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

Report of the Secretary-General

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I. INTRODUCTION

1. On 16 December 1982, the General Assembly adopted resolution 37/103, entitled "Progressive development of the principles and norms of international law relating to the new international economic order".
2. In paragraph 1 of that resolution, the Assembly requested the United Nations Institute for Training and Research (UNITAR) to prepare the third and final phase of the analytical study and to complete it in time for the Secretary-General to submit it to the Assembly at its thirty-eighth session.
3. In paragraph 2 of that resolution, the General Assembly urged Member States to submit not later than 31 May 1983 relevant information with respect to the study, including proposals concerning further action to be taken on the final study to be submitted to the Assembly at its thirty-eighth session.
4. In paragraph 3 of the same resolution, the General Assembly requested the United Nations Commission on International Trade Law, the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization, the regional commissions, the United Nations Centre on Transnational Corporations and other relevant intergovernmental and non-governmental organizations active in this field, as determined by UNITAR, to submit relevant information and to co-operate fully with the Institute in the implementation of the present resolution.
5. In paragraph 4, the General Assembly invited UNITAR to select, on the basis of equitable geographical representation, taking into account the different legal and economic systems of the world, experts who would help it to carry out the last phase of the study.
6. The present report is submitted pursuant to paragraph 5 of General Assembly resolution 37/103. It contains, in addition to the present section, the progress report of the United Nations Institute for Training and Research (see sect. II below).
7. The replies received pursuant to paragraph 2 of General Assembly resolution 37/103 from Bulgaria and Madagascar are circulated as an addendum to the present report (A/38/366/Add.1). Additional replies which might be received from States will be published in further addenda.

II. PROGRESS REPORT OF THE UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH

A. Background

8. In paragraph 1 of its resolution 35/166 of 15 December 1980, the General Assembly requested UNITAR:

"(a) To prepare a list of the existing and evolving principles and norms of international law relating to the new international economic order

concerning the economic relations among States, international organizations and other entities of public international law, and the activities of transnational corporations, as contained, inter alia, in the following texts:

- "(i) Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; 1/
- "(ii) Declaration and Programme of Action on the Establishment of a New International Economic Order; 2/
- "(iii) Charter of Economic Rights and Duties of States; 3/
- "(iv) General Assembly resolution 3362 (S-VII) of 16 September 1975 on development and international economic co-operation;
- "(v) International Development Strategy for the Third United Nations Development Decade; 4/
- "(vi) Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices; 5/
- "(vii) Final Acts of the United Nations Conference on Trade and Development 6/ and declarations adopted by all United Nations conferences relevant to the new international economic order.

"(b) To prepare an analytical study, on the basis of the list referred to in subparagraph (a) above, on the progressive development of the principles and norms of international law relating to the new international economic order."

9. In the first report of the Secretary-General (A/36/143, sect. II, para. 4), UNITAR informed the General Assembly that it agreed fully with the Legal Counsel that "the task of studying this question is a long-term one, requiring adequate time and resources" (A/35/466, para. 12).

10. Accordingly, in its wisdom, the General Assembly, by its resolutions A/36/107 and A/37/103 respectively, extended the mandate of UNITAR to complete the study.

B. Summary of work completed by UNITAR

11. Extensive library and field research followed by rigorous analysis of materials collected, convinced UNITAR that its first task was to build a data base in a readily accessible form. Therefore, UNITAR prepared a consolidated list or "Compendium of topics or issues, of the principles and norms of international law relating to the new international economic order" (UNITAR/DS/4). It constitutes the first systematic attempt to draw together the dispersed mass of international sources into a schematic Compendium. The document was submitted, as part of the report of the Secretary-General (A/36/143 and Add.1 and 2), to the General Assembly at its thirty-sixth session.

