From the 1960s, developing countries actively pursued the implementation of the principle of permanent sovereignty over natural resources (PSNR) because they perceived this to be a main basis for their economic development and for a redistribution of wealth and power in their relations with the industrialized world. Consequently, during the period 1963–70 (section 1 below) emphasis on State control and the actual ways of implementing the principle of PSNR increasingly received attention and the link between PSNR and promoting the development of developing host countries was firmly established. Especially GA Resolution 2158 (XXI) was instrumental in this, both substantively and politically. The guidelines it entails for the relationship and co-operation between foreign investors and developing host countries contain a relevant and substantive inventory of the problems involved and recommend constructive policies. Politically, it was important that the broad coalition which supported the 1962 Declaration persisted.

Yet, after 1970 the discussion on PSNR changed substantially. Some controversial elements were more vigorously introduced in the discussion on the scope and content of permanent sovereignty, in particular creeping jurisdiction of coastal States over adjacent sea areas and marine resources which often led to fishery disputes, and the issue of economic coercion (section 2). Furthermore, in the early 1970s an increasing number of developing countries nationalized certain sectors of their economies, including foreign-owned sections, and sought international legitimation for these actions through the United Nations leading to a resumption of the ‘nationalization debate’ (section 3).

In the wake of the first oil crisis, at the initiative of Algeria, in 1974 a special session of the UNGA exclusively devoted to the problems of development and raw materials resulted in the adoption of a Declaration and an Action Programme on the Establishment of a New International Economic Order (NIEO) (section 4). Since it had ‘proved impossible to achieve an even and balanced growth of the

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1 See Buzan (1978) and Sharma (1985: 479–87).
2 GA Res. 3201 and 3202 (S-VI), 1 May 1974.
international community under the existing international economic order’, according to the NIEO Declaration, the developing countries set out to change the rules of the game in order to put a halt to the widening of the gap between rich and poor nations and to promote a redistribution of wealth and power. Permanent sovereignty was perceived as an essential component of these efforts and nationalization as a ‘development instrument’, as the Algerian minister Bouteflika put it.\(^3\)

The NIEO resolutions were adopted in an atmosphere of confrontation which sharply contrasted with the spirit of co-operation and compromise during the adoption of the resolutions on permanent sovereignty in the 1960s. The major controversies were reflected in the vote on the Charter of Economic Rights and Duties of States (CERDS), adopted during the 29th session of the UNGA in December 1974 and serving as one of the prime NIEO documents (section 5).\(^4\)

From 1975 there was a return to compromise and pragmatism. While the previous three periods (1970–72, 1972–73 and 1974; covered in sections 2, 3 and 4) were characterized by attempts by developing countries to gain full control over their resources, both land and marine, and over the activities of transnational corporations in their economies, an increasing number of developing countries became concerned with the decrease in the flow of foreign investment in the natural resources sector and the low prices of many minerals (with oil as the exception) and other commodities. This concern led to UN initiatives for international assistance to developing countries for the exploration and exploitation of their natural resources and for promotion of foreign investment (section 6).

1. Reaffirming and Elaborating the 1962 Declaration (1963–70)

1.1 UNCTAD I and Permanent Sovereignty

In 1964, the first United Nations Conference on Trade and Development (UNCTAD I) took place. The Conference resulted in a final document, entitled ‘General and Special Principles Recommended by UNCTAD I to Govern International Trade Relations and Trade Policies Conducive to Development’. Its General Principle Three relates to sovereignty over natural resources:

> Every country has the sovereign right freely to trade with other countries, and freely to dispose of its natural resources in the interest of the economic development and well-being of its own people.

\(^3\) See Official Records UN General Assembly, Sixth Special Session, 2230th meeting, 2 May 1974, A/PV.2230, p. 15.

\(^4\) GA Res. 3281 (XXIX), 12 December 1974, adopted by 120 to 6 (Belgium, Denmark, FRG, Luxembourg, UK, USA) with 10 abstentions (including the Netherlands).
This text proved to be marginally acceptable to Group B representatives, although the USA proposed that this principle be redrafted to read:

Every State has the sovereign right freely to dispose of its natural resources by trade or other means in the interest of the economic development and well-being of its own people in accordance with General Assembly resolution 1803 (XVII).

Belgium, Germany and France supported the proposal by the USA, but expressed their willingness to accept the original text, provided the words ‘in accordance with international law’ were added at the end of the paragraph. This was not accepted by a majority and, eventually, the original wording was adopted.  

1.2 Relations between Foreign Investors and Developing Countries in Natural Resources Control

The drafting of GA Resolution 2158 (XXI)

In 1965, the General Assembly resumed its debate on PSNR following the submission of Report E/3840 by the UN Secretariat on various aspects of permanent sovereignty, as requested by the 1962 Declaration. During the 20th session of the General Assembly, two alternative draft resolutions were submitted. The first was by Ceylon (later Sri Lanka) and Ecuador which dealt with the promotion of foreign investment in developing countries and proposed to formulate ‘standards and procedures for the investment of foreign capital in developing countries’. These could be based on existing legislative and treaty provisions and other appropriate information. The two countries expressed the hope that this would reduce uncertainty and anxiety on the part of both investors and capital recipient countries and would induce capital-exporting countries to provide tax concessions to private capital exporters and to conclude bilateral investment protection treaties with developing countries.

The USSR proposed two amendments to this draft resolution. The first was to declare that the United Nations should exercise maximum efforts aimed at consol-

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5 See for a summary of the debate Proceedings of the United Nations Conference on Trade and Development, Vol. I: Final Act and Report, 1964, paras 33–37. Countries are divided into four groups for UNCTAD purposes as follows: A: Africa and Asia; B: Western Europe and other industrialized countries with a market economy; C: Latin America and the Caribbean; D: Eastern Europe.

6 By 94 votes to 4 (Australia, Canada, the UK and the US), with 18 abstentions (B countries plus Cameroon, Nicaragua, Peru and South Africa).

7 Draft resolution by Ceylon and Ecuador, in UN Doc. A/C.2/L.806 and Add.1 and Rev. 1, 1965. While most Latin American Countries at that time rejected BITs, Ecuador concluded two BITs, one with Germany (1965) and another with Switzerland (1968).

8 UN Doc. A/C.2/L.859.
idating sovereignty of developing countries over their natural resources. The sec-
ond was to insert a new paragraph by which the General Assembly would appeal
to all States to refrain from actions preventing the exercise of sovereign rights of a
State over its natural resources.

The second draft resolution was submitted by Poland and the UAR, subse-
quently supported by Algeria, Sudan and Tanzania. The main thrust was that the
best way of ensuring permanent sovereignty of developing countries over their
natural resources was for these countries to exploit and market these resources ‘by
themselves’; and, hence, to increase their share in the administration of the enter-
prises, and in the advantages and profits derived from natural resources exploited
by foreign investors. The latter should also be made responsible for the proper
training of indigenous personnel in all fields connected with the exploitation.

Nearly all Western countries indicated that they considered the 1962 Declaration
as a delicate and careful balance between the need to protect permanent sover-
eignty and the need to protect the interests of foreign investors in accordance with
international law. Attempts to deviate from this could be detrimental to the efforts
developing countries to attract more foreign capital. The USA considered the
draft to be: ‘hostile to private investors and to international economic co-operation
among private enterprises and developing countries. It favours government enter-
prise’. It submitted a number of amendments aimed at including references
to: (1) the need for co-operation among developing countries and the world in-
vestment and trading community; (2) the right of developing countries to enter in-
to ‘mutually satisfactory arrangements’ with foreign investors for the development
of their natural resources; and (3) ‘fair access’ of developing countries to sources
of capital, goods and know-how, necessary for the exploitation and marketing of
their natural resources. The UAR re-emphasized in turn that ‘absolute’ sover-
eignty over natural resources would be essential: ‘the developing countries have to
be in a position to decide how and to what extent they would exploit their natural
resources by themselves’. Due to lack of time, it was decided to defer consider-
atation.

At the General Assembly’s session in 1966, eleven countries submitted a new
text. It reaffirmed the right of all countries to exercise PSNR in the interest of
their national development; declared that the United Nations should undertake a
maximum concerted effort to ensure the full exercise of that right and the highest

utilization of their natural resources by developing countries themselves; and recognized the right of developing countries to secure and increase their share in the administration of the enterprises and in the advantages and profits derived from the exploitation of their natural resources. Several Western countries, including the UK and the USA, opposed the strong emphasis on national exploitation of the natural resources of developing countries. They repeated that developing countries should have freedom of choice in the way their resources would be exploited and marketed, but they should not aim at ‘autarky’ and diminish the rights accorded to foreign investors, thereby discouraging foreign aid (USA).\textsuperscript{14} In response, Afghanistan, Ceylon, Ghana and Lebanon proposed to insert the following paragraph in the preamble:

\emph{Taking into account} the fact that foreign capital, whether public or private, forthcoming at the request of the developing countries, can play an important role

\ldots\textsuperscript{15}

The Byelorussian SSR proposed to add:

inasmuch as it supplements the efforts undertaken by them in the exploitation and development of their natural resources and provided that there is government supervision over the activity of foreign capital to ensure that it is used in the interest of national development;\textsuperscript{16}

