document, para. 64.

14/ General Assembly resolution 2832 (XXVI).

15/ United Nations, Treaty Series, vol. 634, No. 9036, p. 326.

16/ A/5975.

17/ General Assembly resolutions 3263 (XXIX), 3474 (XXX), 31/71, 32/82, 33/64 and 34/77.

18/ General Assembly resolutions 3265 B (XXIX), 3476 B (XXX), 31/73, 32/83, 33/65 and 34/78.

19/ General Assembly resolution 3477 (XXX).

20/ E/CN.4/SR.1489, para. 16.

of the specific action taken by the General Assembly with regard to some of the countries placed in such situations. The questions of assistance to Botswana, Lesotho, Mozambique and Zambia are considered by the Assembly as separate items of its agenda. A typical statement was made with regard to the situation in Botswana, whereby the Assembly emphasized "the special economic hardship confronting Botswana as a result of diverting funds from current and planned development projects to effective arrangements for security against attacks and threats by Southern Rhodesia". 21/ A special economic assistance programme for Zambia 22/ aims at overcoming the country's critical economic situation brought about as an indirect effect of applying sanctions against Southern Rhodesia and of diverting financial and human resources from the country's development programmes. Action is also taken by the General Assembly on assistance to the Palestinian people 23/ and on assistance for the reconstruction and development of Lebanon, 24/ which was necessitated by the situation in the Middle East.

50. It can be seen therefore that realization of the right to development at the regional and national levels is to a large extent dependent on the safeguarding and promotion of the right to peace. It was stated in paragraph 23 of the Declaration of Principles and Programme of Action adopted by the Tripartite World Conference on Employment, Income Distribution and Social Progress and the International Division of Labour, which was held at Geneva in June 1976, that "the satisfaction of basic needs is a national endeavour, but its success depends crucially upon strengthening world peace and disarmament and the establishment of a New International Economic Order". 25/

B. Disarmament

51. General issues relating to the role of disarmament in promoting realization of the right to development have already been studied in the report of the Secretary-General on the international dimensions of the right to development. 26/ The study also pointed out that:

"In addition to its detrimental impact on many of the international dimensions of the right to development, the arms race is equally counter-productive at the national level". 27/

21/ General Assembly resolutions 32/97, 33/130 and 34/125.

22/ General Assembly resolution 34/128.

23/ General Assembly resolutions 3236 (XXIX), 3237 (XXIX), 33/147 and 34/133.

24/ General Assembly resolution 33/146.

25/ The Declaration of Principles and Programme of Action (VEG/CW/E.1) were submitted to the Economic and Social Council, at its sixty-first session, by the Director-General of the International Labour Office, under document E/5857 of 5 July 1976.

26/ E/CN.4/1334, chap. IV. B., paras. 219-229.

27/ Ibid., para. 229.

52. One of the Special Rapporteurs of the Sub-Commission on Prevention of Discrimination and Protection of Minorities observed in his study on the right to self-determination that "even under conditions of peace, the social and political effects of armament endanger the implementation of human rights". 28/ The Secretary-General stated in his 1980 Report on the Work of the Organization that world military expenditures in 1980 would exceed the staggering figure of \$500 billion or roughly 6 per cent of total world output, and that the damaging impact of such expenditures on the basic needs of society was self-evident. 29/

53. There is no doubt that the present stalemate in some major disarmament negotiations between big industrialized powers and their resumed arms race is having a severely negative impact on the level and nature of development aid accorded by those countries to third world nations.

54. These problems were discussed at the recent United Nations Seminar on "the effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms" (Geneva, 30 June - 11 July 1980). 30/ Several participants at the Seminar linked the arms race with the economic plight of the developing countries. It was observed that if even a fraction of the huge sums being spent on armaments were redirected towards helping to fight poverty, illiteracy and disease in the developing countries, the right to development would be more strongly promoted. 31/

55. However, the detrimental effects of the arms race and military activities manifest themselves in the most harmful way in the developing countries. As indicated in the updated report of the Secretary-General on the economic and social consequences of the arms race and of military expenditures,

"... the general negative effects of resource diversion to military uses tend to be aggravated in developing countries because modern armed forces make heavy demands on many of the resources which are most needed for development and which constitute severe bottle-necks in many cases: foreign exchange, skilled technical and managerial manpower and maintenance, repair and industrial production capacity". 32/

28/ "The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs with particular reference to the promotion and protection of human rights and fundamental freedoms". Study by Mr. Aurelin Cristescu (E/CN.4/Sub.2/404), para. 629.

29/ Official Records of the General Assembly, Thirty-fifth session, Supplement No. 1 (A/35/1), sect. V.

30/ ST/HR/SER.A/8.

31/ Ibid., para. 53 (vii).

32/ Economic and Social Consequences of the Arms Race and of Military Expenditures (United Nations publication, Sales No. E.78.IX.1) para. 109.

56. The Brandt Commission in its recent report examined the question of imports by the developing countries and stated that the drive to sell weapons to the Third World had been intensified in the 1970s "often aimed at stimulating new demand irrespective of real defence needs". ^{33/} It was recognized that the Governments of the developing countries, like any others, want weapons to strengthen their national security; but in the view of the Commission, some of them have increased their military expenditure at a rate that bears little relationship to their security needs, at the expense of peaceful development. The Commission observed further that "as massive arms imports require an adequate infrastructure, absorb scarce skilled labour and additional foreign exchange for maintenance imports, this all increases debt burdens". ^{34/}

57. Without making any judgements on the real security needs of States, it appears that there exist certain international and regional factors which make it particularly difficult to effect disarmament in certain areas. It has been stated that the situations existing, for example, in the Near East and in the sub-region of southern Africa may compel many developing countries of these areas to increase their military expenditures and to import arms in order to ensure their own security. Civil wars, social or political conflicts verging on civil war, or even inter-group tensions, have also been invoked by many Governments, including those of Third World countries in various areas, to justify a massive allocation of resources to armament. The Secretary-General pointed out in his 1980 Report on the Work of the Organization that "almost everyone of the areas of current tension and conflict generates security problems for the parties concerned and almost everyone of them adds further momentum to the arms race". ^{35/}

58. Threats to peace and security and re-armament have widespread effects, beyond their immediate impacts of further aggravation of tensions and the slowing down of development efforts. As emphasized by the Secretary-General in paragraphs 117-125 of his updated report on the economic and social consequences of the arms race and of military expenditures, to which reference was made in paragraph 56 above, the proclaimed need to cope with external or internal security threats and the consequent attention paid to military needs tend to strengthen the political influence of the permanent military establishment, sometimes culminating in its seizure of political power. Closely related developments are often the abrogation or suspension of democratic institutions, of judicial and other procedures safeguarding human rights and of freedom of expression and information.

59. In various instances, those institutional trends at the political level are accompanied by the growth of an authoritarian outlook, often characteristic of military elites, in many fields - economic, social and cultural - of national life. This process of pervasive militarization tends to estrange the people from their own development needs, to weaken awareness of their own dignity, and to jeopardize the very foundations of the Human Rights value systems proclaimed by the United Nations.

^{33/} North-South: A Programme for Survival, Pan Books, London, 1980, p. 121.

^{34/} Ibid., p. 122.

^{35/} Official Records of the General Assembly, Thirty-fifth session, Supplement No. 1 (A/35/1), sect. V.

60. This widespread erosion of human rights through re-armament and militarization has been denounced by the United Nations, notably in resolutions XVI and XXIII of the 1968 Teheran Conference, 36/ and in General Assembly resolution 2674 (XXV) of 1970.

61. The Brandt Report concluded that true security could be achieved "only by providing basic conditions for peaceful relations between nations, and solving not only the military but also the non-military problems that threaten them". 37/ This is especially relevant with regard to the explosive situations still existing in some regions of the world.

62. The General Assembly in its resolutions 32/37D and 33/91E emphasized the importance of the regional aspects of disarmament. A summary of recent United Nations action in this regard can be found in paras. 47 to 50 above. A report on the regional aspects of disarmament was submitted to the General Assembly at its tenth special session in 1978. 38/ In the view of one Government, "the regional approach to disarmament, through the confidence and stability that it will promote in the region, will offer the States involved the possibility of relocating funds and resources released from armaments to other and more urgent needs, such as economic development". 39/ Another Government pointed out that the universal problem of arms limitation and disarmament has aspects which differ from region to region and that "the States of a given region... would naturally be best qualified to work out appropriate solutions". 40/

63. In its declaration on International Co-operation for Disarmament of 1979, the General Assembly solemnly called upon all States to develop joint efforts in achieving concrete disarmament measures whose implementation would progressively enable a significant portion of the resources made available through such measures to be used for social and economic needs, thus contributing to the bridging of the economic gap between developed and developing countries, taking into account the close relationship between disarmament and development. 41/

64. In the Final Document of its Tenth Special Session, 42/ the General Assembly decided that the Secretary-General should, with the assistance of a group of qualified governmental experts appointed by him, initiate a study on the relationship between disarmament and development, and that he should submit an interim report on the subject to the Assembly at its thirty-fourth session and the final report to the Assembly at its thirty-sixth session for subsequent action.

