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IN SOUTHERN AFRICA

Report of the Special Rapporteur

Addendum

PART TWO. CHAPTER VII

SURVEY OF UNITED NATIONS PAST ACTION IN REGARD TO THE
AFRICAN TERRITORIES UNDER PORTUGUESE ADMINISTRATION

The Secretary-General has received the attached report prepared in accordance with resolution 3 E (XXIV) of the Commission on Human Rights, by Mr. Manouchehr Ganji (Iran), the Commission's Special Rapporteur, and has the honour to communicate it herewith to the Commission.

The views expressed in this report are those of the author.

CHAPTER VII

SURVEY OF UNITED NATIONS PAST ACTION IN THE AFRICAN TERRITORIES UNDER PORTUGUESE ADMINISTRATION 188/

SECTION A

A BRIEF REVIEW OF ACTION TAKEN BY THE UNITED NATIONS: 1960-1966

1. Introduction

302. The question of the Territories under Portuguese domination has been dealt with by the United Nations as a colonial problem which constitutes a serious threat to international peace and security. It has been a subject of continuous discussions at meetings of the Committee of Twenty-Four since 1962 and has been considered at several meetings of the Security Council between 1961 and 1967, at every session of the General Assembly since 1960 as well as at recent sessions of the Commission on Human Rights.

303. Since Portugal became a Member of the United Nations in 1955, it has consistently maintained that certain territories under its administration were "overseas provinces" of the metropolitan State. It objected to the placing on the agenda of any United Nations organ of an item on the territories and asserted that decisions to apply to Portugal Chapter XI of the Charter of the United Nations concerning Non-Self-Governing Territories were not based on law but violated the principle of Article 2 (7), which expressly denied the United Nations the right to intervene in matters which were essentially within the domestic jurisdiction of any State.

304. In considering the situation in the territories under Portuguese administration, the United Nations has set, as its fundamental objectives: the implementation of General Assembly resolution 1514 (XV), which contained the Declaration on the Granting of Independence to Colonial Countries and Peoples; the recognition by Portugal of the right of the indigenous people to self-determination, freedom and independence; the protection of the population against

188/ The question of the Territories under Portuguese domination was not dealt with in the first report of the Special Rapporteur. Therefore, the present survey of United Nations action goes back to the time when the question was first considered.

the policy of repression and systematic violation of human rights carried out by the Portuguese authorities; and the maintenance of international peace and security threatened by the actions of the Portuguese Government.

2. Question of Angola

305. The situation in Angola was considered as a distinct item by both the General Assembly and the Security Council from 1960 to 1962.

306. On 10 March 1961, the Security Council included the item on its agenda at the urgent request of the representative of Liberia, who stated that developments in that territory necessitated immediate action by the Council to prevent further abuse of human rights. A draft resolution, submitted by the Afro-Asian members of the Committee by which the Council would, among other things, call on the Government of Portugal to introduce measures and reforms in Angola to implement General Assembly resolution 1514 (XV) and appoint a sub-committee to conduct an inquiry, was not adopted.

307. On 23 March 1961, at its resumed fifteenth session, at the request of forty Member States, the General Assembly decided to include the matter on its agenda and adopted by 73 votes to 2 with 9 abstentions resolution 1603 (XV) containing the provisions which had not been adopted earlier by the Security Council.

308. The Security Council subsequently resumed consideration of the matter and adopted, on 9 June 1961, by 9 votes to none with 2 abstentions resolution 163 (1961) which reaffirmed General Assembly resolution 1603 (XV), called upon Portugal to desist forthwith from repressive measures, and expressed the hope for a peaceful solution of the problem in accordance with the Charter of the United Nations.

309. In its report, the Sub-Committee established by resolution 1603 (XV) of the General Assembly expressed its regret at the negative attitude of Portugal and stated that the policy of assimilation proclaimed by the Government of Portugal had not been accompanied by any active preparation of the indigenous population for the status of citizenship. On the basis of this report, the General Assembly adopted resolution 1742 (XVI) in which it, inter alia, reaffirmed the right of Angolan people to self-determination and independence, deprecated the repressive measures and armed action against the people of Angola and appealed

to the Government of Portugal for the immediate release of Angolan political prisoners. It decided to continue the Sub-Committee, and further requested all States Members of the United Nations and members of the specialized agencies to deny Portugal any support and assistance which may be used by it for the suppression of the people of Angola. At the seventeenth session, the General Assembly, in resolution 1819 (XVII), reaffirmed its resolution 1742 (XVI) as the Government of Portugal continued to resort to military and other repressive measures against the people of Angola. In addition, it requested the Security Council to take appropriate measures, including sanctions, to secure Portugal's compliance with the resolutions of the General Assembly and of the Security Council.

3. Consideration by the United Nations organs of the situation in the Territories under Portuguese domination: 1960-1966

(a) Action taken by the General Assembly and its subsidiary bodies

310. The General Assembly considered for the first time a matter pertaining to the Portuguese-administered territories, as a whole, at its fifteenth session in connexion with the questions concerning transmission and examination of information from Non-Self-Governing Territories and the implementation of the "Declaration" adopted by the General Assembly by resolution 1514 (XV).

311. Since Portugal became a Member of the United Nations, in 1955, it consistently maintained that certain Territories under its administration were "overseas provinces" and therefore not subject to the provisions of Chapter XI of the Charter on Non-Self-Governing Territories. By resolution 1542 (XV), adopted at its fifteenth session, over the objections of the Government of Portugal, the General Assembly enumerated the territories under the administration of Portugal which it considered to be non-self-governing declared that Portugal had an obligation under Article 73 of the Charter to transmit information about them, and requested the Government of Portugal to act accordingly. As Portugal refused to comply, the General Assembly, by resolution 1699 (XVI) adopted at the sixteenth session, condemned Portugal's negative attitude and established a Special Committee of seven members to examine as a matter of urgency, within the context of Chapter XI of the Charter and

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relevant resolutions of the Assembly, such information as is available concerning Territories under Portuguese administration, and to formulate its observations, conclusions and recommendations for the consideration of the Assembly and any other body which the Assembly may appoint to assist it in the implementation of its resolution 1514 (XV). It also requested Member States to use their influence to secure the compliance of Portugal with its obligations under the Charter and the relevant resolutions of the General Assembly and to deny Portugal any support and assistance which it might use for the suppression of the peoples of its Non-Self-Governing Territories.

