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THE IMPACT OF TRANSNATIONAL CORPORATIONS ON THE DEVELOPMENT
PROCESS AND ON INTERNATIONAL RELATIONS

Views of States on the report of the Group of Eminent Persons

Report of the Secretary-General

1. The Economic and Social Council at its fifty-seventh session adopted resolution 1908 (LVII) on the impact of transnational corporations on the development process and on international relations in paragraph 3 of which it invited all States "to make known their views on the report of the Group and on the problems with which it is concerned, if possible before the meeting of the Special Intersessional Committee".
2. The present report summarizes the views of Governments which were communicated to the Secretary-General by 1 November 1974 in response to his note verbale dated 13 August 1974. 1/

Written comments of Governments on the report
of the Group of Eminent Persons

3. The following Governments have made known their views on the report of the Group 2/ and on the problems with which it is concerned: Brazil, Canada, the German Democratic Republic, Greece, Malta, Poland, Switzerland, Sweden and the USSR. 3/

1/ The texts of the replies of Governments are available at Headquarters.

2/ The Impact of Multinational Corporations on Development and on International Relations (United Nations publication, Sales No. E.74.II.A.5).

3/ The Governments of three other States, the Federal Republic of Germany, Nicaragua and Spain, have notified the Secretariat that they are in the process of completing their answers; at the time of the preparation of this report their views had not been received.

4. The views of the responding Governments are summarized under three headings: first, general comments on the issue and the report of the Group as a whole; secondly, comments on the analysis and recommendations of the Group regarding the impact of transnational corporations on development, including specific issues, and international relations (chaps. I, II and IV to XII); and thirdly, comments on the recommendations concerning international machinery and action (chap. III).

General comments

5. In their general comments, Governments emphasize their interest in the subject of transnational corporations, the activities of which, given their recent dynamic growth, carry significant economic, political and social consequences within countries and on the relations among countries. According to the Canadian Government, the future health of international economic relations requires nations to accept that transnational corporations have posed certain problems for both developed and developing countries; "in general terms, the solution for each country lies in maximizing the benefits of multinational enterprises' capabilities as well as ensuring a capability within each country's economy to invest abroad". The Government of the German Democratic Republic notes that it has supported the demands of developing countries, including those expressed at the recent sixth special session of the General Assembly, for the non-restrictive exercise of their sovereignty over their natural resources, non-interference in their internal affairs and effective control over the activities of transnational corporations. The Government of Greece, attaching great importance to the contributions of foreign direct investment to the national economy, enacted in 1953 special legislation to attract foreign direct investment and thus supplement the domestic savings of the country by external capital funds. It believes, however, that international action to monitor the activities of transnational corporations is highly desirable. The Government of Poland notes that the influence of transnational corporations on economic processes and their negative influence on the economic situations of developing countries fully justify the interest of United Nations bodies in the activities of those corporations. The Government of Switzerland notes that as a result of the small size of its domestic market, a large number of Swiss manufacturing industries have had to explore foreign markets and invest abroad. Thus, the number of multinational enterprises in relation to the size of the national economy is much higher in Switzerland than in other countries. The Government of the Soviet Union shares the concern of many countries, trade unions and world public opinion about the effects on the world economy and on international relations of the activities of transnational corporations. It believes that developing countries are most vulnerable to those activities, which threaten their national sovereignty, restrict their control over their national resources, undermine national programmes for economic and social development and worsen their balance of payments. The Soviet Government has, in all international forums, including the sixth special session of the General Assembly, supported decisions whose purpose has been to protect the rights and interests of developing countries in this field.

6. The work of the Group is considered by the responding Governments to be an important and positive contribution to the review of issues related to transnational

corporations within the framework of the United Nations. The report of the Group is commended for its comprehensive description of various issues and its recommendations for action. According to the Government of Sweden, for instance, "great attention should be paid to the report and it should form an appropriate basis for the continuing involvement of the United Nations as regards the transnational corporations". Similarly, the Government of Poland finds that the report "contains a comprehensive description of the position of multinational corporations and this constitutes a valuable starting point for further research by United Nations bodies in this field".