36/ Final Act of the International Conference on Human Rights (United Nations publication, Sales No. E.68.XIV.2).

37/ Op. cit., p. 124.

38/ A/S-10/3 and Add. 1-2.

39/ A/S-10/8, p. 44, para. 2.

40/ Ibid., Add.2, p. 5, para. 3.

41/ General Assembly resolution 34/30, sect. I (h).

42/ General Assembly resolution S-10/2.

65. Pursuant to that decision, the Secretary-General appointed the Group of Governmental Experts on the Relationship between Disarmament and Development. In the interim report of the Group which was submitted to the General Assembly at its thirty-fourth session, 43/ the main areas of investigation for the study on the relationship between disarmament and development were indicated 44/ and the research projects commissioned for the study were listed. 45/ Mention may be made of such projects relating to regional and national development as:

"Disarmament and Development: utilization of resources for military purposes in Black Africa;

"The effects of arms race and defence expenditures on development: a case study of Egypt;

"A formalized and econometric study of the interrelationship between military expenditure and economic development. Examples: France and Morocco;

"Disarmament and development in Africa;

"Reallocation of military resources in OECD areas to primary sectors in least developed countries: mutuality of interests: a third-world perspective;

"Disarmament and development: the case of relatively advanced developing countries;

"Economic and social effects of (military) arms build-up in Nigeria: implications for development of the country;

"The redeployment of arms expenditures in Norway with particular emphasis on the scope for additional transfer to developing countries;

"Political and economic obstacles to disarmament efforts in developing countries: Egypt, India and Iran;

"The economic and social consequences of the arms race and of the implementation of disarmament measures for the developing countries of Asia and Africa",

The final report of the Group of Governmental Experts will undoubtedly be an important contribution to further elaboration of the study on disarmament and realization of the right to development at regional and national levels.

43/ A/34/534, annex.

44/ Ibid., appendix I.

45/ Ibid., appendix III.

III. INTERNATIONAL MIGRATION

66. Without delving into the complexities and technical aspects of questions of international migration, this chapter will attempt to identify the main effects of international migration on the realization of the right to development at the regional and national levels.

A. Migrant workers(1) Magnitude and principal causes of the migration of unskilled labour

67. From the beginning of the 1960s to the late 1970s, the international migration of unskilled or semi-skilled workers developed as a phenomenon of great magnitude and diversity. Some generally accepted figures, quoted in United Nations documents, illustrate the size of the migrations. In West Africa, for instance, labour migrations from 1960 to 1965 have involved more than one million people. In southern Africa during this period, migrant workers numbered more than 250,000 persons each year. ^{1/} It has been observed that in 1971 there were approximately 700,000 Algerians, 170,000 Moroccans and 100,000 Tunisians in France; the same three nationalities were represented by 26,000 persons in Belgium, 25,000 in the Federal Republic of Germany and 18,000 in the Netherlands. ^{2/} In 1971, some 25,000 officially registered migrant workers from the West Indies were admitted into the United States and 7,000 such workers entered the United Kingdom officially. ^{3/} In South America, intra-continental migratory movements involved some 1,600,000 immigrants to Argentina from Bolivia, Brazil, Chile, Paraguay and Uruguay in 1969. The flow to Venezuela, mainly from Colombia, was then estimated at somewhere between 300,000 and 700,000 a year. ^{4/} To all of these official statistics should be added a margin to take account of the admittedly huge population of irregular migrants.

68. Among the immediate causes of migratory movements directed towards Western Europe, one can cite the conditions prevailing in that region after the Second World War. Western European demand for immigrant labour, which had been developing for some time as a result of demographic stabilization, gained a new impetus out of the needs of economic reconstruction. As from the early 1970s, a comparable demand for imported manpower was observed in oil-producing countries of the Near East and Latin America. More basic factors, of lasting impact, are the realities of economic under-development and the gap between the standard of living of the industrialized regions and that of the developing areas. Economic under-development in the newly independent States has often been attributed, at least in part, to colonialism which, on the whole, encouraged monoculture, prevented industrialization, and made insufficient provision for education and vocational training. ^{5/} Coupled with economic under-development, considerable population growth, mainly due to improved health care, was observed in the Third World as from the mid-1950s. Unemployment and under-employment became widespread and endemic. Thus, the plight of

^{1/} For details see "The welfare of migrant workers and their families: report of the Secretary-General" (E/CN.5/515 of 14 October 1974, paras. 8-25).

^{2/} E/CN.5/515, para. 12.

^{3/} Ibid., para. 14.

^{4/} Ibid., para. 15.

^{5/} E/CN.5/515.

under-development and the consequent yearning of unskilled workers to escape poverty were the main factors which compelled them to emigrate from Third World countries to Europe, the United States, and the oil-producing areas of the Near East and Latin America. The unskilled workers who migrated in these circumstances were ready to accept the least desirable and lowest paid occupations which nationals of developed countries would not take.

(2) Relationship between the migration of unskilled labour and the right to development

69. A number of economic studies have demonstrated that migrant workers serve an essential function in the economies of both manpower-supplying and manpower-receiving countries. They have helped in relieving the pressures generated by the disparity in labour supply and demand and thus contributed significantly toward the economic growth and/or stability of the receiving and sending countries.

(i) Effects of labour migration upon the development of the host countries

70. In the 1960s and early 1970s, numerous economic studies tended to show that, unless migrant labour had been directed towards the so-called "manpower deficit" sectors, substantial reductions would have had to be made in the production of goods and services and the standard of living of developed countries.

71. For example, Brinley Thomas, to whose work Migration and Internal Investment Mrs. Halima Embarek Warzazi referred when introducing her report on the exploitation of labour through illicit and clandestine trafficking (E/CN.4/Sub.2/352) to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, considered that, had it not been for migrant labour, the construction of public buildings, communal facilities and infrastructure projects, such as dams and roads, might have had to be suspended or reduced in scale in the Federal Republic of Germany, the United Kingdom and France. In his opinion, the mining and iron and steel industries would have been greatly affected, particularly in Belgium and Luxembourg, as would the textile industry in Switzerland and the United Kingdom. It was also probable that many small and medium-sized businesses would have become bankrupt without foreign labour.

72. Those considerable benefits were obtained at little cost to the developed economies. They did not pay for whatever schooling and apprenticeship foreign workers had received before their migration. Often, further vocational training, adapted to the cultural and linguistic needs of migrants, was not available to them in the host countries. The wages paid to foreign labourers were generally low on grounds of insufficient skill, and also - in fact - because migrants did not always enjoy effective support from labour unions. Salaries and working conditions were particularly inadequate with respect to the large population of irregular migrants. While foreign labourers often had to pay social security dues in the host countries, their acquired rights were not necessarily recognized upon departure and after their return to the countries of origin.

73. It has been observed in various studies that foreign workers are often denied the full enjoyment of human rights in the host countries. Reference may be made, in particular, to the study by Mrs. Warzazi, Special Rapporteur of the Sub-Commission

on Prevention of Discrimination and Protection of Minorities, on the exploitation of labour through illicit and clandestine trafficking, 6/ and to the report of the Tunis Seminar on the Human Rights of Migrant Workers. 7/ Human Rights problems for migrant workers concern various economic, social and cultural benefits as mentioned in the preceding paragraph. Also, the exercise of certain civil and political rights, for instance access to judicial and other remedies and protection against arbitrary expulsion, may, in law or in fact, be restricted for them. To sum up, it appears from relevant studies and reports that the situation might be summarized by saying that the development of industrialized areas of the world was to a certain extent correlated to difficulties in realizing the human right to development, in its broad sense, for masses of foreign labourers.

(ii) Effects of labour migration upon the situation of developing countries

74. It has been suggested that the outflow of labour may help the developing countries of origin, by absorbing part of their unemployed human resources. Massive emigration of workers would thus prevent economic crises and social and political tensions in many areas of the Third World. It is also said that the monetary remittances of emigrants to their families at home may constitute a sizeable income for labour-supplying countries, preventing the deterioration of their balance of payments.

75. The over-emphasis which is sometimes placed on the arguments outlined above appears to flow from a superficial view of development problems. This view postulates that massive unemployment is an unavoidable and permanent characteristic of Third World societies, due to a basic imbalance between population and physical resources. In fact, unemployment in developing countries derives not so much from over-population as from a combination of many other factors, in particular inadequate education and vocational training inherited from colonialism; insufficient knowledge of, and search for, natural resources; lack of awareness of the value of the country's resources in international trade; inadequate export promotion policies, and the numerous effects of the unjust terms of international trade (as regards, for instance, commodity pricing) upon fragile economies which are still dependent on the export of a few "cash crops" and raw materials.