312. The Special Committee on Territories under Portuguese Administration reported that an essentially colonial relationship between Portugal and the Territories was denying to the indigenous people the opportunity for their own development. Furthermore, the indigenous population did not have the same civil and political rights as the nationals of Portugal in the Territories. The Committee concluded also that military and other equipment supplied by members of the North Atlantic Treaty Organization, in particular, continued to be used against the indigenous people. The General Assembly should therefore adopt measures aimed at a complete embargo on the sales and supplies of weapons to Portugal.

313. The General Assembly endorsed most of the conclusions and recommendations of the Committee by resolution 1807 (XVII). It urged, inter alia, the Portuguese Government to give effect to the recommendations contained in the report of the Special Committee on Territories under Portuguese Administration, in particular those set out in paragraphs 442 to 445 of that report, by taking the following measures: (a) the immediate recognition of the right of the peoples of the Territories under its administration to self-determination and independence; (b) the immediate cessation of all acts of repression and the withdrawal of all military and other forces at present employed for that purpose; (c) the promulgation of an unconditional political amnesty and the establishment of conditions that will allow the free functioning of political parties; (d) negotiations, on the basis of the recognition of the right to self-determination, with the authorized representatives of the political parties within and outside the Territories with a view to the transfer of power to political institutions

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freely elected and representative of the peoples, in accordance with resolution 1514 (XV); (e) the granting of independence immediately thereafter to all the Territories under its administration in accordance with the aspirations of the peoples. It earnestly requested all States to refrain from offering the Portuguese Government any assistance and requested the Security Council, in case the Portuguese Government should refuse to comply with the present resolution and previous General Assembly resolution on this question, to take all appropriate measures to secure the compliance of Portugal with its obligations as a Member State. It also requested the newly established Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to give high priority to the examination of the situation in the Territories.^{189/} At the same session the General Assembly established by resolution 1808 (XVII) a special training programme for the indigenous people of these Territories and invited Member States to make available directly or through voluntary agencies, for students from Territories under Portuguese administration, all-expense scholarships both for the completion of secondary education and for various forms of higher education.

314. As the Government of Portugal persisted in its refusal to co-operate with the United Nations on the matter, and continued to carry out a policy of repression against the indigenous population, the Committee of Twenty-Four adopted a number of resolutions since 1963 in which it reaffirmed the inalienable right of the peoples of the Territories under Portuguese domination to achieve freedom and independence, in accordance with General Assembly resolution 1514 (XV) and the legitimacy of their struggle to achieve this right; the Committee also condemned the attitude of Portugal as contrary to its obligations under the Charter and drew the attention of the Security Council to the need for taking appropriate measures, including sanctions, to secure compliance by Portugal with the relevant resolutions of the General Assembly and of the Security Council. It repeatedly reaffirmed that for a peaceful solution

^{189/} The Special Committee on Territories under Portuguese administration established by resolution 1699 (XVI) was dissolved by resolution 1809 (XVII).

of the problem it was necessary that Portugal should implement the measures laid down in those resolutions, particularly those contained in the Security Council resolution of 31 July 1963. It also called on all States, particularly Portugal's allies in the North Atlantic Treaty Organization, to refrain from providing Portugal with military or other forms of assistance so long as the Government failed to renounce its policy of colonial domination and recommended the breaking off of diplomatic and economic relations with Portugal.

315. By resolutions 1913 (XVIII), 2105 (XX), 2107 (XX) and 2184 (XXI), the General Assembly endorsed the conclusions and recommendations of the Special Committee and in resolution 2134 (XXI) condemned as a crime against humanity the policy of the Government of Portugal which violated the economic and political rights of the indigenous population by the settlement of immigrants in the Territories and by exporting African workers to South Africa. Furthermore, the General Assembly condemned the activities of the financial interests operating in the Territories which exploit the human and material resources of the Territory and impede the progress of the peoples towards independence; appealed to all States to render the indigenous people of the Territories moral and material support for the restoration of their inalienable rights; requested all States to prevent such activities on the part of their nationals in the foreign financial interests which are an impediment to the attainment by the people of their freedom and independence; urged Member States to take, separately or collectively, diplomatic, economic and commercial sanctions against Portugal; requested all States and, in particular, the military allies of Portugal to stop all kinds of military assistance to Portugal; appealed to all specialized agencies, in particular to the International Bank for Reconstruction and Development to refrain from giving any assistance to Portugal and requested the Secretary-General to enter into consultations with the Bank in order to secure its compliance with the relevant resolutions of the General Assembly; and requested the United Nations High Commissioner for Refugees to increase its assistance to the refugees from the Territories.

316. As regards the Special Training Programme established by its resolutions 1808 (XVII) and 1973 (XVIII), the General Assembly adopted at its eighteenth, twentieth and twenty-first sessions a number of resolutions intended to improve the functioning of the programme. By resolutions 2108 (XX) and 2237 (XXI), the

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General Assembly, inter alia, invited the Member States which have offered scholarships to consider offering in the first place scholarships for secondary education and vocational and technical training. It also requested Member States to facilitate the travel of students from Territories under Portuguese administration who are seeking to avail themselves of the educational opportunities offered and to inform the Secretary-General of any scholarship offered and of awards made and utilities.

