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Thirty-fifth session
Item 76 (c) of the provisional agenda*

INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights

Report of the Secretary-General

1. The General Assembly by its resolution 2200 A (XXI) of 16 December 1966 adopted and opened for signature, ratification or accession the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and expressed the hope that the Covenants and the Optional Protocol would be signed, ratified or acceded to without delay and would come into force at an early date. The Assembly also requested the Secretary-General to submit to its future sessions reports concerning the state of ratifications of the Covenants and of the Optional Protocol. In response to that request, reports on the status of the International Covenants and the Optional Protocol have been submitted annually to the General Assembly since its twenty-second session in 1967.

2. Both Covenants and the Optional Protocol were opened for signature at New York on 19 December 1966. In accordance with their respective provisions, 1/ the International Covenant on Economic, Social and Cultural Rights entered into force on 3 January 1976, the International Covenant on Civil and Political Rights entered into force on 23 March 1976, and the Optional Protocol to the International Covenant on Civil and Political Rights, having received the required number of ratifications or accessions, entered into force simultaneously with that Covenant on 23 March 1976.

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* A/35/150.

1/ Article 27 of the Covenant on Economic, Social and Cultural Rights, article 49 of the Covenant on Civil and Political Rights and article 9 of the Optional Protocol.

3. By its resolution 34/45 of 23 November 1979, the General Assembly again invited all States which had not yet done so to become parties to both Covenants as well as to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights and invited the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of that Covenant. The General Assembly also requested the Secretary-General to submit to the Assembly at its thirty-fifth session a report on the status of the Covenants and the Optional Protocol.

4. As at 1 September 1980, the Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 65 States, the Covenant on Civil and Political Rights had been ratified or acceded to by 64 States and the Optional Protocol to the Covenant on Civil and Political Rights had been ratified or acceded to by 23 States. In addition, 11 States had signed the Covenant on Economic, Social and Cultural Rights, 11 States had signed the Covenant on Civil and Political Rights and 8 States had signed the Optional Protocol (see annexes I to III, foot-note b/). The list of States which have signed, ratified or acceded to the Covenants and the Optional Protocol, as well as the dates of their signatures, ratifications or accessions, may be found in annexes I to III of the present report.

5. Upon ratification of the International Covenant on Civil and Political Rights, or subsequently, the Governments of Austria, Canada, Denmark, Finland, Germany, Federal Republic of, Iceland, Italy, the Netherlands, New Zealand, Norway, Sri Lanka, Sweden and the United Kingdom of Great Britain and Northern Ireland have made the declaration provided for under article 41 of the Covenant, recognizing the competence of the Human Rights Committee, established under article 28 of the Covenant, to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant. The provisions of article 41 entered into force on 28 March 1979 in accordance with paragraph 2 of that article.

6. The Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights, established in accordance with Economic and Social Council decision 1978/10 of 3 May 1978, held its second session at United Nations Headquarters from 11 to 25 April 1980. The Working Group was composed of the following members of the Council which were also States parties to the Covenant: Barbados, Ecuador, Finland, Germany, Federal Republic of, Hungary, India, Iraq, Japan, Libyan Arab Jamahiriya, Romania, Senegal, Spain, Union of Soviet Socialist Republics and United Republic of Tanzania.

7. At its second session, the Working Group considered the reports submitted by States parties under the first stage of the Programme established by Council resolution 1988 (LX) concerning rights covered by articles 6 to 9 of the Covenant. It also considered proposals relating to the review of its composition and mandate and other organizational matters and submitted a report to the Economic and Social Council at its first regular session of 1980 (E/1980/60).

8. By its decision 1980/122 of 2 May 1980, the Council took note of the report of the Working Group.

9. By its resolution 1980/24 of the same date, the Economic and Social Council, noting that the Sessional Working Group established under its decision 1978/10 had encountered certain difficulties in discharging its responsibilities under the present arrangements, decided to review at its organizational session for 1981, in accordance with its decision 1978/10, the composition, organization and administrative arrangements of the Working Group, and requested the Secretary-General, in order to assist the Council in reviewing its decision 1978/10, to solicit the views of members of the Council and all States parties to the Covenant on the future composition, organization and administrative arrangements of the Working Group, and to submit a report thereon, together with any comments he might wish to make, to the Council at its organizational session in 1981.

10. The Council also decided that the Sessional Working Group for 1981 should be constituted under the existing arrangements at the organizational session of the Economic and Social Council in 1981 and should start its work at the beginning of the first regular session, if the review called for in paragraph 1 of the Council's resolution could not be concluded at the organizational session. 2/

11. As regards the implementation of the International Covenant on Civil and Political Rights, the Human Rights Committee held its eighth session at the United Nations Office at Geneva from 15 to 26 October 1979 and its ninth and tenth session also at the United Nations Office at Geneva from 17 March to 3 April 1980 and from 14 July to 1 August 1980, respectively. In accordance with article 45 of the Covenant and article 6 of the Optional Protocol, the Committee has submitted its annual report, through the Economic and Social Council, to the General Assembly at its thirty-fifth session, 3/ which covers the activities of the Committee at its eighth, ninth and tenth sessions.

2/ See Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 3 (A/35/3/Rev.1), chap. XXIV; also reproduced as A/35/3/Add.24.

3/ Ibid., Thirty-fifth Session, Supplement No. 40 (A/35/40).

ANNEX I

List of States which have signed, ratified or acceded to the International Covenant on Economic, Social and Cultural Rights

State	Date of signature	Date of receipt of the instrument of ratification or accession
Algeria	10 December 1968	
Argentina	19 February 1968	
Australia	18 December 1972	10 December 1975
Austria	10 December 1973	10 September 1978
Barbados		5 January 1973 a/
Belgium	10 December 1968	
Bulgaria	8 October 1968	21 September 1970
Byelorussian Soviet Socialist Republic	19 March 1968	12 November 1973
Canada		19 May 1976 a/
Chile	16 September 1969	10 February 1972
China b/		
Colombia	21 December 1966	29 October 1969
Costa Rica	19 December 1966	29 November 1968
Cyprus	9 January 1967	2 April 1969
Czechoslovakia	7 October 1968	23 December 1975
Denmark	20 March 1968	6 January 1972
Dominican Republic		4 January 1978 a/
Ecuador	29 September 1967	6 March 1969
Egypt	4 August 1967	
El Salvador	21 September 1967	30 November 1979
Finland	11 October 1967	19 August 1975
Gambia		29 December 1978 a/
German Democratic Republic	27 March 1973	8 November 1973
Germany, Federal Republic of	9 October 1968	17 December 1973

State	Date of signature	Date of receipt of the instrument of ratification or accession
Guinea	28 February 1967	24 January 1978
Guyana	22 August 1968	15 February 1977
Honduras	19 December 1966	
Hungary	25 March 1969	17 January 1974
Iceland	30 December 1968	22 August 1979
India		10 April 1979 a/
Iran	4 April 1968	24 June 1975
Iraq	18 February 1969	25 January 1971
Ireland	1 October 1973	
Israel	19 December 1966	
Italy	18 January 1967	15 September 1978
Jamaica	19 December 1966	3 October 1975
Japan	30 May 1978	21 June 1979
Jordan	30 June 1972	28 May 1975
Kenya		1 May 1972 a/
Lebanon		3 November 1972 a/
Liberia	18 April 1967	
Libyan Arab Jamahiriya		15 May 1970 a/
Luxembourg	26 November 1974	
Madagascar	14 April 1970	22 September 1971
Mali		16 July 1974 a/
Malta	22 October 1968	
Mauritius		12 December 1973 a/
Mongolia	5 June 1968	18 November 1974
Morocco	19 January 1977	3 May 1979
Netherlands	25 June 1969	11 December 1978
New Zealand	12 November 1968	28 December 1978
Nicaragua		12 March 1980 a/
Norway	20 March 1968	13 September 1972
Panama	27 July 1976	8 March 1977

State	Date of signature	Date of receipt of the instrument of ratification or accession
Peru	11 August 1977	28 April 1978
Philippines	19 December 1966	7 June 1974
Poland	2 March 1967	18 March 1977
Portugal	7 October 1976	31 July 1978
Romania	27 June 1968	9 December 1974
Rwanda		16 April 1975 a/
Senegal	6 July 1970	13 February 1978
Spain	28 September 1976	27 April 1977
Sri Lanka		11 June 1980 a/
Suriname		28 December 1976 a/
Sweden	29 September 1967	6 December 1971
Syrian Arab Republic		21 April 1969 a/
Trinidad and Tobago		8 December 1978 a/
Tunisia	30 April 1968	18 March 1969
Ukrainian Soviet Socialist Republic	20 March 1968	12 November 1973
Union of Soviet Socialist Republics	18 March 1968	16 October 1973
United Kingdom of Great Britain and Northern Ireland	16 September 1968	20 May 1976
United Republic of Tanzania		11 June 1976 a/
United States of America	5 October 1977	
Uruguay	21 February 1967	1 April 1970
Venezuela	24 June 1969	10 May 1978
Yugoslavia	8 August 1967	2 June 1971
Zaire		1 November 1976 a/

(foot-notes on following page)

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a/ Accession.

b/ Following on the adoption of resolution 2758 (XXVI) of 25 October 1971 on the lawful rights of the People's Republic of China in the United Nations by the General Assembly, the Minister for Foreign Affairs of the People's Republic of China, by a note addressed to the Secretary-General, received on 29 September 1972, stated:

> "1. With regard to the multilateral treaties signed, ratified or acceded to by the defunct Chinese government before the establishment of the People's Republic of China, by Government will examine their contents before making a decision in the light of the circumstances as to whether or not they should be recognized.
>
> "2. As from 1 October 1949, the day of the founding of the People's Republic of China, the Chiang Kai-shek clique has no right at all to represent China. Its signature and ratification of, or accession to, any multilateral treaties by usurping the name of 'China' are all illegal and null and void. My Government will study these multilateral treaties before making a decision in the light of the circumstances as to whether or not they should be acceded to."

The lists in annexes I to III therefore do not include the signature of the two Covenants and the Optional Protocol on behalf of the "Republic of China" on 5 October 1967.

ANNEX II

List of States which have signed, ratified or acceded to the International Covenant on Civil and Political Rights

State	Date of signature	Date of receipt of the instrument of ratification or accession
Algeria	10 December 1968	
Argentina	19 February 1968	
Australia	18 December 1972	13 August 1980
Austria c/	10 December 1973	10 September 1978
Barbados		5 January 1973 a/
Belgium	10 December 1968	
Bulgaria	8 October 1968	21 September 1970
Byelorussian Soviet Socialist Republic	19 March 1968	12 November 1973
Canada c/		19 May 1976 a/
Chile	16 September 1969	10 February 1972
China b/		
Colombia	21 December 1966	29 October 1969
Costa Rica	19 December 1966	29 November 1968
Cyprus	19 December 1966	2 April 1969
Czechoslovakia	7 October 1968	23 December 1975
Denmark c/	20 March 1968	6 January 1972
Dominican Republic		4 January 1978 a/
Ecuador	4 April 1968	6 March 1969
Egypt	4 August 1967	
El Salvador	21 September 1967	30 November 1979
Finland c/	11 October 1967	19 August 1975
Gambia		22 March 1979 a/
German Democratic Republic	27 March 1973	8 November 1973
Germany, Federal Republic of c/	9 October 1968	17 December 1973
Guinea	28 February 1967	24 January 1978
Guyana	22 August 1968	15 February 1977

State	Date of signature	Date of receipt of the instrument of ratification or accession
Honduras	19 December 1966	
Hungary	25 March 1969	17 January 1974
Iceland c/	30 December 1968	22 August 1979
India		10 April 1979 a/
Iran	4 April 1968	24 June 1975
Iraq	18 February 1969	25 January 1971
Ireland	1 October 1973	
Israel	19 December 1966	
Italy c/	18 January 1967	15 September 1978
Jamaica	19 December 1966	3 October 1975
Japan	30 May 1978	21 June 1979
Jordan	30 June 1972	28 May 1975
Kenya		1 May 1972 a/
Lebanon		3 November 1972 a/
Liberia	18 April 1967	
Libyan Arab Jamahiriya		15 May 1970 a/
Luxembourg	26 November 1974	
Madagascar	17 September 1969	21 June 1971
Mali		16 July 1974 a/
Mauritius		12 December 1973 a/
Mongolia	5 June 1968	18 November 1974
Morocco	19 January 1977	3 May 1979
Netherlands c/	25 June 1969	11 December 1978
New Zealand c/	12 November 1968	28 December 1978
Nicaragua		12 March 1980 a/
Norway c/	20 March 1968	13 September 1972
Panama	27 July 1976	8 March 1977
Peru	11 August 1977	28 April 1978
Philippines	19 December 1966	

State	Date of signature	Date of receipt of the instrument of ratification or accession
Poland	2 March 1967	18 March 1977
Portugal	7 October 1976	15 June 1978
Romania	27 June 1968	9 December 1974
Rwanda		16 April 1975 a/
Senegal	6 July 1970	13 February 1978
Spain	28 September 1976	27 April 1977
Sri Lanka c/		11 June 1980 a/
Suriname		28 December 1976 a/
Sweden c/	29 September 1967	6 December 1971
Syrian Arab Republic		21 April 1969 a/
Trinidad and Tobago		21 December 1978 a/
Tunisia	30 April 1968	18 March 1969
Ukrainian Soviet Socialist Republic	20 March 1968	12 November 1973
Union of Soviet Socialist Republics	18 March 1968	16 October 1973
United Kingdom of Great Britain and Northern Ireland c/	16 September 1968	20 May 1976
United Republic of Tanzania		11 June 1976 a/
United States of America	5 October 1977	
Uruguay	21 February 1967	1 April 1970
Venezuela	24 June 1969	10 May 1978
Yugoslavia	8 August 1967	2 June 1971
Zaire		1 November 1976 a/

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a/ Accession.

b/ See annex I, foot-note b/.

c/ Made the declaration under article 41 of the Covenant.

ANNEX III

List of States which have signed, ratified or acceded to the Optional Protocol to the International Covenant on Civil and Political Rights

State	Date of signature	Date of receipt of the instrument of ratification or accession
Austria	10 December 1973	
Barbados		5 January 1973 a/
Canada		19 May 1976 a/
China b/		
Colombia	21 December 1966	29 October 1969
Costa Rica	19 December 1966	29 November 1968
Cyprus	19 December 1966	
Denmark	20 March 1968	6 January 1972
Dominican Republic		4 January 1978 a/
Ecuador	4 April 1968	6 March 1969
El Salvador	21 September 1967	
Finland	11 December 1967	19 August 1975
Guinea	19 March 1975	
Honduras	19 December 1966	
Iceland		22 August 1979 a/
Italy	30 April 1976	15 September 1978
Jamaica	19 December 1966	3 October 1975
Madagascar	17 September 1969	21 June 1971
Mauritius		12 December 1973 a/
Netherlands	25 June 1969	11 December 1978
Nicaragua		12 March 1980 a/
Norway	20 March 1968	13 September 1972
Panama	27 July 1976	8 March 1977
Peru	11 August 1977	
Portugal	1 August 1978	

State	Date of signature	Date of receipt of the instrument of ratification or accession
Philippines	19 December 1966	
Senegal	6 July 1970	13 February 1978
Suriname		28 December 1976 a/
Sweden	29 September 1967	6 December 1971
Uruguay	21 February 1967	1 April 1970
Venezuela	15 November 1976	10 May 1978
Zaire		1 November 1976 a/

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a/ Accession.

b/ See annex I, foot-note b/.

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ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Status of the International Convention on the Elimination of All Forms of Racial Discrimination

Report of the Secretary-General

1. The General Assembly, by its resolution 2106 A (XX) of 21 December 1965, adopted and opened for signature and ratification the International Convention on the Elimination of All Forms of Racial Discrimination, and invited the States referred to in article 17 of the Convention to sign and ratify it without delay. By the same resolution, the General Assembly requested the Secretary-General to submit to it reports concerning the state of ratifications of the Convention, which would be considered by the Assembly at its future sessions. In response to that request, reports on the status of the Convention have been submitted to the General Assembly annually since its twenty-first session in 1966.