76. Policies of developing countries which systematically encourage labour migration as a permanent and major remedy to their ills may tend to perpetuate under-development. Such countries lose, in the long run, more than they gain. A large proportion of emigrants, having grown accustomed to a higher living standard, prolong their residence in industrialized regions, sometimes even on clandestine terms. Their children, in spite of some efforts to maintain their national ties, generally get assimilated into the host countries. In losing men, developing countries deprive themselves of the basic resource for development: economic policies of a labour-intensive nature may become unworkable, and whatever talents or skills the migrants may acquire would largely benefit the host countries instead of assisting in the economic and social progress of the Third World. The solution for the developing countries appears to be in the opposite direction: to concentrate on maximum attraction and utilization of manpower through well-planned

6/ E/CN.4/Sub.2/L.640.

7/ ST/TAO/HR/50.

policies for the exploration and exploitation of natural resources, infrastructure building, the undertaking of public works, economic diversification, and export promotion. The international community and, in particular, the industrialized States, have a duty to co-operate with developing countries, upon request, in the implementation of such policies.

(iii) Economic recession, foreign labour and third world development

77. The world economic recession since 1974 has considerably reduced the demand of developed countries for unskilled migrant labour. This has been reflected in more restrictive policies on immigration in Western Europe and North America. Because of this recession, migrants have found themselves in an increasingly difficult situation. Nationals of the receiving countries, including some labour unions, may tend to perceive migrant workers as unfair competitors for diminishing employment opportunities. Labour regulations and immigration controls, in response to such fears, become sometimes increasingly severe, even harassing for foreign workers. They are often the first terminated in case of staff reduction.

78. Some industrialized countries are not only closing their doors to new migrants, but carrying out policies of large-scale repatriation. Such policies may create acute personal and family difficulties for the workers concerned. On the macro-economic level, developing countries, faced with a mass influx of returning citizens, are unable to solve the ensuing unemployment problems by their own efforts. These considerations have led various agencies and bodies of the United Nations system, especially the ILO, to consider recommendations to the effect that repatriated workers should receive adequate compensation and that employment opportunities should be created, as far as possible with the help of the international community, for migrants returning to their countries of origin.

(3) Action by international organizations for the protection of migrant workers in relation to the human right to development

79. Building upon the prominent and long-lasting concern of the ILO in this field, 8/ and in full co-operation with the ILO, the United Nations and various other international agencies have, since the late 1960s, accorded high priority to matters concerning the protection of migrant workers in relation to the human right to development. Their activities have been summarized in the study by Mrs. Warzazi, Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities 9/ and in a report by the Secretary-General entitled "Measures to improve the situation and ensure the human rights and dignity of all migrant workers" submitted to the Commission on Human Rights at its thirty-fifth session. 10/

80. In particular, a supplementary and expanded convention as well as a detailed recommendation on migrant workers were adopted by the ILO in June 1975. The General Assembly of the United Nations, by its resolution 34/172, decided to

8/ See, in particular, ILO Conventions Nos. 96, 97 and 110 and the Convention of 1975 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers; and ILO Recommendations Nos. 86, 100 and Recommendation 151 adopted on 24 June 1975.

9/ E/CN.4/Sub.2/L.640.

10/ E/CN.4/1325.

establish at its thirty-fifth session a working group for the elaboration of a global convention for the protection of the human rights of all migrant workers and their families. Relevant instruments have been adopted, or are being envisaged, by regional organizations such as the Council of Europe and the Organization of American States.

81. It is the guiding principle of international action in this field that the fullest protection of the human rights of migrant workers best promotes, in the long run, the right to development everywhere, especially in developing countries.

B. The brain drain

(1) Magnitude and causes of the brain drain

82. The period from the early 1960s to 1972 was characterized by a considerable outflow of highly skilled manpower from the developing to the developed countries. A report ^{11/} prepared by the secretariat of UNCTAD suggests that during this period an estimated total of 300,000 skilled persons had migrated to Europe and North America. The major regional source of immigration was the continent of Asia, which accounted for more than 50 per cent of the outflow from developing countries, particularly India and the Philippines.

83. The gap in terms of employment opportunities and standards of living between industrialized and developing countries has been stressed as the main cause of the migration of highly skilled personnel. ^{12/} However, the brain drain cannot be considered solely in economic terms. Disparity between Third World and industrialized countries regarding various social and political conditions is also among the causes of the brain drain.

(2) Effects of the brain drain on realization of the right to development

84. The adequate use of highly trained persons is an essential motive force of development. The impact of the brain drain upon the development of sending and receiving countries is not easy to assess, since it is generally an indirect one, spread over substantial periods of time. The direct consequences of the immigration of highly trained personnel can be observed mostly in terms of scientific and technological progress, or stagnation, taking into account various indicators such as the number of "brevets d'invention" and patents pending and granted. Scientific and technological advances tend to be reflected, after some time, in economic growth, higher standards of living and improved social services for all, provided, of course, that the fruits of progress are not monopolized by a few. It has been suggested, for instance, that, taking various indicators into account, the contribution of foreign highly trained personnel in 1970 to the economy of the United States amounted to 3.7 billion dollars, whereas the total assistance provided by the United States to the developing countries amounted to 3.1 billion dollars. ^{13/}

^{11/} TD/B/C.6/7, paras. 6-8.

^{12/} See, for example, the report entitled "Outflow of trained personnel from developing to developed countries" submitted to the Committee on Science and Technology for Development on 18 January 1974 (E/C.8/21).

^{13/} Ibid., paras. 9-12.

85. Various measures have been contemplated at the international level to solve this problem. They should take into account, in a balanced manner, all the relevant provisions on human rights and freedoms set forth in the Universal Declaration, the Covenants and other instruments. In particular, article 29 of the Universal Declaration states that everyone has duties to the community and that, in the exercise of his rights and freedoms, there are certain limitations to be taken into consideration, including those which may be required to ensure the general welfare in a democratic society.

C. Refugees

86. A special and dramatic form of international migration that characterizes the world of today is the growing outflow of millions of refugees or displaced persons. By contrast with migration caused by unemployment, the roots of the outflow of refugees or displaced persons do not lie in demographic pressure. This exodus of refugees is mainly generated either by natural calamities, resulting in famine or starvation, or by man-made disasters such as war, gross violations of human rights and situations of political instability. It is reaching such dimensions that it has a considerable adverse impact upon realization of the right to development at the regional and national levels.

87. The daily growth in, and the complexity of, the outflow of refugees or displaced persons have made it difficult to evaluate accurately the dimension of this type of migration; however, recent global studies and reports on the subject have suggested that over 11 million people in the world today are refugees or displaced persons, half of them being children under 16 years of age. During the period between the end of 1978 and the second half of 1979, global statistical data concerning areas covered by the United Nations High Commissioner for Refugees (UNHCR) showed a considerable increase in the number of refugees and displaced persons, which rose to over 2,145,000 people in Africa, approximately 780,000 people in North America, 150,000 in Latin America, approximately 520,000 in Europe and over 920,000 in Asia and the Pacific. 14/

88. In dealing with this human tragedy, international organizations and voluntary agencies have joined their efforts with a view to implementing the principles contained in the Universal Declaration of Human Rights, that every one has the right to leave any country, including his own, to return to his country and to seek and enjoy in other countries asylum from persecution. 15/ The assistance programmes and budgets of these organizations have grown substantially in recent years, reaching, for instance, \$54 million in the case of the HCR General and Special Programmes for Africa in 1978. 16/ These international programmes are not sufficient, however, to provide fully adequate assistance. A substantial burden continues to be borne by the countries of asylum, which are often - at least for provisional asylum - developing countries.

14/ Report of the United Nations High Commissioner for Refugees, Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 12 (A/34/12).

15/ For further details, see A/34/627, pp. 7-10.

16/ Report of the United Nations High Commissioner for Refugees, Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 12 (A/34/12), para. 77.

89. The relationship between the refugee problem and realization of the right to development has long been ignored, but the massive character of the problem nowadays renders this relationship increasingly clear. First, it can be said that denial of the right to development is one of the deep causes of the refugee phenomenon: the demands of peoples for their basic economic and social rights leads them to protest and to revolt. These movements too often provoke only persecution by Governments and those holding economic power, till flight becomes the only recourse.

90. In its consequences, the exodus of refugees certainly creates considerable problems for the economic and social programmes of developing countries. Many of the emigrants are highly educated persons whose absence may have a very adverse effect on the technological progress indispensable to economic take-off. When the exodus reaches massive proportions - as is increasingly the case - it may further have an impact on the availability of unskilled workers for labour-intensive projects in the country of origin. Furthermore, the refugees, in many instances, cannot contribute significantly to the development of the countries of asylum, in view of their poor state of health and lack of financial resources.

91. Finally, as noted earlier, the countries of asylum often belong to the developing world. For lack of infrastructure and resources, it is extremely difficult for them to assume responsibility for the refugees without massive help from the international community. In the absence of adequate international co-operation, the developing countries of asylum may have to face, increasingly, the tragic dilemma of choosing between poverty for the refugees or poverty for their own citizens. This is a dilemma which the international community, in the spirit of the Charter, cannot accept.

