

## **DECLARATION ON THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER**

**by Ahmed Mahiou**

*Member of the International Law Institute*

*Former member and Chairman of the International Law Commission*

### **A. Emergence of the new international economic order**

It is rather difficult to know exactly who conceived of a “new international economic order” or when the term was first used. On the other hand, official recognition of the notion can be accurately dated because it followed from two resolutions of the United Nations General Assembly of 1 May 1974 concerning, respectively, the Declaration on the Establishment of a New International Economic Order (resolution 3201 (S-VI)) and the Programme of Action on the Establishment of a New International Economic Order (resolution 3202 (S-VI)). Beyond this official recognition, it can be traced back to the United Nations strategies for development launched in the early 1960s, the debates on international trade and international development law. The new international economic order testifies first and foremost to the determination of the new States that emerged from decolonization to participate effectively in international life and, if not to discredit, at least to radically overhaul the global economic system put in place in the aftermath of the Second World War. They believed that such a system (represented by the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade (GATT)), based on liberal principles and completely dominated by a few Western Powers led by the United States, no longer met contemporary needs. In an attempt to change it, they set up the Group of 77 to coordinate their positions and demands vis-à-vis the developed countries.

The reservations and criticisms directed at the liberal economic order can be traced back mainly to economists who gave some thought to what had given rise to underdevelopment and how it could be tackled. They began by criticizing the dominant theory according to which underdevelopment is essentially an endogenous problem internal to the countries themselves; it is the consequence of some lack, inadequacy or deficiency (in qualified professionals, capital, technology or know-how) that must be overcome before the countries concerned can be in a position to take off economically. Although that is certainly not an incorrect assessment, it seemed inadequate. To really explain the inadequacies and deficiencies discerned, their root causes must be analysed, and these resided essentially in the imbalance in international economic relations, where domination by the developed countries was the established order. Thus, to break the vicious circle of underdevelopment, the first order of business should be to address the dependence/domination relationships that prevented the countries of the South from shaping a true development strategy. This, then, was what started the debate on the prevailing economic order and the need to recast it entirely or to reject the principles and rules that governed it.

Although at the outset the economists were very engaged in the debate, it was taken up by the jurists, who introduced a new approach, that of international development law, which had the advantage of taking into consideration the rights and interests of the countries of the South and thereby making a first dent in the conventional analysis of development issues. Nevertheless, the third world countries were of the opinion that while this approach was interesting, the thinking did not go far enough, especially in considering

the changes needed to meet their demands. They therefore rallied at the beginning of the 1970s around the idea of a new international economic order.

The legal debate on the new international economic order carried the analysis forward by advancing a whole series of proposals regarding North-South relations, especially concerning the changes to be made in the matter of international relations and development policies. Typically, third world economies were disjointed and the economic sectors operated in total separation, under a variety of unrelated legal regimes and according to rules that made them subject to outside interferences. What was therefore needed was international action to restructure each economy, putting the different sectors in touch with each other in a mutually reinforcing arrangement, in short, creating an integrated national economic space capable of being on the receiving end in the world market under better conditions, rather than enduring only its negative effects. To bring that about, the first step was to gain control of the economic levers and the exploitation of natural wealth and resources by taking steps such as nationalization of industries, control of investments and oversight of transnational corporations. The countries of the South did in fact militate in those terms, individually or collectively, in favour of a new international economic order, thus running into the opposition of the developed countries, which regarded the concept as a radical challenge to the traditional rules of international law.

#### **B. The strategy for achieving a new international economic order within the framework of the United Nations**

In the third world, there was a tendency to think that the international order could not be improved within the prevailing system, using traditional methods and techniques that were likely to hobble attempts at reform. As the action by the Group of 77 on the world scene took a more radical turn, the 1970s witnessed a whole series of meetings and decisions specifying the demands the South was making on the North. The action took place essentially within the United Nations system, in particular the General Assembly and the United Nations economic commissions in Latin America and Africa; and it was taken up by the regional associations of the countries of the South (the Non-Aligned Movement, the Organization of African Unity, the Organization of American States, the League of Arab States, and the like). The goal was to lay the groundwork for a new order, a more equitable one, and efforts fluctuated between trying to reform or to overthrow the sources, institutions, principles and norms of traditional international law.