12. The Compendium, however, was just raw material; thus UNITAR had to look beyond this valuable inventory of sources to the "real world" of actual practice of States and the implementation of instruments by international organizations, as well as the decisions of international tribunals and the works of eminent publicists. This process enabled UNITAR to identify principles, fully actualized and emergent:

- (a) Preferential treatment for developing countries;
- (b) Stabilization of export earnings of developing countries;
- (c) Permanent sovereignty over natural resources;
- (d) Right of every State to benefit from science and technology;
- (e) Entitlement of developing countries to development assistance;
- (f) Participatory equality of developing countries in international economic relations;
- (g) Common heritage of mankind.

13. UNITAR submitted the following documents to the General Assembly at its thirty-seventh session: papers on the first three principles listed above, accompanied by an analysis of texts of relevant instruments (UNITAR/DS/5), and the progress report prepared by UNITAR (A/37/409, sect. II).

C. A progress report on the final analytical study

14. In paragraph 3 of its resolution 37/103, the General Assembly:

"Requests the United Nations Commission on International Trade Law, the United Nations Conference on Trade and Development, the United Nations Industrial Development Organization, the regional commissions, the United Nations Centre on Transnational Corporations and other relevant intergovernmental and non-governmental organizations active in this field, as determined by the United Nations Institute for Training and Research, to submit relevant information and to co-operate fully with the Institute in the implementation of the present resolution."

UNITAR requested information from 137 organizations. The names of these organizations appear in note 1 (see sect. F below).

15. In paragraph 4 of that resolution, the General Assembly:

"Invites the United Nations Institute for Training and Research to select, on the basis of equitable geographical representation, taking into account the different legal and economic systems of the world, experts who will help it to carry out the last phase of the study."

UNITAR engaged four consultants to assist in the preparation of the balance of the analytical papers as follows:

- (a) Entitlement of developing countries to development assistance (African region);
- (b) Right of every State to benefit from science and technology (Asian region);
- (c) Participatory equality of developing countries in international economic relations (Latin American region);
- (d) Common heritage of mankind (Eastern Europe region).

(It will be recalled that the analytical papers entitled "Preferential treatment for developing countries" and "Stabilization of export earnings of developing countries" contained in document UNITAR/DS/5 and submitted to the General Assembly at its thirty-seventh session were prepared by consultants from the Western Europe region.)

16. In the last progress report prepared by UNITAR, cited above (see para. 13), UNITAR prepared a timetable and a detailed account of the work that had to be done before completion of the final analytical study (A/37/409, sect. II, paras. 27-34). The target date for completion of the analytical papers was 30 April 1983. However, the consultants expressed concern that this timetable was unrealistic in view of the complexity of the subject, and requested rescheduling of the target date to June 1983. UNITAR consequently set 15 June 1983 as a deadline for the submission of the papers.

17. In accordance with the practice of UNITAR to subject its work-products to rigorous examination before publication and dissemination by eminent persons expert in the subject, and also, pursuant to paragraph 4 of Assembly resolution 37/103, UNITAR convened a meeting of the Panel of Experts from 6 to 8 July 1983 in New York, to review the analytical papers (see note 2, sect. F below, for the list of the names of the Panel members). The target date for this meeting was 19-20 May, but had to be rescheduled at the request of the consultants for reasons given in paragraph 16 above. The Panel made the following major recommendations (for the full report of the Panel, see the annex to this report):

- (a) That the consultants and UNITAR revise the following papers: "Entitlement of developing countries to development assistance"; "Right of every State to benefit from science and technology"; and "Common heritage of mankind"; and the "Analysis of texts of relevant instruments" respectively, in time for UNITAR to prepare them for submission to the General Assembly at its thirty-eighth session. The paper entitled "Participatory equality of developing countries in international economic relations" requires extensive revision and, in view of the insufficient time remaining before the thirty-eighth session, UNITAR possibly may not submit the paper to the General Assembly;

(b) That UNITAR submits a progress report of the Secretary-General to the General Assembly, as it is not possible under the circumstances to prepare a final analytical study before the thirty-eighth session of the Assembly. The progress report should draw the attention of the Assembly to, inter alia, the complexity of the task entrusted to UNITAR;

(c) That UNITAR submits the final analytical study to the General Assembly at its thirty-ninth session, but that the fortieth session would be a more realistic timetable.

