E

UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

Distr.
GENERAL

E/CEPAL/G.1247
24 August 1983

ENGLISH
ORIGINAL: SPANISH

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Economic Commission for Latin America

REPORT OF THE SEMINAR ON TRANSNATIONAL CORPORATIONS AND CENTRAL AMERICAN DEVELOPMENT

(San José, Costa Rica, 20 to 27 October 1982)

83-5-793

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I. BACKGROUND

The importance of and need for co-operation with the governments of the developing countries in their relations with transnational corporations has been fully recognized in international forums, and was the reason for the creation of the United Nations Centre on Transnational Corporations in November 1975. Among the functions of the Centre, one of its basic and permanent responsibilities will be to expand the negotiating capacity of the host countries with transnational corporations, on the basis of research activities, the development of an information system and the provision of technical co-operation to the countries.

One of the aspects which has raised the greatest interest among the developing countries has been the possibility of training government officials in areas relating to the presence and operation of transnational corporations in those countries.

In this spirit, the Economic Commission for Latin America (ECLA) and the United Nations Centre on Transnational Corporations (CTC) have agreed to hold a seminar for appraising the influence of transnational corporations on Central American development.

II. OBJECTIVES

The main purpose of the seminar was to increase the understanding of government officials in charge of formulating and implementing policies connected with the participation of foreign capital in the economy of the countries of the region, especially with transnational corporations, concerning a wide range of topics relating to the presence and activities of those corporations in the region. It was sought in this way to help strengthen the negotiating capacity of the countries with transnational corporations.

III. PARTICIPATION

High officials from the following countries participated in the seminar: Costa Rica, El Salvador, Guatemala, Honduras and Panama. The seminar was also attended by observers from the following institutions: the Costa Rican Development Corporation (CODESA), the Latin American Institute for the Prevention of Crime and Treatment of Delinquents (ILANUD), the Central American Institute of Public Administration (ICAP) and the Office of the Controller-General of the Republic of Nicaragua.*/

*/ See list of participants in annex 1.

IV. CONTENT OF THE SEMINAR

The seminar took place over 12 working sessions, six of which had the purpose of harmonizing the participants' knowledge of the current problems of the region, both economic and social, and of the presence and impact of transnational corporations in Latin America. A closing ceremony held on 27 October concluded the seminar.*/

The participants had before them working documents prepared by experts and consultants from the CTC and ECLA.**/

The summary of the meetings appears below.

1. Problems of Central American development

The discussion was led by Mr. Gert Rosenthal, Director of the ECLA Mexico Office, who reviewed and analysed the long-term development trends of the subregion, current problems and some future prospects.

In approaching the first topic, six contradictions raised by Central American development were explored.

a) Inequitable economic development. The subregion as a whole had experienced high growth and considerable quantitative and qualitative alterations in the macro and micro-economic spheres, but the results of that growth had been distributed in a very unequal and exclusive way among the different population strata, accentuating income concentration.

b) Growth and diversification of exports with continued vulnerability of the external sector. Although the gross domestic product generated by the export sector rose from 20% in 1950 to 35% in 1980, the economies were depending to a greater extent today than before on the flow of funds into the capital account. The export sector was very dynamic, but was continuing to be extremely vulnerable to external fluctuations, more vulnerable than the average of the Latin American countries; it should be kept in mind that two-thirds of the employment opportunities in Central America depend on that sector.***/

c) Stimulations and restrictions of economic integration in Central America. The Common Market provided a powerful stimulus to the economic development of the region, but the process was not carried further and did not succeed in raising its level, and therefore, once the Common Market was consolidated in about the mid-1960s efforts to submit new activities to joint treatment did not have significant results.

*/ See programme of the seminar in annex 2.

**/ See list of documents in annex 3.

***/ See Apuntes sobre la evolución reciente de las economías centroamericanas, E/CEPAL/SEM.4/R.7.

/d) Co-existence

d) Co-existence of a rudimentary subsistence agriculture and a modern export agriculture. The modern export agriculture naturally cornered the best resources, and there was no transmission effect from the more modern to the more antiquated type, which utilized marginal property to develop its activity. That would explain the unequal income structure in that sector.

e) Growing diversification and stratification of societies. This process had introduced an increasing complexity into society, with political and social repercussions, in spite of which societies were continuing to be closed and not highly participatory.

f) Lack of communication between the public and private sectors with regard to the role incumbent on each in the promotion of economic development. The year 1970 began to see changes when disturbances were produced in the functioning of the world economy and the framework of the Bretton Woods agreements, which had repercussions on Central América because the economy of that region was open, and in addition the region suffered the consequences of its high dependence on oil imports.

In addition, the high economic interdependence of those economies facilitated the spreading of the crisis, and social and political tensions appeared in all of the countries of the subregion, which were reflected in a drop in investment and in a drain of capital.

In order to appreciate the deterioration of the economic situation, it is sufficient to consider the fact that, for the first time in the history of the five countries, their growth rates were negative, and that per capita income fell to its 1960 level.

With regard to current problems, it should be pointed out that the fall in exports together with higher import prices had aggravated the trend towards balance-of-payments deficits. Furthermore, the repercussions of the decisions adopted in the area of finance in the developed countries from 1980 on, as a result of which the interest rate rose, had caused the depletion of monetary reserves. Thus external phenomena with negative repercussions aggravated the situation in the subregion.

In addition, the integration process, which until then had attenuated the effects of the world crisis, had helped reduce trade for the first time when the scarcity of foreign currency for settling transactions began to make itself felt. The situation was dealt with differently by the different Governments, and some of them begin to apply very orthodox adjustment policies, at times influenced by the International Monetary Fund.

At this point in time, one might well ask whether that tendency should not be reversed and that action should not be conditioned upon what occurred in the international economy. Another unknown factor of current concern to the region was the type of society which would be formed in the future.

/In conclusion,

In conclusion, it should be borne in mind that the region was capable of supplying its own food, that the potential offered by intra-Central American co-operation could be utilized and that the region should not fail to take advantage of existing installed capacity.