As regards the administration of enterprises wholly or partly operated by foreign investors and the profits made by them, the USA proposed to spell out the right of developing countries to increase ‘on an equitable basis’ their share in the administration and profits, such share to be determined in the light of their development needs and ‘without prejudice to any obligation arising out of international economic co-operation’.\textsuperscript{17} The Netherlands preferred the phrase ‘mutually acceptable contractual practices’,\textsuperscript{18} which was opposed by adherents of the Calvo doctrine such as Mexico, Peru, Venezuela and Guatemala, because in their view it could imply obligatory ‘international arbitration’.\textsuperscript{19} Mexico held that the exploitation of natural resources should always be in accordance with each country’s national laws and regulations.\textsuperscript{20}

\begin{itemize}
  \item[14] UN Doc. A/C.2/SR.1050, 31 October 1966, para. 33.
  \item[15] UN Doc. A/C.2/L.871.
  \item[16] UN Doc. A/C.2/L.881.
  \item[19] The Calvo doctrine, which embodies the national standard, emphasizes the primacy of national law and dispute settlement through domestic courts. See Chapter 6, below.
  \item[20] UN Doc. A/C.2/L.886.
\end{itemize}
Informal consultations resulted in a revised compromise draft,\(^21\) in which the Mexican amendment was incorporated in paragraph 4, while some US amendments, as well as the Dutch amendment, were incorporated in paragraph 5. Only a few amendments had to be put to the vote, including that submitted by the Byelorussian SSR relating to government supervision over the activity of foreign capital.\(^22\) On 25 November 1966, the General Assembly adopted the text as the important Resolution 2158 (XXI).\(^23\)

Resolution 2158 emphasizes that the natural resources of developing countries constitute a basis for their economic development in general and their industrial progress in particular and advocates that, in order to safeguard the exercise of PSNR, it is essential that developing countries themselves undertake the exploitation and marketing of their natural resources so that they may employ the maximum possible benefits in the interest of their national development. Foreign capital can play an important supplementary role, but developing countries should secure an appropriate share in the administration, management and profits of foreign companies (‘on an equitable basis’). Foreign companies should undertake training of national personnel at all levels. The resolution thus put the exercise of PSNR firmly in an economic and social development context.

**Follow-up of Resolution 2158 (XXI)**

In 1968, the Secretariat submitted a progress report\(^24\) on the implementation of Resolution 2158 (XXI). In a draft resolution, Poland, the Ukrainian SSR, Ghana and Libya\(^25\) proposed that the Secretary-General be requested to prepare a more extensive report, especially on the implementation of paragraphs 5, 6 and 7 of GA Resolution 2158 (XXI). They wanted more concrete information on relations between foreign investors and host countries in practice, regarding finance, administrative management and training of national personnel in foreign enterprises. Western delegations opposed the explicit reference to only a few paragraphs of Resolution 2158, because this could disturb the balance between the various interests. They also disliked an additional preambular paragraph which in their view went beyond the scope of Resolution 2158:

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\(^{22}\) This received 35 votes in favour, 17 against, and no less than 53 abstentions. Thereupon, the Second Committee adopted the draft resolution by 99 votes to none, with 8 abstentions. The abstentions were from Argentina, Australia, Belgium, Japan, Malta, New Zealand, UK and USA.

\(^{23}\) By 104 votes to none, with 6 abstentions.

\(^{24}\) UN Doc. A/7268.

\(^{25}\) Later on joined by Panama and Sierra Leone.
Considering that the full exercise of permanent sovereignty over natural resources will play an important role in the achievement of the goals of the Second United Nations Development Decade,

Yet, the initiators were not prepared to change their draft resolution and on 19 December 1968 the General Assembly adopted the text as Resolution 2386 (XXIII) by 94 to none, with 9 abstentions.

In 1970, the Assembly received a new report from the UN Secretary-General, as requested by Resolution 2386 (XXIII). The Secretariat observed that the Assembly was not content with merely affirming the principle of State sovereignty over natural resources \textit{in abstracto} as a legal concept, but had consistently dealt with that principle in an economic and social context. Thus it had acquired a ‘dynamic connotation’, encompassing not only the formal rights of ownership over these resources and freedom to decide on the manner in which they should be exploited and marketed, but also the capability to do so in such a way that the people of the State concerned might effectively benefit from them. The report emphasized the role of foreign capital and technology in the exploitation of natural resources in developing countries and predicted that these countries would try to attract more foreign investors in the 1970s. On this point, the report was criticized by communist countries and some developing countries. Others, including India and the Philippines, welcomed the report. Chile, Poland and the Ukrainian SSR submitted a draft resolution, inviting member States to inform the Secretary-General on ‘the progress achieved to safeguard the exercise of permanent sovereignty over natural resources, including the measures taken to control the outflow of capital in a manner compatible with the exercise of their sovereignty and international co-operation’. An extensive discussion took place on the fifth preambular paragraph of the draft, which stated that the financing of development plans of developing countries depended to a considerable degree upon the conditions under which their natural resources were exploited and upon their share in the profits of

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26 Emphasis added.

27 UNYB 1968, p. 432.

28 UN Doc. A/8058, entitled \textit{Exercise of Permanent Sovereignty over Natural Resources and Use of Foreign Capital and Technology for their Exploitation}. For the purpose of the report the Secretary-General had addressed a questionnaire to member States asking them to provide him with information on the progress made in the implementation of the provisions of GA Res. 1803 (XVII) and 2158 (XXI). Only 19 countries replied.

29 Ibid., p. 7.

30 UN Doc. A/C.2/L.1137.
foreign investments. Eventually, it was decided merely to take this ‘into account’.  

31 This Resolution 2692 (XXV) emphasizes that the exercise of PSNR by developing countries is indispensable for accelerating industrial development and invites ECOSOC to arrange periodic reports on: (i) the advantages derived from the exercise of PSNR, especially with respect to the increased mobilization of domestic resources; (ii) on the outflow of capital; and (iii) transfer of technology.

1.3 Permanent Sovereignty as a Condition for Social Progress and Development

During the period under review (1963–70) the principle of PSNR was repeatedly recalled in resolutions which dealt with other issues such as the World Social Situation.  

32 Other interesting examples are two main resolutions which took stock of the UN ‘development ideology’ prevailing during those days, namely the 1969 Declaration on Social Progress and Development which considers permanent sovereignty of each nation over its natural wealth and resources as one of the ‘primary conditions of social progress and development’  


34 However, the principle does not feature in the important Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.  

35 Proposals to include it as a component of ‘the principle of sovereign equality of States’ failed to achieve consensus.  

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31 See GA Res. 2692 (XXV), adopted by a vote of 100 to none, with 3 abstentions. See for further discussion the next section.

32 GA Res. 2035 (XX), adopted without a vote on 7 December 1965. In operative paragraph 1 the General Assembly requests ECOSOC and the Social Commission, when considering the role which the United Nations should play in the social field, to bear in mind, *inter alia*, the following general principle:

(b) The necessity to direct the main efforts of the United Nations in the social field towards supporting and strengthening independent social and economic development in the developing countries, with full respect for their permanent sovereignty over their natural resources, in accordance with General Assembly resolution 1803 (XVII) of 14 December 1962.

33 Article 3 of the Declaration on Social Progress and Development, GA Res. 2542 (XXIV), adopted on 11 December 1969 by a vote of 114 in favour, none against, with 2 abstentions.

34 GA Res. 2626 (XXV), 24 October 1970.

35 GA Res. 2625 (XXV), adopted without a vote on 24 October 1970.

2. Permanent Sovereignty over Marine Resources (1970–72)

Among the most controversial amendments to what became GA Resolution 2692 (XXV), as referred to above, was a proposal by Peru to insert two new preambular paragraphs which would recognize the right of developing countries to full utilization of the natural resources in ‘their adjacent seas’. In view of the controversies which had arisen over the delimitation of territorial waters and the establishment of a new regime for the exploration and exploitation of marine resources beyond the limits of these waters, in the First Committee and in the (recently established) Seabed Committee, several countries opposed references to this question in the resolution. But a compromise was reached, referring merely to ‘the necessity for all countries to exercise fully their rights so as to secure the optimal utilization of their natural resources, both land and marine’. The Soviet Union, traditionally a champion of the freedom of the seas because of its international shipping interests, submitted a sub-amendment to add the phrase ‘in accordance with international law’. It was adopted in the Second Committee, but upon a proposal by Chile (supported by 27 other member States) the General Assembly removed it. On 11 December 1970, the draft as amended, was adopted as GA Resolution 2692 (XXV).

In May 1972 the issue was followed-up in Santiago de Chile in the context of UNCTAD III. One of the principles governing international trade relations and trade policies conducive to development, as adopted, reads:

Coastal States have the right to dispose of marine resources within the limits of their national jurisdiction, which must take duly into account the development and welfare needs of their peoples. . . .