92. In short, the refugee phenomenon, for want of adequate measures, tends to accentuate the negative effects of the problems connected with migrant workers and the brain drain on realization of the right to development.

IV. INTERNATIONAL TRADE

93. The aim of this chapter is to analyse how the present structures and patterns of international trade may affect realization of the right to development as a human right in developing countries.

94. The rapid expansion of international trade since the Second World War, of flows of capital for investment to developing countries, and of development aid have led to an increasing integration of the economies of the developing countries into the world economy. It had been generally expected that this integration would significantly stimulate growth in those countries, thereby contributing to the achievement of the right to development. However, in spite of this integration, the gap between rich and poor countries continues to widen, as does the gap between "haves" and "have nots" within developing countries. Where economic growth has occurred, it has often failed to alleviate mass poverty. One reason for this seems to lie in the very character of international trade structures.

95. The present structure of international trade reflects to a considerable extent the international division of labour which was set up in colonial times. The colonies were largely relegated to the task of producing and exporting cheap raw materials and primary commodities for processing and marketing by the industrialized countries where the major part of the world's manufacturing industry was located. This "vertical" division of labour stood in sharp contrast to the "horizontal" division of labour among the developed countries which was based largely on intra-industry specialization. Most developing countries thus depended largely on foreign exchange earnings to purchase capital goods, intermediate products and technology, and to support the development process. Many of them also depended on the transnational corporations for the supply of technology, know-how and finance, and for the transport and marketing of their export produce.

96. This traditional international division of labour is supported and perpetuated by international trade. This pattern, primarily based on the production of a few export commodities in the Third World, has led, in many developing countries, to the relative neglect of the cultivation of basic food-crops for domestic consumption. Being subjected to these international trade pressures, many developing countries have been unable to diversify domestic production, to strengthen local markets or to generate the balanced economic growth necessary for national over-all development.

97. The structure of international trade has thus often tended to deprive the developing countries of control over the pace and pattern of their own development processes. The pattern of growth which was initiated was fundamentally dependent; and even though in the short run export revenues could be increased, this export-led development strategy has prevented many developing countries from producing capital goods and indigenous technology, and from orientating their production to meet the basic needs of the majority of the population. Finally, this heavy dependence on the international market for a few export commodities subject to wide price fluctuations, the deterioration of the terms of trade and the increasing indebtedness of developing countries have resulted in continued economic and financial instability, which has made it difficult for many developing countries to implement a long term development policy specifically related to their own needs. The present structure of international trade appears to lend itself to supporting a process of underdevelopment within many Third World countries, characterized by persistent unemployment, rapid inflation, food shortages, malnutrition and large-scale poverty. This has often led to political instability and social unrest, which in many cases have been met with repression,

militarization of Third World societies and violations of basic human rights. A fundamental change in the structure of international trade seems therefore to be a prerequisite to the eradication of mass poverty and to the realization of the right to development as a human right on the national level in developing countries.

98. As has been shown, the economic progress of Third World countries depends to a large extent on the availability of stable export earnings to finance imports of necessary capital goods and technology. The present pattern of international trade leaves, however, most Third World countries with highly unstable, and over the long run declining, foreign trade earnings. There are various reasons for this:

(a) There is a heavy dependence on a very limited number of primary commodities in the exports of many developing countries. Between 1970 and 1972, over one-half of the non-oil developing countries obtained more than 50 per cent of their export earnings from only one or two crops or minerals. For some countries, exports from a single commodity - apart from oil - constituted as much as 80 per cent of total export earnings. 1/

(b) In the absence of more diversified patterns of production, many developing countries have been vulnerable to the excessive price fluctuations of raw materials and primary commodities on the world market. Such price fluctuations have led to pronounced income instability for many developing countries, and made long-term development planning difficult. The volatility of primary commodity prices is attributable to special supply and demand conditions in commodity markets. On the demand side, the trade cycle and changes in stocking policy in relation to consumer market expectations cause an unstable demand pattern to which supply may not be able to adjust readily; for example, crops may already have been planted, and changing mineral production capacity takes time. On the supply side, rigidities arise from unplanned variations in harvests. A further factor which aggravates the situation is a weak financial or foreign exchange position which forces some producing countries to sell at inappropriate times in relation to market circumstances. The effects of price instability are sometimes further exacerbated by fluctuations in the exchange rate of the currency in which the commodity price is quoted, especially in long-term contracts under commodity agreements. Also, inflexible marketing margins and freight rates have been factors tending to transmit instability back to the producers in aggravated form. 2/

(c) While the prices of most commodities - apart from oil - have greatly oscillated on the world market, those of manufactured goods and food staples have steadily risen. Over the long term, the prices of primary commodities have tended to decline relative to the price of manufactured goods, and this long-term deterioration in the terms of trade of commodity producers has most severely affected the developing countries. From 1955 to 1975, the terms of trade of Third World countries have deteriorated at an average annual rate of 2 per cent. The relative shortage of commodities in 1973-1974, which has provoked a sudden increase in export prices of developing countries and a slight improvement in their terms of trade, has not fundamentally altered this trend: since 1975, many commodities have resumed their steady decline while the prices of manufactured goods have again climbed, partly as

1/ North-South: A Programme for Survival, (London, Pan Books, 1980), p. 145.

2/ Ibid., p. 146.

a result of the increase in oil prices and inflationary pressures. 3/ Most developing countries have thus been caught in a classic "pincer operation", with the price of essential imports steadily increasing and the price of their exports stagnating or declining. Reduced export earnings and balance of payments difficulties have had severe inhibiting effects on the efforts of developing countries to secure economic advance and achieve development goals.

99. The capacity of developing countries to influence commodity markets and to receive a more equitable share of the gains of international trade is further limited due to the little control that they have over the processing, transportation, marketing and distribution of their commodities. The tendency towards market concentration among importers, increasingly large transnational corporations, is reducing the bargaining power of developing countries.

100. Following the oil crisis of 1973, a special session of the United Nations General Assembly was convened to study the problems of raw materials and development. It emphasized the urgent need to eliminate the widening gap between the developed and developing countries and called for a new international economic order based on equity, sovereign equality, interdependence and common interest. 4/

101. In its resolution, the General Assembly insisted that the new international economic order to be founded must be based on the following principle:

"Just and equitable relationship between the prices of raw materials, primary commodities, manufactured and semi-manufactured goods exported by developing countries and the prices of raw materials, primary commodities, manufactures, capital goods and equipment imported by them...". 5/

102. Subsequently, a Programme of Action on the Establishment of a New International Economic Order was adopted. 6/ It stipulated that all efforts should be made to reverse the continued trend of stagnation or decline in the real price of several commodities exported by developing countries, to promote the processing of raw materials in the producer developing countries, 7/ and to improve the terms of trade of developing countries. Concrete steps to eliminate the chronic trade deficit of developing countries should be taken, through, inter alia:

- (a) the removal of tariff and non-tariff barriers and of restrictive business practices;
- (b) the formulation of commodity agreements in order to regulate and stabilize the world markets for raw materials and primary commodities;

3/ UNCTAD has considered the possibility of an indexation of commodity prices, to fix them in relation to the prices of industrialized products. See "The indexation of prices: Study by the UNCTAD secretariat" (TD/B/503 and TD/B/503/Supp.1 and Supp.1/Add.1).

4/ General Assembly resolution 3201 (S-VI) of 1 May 1974.

5/ Ibid., para. 4 (j).

6/ General Assembly resolution 3202 (S-VI) of 1 May 1974.

7/ Ibid., chap. 1, para. 1, subparas. (e) and (g).

- (c) the expansion and diversification of imports from developing countries, which would lead to a more rational, just and equitable international division of labour;
- (d) the setting up of general principles for pricing policy for exports of commodities of developing countries, with a view to rectifying and achieving satisfactory terms of trade for them;
- (e) the implementation, improvement and enlargement of the generalized system of preferences for export of agricultural primary commodities, manufactures and semi-manufactures from developing to developed countries; and
- (f) the setting up of buffer stocks within the framework of commodity arrangements and their financing by international financial institutions, wherever necessary by the developed countries. 3/

103. In December 1974, the Charter of Economic Rights and Duties of States reaffirmed the need to establish and maintain a just and equitable economic and social order through the achievement of more rational and equitable international economic relations and the encouragement of structural changes in the world economy. 2/

104. Efforts to regulate international trade and stabilize the export earnings of developing countries had in fact been initiated after the establishment of the United Nations Conference on Trade and Development (UNCTAD) in 1964. A Group of 77, composed of developing countries which participated in that Conference, had been formed to strengthen the developing countries' negotiating capacity. At UNCTAD II in New Delhi, a generalized scheme of preferences was agreed upon, under which industrialized countries would give preferential tariff treatment for manufactured products originating in less developed countries, so as to stimulate the diversification of domestic production and processing in those countries.