The statement raised an extensive debate during which several questions were asked by the participants. Interest was expressed in how the problem of scarcity of foreign currency could be solved when markets and financing sources were closed. He replied that there was great concern over the current situation of scarcity of foreign currency, and that to resolve it the problem should be approached from two points of view: the very short term and the medium term. From the short-term point of view, priority should be given to the production of food and goods of low import content, which would both ensure food supply and absorb unemployment. That objective would be attained by implementing a programme of public investment, although that could run contrary to those who claimed that "efficiency" should be aimed at above all else. With regard to the medium term, although a form of dynamic insertion into the world economy must be found, a contradiction was raised in that at present the world economy was not dynamic and in addition, there was the current obstacle of protectionism.

In the medium term, criteria for restructuring the potential for regional co-operation should be examined, since Central America still had a vocation to work jointly to solve common problems, which made it possible to maintain a trade régime and take collective steps with respect to the international community.

With regard to a concern raised by one participant relating to the adoption of orthodox measures for adjusting to the new situation, in compliance with the recommendations of the International Monetary Fund, he said that less restrictive solutions should be sought and that ECLA should help the Governments find more imaginative formulas.

Taking account of the drop in the dollar, there was great interest in whether Central America should continue tying its monetary parity to that currency. He said that it should be borne in mind that Central America had applied an orthodox monetary policy and that, although some countries had devalued their currency, trade had been maintained. With regard to maintaining fixed parity with the dollar, account should be taken of the consequences to the economy of a subvalued currency and the problems which would be raised by the monetary integration of countries applying very different exchange policies.

Several participants felt that the process of industrialization of Central America had been carried out in a disorganized way, since it was thought that any industry was advantageous and in addition an industrialization with a high import component had been stimulated and capital investments made which had had the effect of economizing manpower. He said that in the future, that industrialization model should be altered so as to stimulate the active processing of national raw materials, make use of comparative advantages, and that the production of luxury consumer articles should be discouraged.

/In reply

In reply to another participant, who wished to know the possible repercussions of the trend in vogue of supporting private instead of public investments, he said that that trend caused some concern, since it appeared to be a measure which responded to a conceptual framework that was more valid for the United States than for Central America. When the actual situation of Central America was considered, it appeared more advantageous to stimulate the public sector. He believed that a new era was approaching, in which import substitution activities should be given further stimulation.

Several participants referred to the repercussions of the currency devaluation. One such repercussion was that it brought down the price of local commissions for those who had dollars, with the consequent effects on foreign transnational investment. In addition, the lack of private entrepreneurs meant that if the public enterprise did not carry out some activity the vacuum would be filled by the transnationals. He said he felt that the currency was being devalued in order to provide an export orientation, but the experience was too recent to know what the results of that measure would be. It should be borne in mind that the investor compared the advantages of the devaluation with the risks, and he did not believe that that measure had brought about investments. The State sector could not withdraw and should continue participating in production.

2. Internationalization of the world economy and the transnational corporations

The discussion was led by Mr. Aníbal Pinto, ECLA Consultant, who referred to the need for situating the review of the transnational corporations in the historical context of the phenomenon of internationalization. The transnational corporations constituted one of the ways in which the process of internationalization of the world economy was carried out. In the internationalization of the world economy, which was no more than a process of international division of work, a double process was developed: division and fragmentation on the one hand and concentration on the other; that occurred in different historical scenarios and with different consequences.

There had been several internationalization cycles:

a) The first was the colonial period, which had been of long duration and of an intensive and extensive nature. It had been characterized by a monopoly situation in which the primary interest consisted of extracting the surplus of the periphery without any authentic trade relationship. A State enterprise was then created, which could be considered to be the embryo of the transnational corporations of the future.

b) The second internationalization cycle had lasted approximately one century and coincided with the period during which the world experienced the so-called "Pax Britannica". A functional situation was established in which there was a financial circuit and an investment circuit which complemented each other, and raw materials were exchanged for manufactures. That system helped to develop primary production activities which interested the countries of the centre and produced a certain transformation in Latin America. Logically, the growth process of Latin America during that era was oriented towards the outside.

/During that

During that era, although all the conditions were present for a world economy based on the international division of work, benefits were not distributed equitably. In that cycle, which was the first important period of the international division of work, the system established was basically a dichotomy. The system functioned in that way until the First World War, there was then an interruption during the 1920s, which were a time of very uncertain economic situation, and lasted until the Depression of the 1930s and the Second World War. In that period, the internationalization process came to a standstill.

c) The third cycle extended from the postwar era until the beginning of the 1970s. All of the countries participated in it, and it had exceptional dynamism, under the aegis of the United States. The product of the countries of the centre rose, and the periphery also became more dynamic. Although the periphery doubled its per capita income from US$ 93 in 1950 to US$ 191 in 1975, the fruits of the progress were concentrated.

The transnational corporations were important during the first cycle and even more so during the second. The periphery grew during the second cycle without any change in the distribution of profits between the centre and the periphery, which could be attributed to a certain extent to the activities of the transnational corporations, since their investments were concentrated in the developed countries, which explained the evolution of their development and the fact that they had been the receivers of the technical progress.

During the second cycle, the terms of trade prevailing during the previous cycle were maintained. That had contributed to the despoilment of the periphery because it permitted the transfer of real income from Latin America to the centres, since technical progress had not helped lower the price of the products of the central economies.

A third element was worth mentioning in connection with that cycle, which related to the concentration and industrialization of the world economy. The structure of the world economy had changed, and the industrial products which were the subject of horizontal trade between industrialized countries began to have greater importance, while raw materials trade began to lose importance.

During the third cycle, which was the expansive postwar cycle, the transfer of income had been the catalyst of the growth of the capitalist economy and the element which had institutionalized the capital formation process. During that cycle, there had been a great change in the activities of the transnational corporations because investment had become internalized as a result of the transfer of the transnational corporations' manufacturing facilities to the countries of the periphery so as to produce in order to meet the needs of the domestic market. In addition, not only production but also consumption patterns became internationalized. That cycle ended with the rise in petroleum prices at the beginning of the 1970s. Following that rise, an abundance of credit was produced which acted as a drug which dulled reactions and caused the current debt problem being experienced by Latin America. It was paradoxical that the abundance of liquidity had been the result of the upheaval caused by the rise in oil prices.