In 1972, Iceland submitted a draft resolution, also on behalf of 25 developing countries, purporting to ‘reaffirm’ that permanent sovereignty extends over the resources ‘found in the seabed and the subsoil thereof within their national juris-

37 UN Doc. A/C.2/L.1138, co-sponsored by Ecuador and Yugoslavia.

38 Emphasis added.


40 By 33 to 26, with 29 abstentions. See UNYB 1970, p. 454.

41 UN Doc. A/L.620 and Add. 1.

42 By 65 votes in favour, 23 against, with 18 abstentions; UNYB 1970, p. 454.

43 GA Res. 2692 (XXV), adopted by 100 votes to none, with 3 abstentions.

44 Principle XI of Resolution 46 (III), adopted by UNCTAD III by 72 votes to 15, with 18 abstentions on 18 May 1972.
It was quite obvious that this country sought legitimization from the UNGA for its position taken in the fisheries disputes with the UK and Germany, on which they had instituted proceedings before the ICJ. The draft met with considerable opposition from both Western countries and non-Western ‘land and shelf-locked’ countries. They considered it inappropriate for the Assembly to prejudge the outcome of the Third UN Conference on the Law of the Sea (UNCLOS III), which was about to be convened. Their view, however, was not accepted. In separate votes the key phrase on resources ‘found in the sea-bed and the subsoil thereof within their national jurisdiction and in the superjacent waters’ was maintained as well as the words ‘both on land and in their coastal waters’ in another paragraph.

In the General Assembly, Afghanistan once more tried to insert a preambular paragraph referring to the competence of UNCLOS III. The attempt failed again. Thereupon, a separate vote was taken to remove the phrase ‘and in the superjacent waters’ in operative paragraph 1, at the request of the Netherlands which announced it would abstain on the resolution as a whole if the phrase was maintained. Nevertheless, the disputed words were maintained. The Soviet Union declared that it interpreted the words ‘within their national jurisdiction’ in paragraph 1 in the sense of Article 1 of the 1958 Convention on the Continental Shelf and expressed support for the Dutch amendment as it had done for the amendment of Afghanistan. It pointed out that the rights of coastal States to fishery resources only extended to the limits of the territorial sea, which in accordance with international law was 12 nautical miles. Despite this considerable difference of opinion, the General Assembly adopted the draft as Resolution 3016 (XXVII).

Apart from reaffirming PSNR over all natural resources on land and in their coastal waters, Resolution 3016 ‘reiterates’ that States should not coerce another State engaged in internal reform or exercising its sovereign rights over natural re-

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46 By 43 votes to 35, with 34 abstentions.
47 By 62 votes to 13, with 39 abstentions.
48 By 54 votes to 14, with 26 abstentions; UNYB 1972, p. 347.
49 Supported by Jordan, Laos, Nepal, Paraguay and Singapore.
50 UN Doc. A/L.694.
51 By 45 votes in favour, 50 against and 28 abstentions.
52 By 74 votes in favour, 26 against, with 25 abstentions.
53 The voting record was 102 to none, with 22 abstentions (including developed and developing countries) on 18 December 1972.
Chapter Three

sources. Such behaviour would violate the UN Charter and the 1970 Declaration on Principles of International Law as well as contradict the targets of the International Development Strategy for the Second UN Development Decade (DD II).

It is remarkable that the titles of Resolutions 2692 (XXV) and 3016 (XXVII) refer to ‘Permanent sovereignty over natural resources of developing countries’.54 While the reasons for this cannot be traced from the drafting history, it reflects how closely the exercise of permanent sovereignty was linked to the cause of development of developing countries.

3. Towards the NIEO Resolutions; Renewed Debate on Nationalization (1972–73)

3.1 Prohibition of Coercion

Resolution 3016 (XXVII) of 18 December 1972 marked the introduction of the prohibition of coercion—economic, political, or any other kind—into the General Assembly’s discussion on permanent sovereignty. Coercion had been extensively discussed in the context of, *inter alia*, the drafting of the 1970 Declaration on Principles of International Law (Principle 3). In Resolution 3016 (XXVII) the Assembly declared that:

> actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States engaged in the change of their internal structure or in the exercise of their sovereign rights over their natural resources, both on land and in their coastal waters, are in violation of the Charter and of the Declaration contained in Resolution 2625 (XXV) and contradict the targets, objectives and policy measures of the International Development Strategy for the Second United Nations Development Decade.55

Earlier in 1972, UNCTAD had first introduced the concept of prohibition of coercion and linked it to the maintenance of international peace and security in the discussion on permanent sovereignty, an issue which received considerable attention in the course of the debate on a New International Economic Order. Principle II of UNCTAD Resolution 46 (III) of 18 May 1972 reads:

> Every country has the sovereign right freely to dispose of its natural resources in the interest of the economic development and well-being of its own people; any external, political or economic measures or pressure brought to bear on the exercise of this right is a flagrant violation of the principles of self-determination of peoples and non-intervention, as set forth in the Charter of the United Nations and, if pursued, could constitute a threat to international peace and security.

54 Emphasis added.

55 This paragraph was adopted by 98 votes to 3, with 21 abstentions.
3.2 Forerunners of the NIEO Debate

During the 1970s the NIEO debate was one of the important international political issues. In the early 1970s, a number of major changes in the world economy took place which had a negative impact on the overall development perspectives of developing countries. These changes included world economic stagnation, high inflation, increasing unemployment in Western nations, and international monetary instability. The oil crisis of 1973 resulted in a number of unforeseen and unprecedented price increases, partly due to the cartel policy of the Organization of Petroleum Exporting Countries (OPEC). The political events of 1973, including the Yom Kippur war and the Arab oil embargo against the USA and the Netherlands, and the initial success of OPEC led to an increasingly assertive, if not militant attitude of developing countries in international affairs.\textsuperscript{56} Consultations took place on the establishment of producers’ associations.\textsuperscript{57} Large-scale nationalizations took place in many countries including Chile (1971), Iraq (1972), Peru (1974), Libya (1971 and 1973) and Venezuela (1976). Often a clear-cut confrontation occurred with the transnational companies concerned as well as with their home States. The countries carrying out these nationalizations sought international support and legitimization for their policies in UN organs. Various resolutions were adopted by UNCTAD, ECOSOC and the General Assembly.

UNCTAD. During its twelfth session held in Geneva in October 1972, the UNCTAD Trade and Development Board adopted a quite radical resolution which provoked a new debate on the right of nationalization. Paragraph 2, the most controversial element of the resolution, reads:

*Reiterates* that, in the application of this principle, such measures of nationalization as States may adopt in order to recover their natural resources are the expression of a sovereign power in virtue of which it is for each State to fix the amount of compensation and the procedure for these measures, and any dispute which may arise in that connexion falls within the sole jurisdiction of its courts, without prejudice to what is set forth in General Assembly resolution 1803 (XVII);

This text: (1) introduces an arbitrary legal foundation for nationalization measures (‘in order to recover their natural resources’); (2) stipulates unilateral competence to fix the amount of compensation; and (3) provides for dispute settlement through domestic courts exclusively. It is needless to say that this resolution was

\textsuperscript{56} See Paust and Blaustein (1974a and b) and Shihata (1975).

\textsuperscript{57} Rangarajan (1978).
unacceptable to Western and other countries. Yet, on 19 October 1972, the Trade and Development Board adopted it as TDB Resolution 88 (XII).\footnote{UN Doc. TD/B/421, 5 November 1972, adopted by 39 votes in favour, 2 against (Greece, and the USA) and 23 abstentions (16 OECD and 7 developing countries). In paragraph 16 of GA Res. 3041 (XXVII) the General Assembly (121–0–5) would later endorse the paragraph of TDB Res. 88 (XII) relating to PSNR.}

ECOSOC in 1973. During its April–May session in 1973, ECOSOC adopted Resolution 1737 (LIV).\footnote{This was an initiative of Peru, Chile and Venezuela; see UN Doc. E/AC.6/L.483.} As in GA Resolution 3016 (XXVII), this ECOSOC Resolution reaffirms the right of States to permanent sovereignty ‘over all their natural resources, on land within their international boundaries as well as those of the seabed and the subsoil thereof within their national jurisdiction and in the superjacent waters’ (paragraph 1). New elements were that the Resolution emphasizes that exploration and exploitation of such resources are subject to national laws and regulations in each country (paragraph 2) and that suppressing the ‘inalienable right’ of a State to the exercise of ‘full sovereignty over its natural resources, both on land and in coastal waters’ would be a flagrant violation of the UN Charter and relevant resolutions of the General Assembly (paragraph 3). The paragraph even claims that ‘to persist therein could constitute a threat to international peace and security’, one of the circumstances under which, according to Article 39 of the UN Charter, the Security Council can take mandatory action. In paragraph 4 ECOSOC recognizes that:

one of the most effective ways in which the developing countries can protect their natural resources is to promote or strengthen machinery for co-operation among them having as its main purpose to concert pricing policies, to improve conditions of access to markets, to co-ordinate production policies and, thus, to guarantee the full exercise of sovereignty by developing countries over their natural resources.

International institutions are requested to provide developing countries with all possible financial and technical assistance for this purpose. The UK and the USA submitted amendments. The UK attempted to have deleted the phrase ‘and in superjacent waters’ in paragraph 1, to insert the words ‘contrary to international law’ in the anti-coercion/pressure clause and to replace ‘coastal waters’ by ‘territorial waters’ in paragraph 3. The USA proposed to qualify paragraph 4, dealing with the machinery for trade and marketing co-operation among developing countries, with the phrase ‘but not so as to put consumer countries, both developing and developed, in an inferior bargaining position’. Both amendments were rejected and
the draft resolution was adopted. 60 This debate was continued during the 28th session of the General Assembly.

