

Another legal issue which arose in the Working Group on the Charter had a less unsatisfactory outcome. A group of developing countries proposed the inclusion in the Charter of a provision that "Every State has the right and the duty to take all effective measures, inter alia, through the full exercise of permanent sovereignty over all its natural resources, to put an end to all forms of foreign occupation, apartheid, racial discrimination, colonial, neo-colonial and alien domination and exploitation". The highly subjective judgment required to determine the existence of a situation of a kind to which the provision referred meant that the text proposed would have amounted to a legal justification for economic coercion (in the form, for example, of selective embargoes on natural resources) in pursuit of political objectives. Canada was among many states which vigorously opposed any provision of this kind and none was included in the Charter as adopted.

While the Economic Charter cannot, as had earlier been hoped, take a place alongside the Friendly Relations Declaration and the Human Rights Charter as expressing a consensus of the international community, it is nevertheless an important milestone in the rapidly evolving framework of economic relations between developed and developing countries. The position which the Charter takes on the relationship of international law to foreign investment is therefore unfortunate. One may hope, however, that the realities of the need to attract foreign investment capital as part of the economic development process will give rise to state practice, with respect to future investment at least, which will reassert the necessary role of international law in this area. Whether such state practice will re-establish the classical rule of "prompt", adequate and effective compensation as determined by international disputes settlement machinery" in respect of nationalization is perhaps somewhat more problematical.