(b) Action taken by the Security Council

317. In the view of a large number of Member States the situation in the Territories under Portuguese administration constituted a serious threat to international peace and security. Military and other repressive action of Portugal against the indigenous populations have led, indeed, to numerous violations of the territory of neighbouring African countries. On a number of occasions the Security Council was convened to discuss such matters.^{190/}

^{190/} In April 1963, the Council met to consider charges by Senegal that Portuguese aircraft had violated airspace and dropped grenades on a village. By resolution 178 (1963) of 24 April 1963, submitted by Ghana and Morocco, the Council deplored the invasion and requested Portugal to take the necessary steps to prevent any violations of Senegal's airspace. In April 1964 and in February 1965, Guinea and Senegal addressed communications to the Security Council informing it that their airspace had been violated by Portuguese aircraft, and stating that such acts jeopardized international peace and security. In May 1965 the Council convened at the request of Senegal to discuss charges of numerous violations of its territory by the Portuguese authorities. By resolution 204 (1965) of 19 May 1965, adopted unanimously, the Security Council reaffirmed its resolution 178 (1963) and once again requested the Government of Portugal to prevent any violation of Senegal's sovereignty and territorial integrity. During the year 1966 and 1967 communications were again addressed to the Security Council concerning violations by Portugal of the territorial sovereignty of neighbouring States.

On 14 October 1966, the Security Council adopted resolution 226 (1966) in which it, inter alia, urged the Government of Portugal not to allow foreign mercenaries to use Angola as a base of operation for interfering in the domestic affairs of the Democratic Republic of the Congo and called upon all States to refrain from intervening in the domestic affairs of that country. On 10 July 1967, the Security Council unanimously adopted resolution 239 (1967) in which it, inter alia, reaffirmed its resolution 226 (1966) and called upon Governments to ensure that their territories and other territories under their control were not used for the planning of subversion, and the recruitment, training and transit of mercenaries designed

318. The General Assembly as well as the Committee of Twenty-Four repeatedly drew the attention of the Security Council to the deteriorating situation within the Territories and requested the Council to adopt necessary measures to give effect to its own decisions and to those of the General Assembly. Since 1963 the Security Council has considered the matter at several meetings and adopted a number of resolutions which, inter alia, described the policies of Portugal as violations of the United Nations Charter and determined that the situation in the Territories was seriously disturbing the peace and security in Africa.

(i) Action taken by the Security Council in 1963

319. The Security Council met on 21 July 1963 to consider the matter at the request of thirty-two African States which claimed that the situation in the Territories constituted a serious threat to international peace and security. By 8 votes to none with 3 abstentions,^{191/} the Council adopted resolution 180 (1963) (on a proposal presented by Ghana, Morocco and the Philippines and amended by Venezuela). By this resolution, the Security Council affirmed that the policies of Portugal in claiming that the Territories under its administration were overseas territories were contrary to the Charter, deprecated the attitude of the Portuguese Government for its refusal to implement the resolution of the General Assembly and of the Security Council and determined that the situation in the Territories was disturbing peace and security in Africa. It urgently called upon Portugal to implement the following measures: (a) the immediate recognition of the right of the peoples of the Territories under its administration to self-determination and independence; (b) the immediate cessation of all acts of repression and the withdrawal of all military and other forces at present employed for that purpose; (c) the promulgation of an unconditional

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to overthrow the Government of the Republic of the Congo.

On 15 November 1967, the Security Council adopted without objection resolution 241 (1967) in which it, inter alia, condemned in particular the failure of Portugal, in violation of Security Council resolution 226 (1966) and 239 (1967) to prevent mercenaries from using the territory of Angola as a base for armed attacks against the Democratic Republic of the Congo. It further called upon Portugal to put an end immediately to any assistance whatsoever to the mercenaries.

^{191/} France, United Kingdom of Great Britain and Northern Ireland, United States of America.

political amnesty and the establishment of conditions that will allow the free functioning of political parties; (d) negotiations, on the basis of the recognition of the right to self-determination, with the authorized representatives of the political parties within and outside the Territories with a view to the transfer of power to political institutions freely elected and representative of the peoples, in accordance with General Assembly resolution 1514 (XV); (e) the granting of independence immediately thereafter to all the Territories under its administration in accordance with the aspirations of the peoples. The Council further requested that all States should refrain from offering the Portuguese Government any assistance which would enable it to continue its repression of the peoples of the Territories under its administration, and take all measures to prevent the sale and supply of arms and military equipment for this purpose to the Portuguese Government. It also requested the Secretary-General to ensure the implementation of the resolution.

320. In his report of 31 October 1963, the Secretary-General informed the Security Council that under the mandate given to him, direct contacts had been established in Lisbon between his personal representative and the representatives of the Portuguese Government. Talks also were held between the representatives of African States and Portugal under the auspices and in the presence of the Secretary-General in New York, on the issue of self-determination. Subsequently, the African States issued a statement declaring that since Portugal persisted in its refusal to modify the basic principles governing its colonial policies, the talks were suspended.^{192/}

321. The Secretary-General transmitted to the Council the communications received by Member States indicating the actions they had taken to implement the latest resolution of the Security Council. On 6 December 1963, the Council was convened to consider the report of the Secretary-General, at the request of twenty-nine African States. By 10 votes to none with 1 abstention,^{193/} the Council adopted resolution 183 (1963). By this resolution, the Council called upon all States to comply with the provisions of resolution 180 (1963); deprecated the non-compliance

^{192/} See A/5801, Annual Report of the Secretary-General on the work of the Organization 16 June 1963-15 June 1964.

