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Chairman: Mr. AL-QAYSI

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AGENDA ITEM 130: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued)

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The meeting was called to order at 3.30 p.m.

AGENDA ITEM 130: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued) (A/40/446 and Corr.1, A/C.6/40/L.9)

1. Mr. AENA (Iraq) said that the study undertaken by the United Nations Institute for Training and Research (UNITAR) (Progressive development of the principles and norms of international law relating to the new international economic order (UNITAR/DS/6)) had responded to the request of the General Assembly; its legal content was convincing and could be a good basis for the evaluation of the basic principles of the new international economic order. Although the study contained many generalities, the newness of the subject must be taken into account. The study was based conceptually on two fundamental principles: the equality and sovereignty of States and the duty to co-operate. From them were derived several secondary principles. They included the right of States to choose their own economic system, the principle of permanent sovereignty over natural resources, the principle of non-interference, the duty to settle disputes by peaceful means, the principle of the free choice of the means of settling disputes, the principle of preferential treatment for developing countries, the right to development assistance - not merely to rectify injustices resulting from colonial domination, but to create a more stable world - the principle of the dissemination of information on scientific and technological developments, the right to the reciprocal and equitable transfer of technology and the principle of the common heritage of mankind. The latter principle, which had been solemnly proclaimed by the General Assembly in resolution 2749 (XXV) and which was included in the United Nations Convention on the Law of the Sea and in the work of the Preparatory Commission for the International Sea-Bed Authority, revealed a clear trend towards the establishment of a new international economic order.

2. Those principles must be adopted as broadly as possible, although that would be a long and complicated process because they arose in a new context not encountered in traditional international law. The elaboration of norms was not yet complete, since in some cases precise definitions had not even been established. All States should be prepared to participate actively in the search for solutions to international economic problems. He therefore regretted that not all States had submitted a detailed analysis of the UNITAR study.

3. Iraq did not object to the establishment of a group of governmental experts to analyse the UNITAR study, but considered it advisable that there should be some type of co-ordination between that group and UNITAR and that the group should be allocated all the services necessary to hold its meetings and draft a report for submission to the General Assembly. UNITAR should be responsible for providing such assistance. It was also necessary for the relations of that group with the Sixth Committee to be defined precisely. Iraq considered that the Sixth Committee was not an appropriate forum in which to analyse the UNITAR study, since not only were there already too many items on its agenda but, in addition, the UNITAR study

(Mr. Aena, Iraq)

was a difficult topic to consider because of its complex and fragmentary nature; little experience had been acquired in that area because the subject was so new.

4. The question deserved to be granted top priority, but objectives should be clearly defined: whether a declaration, a convention or other appropriate instrument should be elaborated, and how it should be presented.

5. Mr. ROMPANI (Uruguay) said that the Charter of the United Nations contained many provisions relating to the promotion of good international economic and trade relations. The work undertaken by UNITAR helped to give those principles concrete form. Trade among peoples was a formative element if not of law at least of international relations. International economic law had derived from the simple transcription of merchants' customs. In spite of being relatively recent, it already contained an enormous quantity of general theoretical principles and specific applications which could constitute the basis for the establishment of specific norms. Among those principles the following had been proposed: the State could not introduce discriminatory trade restrictions; the State could not prevent the payment of profits on foreign investments in their territory; States should co-operate to stabilize prices; States should avoid dumping and stock-piling which interfered with the normal development of developing States; and developing States had a right to economic assistance. All those general principles were capable of being modified, completed or even replaced or eliminated, since it was not a simple matter to establish an international legal relationship in the economic sphere. Indeed, it could be argued that it would not even be autonomous law, but rather law, still in the process of formation, that would be applied to the economy. The new international economic order implied the protection of the developing countries in their international economic relations, a matter that was more political than economic.

6. The Charter of Economic Rights and Duties of States, adopted by the General Assembly on 12 December 1974 (resolution 3281 (XXIX)) established a series of principles to regulate international economic relations which in effect extended to international relations the general political principles established by the Charter of the United Nations. In that context, he recalled that the Charter of Economic Rights and Duties of States had its origins in a statement to UNCTAD in Santiago de Chile by the former President of Mexico, President Echeverría. There was therefore an abundance of principles, but the means to make them effective were lacking.

