



General Assembly

Distr.
GENERALA/44/442
9 August 1989

ORIGINAL: ENGLISH

Forty-fourth session
Item 101 of the provisional agenda*

ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Status of the International Convention on the Suppression
and Punishment of the Crime of ApartheidReport of the Secretary-General

I. INTRODUCTION

1. The General Assembly, by its resolution 3068 (XXVIII) of 30 November 1973, adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid and appealed to all States to sign and ratify it as soon as possible.
2. By its resolution 3380 (XXX) of 10 November 1975, the General Assembly, convinced that ratification of or accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid on a universal basis and implementation of its provisions were necessary for the achievement of the goals of the Decade for Action to Combat Racism and Racial Discrimination, appealed to the Governments of all States to sign, ratify and implement the Convention without delay and requested the Secretary-General to submit to it annual reports on the status of the Convention,
3. By its resolution 31/80 of 13 December 1976, the General Assembly welcomed the entry into force on 18 July 1976 of the Convention, appealed to all States that had not yet become parties to the Convention to accede thereto, requested the Secretary-General to include in his annual report under General Assembly resolution 3380 (XXX) a special part concerning the implementation of the Convention, and decided to consider annually, starting with its thirty-second session, the question

* A/44/150.

entitled "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid",

4. By its resolution **43/97** of 8 December 1988, the General Assembly appealed **once** again to the States that had not yet done so to ratify or to accede to the Convention without further delay, **in** particular those States which had jurisdiction over transnational corporations operating in South Africa and Namibia and without whose co-operation such operations could not be halted.

II. STATUS OF THE CONVENTION

5. In accordance with the provisions of its article XV, paragraph 1, the International Convention on the Suppression and Punishment of the Crime of Apartheid entered into force on 18 July 1976.

6. As at 1 August 1989, the Convention had received 35 signatures, 31 of which had been followed by ratification. In addition, 57 States had acceded to the Convention, bringing the total of ratifications and accessions to the Convention to 88. A list of States that have signed, ratified or acceded to the Convention and the dates of their signature, ratification or accession appears in the annex to the present report.

7. In paragraph 13 of its resolution **43/97**, the General Assembly requested the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification of or accession to the Convention.

III . IMPLEMENTATION OF THE CONVENTION

8. Under article VII of the Convention, the States parties undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention. Copies of the reports are transmitted through the Secretary-General to the Special Committee against Apartheid.

9. In accordance with article IX, paragraphs 1 and 3, of the Convention, the Chairman of the Commission on Human Rights is authorized to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII. The group may meet for a period of not more than five days, either before the opening or after the closing date of the session of the Commission, to consider the reports submitted in accordance with article VII.

10. Under article X of the Convention, the States parties to the Convention empower the Commission on Human Rights to undertake a number of tasks enumerated therein, inter alia, to prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States parties, a list of individuals,

organisations, **institutions** and representatives of States that are alleged **to be** responsible **for the crimes enumerated** in article II **of** the Convention, as well as those against whom legal proceedings have been undertaken **by** States parties to the Convention.

11. By its resolution **43/97**, the General Assembly **commended** those States parties to the Convention **that had** submitted their reports **under** article VII **thereof and** requested the Secretary-General 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 forms of the crime of apartheid**, as described in article II **of** the Convention, committed by **transnational corporations operating in South Africa, and further requested** the Secretary-General to include **in** his next annual report a special **section** concerning the implementation of the Convention.

12. The Group **of** Three on the implementation **of** the Convention, appointed by the Chairman of the Commission on Human Rights at its forty-fourth **session under** article IX of the Convention, was composed of the representatives of Ethiopia, the German Democratic Republic and Mexico. The Group **met at the** United Nations Office at Geneva from 23 to 27 January 1989. It had **before** it reports submitted since its 1988 **session** by 10 States parties.

