NIEO REVISITED·THE CONTROVERSIAL PROVISIONS

BY FR. NOEL DIAS

The previous article[1] on the subject of NIEO indicated the considerably larger areas of the provisions of the NIEO regime where there is agreement between the States of the Northern and the Southern hemispheres. What is attempted in this article is to show that the controversial provisions of the NIEO also conform to the norms of justice. Therefore the States which attempt to sidestep such provisions would be violating internationally binding obligations. Such violations would seriously endanger international peace and jeopardize the entire foundation of international law and relations.

RIGHT TO NATIONALIZATION PAYMENT OF COMPENSATION.

One of the major issues surrounding the refusal of western countries to support the NIEO regime and the Economic Charter revolves around the quantum of compensation payable to investors on nationalization of foreign property within a host State. Article 2(1).c. of the Economic Charter provides:

> ... Each State has the right ... to nationalize, expropriate or transfer ownership of foreign property in which case *appropriate compensation* should be paid... In any case that question of compensation... shall be *settled under the domestic law of the nationalizing State*...unless freely agreed...

In matters of nationalization and payment of compensation in the event of nationalization, two firmly entrenched rules of international law come into

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1 8 Sri Lanka J. Int'l L (1996)

2 WEERAMANTRY "Emerging Diemnsions of Sovereignty under International Law" in 3 *Sri Lanka J. Int'l L 1* at p. 5 (1991): The author underlines the necessity of international regulation in two vital areas; armament traffic and *international economy* Such regulation is compelling since the very survival of humanity depends on such international obligations.