7. The international financial system arising from the Bretton Woods agreements and the right to development were inextricably linked to the problem of debt. Both the financial system and international trade law should be subordinate to the "right to development", in accordance with which developing States must be placed in a situation in which they were able to develop.

8. As the President of Uruguay, Dr. Julio María Sanguinetti, had pointed out in his statement to the General Assembly, debt payment by the debtor countries should not affect their right and duty to achieve their own autonomous development. On

(Mr. Rompani, Uruguay)

the other hand, those countries should use the aid they received rationally, not dissipating resources in waste and extravagance, the worst example of which was the disastrous arms race. The problems encountered at the end of the First World War with regard to reparations and disarmament must not be repeated. The problem of debt which countries could not meet had existed then, as it did now; but neither conquerors nor conquered had consented to implement disarmament. The countries of Latin America had made some progress in that direction and had striven to establish an organization which embraced all the peoples of the continent. The principal organization was the Organization of American States (OAS), whose action had been somewhat diluted in recent years; in 1960 the Latin American Free Trade Association (LAFTA) had been established and had been replaced in 1980 by the Latin American Integration Association. He also recalled the Organization of Central American States (OCAS), the Central American Common Market (CACM), the Agency for the Prohibition of Nuclear Weapons in Latin America (OPENAL), the Latin American Economic System (LAES) and the Andean Group. Their example should be followed, regulations of an international nature adopted, and the conduct of countries should be in accordance with those principles.

9. Mr. RASUL (Pakistan), referring to items 127 and 130 jointly, said the fact that the Sixth Committee was considering those items immediately after the items on international peace and security and the strengthening of the role of the Organization indicated that the two sets of topics were closely related: the majority of the disputes which poisoned relations between countries had their roots in the great economic inequalities of the modern world.

10. The Charter of the United Nations stated that one of the Organization's purposes was "to promote social progress and better standards of life in larger freedom" and that for those ends the peoples of the United Nations were determined "to employ international machinery for the promotion of the economic and social advancement of all peoples". Indeed, the attainment of that purpose would help, again in the words of the Charter, to "save succeeding generations from the scourge of war". The existing world economic system was grossly biased in favour of one group of States and to the detriment of the others. That dangerous polarization could develop in two ways: either the gap would grow even wider, which would lead in the end to a violent upheaval with the destruction of many of the achievements accumulated by mankind over the centuries; or the two sectors could decide to seek an agreement which would replace destruction with construction and hatred with love.

11. The current situation presented a depressing picture of the suffering of millions of human beings who were dying of hunger or disease, the arms race, the widening gulf between poor and rich and the enormous burden of foreign debt, which was strangling the economies of the developing countries and was being exacerbated even further by protectionist tendencies. His delegation hoped that the Sixth Committee, which had a tradition of serving the cause of international peace and security, could devise a legal structure to enable the developing countries to benefit from the advances in science and technology and to correct the inequalities of the existing world economic system.



(Mr. Rasul, Pakistan)

12. Turning to the item's procedural aspect, he said that the Sixth Committee should postpone until the next session its decision on the appropriate forum and its mandate, and expressed the hope that in the intervening period States would be able to reflect further on the analytical study and submit their views, so that the Committee could then adopt generally acceptable solutions.

13. Mrs. PINTO DE CASAP (Bolivia) said that with the founding of the United Nations the world had begun a process of transition from the old established order towards a new order which was to be governed by principles of greater equity. The world had understood that in order to attain the primary objective of saving succeeding generations from the scourge of war, the economic and social development of all countries would have to be guaranteed. That conclusion had given rise to the idea of establishing a new international economic order, one of vital importance for countries which, like Bolivia, had to cope with the many difficulties of embryonic development. A dramatic example of such problems was offered by the current crisis in the international tin market, which was causing serious uncertainties for the producer countries.

14. It was regrettable that the efforts to establish the new international economic order had still not borne fruit. That fact, together with the painful realization that the economic situation of the developing countries was becoming increasingly grave, ought to prompt all countries to intensify their efforts to bring about the new international economic order within the framework of the United Nations.