2. By its resolution 34/26 of 15 November 1979, the General Assembly took note of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/34/441); expressed its satisfaction with the increase in the number of States which had ratified the Convention or acceded thereto; reaffirmed once again its conviction that ratification of or accession to the Convention on a universal basis and implementation of its provisions were necessary for the realization of the objectives of the Decade for Action to Combat Racism and Racial Discrimination; requested States which had not yet become parties to the Convention to ratify it or

* A/35/150.

accede thereto; appealed to States parties to the Convention to study the possibility of making the declaration provided for in article 14 of the Convention; and requested the Secretary-General to continue to submit to the General Assembly annual reports concerning the status of the Convention, in accordance with Assembly resolution 2106 A (XX) of 21 December 1965. Furthermore, by its resolution 34/28 of the same date, the General Assembly, inter alia, urged all States which were not yet parties to the Convention to ratify or accede to it and, pending such ratification or accession, to be guided by the basic provisions of the Convention in their internal and foreign policies.

3. The International Convention on the Elimination of All Forms of Racial Discrimination was opened for signature in New York on 7 March 1966. It entered into force on 4 January 1969, on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification, as provided for in article 19 of the Convention.

4. As at 1 September 1980, the Convention had received 75 signatures, 66 of which had been followed by ratifications; in addition, 39 States had acceeded to the Convention and two States had succeeded to it, bringing the total number of ratifications, accessions and successions to 107 (see annex, foot-note c/). The list of States which have signed, ratified, acceded or succeeded to the Convention, as well as the dates of their signatures, ratifications or accessions, is contained in annex I below.

5. As at the same date, seven of the States parties to the Convention, namely Costa Rica, Ecuador, Italy, the Netherlands, Norway, Sweden and Uruguay, had made the declaration provided for under article 14 of the Convention, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of violation by those States Parties of any of the rights set forth in the Convention. Article 14, paragraph 9, of the Convention provides that the Committee shall be competent to exercise the functions provided for in this article when at least 10 States Parties to the Convention are bound by such declarations.

6. The Committee on the Elimination of Racial Discrimination held its twenty-first session at the United Nations Office at Geneva from 24 March to 11 April 1980, and its twenty-second session at United Nations Headquarters from 4 to 22 August 1980. In accordamce with article 9, paragraph 2, of the Convention, the Committee has submitted its annual report, through the Secretary-General, to the General Assembly at its thirty-fifth session, 1/ which covers the activities of the Committee at its two sessions held in 1980.

1/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 18 (A/35/18).

ANNEX

List of States which have signed, ratified, acceded or succeeded to the Convention

State	Date of signature	Date of receipt of the instruments of ratification, accession or notification of succession
Algeria	9 December 1966	14 February 1972
Argentina	13 July 1967	2 October 1968
Australia	13 October 1966	30 September 1975
Austria	22 July 1969	9 May 1972
Bahamas		5 August 1975 b/
Bangladesh		11 June 1979 a/
Barbados		8 November 1972 a/
Belgium	17 August 1967	7 August 1975
Benin	2 February 1967	
Bhutan	26 March 1973	
Bolivia	7 June 1966	22 September 1970
Botswana		20 February 1974 a/
Brazil	7 March 1966	27 March 1968
Bulgaria	1 June 1966	8 August 1966
Burundi	1 February 1967	27 October 1977
Byelorussian Soviet Socialist Republic	7 March 1966	8 April 1969
Canada	24 August 1966	14 October 1970
Cape Verde		3 October 1979 a/
Central African Republic	7 March 1966	16 March 1971
Chad		17 August 1977 a/
Chile	3 October 1966	20 October 1971
China c/		
Colombia	23 March 1967	
Costa Rica d/	14 March 1966	16 January 1967
Cuba	7 June 1966	15 February 1972
Cyprus	12 December 1966	21 April 1967
Czechoslovakia	7 October 1966	29 December 1966

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State	Date of signature	Date of receipt of the instruments of ratification, accession or notification of succession
Democratic Kampuchea	12 April 1966	
Democratic Yemen		18 October 1972 a/
Denmark	21 June 1966	9 December 1971
Ecuador d/		22 September 1966 a/
Egypt	28 September 1966	1 May 1967
El Salvador		30 November 1979 a/
Ethiopia		23 June 1976 a/
Fiji		11 January 1973 b/
Finland	6 October 1966	14 July 1970
France		28 July 1971 a/
Gabon	20 September 1966	29 February 1980
Gambia		29 December 1978 a/
German Democratic Republic		27 March 1973 a/
Germany, Federal Republic of	10 February 1967	16 May 1969
Ghana	8 September 1966	8 September 1966
Greece	7 March 1966	18 June 1970
Guatemala	8 September 1967	
Guinea	24 March 1966	14 March 1977
Guyana	11 December 1968	15 February 1977
Haiti	30 October 1972	19 December 1972
Holy See	21 November 1966	1 May 1969
Hungary	15 September 1966	4 May 1967
Iceland	14 November 1966	13 March 1967
India	2 March 1967	3 December 1968
Iran	8 March 1967	29 August 1968
Iraq	18 February 1969	14 January 1970
Ireland	21 March 1968	
Israel	7 March 1966	3 January 1979
Italy d/	18 March 1968	5 January 1976
Ivory Coast		4 January 1973 a/

State	Date of signature	Date of receipt of the instruments of ratification, accession or notification of succession
Jamaica	14 August 1966	4 June 1971
Jordan		30 May 1974 a/
Kuwait		15 October 1968 a/
Lao People's Democratic Republic		22 February 1974 a/
Lebanon		12 November 1971 a/
Lesotho		4 February 1971 a/
Liberia		5 November 1976 a/
Libyan Arab Jamahiriya		3 July 1968 a/
Luxembourg	12 December 1967	1 May 1978
Madagascar	18 December 1967	7 February 1969
Mali		16 July 1974 a/
Malta	5 September 1968	27 May 1971
Mauritania	21 December 1966	
Mauritius		30 May 1972 a/
Mexico	1 November 1966	20 February 1975
Mongolia	3 May 1966	6 August 1969
Morocco	18 September 1967	18 December 1970
Nepal		30 January 1971 a/
Netherlands d/	24 October 1966	10 December 1971
New Zealand	25 October 1966	22 November 1972
Nicaragua		15 February 1978 a/
Niger	14 March 1966	27 April 1967
Nigeria		16 October 1967 a/
Norway d/	21 November 1966	6 August 1970
Pakistan	19 September 1966	21 September 1966
Panama	8 December 1966	16 August 1967
Peru	22 July 1966	29 September 1971
Philippines	7 March 1966	15 September 1967
Poland	7 March 1966	5 December 1968
Qatar		22 July 1976 a/

State	Date of signature	Date of receipt of the instruments of ratification, accession or notification of succession
Republic of Korea	8 August 1978	5 December 1978
Romania		15 September 1970 a/
Rwanda		16 April 1975 a/
Senegal	22 July 1968	19 April 1972
Seychelles		7 March 1978 a/
Sierra Leone	17 November 1966	2 August 1967
Somalia	26 January 1967	26 August 1975
Spain		13 September 1968 a/
Sudan		21 March 1977 a/
Swaziland		7 April 1969 a/
Sweden d/	5 May 1966	6 December 1971
Syrian Arab Republic		21 April 1969 a/
Togo		1 September 1972 a/
Tonga		16 February 1972 a/
Trinidad and Tobago	9 June 1967	4 October 1973
Tunisia	12 April 1966	13 January 1967
Turkey	13 October 1972	
Ukrainian Soviet Socialist Republic	7 March 1966	7 March 1969
Union of Soviet Socialist Republics	7 March 1966	4 February 1969
United Arab Emirates		20 June 1974 a/
United Kingdom of Great Britain and Northern Ireland	11 October 1966	7 March 1969
United Republic of Cameroon	12 December 1966	24 June 1971
United Republic of Tanzania		27 October 1972 a/
Upper Volta		18 July 1974 a/
United States of America	28 September 1966	
Uruguay d/	21 February 1967	30 August 1968
Venezuela	21 April 1967	10 October 1967

State	Date of signature	Date of receipt of the instruments of ratification, accession or notification of succession
Yugoslavia	15 April 1966	2 October 1967
Zaire		21 April 1976 a/
Zambia	11 October 1968	4 February 1972

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a/ Accession.

b/ Notification of succession.

c/ Following the adoption by the General Assembly of resolution 2758 (XXVI) of 25 October 1971 on the lawful rights of the People's Republic of China in the United Nations, the Minister for Foreign Affairs of the People's Republic of China, by a note addressed to the Secretary-General, received on 29 September 1972, stated:

"1. With regard to the multilateral treaties signed, ratified or acceded to by the defunct Chinese government before the establishment of the People's Republic of China, my Government will examine their contents before making a decision in the light of the circumstances as to whether or not they should be recognized.

"2. As from 1 October 1949, the day of the founding of the People's Republic of China, the Chiang Kai-shek clique has no right at all to represent China. Its signature and ratification of, or accession to, any multilateral treaties by usurping the name of 'China' are all illegal and null and void. My Government will study these multilateral treaties before making a decision in the light of the circumstances as to whether or not they should be acceded to."

This list therefore does not include the signature and ratification of the Convention on behalf of the "Republic of China" on 31 March 1966 and on 10 December 1970, respectively.

d/ Made the declaration under article 14 of the Convention.

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ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid

Report 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, being 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 without delay the International Convention 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 which had not yet become parties to the Convention to accede to it; and decided to consider annually, starting with its thirty-second session, the question entitled "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid".

4. By its resolution 34/27 of 15 November 1979, the General Assembly expressed its satisfaction with the increase in the number of States which had ratified the

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* A/35/150.

Convention or acceded thereto and appealed once again to all States which had not yet become parties to the Convention to ratify it or accede to it without delay.

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 September 1980, the Convention had received 35 signatures, 27 of which had been followed by ratification. In addition, 31 States had acceded to the Convention, bringing the total of ratifications and accessions to the Convention to 58. A list of States which have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, appear in annex I below.

7. In paragraph 5 of its resolution 34/27, the General Assembly requested the Secretary-General to take measures through appropriate channels on the dissemination of information on the Convention with the aim of promoting further ratification or accession thereto. In this connexion, reference is made to the action taken by the Secretary-General under resolution 1 B (XXXII) adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on 5 September 1979.

8. By that resolution, the Sub-Commission decided to establish each year a sessional working group composed of five members of the Sub-Commission with due regard to equitable geographical distribution, to meet during the sessions of the Sub-Commission in order to consider ways and means of encouraging Governments which had not yet done so to ratify or adhere to international human rights instruments, including the International Convention on the Suppression and Punishment of the Crime of Apartheid; and requested the Secretary-General to write to governments which had not yet accepted the instruments mentioned in the resolution, requesting them to inform the Sub-Commission of the circumstances which so far had not enabled them to ratify or adhere to those instruments and to explain any particular difficulties which they might face, in respect of which the United Nations could offer any assistance.

9. In a note verbale dated 12 December 1979, the Secretary-General brought to the attention of the Governments of Member States the provisions of Sub-Commission resolution 1 B (XXXII) and invited them to forward to him, if possible by 31 May 1980, any relevant information requested by that resolution. A summary of information received from Governments up to 30 June 1980 appears in document E/CN.4/Sub.2/452 and Add.1 prepared by the Secretary-General for the thirty-third session of the Sub-Commission.

III. IMPLEMENTATION OF THE CONVENTION

10. Under article VII of the Convention, the States parties undertake to submit to the group established under article IX periodic reports 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 shall be transmitted through the Secretary-General to the Special Committee against Apartheid.

11. 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.

12. 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 and, 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, organizations, institutions and representatives of States which 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.

13. By its resolution 34/27, the General Assembly commended States parties to the Convention that had submitted their reports under article VII of the Convention and urged other States to do so as soon as possible, taking fully into account the guidelines prepared by the Working Group on the Implementation of the Convention; and called upon States parties to implement fully article IV of the Convention by adopting legislative, judicial and administrative measures to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of, the acts defined in article II of the Convention. In paragraph 7 of the same resolution, the General Assembly called upon all States parties to the Convention and the competent United Nations organs to consider the conclusions and recommendations of the Working Group contained in the report on its 1979 session (E/CN.4/1328) and to submit their views and comments to the Secretary-General; in paragraph 12 of the resolution, the General Assembly requested the Secretary-General to include in his next annual report under General Assembly resolution 3380 (XXX) a special section concerning the implementation of the Convention, taking into account the views and comments of States parties to the Convention called for in paragraph 7 above.

14. The group of three established under article IX of the Convention, composed of the representatives of Bulgaria, Cuba and Senegal appointed by the Chairman of the Commission on Human Rights at its thirty-fifth session, met at the United Nations Office at Geneva from 28 January to 1 February 1980. It had before it reports submitted since its 1979 session by six States parties.

15. In its report to the Commission on Human Rights at its thirty-sixth session (E/CN.4/1358), the Group, inter alia, called upon States parties to provide in their reports more comprehensive information on the national and international measures

they had taken to implement fully article IV of the Convention, or on the difficulties which they might have encountered in the implementation of that article; and reiterated its recommendation that the general guidelines regarding the form and contents of reports should be fully taken into account by all States parties in submitting their reports. It also decided once again to draw attention of States parties, through the Commission on Human Rights, to the desirability of suggesting ideas in relation to the modalities for the establishment of the international penal tribunal referred to in article V of the Convention and, in this connexion, recommended to the Commission on Human Rights to request the Secretary-General to study the possibility of convening a diplomatic conference of States parties for the purpose of considering the modalities of the establishment of such a tribunal as well as measures of implementation of the Convention. In addition, the Group appealed to States parties, through the Commission on Human Rights, to strengthen their co-operation at the international level to implement fully the decisions taken by the Security Council and other competent organs of the United Nations aimed at the prevention, suppression and punishment of the crime of apartheid, in accordance with article VI of the Convention.

16. In its resolution 12 (XXXVI) of 26 February 1980 entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid", the Commission on Human Rights, inter alia, urged the States parties to adopt the measures prescribed by the Convention, particularly those referred to in its articles IV and V; it further requested the Ad Hoc Group of Experts on Southern Africa, established in 1967 under Commission resolution 2 (XXIII), in co-operation with the Special Committee against Apartheid and in accordance with paragraph 20 of the annex to General Assembly resolution 34/24 entitled "Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination", to undertake a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention; and decided to maintain on its agenda as a standing item the question entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid".

17. By its resolution 13 (XXXVI) of 26 February 1980, also 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 its recommendations contained therein; requested the Secretary-General to renew his invitation to the States parties to the Convention which had not yet done so to suggest ways and means for the establishment of the international penal tribunal referred to in article V of the Convention, and to transmit such suggestions to the Ad Hoc Working Group of Experts responsible for investigating violations of human rights in southern Africa in order that it might undertake a study on the establishment of the aforesaid international penal tribunal, in accordance with the mandate entrusted to it under resolution 12 (XXXVI); again urged the States parties to the Convention to take into consideration, when submitting their reports, the guidelines laid down by the group of three members of the Commission in 1978 for

the submission of their reports; and decided that the group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-seventh session of the Commission to consider the reports submitted by States parties under article VII of the Convention.

18. In accordance with article IX of the Convention and General Assembly resolution 31/80, the Chairman of the Commission, at the thirty-sixth session, appointed the representatives of Bulgaria, Cuba and Nigeria as members of the Group.

19. In pursuance of paragraphs 7 and 12 of General Assembly resolution 34/27, the Secretary-General has taken steps to bring to the attention of the States parties to the Convention and the competent United Nations organs the report of the group of three members of the Commission on its 1979 session, requesting, in particular, the States parties to submit their views and comments on the conclusions and recommendations of the Group, if possible by 15 July 1980, in order for the Secretary-General to take them into account in the preparation of his annual report on the status and the implementation of the Convention to the General Assembly at its thirty-fifth session. The text of the conclusions and recommendations of the Group at its 1979 session as well as views and comments on them received from States parties up to 31 August 1980 may be found in annex II below.