/As for

As for the real transfer of resources, it had actually not been large but the abundance of credit had helped to turn attention away from problems and contributed to liberalizing foreign trade policies and import policies. There was no doubt that during that stage, direct investment by transnational corporations had lost relative importance.

With regard to the role which would fall to the transnational corporations in the future internationalization of the world economy, it should be borne in mind that if stagflation persisted in the countries of the centre, the transfer of resources from them to the periphery would decrease. The transnational corporations would thus tend to be less important with regard to their capacity to generate a flow of resources, but it would continue to be vital to maintain a dialogue with the ones developing activities in the Latin American countries.

The statement was followed by an extensive debate, which examined the possibilities for the Central American countries to begin to incorporate themselves into the activities currently being developed by the transnational corporations, and mention was made of the possibility that those activities might not be precisely industrial activities. He pointed out that Central America's basic objective was to ensure its capacity to supply itself in several spheres, one of which would be the area of food. Those industries would not be very dynamic, but the dynamism of industries maintained a relation to the distribution of income, and in his opinion, there were possibilities for expansion in that sphere.

There was also the possibility that the first cycle of internationalization of the economy had left the legacy of a structure which could have been the cause of the defects currently being observed. Those corporations had created a pattern of industrialization towards the outside, but despite the fact that the resources of Latin America had been exploited and surpluses extracted which were sent to the industrialized countries, a surplus had remained in the region which had made possible some diversification, and the fact that more internal changes had not been produced in the Latin American countries could be attributed to the lack of a national project.

Another participant recalled that during the two cycles of internationalization of the economy, there had also been internalization processes, and that in the second cycle the internalization process had helped create production assets oriented towards satisfying the needs of the internal market and linked to it and to its fate, which meant that the transnational corporation had established a relationship of dependence on that market. The activities of the transnational corporations had also had other repercussions, such as training activities. In addition, the proportion of the surplus generated which was retained was greater than it had been in the preceding periods, since in the former period only the wages remained, whereas in the current period, the technical progress also remained. Furthermore, internalization gave the State more negotiating possibilities.

/3. Impact

3. Impact of transnational corporations on Latin American development

The discussion was led by Mr. Claudio Marinho, Acting Chief of the Joint ECLA-CTC Unit on Transnational Corporations. He stated that Latin America, like Central America, found itself in a situation of serious crisis not only of a structural type and attributable to external reasons, but which coincided with a type of development which structurally would have caused a crisis even if the current world crisis had not occurred.

It would be useful to provide some background to the current economic picture in Latin America, but from a perspective of crisis in the modality of growth. Within that picture, he would situate the activities of the transnational corporations and provide some thoughts on their role and future prospects. The analysis would be of a global nature, oriented towards Mexico and the countries of southern Latin America, which were the ones who had made the most progress where possible.

In order to situate the analysis, he reviewed the following aspects: the potential of the production apparatus, some problems preventing the realization of that potential, the location of the transnational corporations, and the redefinition of dynamic forces.

With regard to analysis of the potential of the production apparatus, he pointed out that development of the production forces had been achieved, and that the responsibility of the political and economic leaders of the countries of Latin America was now established. A review of some figures indicated that the situation of Latin America was comparable to that of Europe in 1950, when Europe was one of the most developed areas in the world and contained some world powers. If some projections were made to 1990 and Latin America were compared with the European Economic Community in 1970, it was observed that, for example, the gross domestic product would reach more than US$ 450 000 million, a figure comparable to that of the European Economic Community in 1970. The manufacturing product in the region would reach US$ 135 000 million, a figure 20% lower than that attained by the EEC in 1970. The supply of electrical energy, machinery and equipment would also increase considerably. All that information showed that Latin America had the material base to affirm that the continent had greater material possibilities in 1982 than Europe in 1950, but on the other hand, several of the region's problems had also worsened in recent years and had placed it at an impasse, which required altering its course of development.

Among those problems, mention should be made of the extreme poverty, the unequal distribution of income and the difference between the growth of the population and employment. Forty per cent of the population of Latin America, or 100 million persons, lived in a state of absolute poverty. And among those 110 million, 54 million were in a state of indigence, or had an annual income lower than US$ 100 at 1970 prices.

/The distribution

The distribution of income had not undergone substantial alterations between 1960 and 1970, and continued to show a high concentration. Indeed, the poorest 50% of the population earned 14% of the income, and the richest 30%, 72% of the income. In connection with the extreme poverty, it should be borne in mind that population forecast for 2000 was considerably greater, which would also undoubtedly create employment problems, especially taking account of the fact that according to the ILO, in 1970 30% of the work force was underemployed.

An examination of the situation of Latin America from the point of view of style of development and its repercussions on the external sector indicated that serious problems were also raised which were very difficult to solve within the framework of current modalities of growth.

The industrialization of Latin America had been carried out within a scheme of import substitution and had developed from the simple to the complex. A broad horizontal diversification of industry was thus produced, which satisfied a complex demand previously met by imports. However, equivalent vertical integration and intersectoral complementation had not been achieved. The modality of development was based on an imitative industrialization whose dynamic lay in the consumption of the higher strata of the income-distribution pyramid, and the production of those more complex goods made imports increasingly necessary. Thus the import coefficient had been growing since 1965, which had greatly increased the external vulnerability of the Latin American economies. The Latin American consumer society was incompatible with the eradication of those problems. Thought should be given to changing the patterns of development, redefining the current allocation of resources, and reorienting the dynamic forces, but in styles different from the current ones.

Taking account of that context of structural crisis, he attempted to situate the transnational corporations. Those corporations, together with other elements, were a privileged actor in the consumer society. Transnational corporations were found in the most modern and most dynamic sectors of Latin America, and, therefore, participated in the exclusive, concentrating and vulnerable development of that continent.

The activities of the transnational corporations had not helped to solve the problems, but had rather contributed to aggravating them.

