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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Views and information submitted by States parties in accordance
with Commission resolution 1986/7

Note by the Secretary-General

	<u>Page</u>
Introduction.....	2
REPLIES RECEIVED FROM STATES PARTIES	
Madagascar.....	3
Peru.....	4
Ukrainian Soviet Socialist Republic.....	4
Union of Soviet Socialist Republics.....	6

Introduction

1. In its resolution 1986/7 of 28 February 1986, the Commission on Human Rights, inter alia, requested the Secretary-General (a) to invite States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, and (b) to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission on Human Rights with relevant information concerning the types of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa.
2. By the same resolution, the Commission requested the Group of Three established under the Convention to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal actions that might be taken under the Convention against transnational corporations whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-third session.
3. In notes verbales dated 12 May 1986, the Secretary-General brought to the attention of States parties, the specialized agencies and non-governmental organizations the relevant provisions of Commission resolution 1986/7 and invited them to submit their views and any relevant information in time for consideration by the Group of Three and the Commission at its forty-third session.
4. Views and information submitted by the Governments of Madagascar, Peru, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics are reproduced below. Any further replies which may be received by the Secretariat will be issued in addenda to this document.

REPLIES RECEIVED FROM STATES PARTIES

MADAGASCAR

[Original: French]

[5 September 1986]

...

Views of the Ministry of Trade

The Ministry of Trade condemns the policy of apartheid and is ready to co-operate with the international community in its efforts to put an end to that régime.

As far as the extent and the nature of the responsibility of transnational corporations for the continued existence of that régime is concerned, no one today is unaware of the pernicious effects caused by the apartheid régime in the social and economic life of the oppressed black people of South Africa. With this in mind, the Department of Trade avoids as far as possible any commercial co-operation with such corporations, particularly as some of their business practices do nothing but restrict the development of international trade.

Views of the Ministry of Justice

The Ministry of Justice has already made known its views on apartheid and its pernicious effects.

As far as the importance and the role of transnational corporations in sustaining the apartheid system in South Africa is concerned, the presence of more than 650 foreign corporations and enterprises and the trade they generate with partners which even include coloured nations, under assistance and co-operation agreements, can only serve to consolidate the exclusive and unique powers of the racist Government. Too many strategic interests are at stake. In our view, given that resolutions, condemnations on paper and the publication of reports are not likely to end this state of affairs, and since no recourse is available by other means (for example, military means), immediate consideration must be given to economic measures.

Views of the Ministry of the Interior

The Ministry of the Interior, bearing in mind the leading role played by transnational corporations in South Africa, condemns this economic presence and urges the international community to take more effective measures.

Views of the Ministry of Finance

Investment in South Africa by the transnational corporations benefits only the existing racist Government and thus strengthens its economic power, thereby helping to perpetuate the system.

Madagascar should avoid as far as possible any relations with these corporations. We do not conceal the fact that the permanent bureau of the African National Congress (ANC) at Antananarivo enjoys considerable support from the Malagasy Government. ...

PERU

[Original: Spanish]

[2 October 1986]

... In this respect, it should be pointed out that the absolute rejection of apartheid is a fundamental aspect of Peru's foreign policy. This position of principle reflects both the multinational composition of the Peruvian people and the terms of the Constitution of Peru, which rejects all forms of discrimination. Peru, therefore, has undertaken to give broad and firm support to the measures adopted by the United Nations and by the World Conference on Sanctions against Racist South Africa, which was chaired in June this year by its Minister for Foreign Affairs, Mr. Allan Wagner Tizón.

Consequently, Peru fully shares the opinion expressed by the Group of Three established under the International Convention on the Suppression and Punishment of the Crime of Apartheid. Thus, Peru believes that the transnational corporations which operate in South Africa and Namibia are accomplices of the racist régime and, therefore that States which have jurisdiction over such corporations cannot remain uninvolved in all the international efforts to sanction and put an end to such operations ...

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]

[28 February 1986]

The Ukrainian Soviet Socialist Republic, following its policy of principle aimed at the final eradication of colonialism and racism in all their forms and manifestations, advocates the complete isolation and elimination of the apartheid régime in southern Africa.

