

Department of Economic and Social Affairs

**Summary of the Hearings Before the Group of Eminent Persons
to Study the Impact of Multinational Corporations on Development
and on International Relations**



United Nations
New York, 1974

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the Group of Eminent Persons

First session, United Nations Headquarters, 11-13 September 1973

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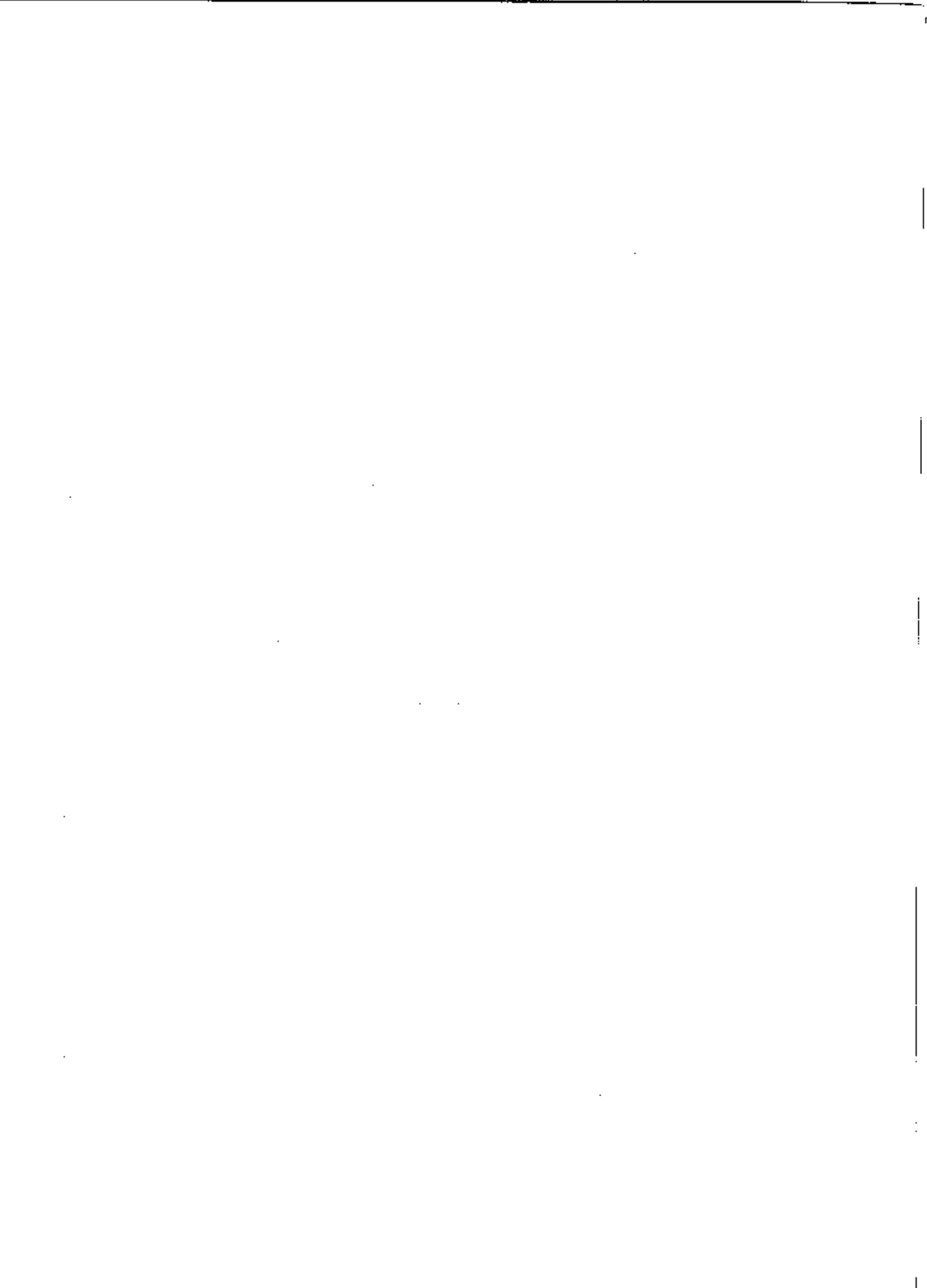
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PREFACE

The Economic and Social Council in resolution 1721 (LIII) requested the Secretary-General to appoint a "group of eminent persons ... to study the role of multinational corporations and their impact on the process of development, especially that of the developing countries, and also their implications for international relations, to formulate conclusions which may possibly be used by Governments in making their sovereign decisions regarding national policy in this respect, and to submit recommendations for appropriate international action".

