



General Assembly

Distr.
GENERAL

A/43/529/Add.1
24 October 1988
ENGLISH
ORIGINAL: ENGLISH/RUSSIAN/
SPANISH

Forty-third session
Agenda item 128

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

Report of the Secretary-General

Addendum

CONTENTS

	Page
II. VIEWS AND COMMENTS SUBMITTED BY GOVERNMENTS	
Byelorussian Soviet Socialist Republic	2
Chile	3
Ukrainian Soviet Socialist Republic	7
Union of Soviet Socialist Republics	9

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[13 September 1988]

1. In comments addressed to the Secretary-General (see A/40/446/Add.1, A/41/536 and A/42/483/Add.1), the Byelorussian SSR expressed its views on this question.
2. The creation of a comprehensive system of international security and a non-violent world requires a reorientation from a policy based on the rule of force in international relations to one aimed at the rule of law. An orientation based on the primacy of law in international relations would also go a long way towards normalising foreign economic ties and make it possible to deal in practical terms with the specific question of establishing a comprehensive system of international economic security.
3. The desire to base international relations on the principles of justice and equality have been reflected in moves to democratise international relations and establish a new international economic order. In 1974 the General Assembly adopted two important documents: the Charter of Economic Rights and Duties of States and the Declaration on the Establishment of a New International Economic Order. These are an important step towards establishing norms of international law relating to the new international economic order.
4. The restructuring of international economic relations on the democratic principles of equality and mutual advantage is completely feasible on the basis of the principles and norms of existing international law, recommendations and agreements, but they can be effectively applied only if they acquire binding legal force.
5. The norms of international law not only strengthen existing agreements but also provide a basis for future actions for a long time. Determination of the areas that should be covered in international law and what machinery is required for this work would be a practical step towards developing international law for the new international economic order.
6. One of these areas concerns the relationship between disarmament and development. It is very important in this connection to note that the programme of the International Development Strategy for the Third United Nations Development Decade (1980s) arose from the need to ensure closer ties between disarmament and development. The achievement of genuine disarmament and realization of the principle "disarmament for development" might spur a radical solution to the problem of the indebtedness of the developing countries and of ensuring external financing.
7. The process of transforming recommendations concerning the establishment of the new international economic order into binding rules of conduct for States in

international economic relations is a complicated one that requires above all, the political will of States. In the view of the Byelorussian SSR, the resources of such a representative forum as the Sixth Committee make it the most appropriate body for preparing a legal foundation for the new international economic order.

CHILE

[Original: Spanish]

[15 August 1988]

1. From the standpoint of international economic policy, Chile supports measures designed to attain the following objectives:

(a) A world economic environment, which is more predictable and conducive to just and equitable development;

(b) An integrated approach to development, growth and international trade in the light of the growing interdependence of the world economy;

(c) A global solution to existing problems with respect to financial resources, monetary questions and international commerce, one that advocates the liberalisation of trade and the dismantlement of protectionism, safeguards and restrictive trade practices;

(d) Promotion of international economic co-operation and exploitation of the potential of multilateral and regional economic organizations;

(e) Consolidation of the right to growth and development through an ongoing dialogue aimed at a revival of the world economy;

(f) In the area of financial resources, in general, and the external debt, in particular, shared responsibility for the problem by debtors, creditors, multilateral financial agencies and the private banking system; a direct link between the questions of debt, trade and development; the need for greater flows of resources towards debtor countries and for the establishment of an equitable, stable international monetary system conducive to development, without the wildly fluctuating interest rates and unstable exchange rates that now exist.

2. In our opinion, the item "Progressive development of the principles and norms of international law relating to the new international economic order" should be approached from the point of view of effective co-operation among States, in order to arrive at a concept of international economic security, in the light of both the legal means of attaining it and the problems of the economic reality affecting the developing world.

3. On this question, we believe that it is necessary to act realistically, as there is little to be gained from adopting or codifying legal norms which are mere expressions of good intentions, but are not supported by a new economic reality which countries are prepared to create and sustain over time.