It would also be useful to examine the relationship between the external sector and the transnational corporations. Naturally, foreign property in the most dynamic sectors of the Latin American economies tended to aggravate the imbalances already examined. The imports being made by the transnational corporations did not appear to correspond to technical needs for imported contents of the goods they were producing; rather, those economic units appeared to be a type of "import vocation", and that naturally led to the formation of a deficit, given their reluctance to export. In that connection it should be pointed out that the way in which the transnational corporations imported was quite peculiar, since they imported elements from enterprises which belonged to the same parent company, and that led to the well-known problem of transfer pricing, since operations were usually located in the best places for obtaining profits and those prices were fixed there on the basis of under- or over-invoicing; those transfers were often more important than the financial transfers.

The elements indicated in the paragraphs above made it possible to state that the transnationals, in some cases, helped aggravate and intensify the crisis in the external sector.

In order to make the economy of Latin America more dynamic, possibilities could be explored of increasing exports, regional or subregional integration, or strengthening the domestic market.

With regard to increasing exports, trade with centres could be examined and the opportunities for exporting commodities and manufactures analysed. Growth of commodities exports was slow, and they continued to represent 75% for countries such as Brazil, Argentina and Mexico. Manufactures trade had risen from 8.7% to 23.6% between 1965 and 1977. It was possible that the protectionist measures applied to the exportation of light manufactured products, which were exported by the majority of Latin American countries, would intensify. The transnational corporations working in that sphere were showing themselves to be reluctant to export, and when they did so, used their own channels; in other words, it was not to be hoped that the transnational corporations would help in that process. However, the formation of joint corporations among several countries, or the formation of State marketing companies offered interesting prospects, and in that connection, the example of INTERBRAS corporation, established for that purpose in Brazil, should be borne in mind.

With regard to integration, the share of interregional exports in the total exports of Latin America rose during the 1960s from 8 to 17%, while their share in world exports fell from 6.2 to 4.5%. The transnational corporations had had a fluctuating share in the production of the corporations for interregional export. They participated in some integration schemes in order to ensure the market, but they traded among the firms making up the transnational conglomerates. Thus it was not feasible to hope that the transnational corporations would become important agents of the integration process, absolutely essential to the future of the region.

The domestic market had played an important dynamizing role in the past, and was continuing to do so, but that market was not a socially integrated one. The solution for the future would be to orient growth towards the satisfaction of generalized consumption needs. If its domestic market grew Latin America would necessarily decrease its vulnerability with respect to the world economy and would be inclined to new regional integration schemes.

The statement was followed by a discussion of the topic. Some participants stated that Central American integration would appear to have been carried out with no order or harmony and with no examination of existing industry, and that perhaps that had influenced the problems currently being raised.

/4. Transnational

4. Transnational corporations and Latin American export products: the case of the Union of Banana Producing and Exporting Countries (UPEB)

The discussion was led by Mr. Jan Kñakal of ECLA, who dealt mainly with four aspects: a) the balance of bargaining capacity and the distribution of benefits among banana-producing countries at the beginning of the 1980s; b) the changes in the strategies of the transnational corporations; c) the changes in the bargaining capacity of the producing countries and the lines of action; d) alternatives for strengthening the bargaining capacity of the UPEB countries.

In connection with the first aspect, despite the changes which had occurred, at the beginning of the 1980s the integration of the oligopoly of the three United States banana-producing and exporting corporations has been maintained. On the other hand, national benefits, that is, retained value in the industry, had increased as a result of the policy applied by the Governments of the producing countries in negotiations with the transnationals.

The transnational corporations furthermore, had shown great flexibility and ability to adapt to those policies and had reacted either by attempting to divide the member countries of UPEB or by diversifying their activities, sources and markets, or by attempting to establish new systems to continue exerting influence, and had began to accept the principle that both benefits and costs should be shared. They had also applied measures to restrict the access of the producing countries to consumer markets.

UPEB was considered to represent an important experiment in relation to the establishment of the new international economic order.

With regard to changes of strategy by the transnational corporations, among their causes was the desire of those corporations to decrease the dependency of their profits on a single product. The change of strategy had included the following measures: new production technologies; the establishment of a system of associated producers who, although they were land owners, were dependent on the transnationals for obtaining key production inputs; diversification of supply sources towards regions which offered fewer political risks; sectoral diversification, aggressive marketing in their consumer markets and the establishment of barriers for other producers. In the face of the new policies of the Central American countries, the transnational corporations, after partially obtaining their objective of weakening the common front, had accommodated themselves to the new conditions established.

He analysed the producing countries' changes in bargaining capacity from the perspective of the political and institutional sphere, diversification of the economy and position in the world market, and supply of the transnational corporations. From the point of view of the political sphere, he mentioned the increase in the share of the State and individuals in banana property, the broadening of knowledge of the development of the activity; improvement of policies concerning elaboration, formulation, promulgation and control, as well as policy governing negotiations with the transnational corporations. He also mentioned

/direct intervention

direct intervention by the State at all stages of banana-producing activity in order to decrease the persistent dependence of national production on the corporations.

He also made mention of the creation of the Union of Banana Exporting Countries, which constituted a multilateral base for integrating the national interests and objectives of the different producing countries into one position, and of COMUNBANA for international marketing.

Similarly, the agricultural and economic diversification of Central America had helped to reduce the dependency with respect to the banana industry.

With regard to alternatives for action, there were several options at the national, regional and international levels for strengthening the bargaining capacity of the UPEB countries. Among the possibilities at the national level were the improvement of the administrative efficiency of the enterprises of the public sector, the broadening and strengthening of the sector's links with the national producers, the systematization of control of the transnational corporations and the promotion of investment strategies for the self-sustained development of the industry. In the regional sphere there were, among other actions, the establishment of a flexible system of technical and economic information, which would facilitate control and negotiation with the transnational corporations; the broadening and diversification of supply sources and export markets; the promotion of multilateral negotiations for the exploration of new froms of participation in the industry and the strengthening of the mutual political and economic support base through the incorporation of other countries of the region into UPEB. In the international sphere, he suggested strengthening the links with other producing countries of Asia and Africa and promoting the elaboration and adoption of an international agreement for the creation of an international association of producing countries.

During the debate which followed the statement, it was expressed that joint action by the Central American countries and Panama indicated the political will to carry forward a multilateral initiative such as UPEB. That Union enjoyed the autonomy conferred upon it by its security of financing, based on the relevant taxation, and could thus provide important support in its positions and furnish the producing countries with figures. COMUNBANA was created subsequent to UPEB at the initiative of Colombia, but its activities were paralyzed because it had to provide its own financing, and its activity at the international level had been greatly restricted by the action of the transnational corporations.