*The General Assembly in 1973*. In 1973 Iceland once again introduced a draft resolution, 61 seeking legitimization of the extension of economic jurisdiction of coastal States over the resources of the sea. As in 1972, Western countries, Eastern European countries and land-, shelf- and zone-locked countries protested. The UK submitted similar amendments as it did during the debates in ECOSOC. However, both in the Second Committee and in the GA Plenary Meeting these amendments were defeated. 62 The Assembly thereupon reaffirmed the inalienable right of States to permanent sovereignty over all their land and marine resources. Iraq, supported by Algeria and Syria, had proposed to insert a radical nationalization paragraph, 63 based on TDB Resolution 88 (XII), in the draft resolution. Much to the dismay of Western countries, this had been accepted by the sponsors as a new operative paragraph 3. Among other things, it ‘strongly’ reaffirmed the inalienable right of States to permanent sovereignty and affirmed that each State, in carrying out nationalization measures, was ‘entitled to determine the amount of possible compensation and the mode of payment, and that any disputes which might arise should be settled in accordance with the national legislation of each State carrying out such measures’. 64 Consequently, it features as paragraph 3 in GA Resolution 3171 (XXVIII). 65 The Resolution also contains an anti-coercion paragraph and endorsed co-operative measures by developing countries to protect their natural resources by concerting pricing policies, improving conditions of access to markets and co-ordinating production policies.

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60 By 20 votes to 2 (Japan and the UK), with 4 abstentions (France, Netherlands, Spain and the USA); *UNYB 1973*, p. 404.


63 *UN Doc. A/C.2/L.1334*.

64 Emphasis added. The Second Committee approved its inclusion by 81 to 11, with 23 abstentions and, subsequently, the Assembly by 86 to 11, with 28 abstentions.

65 This Resolution was adopted by 108 to 1 (UK), with 16 abstentions on 17 December 1973.

On the initiative of the Algerian President Boumédienne, a major Third World leader and President of the Non-Aligned Movement, a special session was convened which for the first time in UN history was exclusively devoted to the problems of raw materials and development. During this Sixth Special Session of the General Assembly, held at Geneva from 9 April to 2 May 1974, the 95 member States working within the framework of the ‘Group of 77’ submitted a draft resolution entitled ‘Draft Declaration on the Establishment of a New International Economic Order’. Its operative paragraph 4 stated the following on PSNR:

The new international economic order should be founded on full respect for the following principles:

e. Every country has the right to exercise permanent sovereignty over its natural resources and economic activities. With this principle in mind:

i. Every country has the right to exercise effective control over its natural resources and their exploitation with means suitable to its own situation, including the right of nationalization or transfer of ownership to its nationals;

ii. The right of all States, territories and peoples under foreign occupation, colonial rule or apartheid, to restitution and full compensation for the exploitation and depletion of, and damages to, the natural resources, as well as the exploitation and manipulation of the human resources of those States, territories and peoples;

iii. Nationalization is an expression of the sovereign right of every country to safeguard its resources; in this connexion, every country has the right to fix the amount of possible compensation and mode of payment, while possible disputes have to be resolved in accordance with the domestic laws of every country.

This principle may be applied according to the national interests and laws of each country. It shall in no way affect the right of all States to conclude, in the free exercise of their sovereign will, agreements consonant with the purposes of the United Nations.

The last part was inserted in an effort to reassure the Western group. In addition, the Group of 77 presented a proposal for a ‘Programme of Action’, which included a Chapter IX on ‘Assistance in the exercise of permanent sovereignty over natural resources’. Section (a) thereof asked for:

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66 See Report A/9556, Part II, pp. 3–4, which reproduces the Draft Declaration contained in UN Doc. A/AC.166/L.47.

67 Ibid., p. 15; Draft Programme of Action contained in UN Doc. A/AC.166/L.47, 30 April 1974.
The adoption of all necessary measures to defeat attempts to counteract the positive effects of the nationalization of foreign property on the economy of developing countries;

These and other proposals were discussed in the Ad Hoc Committee of the Sixth Special Session. At the start of the debate Germany, on behalf of the EEC, proposed that the first sentence of the draft paragraph should be replaced by the following text: ‘Every country has the right to exercise national sovereignty over its natural resources and all domestic activities’. Alternatively, the text could read: ‘Each State enjoys permanent sovereignty over its natural resources, to be exercised in the interest of economic development and well-being of its people’. The subparagraph would then continue:

States endowed with natural resources have the right on grounds of or for reasons of public utility, security or the national interest to dispose of these resources; included therein is the right on such grounds or for such reasons to nationalize, expropriate or requisition them. The sovereignty and rights in question shall be exercised in accordance with the applicable rules of international law, in particular with regard to the payment to the owners of prompt, adequate and effective compensation. The exercise of this sovereignty and these rights shall take account of the requirements and interdependence of the economies of all States and the necessity to contribute to the balanced expansion of the economy.

Since this text posed more restrictions on the exercise of State sovereignty than the 1962 Declaration, it is not surprising that this amendment was not acceptable to developing countries. Some of them (Peru, Brazil, Iran, Tunisia and Argentina) used conciliatory language in explaining their objections, but others referred to ‘attempts of multinational corporations and developed countries to neutralize the effect of nationalization and prevent the countries of the third world from regaining their natural heritage’ (Algeria), and ‘an attempt to obstruct the work of the Committee’ (Libya). France and the USA proposed to avoid substantive debate on this issue in order not to jeopardize the work of the Committee and not to duplicate the work of the Working Group on the Charter of Economic Rights and Duties of States.

On this and other issues, the Committee landed in an impasse. On 1 May 1974 (at 0.15 a.m.), however, the Iranian Chairman of the Ad Hoc Committee introduced, in his own name, two compromise draft resolutions. Without a vote, the Committee adopted his proposals on the understanding that the Group of 77 would not press for a vote. On 1 May 1974 (at 4.15 p.m.), the General Assembly

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68 UN Doc. A/AC.166, SR.6–7, 16 and 17 April 1974.
69 General Assembly, Ad Hoc Committee of the Sixth Special Session, 6th meeting, 16 April 1974, UN Doc. A/AC.166/SR.6, p. 34.
70 See the next section.
adopted the Declaration on the Establishment of a New International Economic Order as GA Resolution 3201 (S-VI) and the Programme of Action on the Establishment of a New International Economic Order as GA Resolution 3202 (S-VI). The provisions of the Declaration as far as relevant to PSNR read:

4. The new international economic order should be founded on full respect for the following principles:

  e. Full permanent sovereignty of every State over its natural resources and all economic activities. In order to safeguard these resources, each State is entitled to exercise effective control over them and their exploitation with means suitable to its own situation, including the right to nationalization or transfer of ownership to its nationals, this right being an expression of the full sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right;

  g. Regulation and supervision of the activities of transnational corporations by taking measures in the interest of the national economies of the countries where such transnational corporations operate on the basis of the full sovereignty of those countries;

  h. Right of the developing countries and the peoples of territories under colonial and racial domination and foreign occupation to achieve their liberation and to regain effective control over their natural resources and economic activities;

The relevant section of Chapter VIII on ‘Assistance in the exercise of permanent sovereignty of States over natural resources’ of the NIEO Action Programme reads:

All efforts should be made:

  a. To defeat attempts to prevent the free and effective exercise of the rights of every State to full and permanent sovereignty over its natural resources;

Although both the NIEO Declaration and the Action Programme were adopted by consensus, most Western nations could not agree with important parts of these Resolutions, in particular those dealing with permanent sovereignty, nationalization, producers’ associations and price indexation. Western countries objected to: (1) the extension of the scope of permanent sovereignty to ‘all economic activities’; (2) the phrase ‘in order to safeguard these resources’ as sufficient ground for exercising full sovereignty, including the right to nationalization and transfer of ownership to nationals; (3) the absence of any reference to compensation for nationalization measures; and (4) the emphasis on restitution and full compensation for the exploitation and depletion of the natural resources of States and peoples under foreign occupation, alien and colonial domination or apartheid. The USA called PSNR ‘the most difficult subject’ which the Declaration addressed. While it recognized the principle as contained in Declaration 1803 (XVII), it was clear that the formulation was neither complete nor acceptable: ‘The governing international
law cannot be, and is not prejudiced by the passage of this resolution’.71 Other industrialized countries, including Germany, Canada, Belgium, France, Australia, Spain, Greece and Denmark, made similar reservations, but they were simply ignored by leading developing countries. For example, Mexico stated:

... we are pleased that the inalienable principle of full permanent sovereignty of States over their natural resources emerges from the Assembly strengthened through the empathetic recognition of certain fundamental rights ... We believe that nationalization in developing countries which are exporters of raw materials is the only way to implement effectively the principle of permanent sovereignty and to exercise real and effective control over natural resources.72

At the closing session Algeria applauded ‘the spirit of moderation which guided the Group of 77’ and ‘the spirit of conciliation which emerged in other groups’. It spoke of an ‘unprecedented’ and ‘genuine consensus’, while for the first time in history the General Assembly worked on the basis of documents prepared by the Third World: ‘The Third World is no fiction. It is a contemporary reality. It is a force, a responsible force’.73 The USA repeated in reply:

The document we have produced is a significant political document, but it does not represent unanimity of opinion in this Assembly. To label some of these highly controversial conclusions as ‘agreed’ is not only idle; it is self-deceiving. In this house, the steamroller is not the vehicle for solving vital, complex problems.74

Other developed countries did not put it so bluntly. For example, the Netherlands’ representative Kaufmann stated that his delegation ‘whole-heartedly joined the consensus’.75 But, in view of the lack of real agreement on the issues dealt with in the NIEO resolutions, he later observed that this was an example of ‘pseudo-consensus’.76

Subsequently, these major controversies were reflected in the debate and vote on the Charter of Economic Rights and Duties of States (CERDS).