105. The idea of a common fund was put forward at UNCTAD IV in Nairobi in 1976 as one of the twin pillars of an integrated programme for commodities, the other being efforts to conclude individual agreements for a substantial number of commodities of export interest to developing countries. The key role assigned to the common fund was the financing of buffer stocks and other price stabilization measures on a global level. 10/ Buffer stocks should be constituted for 10 to 18 main primary commodities, namely cocoa, tea, coffee, sugar, cotton, jute, sisal, rubber, copper and zinc, in order to cope with fluctuations of supply and demand and uncertainty of harvests. 11/

106. On 27 June 1980, at a negotiating conference in Geneva attended by 101 countries the Agreement Establishing the Common Fund for Commodities was adopted. 12/ representing a real breakthrough in the implementation of the Integrated Programme for Commodities. However the agreed Common Fund is not of the same size as

8/ *Ibid.*, chap. 1, para. 3, subpara. (a).

9/ General Assembly resolution 3281 (XXIX), Preamble.

10/ "An integrated programme for commodities: Report by the Secretary-General of UNCTAD" (TD/B/C.1/166, TD/B/C.1/166/Supp.1 and Supp.1/Add.1, TD/B/C.1/166/Supp.2-Supp.5, TD/B/C.1/184, 184/Add.1, 185 and Corr.1, 185/Add.1, 186, 187, 188 and 189).

11/ "Consideration of issues relating to the establishment and operation of a common fund" (TD/B/IPC/CF/2 and CF/3; TD/B/IPC/CF/L.1, L.1/Add.1, L.2 and L.2, Corr.1, L.3, L.4 and L.6).

12/ "Agreement Establishing the Common Fund for Commodities" (TD/IPC/CF/CONF/24).

the Fund which had been originally conceived at UNCTAD IV in Nairobi. The original proposal was to set up a Fund with \$6 billion to cover the stock-piling needs of the 18 commodities identified, for stocking support on the international plane with a view to stabilizing their prices at reasonable levels. It was planned to raise \$2 billion through government subscriptions and \$4 billion through market borrowings. ^{13/} It was felt that the establishment of the Fund, with financing of its own, would stimulate the conclusion of individual commodity agreements.

107. The Common Fund that will now come into existence will have a subscribed capital of only \$400 million, at 1980 prices. Of this sum, only 30 per cent is payable in cash; the rest is to be on call. ^{14/} The Fund has not been given the power to raise resources through international market borrowings; instead it is supposed to raise funds through commodity agreements associated with the fund.

108. In the concluding stages of the negotiations, particularly over the past 14 to 25 months, one of the main issues was the allocation of voting rights concerning the Common Fund among various groups of countries. The developed countries would not accede to the 'Third World countries' wish for half the voting rights. The "Fundamental elements of the Common Fund" provide for the distribution of votes to the four groups in the ratio of 47 per cent for the Group of 77, 42 per cent for Group B, 8 per cent for Group D and 3 per cent for China. ^{15/} The allocation of voting strength, in some international financial institutions, such as the World Bank and the International Finance Corporation, has been regarded by various Third World countries as being even more unbalanced.

109. Other global measures recommended by UNCTAD to change the international division of labour and the structures of international trade are, in particular: the diversification of cash crop cultivation, the processing of commodities in the producers' countries, increased trade among developing countries; and the encouragement of production of, and export trade in, manufactured goods by developing countries.

110. Attempts by developing countries to reduce their dependence upon a few primary commodities by stimulating the production of manufactured goods and their export to developed countries have often met with tariff and non-tariff barriers. As a result of international negotiations conducted within the framework of UNCTAD and GATT, many industrialized countries, in the 1970's, granted preferential tariff treatment to manufactured and semi-manufactured products of developing countries. While this has significantly stimulated the growth of manufactured output for the developing countries as a whole, only a few developing countries, where manufacturing industries had already been established, have been able to profit significantly from this treatment: One of the net effects of this trade liberalization for manufactured goods has been an increase in the inequality between developing countries. Furthermore,

^{13/} UNCTAD IV and Beyond - Background information paper No. 2, Geneva, October 1977, p.5.

^{14/} UNCTAD Press release, TAD/INF/1185, Geneva, 30 June 1980, p.2.

^{15/} "Report of the United Nations Negotiating Conference on a Common Fund under the Integrated Programme for Commodities on its third session" (TD/IPC/CF/CONF/19, Annex I, p.5).

transnational corporations have profited from this liberalization by transferring some of their factories to Third World countries where labour is cheaper than in industrialized states.

111. In the late 1970's, protectionism in developed market economics increased again. Stringent quantitative restrictions have been recently imposed on imports of developed market economies from developing countries. Some developed countries appear to have invoked the GATT escape clause to restrict imports in cases of injury to domestic industry. Various countries have also tended to circumvent GATT rules through bilateral agreements for "voluntary" restraints on exports from developing countries to developed market economies. 16/ Such trends might compromise seriously the efforts of developing countries in diversifying their economies and raising their export income.

16/ "Elements in an international development strategy for the 1980's: Report prepared by the Secretariat: Part II, Industrialization and Trade" (E/AC.54/19/Add.1).

V. ACTIVITIES OF TRANSNATIONAL CORPORATIONS

112. Transnational corporations (TNCs) have been described as enterprises which own or control production or service facilities outside the country in which they are based. 1/ Their products are manufactured simultaneously in different countries, and sold through integrated distribution systems which transcend national frontiers. During the last three decades, the growth and spread of TNCs, together with the increasing sophistication of their operations, were closely related to the development of many countries in the Third World. 2/

113. It has been recognized that TNCs can bring considerable benefits to the developing countries: investment capital; employment; technological progress and know-how; transportation and marketing facilities. Under certain conditions, they could play an important role in the realization of the right to development. Aware of these possibilities, the Governments of many developing countries try to attract and retain transnational corporations through tax moratoriums, profit repatriation facilities and various other advantages. 3/

1/ The Impact of Multinational Corporations on Development and on International Relations, (United Nations publication, Sales No. E.74.II.A.5), P.25. See also: Multinational Corporations in World Development (United Nations publication, Sales No. E.73.II.A.11) and Summary of the Hearing before the Group of Eminent Persons to Study the Impact of Multinational Corporations on Development and on International Relations, (United Nations publication, Sales No. E.74.II.A.9). Abundant data are being collected and analysed within the United Nations system and in various institutions on the role and activities of TNCs in developing countries. See: Transnational Corporations - A select bibliography, (United Nations publication, Sales No. E/F.75.I.5); Bibliography on Transnational Corporations (United Nations publication, Sales No. E/F.78.II.A.4); Transnational Corporations: List of Company Directors and Summary of their contents, (United Nations publication, Sales No. E.77.II.A.8); and Survey of Research on Transnational Corporations, (United Nations publication, Sales No. E.77.II.A.16).

2/ It has been said that less than ten TNCs control world production, marketing and distribution of copper, iron ore, nickel, lead, zinc, tin, tobacco and tea; and that six TNCs control 60 per cent of bauxite production capacity and 70 per cent of aluminium production capacity. See Garret Fitzgerald, Unequal Partners: North-South dialogue: a balance-sheet on the eve of UNCTAD V (United Nations, TD/EE/PUB.78.6). Eighty-five to 90 per cent of globally traded cotton was controlled by 15 TNCs and 85 to 90 per cent of leaf tobacco entering international trade was under the direct control of six transnational leaf buyers. See F. Clairmonte and J. Cavanagh, "Cotton trading: Futures for the few", in Development Forum, (United Nations, Centre for Economic and Social Information/CPI/1978), No. 11; and "The marketing and distribution system of tobaccos", (TD/B/C.1/205).

During the 1970s, the annual flow of direct foreign investments to developing countries predominantly channelled through transnational corporations grew by an average of 15 per cent annually in nominal terms and by 4 per cent in real terms. See Daphne Miller, "Transnational Corporations. Obstacles to and Catalysts of Development", in Development Issue Paper for the 1980s, No. 9, (New York, UNDP, 1980), p.2.

3/ See J.P. Bóguin, Les entreprises conjointes internationales dans les pays en voie de développement - le régime des participations, (Genève, Institut Universitaire des Hautes Etudes Internationales, 1972), p.216.

114. According to various studies, however, the actual impact of TNCs on developing countries shows certain undesirable aspects as regards promotion of the right to development in relation to other human rights.

115. First, it should be noted that TNCs are not usually attracted towards the poorest nations. In their search for maximum profits, these firms show a marked preference for a limited number of developing countries with high income levels, ^{4/} a convenient economic environment - including tax incentives, cheap labour and easy access to natural resources - and apparent political stability. ^{5/} The location of manufacturing subsidiaries and the concentration of investment in certain developing countries also reflect past colonial or semi-colonial relationships. ^{6/} Thus, it appears that the investment and settlement policies of TNCs tend sometimes to consolidate inequality between Third World countries and to perpetuate structures of trade dependence.