In response to that resolution and in order to facilitate the work of the Group of Eminent Persons, the Secretary-General invited leading personalities from Governments, business, trade unions, special and public interest groups and universities to present their views before the Group. The hearings were held during the first two sessions of the Group in New York (4 to 14 September 1973) and Geneva (1 to 16 November 1973).

This publication contains summaries of the oral and written statements of the persons appearing before the Group and their replies to questions by members of the Group. It is not a verbatim record. Most of the summaries were prepared by the speakers; the remainder were prepared by the Secretariat on the basis of the written statements submitted by the witnesses at the time of their testimony and the transcripts of the hearings.

The hearings, which constituted a novel approach for the United Nations, were described by the Group of Eminent Persons in their report as "a most

useful source of information, as well as a valuable occasion to test ideas".^{1/} The present document is published in the light of that opinion, in the belief that it will be of assistance to Governments and to the public in the further elucidation of this complicated issue.

^{1/} Report of the Group of Eminent Persons to Study the Impact of Multi-national Corporations on the Development Process and on International Relations (United Nations publication, Sales No. E.74.II.A.5).

PART ONE

FIRST SESSION

(United Nations Headquarters, 11-13 September 1973)

Jack BEHRMAN
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Summary of written and oral statement

The fundamental issue in the relationship of the multinational enterprise to Governments is control. The issue of ownership and ownership forms (i.e. joint ventures) is a false issue. If the problem is symbolic and ownership is a symbol of control, then ownership may be important. But Governments have many ways of exercising control other than ownership. Similarly, the discussion of "Good Corporate Citizenship" is a false issue. Very few multinational enterprises exercise "bad citizenship". The crux of the matter is "who makes the decisions and by what criteria".

Problems exist in this relationship because the multinational enterprise follows an inexorable logic: the expansion of national corporate activities in the international field. Thus, the multinational enterprise moves across the "world market" seeking the locus of production at least cost in order to survive, grow, and increase its market share. These activities will change only if Governments set up guidelines.

The tensions created by the spread of multinational enterprise cannot be resolved by facilitating its operations. Hence harmonization of national laws at the international level is a side issue, as are most proposals for "codes of good behaviour". Such approaches will make it easier for the corporation to carry out its inexorable logic.

Governments have followed a five-stage response to multinational enterprise: (1) They welcome foreign investment, seeking to use multinational enterprise for purposes of economic development; (2) They constrain it, seeking to ensure that it accords with domestic objectives in some cases; (3) They repel it, finding that it is too pervasive; (4) They decide what to do with it; and (5) They guide it by setting up appropriate institutions. Although most countries are still at the second or third stage, we are faced now with the problem of a decision.

The critical problem, then, is deciding what to do with the multinational enterprise and how to guide it. Unquestionably, this is a governmental task since Governments all over the world have been asked to accept increasing responsibilities in the economic and social fields.

To help Governments in their decisions regarding multinational enterprise, there is a basic need to classify and distinguish between the various forms of international business and their impacts. Not all international businesses are multinational enterprises and not all multinational enterprises have the same impact. Multinational banking, for instance, is quite different from the petroleum and extractive industries in its effects, or the service corporations, and should not be treated in the same way.

A prerequisite for determining these impacts is extensive communication among Governments, enterprises and labour groups, with a view to expressing and refining their objectives and the means of achieving them. But there is no sense in having a dialogue unless we know what the dialogue is about. There should first be a decision on what information is to be exchanged and for what purpose.

The method of achieving governmental goals will involve discrimination. After proper distinctions have been made between types of multinational enterprises, aggregate solutions will be found to be inappropriate and ineffective in meeting the tensions. Governments will clearly not wish to reject all foreign companies; But selectivity is necessary to achieve particular goals and hence discrimination will be required.

The required orientation is that of willingness by Governments to agree on means of sharing the benefits of international production among and between the advanced and developing countries. Such an attitude requires a restructuring of the international economic order along lines reflecting the shift in pre-eminence from international trade to international production, from market-based decisions to those of the multinational enterprise, and from the policy leadership of the United States to nations which do not have their policies rooted in classical economic theory.

This order would be based not on "multilateral, non-discriminatory trade and payments" as the basic principle of economic rules and conduct, but on selective discrimination, recognizing the inapplicability of the law of comparative advantage in a system where factors move readily, are under the direction of single large enterprises, and are constrained by both labour and Government.