71 UN Doc. A/PV.2229, 1 May 1974, p. 8.
72 UN Doc. A/PV.2230, 2 May 1974, p. 11.
73 Ibid., p. 15.
74 UN Doc. A/PV.2229, 1 May 1974, p. 7.
5. The Charter of Economic Rights and Duties of States
(1974)

5.1 Background

During UNCTAD III (1972), President Echeverría of Mexico proposed the drafting of a UN Charter of Economic Rights and Duties of States. The Conference established a Working Group for this purpose.\(^{77}\) Between February 1973 and June 1974 the Working Group held four sessions. Between the third and fourth session, the Sixth Special Session of the General Assembly took place and it had a major impact. The NIEO Action Programme stipulated that the Charter should be adopted during the 29th session of the UNGA. In September 1974, the UNCTAD Board decided to transmit the Working Group report to the General Assembly. On 25 November 1974, its Mexican Chairman, Castañeda, reported to the Second Committee of the General Assembly.\(^{78}\) During the consultations in the Working Group a sub-group had been established to deal with issues of foreign investment, nationalization, permanent sovereignty and regulation of transnational corporations. The outcome was included in Chapter II of the draft Charter.

Castañeda observed that ‘great efforts had been exerted to reach agreement and, in the group considering paragraph 2, attempts had been made to overcome disagreement by using more abstract language. However, the attempt had failed.’ Several alternatives to Article 2 had indeed been submitted, but none of them could obtain support from all groups of countries. Subsequently, on 21 November 1974, 90 members of the Group of 77 submitted a draft text.\(^{79}\) A group of 14 Western countries submitted a series of amendments on Article 2 of this draft, including far-reaching ones.\(^{80}\) In the course of the debate the Group of 77 issued a revised version,\(^{81}\) but this text was no more successful in taking away the objections raised by Western countries.

On 5 December 1974, the EEC countries submitted their own draft resolution, asking the General Assembly to take into account the considerable progress already achieved but also to note that some controversial points remained. Therefore, it requested the Working Group to continue its efforts with a view to sub-

\(^{77}\) UNCTAD Res. 45 (III), adopted on 18 May 1972 by 90 votes to none, with 19 abstentions.


\(^{80}\) UN Doc. A/C.2/L.1404, 3 December 1974. The group of 14 consisted of Australia, Belgium, Canada, Denmark, France, FRG, Greece, Ireland, Italy, Japan, Luxemburg, Netherlands, UK and USA.

mitting a complete and generally acceptable draft Charter to the Seventh Special Session of the General Assembly, devoted to development and international economic co-operation and scheduled for September 1975.\textsuperscript{82} However, on behalf of the Group of 77, Mexico pointed out that there was a real danger that any delay, instead of reconciling views, would cause even greater divergence and a hardening of positions:

While the third world countries were always prepared to exert every effort to achieve consensus, consensus was not an end in itself; the objective was to secure agreement on the substance of the Charter provisions. Consequently, the sponsors of the draft resolution rejected all attempts to use the pretext of consensus to disguise the ambitions of a minority which sought to impose their views on the overwhelming majority of Member States.\textsuperscript{83}

Hence, the EEC countries’ draft was rejected.\textsuperscript{84} Thus, a confrontation between the OECD countries and the Group of 77 became unavoidable. In the Second Committee as many as 73 separate votes took place. At the request of the USA, all votes taken were recorded. Eventually, all amendments were rejected and on 6 December 1974 the Second Committee adopted the draft as a whole by 115 votes to 6, with 10 abstentions, followed on 12 December 1974 by the Assembly with a similar vote: 120 votes to 6, with 10 abstentions, thereby adopting the Charter of Economic Rights and Duties of States as GA Resolution 3281 (XXIX).\textsuperscript{85} The 16 States abstaining were all industrialized countries. Australia, Greece, Finland, New Zealand, Sweden and Turkey were the only OECD countries supporting it.\textsuperscript{86}

5.2 Article 2 of CERDS

Basic provision on permanent sovereignty

The text of the Group of 77 reads as follows:

Every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities.

\begin{itemize}
\item \textsuperscript{82} UN Doc. A/C.2/L.1419, 5 December 1974.
\item \textsuperscript{83} UN Doc. A/C.2/SR.1647, 6 December 1974, p. 433, para. 12.
\item \textsuperscript{84} By 81 votes to 20, with 15 abstentions; 6 December 1974.
\item \textsuperscript{85} The six countries voting against were: Belgium, Denmark, FRG, Luxembourg, UK and USA.
\item \textsuperscript{86} Thus the finding by Chatterjee (1991: 672), that ‘Except for Australia, none of the developed States cast a vote in favour of the Resolution’ is obviously incorrect. In addition, all countries of Eastern Europe voted in favour.
\end{itemize}
Western countries noted a contradiction between the mandatory character (‘shall’) and the right to ‘freely exercise full sovereignty’ and also objected to the considerable extension of the scope of PSNR by including ‘wealth’ in general (previously only ‘natural wealth’) and ‘economic activities’. Hence, the 14 developed countries proposed the following alternative text: ‘Every State has permanent sovereignty over its natural wealth and resources and has the inalienable right fully and freely to dispose of them’. The Second Committee rejected this alternative and adopted the Group of 77 text.

Regulation and treatment of foreign investment

In his report on the work of the Working Group, Castañeda pointed out:

... the Group B countries considered that, if a State accepted foreign investment under certain conditions and concluded an agreement with the investing company, that agreement should be fulfilled in good faith. The countries of the Group of 77 did not deny the general duty of all States to fulfil their obligations, but considered that such agreements were not international agreements, since they were not concluded between States and were therefore governed by the domestic law of the State concerned. They did not have international status, because private companies were not subjects of international law. The developing countries refused to accept the formula... because they felt that it would be tantamount to conferring an international status on such companies and making the bond between the company and the State a bond of international law. Disagreement on that issue was radical.

The Group of 77 proposed the following text on the rights of States to regulate foreign investment:

2. Each State has the right:

a. To regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investment;

b. To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, co-

88 By 87 votes to 16, with 11 abstentions.
89 By 119 votes to 9, with 3 abstentions.
operate with other States in the exercise of the right set forth in this subparagraph;

Through a joint amendment\textsuperscript{91} Western countries submitted an alternative text for this paragraph:

2. Each State has the right:

\begin{itemize}
  \item[a.] To enact legislation and promulgate rules and regulations, consistent with its development objectives, to govern the entry and activities within its territory of foreign enterprises;
  \item[b.] To enter freely into undertakings relating to the import of foreign capital which shall be observed in good faith;
  \item[c.] To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply fully with its laws, rules and regulations and conform with its economic and social policies. Every State shall ensure that transnational corporations enjoy within its national jurisdiction the same rights and fulfil the same obligations as any other foreign person. Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, co-operate with other States in the exercise of the rights set forth in this subparagraph;
\end{itemize}

Many elements in this text are more or less similar to provisions of Resolutions 1803 (XVII) and 2158 (XXI), especially on the issues of investment agreements and the principle of fulfilment in good faith of international obligations. New elements are the injunction for transnational corporations not to intervene in the internal affairs of a host State and the duty to co-operate. But it was rejected.\textsuperscript{92} This is not to say that all developing countries took the same position. For example, Jordan reiterated the view that ‘a reasonable balance should be maintained between the overriding consideration of sovereignty and the national independence and welfare of States, particularly developing States, on the one hand and the pragmatic consideration of encouragement of foreign investment on the other’. Therefore, foreign investors ‘must be given sufficient guarantees, derived from the spirit of international law and international co-operation’. Likewise Afghanistan, Fiji, Indonesia, Iran, Kuwait, Malaya, Singapore and Thailand referred to the useful role foreign investors can play in the development of their economies, stressing the need for a favourable investment climate, although this should be in conformity with their national objectives and priorities.

The Canadian representative explained his position with regard to ‘privileged treatment’ of foreign investors and the right to grant diplomatic protection:

\begin{footnotesize}
\begin{itemize}
  \item[91] UN Doc. A/C.2/L.1404, 3 December 1974.
  \item[92] By 87 votes to 19, with 11 abstentions.
\end{itemize}
\end{footnotesize}
It is not the view of my Government that Canadian investors should occupy a privileged position in the economies of the countries in which they invest. But it is our view that, when a host State takes measures against foreign investment, it should not discriminate against Canadian foreign investment in relation to foreign investment from other sources, and the measures which it applies to all foreign investment should be in accordance with its international obligations. If either of those requirements were not met, my Government would feel it was entitled to raise the matter with the Government of the host state and to rely on any relevant principles of international law. We could not consider this as constituting a demand for preferential treatment, but we are not at all confident that all the sponsors of the text share this view.93

Australia observed that it did not regard the provisions of Article 2.2(a) as ‘in any way prejudicing the right of a State to extend consular protection on behalf of its investors’.94 For these reasons the industrialized countries wished to add a new paragraph, reading:

3. States taking measures in the exercise of the foregoing rights shall fulfil in good faith their international obligations.