116. In countries where TNCs operate, various factors may mitigate or cancel the positive economic effects which their activities are expected to bring for the realization of the right to development. For instance, restrictive practices as regards technology transfer, ^{7/} lack of in-service training and insufficient career incentives for local staff may render difficult the acquisition of skills and the creation of a national pool of research workers and industrial cadres. Profit repatriation may leave little capital for productive investment in developing countries. Trade and marketing policies of transnationals may awaken in peoples new desires and consumption patterns to the prejudice of infrastructural development. Such difficulties have been analysed, notably, in the United Nations study "Transnational Corporations in World Development: A Re-examination". ^{8/}

^{4/} In 1977, nearly 57 per cent of direct investment stock of TNCs was concentrated in 34 developing countries with a per capita income of over \$1,000, 18 per cent was distributed in 23 developing countries with a per capita income of over \$500 and seven per cent in 25 developing countries with a per capita income of less than \$200. See Daphne Miller, "Transnational Corporations. Obstacles to and Catalysts of Development", in Development Issue Paper for the 1980s, No. 9, (New York, UNDP, 1980), p.2.

^{5/} Willy Brandt, North-South - A Programme for Survival: Report of the Independent Commission on International Development Issues, (London, Pan Books, 1980), pp. 189-190.

^{6/} According to some authors, no less than 85 to 88 per cent of foreign investment in Zaire, Rwanda and Burundi is Belgian, and 83 per cent of foreign investment in Somalia is Italian. See G. Fitzgerald, op. cit., p.13.

^{7/} See, for example, "The International Market Power of Transnational Corporations: A Case Study of the Electrical Industry" (UNCTAD/ST/MD/13).

^{8/} United Nations publication, Sales No. E.78.II.A.5.

117. In pursuit of their economic interests, transnational corporations may be reluctant to implement the right to self-determination, conceived as permanent sovereignty over natural wealth and resources. This aspect of self-determination is defined, notably, in article 1, paragraph 2, of both Covenants on Human Rights and in General Assembly resolution 1803 (XVII) of 14 December 1962. In particular, transnational corporations might be tempted to oppose the application of international standards on the nationalization of assets "on grounds or reasons of public utility, security or the national interest", as these enterprises might not easily recognize public necessity as "overriding purely individual or private interest, both domestic and foreign". 9/

118. The activities of TNCs might also have certain adverse effects upon social progress in developing countries. With a view to keeping their production costs to a minimum, transnational corporations could be tempted to discourage the raising of salaries beyond certain levels as well as the development of social security schemes with employers' contributions. Inasmuch as they would result in cost increases, plans to improve work safety and to combat pollution could be viewed with some disfavour by transnational corporations. They may resist the growth of labour unions and the progress of collective bargaining.

119. With the aim of avoiding costly social reforms and in order to maintain apparent political stability, TNCs might be tempted to favour authoritarian traditions, hierarchial societies and "dualist" patterns of development with few educational services, lack of upward mobility and poverty for the masses.

120. It has been contended, furthermore, that some TNCs, with a view to avoiding social protest, might actively support political repressive régimes and militarization in developing countries. Thus, the influence of transnationals has sometimes been regarded as condoning or even encouraging governmental policies grossly violative of civil and political rights and freedoms. 9A/

121. In pursuit of these goals which may conflict with the promotion of human rights, TNCs may apply their influence in a variety of manners. Closing manufacturing branches of transnational corporations, refusing to establish subsidiaries, stopping the production or purchase of domestic goods, 10/ or merely threatening such measures may have a powerful impact on the Government of a developing nation. Equally effective may be the withholding or withdrawal of financial assistance. Various types of corrupt practices, recently identified, 11/ have been occasionally resorted to by TNCs in their dealings with political and economic power holders of developing countries. The question has further been raised in official inquiries whether direct assistance, in the form of capital, armaments or organisational know-how, might not have been given by TNCs to political groups seeking the violent overthrow of democratic governments. 12/

9/ General Assembly resolution 1803 (XVII), sect. I, para. 4.

9A/ See "Transnational Corporations in World Development: A Re-examination" (United Nations publication Sales No. E.78.II.A.5) and "Social, Political and Legal Impacts of Transnational Corporations: Some Issues" (E/C.10/55).

10/ See, for instance, F. Clairmonte, "The Banana Empire", in Ceres, (FAO, Rome, Jan-Feb 1975), pp. 31-34.

11/ See in particular General Assembly resolution 3514 (XXX) of 15 December 1975 and documents E/5986 and E/C.10/55, para. 33.

12/ See, for instance, US Congress, Sub-Committee on Multinational Corporations, the International Telephone and Telegraph Company and Chile 1970-1971, 93rd Congress, First Session, (Washington D.C., Government Printing Office, 1973).

122. Recent inquiries tend to show the limited effectiveness of State control over these undesirable TNC activities. This is due partly to the territorial spread of TNCs: national laws against price-fixing and cartels, as well as tax regulations and penal sanctions against corrupt practices may not be applicable overseas. ^{13/} Where legislation is applicable, difficulties may flow from the action of transnational "lobbies" on the executive and legislative branches and on the mass media.

123. Special concern has been expressed over what appears as the massive and lasting support extended by some transnational corporations to certain régimes guilty of gross violations of human rights. This concern has been formulated by the United Nations chiefly in respect of southern Africa, certain colonial territories and Chile.

124. In recent years, several United Nations organs have begun to consider the role played by transnational corporations in the perpetuation of apartheid, racial discrimination and other violations of human rights in southern Africa. It may be recalled that in 1974, the Sub-Commission appointed a Special Rapporteur, Mr. Ahmed Khalifa, to prepare a study on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa. This study ^{14/} showed South Africa's heavy dependence on foreign investment, which is channelled essentially through major foreign banks and transnational corporations. The most flagrant and direct consequence of the assistance provided to the southern African régimes, according to this report, "... clearly proves to be the survival of the apartheid system, which involves daily slavery and suffering for millions of human beings subjected to colonial exploitation and inhuman treatment". ^{15/} A few signs were noted in the report which could indicate the beginning of an awareness in certain transnational corporations in southern Africa concerning the human rights implications of their actions. ^{16/} The problem, however, remains one of vast dimensions.

^{13/} See National Legislation and Regulations relating to Transnational Corporations, (United Nations publication, Sales No. E.78.II.A.3) and Supplement (United Nations publication, Sales No. E.80.II.A.5).

^{14/} Published as Assistance to Racist Régimes in Southern Africa: Impact on the Enjoyment of Human Rights (United Nations publication, Sales No. E.79.XIV.3).

^{15/} United Nations publication, Sales No. E.79.XIV.3, para. 271.

^{16/} Ibid., para. 119.

125. Following these reports, the Commission on Human Rights, by resolution 7 (XXXIII) of 4 March 1977, reaffirmed that the economic activities of national and multinational companies in South Africa, Namibia and Southern Rhodesia constitute blatant acts of complicity in the crime of apartheid (a crime against humanity) and encouragement of the continuation of the policy of racial discrimination and colonialism. It requested the Sub-Commission and its Special Rapporteur to prepare the necessary material for a provisional general list identifying those individuals, institutions, including banks, and other organizations or groups, as well as representatives of States, whose activities constitute political, military, economic or other forms of assistance to the colonial and racist régimes in southern Africa.

126. Mr. Khalifa's further report, containing a general provisional list of banks, transnational corporations and other organizations giving assistance to the racist and colonial régimes in southern Africa, 17/ was considered by the Commission at its thirty-sixth session.

127. The Commission, in resolution 11 (XXXVI), inter alia, expressed appreciation for this report, which was forwarded to the Economic and Social Council and the General Assembly, and it requested the Special Rapporteur to update the list every year. A call was made by the Commission to the Governments of the countries where the banks, transnational corporations and other organizations listed in the revised report are based, to take effective action to put a stop to their trading manufacturing and investing activities in the territories of the racist and colonial régimes of southern Africa.

128. Besides governmental measures "shareholders actions and other activities aimed at discouraging collaboration by banks and other transnational corporations with colonial and racist régimes" were recommended by United Nations organs, notably by the Sub-Commission in its resolution 3 (XXX) of 31 August 1977.

129. The above-mentioned measures by the Commission and the Sub-Commission, focusing on human rights, are part of a global strategy of the international community against assistance by transnational corporations to racist régimes in southern Africa. Thus, the United Nations Commission on Transnational Corporations, in May 1977, requested transnational corporations to cease immediately all further investments and progressively disengage from southern Africa. By resolution 32/10 and other recommendations, the General Assembly called upon Governments to take measures in respect of their nationals and the bodies corporate under their jurisdiction that own and operate enterprises in southern Africa, "in order to put an end to such enterprises".

130. Questions concerning the involvement of transnational corporations in violations of human rights have also been raised in relation to territories under colonial domination other than those in southern Africa. Each year the Special Committee of 24 studies and reports to the General Assembly on foreign economic and other interests which impede the granting of independence to colonial territories. The Assembly regularly calls upon Governments to take action to put an end to investments by their nationals or bodies corporate under their jurisdiction which are detrimental to the interests of the inhabitants of those territories.