15. The codification of the principles and norms of international law in that matter should cover all aspects of the economic relations among States, which should be based on co-operation and solidarity. Economic crises which led to the political destabilization of countries could affect international peace and security. Accordingly, there was a moral obligation to furnish assistance to the countries in need. For those reasons her delegation supported all initiatives for the codification of such principles and norms, a task which might be entrusted to the International Law Commission or to a special working group. Lastly, she hoped that the international community would be able to discharge its historic responsibility to create an adequate legal framework for the conduct of more just and proper international economic relations.

16. Mr. ZHOU Xiaolin (China) noted that the item on the progressive development of the principles and norms of international law relating to the new international economic order had been on the agenda of the Sixth Committee since 1975 and that, at long last, some progress had been achieved. UNITAR had provided valuable material for the subsequent consideration of the item. His delegation hoped that on the basis of that material the Sixth Committee would be able to make further progress in the future.

17. The world economic situation had become even more grave. Trade protectionism, the increase in the foreign debt of the developing countries, and the natural disasters and starvation which had stricken the African continent and other parts

(Mr. Zhou Xiaolin, China)

of the world had again set back the world economy, which had been starting to overcome the crisis. Many developing countries were faced with serious problems resulting from the deterioration in the terms of trade and the lack of capital for development. The economies of some countries were even on the point of collapse. The gap between the developing and the industrialized countries was growing wider instead of narrower. One of the most important causes of that situation was an irrational international economic order which impeded the advancement of the developing countries.

18. More and more people were now recognizing that the prosperity of the world economy was bound up with the development of the third world countries and that the world economy could not continue to develop on the basis of the poverty and underdevelopment of those countries. The call for change in the existing international economic structure made by many Heads of State at the current session should be translated into effective measures to promote the establishment of the new international economic order. Of course, the task was a lengthy and complex one which could not be completed in the near future. Its successful completion would depend on the evolution of many different political, economic, social and legal factors, including the drafting and application of the principles and norms of international law relating to the new international economic order. It was obvious that the consolidation and progressive development of those principles and norms would not only promote the establishment of the new international economic order but would also be fully in keeping with the mandate specified in Article 13 of the Charter of the United Nations.

19. His country, which was the biggest of the developing countries, gave much attention to making international economic structures more rational and economic relations among States more democratic, and it supported all reasonable measures adopted by the international community. In recent years his country's economic reforms and policies of openness had produced remarkable first results. Those policies were directed towards the industrialized countries and the great majority of the developing countries. In its economic relations China had always maintained that international co-operation should be based on the principles of equity, justice, equality, mutual benefit and common prosperity, as well as on the encouragement of South-South co-operation and the strengthening of the collective self-confidence of the developing countries. Those principles were fully consonant with the goal of establishing the new international economic order and investing the legal principles and norms relating thereto with a new meaning.

20. The report of UNITAR, which focused on the two basic principles of international law - sovereign equality and the duty to co-operate - contained a broad analysis, still on a preliminary basis, of the legal principles and norms relating to the new international economic order and indicated that the final goal of that order was to achieve a greater degree of genuine equality within the international community. His delegation considered that the report provided a basis on which the Committee would be able to carry out its mandate by engaging in a serious analysis and a wide exchange of views and taking into consideration the comments made by Member States and other relevant material, in order to arrive at a

(Mr. Zhou Xiaolin, China)

common view. On that basis his delegation supported the Committee's decision on the measures and procedures which should be used in the next stage of its consideration of the item, including the study of the need for and viability of setting up an appropriate working group, and it hoped that the Committee would be able to produce positive results in its work on the item as quickly as possible.

21. Mr. DJORDJEVIC (Yugoslavia) said that at the previous session of the General Assembly his delegation had noted with satisfaction that UNITAR had successfully concluded its work on the progressive development of the principles and norms of international law relating to the new international economic order. The list of principles elaborated by UNITAR covered almost all fundamental fields of the new international economic order and they should be further developed and given a final formulation in an international document.