D. Conclusions

18. Regrettably, UNITAR could not, for reasons contained in paragraphs 16 and 17 above, meet the following requests of the General Assembly, contained in paragraphs 1 and 5, respectively, of its resolution 37/103:

"[UNITAR] to prepare the third and final phase of the analytical study and to complete it in time for the Secretary-General to submit it to the General Assembly at its thirty-eighth session";

and

"[The Secretary-General] to submit to the General Assembly at its thirty-eighth session a report on the final study prepared by the United Nations Institute for Training and Research for its consideration, on a priority basis, under the item entitled "Progressive development of the principles and norms of international law relating to the new international economic order" to be included in the provisional agenda of that session."

19. However, UNITAR has prepared and submitted the following documents for the consideration of the General Assembly at its thirty-eighth session:

(a) The present progress report, entitled "Progressive development of the principles and norms of international law relating to the new international economic order";

(b) "Analytical papers and analysis of texts of relevant instruments" (UNITAR/DS/6), which contains the three papers on principles listed in paragraph 15 (a), (b) and (d) above, and the textual analysis prepared by consultants and UNITAR respectively, in accordance with the revisions recommended by the Panel of Experts. 7/

20. UNITAR requests the understanding of the General Assembly because of the fact that the subject-matter of the study in question is a vast and complex one, encompassing all aspects of international economic relations: trade, money, industrialization, development assistance, the global commons, et cetera. The commitment of UNITAR to produce a study that will measure up to the highest standards of scholarship is evidenced by the monumental work it has completed. Therefore, UNITAR requests the Assembly to extend its mandate to complete the analytical study.

E. Financial implications

21. It is the hope of UNITAR that the final analytical study can be prepared in-house out of its own resources. However, UNITAR's dependency on voluntary contributions makes it hard to predict the Institute's financial position at any time in any fiscal year. Therefore, to the extent that the preparation and completion of the study, including the use of a small but geographically representative Panel of Experts to examine the draft, may involve financial implications, UNITAR may request some financial assistance and extension of any surplus amount of the funds approved by the General Assembly last year.

22. UNITAR will always remain grateful and indebted to the General Assembly for its financial support not only for this project but also for the Institute's general budget when it was in deficit due to the unpredictable source of its finance, namely, voluntary contributions.

F. Notes to the progress report

1. List of organizations

United Nations

United Nations, Geneva; United Nations, Vienna; United Nations Centre for Science and Technology for Development, New York; United Nations Centre on Transnational Corporations, New York; United Nations Commission on International Trade Law, Vienna; United Nations Development Programme, New York; World Intellectual Property Organization, Geneva; Economic Commission for Africa, Addis Ababa, Ethiopia; United Nations African Institute for Economic Development and Planning, Dakar, Senegal; Economic and Social Commission for Asia and the Pacific, Bangkok, Thailand; United Nations Asian and Pacific Development Institute, Bangkok, Thailand; Economic Commission for Europe, Geneva, Switzerland; Economic Commission for Latin America, Santiago, Chile; United Nations Latin American Institute for Economic and Social Planning, Santiago, Chile; Committee on Disarmament, Geneva, Switzerland; United Nations Conference on Trade and Development, Geneva, Switzerland; United Nations Environment Programme, Nairobi, Kenya; United Nations Industrial Development Organization, Vienna, Austria; International Atomic Energy Agency, Vienna, Austria; International Labour Office, Geneva, Switzerland; Food and Agriculture Organization of the United Nations, Rome, Italy; secretariat of the Third United Nations Conference on the Law of the Sea, New York; Economic Commission for Western Asia, Baghdad, Iraq; International Maritime Organization, London, England; General Agreement on Tariffs and Trade, Geneva, Switzerland; International Bank for Reconstruction and Development, Washington, D.C.; International Development Association, Washington, D.C.; International Finance Corporation, Washington, D.C.; International Monetary Fund, Washington, D.C.; The Group of 77, New York.