20. In a note verbale dated 15 May 1980, the Secretary-General also brought to the attention of the States parties the relevant provisions of the Convention and Commission resolutions 12 (XXXVI) and 13 (XXXVI), and requested them to submit their reports within the time-limits indicated in Commission resolution 7 (XXXIV) and in time for appropriate transmission to the group of three established by the Commission.

21. As regards the implementation of the provisions of article X of the Convention, the General Assembly, by its resolution 34/27, welcomed the efforts of the Commission on Human Rights to undertake the functions set out in article X of the Convention and invited the Commission to continue its efforts, especially with a view to preparing periodically a list of individuals, organizations, institutions and representatives of States which were alleged to be responsible for crimes enumerated in article II of the Convention, as well as of those against which legal proceedings had been undertaken; called upon the competent United Nations organs to continue to provide the Commission on Human Rights, through the Secretary-General, with information relevant to the periodic compilation of the above-mentioned list as well as with information concerning the obstacles which prevented the effective suppression and punishment of the crime of apartheid; requested the Commission on Human Rights to take into account, in preparing the above-mentioned list, General Assembly resolution 33/23 of 29 November 1978, entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa", as well as all the documents on the subject prepared by the Commission and its suborgans; and requested the Secretary-General to distribute the above-mentioned list among all States parties to the Convention and all States Members of the United Nations.

22. By its resolution 12 (XXXVI), the Commission on Human Rights requested the Ad Hoc Group of Experts on Southern Africa to continue, in co-operation with the Special Committee against Apartheid as appropriate, its compilation of the list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention and of individuals, organizations, institutions, and representatives of States against whom or which legal proceedings had been undertaken; requested the Secretary-General to arrange for the publication, in the largest possible number of newspapers, of an account of each case in the list of persons allegedly guilty of the crime of apartheid under the Convention, stating the individuals involved, the victim, the culpable deed and its legal definition, and to bring such accounts to the attention of the public by all other communication media; welcomed the active campaign by the Special Committee against Apartheid in co-operation with the Commission, to give effect to the provisions of the Convention, in response to the Commission's request, under article X of the Convention; and reiterated the request addressed to competent United Nations organs in paragraphs 6 and 7 of its resolution 10 (XXXV) concerning submission of information relevant to the periodic compilation of the list.

23. The Secretary-General has taken steps to bring to the attention of the competent bodies and organs of the United Nations the relevant provisions of Commission resolution 12 (XXXVI), so that the information requested from them may be transmitted to the Commission on Human Rights at its thirty-seventh session.

ANNEX I

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

State	Date of signature	Date of receipt of the instrument of ratification or accession
Algeria	23 January 1974	
Argentina	6 June 1975	
Barbados		7 February 1979 a/
Benin	7 October 1974	30 December 1974
Bulgaria	27 June 1974	18 July 1974
Burundi		12 July 1978 a/
Byelorussian Soviet Socialist Republic	4 March 1974	2 December 1975
Cape Verde		12 June 1979 a/
Chad	23 October 1974	23 October 1974
Cuba		1 February 1977 a/
Czechoslovakia	29 August 1975	25 March 1976
Democratic Yemen	31 July 1974	
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/

a/ Accession.

State	Date of signature	Date of receipt of the instrument of ratification or accession
Iraq	1 July 1975	9 July 1975
Jamaica	30 March 1976	18 February 1977
Jordan	5 June 1974	
Kenya	2 October 1974	
Kuwait		23 February 1977 a/
Liberia		5 November 1976 a/
Libyan Arab Jamahiriya		8 July 1976 a/
Madagascar		26 May 1977 a/
Mali		19 August 1977 a/
Mexico		4 March 1980 a/
Mongolia	17 May 1974	8 August 1975
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
Peru		1 November 1978 a/
Philippines	2 May 1974	24 January 1978
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	
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
Sudan	10 October 1974	21 March 1977
Suriname		3 June 1980 a/
Syrian Arab Republic	17 January 1974	18 June 1976

a/ Accession.

State	Date of signature	Date of receipt of the of instrument ratification or accession
Trinidad and Tobago	7 April 1975	29 October 1979
Tunisia		21 January 1977 a/
Uganda	11 March 1975	
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 Cameroon		1 November 1976 a/
United Republic of Tanzania		11 June 1976 a/
Upper Volta	3 February 1976	24 October 1978
Yugoslavia	17 October 1974	1 July 1975
Zaire		11 July 1978 a/

ANNEX II

Report of the Group of Three

A. Conclusions and recommendations of the Group of Three, established under article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid, at its 1979 session a/

18. The Group recommends that the Commission on Human Rights should appeal to all States which have not yet done so to ratify or accede to the Convention.

19. The Group also recommends to all States parties that have not submitted their reports under article VII of the Convention to do so as soon as possible. In this connexion, the Group reiterates its recommendation that the general guidelines regarding the form and contents of reports to be submitted by States parties should be brought once more to the attention of all States parties, requesting them to take those guidelines fully into account in submitting their reports under article VII of the Convention.

20. The Group considers that a constructive dialogue with the representatives of States parties whose reports are to be discussed is useful for the discharge of its mandate under the Convention. It therefore wishes to invite the States parties concerned, through the Commission on Human Rights, to consider the possibility of sending representatives to be present at future sessions of the Group when reports submitted by them are considered, and requests the Secretary-General to inform the States parties concerned accordingly in advance of its future sessions.

21. The Group, as the only body which consists exclusively of representatives of States parties to the Convention, considers itself duty-bound to express opinions on the situation in connexion with the implementation of the Convention and, therefore, draws the attention of States parties, through the Commission on Human Rights, to the desirability of expressing their views and ideas concerning the terms of reference of the Group under the Convention.

22. The Group wishes once again to draw the attention of States parties, through the Commission on Human Rights, to the desirability of suggesting ideas in relation to the modalities for the establishment of the international penal tribunal referred to in article V of the Convention.

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a/ Chapter IV, paragraphs 18 to 22, of the report of the Group to the Commission on Human Rights at its thirty-fifth session (E/CN.4/1328).

B. Views and comments of States parties to the Convention on the conclusions and recommendations of the Group of Three

CUBA

/Original: Spanish/
/30 August 1980/

The Government of Cuba supports the ideas of the Group of Three as set out in paragraph 15 of document E/CN.4/1328 of the thirty-fifth session of the Commission on Human Rights.

IRAQ

/Original: Arabic/
/11 July 1980/

The Republic of Iraq has the honour to point out that, as a member of the Commission on Human Rights and an original party to the said Convention, it has already declared its support in principle for the establishment of this tribunal. The question of the legal structure of this tribunal, the procedures for hearings before it and the implications of judgements pronounced by it are still being studied by the competent Iraqi authorities.

PHILIPPINES

/Original: English/
/24 June 1980/

1. In respect of paragraphs 18, 19 and 20 of the report of the Group of Three, the Philippines concurs in the Group's conclusions and recommendations;

2. With respect to the terms of reference of the Group, i.e., article IX of the International Convention on the Suppression and Punishment of Apartheid, the Philippines suggests the possibility of either expanding the size of the Group from three to four or six members with a view to creating a more balanced representation, or to apportioning the Group membership on a more permanent basis; paragraphs 1 and 2 of article IX of the Convention effectively limit the membership of the Group to States parties which are also members of the Commission on Human Rights. The Philippines would appreciate a positive modification of article IX towards this end;

3. With respect to the establishment of the International Penal Tribunal, the Philippines believes that the electoral procedures as embodied in article 17 of the Convention on the Elimination of All Forms of Discrimination against Women and also in article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination could be appropriately used as a basis for establishing the Tribunal.

POLAND

/Original: English/
/26 June 1980/

The Government of Poland is in agreement with the conclusions of the Group of Three contained in the report on its 1979 session.

SYRIAN ARAB REPUBLIC

/Original: English/
/30 June 1980/

The views of the Government of the Syrian Arab Republic have been clearly expressed in its second report to the Group of Three contained in document E/CN.4/1353/Add.2. These views were reiterated during the discussion of the report of the Group of Three at the thirty-sixth session of the Commission on Human Rights.

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ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid

Report of the Secretary-General

Addendum

CONTENTS

VIEWS AND COMMENTS OF STATES PARTIES TO THE CONVENTION ON THE CONCLUSIONS AND RECOMMENDATIONS OF THE GROUP OF THREE

GERMAN DEMOCRATIC REPUBLIC

[Original: English]
[3 September 1980]

With regard to the conclusions and recommendations of the Group of Three as contained in document E/CN.4/1328, the German Democratic Republic would like to present the following views:

1. The German Democratic Republic notes with satisfaction the increase in the number of States which have ratified the Convention or acceded thereto. It believes that affiliation to the Convention should be as universal as possible. With this in mind, the German Democratic Republic has repeatedly sponsored resolutions on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid at sessions of the United Nations General Assembly.

2. In accordance with article VII of the Convention, the German Democratic Republic has submitted two comprehensive reports on how it has applied its provisions. The reports were elaborated on the basis of the general guidelines recommended by the Group of Three.

3. The German Democratic Republic welcomes the practice, established since the 3rd meeting of the Group, of inviting representatives of the reporting States to participate in the relevant meetings of the Group. This is an opportunity for a direct dialogue between the States parties and the Group which is useful for the implementation of the Convention.

4. In conformity with the mandate entrusted to it under the Convention, the Group should act on its own like similar bodies, e.g. the Committee on the Elimination of Racial Discrimination.

5. The German Democratic Republic sees no need for establishing an international penal tribunal to deal with the crime of apartheid. The Convention obligates all States parties to prosecute universally cases relating to the crime of apartheid. The punishable nature of apartheid is a direct outflow of a breach of the pertinent norms of international law. Hence there is no need for States to define in their own legislation the specific elements which constitute the crime of apartheid. Any ordinary court of a State party to the Convention is competent to punish persons guilty of the crime of apartheid.

PANAMA

[Original: Spanish]
[24 July 1980]

The Panamanian Government has no comment to make since it is in agreement with the conclusions and recommendations in question.

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Agenda item 61 (c)

DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

Establishment of an international labour compensatory facility

Report of the Secretary-General

CONTENTS

I. INTRODUCTION

1. The General Assembly, by resolution 34/200 of 19 December 1979, requested the Secretary-General in close co-operation with the United Nations Conference on Trade and Development, the International Labour Organisation and other relevant United Nations bodies, to carry out, on the basis of the most up-to-date data available, a study on the feasibility of the proposals of His Royal Highness Crown Prince Hassan bin Talal concerning the establishment of an international labour compensatory facility and to submit a progress report to the General Assembly at its thirty-fifth session and a final report at the thirty-sixth session.

2. Accordingly, this progress report presents in a summary form various views relating to the establishment of an international labour compensatory facility and is based on preliminary consultations with relevant organizations of the United Nations system.

II. DIMENSIONS OF THE PROBLEM

3. The problems associated with the large-scale movement of professional, technical and other workers from developing countries have occupied a predominant place in international discussions for more than two decades. The intrinsic characteristics of the problem of outflow of trained and skilled persons from the developing countries have been studied in considerable detail within and outside the United Nations system.

4. The issues concerning the outflow of the trained personnel have remained on the agenda of the intergovernmental bodies of the United Nations system and have resulted in numerous resolutions some of which are listed in annex I. In response to the resolutions of the various intergovernmental bodies of the United Nations system, their secretariats have prepared a large number of studies and reports dealing with the various aspects of this problem. Some of the relevant reports are listed in annex II. These studies and reports generally seek to focus attention on the following dimensions of the problem:

(a) Qualitative aspects dealing with factors relating to the causes and consequences of migration;

(b) Quantitative aspects relating to the estimates of magnitudes and direction of flows;

(c) Suggestions for remedial measures to reduce the adverse effects of migration.

Qualitative aspects

5. The volumes of existing studies containing the diagnostic approaches to the evaluation of the problems of migration of trained personnel are considered sufficiently large to provide a broad understanding of the causes and effects of

the outflow. Extensive discussions among various groups of countries generally indicate a consensus on the seriousness of the problem and the need to take suitable remedial measures, even though differences of view points continue to exist on the precise causes of outflow and on the specific measures to deal with them.

Quantitative aspects

6. Present indications are that the outflow of trained persons will continue to persist during this decade. The pattern of migration has, however, acquired more dynamic characteristics in recent years. Efforts to obtain satisfactory data on international migration of trained personnel have been undertaken by several countries. The available data, though not standardized and comprehensive, is still useful to derive gross quantitative estimates of migration. The features relating to the measurement aspects are discussed in some of the earlier reports (A/34/593, para. 4; E/CN.3/485 and E/CN.5/545, part II).

Remedial measures

7. Based on the assessment of the nature and magnitude of the problem as interpreted from the diagnostic and statistical approaches, a large number of measures have been suggested aimed directly or indirectly at a reduction of the magnitude and the impact of the outflow of trained personnel from developing countries. These measures mostly relate to national policies of the countries of origin and the host countries, emphasizing the economic, institutional and administrative solutions. Some have proposed bilateral and multilateral co-operative efforts to solve the problem.

8. While there are some disagreements on one or the other specific solutions, there is a general consensus that individual national policies in themselves could not lead to the desired levels of improvements and that collective international policy measures would be required to strengthen the national efforts.

9. By paragraph 9.D of its resolution 102 (V) of 30 May 1979, the United Nations Conference on Trade and Development resolved that the international community should consider examining, in the light of the in-depth study by the Secretary-General of the United Nations, possible arrangements whereby developing countries experiencing large-scale outflows of their skilled professionals which cause economic disruptions could secure assistance in dealing with adjustment problems arising therefrom.

10. The Vienna Programme of Action of the United Nations Conference on Science and Technology for Development has recommended the following measures at the national and international levels:

> "Developing countries should make a thorough evaluation, at the national level, of the 'brain-drain' problem, including the emigration of skilled manpower, with a view of identifying measures for tackling the problem and reversing the exodus of the scientific and technological manpower."

1/ Report of the United Nations Conference on Science and Technology for Development, Vienna, 20-31 August 1979 (United Nations publication, Sales No. E.79.I.21 and Corrigenda), chap. VII, para.34 (e).

"Developed countries should intensify international discussions about ways and means to curb and reverse the brain-drain from the developing to the developed countries and to encourage the absorption of highly skilled and trained scientists and technologists within developing countries and support activities of international organizations aimed at finding urgently needed solutions to the brain-drain problem without prejudice to existing international agreement." 2/

"The organs, organizations and bodies of the United Nations system should assist developing countries to evaluate the brain-drain problem, including the emigration of skilled manpower, with a view to identifying measures for tackling the problem and reversing the exodus of scientific and technological manpower." 3/

11. Among the various suggestions that have been advanced for international action, the one that relates to the establishment of an international labour compensatory facility has received serious attention in recent years.

III. CONCEPTS OF COMPENSATION

Background

12. The concept of compensation for emigrants reportedly dates back to the turn of the century when Italy raised the question of receiving compensation for its nationals emigrating to the United States of America. 4/ Since the early 1970s, the issues relating to compensation for emigrants have been more extensively defined and articulated resulting in serious consideration of the suggested proposals in various forums. These proposals gained international attention through the discussions in the United Nations bodies, particularly in the International Labour Organisation and the United Nations Conference on Trade and Development in the context of the establishment of the new international economic order.

13. During the ILO-World Employment Conference (1976), while negotiating the Programme of Action, several delegates from developing countries proposed the inclusion in the programme of explicit measures of financial compensation for emigration by means of an international fund. The issue could not be resolved then and the Programme of Action merely states that the multilateral and bilateral agreements should "provide ways of limiting losses in countries of origin,

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2/ Ibid., para. 59 (f).

3/ Ibid., para. 99 (c).