13. In its report to the **Commission** on Human Rights at its forty-fifth **session (E/CN.4/1989/33)**, the Group of Three, inter alia, noted with concern **that, as at** 31 December 1988, **more** than 190 reports were overdue under **the** Convention, **and** strongly urged the States parties **concerned** to fulfil their reporting **obligations** and to expedite the submission of their overdue reports, **as requested by the** General Assembly in its resolution **43/115 of 8 December 1988**. The Group noted **that most of** the reports submitted by States parties were in line **with** the general **guidelines**; nevertheless, it reiterated its recommendation that the general guidelines regarding the form and content of reports should be fully taken **into** account by all States parties when preparing **their** reports. With a view to expediting the submission of reports by States parties, the Group recommended to the **Commission** on Human Rights that it request the States parties to continue to submit their initial reports not **later** than two years after entry into **force of** the Convention **for** the States parties concerned and their periodic reports at four-year intervals, **on** the understanding that they might submit additional information to the Group at any time in the intervening period **if** they wished to do so. The Group called upon States parties to provide **in** their reports all relevant information on the **legislative**, judicial and administrative measures that they had adopted to give effect to the provisions of article IV of the Convention, or **on** the difficulties that they might have encountered in the implementation of that article. It also called upon States parties to provide in their reports information on **concrete** cases in which **measures** to prosecute, bring to trial and punish persons responsible **for**, or accused of, the acts enumerated **in** article II of the Convention had **been** applied under their jurisdiction. Moreover, it appealed **once** again to States parties, through the Commission on Human Rights, to strengthen their co-operation at the international level to implement fully and expeditiously, in accordance with the Charter of the United Nations, the decisions taken by the Security Council and other organs of the United Nations and its specialized agencies aimed at the

prevention, suppression and punishment of the crime of apartheid, in accordance with article VI of the Convention. The Group expressed once again the importance of measures to be taken in the field of teaching and education for the fuller implementation of the Convention and invited the States parties to include information on those measures in their reports. It also reiterated its belief that the assistance given to national liberation movements in southern Africa should be strengthened and called upon the international community to contribute generously to such movements.

14. By its resolution 1989/8 of 23 February 1989, entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid", the Commission on Human Rights took note with appreciation of the report of the Group of Three, and in particular of the conclusions and recommendations contained therein) requested the States parties to the Convention to continue to submit their initial reports not later than two years after the entry into force of the Convention for the States parties concerned and their periodic reports at four-year intervals, on the understanding that they may submit additional information to the Group at any time in the intervening period if they wish to do so; recommended once again that all States parties should take full account of the general guidelines laid down by the Group of Three in 1978 for the submission of reports (E/CN.4/1286, annex); drew the attention of all States to the opinion expressed by the Group in its reports that transnational corporations operating in South Africa and Namibia must be considered accomplices in the crime of apartheid, in accordance with article III (b) of the Convention; called upon all States whose transnational corporations continued to do business with South Africa and Namibia to take appropriate steps to terminate their dealings with South Africa and Namibia; drew the attention of the States parties to the desirability of disseminating further information on the Convention, the implementation of its provisions and the work of the Group of Three; requested the Secretary-General to invite States parties to the Convention 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; requested the Group 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 action 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-sixth session; and decided that the Group of Three should meet for a period of not more than five days before the forty-sixth session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

15. In notes verbales dated 12 and 16 June 1989, the Secretary-General brought to the attention of the States parties the relevant provisions of the Convention and Commission on Human Rights resolution 1989/8, as well as the conclusions and recommendations of the Group of Three in the report on its 1989 session, and requested them to submit their reports within the time-limits indicated in Commission resolution 7 (XXXIV) of 22 February 1978 for transmission to the Group of Three at its 1990 session.

16. In another **note verbale** dated 12 June 1988, the attention of the **specialized agencies and non-governmental organizations** was drawn, in **particular**, to the provisions of **General Assembly resolution 43/97** and **Commission on Human Rights resolution 1989/8**, by which the **Assembly and the Commission** requested them to provide the Commission 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.

17. As regards the implementation of the **provisions of article X of the Convention**, the **General Assembly**, in its **resolution 43/97**, requested the **Commission on Human Rights to intensify, in co-operation with the Special Committee against Apartheid**, its efforts to compile periodically the progressive list of individuals, **organizations**, institutions and representatives of States deemed responsible for crimes **enumerated in article II of the Convention**, as well as those against whom or which legal proceedings **had been undertaken**) requested the Secretary-General to circulate the above-mentioned list to all States parties to the **Convention and all Member States** and to bring such facts to the attention of the public by all means of mass communication; and appealed to all States, United Nations organs, the **specialized agencies and international and national non-governmental organisations** to step up their activities in enhancing public **awareness** by denouncing the crimes committed by the racist **régime of South Africa**.

18. In connection with the requests of the **General Assembly** contained in paragraphs 8 and 9 of its resolution **43/97**, the Secretary-General wishes to refer to part two, chapter IV, of the report of the **Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1985/8, paras. 511-513)** and to part two, chapter IX, of the progress report of the Group of Experts (**E/CN.4/1986/9, paras. 414-416**), which contains a consolidated list of persons deemed responsible for the crime of **apartheid** or for serious violations of **human rights**, as well as to part two, chapter IX, of the interim report of the Group of Experts (**E/CN.4/1988/8, paras. 416-417**), which provides information concerning persons suspected of being guilty of the crime of **apartheid** or of a serious violation of **human rights**. These lists have been given wide publicity by the Secretary-General on several occasions since the publication of the original list by the Group of Experts in 1985.