This restructuring would use the various forms of international business to achieve the government-determined sharing of industrial and agri-business benefits and their distribution among countries so that all participated, so that efficiency was maintained, incomes were distributed equitably, and a sufficient autonomy remained among countries so that intergovernmental bargaining could be based on interdependence rather than dependence.

To achieve these goals would require a focusing on key sectors of industry and agri-business; the critical industries are the "mobile" industries, characterized primarily by the multinational enterprise-- autos, electronics, petro-chemicals, chemicals, pharmaceuticals, appliances, office equipment, etc. These industries can move locations readily -- and are doing so -- through the movement of factors, causing adjustments in both home and host countries.

Institutionally, what is needed is an organization for international industrial integration to establish communication between Governments and business on the key sectors selected, and to counsel on the location and development of these industries over the world. Unstructured information-gathering, unrelated to any given concept of international economic order, is likely to be make-work. At present, it is clear that the past economic order is not acceptable and cannot provide the guidelines. Therefore, efforts at "harmonization" are either inadequate--based on past concepts of harmony--or too early, not having a new set of guidelines which provide the criteria of equity--e.g., in the distribution of revenue under tax harmonization or the distribution of technology under patent harmonization-- or the guidelines for efficiency in use of resources, or the criteria for participation.

The primary result of this re-ordering would be the development of industrial policies--at the national, regional, and international levels. The last would have as its aim the integration of the world economy on the basis of decisions taken under guidelines enunciated by Governments but discussed with business and labour in order to determine the trade-offs necessary and obtain acceptance.

A major obstacle to the fulfilment of these objectives would be bureaucratic inefficiency, but this danger exists now in government, business, and labour. And trade-offs against efficiency will have to be considered in any event, with the redistribution of industrial activity. However, there is evidence that significant synergy exists between equity and efficiency, rather than a trade-off; the establishment of arrangements to achieve equity has raised efficiency both through more effective use of resources and higher labour productivity.

A remaining concern is that, though equity among countries may be achieved through distribution of industry, inadequate provision may be made for equity within countries in the distribution of income; additional efforts will have to be directed towards making certain that the lower income groups benefit directly by the process of international industrial integration.

Summary of replies to questions*

Question: How can equitable international relations be achieved under the system of discrimination that you advocate?

Reply: My comments were addressed to problems of international production, not problems of trade or monetary affairs. I advocate that Governments should discriminate among various multinational corporations. Thus I would not use GATT as an analogy or model for dealing with international investment.

Question: How can the system by which knowledge is created and distributed be changed? Is not such a change necessary so that, while incentives to produce knowledge will be retained, its distribution will be more equitable and more efficient and the technology produced be more appropriate to the needs of the people, especially of developing countries?

Reply: Trade is increasingly dominated by corporations involved in international production. As regards knowledge, it is not the patented knowledge that developing countries primarily need. Even if knowledge is made freely available, developing countries do not necessarily have the capacity to use it and often it is not appropriate to them. There is no incentive now, for instance, for multinational corporations to design small refineries or cement plants. But it would be possible to provide direct incentives to design specific technologies for specific countries. A study by the National Foundation of Science and the National Academy of Engineers in the United States discusses the extent to which multinational enterprises could be used as channels for the adaptation of technology and the generation of local technological bases.

* Questions were asked by Messrs. Deutsch, Dunning, Ivanov, Mansholt, Schaffner and Estrany y Gendre.

Question: What is the effect of the size of multinational enterprise on its efficiency? Is gigantism leading to adverse results?

Reply: There is no necessary correlation between size and efficiency. The real issue is: if there are efficiencies, who decides what efficiencies to pursue and on what criteria? But efficiency cannot be the only justification for the creation or existence of the enterprises and the policies we adopt towards them.

Question: Is it not ownership that confers control?

Reply: Ownership is not necessary for governmental control. Ownership by local investors may not change the behaviour of the affiliate of a multinational enterprise at all.

Question: Are not Governments ultimately responsible for the decision as to where multinational enterprise will go?

Reply: The multinational enterprises recognize that they will go where there is an opportunity in the market and will do what they are required to do as long as an opportunity exists. They want clarity of rules, stability of Government and economy, and some flexibility. With these they will go anywhere.

Question: How far is your recommendation of international industrial integration really viable?

Reply: Nothing can be done at the international level about multinational enterprise, unless there is a decision about the appropriate

international order. There is need for initiatives on the process of industrialization itself and decisions as to how multinational enterprise can fit into this process. That is why I advocate an organization for international industrial integration. My conclusion is that multinational enterprise should be controlled at several levels, national, regional and international.