The main sources of traditional international law are treaties and custom, and they answer to well-established procedures. International development law distances itself from this arrangement in order to temper the excessive formalism and rigidity of treaties and the slow pace at which custom is formed, favouring instead other, more flexible rules represented by the different acts of international organizations (resolutions, declarations, charters, programmes, etc.), thus reviving the debate on the binding nature of all such texts. Cooperation among States and the institutions it engenders are real and meaningful only if they confront the essential problem of the day: underdevelopment. The international organizations have thus been given a clear objective, and that yardstick should be applied in assessing what they are doing to radically reform the existing economic institutions or, failing that, to create new institutions that will act in the service of development.

Two principles form the cornerstone of international law: equality and sovereignty. These abstract, theoretical principles mask the reality of the great inequality among States. The new international economic order is a valuable concept because it introduces the economic factor and the level of development into legal analysis and the appraisal of relations among States; it situates each State in the context of international exchanges,

taking its capacities and contributions into consideration. For the old system of a single set of rules with exceptions, we must substitute a dual system that makes a distinction between, on the one hand, the rules applicable as between developed countries that follow the traditional rules of international economic law and, on the other, the rules applicable as between developed and developing countries, which purport to redress the inequalities of development by introducing a compensatory inequality in favour of the countries of the South. The new international economic order in effect challenges the postulate of abstract legal equality by bringing it face to face with actual objective situations showing that States do not all play the same role in international society, because some of them have a very strong presence and weigh decisively on the course it takes while others have virtually no voice whatsoever. Here we have an approach that takes justice into account and endeavours to give real substance to a development strategy.

### **C. The contents of the Declaration and Programme of Action on the Establishment of a New International Economic Order**

The Declaration on the Establishment of a New International Economic Order is relatively brief. It consists of seven paragraphs structured around the most important one, paragraph 4, which accounts for about half of the resolution. While the first three paragraphs provide a kind of assessment of the existing international order, marked by a discrepancy between a minority of developed countries and a majority of developing countries, underparticipation by developing countries in international activities and relations of economic interdependence within the international community, the three final paragraphs are a tribute to international development strategies and the role of the United Nations in the establishment of a new international economic order.

Paragraph 4 sets forth a long list of principles which should form the basis of the new international economic order, including the following:

- The sovereign equality of all States, with non-interference in their internal affairs, their effective participation in solving world problems and the right to adopt their own economic and social systems;
- Full sovereignty of each State over its natural resources and other economic activities necessary for development, as well as regulation of transnational corporations;
- Just and equitable relationship between the prices of raw materials and other goods exported by developing countries, and the prices of raw materials and other goods exported by the developed countries;
- Strengthening of bilateral and multilateral international assistance to promote industrialization in the developing countries through, in particular, the provision of sufficient financial resources and opportunities for transfer of appropriate techniques and technologies.

The Declaration is supported by a Programme of Action on the Establishment of a New International Economic Order, a far longer and more detailed text that reflects the commitment of the developing countries to go beyond a mere declaration — however solemn — to set forth ways and means of making the Declaration on the Establishment of a New International Economic Order effective by means of implementation measures. The main reforms that are urgently needed are outlined below:

- An overhaul of the rules of international trade, especially those concerning raw materials, food, the system of preferences and reciprocity, commodity agreements, transportation and insurance;

- A reform of the international monetary system and other financing mechanisms to bring them into line with development needs;
- Both financial and technology transfer incentives and assistance for industrialization projects in developing countries;
- Promotion of cooperation among the countries of the South, with a view to greater individual and collective autonomy, broader participation and enhanced involvement in international trade;
- Strengthening of the role of various United Nations bodies, particularly that of the General Assembly, in the implementation of the Programme of Action on the Establishment of a New International Economic Order.

#### **D. The new international economic order: results achieved**

Although the origins of the new international economic order date back nearly 40 years, assessments of the results are mixed. Roughly speaking, there are two opposing tendencies: one that exalts the contribution of the new international economic order by stressing the claims of third world countries and the slight progress made in international economic relations, while the other notes only the failures of a strategy which has been deemed hazardous to economic liberalism and Western domination.