There was another institution, COBANA, but that institution was dependent on the transnational corporations for inputs, rail transport, etc., and was also obliged to pay a double charge, the fee collected by the government of the producing country and that which it had to pay the transnational corporation.

/5. The

5. The financial aspect in negotiations with transnational corporations

The discussion was led by Mr. Michael Mortimore of the Joint ECLA-CTC Unit on Transnational Corporations. After referring to the principal approaches applied in the area of external financing, one of which corresponded to macroeconomic models for setting or determining the optimum level of indebtedness and the other to the capacity to sustain a particular public and external indebtedness policy, and to their main features and defects, he spoke in a more detailed manner of more global criteria. Those criteria were considerably different from the criteria mentioned previously and were based on elements of history and political economy. Applying an inductive method, and from the countries' point of view, a study was made of those countries suffering serious external indebtedness problems, which gave an indication of deficiencies and problems in the negotiating capacity between the State and the transnational banks and made it possible to define some guidelines for improving strategy and negotiating position.

A review of the crisis in Latin America turned on the causes of international liquidity problems. He pointed out that not all crises were attributable to the same problems, since among those causing them mention could be made of the insufficiency of funds for debt repayment, either for conjunctural reasons or for reasons of creditworthiness. That was a structural difficulty in the short and medium term, the solution of which was not exclusively of a financial nature. In that case there was a maladjustment or a contradiction between the development strategy or its implementation and the international economic situation.

He then mentioned conditions for improving negotiating capacity. The following elements should be taken into account: a) the awareness of the advantages held by the transnational banks depending on the seriousness of the financing problems of the countries, renegotiation being much more favourable to them than the contracting of the loan, so that the countries must make use of the advantages they have at the beginning of the negotiation; b) the way in which the interest rate was fixed favoured the transnational banks since the only thing open to negotiation was the spread over the basic rate, and that the latter had gone up a great deal in recent years; each time, a smaller proportion of the total cost as regarded interest was being negotiated, and the countries were therefore obliged to negotiate longer terms. The negotiating position of the underdeveloped countries had worsened, and they therefore should seek external financing alternatives (multilateral and bilateral) to offset the shortfall.

It was extremely important to the progress of the negotiations for the country to have an institutional system for appraising, recording, authorizing and controlling external financing and other forms of foreign participation. It was also important for the resources to be oriented towards the most profitable investment projects in order to avoid debt-servicing problems.

The country should always attempt to enter the capital market at the most appropriate time and try to negotiate with individual banks which had an interest in that relationship with a new client at a lower price.

/In the

In the debate which followed the statement, it was pointed out that the indebtedness of Central America was chiefly of multilateral origin and that those multilateral credit institutions applied fluctuating rates with the consequent repercussions. There was also the problem of disbursement of the second financing quota of the financing granted by those institutions because the requirements with regard to the use of first payment had at times not been complied with.

Replying to a question on the reasons why banks were continuing to grant loans in spite of the countries' payment difficulties, he said that they did so because they were pressured to place resources, and furthermore, they applied risk-measuring systems on the basis of which they applied charges and fees to compensate their efforts.

6. The transnational corporations in the industrial development of the developing countries

The discussion was led by Mr. A.V. Ganesan, of the Centre on Transnational Corporations, who conducted a general review of the following aspects: a) the trends and flows of the direct foreign investment carried out by transnational corporations in developing countries; b) alternative forms of participation of transnational corporations not connected with stock capital; c) the motivation which led the transnational corporations to invest in the developing countries; and d) participation by transnational corporations in export promotion.

With respect to the first topic, most direct foreign investment originated in transnational corporations with headquarters in the member countries of the Organization for Economic Co-operation and Development (OECD) and in the member countries of the European Economic Communities.

He pointed out that the share of the developing countries in direct foreign investment flows had remained fairly stable during the 1960s and 1970s taken together, around 28%, and had gradually risen to around 33% at the end of the decade. Some features of those flows were worth mentioning, such as: a) they originated mainly in the developed countries, so that the limitations of resources of the transnational corporations in those countries influenced the flow of direct foreign investment towards the developing countries; b) they were decreasing in magnitude and their composition was changing, since the relative share of direct foreign investment and official development assistance funds had been reduced, whereas that of the component representing loans from international banks and private export credits had increased. Direct foreign investment had increased by 2 to 3% per year between 1970 and 1978, and for that reason, it could not be considered as the chief source of industrial financing in the developing countries. Most of it did not constitute flows of new capital, since it was financed by the reinvestment of profits produced by previous investments by the transnational corporations; for that reason, the policy being implemented of reinvesting the profits of the transnational corporations was very important for attracting direct foreign investment.

/With regard

With regard to participation in stock, he stated that from the 1970s on, the transnational corporations had begun to show an inclination for participation that did not involve net worth in stock, but other forms of property, such as licences and trademarks, management and technical assistance contracts, and participation in production and marketing. Their advantages and disadvantages depended on the circumstance and the sector in which the investment was being carried out.

Speaking of the reasons for which the transnational corporations invested in the developing countries, he mentioned investment opportunities and the investment climate. Among the reasons linked to investment opportunities were access to a local national market and to raw materials supplies, the establishment of a regional base in a country which gave access to the market of the entire region, the utilization of that country as an export platform towards the markets of other developing countries and the protection of its technical knowledge. Among the reasons relating to the investment climate were the political, economic and monetary stability as a whole, the attitude of the country towards foreign investment, the bureaucratic and statutory frame of reference, the labour force and labour legislation, the availability of a basic infrastructure, and investment incentives.

As for participation by the transnational corporations in the elaboration of export articles, it was important for developing countries with limited command of the market, for small countries which depended on export activity for the generation of employment and foreign currency. In connection with that activity, the transnational corporations preferred to concentrate on types of industries such as electronics, clothing and sporting goods, which enabled them to take advantage of unskilled or semi-skilled, and therefore inexpensive labour, infrastructure, tax exemptions, non-existence of exchange controls, possibility of having the entire property, etc. For the recipient countries, those industries had the advantage of generating employment for unskilled labour and foreign currency, but the disadvantage of paying low wages, not allowing unions, not establishing links of integration with the rest of the economy and not giving them the benefit of long-term investments.