^{193/} France.

of the Government of Portugal with resolution 180 (1963) and reaffirmed the interpretation of self-determination laid down in General Assembly resolution 1514 (XV), according to which all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

(ii) Action taken by the Security Council in 1965

322. The Security Council again considered the matter in November 1965 at the request of thirty-two African States which claimed that Portugal was intensifying its repressive measures against the peoples in the territories under its administration in violation of the resolutions of the General Assembly and of the Security Council. They further stated that the obstinacy of Portugal in its desire to perpetuate its domination over those territories constituted a serious threat to international peace and security and requested the Security Council to take appropriate measures envisaged in the Charter to give effect to its resolution on the question. By 7 votes to none with 4 abstentions^{194/} the Council adopted on 23 November 1965 resolution 218 (1965) which had been submitted by seven Afro-Asian States and amended by Uruguay.^{195/} By this resolution, the Council, inter alia, affirmed that the situation resulting from the policies of Portugal both as regards the African population of its colonies and the neighbouring States seriously disturbs international peace and security, and reaffirmed the interpretation of the principle of self-determination as laid down in General Assembly resolution 1514 (XV) and in Security Council resolution 183 (1963). It called upon Portugal to give immediate effect in the Territories under its administration to the principle of self-determination. It again requested all States to refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the people of the

^{194/} France, Netherlands, United Kingdom, United States of America.

^{195/} Also para. 8 of the draft resolution which called for a boycott of all Portuguese imports and exports received 4 votes in favour (Ivory Coast, Jordan, Malaysia, USSR), none against, and 7 abstentions, and was not adopted, having failed to obtain the necessary majority.

Territories under its administration; and to take all the necessary measures to prevent the sale and supply of arms and military equipment to the Portuguese Government for this purpose, including the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition to be used in the Territories under Portuguese administration.

(c) Action taken by the Economic Commission for Africa

323. In resolution 24 (III),^{196/} adopted on 16 February 1961, at its third session, the Economic Commission for Africa took note of General Assembly resolution 1466 (XIV) of 12 December 1959 which specially requested all Member States administering Non-Self-Governing Territories in Africa to propose the participation of these Territories in the work of the Economic Commission for Africa. It requested the Executive Secretary to convey urgently to the countries responsible for the international relations of Non-Self-Governing Territories the will of the Commission to see those countries represented at the next session of the Commission, as associate members by Africans. As Portugal refused to apply the resolution of the General Assembly and of the Commission concerning the representation of Non-Self-Governing Territories, the Commission recommended to the Economic and Social Council in resolution 42 (IV) of 24 February 1962,^{197/} adopted at its fourth session to deprive Portugal of membership in the Economic Commission for Africa.

324. As the Economic and Social Council did not endorse the recommendation at its thirty-fourth session, the Economic Commission adopted at its fifth session resolution 68 (V)^{198/} of 23 February 1963 which recommended the Council to reconsider its decision on the recommendation of the Commission in respect of the membership of Portugal. By resolution 974 (XXXVI) D III,^{199/} the Economic and Social Council took note that non-African members of the Commission, with the exception of Portugal, had accepted the status of associate membership and decided to expel Portugal from membership in the Economic Commission for Africa.

325. By resolution 84 (V) of 1 March 1963, the Economic Commission for Africa invited all African States members of the Commission to take into consideration

^{196/} E/CN.14/109/Rev.1.

^{197/} E/CN.14/168.

^{198/} E/CN.14/229/Rev.1.

^{199/} E/3816.

the policies of the Government of Portugal when granting to representatives of that country visas or entry permits for the purpose of enabling it to participate in the conferences and meetings of the Commission on the specialized agencies which may be organized in any African State member of the Commission.

4. Action taken by the International Labour Organisation

(a) Establishment of an Ad Hoc Committee on Forced Labour

326. On 19 March 1951 the Economic and Social Council, in resolution 350 (XII), decided to invite the International Labour Organisation to co-operate with the Council in the earliest possible establishment of an ad hoc committee on forced labour of not more than five independent members, qualified by their competence and impartiality, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office with the following terms of reference: (a) to study the nature and extent of the problem raised by the existence in the world of systems of forced or "corrective" labour, which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country, by examining the texts of laws and regulations and their application in the light of the principles referred to above, and, if the Committee thinks fit, by taking additional evidence into consideration. On 27 June 1951, the Ad Hoc Committee on Forced Labour was set up by the Secretary-General of the United Nations and the Director of the ILO acted jointly.

327. The Committee considered the allegations regarding the existence of forced labour in the Territories under Portuguese domination made by the representative of the Byelorussian Soviet Socialist Republic and the World Federation of Trade Unions during the debates at the twelfth session of the Economic and Social Council.

The Committee drew the following conclusions:

"(a) Forced or compulsory labour is prohibited in principle by Portuguese legislation, but there are certain restrictions and exceptions in this legislation which permit the exaction of forced or compulsory labour;

"(b) The provisions protecting indigenous workers against unfair methods of recruitment do not, however, exclude a certain amount of compulsion and it is possible that in practice certain pressure is brought to bear upon workers by responsible officials to induce them to conclude contracts of employment offered by recruiting agents;

"(c) With regard to the recruitment of indigenous workers in Mozambique for the mines in the Union of South Africa, conditions of forced labour might be created by the combined application of pressure at the recruiting stage and of the South African legislation governing breaches of labour contracts;

"(d) The labour of workers in São Tomé is of considerable economic importance to the territory and their situation appears to be similar to that of workers under a system of forced labour for economic purposes."^{200/}

(b). The ILO Committee on Forced Labour

328. In accordance with the decision taken by the Governing Board of the International Labour Office at its 129th session in June 1955, the Committee on Forced Labour was established by the Director-General in order to analyse material received by the organization dealing with the use and extent of forced labour throughout the world. The Committee considered the situation in the Territories under Portuguese domination. In its first report in 1956, the Committee indicated that "it has no reason to believe that the conclusions of the Ad Hoc Committee, above-mentioned, are no longer valid".^{201/} In its second report, 1957, the Committee made a number of observations concerning the obligations to work provided for by legislation, the use of forced labour for public purposes, the measures which might be taken to compel natives to resume work for which they had voluntarily contracted, recruitment of native workers, recruitment from the territory of Mozambique for the mines of South Africa, and conditions of labour in São Tomé.^{202/}

^{200/} Report of the Ad Hoc Committee on Forced Labour, E/2431, 1953, paras. 261-291.