131. In the context of international action against violations of human rights in Chile, the Commission on Human Rights, by resolution 9 (XXXIII) of 9 March 1977, requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study on the consequences of the various forms of aid extended to the Chilean authorities.

132. The report presented by the Special Rapporteur of the Sub-Commission, Mr. Cassese, 18/ stated that a major problem appeared to be the assistance provided by private banks and transnational corporations in the form of investment. 19/ According to the study, with the support of the transnational firms through which foreign economic assistance was granted, the present Chilean government has been able largely to side-step financial pressures from the international community to force it to respect the human rights of the Chilean people. Thus, in order to achieve restoration of the respect for human rights in Chile, the Special Rapporteur recommended, inter alia, the establishment of a code of conduct for private enterprises operating in Chile. 20/

133. Further to these ad hoc measures of limited geographical scope, international action is developing to study the activities of transnational corporations in a global and permanent manner, and to formulate universally applicable standards of conduct for these entities. These programmes were initiated in the early 1970s, as awareness grew of the impact of transnationals on the right to development and of the rather ineffective character of State control over these firms. Such preoccupations were reflected, notably, in the Declaration and Programme of Action on the Establishment of a New International Economic Order 21/ and in the mandate of the Commission on Transnational Corporations. 22/

134. Promotion of human rights, including the right to development, has emerged as an important element for inclusion in the proposed international standards for transnational corporations. Thus, norms concerning respect for human rights and, in particular, for the principle of non-discrimination have been recommended for

18/ "Study of the impact of foreign economic aid and assistance on respect for human rights in Chile" (E/CN.4/Sub.2/412 and Corr. 1, Vol. I-IV).

19/ Ibid., para. 536.

20/ Ibid., para. 538.

21/ General Assembly resolutions 3201 (S-VI), and 3202 (X-VI) of 1 May 1974.

22/ Economic and Social Council resolution 1913 (LVII) of 5 December 1974.

inclusion in the Code of Conduct which is currently being prepared by the United Nations Commission on Transnational Corporations 23/. The Commission made reference to the 1977 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policies 24/, which also mentions the rights recognized in the Universal Declaration on Human Rights and the Covenants. Similar attention to human rights is reflected in normative work concerning transnational corporations carried out by the Organization of American States, the Organization of Economic Co-operation and Development and the European Communities.

135. These standard-setting and monitoring efforts of the international community may contribute significantly to channelling the activities of transnational corporations along constructive lines for promotion of the right to development with full respect for all human rights.

23/ See, in particular documents E/C.10/31, paras. 4 and 6, and E/C.10/AC.2/8. The Intergovernmental Working Group of the Commission on a Code of Conduct met for its 11th session in Geneva from 13 to 24 October 1980. The provisions formulated so far contain standards on respect for human rights (see United Nations press release TNC/9).

24/ ILO, Report of the Reconvened Tripartite Advisory Meeting on the Relationship of Multinational Enterprises and Social Policy, ILO Governing Body document GB.203/6/2, appendix II.

VI. INTERNATIONAL DEVELOPMENT AID

A. Capital inflow

136. The capacity of the international monetary system to provide developing countries with the necessary capital under favourable terms is an important condition for realization of the right to development in these countries. However, the present structure of international finance appears to fulfil this condition only in part: the flow of financial resources to developing countries is, on the whole, uneven and the conditions imposed upon borrowers is sometimes detrimental to their socio-economic development processes. Most developing countries have little control over external capital inflows and the terms under which they are available. They are unable to allocate such capital to the implementation of long term development goals, and they often have to adjust their internally determined socio-economic priorities to those established by donor countries or international institutions.

137. The breakdown of the Bretton Woods international monetary system had a great impact on developing countries. The prolonged payments deficit of the United States in the 1970s and the subsequent volatility of exchange rates has led to speculative short-term capital movements which are hardly geared to development needs. The fact that many developing countries use currencies of developed countries (such as the US dollar) as trading and reserve currencies has led to a shift of inflation from developed to developing countries and has eroded the real value of the developing countries' currency reserves. The malfunctioning of international adjustment process has led to persistent marked balance of payment disequilibriums, the heavier burden of adjustment being carried by developing countries.

138. External capital inflows to developing countries occur in the form of official development assistance (ODA) from developed to developing countries, private direct assistance, portfolio investments or export credits, eurocurrency credits and international bond offerings. The International Development Strategy (IDS) for the Second Development Decade had set a target of one per cent of the GNP of developed countries for total development aid, and 0.7 per cent for ODA. 1/ While there was some movement toward meeting the 1 per cent target during 1971-1977, ODA expanded at a very slow pace in real terms, and donor countries moved away, rather than towards the 0.7 per cent ODA target. At the same time total flows increased, however, as private flows rose to an unprecedented rate during the 1970s. At present the bulk of these flows is in the form of direct private investments, in particular of transnational corporations, with ODA accounting for only a small proportion of the total. 2/

1/ "Elements in an international development strategy for the 1980s": Report prepared by the Secretariat: part V, "The role of development finance" (E/AC.54/19/Add.4), p. 5.

2/ Ibid., "part II, Industrialization and trade" (E/AC.54/19/Add.1), p. 10.

139. Official development aid from developed to developing countries takes the form of grants or loans at concessional rates. In percentage of developed countries' GNP, ODA constituted 0.33 per cent in 1974, 3/ with a slight increase to 0.35 per cent in 1978, and declined again to 0.34 per cent in 1979. 4/

140. A significant proportion of ODA is "tied" to the purchase of goods and services from the countries which provide aid, and is often used by industrialized countries to stimulate their export industry to developing countries. An average of 65 per cent of development aid returns to its country of origin. 5/ The International Labour Organisation (ILO) has estimated that the real value of aid, tied in this way, is thereby reduced by as much as 30 per cent 6/ and it is felt that the tied aid is overvalued by 20 to 30 per cent. 7/ In various instances, official financial assistance has gone into the financing of large-scale industrial projects with higher returns while projects which would have contributed more directly to the alleviation of mass poverty have suffered a relative neglect.

141. The distribution of development aid among developing countries is extremely uneven in relation to their level of per capita income and needs, since the selection of aid beneficiaries is largely made on the basis of criteria set forth by donor countries. Thus the presence or absence of an infrastructure on which further investments can be based, the existence of adequate administrative machinery, the availability of labour force, and the flexibility of the receiving countries to adapt internal policies, often have been main criteria for allocating aid to developing countries. Motives which lay behind disparities in aid provision have led to a paradoxical situation where the poorest countries, judged to have a low "absorptive capacity", have received less aid because of the very poverty which makes more aid necessary for them.

142. According to one study in 1980 only 10 top recipient countries received 51 per cent of the United States bilateral economic assistance, whereas approximately 90 other countries got the remaining 49 per cent. 8/

3/ Revue Internationale (Europe-Outremer, Paris, Nos. 564/77), p. 51.

4/ Data of Organization for Economic Cooperation and Development, Development Assistance Committee, cited in III Survey, 7 July 1980, p. 211.

5/ "Financial flows to and from developing countries: report by the UNCTAD secretariat" (TD/B(XV)/Misc. 3 - TD/B/C.3(VII)/Misc. 1) pp. 2-3, 22.

6/ Employment Growth and Basic Needs (International Labour Organisation, 1976), p. 106.

7/ Mural Islam, "The External Debt Problem" in A World Divided, (Cambridge University Press, 1976), pp. 234, 236.

8/ Lappé, F.M., Collins, J., and Kinley, D., Aid as Obstacle - Twenty Questions about our Foreign Aid and the Hungry (San Francisco, Institute for Food and Development Policy, 1980), p. 18.

143. This uneven flow of capital resources to developing countries has further increased with the importance of private direct investment. Such investments have primarily been directed towards advanced developing countries that have achieved access to private capital market. The divergent growth of concessional and non-concessional financing has resulted in an insufficient expansion in the flow of resources going to the least developed and other low income countries.

B. Indebtedness

144. The rapid growth of indebtedness of developing countries in recent years has given rise to concern about the burden which the amortization of this debt, and the payment of interest upon it, may impose on the developing countries concerned. Between 1973 and 1976, official indebtedness increased by 15.5 per cent per year, and private indebtedness by 27 per cent per year. Borrowing from private sources grew more rapidly than borrowing from official sources: the share of private indebtedness in total debt rose from 33 per cent in 1967 to 52 per cent in 1976, 9/ and 64 per cent in 1979. 10/

145. At the end of 1975, the external debt of developing countries amounted to approximately one-third of their GNP. For many developing countries, borrowing in recent years has led to a rapid increase in the ratio of debt to export earnings (debt-service ratio) which, in the case of low-income countries, rose from 12.5 per cent in 1967 to 16 per cent in 1976. 11/

146. An important change in recent years has been the emergence of the Organization of Petroleum Exporting Countries (OPEC) as a major source of development aid. ODA as a percentage of the GNP of OPEC countries has slightly increased in recent years: 4.3 per cent in 1978, 5 per cent in 1979 and 6 per cent in 1979. 12/

147. Because of the decline of ODA as a percentage of developed countries' GNP and rapid inflation, developing countries had to resort more and more to borrowing in the international private capital market at non-concessional rates. Such non-concessional flows, which usually carry short or medium-term maturities, are often needed to finance development projects and to overcome balance of payments difficulties. They impose a heavy debt burden on developing countries and have reached an unprecedented debt level of 27 per cent in 1979 and 38 per cent in 1978. 13/ The sharp increase in the debt-service ratio of developing countries reflected higher interest costs on the market, a fall in the dollar's exchange rate and bank demands for early repayments of credits. 14/

9/ Fitzgerald, G., op. cit., p. 27.