Speaking of the reasons which motivated the transnational corporations to invest in the natural resources sector, he spoke of their wish to expand their access to those resources. Only 30% of the ore extracted in the developing countries was processed in the country itself, for several reasons, among which were: the vertical and horizontal integration of the transnational corporations, the way in which the economies of the developing countries were structured, the fact that the capital equipment was manufactured in the developed countries and that those countries were the main consumers.

In the discussion following the statement, mention was made of the success which one country had had with its policy of establishing import and export obligations for the transnational corporations, as a result of which that country had a clear idea of its bargaining power based on the size of its domestic market. One participant said that the question of how to take advantage of the installed capacity which remained when investors withdrew from a developing country should be studied. The speaker said that, in order to prevent unfavourable repercussions

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in that connection, the developing countries could insist -when highly capital-intensive installations were built -on participating in the control of investment management during the construction and installation, and later require that training be provided, exclusive technologies not be applied, and create -as in Japan- national marketing companies, so that sales would not be paralyzed when the foreign company withdrew.

7. Aspects of the negotiation process: project analysis

The discussion of this topic and the following was led by Mr. Charles J. Lipton, Senior Consultant of the Centre on Transnational Corporations. He explained his method of analysis, the discounted cash flow analysis, and then referred to its repercussions on the activities of the transnational corporations in the developing countries. The discount rate applied by a transnational corporation would depend on many factors: it would have to exceed the return on a banking investment, taking account of the operating risks and, in the case of the developing countries, of other factors such as political and labour risks, etc.

In order to negotiate a minimum rate of profitability with a transnational corporation, it was essential to be well aware of the elements with which the latter reasoned: the internal profitability rates estimated through the application of the discounted cash flow analysis could be calculated on the basis of the profitability of the total investment (capital plus credit) or on the basis of the profitability of the capital alone, which was the really important one. In order to determine it, it was essential to know the ratio between the amount of capital provided by the transnational corporation and the amount of credit obtained, and therefore to have exact information on the financing of the project.

He pointed out that the discounted cash flow analysis should be conducted in current terms, and indicated that the "LIBOR" always reflected the discounted cash flow analysis in those terms. The State should independently check the calculations of the internal profitability of capital and the discounted cash flow analysis, using, if possible, methods comparable to the computer systems used by the transnational corporations. The United Nations Centre on Transnational Corporations had computer programmes available for those purposes.

As for the term of the contracts, according to the discounted cash flow analysis in current terms, it should be no longer than 25 years.

In order to verify the profitability rate, it was necessary to be familiar with the corporation's balance sheets, its projects in other countries, its profits in relation to its capital and its profitability rate in the past, all of which would serve as parameters in the negotiation.

In the discussion following the statement, one participant referred to the disadvantageous situation in which the governments of the developing countries found themselves in the negotiations, given their difficulties in access to information, and wished to know how that problem could be overcome.

/He said

He said that it was very important to obtain all the information, which could be provided by different sources, such as the Centre on Transnational Corporations, experts, consultants, the corporations' balance sheets, the stock market, etc. It was always possible to renegotiate an agreement that had been entered into under conditions which had not proved to be very advantageous to the developing country, but because of the cost of such a step, it was naturally preferable to avoid it if possible.

8. Aspects of the negotiating process: alternative forms of participation by transnational corporations in projects in developing countries

He reviewed the types of agreements between the State and the transnational corporations in industrial activities in the developing countries.

He first discussed licensing, pointing out that in the Anglo-Saxon milieu, that type of agreement granted a property right and implied extraterritoriality. Next he analysed leasing, which included an annual sum and fixed-price royalties, with contracts of long duration. He then examined production-sharing agreements, which did not imply property and could retain the country's right to market its own portion; the most recent ones included a movable scale in relation to the value of the product and tax provisions which enabled the transnational corporations to deduct in their country of origin the taxes paid in the host country. In that connection, he stressed the importance of being familiar with all the tax consequences of the provisions of the agreements in relation to the tax systems of the different foreign countries. He also mentioned the service contract, through which the countries could obtain only the elements they really needed from the transnational corporations and not the complete package of capital, technology, business administration and marketing. There was also the labour contract, and other forms of agreement such as exploration rights and patents. Lastly, joint operations and their features were analysed. It was stressed that State property of a majority percentage of the registered capital was of political importance, and that it was only effectively valid to the extent that it was reflected in control of the operations, share in the profits and shared responsibility in the area of risks (which, in the case of the State, was not limited to the financial field).

He referred to the financial risks for the State in the case of joint ventures and indicated that it was not desirable for the State to guarantee the loans granted to the corporation and make itself responsible for the latter's debts, and that all credit obtained through the State should be reflected in State share in the registered capital. He warned against the practice of "diluting" the proportional value of the State shares through the issuing of new shares. The State should receive shares freed in proportion to the value of the resource it was contributing, as well as in proportion to the guarantees or loans being contributed in each case; the registered capital should be paid by the State against future dividends (and not in cash or bonds), and the dividend policy should envisage sufficient reserves.

/Concerning the

Concerning the conclusion of joint ventures, it was advisable for the land not to be the corporation's property, but rented by it; it should be stipulated that the real estate would return to the State without payment, etc.

Emphasis was plced on the fact that the transnational corporations preferred the State to consider itself to be a participating empresario and not to take the role of sovereign State capable of setting the standards by which the joint venture must abide.

Joint ventures could or could not be corporations. If they were, a new enterprise was established in which the capital was the common property of the shareholders. If they were not, a new enterprise was not created and individuality continued for tax purposes.

The joint venture offered the advantage of the enterprise's permitting investment to be controlled, either through a board of directors, technical committees, technology or through market allocation or opportunities for competition or sales control. The country could exercise real control through specialized agencies or through reports to different governmental bodies.

In the case of joint ventures, the State could collect the remuneration due to it through royalties or taxes, whose amounts and dates of payment were fixed and regular.