In fact, as is the case with any large-scale international initiative, the new international economic order contains sharply contrasting elements. While certain significant and clearly identifiable changes have resulted from it, other changes are less so and have often been easy to overlook in the context of the overall changes in international society during this period. Moreover, the global contribution of the new international economic order is difficult to identify, and, in any event, States assess its contribution in the light of its advantages and disadvantages for each one of them. While the positive aspects are undeniable, the strategy has not been equally beneficial for all; it has highlighted the divisions and splits which are a feature of the Group of 77. For, behind the apparent unity of members' claims, there are significant differences in their situations that indicate the need for certain changes.

The primary significant institutional changes that have come about as a result of the call for a new international economic order include the following:

- The reform of most international trade rules, with the introduction of Part IV (Trade and Development) of the General Agreement on Tariffs and Trade, and the preservation of this specific arrangement in the context of the World Trade Organization with the Doha Round, which is endeavouring to find a solution to the demands of third world countries by considering, *inter alia*, the inclusion of agriculture in future international exchange regulations;
- The relaxation of existing rules or the introduction of new ones to facilitate development financing and debt management within the World Bank and the International Monetary Fund, taking increasingly into account the criticisms of those organizations as overly rigid guardians of the international liberal economic system;
- A shift in the emphasis of international assistance and cooperation mechanisms, whether multilateral (United Nations Development Programme, United Nations Industrial Development Organization, United Nations Conference on Trade and Development, United Nations Commission on International Trade Law, etc.) regional or bilateral and, in some cases, the establishment of new institutions, including the International Fund for

Agricultural Development and the Common Fund for Commodities, in addition to existing commodities agreements;

- The undeniable influence that the new international economic order has had in the development of certain international legal regimes, including universal ones (such as the status of the seabed as the common heritage of mankind, technology transfer, environmental protection and others), regional ones (development agreements between Europe and the countries of Africa, the Caribbean and the Pacific and incentives for regional integration among the countries of the South) and bilateral regimes (development assistance and investment protection agreements).

While the new international economic order has had far from uniform effects on international law as a whole and on all of the developing countries, it has spurred the developing countries to win reforms and concessions, mainly in the form of a large number of resolutions adopted by the General Assembly up until the late 1980s (resolution 3281 (XXIX) of 12 December 1974 on the Charter of Economic Rights and Duties of States, resolution 3362 (S-VII) of 16 September 1975 on development and international economic cooperation and resolution 34/150 of 17 December 1979 on the principles of the new international economic order). However, during the 1980s the developing countries did not manage to uphold recognition of the right to development (General Assembly resolution 41/128 of 4 December 1986), which could have provided the new international economic order with the legal foundation it lacked; nor were they able to establish an international system to oversee the activities of transnational corporations.

The debate on the new international economic order is not entirely closed, as it remains relevant to some concerns of the United Nations. This leads to attempts to revitalize the new international economic order in other forms, by linking it to current developments and controversies arising from globalization. However, the reference to a radical vision has faded and the strategy of the countries of the South is now focused on more sectoral and more concrete concerns. The broad range of situations to be found in the countries of the South, the desire for optimal integration into international trade flows and the fact that economic liberalism holds sway all mean that the debate on international economic relations has lost its ideological fervour. The approach is now more pragmatic, with the aim of making corrections on a case-by-case basis, addressing the difficulties developing countries are experiencing, rather than seeking a global, abstract solution to international economic inequalities. Finally, the current debate on sustainable development has extended things somewhat, as, in a number of ways, the sustainable development debate is a result of the fact that the environment and development have become closely linked.

## **Related Material**

### ***Documents***

General Assembly resolution 3202 (S-VI) of 1 May 1974 (Programme of Action on the Establishment of a New International Economic Order).

General Assembly resolution 3281 (XXIX) of 12 December 1974 (Charter of Economic Rights and Duties of States).

General Assembly resolution 3362 (S-VII) of 16 September 1975 (Development and international economic cooperation).

General Assembly resolution 34/150 of 17 December 1979 (Consolidation and progressive development of the principles and norms of international and economic law relating in particular to the legal aspects of the new international economic order).

General Assembly resolution 41/128 of 4 December 1986 (Declaration on the Right to Development).