^{201/} Report of the ILO Committee on Forced Labour, Geneva 1956, Report 6-39 session of the International Labour Conference.

^{202/} Report of the ILO Committee on Forced Labour, Geneva 1957, Report 4-48 session of the International Labour Conference.

(c) Establishment of a Commission to examine a complaint filed by Ghana against the Government of Portugal

329. At its 149th session, the Governing Body of the ILO^{203/} decided to appoint a Commission^{204/} under article 26 of the ILO Constitution to examine a complaint filed by the Government of Ghana concerning the observance by the Government of Portugal of the Abolition of Forced Labour Convention 1957 (No. 105) in Mozambique, Angola and Guinea. The Committee held three sessions and drew, inter alia, the following conclusions in its report:

"The Commission finds that substantial changes bearing on the application of the Convention have been made in Portuguese legislation and practice since 23 November 1960. Some of these appear to have been designed directly to give effect to the provisions of the Convention, whereas others, while of broader scope, have a significant bearing on the application of the Convention.

"The Commission recognizes the significance of the above-mentioned provision taken with a view to bringing legislation into conformity with the situation arising out of the ratification of the Convention. It finds that there nevertheless continue to be certain legislative anomalies which would, if they continued to be reflected in current practice, be inconsistent with the obligations of the Convention.

"In the impending revision of labour legislation applicable to the Territories mentioned in the complaint, the Commission also recommends -

"(a) the formal repeal of the authority to impose compulsory cultivation still contained in section 296 (3) (e) of the Native Labour Code, 1928, and any corresponding territorial regulations.

"(b) the express repeal of the provisions - already stated to have been implicitly repealed - under which measures to compel workers to perform contracts into which they had entered voluntarily were not considered to constitute forced labour, namely, sections 300 and 329 (sole subsection) of the Native Labour Code, 1928, and any corresponding territorial provisions.

^{203/} Report of the Commission, International Labour Office, vol. XLV, No. 2, Supplement II, April 1962.

^{204/} The composition of the Commission was as follows: Mr. Paul Ruegger (Switzerland) Chairman; M.M. Enrique Armand-Ugon (Uruguay) and Mr. Isaac Forster (Senegal) Members.

"(c) that, if any provisions concerning the exaction of labour for certain works of local interest (such as those now to be found in section 296 (3) (a) to (d) of the Native Labour Code, 1928) are to be maintained, they should be made subject to safeguards to ensure the strict limitation of such labour to minor communal services, to the exclusion of public works of more general scope.

"The Commission has noted that on a number of occasions regulations concerning or affecting labour matters, such as the obligation to work, recruitment procedures (including recruitment for the public services and the Diamond Company of Angola), and the cultivation of certain crops have taken the form of confidential, unpublished circulars, some of which it appears difficult to reconcile with the applicable constitutional provisions and legislation. The Commission recommends that all regulations relating to the recruitment of labour or bearing on the application of the Abolition of Forced Labour Convention, 1957, should be published and made available to all interested parties.

"The Commission also had occasion to consider the application of laws for the repression of vagrancy in the territories mentioned in the complaint. From some of the information and evidence at the Commission's disposal, it would appear that a clear distinction may not always have been drawn in these territories between lack of activity as such and cases of vagrancy characterised by persons having neither work nor resources nor fixed abode. The Commission accordingly draws the Government's attention to a further provision of the Forced Labour (Indirect Compulsion) Recommendation, 1930, in which the Conference stressed the desirability of avoiding any abusive extension of the generally accepted meaning of vagrancy (Part II (c)).

"The Commission recommends that the Government should give a particularly high degree of priority to building up into an effective reality the recently established labour inspection service.

"While better inspection is the key to the full implementation of the declared policy of the Government, the fundamental economic and social problems and difficulties of which recourse to forced labour has been a reflection remain a matter for continuing concern.

"... The policy of abolishing forced labour to which the Government is so completely committed and in the implementation of which it has already made such substantial progress, cannot be made fully effective in a context of social and cultural backwardness in which for many people freedom and compulsion are equally impalpable and it is very difficult for the Government to know much of what happens in the minds of those most directly affected by the measures which it takes.

"In certain places ... the Commission is satisfied that the bulk of the working force is at so backward a stage of development that freedom and economic opportunity belong to a world so wholly beyond their grasp that

the question whether the labour exacted from them is forced labour becomes virtually meaningless. This is not a problem which admits of any simple or immediate solution; it involves the whole question of the state of social and cultural development of a people; but it is an essential feature of the background of the problem which the Commission was appointed to examine and has been one of the major difficulties confronted by it in reaching valid conclusions on certain cases. The Commission has been impressed by the many signs of constructive economic and social development in both Angola and Mozambique, but a great intensification of measures of economic and social advancement is necessary to eliminate this element in the problem of the effective abolition of forced labour."

SECTION B

RECENT DEVELOPMENTS: 1967-1968

1. Introduction

330. In 1967 and 1968, the question of the territories under Portuguese administration was considered by the Committee of Twenty-Four, the International Seminar on Apartheid, Racial Discrimination and Colonialism in Southern Africa, held at Kitwe, Zambia, from 25 July to 4 August 1967, the General Assembly at its twenty-second session, the International Conference on Human Rights, the Economic and Social Council at its subsidiary bodies.