4/ K. H. Höpfner and M. Huber: Regulating international migration in the interest of the developing countries, with special reference to Mediterranean countries; World Employment Programme Research Working Papers 21, I.L.O. Geneva, February 1978, p. 35.

particularly developing countries, which may result from departure of skilled personnel whose education and training they have provided". 5/

14. The basis for further discussion in the United Nations system was provided by the proposals made by the Crown Prince Hassan bin Talal of Jordan during his address to the 1977 ILO International Labour Conference. He stated that: 6/

> "... under the mounting pressure of rising costs of living, /Jordanian/ workers were easily lured by lucrative salaries abroad. Unable to resist the temptation, skilled and semi-skilled workers continued to leave the country. This labour drain reversed the traditional picture, and we found ourselves in Jordan in dire need of labour, compared with our previous surplus. This shortage of necessary skills had its impact in turn on our ability to implement our development plans ...
>
> "... since the primary resources of my country is the human element ... we feel that there is a pressing need for a set of formulae to be elaborated and adopted at a universal level in order to ensure that the terms of trade between capital and labour do not degenerate further in favour of capital. Unless this imbalance in terms of returns is discouraged, the gap between the rich and poor countries is bound to widen further and may, in the foreseeable future, reach intolerable limits.
>
> "It is hardly necessary for me to emphasize here the obvious fact that labour is at least as important a factor of production as capital. It is becoming increasingly clear to planners around the world that man is the primary development factor and capital occupies a secondary position. The issue is fortified if one looks at the cost incurred in preparing capable human beings and that of accruing capital. In many developing countries, qualified labour is getting to be in chronically short supply. Thus, economic conditions should be, but are not, tipping the exchange rate between labour and capital in favour of labour. The world at large still discriminates between labour and capital exports. The time has come to give labour exports the attention and consideration traditionally accorded to capital transfers. In order to do this, there is a need for an international agreement on the movement of labour whereby proper remuneration and treatment are ensured ... What I have just said naturally applies equally to the outflow of highly skilled manpower. The familiar phenomenon of the brain drain must be harnessed, regulated and controlled if we are to keep developing countries from becoming anaemic economically, socially and intellectually.

5/ Declaration of Principles and Programme of Action adopted by the Tripartite World Conference on Employment, Income Distribution and Social Progress, and the International Division of Labour, para. 43 (2), ILO, Geneva, June 1976.

6/ Record of Proceedings, International Labour Conference, Sixty-third Session, Fourteenth (Special) Sitting, ILO, Geneva, 1977, pp. 281-283.

"In this over-all context, I should also like to propose the establishment of an International Labour Compensatory Facility (ILCF). It could be elaborated along the lines of the Trust Fund for Compensatory Facilities of the International Monetary Fund. The proposed facility would draw its resources principally from labour-importing countries, but in a spirit of solidarity and good will, other ILO members may contribute to it. The accumulated resources will be diverted to developing labour-exporting countries in proportions relative to the estimated cost incurred due to the loss of labour ...".

"... I would therefore suggest that part of the funds from the proposed International Labour Compensatory Facility be used as soft loans to participating developing countries for the purpose of promoting and financing social projects ...".

15. The General Assembly, by resolution 32/192 of 19 December 1977, took note of the constructive proposal made by His Royal Highness Crown Prince Hassan bin Talal of Jordan concerning the establishment of an international labour compensatory facility to compensate labour-exporting countries for their loss of highly trained personnel, and recommended that the Member States concerned and the competent international organizations should, as a matter of urgency, give due consideration to the formulation of policies with a view to mitigating the adverse consequences associated with the "brain drain". It also requested the Secretary-General to undertake an in-depth study of the "brain drain" problem, taking into account specific proposals made on this subject, including the proposal for an international labour compensatory facility.

16. The need to examine further the proposal concerning the establishment of an international labour compensatory facility was noted by the General Assembly in its resolution 33/151 of 20 December 1978 and by the United Nations Conference on Trade and Development in its resolution 102 (V).

17. The General Assembly, in its resolution 34/200 took note of the report of the Secretary-General on reverse transfer of technology (A/34/593) containing a survey of its main features, causes and policy implications and requested the Secretary-General to carry out a study on the feasibility of the proposals on the establishment of an international labour compensatory facility.

Justifications for compensatory schemes

18. The justifications for compensation are advanced on the basis of economic loss suffered by the country of origin as well as the gains accrued to the host country. Detailed analysis of the various suggestions for compensations are contained in the note of the Secretary-General of UNCTAD to the General Assembly (A/34/425) and in the three working papers prepared by Mr. W. R. Böhning under the World Employment Programme of the International Labour Organisation. 7/

7/ Böhning, W. R., "Compensating Countries of Origin for the Out-migration of their People", Working paper 18E, ILO, Geneva, December 1977; "Elements of a theory of international migration and compensation", Working Paper 34, ILO, Geneva, November 1978; and "The idea of compensation in international migration", Second Regional Population Conference of ECWA, Damascus, Syrian Arab Republic, December, 1979.

19. One view is that highly trained and skilled persons, by their migration, inflict losses on the society that paid for their training. Emigrants by continuing to retain their original nationality enjoy the benefits and privileges of the country of origin, including the security and the services provided by that country at a substantial national cost.

20. It is stated that the international economic migration is in essence determined by the recipient countries, which explicitly admit or implicitly tolerate foreigners for purposes of employment for their contribution in the production of real goods as well as value added. The employment of emigrant workers results in a net gain in the general revenue of the host country which should share the gain with the country of origin regardless of whether there is a loss to that country or not.

21. The position of the Group of 77 is that the emigration of skilled manpower represents a transfer of productive resources and there is evident need to take systematic account of this in international resource flow accounting. The gains associated with skill flows between the recipient and source countries should therefore be shared on the basis of reciprocity (TD/B/C.6/28 and TD/B/C.6/AC.4/10, annex I).

22. Some of the industrialized market economy countries argue that the justification based on loss to the developing countries is not totally valid in view of such considerations as relief to local unemployment problems of developing countries, repatriation of earnings by emigrants to their country of origin, acquisition of skills abroad which are transferable to the developing countries and general contribution to global productivity.

23. This argument is countered by others that the incomes received by emigrants largely remain in the country of employment and the portions remitted to the country of origin tend to produce inflationary effects on the local economies and are often sporadic, undependable as a source of national income and subject to unpredictable fluctuations.

IV. COMPENSATION SCHEMES

24. A number of schemes have been proposed for compensation in the context of international co-operation for reducing the adverse effects of human resource flows. Some of the schemes have been developed and modified in considerable detail while others have been advanced as broad suggestions. The rationale and approaches to the various compensatory schemes are discussed in the publications listed in annex III.

Rigorous schemes

25. The compensation schemes that are based on rigorous models are summarized in a recent report of the Secretary-General (A/34/593).

26. One scheme proposes levying of a direct assessment on host developed countries related to the total number of skilled personnel migrating to the developed countries, the amount of their income, the amount of taxes they paid to the developed country, the relative scarcity of their skills in their developing country of origin, the amount of education they received at developing country expense or any other combination of factors that would generally reflect the costs and problems of specific developing countries as well as the enrichment of the developed countries (ibid., para. 47).

27. Another scheme proposes tax sharing arrangements whereby individual developed countries, by bilateral or multilateral tax treaties, agree to share tax revenues that they earn from developing country nationals (ibid., para. 48).

28. Two other schemes supplementing the above schemes suggest voluntary tax-exempt contributions and/or earmarked-taxes for donation to development financing (ibid., paras. 50 to 52).

29. Another type of proposal calls for levying a moderate supplementary tax on incomes of skilled migrants from developing countries for developmental spending in developing countries (ibid., para. 56). Such supplementary taxes may either be levied directly by the developing country or collected and reimbursed by the host country to the developing country.

30. The proponents of the above schemes have discussed the rationale as well as the legal and administrative feasibility of their proposals. Objections have been raised to such rigorous schemes by others who contend that these will be "open to legal, moral and administrative" problems; that there are "conceptual difficulties in the proposal to quantify the reverse transfer of technology"; that "the 'brain-drain' is not necessarily a developed-developing country problem but also a phenomenon between developing countries themselves", and that "the migration of skilled personnel is not the mere movement of a commodity from one country to another and cannot be treated merely as a balance-of-payments problem" (TD/B/C,6/28-TD/B/C.6/AC.4/10, chap. I).

31. In this context, the Group B countries voiced skepticism about "the utility of an accounting system of human resource flow" and considered that any compensatory scheme runs the risk of exacerbating rather than mitigating the "brain-drain" problem since it puts a premium on "brain-drain" flows (ibid., annex II). The position of Group B countries at the fifth session of UNCTAD was that they "did not believe that this highly complex phenomenon - the full dimensions of which had not yet been determined - could be remedied by compensatory means" (TD/268/Add.1, para. 184).

Generalized schemes

32. The generalized compensatory scheme contains proposals that partly attempt to meet the objections to the rigourous schemes. 7/

33. The basis of the generalized scheme is that compensation should be freely negotiated in the spirit of solidarity, good will, and mutual advantage in reducing

the adverse effects of migration rather than as a charity or a penalty. Its purpose is not to measure migration flows in terms of human capital and its actual or potential repercussions, but to recognize that migrants as persons represent a value and that this value should be acknowledged through compensatory arrangements.

34. In this scheme all economically active emigrants who continue to maintain their original nationality should be included in human resource flows, rather than limiting it only to highly qualified and trained persons, excepting such categories as refugees, volunteers, students, visitors, dependents and frontier workers. The scheme proposes that compensation should not be treated as solely a North-South issue but should encompass other recipient developing countries also. However, the developing countries with a per capita Gross National Product below a certain level should be exempted from the liability for compensation.

35. Under the scheme the general liability of a recipient country for compensation would occur when a certain percentage of its work-force in any given occupational category is derived through migrant workers. Similarly, a source country would become entitled to compensation when a certain threshold percentage of its economically active persons in any given occupational category is lost through migration.

36. It suggests that the compensatory payments should be on the basis of predictable, continuous and assured resources incorporated in the budgetary processes of the recipient countries requiring no special mechanisms for collection and no imposition of discriminatory burden on migrants. The amount of payment by recipient countries should bear some relationship to the size of the migrant population without necessarily requiring detailed and cumbersome accounting procedures.

37. The scheme proposes that such arrangements could be agreed upon on a bilateral or multilateral basis. The International Labour Compensatory Facility suggested by Crown Prince Hassan would have the advantage of being a global arrangement free from the boundary and consistency problems inherent in bilateral agreements.

38. This approach would also meet some of the demands raised in the context of financing systems for international development strategies and transfer of real resources.

Other suggestions

39. There have been several general suggestions in support of compensatory schemes. In one instance, the representative of Italy suggested that part of the benefit received by immigration countries from migrant workers, such as taxes, should be paid into a special fund to be used for benefit of the emigration countries. 8/ In another instance, the representative of the Finnish Ministry of

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8/ Report of the Committee on Employment, para. 10, Second European Regional Conference, Geneva, January 1974, ILO: Provisional Record No. 10.

Labour considered that "part of the direct taxes paid in the host country by migrant workers are (to be) transferred to the country of origin ... 9/ In a bilateral context, in February 1978, the Government of Yugoslavia addressed an aide-mémoire to the Government of the Federal Republic of Germany concerning measures for returning Yugoslav workers and economic assistance for employment creation projects in Yugoslavia, centred around a fund to be established with a grant from the Federal Republic of Germany. 10/

Institutional arrangements

40. The proposal for the establishment of an international labour compensatory facility was envisaged along the lines of the Trust Fund for Compensatory Facility of the International Monetary Fund. During the meetings of the Group of Governmental Experts on Reverse Transfer of Technology convened by the Secretary-General of UNCTAD at Geneva from 27 February to 7 March 1978, the representative of Jordan, on behalf of the States members of the Group of 77, suggested the following arrangements for the international labour compensatory facility (TD/B/C.6/28-TD/B/C.6/AC.4/10, annex I):

> "The establishment of an international labour compensatory facility (ILCF), proposed recently by Crown Prince Hassan of Jordan, should be explored systematically and as embodied in General Assembly resolution 32/192. With membership open to all States Members of the United Nations, it has been proposed that each Member make an annual contribution commensurate with its gains from the reverse transfer of technology.
>
> "Assets available in the ILCF may be disbursed either in the form of direct aid or soft loans to countries that suffer from the effects of brain drain. Such assistance may be extended either in the form of cash or, preferably, in funds earmarked for financing training projects or the purchase of capital equipment, seen as a substitute for the brain drain.
>
> "This facility has been studied only in a preliminary manner in order to arrive at workable formulas to determine respective contributions and disbursements. However, the issues involved need to be considered by an expert group at two levels:
>
> (a) A technical group, to write the details and possibly the draft agreement;
>
> (b) High-level government officials to discuss, amend and adapt the draft agreement."

9/ A. Majava: Migration problems in the long-term perspective; Seminar on Long-Term Effects of Migration, Stockholm, 27-29 May 1974, p. 7.

10/ W. R. Böhning, "The idea of compensation in international migration", Second Regional Population Conference of ECWA, Damascus, Syrain Arab Republic, 1-6 December 1979.

Purpose of the compensatory schemes

41. A number of suggestions have been made for the intended use of the compensatory facility. Principally, the facility is expected to undertake efforts to continuously assess the dynamics of migration of trained and skilled personnel, collect and evaluate data on a uniform and consistent basis, evolve policy measures for consideration at national and international levels, assist in implementation of steps to reduce the adverse effects of migration. These suggestions also include measures for assisting the developing countries in meeting their development goals which would indirectly lead to the reduction and elimination of the generic causes of migration.

Measures for international co-operation

42. The final report of the study on the feasibility of an international labour compensatory facility is to be presented to the General Assembly at its thirty-sixth session. The preparation of the report will be carried out in close co-operation with the United Nations Conference on Trade and Development and the International Labour Organisation and other relevant United Nations bodies as called for in resolution 34/200.

43. Based on preliminary studies and discussions, the scope of the final report is envisaged to deal with the conceptual, financial, institutional and administrative feasibilities of the compensatory facility and its goals, taking into account the various viewpoints and proposals for such a facility.

44. The report will examine alternate models for the compensatory schemes in the light of the prevailing views on the principles of compensation, the extent of resources and the scope of ultimate benefits that can be derived from such a facility.

ANNEX I

List of relevant resolutions adopted by the organizations of the United Nations system relating to outflow of trained and skilled personnel from developing countries

General Assembly	2320 (XXII) of 15 December 1967 2417 (XXIII) of 17 December 1968 3017 (XXVII) of 18 December 1972 3362 (S-VII) of 16 September 1975 33/192 of 19 December 1977 33/151 of 20 December 1978 34/200 of 19 December 1979
Economic and Social Council	1573 (L) of 19 May 1971 1904 (LVII) of 1 August 1974
UNCTAD	39 (III) of 16 May 1972 87 (IV) of 30 May 1976 102 (V) of 30 May 1979
ILO	World Employment Conference (1976) International Labour Conference (1979)
UNESCO	16C/1.243 (1970) 17C/1.332 (1972)

ANNEX II

List of relevant reports of the organizations of the United Nations system relating to outflow of trained and skilled personnel from developing countries

General Assembly	Report of the Secretary-General, A/34/593 of 7 November 1979 Note by the Secretary-General of UNCTAD, A/34/425 of 1 October 1979
Economic and Social Council	Reports to the Secretary-General: E/4483 of 17 April 1968 E/4483/Add.1 of 14 June 1968 E/4820 and Add.1 of 15 June 1970 E/1978/92 of 9 June 1978
Committee on Science and Technology for Development	Reports of the Secretary-General, E/C.8/21 of 18 January 1974 E/C.8/34 of 29 December 1975
Commission for Social Development	E/CN.3/485 of 28 April 1976 E/CN.5/545 of 18 October 1976
United Nations Conference on Trade and Development	TD/B/AC.11/25/Rev.1 TD/B/C.6/7 TD/B/C.6/AC.4/2 TD/B/C.6/AC.4/3 TD/B/C.6/AC.4/4 TD/B/C.6/AC.4/5 TD/B/C.6/AC.4/6 TD/B/C.6/AC.4/7 TD/B/C.6/AC.4/8/Rev.1 TD/B/C.6/28-TD/B/C.6/AC.4/10 TD/B/C.6/41 TD/B/C.6/47 TD/239
International Labour Organisation	World Employment Programme Research - Working Paper, WEP 2-26/WP 18E (December 1977) and WEP 2-26/WP 34 (November 1978)
UNESCO	Reports SC/WS/57 of 29 February 1968), 17C/58 of 10 October 1972) and 95/EX/29 of 20 September 1974
WHO	Study on Physicians and Nurse Migration (1979)
UNITAR	Study on the Brain Drain (1978)

ANNEX III

List of relevant publications relating to compensatory schemes for outflow of trained and skilled personnel

Beijer, G.: Brain Drain as a Burden; a Stimulas and a Challenge to European Integration, Demographical Seminar, Edinburgh (1967)

Bhagwati, J. N.: The United States in the Nixon Era - The End of Innocence; Daedalus, (1972).