The apartheid system in South Africa is the most blatant and cynical form of racism, which has been raised to the level of a constitutional principle and of Government policy in that country; it is a system of "legalized lawlessness" and of gross violation of the rights and freedoms of the majority of the country's population.

The latest events in South Africa, characterized by an unprecedented escalation of repression against the indigenous population and all opponents of apartheid, illustrate the profound crisis within this system. At the same time, the policy of aggression and State terrorism pursued by the Pretoria régime and its attempts to enforce a neo-colonialist solution to the Namibian problem are an increasing threat to international peace and security.

Today, the main reason for the persistence of tension in southern Africa is that the South African racist régime, notwithstanding the decisions of the United Nations and in spite of the protests of world public opinion,

continues to enjoy all-round support from a number of Western countries, particularly the United States, which are blocking the application against Pretoria of effective collective sanctions under the Charter of the United Nations.

Behind their arguments about "constructive engagement" with South Africa, the Western countries are in reality concerned with their own economic and strategic interests in southern Africa and are extending military, diplomatic, commercial and financial collaboration with the Pretoria régime through various means, including the transnational corporations.

According to information supplied by the United Nations Council for Namibia (document A/AC.131/20), some 2,000 transnational corporations based in the United States, the Federal Republic of Germany, the United Kingdom, France and some other countries are now operating in South Africa. Most of the commercial transactions, investments, loans, and technology transfers with the South African racists are carried out through these transnational corporations. The broad economic and military, including nuclear, collaboration between Israel and the Pretoria régime has been revealed in sufficient detail in United Nations documents, particularly the special report of the Special Committee against Apartheid (A/39/22/Add.1).

The Ukrainian SSR agrees with the conclusion contained in the report of the Secretary-General on the activities of transnational corporations in South Africa (E/C.10/AC.4/1985/3) that the uncontrolled rapacious activities of transnational corporations are one of the most serious obstacles to the elimination of apartheid. This document provides factual information about how the transnational corporations contribute to the apartheid régime and describes their role as the major suppliers of technology and various manufactured goods to the South African régime and as active international trading partners of South Africa.

The public hearings on the activities of transnational corporations in South Africa and in Namibia, held in September 1985 in New York, also showed quite clearly that the transnational corporations which operate in this region in violation of United Nations decisions share responsibility for the continued existence of the apartheid system. The collaboration of transnational corporations with the South African racist régime in the military and nuclear fields was especially criticized.

The Ukrainian SSR supports the recommendations contained in the final document issued by the panel established to conduct the hearings and joins in the appeal for all States to adhere strictly to them. Broad, concrete and effective measures must be taken without delay for the eradication of racism and apartheid, the termination of political, economic and military support for the apartheid régime in South Africa and the speediest elimination of racist domination in southern Africa, thereby making it possible to remove a dangerous source of aggression and international tension in that part of the world.

The Ukrainian SSR also fully shares the opinion of the Group of Three established under the International Convention on the Suppression and Punishment of the Crime of Apartheid that article III of the Convention can apply to the actions of transnational corporations operating in South Africa (document E/CN.4/1985/27).

As neither a home country nor a host country of transnational corporations, the Ukrainian SSR maintains no political, economic, military or other relations with South Africa and, consequently, has no contractual or licensing arrangements with Pretoria. Furthermore, it has always spoken out and continues to speak out in condemnation of the policies of the United States, certain other NATO countries and Israel which collaborate with South Africa in various fields, undermine international efforts in the struggle against apartheid and take action to circumvent the decisions already adopted by the United Nations on sanctions against South Africa.

As confirmed in the course of 1985 in particular, this position was characteristic of the representatives of the Ukraine in the Security Council and at the General Assembly of the United Nations, in the Commission on Human Rights and the Special Committee against Apartheid, and at the sessions of all other bodies and international conferences or seminars where matters relating to the struggle against the policy and practice of apartheid were discussed and in whose work delegations or representatives of the Ukrainian SSR took part. The mass media, teaching institutions, public organizations and governmental establishments give wide publicity to the international campaign against apartheid and to the scrupulous fulfilment in the Ukrainian SSR of the obligations arising under the Convention on the Suppression and Punishment of the Crime of Apartheid.