2. Action recommended by the International Seminar on Apartheid, Racial Discrimination and Colonialism in southern Africa held at Kitwe, Zambia, 25 July-4 August 1967

331. The seminar considered the question of the Territories under Portuguese domination and recommended, inter alia, to the General Assembly that it recognize the legitimacy of the struggle of the peoples of these Territories, impose effective mandatory sanctions against Portugal, and intensify the campaign for the release of political prisoners. It deplored the continued provision of military assistance to Portugal by its allies in the North Atlantic Treaty Organization and the increasing investment in the Territories by several Western Powers. It recommended that the terms of reference of the United Nations Trust Fund for South Africa be extended to include the victims of racial discrimination and colonialism in Angola, Mozambique and other colonies in Africa.

3. Action taken by the General Assembly and its subsidiary bodies

332. The General Assembly considered at its twenty-second session the question of the Territories under Portuguese administration. It endorsed the resolution, the conclusions and recommendations contained in the report of the Committee of Twenty-Four, ^{205/} and adopted by 82 votes to 2 with 21 abstentions resolution 2270 (XXII). In that resolution the General Assembly condemned the persistent

refusal of the Government of Portugal to implement the resolutions adopted by the General Assembly, the actions of that Government to perpetuate its oppressive foreign rule, as well as its violations of the economic and political rights of the indigenous population by the settlement of foreign immigrants in the Territories and by the forcible exporting of African workers to South Africa. The Government of Portugal was called upon to stop these practices. The colonial war being waged by Portugal against the peaceful peoples of the Territories was again described as a crime against humanity and a grave threat to international peace and security. The General Assembly also strongly condemned the activities of the financial interests operating in the Territories under Portuguese domination, which exploit the human and material resources of the Territories and impede the progress of their peoples towards freedom of independence. It further took the following measures: It drew the urgent attention of the Security Council to the deterioration of the situation in the Territories as well as to the consequences of these violations by Portugal of the territorial integrity and sovereignty of the neighbouring independent African States bordering on its colonies; and recommended to the Security Council that it make mandatory the provisions of its resolutions on this question, particularly resolution 218 (1965) and General Assembly resolutions 2107 (XX) and 2184 (XXI). It also repeated its request to all States, in particular Portugal's allies in the North Atlantic Treaty Organization, to desist forthwith from giving Portugal any assistance which may enable them to continue its repression of the African peoples and to prevent the sale or supply of weapons and military equipment to Portugal; appealed to all specialized agencies, in particular the International Bank for Reconstruction and Development and the International Monetary Fund, to refrain from granting Portugal any financial, economic or technical assistance so long as the Government of Portugal did not implement General Assembly resolution 1514 (XV). It requested the Secretary-General, in consultation with the Special Committee, to promote through the various United Nations bodies and agencies widespread and continuous publicizing of the work of the United Nations on this question and to prepare periodically special publications to be widely distributed in various languages.

333. References to the questions of the Territories under Portuguese administration were made in other resolutions adopted by the General Assembly at its twenty-second session.

334. In resolution 2288 (XXII), the General Assembly considered the item entitled: "Activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in Southern Rhodesia, South West Africa and Territories under Portuguese domination and in all other Territories under colonial domination and efforts to eliminate colonialism, apartheid and racial discrimination in southern Africa". The General Assembly, inter alia, strongly condemned the exploitation of the colonial Territories and peoples and the methods practised in the Territories under colonial domination by the foreign financial, economic and other interests which are designed to perpetuate the colonial régimes contrary to the principles embodied in resolution 1514 (XV), and deplored the policies of the colonial Powers which permit the exploitation of the natural resources of the Territories under their administration contrary to the interests of the indigenous population and which promote or tolerate unjust and discriminatory work systems and other practices.^{206/}

335. In resolution 2311 (XXII), the General Assembly considered the question of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations. It recommended the specialized agencies and international institutions concerned to take urgent and effective measures to assist the peoples struggling for their liberation from colonial rule, and in particular to extend, within the scope of their respective activities, all necessary aid to the oppressed peoples of Southern Rhodesia and the Territories under Portuguese domination and to work out, in co-operation with the Organization of African Unity and through it with the national liberation movements, concrete programmes to this end. It also recommended to those agencies not to grant any assistance to South Africa and Portugal until they renounce their policy of racial discrimination and colonial domination.^{207/}

^{206/} See also paragraph 339 below.

^{207/} See paragraphs 347-352 below.

336. In resolution 2349 (XXII), the General Assembly considered the question of the consolidation and integration of the special educational and training programmes for South West Africa, the special training programme for Territories under Portuguese administration and the educational and training programme for South Africans. It decided to integrate the special educational and training programmes for South West Africa, the special programme for Territories under Portuguese administration and the educational and training programme for South Africans.

337. On 26 June 1968 the Committee of Twenty Four adopted a resolution^{208/} in which it, inter alia, (a) condemned the rendering of military assistance in any form by any State to the Government of Portugal, either directly or indirectly; (b) condemned the policies of Portugal for using the Territories under its domination for its continued trade and other assistance to the illegal racist minority régime of Southern Rhodesia in defiance of the relevant resolutions of the General Assembly and of the Security Council; (c) also condemned the policies of Portugal for using the Territories under its domination for violations of the territorial integrity and sovereignty of neighbouring independent African States; (d) recommended the Security Council to consider urgently the adoption of the necessary measures to make mandatory the provisions of its own resolutions concerning this question, particularly resolution 218 (1965) of 23 November 1965, and those of General Assembly resolutions 2107 (XX) of 21 December 1965, 2184 (XXI) of 12 December 1966, and 2270 (XXII) of 17 November 1967; (e) reiterated its appeal to all States to grant the peoples of the Territories under Portuguese domination the moral and material assistance necessary to continue their struggle for the restoration of their inalienable rights; (f) reiterated its appeal to all the specialized agencies, in particular to the International Bank for Reconstruction and Development and the International Monetary Fund, to refrain from granting Portugal any financial, economic or technical assistance as long as the Government of Portugal fails to implement General Assembly resolution 1514 (XV); (g) further decided to keep the situation in the Territories under review and to examine the extent of compliance by States with the relevant resolutions of the United Nations.