Bhagwati, J. N. and Partington, M. (eds): Taxing the Brain Drain I: A Proposal; North-Holland Publishing Co., Amsterdam (1976).

Bhagwati, J. N. (ed): The brain drain and taxation II: Theory and empirical analysis; North-Holland Publishing Co., Amsterdam (1976).

Bhagwati, J. N.: The brain drain - compensation and taxation; Conference on Economic and Demographic Change, Helsinki, 28 August-1 September 1978.

Bhagwati, J. N.: North-South Dialogue; Third World Quarterly, London, April 1980.

Oldman, O. and Pomp, R.: The Brain Drain - A tax analysis of the Bhagwati Proposal; World Development, Vol. 2, No. 10, October 1976.

Pomp, R. and Oldman, O.: Legal and administrative aspects of compensation, taxation and related policy measures: Suggestions for an optimal policy mix, UNCTAD TD/B/C.6/AC.4/7, 28 December 1977.

Thomas, B.: From the other side - A European View; American Academy of Political and Social Science, Annals 367 (1966).

Vas-Zoltán, P.: The Brain Drain - An anamoly of international relations, Akadémiai Kiadó, Budapest, Hungary (1975).

Böhning, W. R.: Compensating countries of origin for the out-migration of their people; working paper 18E, ILO, Geneva, December 1977.

Böhning, W. R.: Elements of a theory of international migration and compensation; working paper 34, ILO, Geneva, November 1978.

Böhning, W. R.: The idea of compensation in international migration: Second Regional Population Conference of ECWA, Damascus, Syrian Arab Republic, December 1979.

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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Reports of the Ad Hoc Working Group of Experts on Southern Africa

Note by the Secretary-General

1. In paragraph 4 of its resolution 2082 A (LXII) of 13 May 1977, the Economic and Social Council decided that the reports of the Ad Hoc Working Group of Experts on Southern Africa should be brought to the attention of the General Assembly without delay.

2. In accordance with that resolution, the Secretary-General draws the attention of the General Assembly to the report of the Ad Hoc Working Group of Experts on Southern Africa prepared in accordance with Commission on Human Rights resolution 12 (XXXV) of 6 March 1979 and Economic and Social Council decision 1979/34 of 10 May 1979 (E/CN.4/1365) and the report of the Ad Hoc Working Group prepared in accordance with paragraph 17 of Commission resolution 12 (XXXV) (E/CN.4/1366).

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SUPPLEMENTARY LIST OF ITEMS PROPOSED FOR INCLUSION IN THE AGENDA OF THE THIRTY-FIFTH REGULAR SESSION OF THE GENERAL ASSEMBLY*

1. Observer status for the Latin American Economic System in the General Assembly [item proposed by Barbados (A/35/191)].

2. Co-operation between the United Nations and the Islamic Conference [item proposed by Pakistan (A/35/192)].

3. Question of peace, stability and co-operation in South-East Asia [item proposed by Afghanistan, Angola, Bulgaria, Cuba, Czechoslovakia, Democratic Yemen, the German Democratic Republic, Hungary, the Lao People's Democratic Republic, Mongolia, Mozambique, Nicaragua, Seychelles and Viet Nam (A/35/193 and Add.1)].

4. Historical responsibility of States for the preservation of nature for present and future generations [item proposed by the Union of Soviet Socialist Republics (A/35/194)].

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GENERAL ASSEMBLY
Thirty-fifth session
Item 106 of the preliminary list*
REPORT OF THE SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SECURITY COUNCIL
Thirty-fifth year

Letter dated 29 April 1980 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a letter addressed to you by the Minister for Foreign Affairs of the Republic of Iraq, Dr. Sadoon Hammadi.

I would kindly request that this letter be circulated as an official document of the General Assembly, under item 106 of the preliminary list, and of the Security Council.

(Signed) Salah Omar AL-ALI
Permanent Representative

* A/35/50.

ANNEX

Letter dated 2 April 1980 from the Minister for Foreign Affairs of Iraq to the Secretary-General

I would like to refer to the statement made by Abul Hassan Bani Sadr, President of the Republic of Iran, to the periodical al-Nahar al-Arabi wa al-Dawli published by the periodical in its number (151) dated 24 March 1980, to the effect that Iran would not forgo or restore the three Arab islands and that the Arab States (Abu Dhabi, Qatar, Oman, Dubai, Kuwait and Saudi Arabia) are not independent States as far as Iran is concerned.

The above statement confirms Iran's policy aimed at perpetuating its illegitimate occupation of the three Arab islands (Greater Tumb, Lesser Tumb and Abu Musa), the issue of direct threats, and flagrant interference in the internal affairs of a group of States Members of the United Nations, as well as slighting the independence of those States. Such statement is bound to create an atmosphere of tension, stir up conflicts and disturb world security and peace in the region, in contravention of the objectives of the United Nations Charter aimed at preserving world security and peace.

The Government of the Republic of Iraq would like to emphasize its non-recognition of Iran's illegal occupation of the three Arab islands (Greater Tumb, Lesser Tumb and Abu Musa) and the consequences that may ensue from such occupation, and demands the immediate withdrawal of Iran from those islands, and its desistance from the pursuit of expansionist and aggressive policies, the issue of threats, and interference in the internal affairs of the States of the Arab Gulf region, as well as respect for their independence and sovereignty in conformity with the United Nations Charter and its aims and in order to preserve security and peace in the region.

I shall be grateful if you will kindly publish this letter as an official document of the General Assembly and of the Security Council.

Mr. Sadoon HAMMADI
Minister for Foreign
Affairs of the Republic
of Iraq

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Item 72 of the preliminary list*

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

Note by the Secretary-General

1. On 19 December 1968, the General Assembly adopted resolution 2450 (XXIII) in which, inter alia, sharing the concern expressed by the International Conference on Human Rights held at Teheran in 1968 1/ that recent scientific discoveries and technological advances, although they opened up vast prospects for economic, social and cultural progress, may nevertheless endanger the rights and freedoms of individuals and peoples and consequently called for constant attention, and endorsing the idea that these problems require thorough and continuous interdisciplinary studies, both national and international, which may serve as a basis for drawing up appropriate standards to protect human rights and fundamental freedoms, it invited the Secretary-General, inter alia, to undertake a study of the problems in connexion with human rights arising from developments in science and technology.

2. Pursuant to this and subsequent resolutions of the General Assembly and of the Commission on Human Rights, 2/ a study of human rights and scientific and technological developments has been carried out.

3. An account of the work in progress under the relevant resolutions and of the documents issued as at 26 January 1976 is contained in a note by the Secretary-General on the programme of work in connexion with human rights and scientific and technological developments which was submitted to the Commission on Human Rights at its thirty-second session, held from 2 February to 5 March 1976. Copies of the document (E/CN.4/L.1313 and Corr.1-4) will be made available to delegations.

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* A/35/50.

1/ See Final Act of the International Conference on Human Rights (United Nations publication, Sales No. E.68.XIV.2).

2/ General Assembly resolutions 2721 (XXV) of 15 December 1970, 3026 (XXVII) of 18 December 1972, 3150 (XXVIII) of 14 December 1973 and 3268 (XXIX) of 10 December 1974; Commission on Human Rights resolutions 10 (XXVII) of 18 March 1971, 2 (XXX) of 12 February 1974, 11 (XXXI) of 5 March 1975, 11 (XXXII) of 5 March 1976 and 10 (XXXIII) of 11 March 1977.

4. On 10 December 1974, the General Assembly adopted resolution 3268 (XXIX) in which it, inter alia, drew the attention of States to the advantages which might be derived from the elaboration and adoption of measures designed to adapt national legislation and practices, where appropriate, not only to take acccunt of new technology but also to safeguard the fundamental rights of the individual and of groups or organizations in all sectors of social life, and invited Governments which already had experience in this field to transmit to the Secretary-General the information available to them. The Assembly also drew the attention of the Economic and Social Council and the Commission on Human Rights to the importance of collecting qualified opinions in the study of problems of human rights and scientific and technological developments, particularly with regard to a code of ethics, and requested them to take the necessary measures for the implementation of the resolution in liaison, in particular, with the Committee on Science and Technology for Development and the Advisory Committee on the Application of Science and Technology to Development, which were invited to follow these problems as a whole at regular intervals; requested the Secretary-General to invite the specialized agencies to, inter alia, consider the preparation of recommendations concerning international standards in the areas within their competence falling within the purview of the resolution; and, in paragraph 5, requested the Commission on Human Rights to draw up a programme of work in connexion with human rights and scientific and technological developments, with a view to undertaking in particular the formulation of standards in the areas which would appear to be sufficiently analysed.

5. On 5 March 1975, the Commission on Human Rights, at its thirty-first session, adopted resolution 11 (XXXI), in which it requested the Secretary-General, among other things, to achieve as soon as possible the full implementation of the resolutions adopted on this subject by the General Assembly and the Commission on Human Rights. It also decided, inter alia, without prejudice to the continuation of the study of the other questions referred to in previous resolutions of the Assembly and of the Commission, to draw up a programme of work in connexion with human rights and scientific and technological developments pursuant to Assembly resolution 3268 (XXIX) relating in particular to the definition of standards in areas which might appear to have been sufficiently analysed.

6. On 10 November 1975, the General Assembly adopted resolution 3384 (XXX) entitled "Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind". In this Declaration the Assembly proclaimed, inter alia, that all States shall promote international co-operation to ensure that the results of scientific and technological developments are used in the interests of strengthening international peace and security, freedom and independence, and also for the purpose of the economic and social development of peoples and the realization of human rights and freedoms. States shall also take appropriate measures to prevent the use of these developments to limit or interfere with the enjoyment of human rights and to ensure that scientific and technological achievements satisfy the material and spiritual needs of all sectors of the population. Under this Declaration, States shall refrain from using scientific and technological achievements to violate the sovereignty and territorial integrity of other States, interfere in their internal affairs, wage

aggressive wars, suppress national liberation movements or pursue a policy of racial discrimination, and they shall co-operate in establishing and strengthening the scientific and technological capacity of developing countries. Measures shall also be taken to extend the benefits of science and technology to all strata of the population, to promote the fullest realization of human rights and fundamental freedoms, and to ensure compliance with legislation guaranteeing human rights and freedoms in the conditions of scientific and technological developments.

7. On 5 March 1976, the Commission on Human Rights, at its thirty-second session, adopted resolution 11 (XXXII), in which it requested the Secretary-General to continue collecting documentation on the development of new technology as it pertains to human rights, where necessary with the assistance of qualified experts, and to continue and, if necessary, strengthen co-operation and adequate co-ordination between United Nations organs and the specialized agencies with regard to the impact of science and technology on human rights, in particular with a view to the proposed conference on science, technology and development; and decided to give priority at its thirty-third session to the item "Human rights and scientific and technological developments".

8. On 16 December 1976, the General Assembly, at its thirty-first session, adopted resolution 31/128 in which it called upon Member States to take account of the provisions and principles contained in the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind; requested the ILO, UNESCO, WHO and other specialized agencies to take into account in their programmes and activities the pertinent provisions of the Proclamation of Teheran and the provisions of the Declaration; and requested the Commission on Human Rights to give special attention to the implementation of the provisions of the Declaration.

9. At its thirty-third session, the Commission on Human Rights adopted resolution 10 A (XXXIII) of 11 March 1977, in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study, with a view to formulating guidelines, if possible, the question of the protection of those detained on the grounds of mental ill-health against treatment which may adversely affect the human personality and its physical and intellectual integrity. In its resolution 10 B (XXXIII), also of 11 March 1977, the Commission welcomed the adoption by the General Assembly in its resolution 3384 (XXX) of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, accepted it, together with other relevant international instruments, as a guide for its future work; emphasized the importance of States Members taking into account the provisions and principles of the Declaration; instructed the Sub-Commission to examine studies relating to this subject in the light of the provisions of the Declaration and to report its observations to the Commission on Human Rights; drew the attention of the Committee on Science and Technology for Development to the provisions of the Declaration and requested that the Committee take those provisions into account in the preparation of the United Nations Conference on Science and Technology for Development to be held in 1979; and decided to consider at its thirty-fourth session the question of implementing the provisions of the Declaration.

10. Attention is drawn to chapter X of the report of the Sub-Commission on its thirtieth session (E/CN.4/1261) regarding the consideration by the Sub-Commission of the question of human rights and scientific and technological developments.

11. At its thirty-fourth session, the Commission dealt with this question again. A summary of the Commission's discussion on the question may be found in chapter XI of the report on that session. 3/

12. The General Assembly at its thirty-third session adopted resolution 33/53 of 14 December 1978, by which it requested the Commission on Human Rights to urge that the study of the question of the protection of those detained on the grounds of mental ill-health be undertaken as a matter of priority by the Sub-Commission and to present a progress report on the question to the Assembly at its thirty-fifth session.

13. At its thirty-second session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, by its resolution 6 (XXXII) of 5 September 1979, requested the Secretary-General to prepare a report analysing information concerning the subject referred to in Commission on Human Rights resolution 10 A (XXXIII) with a view to the formulation of guidelines regarding the medical measures that may properly be employed in the treatment of persons detained on the grounds of mental ill-health and procedures for determining whether adequate grounds exist for detaining such person and applying such medical measures.

14. Having postponed consideration of the agenda item at its thirty-fifth session, the Commission had before it at its thirty-sixth session two annual reports on developments relating to science and technology elsewhere in the United Nations system of interest to the Commission (E/CN.4/1276 and E/CN.4/1306), which should be read in conjunction with the first report issued on the same subject (E/CN.4/1234), and an addendum to the report of the Secretary-General on human rights and national machinery for decision-making on science policy, with particular reference to technological assessment (E/CN.4/1235/Add.1).

15. At its thirty-sixth session, by decision 16 (XXXVI), the Commission decided to postpone to its thirty-seventh session consideration of item 15 concerning human rights and scientific and technological developments.

3/ Official Records of the Economic and Social Council, 1978, Supplement No. 4 (E/1978/34).

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CONSIDERATION OF THE DRAFT ARTICLES ON MOST-FAVOURED-NATION CLAUSES

Report of the Secretary-General

CONTENTS

* A/35/50.

CONTENTS (continued)

I. INTRODUCTION

1. The International Law Commission in the report on the work of its thirtieth session held from 8 May to 28 July 1978, 1/ submitted to the General Assembly at its thirty-third session its final set of draft articles on most-favoured-nation clauses, 2/ in conformity with the recommendation made by the Assembly in resolutions 31/97 of 15 December 1976 and 32/151 of 19 December 1977.

2. The Commission, in accordance with article 23 of its statute, decided to recommend to the General Assembly that the draft articles on most-favoured-nation clauses should be recommended to Member States with a view to the conclusion of a convention on the subject. 3/

3. At the thirty-third session of the General Assembly, the Sixth Committee considered the International Law Commission's report at its 27th, 31st to 46th and 67th meetings. 4/ At its 67th meeting, the Committee adopted by consensus a draft resolution (A/C.6/33/L.16) sponsored by 33 States.