19. During the period under review, the **Ad Hoc Working Group of Experts** did not receive sufficient information to enable it to determine the responsibilities of persons suspected of being guilty of the crime of **apartheid**.

ANNEX

List of States that have signed, ratified or acceded to
the International Convention on the Suppression and
Punishment of the Crime of Apartheid

<u>State</u>	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Afghanistan		6 July 1983 a/
Algeria	23 January 1974	26 May 1982
Antigua and Barbuda		7 October 1982 a/
Argentina	6 June 1975	7 November 1985
Bahamas		31 March 1981 a/
Bangladesh		5 February 1985 a/
Barbados		7 February 1979 a/
Benin	7 October 1974	30 December 1974
Bolivia		6 October 1983 a/
Bulgaria	27 June 1974	18 July 1974
Burkina Faso	3 February 1976	24 October 1978
Burundi		12 July 1978 a/
Byelorussian Soviet Socialist Republic	4 March 1974	2 December 1975
Cameroon		1 November 1976 a/
Cape Verde		12 June 1979 a/
Central African Republic		8 May 1981 a/
Chad	23 October 1974	23 October 1974
China		18 April 1983 a/
Colombia		23 May 1988 a/

<u>State</u>	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Congo		5 October 1983 a/
Costa Rica		15 October 1986 a/
Cuba		1 February 1977 a/
Czechoslovakia	29 August 1975	25 March 1976
Democratic Kampuchea		28 July 1981 a/
Democratic Yemen	31 July 19 4	
Ecuador	12 March 1975	12 May 1975
Egypt		13 June 1977 a/
El Salvador		30 November 1979 a/
Ethiopia		19 September 1978 a/
Gabon		29 February 1980 a/
Gambia		29 December 1978 a/
German Democratic Republic	2 May 1974	12 August 1974
Ghana		1 August 1978 a/
Guinea	1 March 1974	3 March 1975
Guyana		30 September 1977 a/
Haiti		19 December 1977 a/
Hungary	26 April 1974	20 June 1974
India		22 September 1977 a/
Iran (Islamic Republic of)		18 April 1985 a/
Iraq	1 July 1975	9 July 1975
Jamaica	30 March 1976	18 February 1977
Jordan	5 June 1974	

<u>State</u>	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Kenya	2 October 1974	
Kuwait		23 February 1977 a/
Lao People's Democratic Republic		5 October 1981 a/
Lesotho		4 November 1983 a/
Liberia		5 November 1976 a/
Libyan Arab Jamahiriya		8 July 1976 a/
Madagascar		26 May 1977 a/
Maldives		24 April 1984 a/
Mali		19 August 1977 a/
Mauritania		13 December 1988 a/
Mexico		4 March 1980 a/
Mongolia	17 May 1974	8 August 1975
Mozambique		18 April 1983 a/
Namibia		11 November 1982 a/
Nepal		12 July 1977 a/
Nicaragua		28 March 1980 a/
Niger		28 June 1978 a/
Nigeria	26 June 1974	31 March 1977
Oman	3 April 1974	
Panama	7 May 1976	16 March 1977
Pakistan		27 February 1986 a/
Peru		1 November 1978 a/
Philippines	2 May 1974	26 January 1978

<u>State</u>	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Poland	7 June 1974	15 March 1976
Qatar	18 March 1975	19 March 1975
Romania	6 September 1974	15 August 1978
Rwanda	15 October 1974	23 January 1981
Saint Vincent and the Grenadines		9 November 1981 a/
Sao Tome and Principe		5 October 1979 a/
Senegal		18 February 1977 a/
Seychelles		13 February 1978 a/
Somalia	2 August 1974	28 January 1975
Sri Lanka		18 February 1982 a/
Sudan	10 October 1974	21 March 1977
Suriname		3 June 1980 a/
Syrian Arab Republic	17 January 1974	18 June 1976
Togo		24 May 1984 a/
Trinidad and Tobago	7 April 1975	29 October 1979
Tunisia		21 January 1977 a/
Uganda	11 March 1975	10 June 1986
Ukrainian Soviet Socialist Republic	20 February 1974	10 November 1975
Union of Soviet Socialist Republics	12 February 1974	26 November 1975
United Arab Emirates	9 September 1975	15 October 1975
United Republic of Tanzania		11 June 1976 a/
Venezuela		28 January 1983 a/

<u>State</u>	<u>Date of signature</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Viet Nam		9 June 1981 a/
Yemen		17 August 1987 a/
Yugoslavia	17 October 1974	1 July 1975
Zaire		11 July 1978 a/
Zambia		14 February 1983 a/

a/ Accession.