22. In his delegation's view, it was not necessary to divide the principles into the groups of "sovereign equality" and "the duty to co-operate". Without wishing to attach priority to any particular principle, it wished to emphasize the particular importance of the "right of States to choose their economic system" and their "permanent sovereignty over natural resources", which constituted jus cogens principles of contemporary international law. The principle of preferential treatment for developing countries should be worded in a way that would clearly establish its general, non-reciprocal and non-discriminatory nature. Through the adoption of the United Nations Convention on the Law of the Sea, a new expression had been given to the principle of the common heritage of mankind in the field of the sea-bed and ocean floor outside national jurisdiction. Discussions were under way in the General Assembly on the application of that principle to the Antarctic. All of that pointed to the need for further development and implementation of that principle.

23. It was necessary to establish whether the list should be supplemented with new principles and his delegation felt that it would be useful to incorporate, inter alia, the right to development, the principle of the protection of the human environment and the principle of collective economic security. Those three principles would further strengthen the legal basis of the new international economic order and would be of great importance for the realization of its objectives. By incorporating them into the UNITAR list of principles and elaborating them together with the other principles, even greater weight would be given to a future document on the principles of international law relating to the new international economic order. In order to carry out that complex task, it might be necessary to create an appropriate mechanism. To that end, an exchange of views among all regional groups should be carried out before the next session so that a decision on that issue could be reached at the forty-first session of the General Assembly. His delegation was ready to consult with other delegations and hoped that it would be possible to arrive at generally acceptable solutions.

24. Mr. ALEXANDROV (Bulgaria) said that the restructuring of international economic relations on a just and democratic basis constituted one of the most important, urgent and complex problems faced by the international community, since

(Mr. Alexandrov, Bulgaria)

international economic relations exerted considerable influence on relations among States in general and were a crucial factor in the maintenance and strengthening of world peace and security. The solution of that problem required political will and concrete measures aimed at eliminating all forms of colonial and neo-colonial exploitation, artificial barriers and discrimination in international trade, at overcoming the crisis of the international financial and monetary system and alleviating the heavy burden of foreign debt, and at exercising genuine national sovereignty over natural resources and ensuring equal participation in solving international economic problems.

25. No progress had been made towards such a restructuring, despite the efforts made by the majority of States for more than a decade. Moreover, the development of economic co-operation was being impeded by negative factors such as economic embargoes, boycotts and sanctions which created tensions among States.

26. The formulation of binding norms of international law relating to the new international economic order could play a decisive role in the restructuring of international economic relations on a just and democratic basis. The Charter of Economic Rights and Duties of States, the Declaration and Programme of Action on the Establishment of a New International Economic Order, and the International Development Strategy for the Third United Nations Development Decade were basic instruments for improving the socio-economic situation of developing countries and for fostering equitable economic co-operation among States.

27. The development of the principles and norms of international law relating to the new international economic order was linked to the cardinal problem facing the contemporary world, namely the prevention of a nuclear catastrophe, the maintenance of world peace and the ending of the arms race precipitated by certain reactionary circles. That required the promotion of peaceful coexistence of States with different social systems. Consequently, in formulating the principles and norms of international law relating to the establishment of the new international economic order, it was necessary to proceed from the general premises of contemporary international law, particularly those of the sovereign equality of States, the non-use of force or the threat of force, non-interference in the internal affairs of States, and the peaceful settlement of disputes. The future principles and norms should be of universal character and should be binding on all States, without exception. They should include the principles of non-discrimination, the sovereignty of States over their wealth, natural resources and economic activities and the freedom of States to choose their own economic system. The instruments adopted within the framework of the United Nations, such as the Charter of Economic Rights and Duties of States, the Declaration and Programme of Action on the Establishment of a New International Economic Order, and other resolutions and decisions, could serve as basic guidelines. Those principles should include specific provisions prohibiting the unilateral and unwarranted imposition of economic sanctions and boycotts against States which complied with their obligations under the Charter of the United Nations. The principles and norms should deal with such global economic issues as the rational use of raw materials and fuel, the exploitation of new and renewable sources of energy, the use of outer space and the seas and oceans, the promotion of science and technology for development, the protection of the environment and food security.