4. On the recommendation of the Sixth Committee, the General Assembly, on 19 December 1978, adopted the draft, also by consensus, as resolution 33/139. Section II of that resolution reads as follows:

> "The General Assembly
>
> ...
>
> "1. Expresses its appreciation to the International Law Commission for its valuable work on the most-favoured-nation clause and to the Special Rapporteurs on the topic for their contribution to this work;
>
> "2. Invites all States, organs of the United Nations which have competence in the subject-matter and interested intergovernmental organizations to submit, not later than 31 December 1979, their written comments and observations on chapter II of the report of the International Law Commission on the work of its thirtieth session and, in particular, on:
>
> "(a) The draft articles on most-favoured-nation clauses adopted by the International Law Commission;
>
> "(b) Those provisions relating to such clauses on which the International Law Commission was unable to take decisions;

1/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 10 (A/33/10).

2/ Ibid., chap. II.

3/ Ibid., para. 73.

4/ A/C.6/33/SR.27, 31-46 and 67.

and requests States to comment on the recommendation of the International Law Commission that those draft articles should be recommended to Member States with a view to the conclusion of a convention on the subject;

"3. Requests the Secretary-General to circulate, before the thirty-fifth session of the General Assembly, the comments and observations submitted in accordance with paragraph 2 above;

"4. Decides to include in the provisional agenda of its thirty-fifth session an item entitled Consideration of the draft articles on most-favoured-nation clauses."

5. In pursuance of section II, paragraph 2, of the above resolution, the Secretary-General, by means of letter dated 31 January 1979, signed by the Legal Counsel, requested from States, organs of the United Nations which have competence in the subject-matter, and interested intergovernmental organizations, before 31 December 1979, written comments and observations on chapter II of the report of the International Law Commission on the work of its thirtieth session and, in particular, on the draft articles on most-favoured-nation clauses adopted by the Commission and those provisions relating to such clauses on which the Commission was unable to take decisions.

6. By 1 May 1980, comments and observations had been received from the following 16 States: Barbados, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, German Democratic Republic, Germany, Federal Republic of, Greece, Hungary, Mexico, Norway, Pakistan, Switzerland, United Kingdom of Great Britain and Northern Ireland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics. Comments and observations were also received from the following intergovernmental organizations: Food and Agriculture Organization of the United Nations (FAO), General Agreement on Tariffs and Trade (GATT) and European Economic Community (EEC).

7. The present document is submitted to the General Assembly by the Secretary-General pursuant to the request made in section II, paragraph 3, of resolution 33/139, quoted above. It reproduces the written comments and observations received. Further comments and observations that may be forthcoming will be issued in addenda to the present document.

II. COMMENTS AND OBSERVATIONS RECEIVED FROM GOVERNMENTS

A. Comments from Member States

BARBADOS

[Original: English]
[7 November 1979]

The articles constitute an autonomous system of rules, which, if embodied in a Convention, would considerably simplify the task of Courts dealing with disputes relating to most-favoured-nation clauses.

BULGARIA

[Original: English]
[27 December 1979]

1. The draft articles on the most-favoured-nation clause elaborated by the International Law Commission represent an important step in the codification and progressive development of international law in that field. The adoption of a convention on the most-favoured-nation clause will contribute to the expansion of international economic relations, particularly in the field of international trade.

2. In the view of the People's Republic of Bulgaria, the draft as a whole constitutes a good basis for a Convention regulating the most-favoured-nation mechanism.

3. The Bulgarian Government evaluates positively those elements of the draft which formulate the concepts of "the most-favoured-nation clause" and "the most-favoured-nation treatment", as well as the articles referring to various aspects of the most-favoured-nation clause: sources and scope, scope of rights, correlation with the national treatment, arising of rights under a most-favoured-nation clause, etc.

4. Support should also be given to those provisions in the draft which provide certain advantages for the developing countries, for land-locked and for neighbouring States with a view to encouraging frontier trade.

5. The positive assessment which the draft merits as a whole cannot be applied to those texts which regulate the conditional form of the most-favoured-nation clause.

6. It is an acknowledged fact that the conditional form of the most-favoured-nation clause has a limited application in the international treaty practice.

It is mostly included in treaties governing consular functions and immunities, as well as in international acts settling questions which pertain to private international law.

7. The application of the conditional form of the most-favoured-nation clause in trade relations among States is unacceptable and unfair. The hitherto practice has shown that the conditional and compensational form of the clause in the field of economic relations among States results in the unequal treatment of some of them and, consequently, brings to violation of the principle of sovereign equality among States. Therefore, those clauses which envisage the application of the conditional form of most-favoured-nation treatment should be dropped from the draft.

8. In conclusion, the People's Republic of Bulgaria remains hopeful that the International Law Commission will continue to work for the improvement of some articles of the draft with a view to bringing it into conformity with the principle of sovereign equality among States - one of the fundamental principles of contemporary international law.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]
[8 January 1980]

The Byelorussian SSR submitted its comments on the preliminary draft articles on the most-favoured-nation clause (published in the annex to the report of the International Law Commission) in response to the United Nations Secretary-General's inquiry of 6 January 1977. However, in the light of section II, paragraph 2, of General Assembly resolution 33/139, the Byelorussian SSR wishes to make the following additional comments:

1. It would seem that most of the provisions contained in the final draft articles can serve as a fully satisfactory basis for preparing an international convention on the subject. This applies in particular to the definition of the most-favoured-nation clause and of most-favoured-nation treatment, the provisions envisaging certain advantages for developing countries and land-locked States, and some other provisions.

2. The removal of the expression "material reciprocity" represents a significant improvement to the draft from the standpoint of both substance and wording. In this way, the Commission has taken into account the views of a number of States.

3. At the same time, it is completely unjustified to include certain provisions, in particular of article 2, paragraph 1 (e) and (f); article 12 and article 13, containing the so-called "conditions of compensation", which are essentially at variance with the basic principles of the draft articles.

4. In the view of the Byelorussian SSR, it should be borne in mind in the course of further work on the draft articles that it is the practice of the overwhelming majority of States to grant most-favoured-nation treatment on an unconditional and non-reciprocal basis.

5. If the legal institution of the most-favoured-nation clause is strengthened in this manner, it will help to remove unjustified trade barriers and create mutually advantageous and equitable economic relations among all States on the basis of their sovereign equality and co-operation. The Byelorussian SSR shares the Commission's view that the clause can be regarded as a method or means of promoting the equality of States and non-discrimination. This is particularly important because cases still occur in international practice where the granting of most-favoured-nation treatment to other States is made conditional on their fulfilment of completely unacceptable requirements, including requirements of a political nature. Such attempts at discrimination cannot fail to have an adverse effect not only on relations among the States concerned in the commercial, economic and other fields but also on the development of international relations as a whole.

6. The Byelorussian SSR feels that, since the questions regulated by the provisions of the draft articles are very important for international commercial and economic relations as a whole, the articles could also be considered by the Commission on International Trade Law.

CUBA

[Original: Spanish]
[15 January 1980]

1. The Government of Cuba believes that the draft articles are, broadly speaking, acceptable as a basis for discussion at a Conference of Plenipotentiaries, if one is convened.

2. It is essential that whatever legal instrument is adopted on the subject should take particularly into account the interests of the developing countries, which make up - numerically speaking - the largest and at the same time the weakest part of the international community, and that it should be based on the premise that fair and equal treatment in international trade is not always a fact when the economic position of the States involved is not equal.

3. It is the opinion of the Government of Cuba that, on the basis of the draft articles prepared by the International Law Commission and of the principle stated above, it should be possible to arrive at an international instrument conducive to more equitable trade relations between States and providing adequate safeguards for the developing countries.

CZECHOSLOVAKIA

/Original: English/
/25 January 1980/

The Czechoslovak Socialist Republic is of the opinion that the draft articles on the most-favoured-nation clause worked out by the International Law Commission at its thirtieth session are to be welcomed, since the most-favoured-nation clause plays a significant role in the regulation of international relations. The draft is a good basis for the international codification of that institution. In principle, the proposed articles correspond to the needs of international economic relations. A convention would represent a most suitable form of codification. The draft articles touch upon certain very complex legal questions, the solution of which has yet to be clarified in more detail. The Czechoslovak Socialist Republic therefore submits the following comments on the draft articles.

1. The proposed regulation proceeds from the distinction between the concept of the most-favoured-nation clause, which becomes effective only on the basis of contractual instruments, and the principle of non-discrimination, whose source is the principle of the sovereign equality of States and which is based on general principles of international law. The distinction between the content of the most-favoured-nation clause and the principle of non-discrimination is not, however, made sufficiently clear in the draft. The Commission's report states merely that States bound by the principle of non-discrimination have the right to grant more favourable treatment to another State and that no State may object to that, provided the non-discriminatory treatment extended to it is comparable with that extended to other States. However, the example used to clarify this difficult distinction cannot have general application. Even if article 47 of the Vienna Convention on Diplomatic Relations and article 72 of the Vienna Convention on Consular Relations use the term "discrimination", it is clear from the content that its purpose is to impose observance of the obligations accepted under the respective Conventions in respect of all States. As the Conventions designate the scope of these obligations, they concede that States may grant each other, on the basis of agreement or custom, treatment more favourable than that provided for by the Conventions. Both Conventions thus use the term "discrimination" in the sense of non-observance of their provisions. However, in spheres where minimum treatment is not provided for (for example, the commercial sphere), the existence of discrimination cannot be argued by analogy.

2. In article 1, and possibly in article 2, the sphere of application of the draft articles is limited only to the most-favoured-nation clauses contained in written agreements concluded between States. In that respect, the draft corresponds to the Vienna Convention on the Law of Treaties, although the Commission's report stresses that the draft articles are to be considered as an independent legal instrument. This definition of the subject-matter of the draft articles will substantially limit their application in practice. The most-favoured-nation clause is applied primarily in the commercial and political spheres, in which some States have delegated to international organizations of

which they are members the right to conclude international agreements. That is true chiefly of the European Economic Community (EEC), which is one of the major participants in international trade. If the draft articles were adopted without change, they would not apply to most-favoured-nations clauses contained in the treaties and agreements concluded by EEC with other States. The main object of the draft articles should thus be redefined, so that the articles could also apply to most-favoured-nation clauses contained in international treaties to which international organizations that conclude treaties containing the most-favoured-nation clause on behalf of their member States are parties, such treaties being effective in the territories of those States.

3. Articles 4 and 5 are of fundamental importance for the draft, and the scope of the most-favoured-nation clause should follow from them. It should be therefore useful to unite and harmonize the two articles to facilitate their interpretation. Certain difficulties of interpretation might arise from the fact that the term "treatment" is used in both articles, but in different senses. Article 4 deals only with the granting of most-favoured-nation treatment to other States and this wording is intended to specify clearly the subjects of rights and obligations under the most-favoured-nation clause, i.e., the contracting States. Article 5 deals with the treatment of the beneficiary State, persons or things, and delimits the scope of the most-favoured-nation clause.

4. The proposed wording of articles 4 and 5, however, does not correspond with some of the conclusions set out in the commentary. Paragraph (13) of the commentary to article 4 rightly stresses that the most-favoured-nation clause may be variously worded, but that its purpose is the granting of treatment as defined in article 5. Taking into account the terms of article 2 (d), article 5 implies that any provision of an agreement expressing the will of the contracting States to grant a treatment that is not less favourable than that granted to any third State should also be considered as a most-favoured-nation clause.

5. Nevertheless, in its commentary to article 4, the Commission takes as an example of a case in which most-favoured-treatment is purportedly not involved the provisions of article XIII, paragraph 1, of the General Agreement on Tariffs and Trade. Those provisions, however, fulfil the conditions of article 5 of the draft articles, since they stipulate the obligation, for the contracting States, not to apply to another contracting State restrictions that are not applied to all third States. The reasons why article XIII of the General Agreement should not be considered as constituting a most-favoured-nation clause do not follow from the commentary. It might be thought that the Commission's conclusions were based merely on the title of the said article, which includes the words "non-discriminatory administration". However, the interpretation is not acceptable, because there exist a number of provisions of international treaties that indisputably constitute most-favoured-nation clauses and in which the term "non-discrimination" is used. In view of the indeterminate form of the most-favoured-nation clause, the intention of the parties should be decisive for its interpretation.

6. If prohibition of discrimination is accepted as following directly from the general principles of international law and therefore as valid irrespective of the content of the contractual provisions, the parties that expressly undertake to prohibit discrimination against third States generally have in mind any treatment less favourable than that granted to third States. If paragraph 1 of article XIII of the General Agreement does not constitute an acceptable example that is also because, under article 1 of that Agreement, the concept of most-favoured-nation treatment is so broad that it covers all regulations on imports and exports. Thus article XIII aims only at correcting and defining the concept of the most-favoured-nation clause in the sphere of quantitative restrictions. That interpretation is also confirmed by the exceptions referred to in article XIV of the General Agreement.

7. Neither articles 4 and 5, in their present wording, nor the other proposed articles, indicate the distinction between the most-favoured-nation clause and non-discrimination. It is therefore being proposed to unite articles 4 and 5 of the draft most-favoured-nation clause under the following wording:

> "The most-favoured-nation clause is a contractual provision on the basis of which a contracting State undertakes to grant to another contracting State or to other contracting States or to persons or things being in a certain relation to such a State a treatment that is not less favourable than that granted by the bound State to any third State or to persons or things being in the same relation to the third State."

GERMAN DEMOCRATIC REPUBLIC

[Original: English]
[8 January 1980]

The German Democratic Republic attaches great importance to the question of most-favoured-nation treatment. Therefore, it expresses its satisfaction at the progress that has been made in the elaboration of the draft articles on most-favoured-nation clauses. In detail, there are the following comments to be made on the draft submitted by the International Law Commission to the General Assembly at its thirty-third session.

1. The draft is based on the long-standing practice of States. Its articles are suitable to strengthen the role of most-favoured-nation treatment in international relations. It regulates legal questions of most-favoured-nation treatment with a view to promoting international relations on the basis of equality and mutual advantage, and to overcoming discrimination and trade barriers. This makes the draft a valuable instrument to help continue and implement the international process of détente. On the other hand, it cannot be overlooked that the arrangements proposed in the draft cannot solve all problems connected with the elimination of discrimination and trade barriers. Thus, the positive effect of the provisions set forth in the draft can be felt only if and when States agree on a most-favoured-nation clause. Therefore, the draft would be more effective if it contained a provision that would encourage States to agree on most-favoured-nation clauses in their international economic relations. In addition, most-favoured-nation treatment can only become an effective means to promote international economic relations if it is applied unconditionally and without any restriction. Incidentally, this would be the only way of conforming to the generally recognized practice of States.

2. The draft demonstrates the topicality of most-favoured-nation treatment, taking account of consequences that arise in terms of international law codification from the establishment of a new international economic order. This is especially apparent from the fact that the draft is not confined to a mere protection of equal rights, but also makes concrete provision for differences in the level of development of States and for the promotion of developing States. Therefore, the provisions contained in articles 23, 24 and 30 deserve full support.

3. The present draft takes account of questions concerning the relationship between States with different social systems. The draft, which in this case is in line with the long-standing practice of States, makes it clear that in granting most-favoured-nation treatment the essential thing is not that States agreeing on a most-favoured-nation clause extend equal preferences to each other. Rather, what matters most is the fact that on the territory of the granting State the beneficiary State enjoys the same rights as any third State, unless an exception is agreed upon. What sort of preferential treatment is extended under a most-favoured-nation clause depends in each individual case on what preferences the granting State accords to any third State.