Other international organizations

International Cocoa Organization, London, England; International Coffee Organization, London, England; International Cotton Advisory Committee, Washington, D.C.; International Lead and Zinc Study Group, London, England;

International Olive Oil Council, Madrid, Spain; International Rubber Study Group, London, England; International Sugar Organization, London, England; International Tin Council, London, England; International Wheat Council, London, England; Asian and Pacific Coconut Community, Djakarta, Indonesia; Association of Iron Ore Exporting Countries, New Delhi, India; Association of Natural Rubber Producing Countries, Kuala Lumpur, Malaysia; Inter-governmental Council of Copper Exporting Countries, Neuilly Sur-Seine, France; International Bauxite Association, Kingston, Jamaica, W.I.; Organization of Arab Petroleum Exporting Countries, Kuwait City, Kuwait; Organization of Petroleum Exporting Countries (OPEC) Fund, Vienna, Austria; OPEC secretariat, Vienna, Austria.

Africa

African Centre for Monetary Studies, Dakar, Senegal; African Development Bank, Abidjan, Ivory Coast; African Development Fund, Abidjan, Ivory Coast; Bank of Central African States, Yaoundé, United Republic of Cameroon; Development Bank of Central African States, Bangui, Central African Republic; Central African Customs and Economic Union, Bangui, Central African Republic; Common Afro-Mauritian Organization, Bangui, Central African Republic; African and Mauritian Union of Development Banks, Central African Republic; Council of the Entente Mutual Aid and Guarantee Fund, Abidjan, Ivory Coast; East African Development Bank, Kampala, Uganda; Economic Community of the Great Lakes Country, Gisenyi, Rwanda; Economic Community of West African States, Lagos, Nigeria; Lake Chad Basin Commission, N'Djamena, Chad; The Maghreb Permanent Consultative Committee, Tunis, Tunisia; Mano River Union, Freetown, Sierra Leone; Organization for the Development of the Senegal River, Dakar, Senegal; Organization of African Unity, Addis Ababa, Ethiopia; River Niger Commission, Niamey, Niger; West African Clearing House, Freetown, Sierra Leone; West African Economic Community, Ouagadougou, Upper Volta; Central Bank of West African States, Dakar, Senegal.

Asia

Asian Clearing Union, Tehran, Iran; Asian Development Bank, Manila, Philippines; Asian Productivity Organization, Tokyo, Japan; Association of South-East Asian Nations Secretariat, Jakarta, Indonesia; Colombo Plan for Co-operative Economic Development in South and South-East Asia, Colombo, Sri Lanka; South-East Asian Central Banks Research and Training Centre, Petaling Jaya, Malaysia; South Pacific Bureau for Economic Co-operation, Suva, Fiji; South Pacific Commission, Noumes Cedex, New Caledonia; South Pacific Forum, Suva, Fiji; Afro-Asian Rural Reconstruction Organization, New Delhi, India; Asian-African Legal Consultative Committee, Pelham, New York.

Middle East

Arab Bank for Economic Development in Africa, Khartoum, Sudan; Arab Fund for Technical Assistance to Arab and African Countries, Tunis, Tunisia; Arab Fund for Economic and Social Development, Kuwait City, Kuwait; Arab Monetary Fund, Abu Dhabi, United Arab Emirates; Arab Planning Institute, Safat, Kuwait; Council of Arab Economic Unity, Amman, Jordan; Islamic Development Bank, Jeddah, Saudi Arabia; Kuwait Fund for Arab Economic Development, Kuwait City, Kuwait; League of Arab States, Cairo, Egypt; League of Arab States, New York.