7. Notwithstanding the general appreciation for the report, some Governments express certain reservations regarding the scope of parts of the analysis employed by the Group. The Government of Canada observes that it cannot support multilateral solutions acceptable only to capital-exporting countries or only to developing countries, and that a balanced approach must be maintained towards foreign investment, by giving, for instance, sufficient weight to the advantages that transnational corporations confer. The Government of the German Democratic Republic finds that the report, although showing an awareness of the negative impact of transnational corporations in the economic, political and social fields in home and host countries, and even proposing a number of countermeasures, tends, however, to qualify the harmful aspects of the activities of transnational corporations by the use sometimes of extenuating phraseology. The Government of Switzerland notes that although the report comprises an extremely useful analysis of various aspects of a vast subject, certain questions need to be studied more thoroughly and certain distinctions should be made among the different categories of transnational corporations, regarding, for instance, their size and the sector of their activity. It is also suggested that the conclusions of the report of the Group should be re-examined in the light of the important changes in international economic relations that have occurred since the completion of the Group's work. The Government of Brazil indicates that the issue of strengthening national private or public enterprises through national and international measures in dealing with the question of transnational corporations was neglected. This "compensatory element" would require domestic measures as well as complementary measures of assistance by the international community in terms of financing and transfer of technology. Instead, the Government of Brazil states, the focus of the Group was on the "supervisory element", namely, the establishment of principles designed to make the operations of the transnational corporations compatible with the priorities of the host country. That set of principles might eventually form a code of conduct which would be based on the philosophy that foreign-owned affiliates should comply with national legislation and socio-economic objectives.

8. The great unity of opinions achieved by the members of the Group is stressed by the Government of Poland. It notes that the significance of the report is greater given the composition of the Group, which embraced economists, political figures, scientists and managers from different groups of countries. According to the Polish Government, the reservations that a few members of the Group expressed on certain formulations in the report can be explained by their backgrounds. Nevertheless, that Government considers "as a positive factor the opportunity for representatives of different countries and of various schools of thought in these

countries to confront their views and opinions on the subject". The Government of Greece observes that, given the breadth of the inquiry undertaken by the Group, it is inevitable that some of the conclusions of the report will not be fully acceptable especially by countries where the headquarters of the majority of those companies are to be found. The opinion of the Greek Government is that only through international actions can the advantages of foreign direct investment be maximized for the benefit of the developing economy and the potentially harmful effects be reduced. The Government of the USSR notes that it has supported the developing countries in raising the question of transnational corporations in the United Nations. This is based on the belief that the elaboration of measures aimed at restricting the activities of transnational corporations would be a definite step towards the elimination of the inequality existing in international economic relations.

Views on the analysis and recommendations of the Group on the impact on development - including specific issues - and international relations

9. On the analysis and the recommendations of the Group on the impact of transnational corporations on development and international relations contained in chapters I, II and IV to XII of the report, the views of Governments, with the exception of those of Canada, are of a preliminary and general nature. It is considered that Governments need more time to study thoroughly the implications of the conclusions reached by the Group, most of which are addressed to them and consist of policy suggestions involving national action. In the opinion of the Government of Sweden "it is at present premature to make more detailed comments on the specific issues - ownership and control, financial flows and balance of payments, technology, employment and labour, etc. - dealt with in the second part of the report".

10. Referring in general on the recommendations of the Group regarding the impact of transnational corporations on development, the Governments of the German Democratic Republic, Greece, Poland, Malta, Canada, Sweden and the USSR agree on the need to gear the activities of transnational corporations to the objectives and priorities fixed in the national plans and programmes of the host countries. According to the Government of Sweden, "the activities of these companies must be brought in line with national and international policy objectives. This is a priority task for the international community and one that is essential, not only for development but also for developed countries". The Government of Canada also emphasizes that the United Nations work on transnational corporations should include both developing and developed host countries.