Edward M. BERSTEIN
President, EMB (Ltd.) Research Economists
Summary of the written and oral statement

The international monetary system has been subjected to recurrent crises in the past six years. These crises preceding the appreciation or depreciation of major currencies have all been characterized by very large outflows of capital. In the United States the short term capital outflows, including errors and omissions, reached \$21 billion in 1971 and nearly \$9 billion in the first quarter of 1973. The question is what has been the role of multinational corporations, especially those originating in the United States, in these massive movements of funds?

The financial transactions of the multinational corporations are reported in the balance of payments of the United States. The data reported by the multinational corporations on direct investment, remittances of earnings and liquid claims on foreign banking institutions indicate that to some extent their transfer of funds in 1971 and in the first quarter of 1973 were affected by anticipation of changes in exchange rates, but they were a very small part of the total outflow of funds from the United States in these periods before the devaluation of the dollar.

Multinational corporations are continuously engaged in exchange transactions and they are generally more aware than other business firms of the possibility of changes in exchange rates. Thus, they are likely to have made gradual adjustments in the currency composition of their assets and

liabilities long before an exchange crisis. Multinational corporations have a bias that restrains their shifting among currencies in anticipation of changes in exchange rates. They normally wish to balance their assets and liabilities in different currencies in order to minimize the risk of loss. They also have a preference for having assets and liabilities denominated in their home currencies because their balance sheets and statements of profit and loss are reported in these currencies. Finally, the multinational corporations are sensitive to the charge that their currency transfers are a major cause of exchange crises. All this may explain why, during an exchange crisis, their transfers are relatively small.

While it is difficult to divide the transfers of multinational corporations into those that are made in the ordinary course of business and those that are made for exchange-rate reasons, a rough estimate can be made of the extent to which their transfers have changed in a period of crisis as compared with a pre-crisis period, after allowance is made for other factors which may have affected these transfers.

There was a large increase in United States direct investment in 1971, and even more in the first quarter of 1973, a large part of which was in the form of intercompany and branch accounts. In 1971, between one billion and one billion and a quarter of extra funds were channelled by the multinational corporations into their foreign affiliates. Foreign

multinational corporations operating in the United States were more sensitive to the depreciation of the dollar; in the second quarter of 1971, affiliates of foreign multinational corporations, particularly Japanese, transferred more than \$500 million from the United States. In 1971 there was also some delay in transfers of earnings, royalties and fees from United States affiliates abroad to the United States, as well as an increase in the outflow of liquid funds in the order of \$500 million. But, on the whole, these transfers of multinational corporations are small compared to the balance of payments deficit of \$30 billion. In the first quarter of 1973, the role of the multinational corporations was more important. Their direct investment in their subsidiaries increased by 1 billion more than might have been expected, although it represented only one tenth of the deficit in the balance of payments in the first quarter.

Although multinational corporations make only a small contribution to the reported net outflow of funds, it should be noted that their transactions can affect the exchange market even when they are not shown in the balance of payments at all.

In a sense United States banks operating abroad are multinational corporations, albeit different in orientation for manufacturing or extractive multinational corporations. Their role in transferring funds is significant and is to a large degree related to the exchange operations of the multinational corporation.

The transfer by United States banks of about 5 billion to their branches in 1971 was in repayment for their high cost Eurodollar borrowing in 1969. But their repayments to their foreign branches in the first quarter of 1973 (about \$600 million) may have been related to anticipations of exchange-rate movements. United States banks also had a large reduction in their liabilities to other foreign commercial banks during the two dollar crises. Thus, foreign commercial banks withdrew \$2 billion of their funds in the United States in 1971 and \$1.3 billion in the first quarter of 1973. Anticipating the devaluation of the dollar, foreigners also received large credits from United States banks (approximately \$3 billion in each period). These funds were used to meet withdrawals of Eurodollars, to make Euro-dollar loans and to provide cover for forward exchange transactions. Although transfers of funds reported by United States banks were an important part of the outflow of funds during the crises, these transfers were undertaken on the initiative of their customers rather than on the initiative of the banks themselves. Many of these customers are likely to be the multinational corporations, either the parent companies or their branches and subsidiaries abroad.

Still, including the bank, reported transfers abroad represent a third of the total amount of net capital outflow in 1971 and a little more than a third in the first quarter of 1973. The rest cannot be identified and is included in the "errors and omissions". These amounted to \$11 billion in

1971 and \$4.2 billion in the first quarter of 1973. They were in fact the major component in the balance of payments deficit in these periods.