(Mr. Alexandrov, Bulgaria)

28. His delegation would like to see more direct participation by States in the work on that problem and more consideration given to its importance and complexity as well as to the urgency of its solution.
29. Mr. BERNAL (Mexico) said that the codification and progressive development of the principles and norms of international law relating to the new international economic order should be initiated without delay.
30. The body entrusted with that task should concentrate its efforts on the search for formulas and, without disputing the principles and norms relating to the new international economic order, should consolidate them and give them a definitive place in positive international law.
31. The main issue was to reach agreement on the establishment of a mechanism which enjoyed the support of the members of the international community with a view to carrying out that task. His delegation would agree to entrust the work to an intergovernmental body or group, preferably under the Sixth Committee, which would be constituted similarly to the committee that had drafted the Charter of Economic Rights and Duties of States.
32. It would be useful to extend the time-limit for the submission of observations on the UNITAR study on the progressive development of the principles and norms of international law relating to the new international economic order (UNITAR/DS/6).
33. Mr. WILLEMARCK (Belgium), speaking on behalf of the 10 member States of the European Economic Community, and of Spain and Portugal, said that the Governments of those countries were engaged in an in-depth consideration of the studies prepared by UNITAR and of the analytical study of Mr. Georges Abi-Saab on the subject under discussion and could not prepare their comments within the time-limit set in General Assembly resolution 39/75.
34. Very few States had made comments on those studies and the Sixth Committee should determine the future direction of its work on the basis of the comments of the greatest possible number of States. Consequently, the member States of the European Economic Community, Spain and Portugal, reaffirmed their view that the time-limit for the submission of comments of States should be extended to the forty-first session of the General Assembly, and that any decision on the procedure to be followed should also be deferred.
35. Mr. VOLODIN (Union of Soviet Socialist Republics) said that the USSR believed that the development of equitable and mutually advantageous co-operation among all States was a prerequisite for the establishment of a sound material basis for peaceful coexistence, the elimination of the threat of nuclear war and the safeguarding of world peace. The restructuring of international economic relations on a just and democratic basis would be impossible without constructive co-operation on the part of States in dealing with the most important international issues, such as rational use of natural resources, the exploitation of new sources of energy, protection of the environment and, above all, the prevention of nuclear war.



(Mr. Volodin, USSR)

36. The Soviet Union and other socialist countries believed that it was urgent to solve the problem of the restructuring of international economic relations on a just and democratic basis; they therefore regarded as essential the implementation of all the agreements and recommendations with a view to developing economic co-operation that had been reflected in various international legal instruments, including the Charter of Economic Rights and Duties of States and the Declaration and Programme of Action on the Establishment of a New International Economic Order.

37. The international community must do everything within its power to guarantee the economic security of States and peoples. All forms of economic aggression, such as the threat or use of embargoes, boycotts and trade, credit and technological blockades must disappear from international relations, and the principles of national sovereignty and independence, non-interference in the internal affairs of other States, the non-use of force, complete equality and the right of all States to determine their own future must be observed fully. The USSR was in favour of the adoption of effective measures to eliminate all forms of exploitation in international relations, to promote scientific and technological co-operation and to eliminate discrimination and inequitable trade.

38. The progressive development of the principles and norms of international law relating to the new international economic order should provide an effective way of restructuring international economic relations with a view to enabling all States to develop their economic potential. It should also become an instrument in the struggle to eliminate the centuries-old backwardness of the developing countries. In that task, it was of fundamental importance to provide legal confirmation of the progressive demands that the developing countries were making with a view to achieving economic independence, such as their calls for a guarantee of full sovereignty over their natural resources, a halt to the brain drain and to the outflow of capital and a ban on the uncontrolled activities of the transnational corporations.

39. The principles of international economic law, which had been established as a result of the efforts made by the socialist countries and the developing countries, could indeed be unified and progressively developed. Many of the principles of international economic law, such as economic non-discrimination, the full sovereignty of States over their own wealth, natural resources and economic activities, the freedom of States to choose their own economic system, without outside interference, and also the manner in which they organized their foreign economic relations, and the promotion of collective economic security, were universally recognized. Other principles were still in the process of being developed and consolidated. The codification and progressive development of the principles and norms in question must therefore be consistent; moreover, account must be taken of the fact that that process would be a complex and lengthy one, calling for participation by specialists and experts in international law. The USSR believed that that task should be entrusted to one of the existing United Nations organs that had the necessary machinery and expertise, for example, the International Law Commission.