They made clear that they considered this an essential condition for their willingness to go along with other parts of the Charter. As the UK stated:

In the absence of any provision making clear that States were under a duty to fulfil their international obligations in good faith, no part of the article was acceptable to this delegation.95

However, in the Second Committee the amendment was rejected.96 What remained was merely a general reference to the principle of ‘Fulfilment in good faith of international obligations’97 in draft Chapter I entitled ‘Fundamentals of International Economic Relations’.

Expropriation, nationalization and compensation

Every delegation taking part in this debate recognized that each State had the sovereign right to nationalize or expropriate foreign property. However, the views of industrialized and developing countries differed widely on the question under which conditions a State could legitimately exercise this right. As Castañeda re-

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96 By 71 votes to 20, with 18 abstentions; UN Doc. A/C.2/SR. 1648, p. 438, para. 3.
97 Sub-paragraph (j) of Chapter I, adopted by 130 votes to none; UN Doc. A/C.2/SR. 1648, 6 December 1974, p. 438, para. 18.
called, there had been ‘differences of opinion on the matter for over a century’.98

The nationalization paragraph in the text of the Group of 77 read:

Each State has the right:

c. To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.

The Group of 14 industrialized countries proposed replacing this sub-paragraph by the following text:

d. To require, expropriate or requisition foreign property for a public purpose, provided that just compensation in the light of all relevant circumstances shall be paid;

This text would reconfirm ‘a public purpose’ as a condition for nationalization, while the text of the Group of 77 did not stipulate any condition. As far as the duty to pay compensation was concerned, the Western proposal reflected a remarkable deviation from the traditional triple standard (‘prompt, adequate and effective compensation’) as well as from the Resolution 1803 formula of ‘appropriate compensation in accordance with the rules in force in the State taking such measures . . . and in accordance with international law’. Even so, there was no room left for further compromise. As Castañeda put it:

The developing countries maintained that compensation should be fixed in accordance with the law of the expropriating State. The Group B countries maintained that, while the domestic law of each country played a decisive role, if the solution imposed by that law in the setting of compensation did not satisfy certain international standards international law should be applicable. In that context they understood international law to include generally accepted practice as well as bilateral or multilateral agreements concluded by the expropriating country. Among such generally accepted practice, they included the payment of ‘prompt, adequate and effective compensation’—the almost ritual formula of jurists in those countries, particularly the common law-countries. The countries of the Group of 77 denied the existence of generally accepted practice on that issue, since the legal precedents and the opinions differed too widely for there to be any real international custom.99

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99 Ibid.
In the course of the debate in the Second Committee, the Group of 77 was willing to make one minor change only, namely to replace the words ‘provided that all relevant circumstances call for it’ by ‘taking into account its relevant laws and regulations and all circumstances that the State considers pertinent’.\footnote{UN Doc. A/AC.2/L.1386/Corr. 6, 5 December 1974.} While at first glance this could perhaps have been interpreted as not explicitly denying a duty to pay compensation, diverging interpretations existed among developing countries. On the one hand, it was the view of Mexico that this provision meant that in such cases the State ‘should undertake to pay appropriate compensation’ which ‘is such an important principle for Mexico that we have inscribed it in our Constitution and our laws’.\footnote{Official Records 2315th meeting General Assembly, 12 December 1974, p. 1377, para. 162.} But according to Cuba it allowed for:

> the possibility that after study a State might decide that compensation was inappropriate because of such items as tax debts or excessive profits, or national strategic requirements.\footnote{UN Doc. A/C.2/SR. 1638, 25 November 1974, p. 384, para. 8.}

Therefore, the developed countries insisted on an unambiguous acceptance of their view that a valid exercise of the right to nationalize requires payment of compensation. As Australia stated: ‘... any act of nationalization should be accompanied by the payment of just compensation, without undue delay, to be determined where necessary through recourse to internationally agreed procedures for the settlement of disputes.’\footnote{UN Doc. A/C.2/SR. 1650, 9 December 1974, p. 450, para. 15.} And Canada added:

> ... my delegation is unable to accept a text which seeks to establish the principle that a State may nationalize or expropriate foreign property without compensation—in effect, confiscate such property.\footnote{Official Records 2315th meeting General Assembly, 12 December 1974, p. 1374, para. 126.}

Eventually, the text of the Group of 77, as revised, was adopted by 104 votes to 16, with 6 abstentions.

**Settlement of disputes**

The discussions on the dispute settlement clause were also difficult and proved to be a major stumbling block. Article 2.2(c) of the draft Charter of the Group of 77 read:

> In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribu-
nals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.

All Group B countries opposed this text and, through the 14-nations amendment, the following text was put forward:

\[ \text{e. To require that its national jurisdiction be exhausted in any case where the treatment of foreign investment or compensation therefore is in controversy, unless otherwise agreed by parties;} \]

\[ \text{f. To settle disputes where so agreed by the parties concerned through negotiation, good offices, inquiry, fact-finding, conciliation, mediation, arbitration or judicial settlement, on the basis of the principles of sovereign equality of States and free choice of means.} \]

However, this amendment was rejected and the G-77 text was adopted. Latin American countries expressed their traditional position. As Mexico put it:

\[ \text{. . . it should be the internal legal order which established the procedures and means of compensation. What is not to be tolerated, and what the overwhelming majority of countries have therefore completely rejected, is that instead of or in addition to the national legal system, other bodies or extra-national procedures should be called on to rule on what a State should do in such cases. To accept such a system as binding would be to place States on an equal legal and political footing with foreign corporations, and that would mean that those corporations would receive nothing more or less than the treatment which should be reserved solely for States.} \]

However, some other developing countries seemed to disagree. Kuwait stated that it:

\[ \text{. . . was not at ease with the formulation of Article 2 concerning the role of local tribunals in the settlement of disputes over the nature of compensation. In that connexion, its interpretation was that Article 2, paragraph 2(c) did not in any manner affect the provisions of agreements concluded bilaterally between the recipients of capital and its suppliers.} \]

Similarly, Singapore announced that it would continue to adhere to the provisions of the Convention establishing the International Centre for the Settlement of Investment Disputes (ICSID) and other multilateral and bilateral treaty obligations, while Indonesia emphasized that this paragraph still gave States a flexibility to

\[ \text{105 UN Doc. A/C.2/L.1404, 3 December 1974.} \]

\[ \text{106 Official Records General Assembly, 2315th meeting, 12 December 1974, pp. 1377–78, para. 162.} \]

\[ \text{107 UN Doc. A/C.2/SR. 1642, 2 December 1974, p. 411, para. 40.} \]
seek the settlement of disputes arising from nationalization and the awarding of compensation by peaceful means other than through national tribunals.

Sweden represented the view of the developed countries:

. . . in cases where national means of justice have been exhausted and the result of that process still appears unsatisfactory to a foreign State, there exists a dispute on the international level, a dispute which in the view of the Swedish delegation should be settled by an international court. 108

At first glance the text of CERDS is not at all flexible in this respect. While GA Resolution 3171 (XXVIII) still stated that ‘any disputes which might arise should be settled in accordance with the national legislation’, Article 2.2(c) uses terms such as ‘in any case’ and ‘shall be settled’ 109 under domestic law and by domestic tribunals, unless it is mutually agreed by all States concerned 110 that other peaceful means be sought. Moreover, the CERDS dispute settlement clause provides, in contrast with paragraph 4 of Resolution 1803 (‘sovereign States and other parties concerned’) and the ICSID Convention, no locus standi for non-State entities as proposed by the Group B countries (‘the parties concerned’). At second glance the differences may be more apparent than real since neither instrument contemplates international arbitration or adjudication in the absence of an agreement between the parties to the dispute and international means of dispute settlement can thus come within the purview of ‘the principle of free choice of means’ as it is in Article 2.2(c), subject to agreement by all States concerned. Yet, from the travaux préparatoires it appears that, at least at the time of adoption of CERDS, resort to such means was strongly repudiated.

Other relevant articles of CERDS

Several other provisions of CERDS are relevant from a PSNR perspective. As mentioned above, Chapter I mentions a number of ‘fundamentals of international economic relations’, including: (i) Making good injustices which have been brought about by force and which deprive a nation of the natural means necessary for its normal development; (j) Fulfilment in good faith of international obligations; and (n) International co-operation for development. Article 1 deals with the sovereign right of every State to choose its own economic and political system without outside interference, coercion or threat. Article 3 provides that in the exploitation of natural resources shared by two or more countries, ‘each State must co-operate on the basis of a system of information and prior consultations in order to achieve optimum use of such resources without causing damage to the le-


109 Emphasis added.

110 It is unclear which States, other than the host State and home State, are referred to here.
The question of the legal regime for shared resources proved to be a most difficult one, since in the view of some States it could infringe on the permanent sovereignty of States over their natural resources and the ensuing right of every State to the free use of those resources. The sensitivity and disagreement involved, notably amongst developing countries, was reflected in the voting record on Article 3: 100 votes to 8, with 28 abstentions, the only example of an article or part thereof being adopted with more than 17 abstentions.

Article 5 sets out the right of all States to associate in organizations of primary commodity producers such as OPEC in order to develop and achieve stable development financing. All States should refrain from applying economic and political pressures that would limit that right. Needless to say, the Western countries were not in favour of this particular article, but their effort to have it deleted failed. Article 6 could be interpreted as counter-balancing Article 5 in so far as it deals with the duty of States to contribute to the development of international trade, particularly by the conclusion of long-term multilateral commodity agreements, where appropriate, taking into account the interests of producers and consumers. Article 16 formulates the rights of oppressed countries, territories and peoples to restitution and full compensation for the depletion of, and damages to, their natural and all other resources. Twelve OECD countries tried to have this Article removed, but their amendment was rejected.