11. Commenting on chapter I of the report, the Government of Malta notes that the test of the value of foreign investment consists in whether the projected development by a transnational corporation adequately mobilizes domestic resources or whether it merely creates offshore enclaves of the parent company. The same Government underlines the necessity for host countries to create an atmosphere of confidence in their relations with transnational corporations, avoiding unilateral changes of conditions by simplifying bureaucratic procedures and guaranteeing the continuing ability to repatriate profits.

12. In a detailed commentary of the analysis and all the recommendations of the Group, the Government of Canada makes clear that it finds, on the whole, the recommendations contained in chapter I to be acceptable. The only reservation in that chapter refers to the formulation of a recommendation according to which host countries should provide equal treatment to foreign affiliates and national companies "unless specific exceptions are made in the national interest". The following formulation is suggested: "to the extent consistent with the attainment of national objectives" since the Government of Canada wants to "reserve the right to apply different rules to the operation of foreign-controlled transnational corporations, from those applying to indigenous companies in certain cases". On the analysis and recommendation contained in chapters IV-XII, the Government of Canada provides detailed observations, comments and in certain cases reservations regarding the applicability, desirability or simply the formulation of particular recommendations. The Government of Canada finds on the whole acceptable the substance and recommendations of the chapters on ownership and control (chap. IV), financial plans and balance of payments (chap. V), consumer protection (chap. VIII), competition and market structure (chap. IX), and taxation (chap. XI). Regarding the chapter dealing with transfer pricing (chap. X) it is felt that in-depth research is required before practical and applicable recommendations can be brought forward. On technology (chap. VI), while the recommendations are generally acceptable, the one referring to the establishment of a code for transfer of technology and revision of the patent system is found unrealistic; the operation of a "clearing-house" to collect data on technology available for licensing and providing a referral service for users appears to be preferable to a "world patent bank"; finally, a number of aspects of technology transfer are pointed out for further study. On the chapter on employment and labour (chap. VII), the Government of Canada supports the first five recommendations but has reservations on the following four which, in its view, encourage extraterritorial application of home country legislation. On information disclosure and evaluation (chap. XII), the Canadian Government finds the convening of an expert group on international accounting standards a useful step, points out the need for collecting both statistical and qualitative information, but finds undesirable the disclosure of agreements between transnational corporations and Governments. It underlines further that consideration should be given to the question of confidentiality of data and a greater clarification on the type of information to be collected as well as the purpose of that collection.

13. The Government of the German Democratic Republic welcomes the formulations on the subject of employment and labour (chap. VII) and, endorsing the recommendations therein, suggests that "more resolute measures are required to safeguard the rights and ensure the social security of those employed in the enterprises of multinational corporations".

14. On the impact of transnational corporations on international relations, the Governments of Canada, the German Democratic Republic, Poland and the USSR, which commented on the subject, agree on the whole with both the analysis and the recommendations contained in chapter II of the report. There is agreement that subversive political intervention is to be unequivocally condemned and that sanctions should be imposed on transnational corporations violating the provision

of non-intervention. The Government of the German Democratic Republic, welcoming these principles, emphasizes the importance of exposing transnational corporations engaging in subversive activities and gives its full support to all the recommendations on the subject. The Government of Poland stresses the importance of the principle of sovereign rights of States over the foreign capital, and of the principle of non-interference in the internal relations of a country. The Government of the Soviet Union also supports the conclusions and recommendations of the Group regarding "violation of the sovereignty of developing countries by transnational corporations; on their political interference aimed at overthrowing the legitimate Governments of the countries where they operate; on the need to apply strict sanctions against corporations which engage in such activity, and on establishing control over them". According to that Government, the confirmation of such a provision by the United Nations would contribute to the establishment of international legal norms on the basis of which developing countries could take measures to protect their political and economic independence. The Government of Canada expresses its full support for most of the recommendations of the Group on this matter. On the issue of nationalization and compensation, the Canadian Government indicates that, since the discussions on the Charter of Economic Rights and Duties of States have not yet led to an agreement on the subject, the Economic and Social Council should not deal with it at the present time. The same Government underlines that a "multilateral financial institution should not be used for bilateral political purposes". The idea of an Economic and Social Council resolution embodying the recommendations of the Group contained in chapter II is favourably viewed by these Governments.