The transfers that comprise the errors or omissions cannot have been made by United States banks or multinational corporations because of very stringent reporting requirements. Rather, they were the result of unreported changes in the claims and liabilities of United States corporations-- leads and lags in trade payments-- and movements of liquid funds by wealthy individuals who either have no reporting obligations or failed to meet them. In a country where export and import trade together reach \$130 million a year, and where the public holds hundreds of billions of dollars in liquid assets with no legal restriction on their transfer abroad, speculation against the dollar by leads and lags in payments or transfers to other currencies is relatively simple.

Furthermore, a considerable part of the pressure on the exchange market for the transfer of funds came from central banks of foreign countries, which, anticipating the devaluation of the dollar, converted large amounts from their reserves in dollars to other stronger currencies.

However, the real cause of the exchange crises was the failure of Governments to recognize the need for changes in exchange rates after it had become apparent to all.

The real loss to a country from an undervalued or overvalued currency is much greater than the profits and losses made by speculators and banks. Multi-

national corporations are business enterprises with an obligation to their owners to conduct their operations in the most profitable way consistent with the laws of their home and host countries. As they have assets and liabilities denominated in various currencies, they try to cover their liabilities in a currency that is expected to appreciate and to liquidate their claims in a currency that is expected to depreciate. After they have undertaken such defensive operations, their profits may be no greater than they would have been if the exchange rates had remained unaltered. It is unreasonable and fruitless to expect that multinational corporations should adopt a completely passive attitude towards uneconomic rates of exchange.

There will be neither order nor stability in the international monetary system until Governments are willing to make prompt adjustments of persistent deficits and surpluses in their balance of payments. Even then, the chronic inflation will encourage large movements of funds in anticipation of changes in exchange rates. So long as the large trading countries have inflation, there can be no way of avoiding disorder in exchange markets. There are only more or less tolerable alternatives for minimizing the disorder.

Summary of replies to questions *

Question: Is it true that capital movements have been left unregulated in order not to affect the multinational corporations' freedom of action? Do you think such freedom could create instability in exchange rates?

Reply: The United States-owned multinational corporations, unlike non-United States multinational corporations operating in this country, do not have as much freedom to move funds from the United States as is assumed. They are given a quota, for the net amount of foreign investment funds they can transfer from this country, based on certain historical experience. For additional investment they must borrow abroad. I believe that responsibility for disturbing the international monetary system is the least of the indictments that can be brought against the multinational corporations. Regarding the effect on exchange rates, it should be noted that, at least when a currency is healthy, the banks are the origin of big transactions. This is largely due to an extreme use of monetary instruments by Governments which, in their attempts to control inflation, create great disparities in interest rates. These disparities induce a flow of funds across frontiers. Certain Governments, for instance the Government of the Federal Republic of Germany, have attempted to impose controls. Indeed, Governments can control their own banks doing business in the Eurodollar market by requiring them to hold reserves against their Eurodollar borrowing.

* Questions were asked by the Chairman, and Messrs. Mansholt, Uri, Deutsch, Dunning, Komiya, Estrany y Gendre and Ghazali.

Question: How can speculation be prevented without the imposition of very strict rules?

Reply: Speculation merely induces Governments to bury currencies that are already dead. The losses that a country suffers from an over-valued or under-valued currency appear mainly in the distortion of trade, production and employment. Speculation can even be beneficial by forcing Governments to adjust their exchange rates.

Question: Do you agree that there is a need for a co-ordination of public finance and central bank policies commensurate with the internationalization of business?

Reply: Inter-governmental co-operation in monetary policies is essential but also extremely difficult. Governmental regulation of the foreign transactions of banks is helpful. But it is the extremes in monetary policy that should be avoided, and this can only be achieved if measures are taken to moderate the rate of inflation.

Question: Are multinational corporations responsible for the leads and lags in payments? And how does their multinational character affect their transfer of funds during periods of crisis?

Reply: Multinational corporations are not responsible for the "errors and omissions", since the large corporations at least must report on a quarterly basis any changes in foreign claims and liabilities whether they originate in trade or in liquid funds. Also, they cannot build up excessive claims on their subsidiaries through leads and lags because these would

be regarded as direct investment. They have, of course greater facility in arranging such leads and lags with their foreign affiliate than independent companies but I believe the "errors and omissions" are mainly due to trading companies and individuals.