Article 30 calls upon all States to be responsible for the preservation of the environment and in Article 31 the UNGA determines that it is the duty of each State to contribute to the balanced expansion of the world economy, adding that the prosperity of the international community as a whole depends upon the prosperity of its constituent parts. In Article 32 the Assembly stipulates: ‘No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights’. Finally, Article 33 provides that, in their interpretation and application, the provisions of the Charter are inter-related and that each provision should be construed in the context of other provisions. Thus, Article 2 should be interpreted in the light of provisions such as those of Chapter I, sub (j) and Article 31.

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111 Including Afghanistan, Bolivia, Brazil, Ecuador, Ethiopia, Paraguay and Turkey.


113 UN Doc. A/C.2/L. 1411, 3 December 1974. Rejected by 98 votes to 17, with 8 abstentions.
5.3 Follow-up Measures

It is remarkable that in subsequent years there was so little reaction within the UN system to the provisions on permanent sovereignty in CERDS. In fact, the last echo of the discussion on controversial elements in Article 2 were heard during the Second General Conference of the United Nations Industrial Development Organization (the UNIDO II Conference), held in Lima in March 1975. The Lima Declaration and Plan of Action on Industrial Development and Co-operation provides:

That every State has the inalienable right to exercise freely its sovereignty and permanent control over its natural resources, both terrestrial and marine, and over all economic activities for the exploitation of these resources in the manner appropriate to its circumstances, including nationalization in accordance with its laws as an expression of this right, and that no State shall be subjected to any forms of economic, political or other coercion which impedes the full and free exercise of that inalienable right.  

UNIDO II’s document also states that ‘the effective control over natural resources and the harmonization of policies for their exploration, conservation, transformation, and marketing, constitute for developing countries an indispensable condition for economic and social progress’ (para. 34) and it points out that the principles set out in CERDS should be fully implemented.

The basic conceptual differences between industrialized and developing countries narrowed considerably in subsequent years and a new spirit of constructive co-operation emerged. In 1975, the Seventh Special Session of the UN General Assembly unanimously adopted Resolution 3362 (S-VII) on Development and International Economic Co-operation, which reinforced and specified the DD II strategy, also in the light of the NIEO resolutions. This time a real consensus emerged on the most important items. It is noteworthy that such terms as ‘permanent sovereignty’ and ‘nationalization’ do not occur at all in this Resolution. They are also absent in UNCTAD IV’s Integrated Programme for Commodities, aimed at a global commodity policy through the conclusion of individual commodity agreements and the establishment of a Common Fund for Commodities.

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114 This paragraph 32 was adopted by 70 votes in favour, 10 against and 11 abstentions, while the Lima Declaration and Plan of Action as a whole was adopted by 82 to none, with 7 abstentions.

115 This paragraph was adopted by 72 votes in favour, 5 against and 14 abstentions.

116 See the preamble and UNYB 1979, pp. 329–47.

117 UNCTAD Res. 93 (IV), 30 May 1976.
During the second half of the 1970s, little action was taken to effectuate the commitments. The transfer of the focus of action from the United Nations to the 27-nation Conference on International Economic Co-operation (the Paris-based ‘North-South dialogue’, 1975–77) led to few concrete results.

Although numerous resolutions adopted after 1974 have referred to the NIEO resolutions and, for some years after 1976, the Sixth (Legal) Committee included an item called ‘The Progressive Development of the Principles and Norms of International Law Relating to the Establishment of a New International Economic Order’ in its agenda, it became obvious that CERDS had not gained any real legal significance and certainly had not succeeded in establishing ‘generally accepted norms to govern international economic relations systematically’, let alone ‘a just order and stable world’, in which ‘the rights of all countries and in particular the developing States’ are duly protected.

Similarly, negotiations on a comprehensive UN Code of Conduct on Transnational Corporations, initiated in 1977, were impeded by the fading appeal of the NIEO resolutions. It was impossible to complete these negotiations due to continuing disagreement on, among other things, controversial aspects of the principle of PSNR, albeit that agreement has been reached on a general paragraph reading ‘Transnational corporations shall respect the national sovereignty of the countries in which they operate and the right of each State to exercise its permanent sovereignty over natural resources’.


In the mid-1970s an increasing number of developing countries became concerned with investment problems. As a result of the world-wide economic recession and the ‘risky’ political climate in developing countries, there was an actual decrease of foreign investment in natural resource projects. Similarly, the high debt burden of developing countries and the frequency of debt rescheduling discouraged both public and commercial financial institutions from providing money for new projects. Furthermore, the prices of many mineral and other commodities remained at low levels. In this changing climate, previously neglected UN initiatives for multilateral development assistance for the exploration of natural resources were wel-

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119 See preamble UNCTAD Res. 45-III which initiated the drafting of CERDS.

120 Paragraph 7 of the proposed text of the Draft Code of Conduct on Transnational Corporations (Chairman’s text) as contained in UN Doc. E/1990/94. See also Chapter 6, section 6.3.1.
comed and various institutional arrangements were made for this purpose. Similarly, attention was paid to the question how to promote foreign investment in the natural resource sector of developing countries in line with their priorities.

6.1 Development Assistance for Exploration of Natural Resources

In the 1960s efforts to increase international assistance to developing countries in the field of the exploration and exploitation of their natural resources were begun. The International Development Strategy for DD II contains an interesting paragraph on this, namely Paragraph 74 which provides:

Full exercise by developing countries of permanent sovereignty over their natural resources and economic activities will play an important role in the achievement of the goals and objectives of the Decade. Developing countries will take steps to develop the full potential of their natural resources. Concerted efforts will be made, particularly through international assistance, to enable them to prepare an inventory of natural resources for their more rational utilization in all productive activities.

Similarly, GA Resolutions 2692 (XXV) and 3167 (XXVIII) addressed this problem. It was also regularly discussed in ECOSOC and its Committee on Natural Resources. However, it took a number of years before the General Assembly adopted specific resolutions on this issue. In 1977, the Assembly reaffirmed that ‘the effective discovery, exploration, development and conservation of their natural resources by developing countries is indispensable to the mobilization of their resources for development’. It requested the Secretary-General to prepare a report, with the assistance of an expert group, on: (a) the financial requirements over the next ten to fifteen years for the exploration and location of natural resources in developing countries; (b) the availability of multilateral mechanisms for the provision of adequate finance for the exploration of natural resources with special reference to the availability of soft loans with an element of subsidy for developing countries; and (c) the availability of mechanisms for the transfer of technology for this purpose to developing countries. During its next session, the Assembly recognized the need to ensure an adequate flow of investment into the natural resource sector in developing countries, in particular from the industrialized countries. It requested several UN organs, including the Secretariat, ECOSOC, UNDP and the World Bank to assist developing countries for this purpose within the field of their competence, for example, by undertaking assessment missions, financing natural resource projects and promoting transfer of technology in the

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121 Para. 74 of GA Res. 2626 (XXV), 24 October 1970.

122 UN Doc. A/RES/32/176, 19 December 1977, adopted by 130 votes to none, with 8 abstentions.
natural resource field.\textsuperscript{123} For many years ECOSOC biannually adopted resolutions relating to PSNR.

6.2 UN Revolving Fund for Natural Resources Exploration

In the early 1960s, the United Nations became involved in projects for natural resource exploration in developing countries, but these were initially fairly limited due to a lack of financial means. In order to streamline and extend the activities within the UN system to meet the need for increased natural resource exploration in developing countries, the UN Secretariat and subsequently an Intergovernmental Working Group put forward proposals to establish a special fund for such activities, to be financed by money generated from successful projects.\textsuperscript{124} Three years of intensive negotiations followed in ECOSOC. Some countries (including Chile and Peru) felt that it was too radical a departure from standard UN assistance procedures to introduce the ‘royalty’ concept in the UN development system. They preferred developing countries to repay a ‘loan’ when a project proved to be successful. Some Western countries had serious doubts as to whether the developing countries would be able to make any repayments to the Fund. But in 1973, upon the recommendation of ECOSOC,\textsuperscript{125} the General Assembly decided to establish the United Nations Revolving Fund for Natural Resources Exploration.\textsuperscript{126} The Fund was to be financed from voluntary contributions, donations in cash and kind, payments by recipient States equal to a percentage of the value of the natural resources produced under Fund-assisted projects.

\textsuperscript{123} UN Doc. A/RES/33/194, 29 January 1979, adopted without a vote.


\textsuperscript{125} ECOSOC Res. 1762 (LIV) of 18 May 1973, adopted by 17 votes to none, with 9 abstentions.