The Ukrainian SSR strictly complies with United Nations decisions regarding the boycott and embargo of the South African racist régime and also supports the demands for the immediate imposition of comprehensive mandatory sanctions against South Africa under Chapter VII of the United Nations Charter, as well as the proposal by African States that the Security Council should take additional measures against South Africa, including the imposition of an embargo on the supply of oil and oil products to the Pretoria régime.

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]

[7 February 1986]

The Soviet Union resolutely condemns the racist régime of Pretoria, which is attempting with the support of its Western protectors to perpetuate the colonial racist order. Flouting United Nations decisions and the demands of the international community, the South African racists pursue the criminal policy of apartheid, resist granting independence to the people of Namibia, and carry out acts of aggression against neighbouring African countries. The tragic events in South Africa, characterized by an unprecedented escalation of repression against the indigenous population and other opponents of apartheid, illustrate the profound crisis within this system whose inhuman, anti-popular and criminal essence cannot be disguised by any political manoeuvring. The Soviet Union consistently advocates the complete international isolation of the apartheid régime in South Africa and the adoption of broad and effective international measures aimed at ending political, economic and military support for this inhuman régime and, ultimately, at the final elimination of racist domination in southern Africa.

The main reason for the continued dangerous source of tension in southern Africa is that, in pursuing the criminal policy of apartheid, aggression and occupation, the South African racist régime finds direct support, notwithstanding numerous United Nations decisions, from influential Western protectors, particularly the United States, which have proclaimed a policy of so-called constructive engagement with Pretoria and are blocking the application against it of comprehensive mandatory sanctions under the United Nations Charter. It is precisely they who through various means, including their transnational corporations, are supporting and even strengthening relations with the Pretoria régime in the political, military, economic and financial fields. It should be pointed out that such steps are being taken at a time when the United Nations is calling upon all countries to cease all collaboration with the Pretoria régime and urging the home countries of transnational corporations to take effective measures in order to end the collaboration of their transnational corporations with the racist minority régime in South Africa and also to prevent further investment or re-investment and ensure complete disinvestment immediately in South Africa and Namibia.

Certain Western countries, instead of declaring a complete boycott of South Africa as required by the United Nations, have recently announced partial measures against South Africa which deliberately do not go far enough to have a significant impact on the policy of the South African régime and which are essentially intended to divert the attention of world public opinion from the policy of complicity with the South African racists being pursued by the imperialist countries.

The report of the Secretary-General (E/C.10/AC.4/1985/3) on the activities of transnational corporations in South Africa shows the extent to which transnational corporations contribute to the apartheid system, and provides factual information.

However, even this information does not give a complete picture of the role of transnational corporations in South Africa since, as the major suppliers of technology under licensing arrangements, these corporations supply manufactured goods and high-technology equipment and also take an active part in international trade.

The imperialist monopolies engaged in plundering the human and natural resources of southern Africa with the assistance and connivance of their home countries are the direct and immediate accomplices of the racist Pretoria régime. The activities of transnational corporations in this region, carried out in violation of the well-known United Nations resolutions, create the material basis for sustaining the inhuman apartheid system in South Africa and for the continued illegal occupation of Namibia. Serious concern is caused throughout the world by the fact that the international monopolies are extending their operations in southern Africa, particularly in the military and nuclear sectors of the South African economy, and are strengthening their collaboration with the racist minority régime in this region in blunt defiance of the United Nations and the entire world community.

The report entitled "Transnational corporations in South Africa and Namibia" (E/C.10/1985/9) prepared by the United Nations Secretariat for the eleventh regular session of the United Nations Commission on Transnational Corporations states frankly that some home countries of transnational

corporations do not consider themselves bound by the various United Nations resolutions and decisions calling for measures to be taken against their transnational corporations operating in South Africa. References by these countries to their alleged inability to control the activities of their transnational corporations are totally without foundation. The facts show that when it suits their governments' aggressive policies, home countries can establish control over the actions of their corporations and even of those corporations which simply use their technology, without regard for the principle of "free enterprise" or for contractual or other obligations. It is precisely these countries, too, which are blocking the elaboration within the United Nations of a code of conduct on transnational corporations to provide effective control over their activities, including those in southern Africa.