Views on recommendations on international machinery and action

15. All the States that responded to Economic and Social Council resolution 1908 (LIII) agree on the need to establish United Nations machinery to deal on a continuing basis with the full range of issues relating to transnational corporations. A consensus has emerged on the substance of the recommendations of the Group on international machinery and action contained in chapter III of the report as well as in the accompanying report of the Secretary-General.

16. There is general agreement on the recommendation that the Economic and Social Council should deal once a year with issues related to transnational corporations. The establishment of a commission under the Economic and Social Council is supported by all the responding Governments. On the composition of the commission, the Governments of Brazil, the German Democratic Republic, Switzerland and Sweden prefer a commission in the form of an intergovernmental body. The Government of Sweden suggests that an intergovernmental body should convene representatives and experts from, for instance, trade unions and business, as their know-how and experience would make an important contribution to the work of the commission. Such exchange of views "will enhance the possibilities of finding constructive and realistic measures to deal with the full range of issues relating to transnational corporations".

17. The Government of Canada notes that the appropriate composition of the body depends on its terms of reference. According to that Government, there are

advantages and disadvantages in both formats, namely, the one consisting of governmental experts and the one consisting of persons serving in their individual capacity. The former is more suitable to pursue work on a code of conduct; it will also have governmental backing. The latter format will be more suited to tackling knotty questions requiring the stimulus of expert thinking; it will also avoid the accumulation of three layers of intergovernmental discussions (committee, Economic and Social Council, General Assembly). That Government concludes that "whatever composition is chosen the Group should make heavy use of the other format". Thus a commission composed of persons serving in their private capacity would not undertake tasks more suitable for intergovernmental groups (i.e. negotiations related to codes, treaties, standards etc.) whereas an intergovernmental commission would not perform tasks best done by experts (detailed studies, analyses etc.).

18. The Government of Greece observes that the composition of the commission deserves careful consideration. While an intergovernmental body and a body composed of experts serving in their individual capacity each have a number of advantages, the alternative of a mixed commission consisting of governmental representatives and experts acting in their individual capacity without the right to vote is worth exploring. The Greek Government places particular emphasis on the need for a fair representation of all host countries in the commission. According to that Government, the distinction between host and home countries transcend in this matter the traditional distinctions between developed and developing countries; thus representation should be provided to those host countries which are considered developed market economies. Furthermore, should the intergovernmental format be finally adopted, the Greek Government believes that a small number of high-level independent experts, including experts from the academic community, should be appointed as consultants to the commission.

19. The terms of reference of the commission proposed by the Group appear to be acceptable to those Governments that communicated their views. Two Governments, however, made a few comments on the subject. The Swedish Government calls attention to the significance of a step-by-step approach; it believes that exploration of the possibility of concluding a general agreement on transnational corporations (f) would probably be of little value; a code of conduct (e) should, at least in the introductory stage, be concentrated on the corporations to reduce undesirable effects of their activities while certain general principles guiding the conduct of Governments should be discussed, even if they are not compiled in a special code; the commission should not take up individual disputes as might be implied by the term of reference (g); the promotion of a technical co-operation programme to strengthen the capacity of host, particularly developing, countries (i) is strongly supported. According to that Government, "the main task of the commission should be to concentrate its efforts on the broad and over-riding issues and avoid too detailed studies on the conduct of individual transnational corporations". The Government of Canada, commenting on the terms of reference, also finds the work towards a general agreement (f) to be fruitless. It would be more useful, according to that Government "to establish norms of international practice in the different areas as taxation, accounting, transfer pricing etc. and to encourage States and multinational enterprises to co-ordinate behaviour on these separate aspects long before beginning work on a general treaty". Before the international

community embarks on treaty arrangements (a), much information-gathering work should be done. Finally, according to that Government, a commission, if it is composed of persons serving in their individual capacity, should provide recommendations on a code of conduct to the Economic and Social Council, which could then set up an intergovernmental group or groups to draft codes. The Government of Switzerland notes that it is important that all interested States should be able to participate in a direct and active way in the deliberations of the commission. The Swiss authorities attach great importance to the work of the Economic and Social Council and particularly to that of the proposed commission on transnational corporations.