\textsuperscript{126} GA Res. 3167 (XXVIII). Adopted with 106 to none, with 18 abstentions, on 17 December 1973. The Fund is one of the special purpose funds, placed in the charge of the UN Secretary-General and administered by the UNDP. The main purpose of the Fund is to provide financial assistance to participating developing countries for exploration of potential commercially-exploitable mineral resources, water and energy resources under national jurisdiction. For this purpose the Fund seeks and utilizes voluntary contributions and funds generated through the exploitation of these resources discovered or developed with the assistance of the Fund. The Fund may give assistance in all phases of exploration, which may include preparation for requests for assistance from the Fund, exploration of natural resources, and pre-investment studies including feasibility studies. The operational procedures provide that, if commercial exploitation follows successful exploration financed by the Fund, the country concerned has to provide 2 per cent of the annual net benefits to the Fund for 15 years. Its revolving nature is an essential characteristic of the Fund.
Over the years the UN Revolving Fund has had to face many difficulties due to, *inter alia*, limited voluntary contributions and depressed commodity prices. Nonetheless, it has been able to play a useful role in generating a number of successful projects, mostly in the field of exploration of solid minerals and geothermal energy. In 1991, the Fund began receiving the first ‘replenishment’ payments following a successful project involving a large chromium deposit in the Philippines.\textsuperscript{127} It should be noted that the ECOSOC Resolution 1762 (LIV) of 1973 provides that ‘the Fund shall be guided by the principles of the Charter of the United Nations duly taking into account the principle of permanent sovereignty of States over their natural resources’ (para. 1 (f)).

**6.3 ECOSOC Committee on Natural Resources**

In 1970, the Committee on Natural Resources was established as a standing committee of ECOSOC. It replaced the *ad hoc* Committee on the Survey Programme for the Development of Natural Resources. Originally, the Committee had 27, subsequently 38 and, from 1972, 54 members, elected by ECOSOC on the basis of equitable geographical distribution. According to ECOSOC Resolution 1535 (XLIX) the terms of reference of the Committee include, ‘with due respect for the concept of sovereignty of every nation’, assistance to ECOSOC in the planning, implementation and co-ordination of activities within the UN system for the development of natural resources and the making of recommendations to governments and bodies in the UN system such as the UNDP on appropriate priorities concerning their exploration and exploitation.\textsuperscript{128}

The Committee dealt extensively with the principle of PSNR: it was expected ‘to help in the formulation of policy guidance to enable developing countries to maximize benefits that could be derived from the optimum exploration and exploitation and full use of their natural resources’.\textsuperscript{129} It was decided to have a periodic report on the advantages derived from the exercise of this principle, with particular reference to ‘the impact of such exercise on the increased mobilisation of resources, especially of domestic resources, for their economic and social development, on the outflow of capital therefrom as well as on transfer of technology’.\textsuperscript{130}


\textsuperscript{128} Oper. para. 4. On 27 July 1970, ECOSOC Res. 1535 (XLIX) was adopted by 20 votes to 2, with 3 abstentions. It is notable that the preamble only refers to GA Res. 626 and not to GA Res. 1803 (XVII) and 2158 (XXI).

\textsuperscript{129} Committee on Natural Resources, Report on its First Session, 1971, *UN Doc.* E/C.7/13, p. 4, para. 4.

\textsuperscript{130} Ibid.; see para. 5 of GA Res. 2692 (XXV).
Throughout the years the principle has remained an important element of the work of the Committee. During the initial period, in the wake of GA Resolutions 2692, 3016, 3171 as well as the NIEO resolutions of 1974, the debate on many issues was marked by a rather ideological undertone; this applied to issues such as nationalization and compensation, extending exclusive economic jurisdiction over sea areas and marine resources as well as permanent sovereignty over natural resources in territories under occupation, colonial domination and apartheid.

Simultaneously, the Secretariat undertook fact-finding and reporting on current developments in the hard mineral and oil sectors of developing countries and on noticeable trends in national legislation, joint ventures, service agreements, government ownership and the control of natural resource ventures in developing countries, transfer of technology, and the role of producers’ associations and technical co-operation among developing countries.

On the basis of biannual Secretariat reports, the Committee discussed trends in investment legislation, including investment incentives, taxation, customs and foreign exchange legislation, as well as trends in legal and economic arrangements between mineral-producing developing countries and transnational corporations. It often reviewed the role played by transnational corporations in the mining sector and the extent to which they undermined efforts of developing countries to exercise effective control over natural resources and economic activities in their territory. The Committee also discussed issues such as: renegotiation of contracts as a more flexible way of adapting long-term contracts to changing conditions than nationalization; and experience with State mining enterprises, including their internal organization, economic and financial autonomy, the applicable tax régime and mechanisms to improve their efficiency.

The strengthening of indigenous capabilities of developing countries in the resource field to make optimum economic use of their natural resources and the promotion of investments in line with basic priorities, such as local industrialization of the exploitation of natural resources, featured as a central topic. The Committee also discussed: co-operation in mineral development between centrally planned economies and developing countries; possibilities for economic and technical co-operation among developing countries; the extension of natural resource-related information and advisory services provided by the UN Secretariat to developing countries; the linkage between pricing, import barriers and indebtedness of coun-


tries; and access of producing countries to technology and to the markets of industrialized countries.

From more recent reports one can infer the Committee’s increasing concern with means of attracting foreign investment and new techniques, including remote sensing, for natural resource exploration and assessment. Moreover, in 1989 and 1991 a debate was initiated on the relationship between permanent sovereignty over natural resources, sustainable development and global environmental concerns as well as on international mechanisms for transfer of new, clean technology mitigating environmental consequences.

In the course of the effort to restructure the economic and social sector of the United Nations, the mandate of the Committee was terminated in 1992. However, a new Committee on Natural Resources was established, which is quite different from its predecessor. It has a more restricted mandate pertaining to non-energy minerals and water resources only and is composed of 24 government-nominated experts instead of government officials. At its first meeting in 1993, the Committee paid considerable attention to the link between integrated management of water, land and minerals, and sustainable development. It recommended that ECOSOC give the Committee the opportunity to advise the UN Commission on Sustainable Development, which had been established by ECOSOC in February 1993 as an institutional follow-up to the Rio Conference on Environment and Development.

The Committee discussed a Secretariat report which reviewed current developments and trends with respect to the exercise of permanent sovereignty, with particular attention to sustainable development. The report noted ‘a progressive reduction in the bargaining power’ of mineral-exporting developing countries, as a result of global recession and successful conservation measures. It referred to the difficulties of attracting foreign investment in an increasingly competitive investment climate and the new awareness of both industrialized and developing countries that certain standards regarding environmental protection had to be met. With

136 Its mandate with respect to energy was taken over by the reconstituted Committee on New and Renewable Sources of Energy and on Energy for Development; see UNYB 1992, p. 655 and p. 659.
138 See the next chapter.
139 UN Doc. E/C.7/1993/2.
respect to water management, and the exercise of permanent sovereignty, the report repeated the findings of earlier ones, namely that national sovereignty had to be balanced against international obligations and the integrated development of international watercourse systems.

The Committee reaffirmed the important link between the principle of PSNR and sustainable development, but took the view that the application of the principle in the area of mineral and water resources could not be separated from other issues related to sustainable development and management of water and mineral resources. Hence, the Committee recommended to ECOSOC that ‘the issue of permanent sovereignty over mineral and water resources no longer be included in the agenda of its future sessions’. It suggested that the Committee could instead deal with specific aspects of this issue under other items relevant to the development of mineral and water resources. It is quite likely that ECOSOC will agree with these recommendations. Probably this implies that ‘permanent sovereignty over natural resources’ after 40 years will no longer feature as a separate item on the ECOSOC agenda.

Table 3.1  General Assembly Resolutions on PSNR after 1962

<table>
<thead>
<tr>
<th>GA Resolution</th>
<th>Date of Adoption</th>
<th>Voting Record</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>2158 (XXI)</td>
<td>25 Nov 1966</td>
<td>104 (95%):0:6</td>
<td>Permanent Sovereignty over Natural Resources</td>
</tr>
<tr>
<td>2386 (XXIII)</td>
<td>19 Dec 1968</td>
<td>94 (91%):0:9</td>
<td>Permanent Sovereignty over Natural Resources</td>
</tr>
<tr>
<td>2692 (XXV)</td>
<td>11 Dec 1970</td>
<td>100 (92%):6:3</td>
<td>Permanent Sovereignty over Natural Resources of Developing Countries and Expansion of Domestic Sources of Accumulation for Economic Development</td>
</tr>
<tr>
<td>3016 (XXVII)</td>
<td>18 Dec 1972</td>
<td>120 (85%):0:22</td>
<td>Permanent Sovereignty over Natural Resources of Developing Countries</td>
</tr>
<tr>
<td>3171 (XXVIII)</td>
<td>17 Dec 1973</td>
<td>108 (86%):1:16</td>
<td>Permanent Sovereignty over Natural Resources</td>
</tr>
<tr>
<td>3201 (S-VI)</td>
<td>1 May 1974</td>
<td>Adopted without vote</td>
<td>Declaration on the Establishment of a New International Economic Order</td>
</tr>
<tr>
<td>3202 (S-VI)</td>
<td>1 May 1974</td>
<td>Adopted without vote</td>
<td>Programme of Action on the Establishment of a New International Economic Order</td>
</tr>
<tr>
<td>3281 (XXIX)</td>
<td>12 Dec 1974</td>
<td>120 (88%):6:10</td>
<td>Charter of Economic Rights and Duties of States</td>
</tr>
<tr>
<td>32/176</td>
<td>19 Dec 1977</td>
<td>130 (94%):0:8</td>
<td>Multilateral Development Assistance for the Exploration of Natural Resources</td>
</tr>
<tr>
<td>33/194</td>
<td>29 Jan 1979</td>
<td>Adopted without vote</td>
<td>Multilateral Development Assistance for the Exploration of Natural Resources</td>
</tr>
</tbody>
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