Question: What monetary system would avoid extremes in monetary policies, one based on fluctuating or one based on fixed exchange rates?

Reply: Even under a system of fluctuating exchange rates, Governments would not have more freedom in monetary policies. For instance, the depreciation of the dollar and the ensuing higher import prices added to inflationary pressures; the United States Government then resorted to tight monetary policies.

Question: How can the developing countries have greater access to the Eurocurrency market? What are the prospects for the adoption of a link between the creation of SDRs and financing for development?

Reply: The developing countries are large borrowers in the Eurocurrency market; their access to the Eurobond market has greatly increased. The United States and many European countries do not favour the "link", but I believe there will in future be a greater contribution of resources to development agencies. I do not expect the new SDRs to be issued soon.

Question: Who are the major losers and who are the big winners in the monetary crisis?

Reply: When the dollar was over-valued, exporters to the United States (Japan, Germany) were gaining, while their central banks were losing since

they were accumulating dollars -- an over-valued currency. United States investors abroad were also gaining because they were buying real assets abroad at bargain prices, while monetary authorities both in the United States and abroad were losing. Also, United States importers were gaining while United States corporations which could not compete with imported goods were losing. During the speculation period, the central banks that bought dollars at a high rate were the losers, while their own nationals, the speculators and all those who sold dollars to the central banks, made profits.

José CAMPELO SAINZ

Under-Secretary for Industry and Commerce of Mexico

Summary of oral and written statement

The accelerated growth of transnational corporations and the increase of their influence is an outstanding phenomenon of the contemporary world economy and both the resolution of the ECOSOC establishing the Group and the Secretariat report are milestones in international co-operation. This phenomenon signals to the developing countries a new form of domination and new ways in which the legislation and policies of the home countries may be imposed upon them. Although most non-national corporations are located in the developed countries, their expansion deeply affects the political, economic, and social life of the Third World. They act on a global scale, and seek goals not necessarily coinciding with those of the host country or even of the country in which their capital originates. Thus, organizations seeking only financial gain finally become pressure groups in international political life and create problems for the co-existence of nations. At the same time, their importance to the world economy is undeniable. They are a phenomenon that cannot be overlooked, and their power must be channelled towards solidarity and justice.

For Mexico, as for all the countries of the Third World, the problems raised by the transnational corporation are of great practical importance. In Mexico's own process of development and growth, a stage has been reached where new strategies must be defined and new objectives devised. We have set qualitative as well as quantitative goals. We

realize that development without social justice is not true development. We need to speed economic development in order to provide the resources needed for welfare, but its fruits must be equitably distributed among all Mexicans.

We also regard development as an affirmation of the will to independence of countries and people. An under-developed community is a subordinate community. But our desire for autonomy does not spell autarchy. We want to intensify and tighten our relations with the rest of the world. Foreign capital and techniques can help to speed our development and supplement our own savings and efforts, but we will receive foreign investment only if it contributes to the objectives that we have set for ourselves.

It is this concept of autonomy, in the sense of controlling the decisions that affect our economic life, that lies behind the laws recently adopted by Mexico on foreign investment and the transfer of technology. They are not restrictive in intent but rather selective. The activities of transnational corporations are not summed up in the mere flow of capital or technology, but their participation in the economy of a country is controlled if those two areas are regulated and limited.

The basic principles of the Mexican legislation on foreign investment are that it must comply with the law of the land, and that foreigners acquiring assets in Mexico must agree to regard themselves as nationals as far as those assets are concerned. Hence, controversies arising because of activities carried out by foreigners in Mexico must be

subject exclusively to Mexican courts. No compromise or concession can be accepted in respect of our sovereignty. Further, no foreign investor can call on his home country for help (Calvo Doctrine) nor is he to be allowed to intervene in the country's domestic affairs. That principle, repeatedly upheld by Mexico, was endorsed by the most recent Assembly of the Organization of American States. Mexico is also free to dispose of its own natural resources, if necessary through expropriation, based on our country's legal and juridical proceedings, and can dictate to private property in the public interest. This again forms part of the concept of sovereignty and cannot be curtailed.

The law promoting Mexican investments and regulating foreign investment, adopted on 9 March 1973, also defines those fields of activity which, because of their economic and social importance, are reserved to the state exclusively or to Mexicans or Mexican firms, with special clauses covering activities in which foreign investors can participate to a percentage below 49 per cent, and finally sets as a general rule that in activities not specifically regulated foreigners may only occupy minority positions. The principle is also set forth that foreign participation in the governing boards of corporations cannot exceed the capital participation. However, it was recognized that these rules cannot be inflexibly applied and a National Commission for Foreign Investment was therefore set up, empowered to increase or diminish the percentage of foreign capital admissible, where it is in the interest of the country to do so.