Americas

Andean Development Corporation, Caracas, Venezuela; Andean Reserve Fund, Bogota, Colombia; Andean Sub-regional Integration Agreement, Lima, Peru; Caribbean Development Bank, Barbados, W.I.; Caribbean Free Trade Association, Georgetown, Guyana; Caribbean Investment Corporation, Georgetown, Guyana; Centre for Latin American Monetary, Mexico 7, D.F., Mexico; Central American Bank for Economic Integration, Tegucigalpa, Honduras; Central American Clearing House, Tegucigalpa, Honduras; Central American Common Market, Guatemala; Central American Monetary Council, San Jose, Costa Rica; Central American Research Institute for Industry, Guatemala; East Caribbean Common Market, Collidge, Antigua; East Caribbean Currency Authority, Basseterre, St. Kitts; Institute for Latin American Integration, Buenos Aires, Argentina; Inter-governmental Committee on the River Plate Basin, Montevideo, Uruguay; Latin American Association of Development Financing Institutions, Lima, Peru; Latin American Economic System, Caracas, Venezuela; Latin American Export Bank, Panama City, Panama; Latin American Free Trade Association, Montevideo, Uruguay; Organization of Central American States, San Salvador, El Salvador; Organization of American States, Washington, D.C.; Inter-American Institute of Agricultural Sciences, Washington, D.C.; Inter-American Development Association, Washington, D.C.; Inter-American Development Bank, Washington, D.C.; American Society of International Law, Washington, D.C.; National Bar Association, Washington, D.C.; World Health Office for the Americas, Washington, D.C.; International Trade Commission, Washington, D.C.; Secretariate Permanente de Tratado General de Integración Económica Centroamericano, Guatemala.

Europe

Bank for International Settlements, Switzerland; Centre for Research on the NIEO, Oxford, England; COMECON, Moscow, Union of Soviet Socialist Republics; Commonwealth Secretariat, London, England; Commission of the European Communities, Brussels, Belgium; European Free Trade Association, Geneva, Switzerland; European Investment Bank, Luxembourg; European Economic Communities, Belgium; Hague Academy of International Law, The Hague, Netherlands; Institute of International Politics and Economics, Belgrade, Yugoslavia; Institute of Comparative Law, Belgrade, Yugoslavia; International Financial Corporation for Investment and Development in Africa, Geneva, Switzerland; Nordic Investment Bank, Helsinki, Finland; Organisation for Economic Co-operation and Development, Paris, France; Yugoslavian Society of International Law, Beograd, Yugoslavia; Council of Mutual Economic Assistance, Moscow, Union of Soviet Socialist Republics; Le Droit, Nice, France; International Law Association, London, England.

2. List of members of the Panel of Experts

Georges Abi-Saab,* Professor, Institut Universitaire de Hautes Etudes Internationales, Switzerland; Akilano M. Akiwumi, Senior Regional Adviser on Legal

* Unable to attend due to schedule conflict.

Aspects of Economic Co-operation, Economic Commission for Africa, Ethiopia; Ion M. Anghel, Counsellor, International Organizations Department, Ministry for Foreign Affairs, Romania; Samuel K. B. Asante, Director, Advisory and Information Services Division, United Nations Centre on Transnational Corporations, New York; Judge Mohammed Bedjaoui, International Court of Justice, The Hague, Netherlands; Augusto-Cesar Espiritu, Director, Graduate Studies Programme, University of the Philippines; Argyrios Fatouros,* Permanent Representative of Greece to the Organisation for Economic Co-operation and Development, France; Thomas M. Franck,* Professor, School of Law, New York University; Sergio Gonzalez-Galvez, Consultor Juridico, Servicio Exterior Mexicano, Mexico; Vladimir A. Kartashkin, Senior Legal Officer and Special Assistant to the Under-Secretary-General, Office of the Legal Counsel, New York; Abdul G. Koroma,* Permanent Representative of Sierra Leone to the United Nations, New York; Lal Kurukulasuriya, Ambassador of the Democratic Socialist Republic of Sri Lanka, Sweden; Peter Mutharika, Professor, School of Law, Washington University, Missouri; Biram Ndiaye, Professor, Faculté des Sciences, Juridiques Economiqués de l'Université Senegal; Michael Reisman,* Professor, Yale Law School, Connecticut; Seymour Rubin, Executive Vice-President and Executive Director, American Society of International Law, Washington, D.C.; Milan Sahovic, Professor, Institut de Politique Internationale, Yugoslavia; John F. Scott, Director and Deputy to the Under-Secretary-General, Office of the Legal Counsel; Leif Sevón,* Legislative Director, Ministry of Justice, Finland; Ibrahim Shihata,* Director, OPEC Fund for International Development, Austria; Louis B. Sohn, Professor, School of Law, University of Georgia; Harry Wunsche, Head, Department of International Law, Academy of Political Science and Law, German Democratic Republic; Daniel Zavala,* Legal Adviser, Credit Commission de France, France.