4. The present draft contains a reasonable number of exceptions from most-favoured-nation treatment. A most-favoured-nation clause can have a favourable effect on the development of mutual relations only if it is not limited by too large a number of exceptions. If too many preferences are identified as exceptions such a most-favoured-nation clause may prove ineffective and become a basis for trade barriers. On the other hand, it is necessary to agree on certain exceptions. Therefore, the exceptions provided for under draft articles 23 to 26 and the exceptions which may be invoked pursuant to article 30 in favour of developing, contiguous or land-locked States are justified. Should, however, further exceptions be added, the presently balanced relationship between the effect of a most-favoured-nation clause and the exceptions would be severely affected.

5. From this point of view the adoption of an exception in favour of preferences as granted within a customs union or an economic community would be questionable. To stipulate such an exception would reduce the positive effect of a most-favoured-nation clause to an unjustifiable extent. It is more advisable to settle questions arising from a most-favoured-nation clause in connexion with the establishment of an economic community in direct negotiations between the States concerned.

6. An article on dispute settlement should not be included in the provisions on most-favoured-nation treatment. Questions of interpreting a most-favoured-nation clause will in practice arise only in connexion with a specific agreement, i.e., the one that contains the clause. Therefore, it would be enough to apply the procedure for the interpretation of the specific most-favoured-nation clause, which the respective contracting States have envisaged for the settlement of disputes arising from that agreement, unless there is a general agreement on dispute settlement between the parties concerned.

7. The present draft contains a number of arrangements which take account of the requirements of the new international economic order and which are of importance for the practical application of most-favoured-nation clauses. However, these can make their full contribution to promoting a unified approach of States only if the drafting of provisions which do not yet serve the international practice of States and the requirements of the development of international co-operation are continued. It would be appropriate to accord as high as possible a degree of binding force in international law to the articles on most-favoured-nation treatment. The German Democratic Republic, therefore, advocates the conclusion of a convention on most-favoured-nation treatment.

GERMANY, FEDERAL REPUBLIC OF

/Original: English/
/2 January 1980/

I

The Federal Republic of Germany regards the result of the second reading of the draft convention by the International Law Commission (ILC) as a well-considered

catalogue of the most significant legal aspects to be observed when making and applying most-favoured-nation clauses in treaties. The draft describes various types of model régimes, identifies legal consequences ensuing therefrom, and establishes rules for interpreting facts and circumstances not provided for. This is done partly by codifying customary law and partly also by progressively developing international treaty law. The provisions of the draft are to have residual character (art. 29). The draft and the valuable ILC commentary thereon take account of State practice, of judicature in the international and national spheres, and the theory of international law. Thanks to its systematic and scientific elucidation of this particular field of law, the ILC draft itself, with the commentary, is a valuable contribution towards clarifying the legal situation. It is moreover appreciated that the draft closely follows the system and terminology of the Vienna Convention on the Law of Treaties (cf. arts. 1, 2, 27, 28), most-favoured-nation clauses as integral parts of treaties being at any rate subject to the general rules of international treaty law.

It cannot, of course, be ignored that in some of its parts the draft lacks the character of a codification with permanent validity, especially as it is neither complete nor final.

II

1. The draft is not complete. It covers state practice only in part since it confines itself to most-favoured-nation clauses in treaties between States. True, this conforms to the Vienna Convention on the Law of Treaties but the latter is to be supplemented by a special convention dealing with the law of treaties as relating to international organizations. The ILC draft, however, is deliberately confined to treaties between States although in practice groupings of States (customs unions, free-trade areas) are assuming more and more importance in this field.

The consequences of this omission are in many respects disadvantageous: most-favoured-nation clauses in mixed treaties to which other subjects of international law are parties - and the number of such treaties is likely to increase - would, if based on article 6 of the ILC draft, fall under differing treaty régimes where the ILC provisions are not identical with customary international law. In terms of international law policy this would amount to a deplorable splitting up of the treaty régime.

As regards the non-inclusion of customs unions, free-trade areas and other internationally recognized groupings of States establishing closer economic integration, reference is made to relevant comments in the written statement submitted by the Commission of the European Communities (EC) in January 1978, which are fully endorsed by the Federal Republic of Germany as an EC member State. The failure to include customs unions is all the more incomprehensible as the draft enumerates a number of exceptions to most-favoured-nation treatment that are of less importance. If one regards the list of exceptions in a systematic régime as an exclusive enumeration, the non-inclusion of customs unions amounts to an adverse prejudgement. The Federal Republic of Germany therefore makes its acceptance of the present rules subject to completion of the draft provisions by filling the existing gaps in accordance with the views of the EC Commission.

2. The draft is not a final arrangement. Being flexible and open to further development, the draft, in its article 30 with its indefinite and open-ended terminology, leaves room for the elaboration of new rules in favour of the development of a large section of the community of nations. The Federal Republic of Germany, while welcoming this approach in principle, regards this general reservation of article 30 as an opening likely to break up the system of legal norms contained in the draft should the latter be regarded as a final régime (codification).

III

Re substantive reciprocity (art. 11 et seq. in conjunction with art. 2 (1) (e) and (f)). As regards the granting of most-favoured-nation treatment, it will be necessary, as set out in the statement of the EC Commission, to take account of the differences in economic systems, especially in relations with state-trading countries. Over and above purely formal reciprocity, such differences necessitate a differentiated approach which is tailored to the prevailing situation and cannot even be regarded as contrary to the system developed in the draft since the latter provides for the special treatment of developing countries also on account of structural differences, namely, the level of their development. What is right for the level of development can, mutatis mutandis, also apply to the gap between differently structured national economies.

IV

Re the further procedure. The International Law Commission had recommended in paragraph 73 of its report that the General Assembly propose to Member States the adoption of the draft in completed form as a convention among States. The Federal Republic of Germany had a provisional statement delivered on that recommendation last year before the sixth Committee (A/C.6/33/SR.33 para.30). The report submitted by the Sixth Committee (A/33/419, sect.III (b)) on its deliberations in 1978 shows that a number of other States also saw various possibilities for the further treatment of the draft. In the light of those comments one might examine whether there are alternatives which, instead of rigidly codifying the ILC result in a convention, would be more consonant with the contents of the draft and the level of development of international law. Consideration could be given in particular to the question whether the provisions agreed upon might not be developed into a (further) model contractual régime on the subject-matter. The General Assembly, in its resolution 1262 (XIII) of 14 November 1958, had recommended that Member States observe and apply the model rules on arbitral procudure elaborated by the International Law Commission. The interpretative rules contained in the present draft would, as guidelines, fit in well with such a conception. The indefiniteness of some terms in the draft, its incompleteness and its future perspective (all of these elements being an impediment to its codification in the form of a convention) would be acceptable if it were to be a model régime open to subsequent review in the event of changes in the world economic situation. Such a procedure would also render superfluous the elaboration of the otherwise indispensable provisions on the settlement of

disputes which, in view of the incorporation of most-favoured-nation clauses in treaties with differing arbitration provisions, would prove to be difficult on account of legal technicalities.

GREECE

/Original: French/
/31 December 1979/

The Greek Government wishes to make the following brief comments on the draft articles on most-favoured-nation clauses adopted by the International Law Commission.

1. It would be desirable to examine in depth the possibility of not confining the aforementioned draft articles to inter-State relations alone, but of making them applicable to interested international organizations also.

2. Article 5. It would be useful to state in the text of this article itself that the relationship between the "granting State" and the "third State" may result either from a treaty or from another source, such as internal laws.

3. The text of the draft should explicitly make a specific exception to the application of the most-favoured-nation clause for customs unions and free-trade areas. Such an exception is already part of current international practice concerning the most-favoured-nation clause.

4. Article 27. This provision, which no doubt had its place in the Vienna Convention on the Law of Treaties, appears superfluous in the context of the most-favoured-nation clause, which is much more limited in scope.

5. Article 30. This provision seems to arrest permanently the development of legal rules concerning the most-favoured-nation clause, except those relating to the developing countries. It would perhaps be better to word the article as follows:

> "The present articles are without prejudice to the establishment of new rules of international law on this subject, in particular rules in favour of developing countries."

HUNGARY

/Original: English/
/28 February 1980/

1. The Government of the Hungarian People's Republic attaches great importance to the work of codification carried on by the United Nations and its International Law Commission in accordance with Article 13 of the Charter. A task of great timeliness, the elaboration of the draft treaty on most-favoured-nation clauses is supported by Governments, including that of the Hungarian People's Republic, in

view of the positive effect the treaty is bound to produce on the development of international relations free from discrimination and based on mutual advantages.

2. Several provisions of the draft articles as adopted in second reading by the International Law Commission seek to achieve, in a forward-looking and positive manner, the objective of codification to ensure the broadest possible application - in keeping with the principle of sovereign equality of States - of the most-favoured-nation treatment in international relations. Accordingly, the Government of the Hungarian People's Republic does not endorse but the sole concept that the treaty should allow only for a narrow scope of exceptions to the general rule to meet justified interests that are recognized by the international community as deserving of special consideration. It therefore agrees with the draft articles relating to developing countries as well as with the rules extending certain rights and facilities to land-locked countries and to contiguous States in respect of frontier traffic.

3. At the same time, the Government of the Hungarian People's Republic believes that the basic principle of codification that the broad application of the most-favoured-nation treatment may serve as an important tool for giving effect to the principle of equality of States and for reducing and eliminating the possibility of discrimination in international economic relations is impaired by several provisions of the draft articles, particularly those relating to international economic and commercial relations.

4. The Government of the Hungarian People's Republic considers that those of the present draft articles which leave scope for the most-favoured-nation treatment to be made subject to conditions, especially to material reciprocity, in international economic and commercial relations are highly unfavourable and constitute a setback in comparison with the draft articles elaborated by the International Law Commission in 1976. This regulation is at variance with the practice established in international commercial relations during the past 30 years as well as with international law-making consistent with that practice.

5. While some half a century ago certain countries sought to establish a practice of treatment subject to conditions, such application of most-favoured-nation clauses proved unfit to become an acceptable regulatory principle of international trade. In the field of international trade nothing but the most-favoured-nation treatment as a legal institution not made subject to conditions can ensure international legal security, the equality of parties and a balanced harmony between rights and obligations, since the essential substance of the most-favoured-nation clause consists in the fact that under a treaty according such treatment the contracting parties and their merchants can have the certainty that in the other country they shall enjoy a position no less favourable than that enjoyed by merchants of any other country and are thereby enabled to take into account with sufficient security the relative conditions that are to govern their marketing activities in the longer term.

6. Should the parties choose to comply with the rules of conditionality and thus compare concrete benefits in each case, the treaty would provide a framework not

for the application of the most-favoured-nation treatment but merely for the comparison of ad hoc conditions. By doing so the party granting the most-favoured-nation treatment will unilaterally consider its fulfilment of the obligations undertaken in view of compensation and might even claim unjustified additional performance by the beneficiary.

7. It may therefore be stated that the conditionality of the most-favoured-nation treatment would but cause the prevailing international legal practice to be counter-productive by resulting in the non-application of or in prejudice to the most-favoured-nation principle in international trade.

8. On the other hand, the fundamental requirement upon the ongoing work of codification by the United Nations rules out the possibility for the universal regulation of the most-favoured-nation treatment subject to conditions to be included in the United Nations treaty on most-favoured-nation clauses, for the said treaty is intended to be based on existing international practice concerning the application of the most-favoured-nation principle and to regulate and codify that practice, yet the most-favoured-nation clause made subject to conditions never became a practice in international trade.

9. The Government of the Hungarian People's Republic cannot support those draft articles which allow a system of most-favoured-nation clauses subject to conditions to be extended to commercial and economic relations as well. It still holds this view which it has already expressed during the preparatory work concerning the elaboration of the draft articles of 1976 and 1978. Therefore, as regards economic and commercial relations, it finds it desirable to delete from the draft articles the conditional form of the most-favoured-nation clause as a general rule and for the draft treaty to restrict conditionality to clearly specified non-commercial and non-economic fields, essentially in accordance with the principles stated in paragraph 31 of the commentary of the International Law Commission to articles 12 and 13. 5/

10. The Government of the Hungarian People's Republic maintains that the application of the most-favoured-nation clause made subject to an explicit condition of material reciprocity is bound to raise the same kinds of difficulty in economic and commercial contacts among States as conditionality is in general in these aspects. Therefore, the rules of the draft articles for material reciprocity (art. 13) should take account of these considerations and accordingly provide for the applicability of those rules to non-commercial and non-economic relations only.

11. Draft article 22 refers to the laws and regulations of the granting State as a guarantee for the practical fulfilment of the obligation undertaken under public international law to apply the most-favoured-nation clause. As, keeping international legal practice in view, it is necessary further to strengthen the

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5/ Yearbook of the International Law Commission, 1978, vol. II, part two, p. 38.

elements of guarantee in national legislations, it is proposed to commence the second sentence in article 22 as follows: "Those laws and regulations, however, shall be applied to all countries and shall not be applied in such a manner ..."

12. As the foregoing comments of the Hungarian Government suggest, certain cardinal provisions of the draft articles on most-favoured-nation clauses adopted by the International Law Commission raise strong doubts as to whether the adopted line of regulation is correct. The draft articles, which even in the present stage of codification contain truly objectionable provisions, cannot be considered to have reached full clarity and adequacy. Existing experience in the work of codification shows that serious problems tended and tend to arise mainly in respect of provisions affecting economic and commercial contacts among States. The International Law Commission, while being aware of the fundamental importance of the most-favoured-nation clause in international economic and commercial relations, has centred its work on the legal nature of the clause, on giving a clear outline of this legal institution.

13. None the less, this otherwise proper endeavour has inevitably relegated to the background an exhaustive and balanced study of economic questions inseparable from the clause and has given rise to difficulties in the legal formulation of the clause. The lack of a thorough study of economic interrelationships in the relevant fields has, in the view of the Hungarian Government, made its negative effect felt in the entire course of codification. It will suffice to refer on this score to the difference in contents between the relevant rules contained in the draft articles elaborated by the International Law Commission in 1976 and 1978.

14. Consequently, the Government of the Hungarian People's Republic is of the opinion that it would be advisable to refer the draft articles to an appropriate forum of the United Nations, such as the United Nations Commission on International Trade Law, for an in-depth study of the questions discussed above. It is further believed that a diplomatic conference convened for this purpose could also be a useful forum for the final elaboration of the draft articles. While making these suggestions the Government of the Hungarian People's Republic wishes to state that it will adopt a flexible attitude regarding the procedure and the forums that may be judged competent to formulate the final text of the draft articles.

MEXICO

/Original: Spanish/
/15 January 1980/

1. The Government of Mexico considers that the draft articles on the most-favoured-nation clause prepared by the International Law Commission constitute a significant contribution to the clarification of this subject and its definition from the legal point of view and that in adoption of the draft articles in the form of an international convention this would represent a decisive step in the codification and development of international law which would unquestionably contribute to greater harmony in the relations among the members of the international community.

2. Although the draft articles on the most-favoured-nation clause would be acceptable to Mexico in general terms the Mexican Government, if it considered it necessary, may submit comments on various sections of the draft at an appropriate time, since some of the articles, such as article 14, required additional work because the existing wording might give rise to confusion, owing to the imprecision of the terms used.

NORWAY

/Original: English/
/3 March 1980/

The most-favoured-nation clause has, in most cases lost its actuality, especially in the relations between developed and developing countries. The very important questions in this connexion, particularly the work to establish a new international economic order, should, in the opinion of the Norwegian Government, be resolved as economic-political questions within existing fora. The way the International Law Commission works it is only to a limited degree possible to take into account the changes that are occurring within these economic relations.

PAKISTAN

/Original: English/
/17 December 1979/

1. Despite the realization in the international community that there is an urgent need to rectify the existing assymetries and imbalances that characterize the present international economic system which has resulted in a growing disparity between the rich and poor nations of the world, the efforts of the developing countries to effect structural changes in the system have not met with a positive response from the industrialized nations. It is, therefore, a matter

of satisfaction that the International Law Commission recognizes the importance of alleviating the economic condition of the developing countries and has taken cognizance of the relevant resolutions on the subject adopted at various international fora.