4. The new international economic order will emerge only in so far as Governments are able to put forward practical solutions to some of the most serious and pressing problems which all States must resolve together. They include the external debt and international financial and monetary instability; the trend towards protectionism or restrictive international trade practices; sluggish growth of world trade and the problems resulting from economic policies in some of the most developed countries in the world which maintain trade gaps thereby affecting the rest of the economic and financial community.

5. As these major issues are taken up, consideration will have to be given to how international law may incorporate the formulas applied in order to arrive at progressive development of these principles and norms for the benefit of all our nations.

6. It should be pointed out, in the first instance, that the UNITAR work establishes two major basic principles: that of sovereign equality and that of the duty to co-operate, from which are derived eight other principles which would govern the new international economic order.

7. Chile has the following comments and observations to make concerning its position on these principles:

(a) Chile believes that the right of States to choose their economic system is a widely accepted principle which is set forth most authoritatively in the Charter of Economic Rights and Duties of States. Nevertheless this right may not be cited as justification for acts of reprisal or coercion by one State against another.

(b) Chile fully recognizes the principle of the permanent sovereignty over natural resources, and believes that practice may not limit the sovereignty of States to regulate foreign investment according to their own economic objectives. Although Chile does not discriminate between foreign and national investments, it believes that each State has sovereignty to regulate the activities of transnational corporations in its territories.

(c) Chile views participatory equality of developing countries in international economic relations as a primary objective. However, from a realistic viewpoint, the goal of participatory equality seems to be more attainable with respect to access to the decision-making process than with respect to any real weight in this process.

(d) Concerning preferential treatment for developing countries, in Chile's opinion, the key to transforming the economic structure, and consequently, all relations between States, lies in changing the economic mentality of peoples, which would prompt them to seek the sources of their economic potential. That, in turn, would enable them to set up the economic model to which they aspire.

In other words, unless a serious effort is made to change the productive structure, by giving priority to those sectors of the economy with greater comparative advantages, such preferential treatment will not produce the desired benefits.

In considering the results of the preferential treatment, it will be seen that the greatest advantages of this mechanism and the greatest liberalisation of trade occurred in relations among developed countries. Hence, it would seem more advantageous and more realistic to negotiate for treatment at least equal to that which the developed countries have extended to each other. This would afford developing countries access to the markets of developed countries under similar conditions.

The foregoing presupposes that the developed countries need to liberalise their markets, especially with respect to those sectors in which the developing countries have comparative advantages.

In this same context, Chile believes that it is of the utmost importance to strengthen economic co-operation among developing countries within the framework of the Global System of Trade Preferences among Developing Countries (GSTP), as this system is a good means for countries at a similar stage of development to extend preferential treatment to each other.

(e) Concerning the stabilisation of export earnings of developing countries, Chile believes that, although current systems of compensatory financing of shortfalls in export proceeds have not completely solved the problem created by the lack of stabilisation, rather than create new systems, efforts should be redoubled to improve the efficiency of existing programmes and to increase the resources allocated to them. This is because systems currently in use already have the infrastructure and experience to make them operational. The International Monetary Fund is a case in point.

(f) With regard to the right of every State to benefit from science and technology, this country considers that countries should not only have right of access to the benefits of scientific and technological progress, but that they must also make serious efforts to increase their research activities. It is appropriate, therefore, to recall the recommendation made at the meeting of heads of national science and technology organizations (New Delhi, 1982), that the developing countries should devote at least 1 per cent of their gross national product to research and scientific development.

It is worth noting in this context that one of the fundamental principles of Chilean economic policy is the respect for proprietary rights. Chile could not, therefore, support the appropriation or imitation of intellectual property at international level, even for the sake of development.

Similarly, one highly important aspect that the defenders of intellectual property rights have systematically ignored is the question of "sufficient utility", which assumes that a "fair price" should be obtained for proprietary rights not just "any price" achieved through the bargaining power of either side. Chile regrets that this fundamental matter has not been considered at a multilateral level.

(g) With regard to the entitlement of developing countries to development assistance, Chile considers that such assistance should be linked with specific

technical co-operation projects in a multilateral, rather than a bilateral, context. Thus, most of the funds of the developed countries should be used to increase existing resources for the promotion of development (e.g., the United Nations Industrial Development Fund, the International Fund for Agricultural Development and contributions to the United Nations Development Programme).