Notes

- 1/ General Assembly resolution 2625 (XXV), annex.
- 2/ General Assembly resolutions 3201 (S-VI) and 3202 (S-VI).
- 3/ General Assembly resolution 3281 (XXIX).
- 4/ See General Assembly resolution 35/56, annex.
- 5/ TD/RBP/CONF/10.
- 6/ Proceedings of the United Nations Conference on Trade and Development, vol. 1, Final Act and Report (United Nations publication, Sales No. 64.II.B.11); ibid., Second Session, vol I and Corr.1 and 3 and Add.1 and 2, Report and Annexes (United Nations publication, Sales No. E.68.II.D.14); ibid., Third Session, vol. I, Report and Annexes (United Nations publication, Sales No. E.73.II.D.4); ibid., Fourth Session, vol. I, Report and Annexes (United Nations publication, Sales No. E.76.II.D.10 and corrigendum); and ibid., Fifth Session, vol. I, Report and Annexes (United Nations publication, Sales No. E.79.II.D.14).
- 7/ The papers and the textual analysis will be distributed as a UNITAR document (UNITAR/DS/6 (English only)).

ANNEX

Report of the Panel of Experts convened pursuant to
paragraph 4 of General Assembly Resolution 37/103 of
16 December 1982: progressive development of the
principles and norms of international law relating
to the new international economic order

INTRODUCTION

1. In pursuance of the implementation of General Assembly resolution 37/103, the Executive Director of UNITAR and the United Nations Under-Secretary-General convened a meeting of a Panel of Experts in New York, from 6 to 8 July 1983, which examined the following papers prepared by consultants and UNITAR in accordance with paragraph 4 of the above-mentioned resolution:

- (a) Right of every State to benefit from science and technology;
- (b) Entitlement of developing countries to development assistance;
- (c) Common heritage of mankind;
- (d) Participatory equality of developing countries in international economic relations;
- (e) Analysis of texts of relevant instruments.

A. Right of every State to benefit from science and technology

2. In the course of the Panel's discussion, there was a wide measure of support for the following views:

(1) That the paper should deal with the practice of not only the subjects of international law but also the objects of international law particularly transnational corporations which possess the technology.

(2) That among the sources that should be included in the paper are statements of Governments as reported in international documents, including, especially, resolutions and studies of bodies such as the United Nations Conference on Trade and Development.

(3) That the paper dealt insufficiently with the practice of Socialist countries, particularly bilateral agreements relating to science and technology.

(4) That awareness of the implications of the right of States to benefit from science and technology should be seriously promoted in the developing countries, particularly African countries.

(5) That the paper should build a firm foundation for the existence or evolution of the right of the States to benefit from science and technology. The author's starting point to establish the principle could be general principles of international law as expressed in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. Reference was made in this regard to the principles of sovereign equality, the duty to co-operate, and the peaceful settlement of disputes.