The United Nations knows which countries are largely responsible for sustaining the racist régime in South Africa. In its resolution 36/172 D the General Assembly directly condemned the continued economic and other collaboration of certain Western and other States, particularly the United States, the United Kingdom, the Federal Republic of Germany and Israel, with the South African racist régime. In resolution 38/39 A the General Assembly condemned the policies of certain Western States, particularly the United States and Israel and their transnational corporations and financial institutions, which are extending political, economic and military collaboration with the racist minority régime of South Africa.

The public hearings on the activities of transnational corporations in South Africa and Namibia, held on 16-21 September 1985 in New York, virtually became a trial of the transnational corporations and of those who defend their interests. It was noted at the hearings that the main reason for the persisting source of tension in southern Africa is that the criminal policy of apartheid being pursued by the South African racist authorities is directly supported by influential Western protectors, particularly the United States. It was pointed out that the continued and expanded activities of the imperialist monopolies in this region create the material basis for sustaining the inhuman apartheid system in South Africa and for the continued illegal occupation of Namibia. The operations of transnational corporations in the military and nuclear sectors of the South African economy, which represent a serious danger to peace and security in the region, were criticized in particular.

The transnational corporations declined to take part in the public hearings on the activities of transnational corporations in South Africa and Namibia, and this can only be viewed as a further demonstration of their unwillingness to take account of the clearly expressed opinion of the United Nations, the non-aligned movement, the Organization of African Unity and the entire world community, which are calling for an immediate and permanent end to apartheid as the most shameful manifestation of racial oppression, a blatant crime against humanity and the most brutal violation of human rights.

In accordance with its position of principle, the Soviet Union actively contributes to the work of the United Nations directed towards the final elimination of colonialism, racism and apartheid, and in its actions strictly abides by the decisions adopted by the United Nations.

The Soviet Union calls for effective measures to be taken that would force the Pretoria régime to comply with the demands of the world public and to end the violence and repression against the African population in South Africa and grant genuine independence to Namibia. No threadbare, hypocritical "reforms", but the immediate and full dismantling of apartheid - this is the demand of all those who not in words but in deeds uphold human rights and the freedom of peoples.

In the view of the Soviet Union, the public hearings in the United Nations on the activities of transnational corporations in South Africa and Namibia, which concluded with the adoption of a report condemning the policy of apartheid and the activities of those who help to sustain it and which reaffirmed the importance of the measures outlined in the report of the Secretary-General (E/C.10/AC.4/1985/2), must give further practical impetus to the actions of the world community aimed at the complete and immediate elimination of the inhuman Pretoria régime and effective prevention of actions by home countries and the imperialist monopolies or transnational corporations themselves to sustain it and continue the occupation and plunder of Namibia.

As is well known, the Soviet Union is neither a home country nor a host country of transnational corporations. The USSR maintains no diplomatic, economic, commercial, military or other relations with South Africa, and consequently has no agreements or links with Pretoria.

The Soviet Union and its respective organizations and departments strictly comply in practice with Security Council resolutions 418 (1977) of 4 November 1977, 473 (1980) of 13 June 1980 and 558 (1984) of 13 December 1984.

Soviet foreign trade organizations, including those which participate in joint companies, operate in strict accordance with the United Nations decisions on the boycott and embargo of the South African racist régime. The USSR has no commercial relations whatsoever with South Africa and does not permit the re-export of Soviet goods to that country. Thus, with a view to preventing the supply of oil to South Africa, any Soviet foreign trade organization trading in oil and oil products includes a special provision in contracts for the export of such goods prohibiting importers from re-exporting those goods to South Africa.

In accordance with the fundamental principles of Soviet foreign policy, one of which is support for the struggle of oppressed peoples to achieve self-determination, independence, national liberation and social progress, the USSR strictly and scrupulously carries out United Nations resolutions and decisions concerning the apartheid régime in South Africa.

As M.S. Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, pointed out in his message to the participants in the special commemorative meeting of the General Assembly in observance of the twenty-fifth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, "the policy of colonialism

in all its forms and manifestations, including racism and apartheid, is incompatible with the United Nations Charter and with the Declaration on Decolonization. The conscience of honest people everywhere cannot be reconciled to the continued existence of strongholds of colonialism in the world today. The duty of the United Nations is to take urgent measures to implement the Declaration in full and thus ensure that all colonial peoples and trusteeship territories achieve genuine political and economic independence and take their rightful place in the international community of States".