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## SUMMARY RECORD OF THE 30th MEETING

Chairman: Mr. GASTLI (Tunisia)

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SECRETARY-GENERAL (continued)

ORGANIZATION OF WORK

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 121: PROGRESSIVE DEVELOPMENT OF THE PRINCIPLES AND NORMS OF INTERNATIONAL LAW RELATING TO THE NEW INTERNATIONAL ECONOMIC ORDER: REPORT OF THE SECRETARY-GENERAL (continued) (A/38/366 and Corr.1 and Add.1, A/38/106-S/15628, A/38/323, A/38/325-S/15905, A/38/329 and UNITAR/DS/6)

1. Mr. RAMADAN (Egypt) agreed with the Executive Director of UNITAR and with the representative of the Philippines that it was important clearly to define the objective sought and the means to achieve it. The objective was naturally the establishment of the new international economic order, and Egypt viewed that as a matter of particular importance because it had helped to lay the foundations for the new order together with the other developing countries, when they had met for the first time in Cairo in 1963 to evolve a concerted plan of action that had led to the convening of the United Nations Conference on Trade and Development in 1964 and had thus marked the first definite step towards the establishment of the new international economic order.
2. In the juridical sphere, the objective was to establish a new legal structure to govern international economic relations, defining the various rights and duties of the members of the international community and laying down rules of conduct. The task of the Sixth Committee was particularly important because the negotiations concerning the new international economic order conducted in other United Nations forums had all failed owing to the negative attitude of the representatives of the developed countries, generally motivated by political considerations. In that connection, he recalled the failure of the sixth UNCTAD, of the third General Conference of UNIDO and of the eleventh special session of the General Assembly.
3. In its resolution 35/166, the General Assembly had requested UNITAR to prepare a list of the existing and evolving principles and norms of international law relating to the new international economic order and to prepare an analytical study, on the basis of a list of texts enumerated in the resolution, on the progressive development of those principles and norms. By compiling a mass of references, some of which dated back to the nineteenth century, whereas the concept of a new international economic order had appeared only in the second half of the twentieth century, UNITAR had not fulfilled the expectations of the sponsors of resolution 35/166 and of subsequent resolutions, including Egypt, which had all had in mind the relevant instruments formulated at the beginning of the 1970s. Although the list prepared by UNITAR constituted the first compilation ever made of a large number of provisions scattered over a number of international instruments, and although the analytical studies which it was submitting were undoubtedly of a certain academic value, the objective set by the General Assembly in the resolution which he had mentioned had not been attained.
4. In addition, the Institute had selected a few principles from the long list which it had prepared, without specifying the criteria used in making the choice, and it had not even completed the analytical study of those principles. To that end, it was requesting that its mandate be renewed until the thirty-ninth or even

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the fortieth session of the General Assembly. Moreover, since the studies had been submitted only a few days before the beginning of the discussion, delegations had not had time to study them in depth.

5. Egypt considered that the main problem was not how to formulate principles and norms, most of which were already set forth in various instruments adopted by or under the auspices of the United Nations, but how to determine what was the legal force of the instruments adopted by intergovernmental organizations, including the resolutions of the General Assembly. Unlike the developed countries, which viewed those resolutions as mere recommendations with no binding force, the developing countries wanted the principles embodied therein to be recognized as peremptory norms of international law; that should be the approach adopted by the group of government experts which was to meet in order to consider the analytical studies prepared by UNITAR.

6. The truth was that the developed countries lacked the political will to implement those resolutions, although they were the expression of the will of the international community and although the developing countries, including Egypt, considered them to be more valuable as sources of international law than - to use the shameful terms appearing in Article 38, paragraph 1 (c), of the Statute of the International Court of Justice - "the general principles of law recognized by civilized nations".

7. The principles and norms relating to the new international economic order were set forth in a number of international instruments. In that regard, the international community was no longer at the stage of progressive development but had reached the stage of codification; in that connection, he referred to the definitions of those two terms given in article 16 of the statute of the International Law Commission, stressing the tenuous nature of the distinction drawn between those two concepts, which related to inextricably linked activities.

8. The task was thus to find ways of giving binding force to the existing norms and principles relating to the new international economic order, possibly by enshrining them in a charter, although some wanted that to be a non-binding instrument with the force of a mere recommendation. In that respect, the UNITAR studies did nothing to advance the objective sought.

9. The Egyptian delegation therefore did not favour renewal of the mandate of UNITAR. The Institute should have completed the final phase of its analytical study for the current session of the General Assembly. Although the reasons for its failure to do so were quite understandable, there were grounds for believing that the study would still not be completed by the beginning of 1984 for submission to the group of government experts.