(6) That the paper in its present form is too descriptive and devotes too much space to generalities. Thus, when revised, the paper should be analytical and should make conclusions.

(7) That the paper should include a strong introductory and definitional part, especially with regard to the substance of the right and the beneficiaries of the right.

Different points of view were expressed on the following:

(8) The legal effect of instruments adopted by multilateral bodies, including General Assembly resolutions: In one view these instruments are recommendatory and should be treated as such in the paper. But, according to the other view, it is simplistic to treat all resolutions as purely recommendatory; the mode of adoption and their content and the subsequent practice of States should be among the criteria in assessing the legal effect of these instruments.

B. Entitlement of developing countries to development assistance

There was a wide measure of support for the following views:

(9) That the title of the paper ought to be changed to read "The Principle of entitlement of developing countries to development assistance".

(10) That the paper should establish a basis for entitlement, perhaps on such criteria as "Least Developing States"; "Land-Locked States"; "Island Developing Countries" and "Newly Industrialized Countries".

(11) That a firm basis for the principle of entitlement can be found in sources such as: state practice and generally the principles of international economic co-operation in-built in the Charter of the United Nations.

(12) That the parts of the paper entitled "The development assistance process" and sub-entitled "Equality" should be revised. To this effect, the paper should focus particularly on equality of opportunity. Further, the paper could focus on recognition of economic inequality as a basis for entitlement to assistance of developing countries.

(13) That the paper should focus on the duty or obligation to co-operate in the development assistance process.

C. Common heritage of mankind

There was a wide measure of support for the following views:

(14) That the concept of "common heritage" is evolving, notwithstanding a few reservations about the term itself.

(15) That the paper should give priority to the interests of developing countries derived from the concept [common heritage].

(16) That whether or not "mankind" is a subject of international law is not relevant. Further, that, in respect of Part II of the Convention on the Law of the Sea, the authority is authorized to represent mankind.

There were considerable differences of opinion on the following:

(17) Juridical effect of instruments, particularly General Assembly resolutions, the bone of contention being basically the same as in paragraph 8. Further, that the paper gives undue weight to one source, namely treaties.

(18) Antarctica: in one view, there is a likelihood that this issue will be on the agenda of the General Assembly at its thirty-eighth session, and therefore the paper should not deal with it. In the other view, the representations of a significant number of States to UNITAR to include the issue in the study should not be ignored. However, it was resolved that at least reference of the issue should be made in the paper, particularly the applicability of the 11 points listed in the paper.

D. Participatory equality of developing countries in international economic relations

(19) There was unanimity to the view that this paper required extensive revision to cover all aspects of the subject, owing to the lack of time by the consultant to prepare a comprehensive paper.

E. Analysis of texts of relevant instruments

(20) The Panel of Experts resolved that, owing to lack of time, its discussion and recommendations will be submitted in writing to the UNITAR secretariat by the Panel members individually, by at least 31 July 1983.

F. Follow-up

(21) The Panel expressed the view that the task of preparing an analytical study on progressive development of the principles and norms of international law relating to the new international economic order is a complex one, requiring adequate time. There was unanimity in support of the proposal of the Executive Director of UNITAR to submit to the General Assembly:

- (a) Three papers on the following principles:
 - (i) "Right of every State to benefit from science and technology";
 - (ii) "Entitlement of developing countries to development assistance";
 - (iii) "Common heritage of mankind".
- (b) Analysis of texts of relevant instruments
- (c) Progress report of the Secretary-General

(22) Further, there was unanimity in support of the proposal of the Executive Director of UNITAR to submit the final analytical study to the General Assembly at its thirty-ninth session and to draw to the attention of the Assembly that, in fact, a more realistic time-table would be the fortieth session.

(23) Finally, the Panel of Experts recommends that UNITAR should convene another Panel of Experts to meet in 1984 for at least one week, in order to discuss the draft final analytical study to be prepared by UNITAR before it is submitted to the Secretary-General and to the General Assembly.
