



General Assembly

Distr.
GENERAL

A/40/446
20 August 1985
ENGLISH
ORIGINAL: ENGLISH/SPANISH

Fortieth session
Item 131 of the provisional agenda*

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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* A/40/150.

I. INTRODUCTION

1. On 13 December 1984, the General Assembly adopted resolution 39/75 entitled "Progressive development of the principles and norms of international law relating to the new international economic order". The operative paragraphs of the resolution read as follows:

"The General Assembly,

" ...

"1. Expresses its appreciation to the United Nations Institute for Training and Research for the completion of the analytical study on the progressive development of the principles and norms of international law relating to the new international economic order; 1/

"2. Urges Member States to submit, not later than 30 June 1985, their views and comments with respect to the study, including proposals concerning further action and procedures to be adopted within the framework of the Sixth Committee with regard to the consideration of the analytical study;

"3. Decides to include in the provisional agenda of its fortieth session the item entitled 'Progressive development of the principles and norms of international law relating to the new international economic order'."

2. The Secretary-General, on 20 March 1985, addressed a note to Governments of Member States inviting them to communicate to him views and comments they might wish to submit pursuant to paragraph 2 of resolution 39/75.

3. The present report reproduces the replies that had been received from Governments as at 20 August 1985. Replies which might still be forthcoming will be circulated in addenda to the present report.

1/ See Progressive development of the principles and norms of international law relating to the new international economic order (UNITAR/DS/6).

II. VIEWS AND COMMENTS SUBMITTED BY GOVERNMENTS

ITALY

[Original: English]

[31 May 1985]

Italy has the honour to submit, on behalf of the Ten member States of the European Community, in its capacity as the State currently holding the Presidency of the Council, the observations attached to the present note.

Attachment

Comments by the Ten member States of the European Communities on resolution 39/75

1. The member States of the European Communities note with interest the submission by UNITAR of an analytical study on "the progressive development of the principles and norms of international law relating to the new international economic order".
2. The author of the analytical study, Professor Georges Abi-Saab, has to be congratulated for the manner in which he has organized the complex and rather uneven materials contained in various sectorial studies previously prepared by UNITAR and its consultants.
3. The complexity of the matters treated does not permit to comment on substance at this stage. It is the opinion of the Ten member States of EEC that these matters require serious and in-depth consideration in order to elicit significant comments. The few months provided for in resolution 39/75 have not proved sufficient for such consideration.
4. The Ten submit that the extension of the time-limit for comments up to the forty-first session of the General Assembly would permit the obtaining of significant reactions on substance from Governments and interested international organizations.

MEXICO

[Original: Spanish]

[11 July 1985]

1. Mexico appreciates the excellent work done by UNITAR in preparing the analytical study.
2. Mexico feels that two of the conclusions of this study clearly indicate the course to be followed in the future in dealing with this important subject, and has already put them forward in the debates of the Sixth Committee. They are that:

/...

(a) The main issue is that if any progress is to be made in discussions on the subject, account must be taken of the ability of Member States to ensure that the principles and norms of international law relating to the new international economic order cross the frontiers of positive law and are given full effect. Difficulties have been encountered in incorporating these principles and norms into positive international law, and this failure to incorporate them impairs their effective application. Since the duties and modes of conduct embodied in principles and norms of the new international economic order are addressed mainly to the developed countries, greater responsibility for consolidating them falls upon these countries. An obvious example of this responsibility was the voting on General Assembly resolution 3281 (XXIX), by which the Charter of Economic Rights and Duties of States was adopted.

Mexico, therefore, feels that the aim should be to try and find formulas which, without disputing these principles and norms, will consolidate them and give them a definitive place in the field of positive international law. Only thus can there be a new international economic order which meets the goals of the international community. In trying to find these formulas, the appropriate mechanism is needed.

(b) The second important issue arising out of the analytical study is that the consolidation of the process of progressive development of the principles and norms of international economic law should be entrusted to an intergovernmental body or group, perhaps under the Sixth Committee, which will have the necessary support and resources and be constituted similarly to the committee which drafted the Charter of Economic Rights and Duties of States.

YUGOSLAVIA

[Original: English]

[1 August 1985]

1. Yugoslavia supports all efforts of the United Nations in the field of the promotion of international law, its progressive development and codification, in accordance with Article 13, paragraph 1, subparagraph 1, of the Charter of the United Nations. Such a view and practice in Yugoslavia's activities within the United Nations are based on its firm conviction that, without respect for, implementation and promotion of international law, successful work of the United Nations and international peace and security cannot be ensured and various forms of economic and other inter-State co-operation cannot be developed successfully. International law, by its nature and essence, should constitute an important lever for all Member States and the world Organization itself in safeguarding peace and developing as broad an international co-operation as possible. Hence the need for its permanent development and promotion in all fields, since international co-operation is becoming ever richer and more significant for all States and nations. International law, which by its norms regulates international relations as a whole, should therefore follow the development of these relations.