40. Mr. PAWLAK (Poland) said that the establishment of the new international economic order should represent an orderly process of economic decolonization and development of co-operation between States with different socio-economic systems, which were prerequisites for world peace and the promotion of the economic and social advancement of all peoples.

41. The new international economic order could not be based on the existing international legal system. That system must undergo gradual development so that it could be adjusted to take account of new realities. That change in the international economic order constituted a complex and difficult but indispensable task. It must be recognized that there was a dialectic relationship between the economic infrastructure and the legal superstructure.

42. Among the basic rights of all nations was the right to exist, and in the current circumstances that right also implied a right to development for all peoples and States.

43. The right to development was closely related to the safeguarding of world peace. The goal of guaranteeing the right to exist through the right to development was a necessity that was of general concern.

44. The existing economic order, in whose context States had to deal with complex national and global issues was no longer a matter of North-South or East-West controversies but had, rather, become a universal and urgent problem.

45. Referring to a number of studies by United States authors, he said that, where the outlook for the world situation was concerned, by the end of the century there would be a sharp deterioration in many social and economic fields; a new, imaginative approach was called for in order to solve the problems in question, as well as a willingness to take the necessary action, commitment on the part of States and international co-operation.

46. In a paper submitted to the International Law Association, Judge Manfred Lachs had indicated that the development of economic relations implied a need to take account of the inequality of nations in terms of wealth and possibilities for satisfying the most elementary requirements for survival. Article 55 of the Charter of the United Nations laid down goals in the field of economic and social progress in very general terms, but those legally-binding principles must be translated into detailed norms, thus creating rights and obligations. Equity was not tantamount to equality but must lead to the abolition of unequal treatment of the poorest and weakest and of relations that were based on inequality. Equity did not only imply good faith and honesty but also just, reasonable and appropriate application of the law. The implementation of Article 55 of the Charter and other instruments adopted both within and outside the United Nations called for the establishment of a new relationship between nations and for a contribution by the economically and socially developed countries to the development of the underdeveloped countries. Just and reasonable application of the law gave rise to certain rights for the poor and weak and to specific obligations for the rich and powerful. Application of international law without due account being taken of the

(Mr. Pawlak, Poland)

principle of equity was unthinkable today. The new international economic order had a foundation that was already in force and was binding on nations; that foundation called for the development of further principles and detailed substantive procedural provisions.

47. The principle of mutually-beneficial co-operation was based on the Charter itself and was one of the basic principles of contemporary international law. His delegation did not endorse the observation made in the UNITAR study to the effect that coexistence in international law would develop into co-operation, since it was not in keeping with Article 56 of the Charter, under which States had specific obligations.

48. The concept of development had political, economic, social, cultural, legal and ethical aspects, which meant that a multidisciplinary approach must be taken to the study of the new international economic order. The list of principles in the UNITAR study should therefore be supplemented by important new principles when the legal basis of the new international economic order was prepared.

49. The principle of international economic security must be incorporated into that legal basis, in addition to the right to development. The removal of discriminatory and illegal restrictions and other such obstacles would be of benefit to all States, since it would bring about greater economic, monetary and financial stability. The new international economic order should promote the required international economic security through the development of measures to build economic confidence.

50. It must not be forgotten that the world was threatened by a gradual deterioration of the environment. Issues relating to the life, health, well-being and natural rights of mankind and environmental issues were interrelated, since all the issues in question had an impact on the full development of mankind. The quality of the environment was a human right, which his delegation believed should also be included among the principles upon which the new international economic order was to be based.

51. The new international economic order must be universal, which meant that a consensus must be achieved in the process of creating a legal framework for the new order, so as to take account of the legitimate interests of all groups of States. Concerted efforts on the part of all States, and the establishment in due course of an appropriate new intergovernmental organ in the context of the United Nations, preferably in the Sixth Committee, with the necessary support and resources, were called for in order to bring the work that still lay ahead to a successful conclusion.

The meeting rose at 5.20 p.m.