Under the new law, foreign investment must complement the national

investment. The Government is therefore opposed to the acquisition by foreign investors of established Mexican enterprises. The law is not retroactive, but in order to achieve a closer link between foreign capital and the country, we recommend that transnational corporations already established in Mexico should offer part, preferably a major part, of the shares of their affiliates for purchase by the Mexican public. This would give the corporations a deeper root in the Mexican economy and avoid any possible tension.

Through the law governing transfer of technology, we are trying to ensure that we receive technology on terms that will meet the needs of the country and help to achieve our development objectives. We will not agree to contracts imposing excessive royalties or export restrictions, or containing clauses limiting the purchaser's power of administration.

It is for the countries themselves to lay down the conditions on which they will accept the activities of transnational corporations in their territories, as Mexico has done. At the same time, the size of these corporations and their influence on the world economy justify the adoption of international norms of conduct that will define their sphere of action.

It is evident that the weakness of the countries of the Third World in the face of the transnational corporations flows from an international order in which an unjust distribution of wealth prevails, and in which the condition of the less developed countries is not always taken into account. The developing nations know that solidarity among them is essential.

if we are to survive and progress. We also know that as the countries of the Third World fail to adopt united positions, so they weaken and narrow their negotiating powers and thus may fall an easy prey to reprisals and discriminations which would ultimately frustrate for all the possibilities of achieving equal and just treatment. The most pressing duty of the international community today is to create a peace economy, and peace can never rest on injustice. It was for that reason that the President of Mexico proposed at the third United Nations Conference on Trade and Development that a charter of the economic rights and duties of States should be drafted to protect the weaker nations. That charter is now being considered by a working group.

Some of its basic principles, which bear directly on the problems raised by transnational corporations, are: freedom to dispose of natural resources, respect for the right of all peoples to adopt the economic structure of their choice and to impress on private property modalities dictated by the public interest; renunciation of the use of economic pressure to impair the political sovereignty of States; subjection of foreign capital to national laws; prohibition of interference by transnational corporations in the domestic affairs of States; abolition of discriminatory trade practices; trade preferences for developing countries; fair and stable commodity prices; dissemination of information on low-cost technology; and long-range, non-tied, low-interest financial assistance for economically backward countries. The adoption of such a charter seems more urgent than ever today.

As far as the suggestions in the Secretariat report are

concerned, I am in favour of an international forum, and the creation of an international information centre. I also support technical assistance by the United Nations to strengthen the negotiating position of the developing countries in their dealings with transnational corporations. As regards the settlement of disputes, Mexico would regard the submission of a controversy to a court other than its own as an unacceptable limitation on its sovereignty. Mexico is also in favour of a code of conduct for transnational corporations, provided that it did not in any way impair the sovereignty of the recipient countries. Such a code would complement the charter on the economic rights and duties of States.

The code might contain the following additional stipulations: foreign investment should complement national investment; transnational corporations should not replace national corporations or deal in fields adequately covered by them; their activity should have a positive effect on the balance of payments, particularly through the increase of exports; they should promote increased employment and adequate remuneration; they should hire and train technicians and administrative staff from the host country; they should as far as possible utilize national products in preparing their final product; they should finance their operations preferably from outside resources; they should ensure diversification of investment resources; they should contribute to the development of the less developed economic zones of the host country; they should not monopolize the national market; they should supply the best and most appropriate technology and contribute to local research and development; they should have a favourable effect on the quality and price level of production;

they should respect the social and cultural values of the host country; they should identify with the interests of the host country; they should not distort the consumption pattern; and, in general, they should help to achieve the objectives and comply with the development policies of the host country.

Summary of replies to questions*

Question: Would continuing international action on the issue of multi-national corporations be helpful? If so, what form should it take? Should there be some form of international agreement on investment on the lines of GATT?

Reply: International action is desirable, preferably through the United Nations, possibly at the level of the Economic and Social Council. An Information Centre would also be helpful, as would technical assistance in negotiating transfers of technology. An international code of conduct for transnational corporations would be of value. As regards a GATT-type of agreement, many developing countries are not members of GATT, which is itself in the process of being revised. Since we have not yet been able to perfect GATT in matters of international trade, it can hardly serve as a pattern for the far more difficult problems raised by transnational corporations. Some indications for a viable code of conduct might be drawn from the way in which the charter of the economic rights and duties of States at present under study in the United Nations is implemented. Moreover, the attitude of the developing countries to foreign investment is not uniform; it is necessarily dictated by their own resources, savings capacity and attitude to development.