10. The Assembly should therefore simply ask UNITAR to co-operate with the group of government experts. His delegation supported the establishment of that group, consisting of 25 experts selected on the basis of the principle of equitable geographical distribution, which would initially be instructed to consider the

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various studies conducted by UNITAR in the light of the relevant international instruments, to identify the non-controversial principles and norms, and to propose measures to make those norms and principles binding. In a second stage, the group of experts would consider controversial issues and propose solutions. It would submit the results of its work to the Sixth Committee at the next sessions of the General Assembly and would meet on a continuous basis until it had finished establishing the legal structure for the new international economic order.

11. It was particularly urgent for the developed countries to undertake to respect the principles and norms contained in the international instruments, including General Assembly resolutions, relating to the new international economic order because the economic situation of the developing countries was constantly deteriorating. The developed countries should therefore show that they sincerely wanted to facilitate the establishment of the new international economic order - an objective which, moreover, was in their own interest in view of the interdependence existing between their economies and those of the developing countries.

12. Mr. MANAWAPAT (Thailand) noted that UNITAR rightly pointed out, in the introduction to its report (UNITAR/DS/6), that the existing international economic order, constructed by the developed countries after the Second World War, had been primarily designed to serve the interests of those countries. Untiring efforts had been made to advance the conviction that only on the basis of more just and stable economic relations could the interests of all States, including the developed countries, be served. It was in 1974 that the General Assembly had adopted the concept of a new international economic order designed to achieve that aim, which had subsequently gained wide recognition, even among those countries that had not voted for the relevant resolution at the time.

13. The developing countries had been the hardest hit by the prolonged recession following the oil crisis in 1973, which underlined the interdependence existing at the world level and which must be halted if there were not to be disastrous consequences. In that connection, the sixth session of UNCTAD, held in Belgrade, had been considered a total failure by many developing countries; others had found that it was not without significance that the developed countries had on that occasion fully recognized the interdependent nature of world economic problems. The Sixth Committee should address those very serious problems from a legal viewpoint so as to mobilize all States, and especially major industrialized countries, in efforts to tackle them.

14. The progressive development of the principles and norms of international law relating to the new international economic order was no doubt useful for the establishment of a more equitable and just international economic order, and that should be the focus of UNITAR's efforts to finalize the analytical study of the relevant instruments on which it had embarked.

15. In the analysis of the right of every State to benefit from science and technology, the urgent needs of the developing countries deserved priority consideration. His delegation believed that the transfer of technology by the

(Mr. Manawapat, Thailand)

developed countries with the sincere intention of contributing to the development of the developing countries would enable the latter to stand on their own feet and would encourage South-South co-operation, which was constantly being advocated by the developed countries.

16. An understanding of the interdependent nature of the world was essential to the realization of the principle of entitlement of developing countries to development assistance. Since the level of economic development varied from developing country to developing country, it would be interesting to see an analysis indicating how best to achieve the true objective of assistance in each case and how to avoid the colonial legacy of permanent dependence.

17. Participatory equality of developing countries in international economic relations was a major legal principle of the new international economic order. Regrettably, certain developed countries were still opposed to such equality. The developing countries had to recognize their responsibility for the right to shape the present and the future of international economic relations; what was needed in the developed countries was the political will and a clear vision to see that that would serve their long-term interests. The elaboration of a widely acceptable legal instrument reflecting the common interests of all States appeared to be a worthy exercise.

18. The Convention on the Law of the Sea demonstrated the will of the international community to resolve the important issue of the common heritage of mankind. That notion covered areas such as outer space, the special régime applicable to the moon and other celestial bodies, the unoccupied territories of the earth and the cultural heritage of mankind. The progressive development of the principles of international law relating to the new international economic order would be incomplete without appropriate consideration of that important notion.

19. Although UNITAR had already made commendable efforts, further studies should be encouraged so that the international authority concerned could identify the relevant principles and norms which were emerging and had to be codified for general application within the new international economic order. The UNITAR report before the Sixth Committee might be considered one of the initial steps in the right direction.

20. Mr. AENA (Iraq) said that it would have been better if UNITAR's study had been submitted well before the beginning of the session; more observations by States would then have been possible. That would have been consistent with the wishes of the Institute, which was anxious to have the widest possible range of opinions. Iraq appreciated how difficult it must have been for UNITAR to fulfil its mandate on time. In any event, his delegation was in no position to make detailed observations on the third phase of the UNITAR study, since it had been issued just before the Sixth Committee had taken up the item. It would, however, be forwarded to the relevant Iraqi authorities, which would duly transmit their observations. It was hoped that the three analytical papers prepared by UNITAR would be consolidated and that that single document would be sent to Governments and interested organizations for their consideration before the group of experts was established in accordance with General Assembly resolution 37/103.