In the discussion following the statement, interest was indicated in the form for determining what proportion of the capital was the corporation's and what proportion was lent in those cases. He indicated that that was difficult to determine and that the transnational corporations always wanted the proportion of capital corresponding to loans to be as high as possible, since that favoured them, because interest payments were exempt from taxation, exchange control, and the flow of funds was facilitated.

9. Legal aspects of negotiations

He examined the problem of the legislation to be applied in the licensing agreements and indicated that the law of the host country should apply, that there should be no acceptance of clauses authorizing the freezing -at the date on which the contract was signed- of the legal provisions applied; neither should the transnational corporations be allowed to stipulate compensation in a case where the relevant law was changed, since that represented an invasion of sovereignty.

He referred to force majeure, and warned against excessively broad clauses which could be used as an excuse by the transnational corporations for not fulfilling their contractual or applied obligations under circumstances which could have reasonably been foreseen. Similarly, examples of force majeure should not be listed in the contract.

As a protective measure, he suggested that the governments should include the option of putting an end to the contract if, for reasons of force majeure, an attempt was made to extend its validity beyond a reasonable period of time.

/In connection

In connection with the renegotiation of the contracts, he pointed out that that occurred when an imbalance in contractual obligations had been produced, but that there were differing opinions as to the advisability of including a renegotiation clause in the original contract or not, since although some people believed that facilitated the task of renegotiating later on, others believed that it was difficult to find an effective clause and that, in addition, it should be borne in mind that even if the renegotiation were not stipulated, the State was sovereign and could renegotiate when it pleased.

With regard to arbitration, he believed that the host countries should insist that national legislation prevail in those cases for reasons of sovereignty and its courts' reputation for integrity.

In cases where that principle was not accepted, one could have recourse to the International Chamber of Commerce at Paris, but that was a lengthy and burdensome procedure. One could also turn to the International Centre for the Settlement of Investment Differences (CIADI) or the United Nations Commission for International Trade Law (CNUDMI) which had recently taken some important steps in that area.

As for the place where the arbitration should be carried out, he stressed that it would have to be the developing country which had signed the agreement; if the other party demanded that the arbitration should take place in another country, the developing country had to insist that it should be the closest country to the headquarters country and that the travel costs of its representatives should be paid.

In the discussion following the statement, it was pointed out that sudden market fluctuations did not constitute cases of force majeure but normal commercial risks. Several participants wished to know if the non-inclusion of renegotiation clauses could hinder future negotiations. He stressed the fact that it was not necessary to include them, since the States were sovereign and could renegotiate whenever they felt it to be advisable.

With regard to the language in which the contract was to be drafted, he stressed that the original version should be in the language of the host country, and that that aspect was not negotiable. Whoever prepared the first draft had many advantages, and could request legal advisory assistance from the Centre on Transnational Corporations in carrying out that task.

10. Acquisition of technology

The discussion was led by Mr. A.V. Ganesan, who first mentioned the individual or collective advisory assistance lent by the Centre on Transnational Corporations in connection with negotiations. Those services had the following features: they were free, easily accessible and satisfied the countries' specific needs. The Centre lent assistance to countries in the stage prior to the initiation of negotiations, during the negotiations and after the signing of the agreement in order to improve it subsequently.

/With regard

With regard to the acquisition of technology, he pointed out that the element which distinguished developing countries from developed countries was not so much the lack of resources or capital or the different degree of skill of the labour, but the degree of technological development.

The control exercised by the transnational corporations was based on their technological superiority, in other words, on their possession of technical knowledge and registered trademarks. The transnational corporations were aware of the capacity of the developing countries in the area of technology, and that determined their behaviour in the negotiations. The developing countries sought foreign investment because it brought with it the ready-made incorporation of advanced technology rather than because of the investment of capital.

The developing countries should give top priority to the formulation of a national research and technology policy. The policy should define the country's technological needs in relation to its economic policy and development needs and the sectors and specializations whose improvement should be stimulated.

The elements which should be kept in mind for the acquisition of technology were the selection of the fields most suitable to the country and the existence of mechanisms for absorption which were not unduly expensive. Since the acquisition of technology was equivalent to the acquisition of knowledge, a basic preparation was usually necessary in order to assimilate the new technology and become familiar with the market in which it was acquired. Similarly, a national data base should be formed in order to be in a position to issue opinions on the acquisition of technology and compile information on international market trends, and on the main suppliers in each field.

It was also necessary to have information on the types of agreements which could be used in negotiations for acquisition of technology and safeguard systems. The following basic forms of agreements could be distinguished: licensing agreements and technical services agreements. The first included agreements for licensing of patents for registered trademarks and technical knowledge. The second involved contracts for the delivery of already-assembled factories, with services and technical assistance, administration and marketing. The difference between the two was that a single price was applied to the former, and it was difficult to clarify whether it was a high one or not, while with the latter, a specific service was acquired, and it was easier to determine if its price was a fair one. Licensing agreements had a special feature in that the licenser maintained ownership of the knowledge and authorized the use of trademarks and technical knowledge.

With regard to payment of the technology, it could take the form of a percentage of investment profits, technical fees or permanent royalties. A few guidelines should be considered for that purpose: a) in accordance with the proportion of the capital belonging to the foreign parent company; if the latter owned half of the capital, royalties were not warranted since the payment should be made through a share in the profits. It should be borne in mind that, according to the provisions of the Cartagena Agreement, subsidiaries could not pay royalties to parent countries for transfer of technology; b) higher limits should be established for payments for technology in proportions representing not more than 50% of sales or 25% of capital; royalties should not be less than 5%. With regard to technical fees, which were made in a single payment, the sum considered reasonable should represent a percentage of the total value of the sales.

As for setting the amount of fees corresponding to the management contracts, the developing countries should insist, during the negotiation, that a basic minimum fee and a percentage of the profits should be set.

With regard to trademarks, he stated that the payment of royalties as registered trademarks to be used in the internal market should not be authorized. Payment of higher royalties as registered trademarks should only be authorized if the enterprise exported the product in question.

With regard to the relationship between the period of payment and the period of validity of the agreement, the majority of the developing countries limited it to a period between 5 and 10 years because in that way, the period of dependency on external supply was limited. A review could be made after a certain time in order to compare the results with the expectations. If it was found to be suitable, measures could be determined for the local enterprises to adopt in order to ensure absorption of technology in a sensible period of time when the process was considered to be advancing rather slowly.