* Questions were asked by the Chairman and Messrs. Mansholt, Dunning, Sadli, Schaffner, Deutsch, Matthoeffler, Estrany y Gendre, Trindade and Uri.

Question: Would you agree there must be some machinery to enforce any rules that are adopted?

Reply: If we have any body of laws, we must make them operative, while at the same time respecting the sovereignty of States. The International Labour Office might serve as a model.

Question: What happens if the attainment of one of the objectives Mexico has laid down in respect of national development for both national and trans-national companies clashes with another?

Reply: Since we are not a centrally planned economy we do not have an investment commission for all investments. Foreign investment is controlled when it intends to assume a majority position. We have set up a National Commission for Foreign Investments which judges which interest is more important for the country, in the case of a conflict. National companies are governed by similar rules, in the case of import requirements, outside capital, etc.

Question: What effect have your policies had on inward investment?

Reply: If we have lost any foreign investment as a result of our policies, it has been well lost; we are not interested in capital that will damage the country's interests. We want investment that will encourage development. Ideally, the countries of the Third World should take a united stand on conditions for investment. In Latin America, a start has been made. Legislation similar to Mexico's has been passed in the Andean Pact countries and in Argentina.

Question: Have you any policy for controlling the advertising or sales efforts of major companies so that they cannot distort the consumption pattern?

Reply: Unfortunately, no. We must guide consumption by means of tax policies.

Question: Could you, in the light of the Calvo Doctrine, accept a code providing for international arbitration?

Reply: Arbitration exists to resolve disputes between States. What is involved in the case of private foreign investment is a dispute with an individual who has agreed to abide by national legislation. We cannot agree to arbitration which would give the foreigner preference over the national.

Question: You require a considerable local participation in the capital of subsidiaries of multinational firms settling in your country. Could this obligation be satisfied by purchasing stock in the parent company?

Reply: It would not be beneficial to Mexico. If we invested our small domestic savings in a transnational corporation, we would have no share in its decision-making and there would be no benefit to the Mexican economy. We want activities carried out in Mexico to have majority participation by Mexican capital and to provide employment for Mexican workers. Every subsidiary or affiliate operating in Mexico must be incorporated under Mexican law and must offer shares to the Mexican public. However, the law is sufficiently flexible to allow an investment with minority Mexican participation or even none at all, if the Commission on Foreign Investment decides it is in the interest of the country. The law on foreign investment adopted in 1973 is not retroactive, but we are inviting companies not in compliance with it to comply voluntarily.

Question: Does Mexico intend to encourage foreign investment that would have a high labour-absorbtive capacity?

Reply: Yes. We want mechanization where it is appropriate -- in petrochemicals, steel, etc.,-- but in other fields, rural industry and so forth, we are looking for a technology which without reducing efficiency and raising costs will ensure the utilization of labour.

Question: What does your Government do to check unfair transfer pricing?

Reply: Theoretically, we have legislation allowing the authorities to investigate prices, but it is not always easy. We are also trying to combat the practice through our law on the transfer of technology.

Question: What is the Mexican Government's attitude to export restrictions?

Reply: We regard as null any contract which contains restrictive clauses or establishes any export prohibition contrary to the interests of the country. Cases are considered on their merits.

Question: What bargaining power do you have in your dealings with multinational corporations?

Reply: Generally speaking, we negotiate rather than give a flat 'yes' or 'no'. We have used our machinery for promoting industry, import licenses, programmes of manufacture, etc., with considerable success. Sometimes we are unsuccessful, in which case the multinational corporation does not come into the country.

Question: Do you agree that an international agreement should include rules for both host countries and multinational corporations?

Reply: International regulations must make clear the rights and obligations of developed and developing countries and the multinational corporations themselves.

Question: What criteria are used in deciding whether a sector is reserved for State ownership, reserved for national companies, or open to foreign participation?

Reply: Those sectors of fundamental importance to the economic life of the country, such as railways, electrical energy, the basic petrochemical industry, including refining, and the production of radioactive material, are reserved for the State. Other activities of great socio-economic importance, for example, radio, television, and communications other than railways, are reserved for Mexicans. Some other sectors require special Mexican majority holdings of more than the usual 51 per cent -- for example, Mexican capital investment in the steel, sulphur and coal industries is 66 per cent.