20. The responding Governments were unanimous on the need to establish an information and research centre on transnational corporations. The Swedish Government points out the scarcity of reliable and comparable information on the issue and emphasizes the need for a systematic compilation, analysis and dissemination of pertinent information - such as data on policies of home and host countries and on the structure, ownership and strategies of transnational corporations. In the view of the Government of Sweden, an information and research centre, as proposed in the report, on the basis of the priority of the work programme will make an important contribution in the field by collecting data and carrying out research as requested by the commission. The Government of Canada similarly notes the current lack of useful, reliable and comparable information and therefore supports the establishment of a centre, which could incorporate the proposed technical co-operation functions; advisory teams should be made available to requesting Governments to assist them in evaluating investment proposals, analysing contracts and, if desired, providing technical advice during negotiations. Commenting on the United Nations information and research centre, the Government of the USSR pointed out that it should be set up in accordance with the principles of equitable geographical distribution and should be financed through a reallocation of funds within the United Nations budget and not through an increase in the budget.

21. On the work programme of the permanent machinery and the information and research centre on transnational corporations, the Governments of Canada, the German Democratic Republic, Greece and Poland made a number of observations. A code of conduct, according to the Canadian Government, is a series of recommendations which "have received general agreement among parties and may serve as models for national law". Its usefulness is doubted by that Government; "those for which agreement can be reached and be so qualified as to become meaningless; those with real substance might never find general agreement". The Canadian view in any case is that the code should be addressed to host countries, and to home countries only as far as information gathering and antitrust actions are concerned. Regarding the proposed expert group on international accounting standards, the Government of Canada considers that the commission should establish such a group, the work of which is likely to be very useful. The Government of Poland would like to see preparations of studies (probably as case studies) on the following subjects: (a) profitability of transnational corporations and effects on balance of payments of home and host, particularly developing, countries; (b) the impact of price policy of transnational corporations on the terms of trade of developing countries; (c) the over-all influence of transnational corporations on developing countries; (d) the impact of transnational corporations on economic development and the economic structure of

developing countries. The Government of the German Democratic Republic suggests that further studies should be conducted on restrictive business practices, balance of payments effects, pricing and inflation. That Government suggests that the work programme should give priority to issues that support developing countries in their right to nationalization, in their harnessing of the activities of transnational corporations in their national priorities, and in prohibiting restrictive business practices which allow transfer of capital by various methods.

22. The Government of Greece supports the proposed term of reference of the information and research centre in the belief that it will become an effective body in assisting home countries in improving their bargaining power vis-à-vis transnational corporations, in expanding knowledge on the impact of the operation of those enterprises on development and international relations, and in identifying the major sources of tensions between host countries and transnational corporations, or between home and host countries. The centre should study some of the following issues which create tension: (a) the field of balance-of-payments policies; (b) regulation of foreign currency and short-term capital market; (c) extraterritorial issues, such as those stemming from antitrust legislations; (d) issues of taxation and tax incentives; (e) transfer pricing. The work should be co-ordinated with the work of international bodies both within and outside the United Nations family.

23. Finally, the Government of Sweden supports the proposals of the Secretary-General for the establishment of a co-ordinating committee at the centre to facilitate the co-ordination of the work on subjects related to transnational corporations within the United Nations system. "A mutual exchange of information and experience with the organizations of the United Nations system that have considered the issues concerned should take place." The Swedish Government believes that such co-ordination is highly desirable.