^{208/} A/AC.109/292.

338. On 23 September 1963, the Committee of Twenty-Four adopted another resolution^{209/} in which it condemned the Government of Portugal for the use of napalm and white phosphorous and for its preparations for the use of chemical defoliants and poison gas in pursuance of its colonial war against the people of Guinea (Bissau), requested its Rapporteur to take all appropriate measures to study and report on the use of weapons of mass destruction and all other aspects of the colonial war, particularly in Guinea (Bissau), and appealed to all States to do everything in their power to prevent the possible use of weapons of mass destruction in, and to bring about the cessation of, this inhuman war.

339. In accordance with the provisions of General Assembly resolution 2288 (XXII) of 7 December 1967 the Committee of Twenty-Four considered the question of activities of foreign interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. On the basis of the report submitted by its Sub-Committee I,^{210/} it adopted the following conclusions:

"In the large African Territories of Southern Rhodesia, Namibia, Angola and Mozambique, foreign monopolies have been able to increase their profits. Even the application of the economic sanctions proclaimed against the racist régime in Southern Rhodesia has been undermined. The continued study of conditions in colonial Territories shows the great extent of community of interests between the colonial Governments and big international monopolies. The political, economic and social policies and institutions established by colonial régimes in the Territories are geared to ensure more concessions and privileges for the monopolies and to use the indigenous inhabitants as a source of cheap labour. The indigenous populations of the Territories continue to scratch off their meagre subsistence at the mercy of their foreign oppressors, deprived of labour and social rights and of medical protection. In return the monopolies supply the colonial régimes with funds and other forms of assistance, including the military assistance needed to crush national liberation movements.

The Special Committee concludes with deep regret that the colonial Powers have not implemented, even in a preliminary way, resolution 2288 (XXII) of the General Assembly. By ignoring this resolution, they have added to

^{209/} A/AC.109/299.

^{210/} United Nations document A/7320/Add.1.

the obstacles standing in the way of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples."

The Special Committee recommended to the General Assembly that it:

"Decide to continue to examine this question in order to determine further effective ways and means for restraining activities of foreign economic and other interests which are impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in the remaining dependent Territories, with a view to their cessation.

Request the Special Committee to formulate appropriate recommendations in this regard and to submit them to the General Assembly at its next session." 211/

340. On 1 April 1968 the Committee of Twenty-Four also decided to consider the question of military activities and arrangements by colonial Powers which might be impeding the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 212/ in accordance with the provisions of the General Assembly resolution 2326 (XX) of 16 December 1967.

341. The Committee noted that, in Namibia, Southern Rhodesia and Territories under Portuguese domination, the colonial régimes were engaged in ever-increasing military activities aimed at denying by force the legal aspirations of the people to freedom and independence in Namibia. In Namibia the Government of South Africa continued to defy the authority of the United Nations, intensified its military preparation in order to maintain its illegal presence in the Territory. In the Territories under Portuguese domination, the Portuguese authorities were waging a war of colonial repression on an ever-increasing scale against the liberation movement in an endeavour to deny the people of these Territories their freedom and thereby to prevent the attainment of the objectives of General Assembly resolution 1514 (XV). In Southern Rhodesia the illegal racist minority régime was likewise increasing its military activities against African nationalists and were reported to have succeeded in obtaining supplies of weapons and military equipment despite the embargo imposed by the Security Council in November 1965. The Committee further indicated that the information available showed that South Africa,

211/ United Nations document A/7320, paras. 18-19.

212/ A/7200 (Part II, chap. 4).

Portugal and Southern Rhodesia had formed a military entente. The Committee considered that the States which continue to supply arms and military equipment to the members of the entente bore a grave responsibility for the consequences of the failure to heed the repeated appeals of the United Nations.

342. The Committee adopted the following recommendations:

(a) affirmed "that on the whole military activities and arrangements by Colonial Powers in Territories under their administration constitute a serious impediment to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

(b) strongly condemned "as a crime against humanity, and as a serious threat to international peace and security, the wanton use of military force by colonial Powers to suppress the legitimate aspirations of colonial peoples to self-determination and independence; and, in particular vehemently condemns the Governments of South Africa and Portugal and the illegal racist minority régime in Southern Rhodesia for the continuing intensification of their co-ordinated military aggression against the liberation movements and peoples in Territories under their domination.

(c) condemned "further the formation in southern Africa of a military entente between the Governments of South Africa and Portugal and the illegal racist minority régime of Southern Rhodesia aimed at suppressing by armed force the inalienable right of the oppressed people of the area to self-determination and independence; and calls upon all States to withhold all support and assistance, including the supply of arms and military equipment, to this entente whose existence and activities run counter to the interests of international peace and security." 212a/

3. Action taken by the Economic and Social Council and the Commission on Human Rights 213/

343. The Commission on Human Rights at its twenty-third session adopted on 16 March 1967 resolution 5 (XXIII) in which it welcomed in particular the stress laid in General Assembly resolution 2144 A (XXI) and Economic and Social Council resolution 1164 (XLI) on the urgency of eradicating policies and practices of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent territories, especially in the rebellious colony of Southern Rhodesia and in South West Africa, Mozambique,

212a/ A/7200 (Part II), p. 39.

213/ The Commission on Human Rights at its twenty-fourth session and the Economic and Social Council at its forty-fourth session have also adopted resolutions which dealt with the situation in southern Africa, as a whole. See paras. 239, 242.