Assistance to individual countries should be granted not on the basis of the economic level of the countries concerned, but in connection with specific projects designed to help segments of society living in dire poverty in any of the developing countries.

(h) The principle of the common heritage of mankind has been invoked by a number of countries in multilateral forums, often with clearly political connotations. It might, therefore, be better to refrain from making any specific pronouncements on the subject before any clear definition has been established of the practical application and scope of this principle within a new international economic order.

The two special areas already declared the common heritage of mankind, namely the sea-bed beyond national jurisdiction and outer space, should continue to be governed by the specific legal rules currently in force, set out in the relevant conventions adopted by the United Nations.

8. According to the UNITAR study, the translation of these eight principles into concrete policies and actions would lay the foundation for a new international economic order. Such an order would make it possible to achieve a greater degree of substantive equality within the international community, which should be reflected in both the structure and the operational procedures of the international economic system to permit the creation of suitable conditions for the development of third world countries.

9. Chile agrees with UNITAR that a new international economic order can be established not immediately, but gradually, through negotiations within various forums and, in particular, through the conduct and practices of States and other international economic agents. It also agrees with UNITAR that codification of this new international economic order must be a gradual, cumulative process, the new law evolving from practice, precedents, negotiations and various pronouncements, many of which are set forth in ambiguous legal instruments.

10. It should be pointed out, however, that the UNITAR study refers only very briefly to the practices of States and to ideas which should be reinforced in society as factors productive of economic change. It does not deal with the concept of economic co-operation among developing countries, which should be understood to mean a set of collective economic actions and practices among countries in that category, worked out and implemented by them at subregional, regional and global levels. This is highly important since it reinforces the bargaining power of the developing countries as far as the establishment of a new international economic order is concerned, and is a realistic alternative to the type of co-operation originating in the developed countries.

11. Furthermore, Chile believes that the procedures for establishing a new international economic order should be implemented with absolute realism. Given that the Declaration and the Programme of Action on the Establishment of a New International Economic Order were adopted 14 years ago and that minimal progress has been made in their implementation, it is clear that it is necessary to seek a genuine alternative that will enable the new order to enter into force, rather than continuing with the rhetoric that has been used for all these years.

12. In our view it would be more realistic to focus on drawing up separate agreements for each of the topics covered by the Programme of Action and to try to work into them the more significant and widely accepted principles. Countries interested in a particular topic would thus get together to negotiate agreements which would be genuinely useful to them, instead of going after an all-embracing agreement and perhaps having negotiations fail because acceptance of that agreement was conditional upon their accepting provisions favoured by countries whose interests conflicted with their own. Through such partial agreements it would be possible to evolve a legal structure for the regulation of international economic relations.

13. It is not unreasonable to point out, once again, that the principles expressed in the UNITAR study cannot be applied to all countries on a uniform basis (bearing in mind that that has resulted in slow progress and even the breakdown of a great many negotiations). Instead they should be applied in the context of agreements worked out on smaller, specific areas, involving only the countries concerned and having very similar positions. Chile believes that this would be the most viable mechanism for the gradual development of a NIEO.

14. Lastly, the study and codification of this new international economic order could be dealt with appropriately by an intergovernmental working group in the context of the Sixth Committee. This group should co-operate closely with the other United Nations bodies and with other relevant institutions able to contribute usefully to the shaping of a NIEO.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[20 September 1988]

1. As a supplement to the Ukrainian SSR's conceptual approach to this problem (document LA/COD/15), we wish to submit the following views.
2. A characteristic feature of the present day is the progress being made in the international situation. To a large extent these are linked with the improvement in Soviet-American relations, with the conclusion of the Geneva agreements on Afghanistan, and with the progress made in resolving several other regional conflicts.
3. The process of arms limitation, the start of genuine reductions and the end of confrontation, which are the first fruits of the new political thinking, are

/...

providing mankind with a favourable opportunity to make a genuine attempt to solve questions of social and economic development and the global problems facing it. The conditions are being created for the laying of new foundations for future inter-State relations, embracing also the economic sphere.

4. Economic as well as political links between States must be forged on the basis of strict compliance with the concept of the primacy of law in international relations. Such an approach, which would guarantee equality and take account of the interests of all members of the international community, presupposes a developed system of legal principles and norms regulating international relations in the economic sphere.