The list of restrictive trade practices included clauses guaranteeing exclusive rights of the parent companies, such as for example, those establishing the subsidiaries' obligation to acquire components, spare parts, etc., from them. In order to protect themselves from that requirement, the enterprises could separate local activity from external purchases and at least require that prices should be established according to the standard of independence. With regard to the limitation concerning the countries to which exportation was authorized, that could be offset by restricting it to countries where the licenser had signed prior agreements and to those which, because of their distance, it was not suitable to export. They could also participate in setting the resale price of the product.

Other clauses which should be included in the agreements covered training, which was one of the best ways of ensuring that the transfer of technology would be carried out effectively and, further, that it would be absorbed by the enterprise. The fields covered by training should be defined very clearly.

On the subject of the areas which should be encompassed by the science and technology policy, those could be national, subregional or regional. National co-ordination facilitated negotiations since it covered a broader area and better conditions could be obtained.

In the debate which followed the statement, concern was expressed in connection with the assistance which the Centre on Transnational Corporations could lend to the Central American countries which did not have a policy on that subject but applied isolated measures and might not have the personnel prepared to give authorization when contracts were signed. He replied that the Centre could give assistance in examining the report in order to check the quality of the technology offered, the competence of the suppliers, the fair value of the technology and the application of restrictive trade practices.

/In connection

In connection with payments as transfer, he said the countries should apply broad guidelines and require legislative backing. The Central American region should purchase technology in the market and adapt it to its needs. It would also be useful to have a regional institution to acquire the technology and disseminate it.

/Annex 1

Annex 1

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/Annex 2

Annex 2

PROGRAMME OF THE SEMINAR ON TRANSNATIONAL CORPORATIONS AND CENTRAL AMERICAN DEVELOPMENT

HOUR	Wednesday 20 October	Thursday 21 October	Friday 22 October	Monday 25 October	Tuesday 26 October	Wednesday 27 October
10:00	Opening of the Seminar C. Marinho	Internation-alization of the world economy and the trans-national corporations A. Pinto	Transnational corporations and Latin American tropical export products: The case of the Union of Banana Producing and Exporting Countries (UPEB) J. Kñakal	The trans-national corporations in the industrial development of the developing countries A.V. Ganesan	Aspects of the negotiating process: alternative forms of participation by trans-national corporations in projects in developing countries C. Lipton	Acquisition of technology A.V. Ganesan
14:30	Problems of Central American development G. Rosenthal	Impact of transnational corporations on Latin American development C. Marinho	The financial aspect in negotiations with trans-national corporations M. Mortimore	Aspects of the nego-tiating process: project analysis (DCF) C. Lipton	Legal aspects of negotiations C. Lipton	Acquisition of technology A.V. Ganesan Closure of the Seminar A.V. Ganesan

/Annex 3

Annex 3

LIST OF DOCUMENTS

A. United Nations Centre on Transnational Corporations

1. The CTC Reporter

2. Transnational corporations in world development: a re-examination, E/C.10/38, 20 March 1978

3. United Nations, Economic and Social Council, Commission on Transnational Corporations, Strengthening the negotiating capacity of developing countries, E/C.10/50, 23 March 1979

4. United Nations Industrial Development Organization, Guidelines for the Appraisal of transfer of technology agreements, "Development and transfer of technology" Series, No. 12, New York, 1981

5. Joint ventures and other forms of foreign direct investment, E/CEPAL/SEM. E/CEPAL/SEM.4/R.3 a/

6. Alternative forms of foreign participation, E/CEPAL/SEM.4/R.5 a/

7. Licensing, management and service agreements, E/CEPAL/SEM.4/R.4 a/

8. Work related to the formulation of a code of conduct, E/C/10/1982/6, 15 June 1982

9. Programme of technical co-operation on matters relating to transnational corporations, E/C/10/1982/9, 6 July 1982

10. Charles J. Lipton, Rana K.D.N., Acquisition of technology by developing countries in the mining sector

11. Charles J. Lipton, Discounted Cash Flow Negotiations

12. Benny Widyono, Transnational corporations and export-oriented primary commodities

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a/ This documentation was distributed at the Seminar on Transnational Corporations and Latin American Development held in Santiago, Chile (30 March to 10 April 1981), under a different symbol.

B. Economic Commission for Latin America

13. Núñez del Prado, Arturo, Las empresas transnacionales en un nuevo proceso de planificación, Joint ECLA/CTC Unit on Transnational Corporations, E/CEPAL/SEM.4/R.1 a/

14. Marinho, Luiz Claudio, Las empresas transnacionales y la modalidad actual de crecimiento económico de América Latina: Algunas consideraciones, Joint ECLA/CTC Unit on Transnational Corporations, E/CEPAL/SEM.4/R.2 a/

15. Lahera, Eugenio, Algunos antecedentes estadísticos sobre las empresas transnacionales en América Latina y el Caribe, Joint ECLA/CTC Unit on Transnational Corporations, E/CEPAL/L.240

16. Latin American development in the 1980s, E/CEPAL/G.1150, E/CEPAL/CEGAN 5/L.3, 4 February 1981

17. Latin America: Industrial policy in the context of the new international development strategy, E/CEPAL/G.1161, 26 February 1981

18. CEPAL Review No. 14, August 1981

19. Kñakal, Jan, Las empresas transnacionales en el desarrollo contemporáneo de América Latina, Joint ECLA/CTC Unit on Transnational Corporations, E/CEPAL/SEM.4/R.6 a/

20. Bargaining position and distribution of gains in the banana industry of the Union of Banana Exporting Countries, especially Honduras and Panama, E/CEPAL/R.321

21. The transnational oligopoly in the coffee industry and the case of Colombia, E/CEPAL/ R.323

22. The Mexican cotton industry and the transnational cotton marketing oligopoly, E/CEPAL/R.315

23. Sugar cane, alcohol production and the interests of transnational corporations in Brazil, E/CEPAL/R.324

24. Apuntes sobre la evolución reciente de las economías centroamericanas, E/CEPAL/SEM.4/R.7

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