2. In its reply to the request contained in General Assembly resolution 36/166, reproduced in document A/36/143/Add.2, Yugoslavia has already emphasized that it supports the efforts of the United Nations in the promotion of international law in general and particularly in the field of international economic relations for the purpose of an early introduction of the new international economic order. In this document Yugoslavia recognized "the urgent need for a systematic and progressive development of the principles and norms of international law relating to the new international economic order". Yugoslavia has also fully contributed to the UNITAR efforts in studying the principles and norms through the work of its experts and by making concrete proposals and suggestions, whenever appropriate, on the elaboration of individual principles. Most of the proposed principles were incorporated in the list presented by UNITAR at the thirty-ninth regular session of the General Assembly. Yugoslavia still upholds its assessments, views and proposals contained in the above-mentioned document and considers that the next phase in studying and elaborating the principles and norms of international law relating to the new international economic order should be proceeded to.

3. In his report to the General Assembly (A/39/504 and Add.1), the Secretary-General presented the results of the UNITAR work in the selection, elaboration and making up of a list of eight principles which would require further elaboration and enrichment through future activities of a United Nations organ. Yugoslavia considers that the past work of UNITAR constitutes a major step forward in studying the selected principles and norms of international law relating to the new international economic order which is certainly of broader significance for the promotion of the entire international law. Yugoslavia, therefore, subscribes to the positive assessment, in General Assembly resolution 39/75, of the past work of UNITAR and considers that the results achieved constitute an appropriate basis for continuing the action aimed at enriching the substance and elements of the said principles. Yugoslavia also believes that UNITAR's list of principles covers almost all fundamental fields of the new international economic order and, from this point of view, their further elaboration and final formulation within an international document would constitute a major step forward and achievement within the general efforts of the United Nations and Member States to explain and realize the concept of the new international economic order as formulated in the Declaration on the Establishment of the New International Economic Order adopted on 1 May 1974 at the sixth special session of the General Assembly.

4. Despite such an assessment of UNITAR's activities, Yugoslavia wishes to make some observations in respect of the list of the principles of international law relating to the new international economic order. Yugoslavia considers it unnecessary to divide the principles into the groups of "sovereign equality" and "the duty to co-operate". The principle of the duty of States to co-operate in the field of economic development should be discussed separately for the purpose of further elaboration of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (1970).

(a) Without wishing to give priority to individual principles, Yugoslavia deems it appropriate to point out the particular importance of the "right of States to choose their economic system" and their "permanent sovereignty over natural resources" which constitute jus cogens principles of contemporary international law, as well as the principle of the right to self-determination from which they derive.

(b) The principle of preferential treatment for developing countries should be worded so as to mean a general, non-reciprocal and non-discriminatory principle, including also the principle of stabilization of export earnings of developing countries.

(c) Through the adoption of the United Nations Convention on the Law of the Sea, a new expression has been given to article 29 of the Charter of the Economic Rights and Duties of States concerning the implementation of the principle of the common heritage of mankind in the field of the sea-bed and ocean floor outside national jurisdiction. Discussions are underway in the General Assembly on the application of the principle to the Antarctic. All this points to the need for the codification and progressive development of the principles relating to the common heritage of mankind.

5. The discussions at the forthcoming fortieth anniversary session of the United Nations General Assembly on the item of the provisional agenda entitled "Progressive development of the principles and norms of international law relating to the new international economic order" offer an opportunity to shed light on this area from the point of view of the Member States, to review once again the contents of the proposed principles and to formulate conclusions on further activities in connection with the realization of this idea of the promotion of the principles and norms of international law through the working out of an appropriate document.

6. In this context, Yugoslavia deems it necessary to establish whether there is a need to supplement the list with new principles the importance of which cannot be overlooked in the working out of the legal basis of the new international economic order. However, Yugoslavia considers that it would be useful to incorporate a number of new principles, such as (1) the right to development, (2) the principle of the protection of human environment and (3) the principle of collective economic security. In support of a possible broadening of the list of principles, Yugoslavia wishes to point out that the Commission on Human Rights has proposed to the General Assembly to review and adopt a draft declaration on the right to development which was worked out over nine sessions of a working group of experts. The three principles would further strengthen the legal basis of the new international economic order and, viewed from this angle, would be of great importance for the realization of the objectives of the new international economic order and the interests of non-aligned and other developing countries. By incorporating them in the list of UNITAR principles and elaborating them together with the other eight principles, one would give an even greater weight to a possible future document on the principles of international law relating to the new international economic order.

7. Yugoslavia considers that, for the purpose of the successful completion of the aforementioned tasks and following the discussion of the question of the progressive development of the principles and norms of international law relating to the New International Economic Order in the Sixth Committee, it would be necessary to make concerted efforts towards working out an appropriate international document, including also the possibility of the establishment of a new committee for the completion of this action in the framework of the United Nations.