5. There is an acute need for such principles and norms in today's interconnected and interdependent world, and that need will become all the more urgent in the future, as international economic links are intensified. Here, however, it must be remembered that the effectiveness of the international legal provisions already devised in this sphere, and of those still at the formative stage, is inextricably linked with their timeliness and their acceptability to States.

6. In view of this, it is important to identify the areas of highest priority that require an international legal basis. One of these areas, in the view of the Ukrainian SSR, is the establishing of an interrelationship between disarmament and development. The conclusion of the Treaty between the United States and the USSR on the Elimination of Their Intermediate-Range and Shorter-Range Missiles marks the beginning of concrete disarmament measures, which may lead to the future release of substantial resources for social and economic development. In this context the practical implementation of the proposal put forward by the USSR for the establishment of an international fund on "Disarmament for development" is a matter of urgency.

7. In addition to the problems of converting military industry to civil projects, other important and urgent issues are the alleviation of the debt burden of developing countries, the elimination of coercion in the sphere of international economic relations, the solution of global problems, etc. The foundations for this are contained, inter alia, in the Charter of Economic Rights and Duties of States and in the Declaration and Programme of Action on the Establishment of a New Economic Order.

8. The effectiveness of the work on shaping the legal foundations for a new international economic order depends to a large extent on the organ in which it is carried out. The Ukrainian SSR believes that the most expedient course is to avoid creating any new structures, and to make more rational use of the machinery already existing within the United Nations. Another prerequisite is that this work should be conducted within a representative forum in which all members of the international community are able to participate. Consequently, the most appropriate organ appears to be the Sixth Committee of the General Assembly.

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]

[19 September 1988]

1. Further to the comments previously transmitted to the Secretariat of the United Nations, setting out the conceptual approach of the USSR to this question (LA/COD/15), we now communicate the following.

2. Comprehensive international security is regarded by the USSR as constituting at the same time an all-embracing legal order founded on the principle of the primacy of law in politics. This, of course, presupposes an established structure of juridical principles and norms to govern international economic relations.

3. The pressing need for a well-developed system of such principles and norms is keenly felt in today's interdependent world, and that need will go on growing as worldwide economic co-operation expands. At the same time, one cannot overlook the fact that the efficacy of new juridical provisions in this sphere, as well as those being codified, depends directly on their practical applicability and acceptability to States.

4. Taking precisely this kind of approach, making due allowance for the various aspects of the problem, we believe it is possible to assign priorities correctly among the areas requiring legal provision and select the appropriate organizational machinery for this work.

5. One such area is the relationship between disarmament and development. The world has taken a step towards the implementation of this principle since the conclusion of the Treaty between the USSR and the United States on the Elimination of Their Intermediate-Range and Shorter-Range Missiles. Specific disarmament measures already instituted are allowing some resources to be released for economic and social development. In this context, we see, an urgent need for action on the proposal by the Soviet Union to establish an international "disarmament for development" fund, in which the USSR is prepared to take part.

6. The problem of retooling military industry for civilian purposes - a priority concern - is, of course, far from the only complication to be overcome in creating an economic order which would guarantee the security and development of all States.

7. The legal foundations for this endeavour are enshrined in well-known United Nations texts - 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 so forth. Developing and couching the ideas they contain in legal language should facilitate the resolution of key questions in economic relations and help to consolidate the rule of international law.

8. We consider that, if the development of international law governing the new international economic order is to be regarded as an important component in the general strengthening of the international legal order, work on codification has

gone beyond the expert level and needs to be conducted in a representative forum. The intention here, of course, is not to create any new United Nations machinery but to make more active use of what already exists. The organisational framework of the Sixth Committee of the General Assembly affords scope for this purpose. This Committee has solid experience with the elaboration of conventions and declarations designed to promote the progressive development of international law. The combination of high professional competence in the field of law and the universal representation of States gives the Sixth Committee advantages indispensable to a forum which might be entrusted with drawing up the legal provisions to govern the new international economic order. The codification and progressive development of international norms aimed at the restructuring of international economic relations on just and democratic foundations could become an important and rewarding feature of the work of the Sixth Committee.