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(Mr. Aena, Iraq)

21. In addition to the points which it had made at the previous session and did not wish to repeat, his delegation believed that UNITAR should take three points into account in its study. First, the establishment of the new international economic order was essential to the restructuring of the world economy on the basis of the resolutions adopted at the fourth and sixth special sessions of the General Assembly and the resolutions of the non-aligned countries. Secondly, the right to food and nutrition was a basic right; food aid should not be used for political purposes. Thirdly, the questions dealt with in the UNITAR study should be complementary, and the members of the Group of 77 should co-ordinate their efforts to elaborate principles that would satisfy the aspirations of the developing countries.

22. One important question was what would be the follow-up to UNITAR's work on the topic, given the complexity of the objectives set forth in General Assembly resolution 37/103. His delegation was well aware that the progressive development of principles and norms of international law relating to the new international economic order was a difficult and time-consuming task since it involved complex and interdependent issues that were also being dealt with by organizations other than the United Nations. It believed, however, that the constructive work which UNITAR would perform in the third phase of the analytical study would constitute a sound basis for the elaboration of a body of unified international legal norms and principles in that area. Since the question of the form of the final instrument or the possible framework of the principles and norms had been left aside, it had been possible to focus on substantive issues. Several questions remained: whether the Sixth Committee should simply enumerate principles and norms or should go further in its codification work; whether it was really in a position to do such work itself or should establish an ad hoc committee, a working group or a group of experts for that purpose; whether it would need procedural guidelines for its work and, if so, whether they would be prepared by the United Nations Secretariat or by UNITAR. His delegation believed that, in either case, such guidelines should be prepared with the co-operation of Member States. It also believed in the need for co-ordination among the various organs dealing with the new international economic order. In that connection, he wondered how and by what body such co-ordination would be ensured and whether co-ordination should be sought solely within the United Nations or also outside the system.

23. The most important question was whether the wording of agenda item 121 covered all the issues. It might also be asked whether UNITAR would have the time to fulfil its mandate and whether that mandate should be changed so that there would be a clearer understanding of the need to embody the principles and norms in an appropriate international instrument, as requested by the General Assembly in its resolution 34/150. Should that idea be endorsed, the wording of agenda item 121 would have to be changed. Another question had to do with the scope of such an instrument and its legal implications for States. He also wondered whether, in the light of current trends, the work should be done within or outside the United Nations. His delegation would await the responses of States and organizations to those basic questions before making its own position known.

(Mr. Aena, Iraq)

24. In a number of forums, Iraq had stated its position with regard to the new international economic order. That position was quite clear: the new order was not a surprise phenomenon, but the outcome of a process of evolution that had taken place in various countries over the past decade. The law to be elaborated on the new international economic order should cover, inter alia, the economic activities of States and the co-operation to be instituted among them on fair and equitable terms. Such a law should also include the principles and norms relating to economic and technical assistance and the principles of the Charter of Economic Rights and Duties of States.

25. At the thirty-ninth session of the General Assembly, the Sixth Committee should accord higher priority to the item under consideration and set specific goals, failing which, the work on the topic would be nothing more than an abstract and repetitive exercise.

26. Mr. SINGH (India) said that the concept of a new international economic order encompassed multiple objectives of social, economic and political relevance and was inevitably linked to the major themes of contemporary concern - peace, population and poverty. Study of that concept called for a systematic evaluation of all aspects of the world social situation.

27. Describing briefly some of the facts and findings that demonstrated the need for and the inevitability of a new international economic order and that placed in proper perspective the efforts of UNITAR in the field of the progressive development of the principles and norms of international law relating to that subject, he said that, in its current report, the Committee for Development Planning observed that the contraction of economic activity in the early years of the Third United Nations Development Decade had been the longest and deepest in the past 50 years. The World Economic Survey of 1983 and the World Bank's current report confirmed that conclusion and showed that the deteriorating world economic situation was having a particularly strong impact on the developing countries. Those countries had been suffering as a result of an increasing debt-servicing burden, which had amounted to nearly \$700 billion in 1983.

28. However, the current economic crisis, which was even affecting the rich countries, was having an impact that was not confined to a growing volume of debt. It related to the very structure of existing economic relations, which were principally controlled by a select group of industrialized market-economy countries. The Bretton Woods system, established at a time when few developing countries had been free and independent and with its unequal share of decision-making, had also been a cause of the common crisis. Moreover, there was the misconception that the developing countries' economic welfare depended on the continued economic supremacy of a few developed countries, which was a theory that the United Nations Conference on Trade and Development had rejected at its sixth session, held at Belgrade in July 1983.