Angola, Guinea Bissau and the Republic of South Africa; it affirmed that the grave situations obtaining in the rebellious colony of Southern Rhodesia, in Mozambique, in Angola, in Guinea Bissau, and South West Africa and the Republic of South Africa constitute a threat to peace and security; and condemned the actions of States, which, by political, commercial, economic and military cooperation with the racist and colonial régimes in South Africa and Portugal, and with the illegal racist régime in Southern Rhodesia, are encouraging those régimes to pursue their racist policy further, and called for the immediate cessation of such actions.

344. In resolution 2 (XXIV) the Commission on Human Rights enlarged the mandate of the Ad Hoc Working Group of Experts set up under resolution 2 (XXIII) of the Commission to include in its investigations allegations of ill-treatment and torture of prisoners, detainees or persons in police custody in Mozambique, Angola and all other Portuguese Territories in Africa.

4. Action taken by the International Conference on Human Rights held at Teheran, Iran, 22 April-13 May 1968

345. By resolution VIII entitled "The importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights", the International Conference on Human Rights considered as legitimate the armed struggle being waged by the populations under Portuguese domination. It condemned the colonial régimes of Portugal for its continued refusal to implement General Assembly resolution 1514 (XV) on the granting of independence to colonial countries and peoples. It declared its support to the liberation movements and the peoples in their struggle for liberty and independence. It further condemned the Governments of those countries particularly members of those countries particularly members of the North Atlantic Treaty Organization for their continued supply of arms and ammunition to Portugal which are used to suppress the indigenous people under Portuguese domination and calls upon these States to stop forthwith their supply of arms, and urged the African countries no longer to permit the installation and maintenance of military bases belonging to the North Atlantic Treaty Organization

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Powers on the national territory of their States so long as those Powers persist in aiding and abetting Portugal or the rebel régime of Rhodesia in their unjust and inhuman policies.

5. Action taken by the specialized agencies

(a) Action taken by the International Labour Organisation

346. In a communication dated 15 November 1968, the Director-General of the ILO stated that the International Labour Organisation in accordance with the decision taken by the Governing Body on 19 November 1965 would continue to do everything within its power to contribute in its own sphere to such action regarding Southern Rhodesia as may be decided upon by the Security Council and would continue to refrain from having official or unofficial contacts direct or indirect with the illegal régime in Southern Rhodesia. It further stated that no aid or co-operation was being given to South Africa and Southern Rhodesia. In the specific case of Portugal no aid or co-operation has been granted at any time.^{214/}

(b) Action taken by other specialized agencies

347. In accordance with General Assembly resolution 2311 (XX) of 14 December 1967, relating to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee of Twenty-Four decided to include in its agenda the item entitled "Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the Specialized Agencies and the International Institutions associated with the United Nations". In this connexion it decided to invite the Secretary-General to request the international organizations concerned to furnish information on the steps taken or envisaged by them in the implementation of this resolution. The following are replies by a number of specialized agencies concerning the action they had taken with regard to the Territories under Portuguese domination.^{215/}

^{214/} E/4603.

^{215/} A/7200 (Part II, pp. 13-30).

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(i) Action taken by the Food and Agriculture Organization of the United Nations

348. In implementation of resolution 2311 (XXII) of the General Assembly, the FAO has indicated that it had taken the following measures: (a) with regard to assistance to refugees in Territories under Portuguese administration, FAO's policy has been consistently to provide help to the extent possible. For instance, the Director-General had sanctioned grants of World Food Programme emergency food aid to Tanzania and Zambia for needy refugees from Mozambique. (b) as far as withholding assistance from Portugal is concerned, FAO gives no form of assistance to that country under the regular programmes, or under any other programmes or trust fund.

(ii) Action taken by the World Health Organization

349. The World Health Assembly adopted on 18 May 1966 resolution WHA 19.31 in which it suspended the right of Portugal to participate in the Regional Committee for Africa and in regional activities until the Government of the country furnished proof of its willingness to conform to the injunctions of the United Nations. It also suspended technical assistance to Portugal. In resolution WHA 21.34 adopted on 23 May 1968, the twenty-first World Health Assembly decided that in applying resolution WHA 19.31 the Director-General should take into consideration the need not to envisage in WHO programmes any assistance for Portugal until that country renounces the policies of colonial domination.

(iii) Action taken by the International Civil Aviation Organization

350. On 8 April 1968 at its sixty-third session, the Council of ICAO decided to review the willingness of ICAO to lend assistance to the refugees of South Africa, Portugal and Southern Rhodesia. The Council also noted that ICAO has not in the past rendered, nor is presently rendering assistance to Portugal, South Africa and Southern Rhodesia.

(iv) Action taken by the World Meteorological Organization

351. The Executive Committee of WEO at its twentieth session (1968) considered the relevant resolution of the General Assembly and was informed that no assistance of any kind (financial, technical or in the form of equipment) had been

given by WMO to South Africa, Southern Rhodesia and Portugal. The Executive Committee requested the Secretary-General of WMO to continue to make every effort for development programmes in the field of training, giving particular attention to training of refugees. It further adopted resolution 19 (EC-XX) which endorsed the action already taken by the Secretary-General of the organization under the United Nations resolution adopted by the General Assembly.

(v) Action taken by the United Nations High Commissioner for Refugees

352. In his report on General Assembly resolution 2311 (XXIII), the High Commissioner stated that while he had no competence to provide humanitarian assistance within the Territories of Southern Rhodesia and the Territories under Portuguese administration, he has been assisting refugees who are outside the Territories under Portuguese administration, in the Democratic Republic of the Congo, Senegal, United Republic of Tanzania and Zambia. Up to and including 1967, he had made \$US482,000 available for assistance to Angolan refugees, \$1 million for refugees from Mozambique and \$517,000 for those from Portuguese Guinea.