10/ Data of Organization for Economic Co-operation and Development, Development Assistance Committee, cited in IMF Survey, 7 July 1980, p. 201.

11/ Fitzgerald, G., op. cit., p. 28.

12/ Data of OECD, Development Assistance Committee, cited in IMF Survey, 7 July 1980.

13/ International Herald Tribune, 5 August 1980

14/ About 87 per cent of total debt service payments of developing countries was due to OECD countries. See International Herald Tribune, 5 August 1980.

148. Debt repayments, interest payments and transfer of profit from private investments have led to an increasing percentage of initial inflows of capital into developing countries being returned to developed countries. There are indications that for 1972 up to 73 per cent of capital flows from industrialized countries to developing countries were returned. ^{15/} The fact that developing countries were increasingly forced to seek finance from private markets and to borrow overwhelmingly on short or medium terms, has negatively affected their ability to implement long-term development programmes and policies. Increasing priority was thus given to projects with short gestation periods oriented toward social and economic development goals. The situation has complicated the management of developing countries' balance of payments. More generally, the short maturities of private borrowings and the subsequent need periodically to roll over existing debt make management of external accounts difficult. They introduce an element of uncertainty into investment planning, and may have negative consequences for the growth of the domestic economy. ^{16/}

149. It is against this background that proposals for negotiations on debt were put forward in international fora by developing countries. These proposals included a moratorium on interest and amortization payments on official debts to be granted to developing countries on request, and the cancellation of debts of the least developed countries. At UNCTAD IV in Nairobi, the demands of the developing countries for debt relief, including the call for a general debt conference, were not approved. The matter was referred to the Conference on International Economic Co-operation (CIEC) in Paris. At a session of the UNCTAD Trade and Development Board in Geneva in March 1978, it was recognized that many developing countries, particularly the least developed among them, faced serious debt service difficulties.

150. The increasing need for developing countries to seek finance on the private capital market reflects in part the inability of international financial institutions to create sufficient liquidities and to provide the necessary capital to developing countries on favourable terms. These multilateral financial institutions are, in particular, the regional development banks, the International Development Agency (IDA), which is a subsidiary of the World Bank, and the International Monetary Fund (IMF). The primary role of the IMF is to provide "standby credits" to countries with balance-of-payments difficulties who needed a temporary loan of foreign currencies.

151. The developing countries have only very limited participation in the decision-making process of these institutions, as voting power is tied to country quotas. ^{17/} In the case of the IMF, the size of quotas is determined mainly by the size of members' reserves and national income, and members' voting rights are determined by the size of their quotas. ^{18/}

^{15/} Handbook of International Trade and Development Statistics (UNCTAD, 1973), Supplement, Table 5.

^{16/} "Elements in an international development strategy for the 1980s": report prepared by the Secretariat, part V, "The role of development finance" (E/AC.54/19/Add.4), p. 13.

^{17/} International Monetary Fund, Annual Report 1974, Washington, p. 129; World Bank, Annual Report 1976, pp. 124 and 140.

^{18/} Hayter, T., Aid as Imperialism, (London, Penguin Books, 1972), p. 35.

152. The developed industrialized countries had therefore decisive weight and power in the decision-making mechanisms of these financial institutions. They also are influential in determining the conditions under which loans are given. These conditions usually consisted of demands for various measures of internal adjustments. ^{19/} According to some studies, they tend to stress the need for credit squeezes, a reduction in state spending and subsidies, a limitation of real wages, an opening up to private foreign investment, and sometimes a devaluation of currency. ^{20/}

153. The effect of such policies of internal adjustments may have been to maintain the present economic and monetary order. It has been said that, in the long run, such policies might have contributed sometimes to prevent various developing countries from having a genuine endogenous development, a diversified pattern of growth and a more self-reliant economy. Underlying inequalities of trade and investment structures were left largely untouched, and the dependence of the Third World's economies remained.

C. International monetary reform and the developing countries

154. Attempts to reform the international financial institutions have been undertaken by most developing countries. In the Arusha Programme for Collective Self-Reliance and Framework for Negotiations adopted in February 1979 at Arusha, the Group of 77 emphasized that an equitable decision-making process in the Bretton Woods institutions was an essential precondition for effective monetary reform. ^{21/} The Group also, inter alia, outlined the requirements of the international monetary system which would foster world trade and development, compatible with the needs of a satisfactory international adjustment process, taking account of the adverse effects of fluctuating exchange rates and world inflation, and in particular, taking into account the development of developing countries and their needs for balance-of-payments support. ^{22/}

155. Subsequently, at its fifth session, in Manila in May 1979, UNCTAD considered the proposals of the Group of 77 regarding the reform of the international monetary system, and adopted resolution 128 (V) which broadly reflected the spirit of the Arusha document. ^{23/} The requirements of a new international financial and monetary system were further elaborated by the Group of 24 in the "Outline for a Programme of Action on International Monetary Reform" ^{24/} which was approved by the meeting of the Ministers of Finance of the Group of 77 at Belgrade in September 1979.

^{19/} For a detailed study of IMF's severe prescriptions imposed on national policies of various countries, see Cheryl Payer, The Debt Trap - the IMF and the Third World, (London, Penguin Books, 1974).

^{20/} Brett, E.A., "The International Monetary Fund, the International Monetary System and the Periphery", in IFDA Dossier, No. 5, Nyon, March 1979, p. 5.

^{21/} TD/236, p. 52.

^{22/} Ibid., pp. 51-54.

^{23/} "Report of the United Nations Conference on Trade and Development on its fifth session, part one" (TD/268), p. 20.

^{24/} "Consideration of requirements of the international monetary system which would foster world trade and development - Outline for a programme of action on international monetary reform: Note by the UNCTAD secretariat" (TD/B/AC.32/L.2).

156. At a high-level meeting of experts of developing countries organized by the Arab Monetary Fund and the Abu Dhabi Investment Authority in June 1980, it was generally agreed that despite the call for a fundamental reform of the monetary system, there has been a general lack of progress in that direction, as well as a lack of the necessary political will, especially on the part of the developed countries. It was also stressed that the reform of the international monetary system must proceed hand in hand with fundamental reforms in the fields of trade and finance. It was recommended that the new international monetary system should:

- "(a) Seek universality of membership;
- (b) Work towards full employment and the expansion of trade, and in particular the economic development of developing countries in the over-all context of the establishment of the New International Economic Order;
- (c) In the application of its rules, fully take into account the special problems of developing countries;
- (d) Ensure the adjustment of external imbalances at high levels of employment and growth." 25/

157. Under the "Arusha initiative" it was further recommended that an international currency unit should be established, as the international means of exchange and primary reserve asset, and called for a United Nations Conference on International Money and Finance. 26/ It was stated in the resolution on solidarity with Jamaica adopted by the South-North Conference on the International Monetary System and the New International Order that "several other third world countries striving courageously to restructure their economies to satisfy the needs of their peoples as agreed to by other sectors of the United Nations system, are either on the verge of a breakdown in relations with the IMF or forced to change progressive policies to fit immutable, unattainable and doubtful technical criteria of the IMF and its entrenched power structure and their politically motivated multiple standards of treatment." 27/

158. These attempts during the last decade to restructure the international monetary system were in line with the recommendations made by the United Nations General Assembly in the Programme of Action on the Establishment of a New International Economic Order. The Assembly stated, inter alia, that efforts should be made to study and devise possible arrangements within the International Monetary Fund to mitigate the effects of inflation in developed countries on the economies of developing countries to eliminate the instability of the international monetary system, and to ensure "full and effective participation of developing countries in all phases of decision-making for the formulation of an equitable and durable monetary system and adequate participation of developing countries in all bodies entrusted with this reform and, particularly, in the proposed Council of Governors of the International Monetary Fund." 28/

25/ "Report of the meeting of experts of developing countries on the reform of the international monetary system" (TD/B/AC.32/L.1), p. 4.

26/ "The Arusha initiative: A call for a United Nations Conference on international money and finance" (TD/B/AC.32/L.3), p. 6.

27/ Ibid., p. 9.

28/ General Assembly resolution 5202 (S-VI).

159. Thus it was recognized that much of the disequilibrium in the developing countries' balance of payments and their increasing indebtedness were due to fundamental maladjustments and inequities prevailing in the present world economic structures. However, owing to the structure of the international monetary system, the burden of adjustment has fallen disproportionately on the developing countries with grave repercussions on their development programmes.