29. It was urgent to adopt the approach advocated by the Conference of Heads of State or Government of Non-Aligned Countries held at New Delhi in March 1983, which



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would consist in holding global negotiations involving the industrialized market-economy countries, the socialist countries with central planning and the developing countries. There would have to be broad-based consultations, largely concentrating on a programme of immediate measures to be adopted in areas of critical importance to the developing countries - such as food, assistance from the World Bank in developing the energy resources of developing countries, balance-of-payments support by IMF, financial flows, trade and raw materials - as well as on the convening of an international conference with universal participation and on the launching of global negotiations.

30. It was regrettable that it had not been possible to launch global negotiations under the auspices of the United Nations. However, in view of the ever-deepening common crisis, the integral nature of the problems and solutions and the growing perception of the common interests involved, his delegation believed that the developed countries would review their position and then convene global negotiations as soon as possible and react positively to the two-phased approach proposed in the declaration of the New Delhi Conference.

31. The four principles considered by UNITAR in the context of its most recent study of the progressive development of the principles and norms of international law relating to the new international economic order (UNITAR/DS/6) were important components of that new order. The principle of participatory equality for the developing countries in economic relations would be a central concern in the global negotiations proposed by the non-aligned countries. The principle of development assistance through international co-operation and the right of every State to benefit from science and technology were the two basic prerequisites for self-sustained growth in the developing countries. Moreover, the principle of the common heritage of mankind had long since acquired the status of jus cogens and thus regulated access to the resources of the international sea-bed area, beyond the limits of national jurisdiction. General Assembly resolution 2749 (XXV), adopted in 1970 without any negative votes being cast, and the United Nations Convention on the Law of the Sea, adopted on 10 December 1982, which had already received 131 signatures and nine ratifications, together with the work being carried out by the Preparatory Commission, which was responsible for setting up the International Sea-Bed Authority and establishing procedures for organizing and controlling the exploitation of the common heritage of mankind in the interest of all States, particularly the developing countries, attested not only to the establishment, evolution and implementation of that historic principle but also to a pronounced movement towards the establishment of a just new international economic order.

32. His delegation wished to commend the authors of the various analytical studies reproduced in document UNITAR/DS/6 for their work and hoped that UNITAR would be able to complete the final phase of its study by the following year.

33. With regard to the ways in which the Sixth Committee might continue, once UNITAR had fulfilled its mandate, to contribute to the progressive development of the principles and norms of international law relating to the new international



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economic order, he believed that it was still too soon to adopt a decision and that the solutions proposed should first of all be given careful consideration, taking account of their financial implications and the intended objectives.

34. Mr. BERNAL (Mexico) said that it was regrettable that UNITAR had been unable to fulfil its mandate within the established time-frame and that the Institute should be provided with the resources it needed in order to complete the arduous task entrusted to it by the General Assembly. His delegation wished to reiterate the views it had expressed in its statement at the previous session of the General Assembly on the question of the progressive development of the principles and norms of international law relating to the new international economic order. That question should be considered further by a sessional committee with a membership similar to that of the committee that had drafted the Charter of Economic Rights and Duties of States.

35. Mr. FRANCIS (Jamaica) said that it was unfortunate that document UNITAR/DS/6 had been issued too late for his delegation to make a full statement at the current stage. The item under consideration was important, and it was troubling that it was not being given the prominence it merited at the current session. It was to be hoped that the Committee would adopt the necessary measures to ensure that a productive debate was held on the question in the future. The Committee should take appropriate steps to ensure the progressive development of the principles and norms of international law relating to the new international order, particularly by establishing a working group and determining what the relationship between that group and the Committee was to be. He endorsed the suggestion put forward by the representative of the Philippines in that connection.

36. The CHAIRMAN observed that the Committee's timetable had been adopted by consensus and that it was now impossible to amend it.

#### ORGANIZATION OF WORK

37. Mr. ROSENNE (Israel), referring to the following agenda item, concerning the Convention on the Law of Treaties and International Organizations or between International Organizations, said that he wished to know whether the report of the Administrative Committee on Co-ordination on that question would be issued early enough for the members of the Committee to read it before consideration of the item was taken up.

38. Mr. ROMANOV (Secretary of the Committee) said that a report of the Secretary-General containing comments and observations by Governments and international organizations on that subject had been issued (A/38/145 and Add.1) and that another document (A/C.6/38/4) reproducing a statement by ACC on that question had been issued.

The meeting rose at 4.35 p.m.