2. The mandate of the International Law Commission, in the words of Article 13 of the United Nations Charter, is "... encouraging the progressive development of international law in its codification". And, whereas in the case of areas such as diplomatic privileges and immunities and law of treaties the element of codification had to play a more significant role in the nature of things, in economic and trade matters, the element of progressive development ought to play the dominant role in the performance of its task by the Commission. The Government of Pakistan, therefore, is of the view that the right of the developing countries to preferential treatment in economic and trade matters that has emerged as a consequence of almost universal acceptance of the claim of the developing countries to be treated on a preferential basis in the field of international trade and economic relations ought to be recognized and reflected in these articles. Although at the present there are only a few concrete manifestations of the recognition of this right in the shape of the schemes of generalized preferences established by some developed countries, the claim of the developing countries for preferential treatment, in the abstract, has almost universally been accepted and the draft articles ought to fully accommodate it in order to adequately emphasize the element of "progressive development" in them.

3. In the light of the preceding general observations the Government of Pakistan proposes the following alterations/amendments in the draft articles:

Article 7

4. The article enshrines the principle of "no obligation without consent" which is an old principle of international law governing treaty relations. This rule, however, does not accommodate the emerging right of developing countries to be accorded different and preferential treatment which has been recognized by the international community almost universally. It is admitted that the provisions of subsequent articles do try to accommodate this right of the developing States to some extent. For example, article 23 provides for preferential treatment of the developing countries under the generalized system of preferences but this is not enough. It is, therefore, felt that a new rule ought to be incorporated in article 7, stating that a certain category of States, to be determined by the General Assembly, would be entitled to automatic most-favoured-nation treatment. The following lines may thus be added at the end of the article: "except that the developing States to be specified periodically by the General Assembly in accordance with agreed criteria would be automatically accorded most-favoured-nation treatment by all States on a non-reciprocal basis".

Article 23

5. This article is too specific and narrow in scope. It is felt that the Generalized System of Preferences at the moment is neither a system nor generalized.

It is only a provisional grant of preferences by the developed States which mainly relates to tariffs. As presently drafted, the article sanctifies a temporary grant of specific preferences and conspicuously remains short of the expectations of the developing States. It is, therefore, considered that the article should be made broader in scope. The article, in essence, tries to incorporate the right of the developing States to differential and favourable treatment in their trade and economic relations and the article should be redrafted to fully accommodate that right.

Article 29

6. This article as presently drafted could provide a free hand to States in a position to do so to nullify the effect of the rules that are being suggested to ensure a preferential treatment to the developing countries and thus merits complete deletion. In case it is considered that the deletion of the article is not possible, adequate safeguards designed to protect the interests of the developing States will have to be inserted in the article.

SWITZERLAND

/Original: French/
/17 January 1980/

1. Although, as the International Law Commission (hereinafter referred to as "the Commission") notes in the introduction to chapter II of its report on the work of its thirtieth session, the draft articles on the most-favoured-nation clause are not intended to form an annex to the Vienna Convention on the Law of Treaties of 23 May 1969, they do nevertheless constitute an aspect of the general law of treaties. Moreover, the Commission has rightly established the residual character of the provisions of the draft by including an express reservation (art. 29) concerning the different provisions on which the granting State and the beneficiary State may agree, whether in treaties containing the clause or otherwise. Furthermore, it has included a general reservation on the development of the clause and the establishment of new rules of international law on the subject at a later stage (art. 30). If, lastly, it is borne in mind that, however prevalent the use of the clause may be even now in customary practice, it no longer plays as important a role today in international relations as it did in the last century and even during the first half of this century, particularly in the economic sphere, then the limitations which these various elements impose upon the practical scope of the draft articles from the outset must be recognized.

2. The Swiss Government, like the other Governments and the various international organizations which have already expressed their views on the draft articles, was struck by the absence from the draft articles of a provision concerning the relationship of the most-favoured-nation clause to customs unions and free trade areas. The exception envisaged by GATT to the principle of the general and unconditional application of the clause in cases of customs unions and free trade areas (art. XXIV), which has been taken up and confirmed in many multilateral and

bilateral treaties, is now sufficiently widespread in practice to justify regarding the treaty provisions which envisage this exception as being of only declaratory value. The developments which have characterized the efforts to achieve regional integration, the existence at present of customs unions and free trade areas in the five continents and the reservations pertaining to them in many treaties, particularly trade treaties in relation to the operation of the most-favoured-nation clause, cannot be ignored, and justify the establishment of a rule specifying that the clause does not apply in the case of unions or areas of this type. The draft should therefore be completed by a provision specifying that a beneficiary State which is not a member of a customs union or a free trade area is not entitled by virtue of a most-favoured-nation clause, to the treatment granted by the granting State as a member of the customs union or of the free trade area to a third State which is also a member of that union or area. A provision of this nature would also dispel the doubts which may arise in relation to article 17, which is concerned with another question (irrelevance of the fact that treatment is extended to a third State under a bilateral or a multilateral agreement).

3. It may be wondered whether it is necessary to include in a set of draft articles on the most-favoured-nation clause a provision such as article 22, concerning compliance with the laws and regulations of the granting State. Although as the Commission indicates in its commentary, it is appropriate to include a provision of this nature in an instrument establishing a preferential régime benefiting specific persons or categories of persons, some misgivings are permissible in this particular case, especially in the light of the reasons for including this article in the draft given by the Commission in its commentary (principles of sovereignty and equality of States).

4. The Swiss Government shares the concern expressed, notably in the Commission itself, regarding the lack of a generally accepted definition of the States that should be considered as developing States.

5. In including a reservation concerning the future development of the clause, the Commission took into account only the situation of the developing countries. Apart from the difficulties inherent in the lack - mentioned in paragraph 4 above - of any agreement among States concerning the concepts of developed State and developing State, the Swiss Government feels that, although the trends emerging from the work being done in various international forums tend to favour the developing countries, article 30 should be reworded so as not to exclude developments of interest to the developed States also. Consequently, the word "notably" should be inserted after the words "new rules of international law".

6. The Swiss Government regrets that the draft articles do not contain any provision relating to the settlement of disputes concerning their interpretation or application. It considers that any multilateral instrument establishing rules for States should contain appropriate provisions for this purpose.

7. With regard to the Commission's recommendation that the draft articles should serve as the basis for the preparation of a convention on the subject, the Swiss Government, taking the foregoing observations into account, is of the view that

the adoption of a covention on the subject would be without point or value unless the new codification instrument constituted an appropriate reflection of contemporary international practice. It therefore wonders whether it would not be advisable to envisage instead the adoption of a declaration or recommendation containing guidelines.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]
[24 January 1980]

1. Under present-day conditions the practical significance of the codification of principles and norms of modern international law directed at the development of mutually beneficial co-operation on a footing of equality is becoming an increasingly timely question. In this context, the draft articles on most-favoured-nation clauses adopted by the International Law Commission at its thirtieth session have an important role to play. It would seem that a future convention on this subject can effectively promote the development of international economic co-operation and will ultimately constitute an important legal instrument for the establishment of the new economic order.

2. After careful study of the draft articles prepared by the International Law Commission in 1978, the Ukrainian SSR believes that they are better formulated than the previous version of 1976. The final draft corresponds more closely to the present-day practice of States in that it offers specific advantages to the developing countries, contains exceptions on frontier traffic and on the rights and privileges granted to land-locked States, clearly formulates the definition of the clause, most-favoured-nation treatment and the scope of this treatment.

3. At the same time, the draft also contains provisions the advisability of whose retention is open to doubt. In particular, the use of the terms "conditions of compensation" and "conditions of reciprocal treatment" (art. 2, para. 1, subparas. (e) and (f); arts. 12, 13 et al.) in place of the concept of "material reciprocity" is essentially at variance with the most-favoured-nation principle. Such provisions will in no way help to eradicate discrimination or to promote the development of mutually beneficial trade and economic relations. Furthermore, they may be used to justify situations in international relations in which, unfortunately, some States continue to make the granting of most-favoured-nation treatment conditional on the fulfilment of completely unacceptable demands, including political demands, which bear no relation to trade and economic co-operation.

4. With regard to the final draft articles on most-favoured-nation clauses adopted by the International Law Commission at its thirtieth session, the Ukrainian SSR in general considers that the greater part of the provisions contained in them can provide an entirely satisfactory basis for the elaboration of a multilateral international convention on this question.

5. It would also seem appropriate that the Commission on International Trade Law should give the draft special consideration.

6. The Ukrainian SSR reserves the right to make other observations and suggestions in the future regarding the international convention that is now in preparation.

UNION OF SOVIET SOCIALIST REPUBLICS

/Original: Russian/
/26 November 1979/

1. The competent organs in the Soviet Union have carefully studied the final text of the draft articles on most-favoured-nation clauses. It appears that most of the provisions of those articles could serve as a basis for the drafting of a document which would promote the development of relations between States, above all in matters relating to trade and economic co-operation. This applies in particular to the definition of a most-favoured-nation clause, most-favoured-nation treatment, the scope of most-favoured-nation treatment, the provisions providing for preferential treatment for land-locked developing countries, those involving matters relating to co-operation in respect of frontier traffic, and so on.

2. At the same time, it must be stated that the draft articles contain certain provisions which in essence fall outside the scope of most-favoured-nation treatment and the inclusion of which in the draft cannot be regarded as justified. This applies to the provisions of the draft articles permitting the granting of most-favoured-nation treatment under a "condition of compensation" (art. 2, para. 1 (e) and (f), arts. 12, 13, etc.).

3. A "condition of compensation" is fundamentally at variance with the principle of most-favoured-nation treatment set forth in article 5 of the draft. In practice, the provisions concerning "conditions of compensation" could to a significant degree reduce the value of the positive provisions which the Commission has managed to include in the draft articles. A "condition of compensation" could be used to justify practices which are, unfortunately, still followed by certain States when they attempt to link the granting of most-favoured-nation treatment to the fulfilment of demands, including demands of a political nature, which affect matters within the internal competence of States and which bear no relation whatsoever to trade and economic co-operation. Such demands not only do not promote the development of international trade and economic relations, but, on the contrary, impede their normal operation.

4. The granting of most-favoured-nation treatment on an unconditional and gratuitous basis would promote the development of trade and economic co-operation between States. The overwhelming majority of States follow precisely that practice.

5. The competent Soviet organs believe that this should be taken into account during further work on the draft articles. In view of the importance of the question for trade and economic relations, it would, inter alia, seem advisable that the draft articles should be specially considered by the United Nations Commission on International Trade Law.

6. The competent Soviet organs naturally reserve the right in future to put forward further comments and proposals concerning the document to be drafted.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

/Original: English/
/12 March 1980/

...

2. Although some of the comments which follow may appear to be somewhat critical in nature, this should not be taken as any reflection upon the work achieved by the International Law Commission. The Commission's painstaking and thorough review of a whole series of questions associated with most-favoured-nation clauses meets the Commission's customary high standards and is deserving of commendation. The comments which follow are directed far more towards the question whether - at least at the present stage of development - existing rules and practices connected with most-favoured-nation clauses can be regarded as so self-contained and coherent a corpus of international legal rules and practices as to be capable of codification in the traditional sense or of a comprehensive restatement involving progressive development. The problem is illustrated by the difficulty experienced by the Commission (and subsequently by the General Assembly) in deciding whether the title of the topic could properly refer to "the most-favoured-nation clause" or whether it should read, "most-favoured-nation clauses", in the plural. This difficulty naturally implies the question whether there exists at all a single institution of the most-favoured-nation clause or alternatively a whole variety of individual clauses, each with its own incidents in its own particular context; it thus bears directly on the question whether the most-favoured-nation clause lends itself to the normal processes of codification and progressive development.

3. However, before proceeding with this aspect of the matter, the United Kingdom Government would wish to refer to the comments already transmitted to the Secretary-General by the European Economic Community (EEC), which deal with certain aspects of the draft articles as they affect external trade, an area in which exclusive competence has been conferred on the Community by the member States. As a member State of the Community, the United Kingdom Government wish to commend and endorse these comments, which fall mainly under the head of (b) in the General Assembly resolution. In drawing attention to certain serious omissions from the draft articles, particularly the absence of an exception for customs unions, free trade areas and equivalent arrangements of economic integration, such as those allowed for under article XXIV of the General Agreement on Tariffs and Trade, the comments of EEC serve to re-emphasize the difficulties encountered by the Commission itself in attempting to arrive at a suitably comprehensive and generally acceptable treatment of the topic. It is certainly true that, whatever the merits or demerits of such an exemption clause (and the United Kingdom Government do not share the view recorded in paragraph 58 of the Commission's report that there was any inconclusiveness in the comments submitted on this subject), the omission of such an exemption would render the draft articles as a whole unacceptable to a substantial number of States, both developed and developing.

4. This leads the United Kingdom Government to examine the essential legal nature of the rules put forward in the draft articles. In draft article 29, which preserves provisions on which the granting State and the beneficiary State may otherwise agree, the Commission has put forward a rule which it describes in the Commentary as designed to "express the residual character" of the provisions contained in the draft articles. It may be inferred from the use of the word "express" that the Commission had it in mind to restate in an explicit form what would automatically have followed in any event from the application of the general rules of the law of treaties. There is certainly no suggestion in the remainder of paragraph (1) or in paragraph (2) of the Commentary of any intention to limit the freedom enjoyed by States under international law to conclude, of their own free choice and on a basis of mutual agreement, whatever particular treaty provisions they choose within the general area of most-favoured-nation treatment. It is clear, moreover, that any such attempt at limiting the freedom of States in this context would have been ineffective. This being so, the fact that draft article 29 springs from an existing, general rule of international law gives rise to the following observations.

5. If the intention behind draft article 29 and the residual nature of the draft articles as a whole are as described above, then they are residual in a way significantly different from, say, the rules contained in the Vienna Convention on the Law of Treaties; moreover, this difference is of a kind which raises serious doubts about the meaning and effect of transforming the draft articles into a convention, as is proposed by the Commission in paragraph 73 of its report. For example, the Vienna Convention on the Law of Treaties incorporates numerous provisions corresponding to rules of international law which are valid on a general plane and are not capable of being overridden by agreement between the parties for the particular case: one may cite, simply by way of example, article 6 (Capacity of States to conclude treaties), article 26 (Pacta sunt servanda) , and article 46 (Internal law and observance of treaties). Other provisions of the Vienna Convention are residual in the sense that they expressly provide for the possibility that they may be displaced by agreement between the parties. But such residual rules operate alongside, and in part within the framework of, the non-residual (or "invariant") articles such as those mentioned above. Whereas this is so in the case of the Vienna Convention, there are in fact no provisions of the "invariant" kind in the draft articles on most-favoured-nation clauses, except perhaps draft article 8, which provides that the right to most-favoured-nation treatment arises only from a treaty provision (clause) in force between the two States: as the Commentary puts it, "in other words, ... any such clause is the source of the beneficiary State's rights".

6. This statement in the Commentary, with which the United Kingdom Government are in agreement, calls for the observation that the rights of the beneficiary State can in principle have only one source. If their source is the treaty which contains the most-favoured-nation clause, then the rights cannot at the same time stem from the general articles on most-favoured-nation clauses. In other words, the draft articles would constitute merely a set of rules for the

interpretation and application of existing obligations, and are not themselves (unlike the invariant articles in the Vienna Convention on the Law of Treaties) a source of primary obligation (leaving aside for the moment the question whether the invariant articles in the Vienna Convention on the Law of Treaties, or some of them, may not simply be a codification of pre-existing custom). Thus, the draft articles presuppose the existence of another treaty, and this is moreover a treaty to which the rules of the law of treaties will already apply. In consequence, the Commission's draft articles would have to operate alongside other rules of law existing in that area, such as the rules for observance, application and interpretation of treaties dealt with in part III of the Vienna Convention on the Law of Treaties, which would automatically apply to the treaty containing the most-favoured-nation clause, and which the Commission's draft articles cannot be intended to override (cf. para. 59 of the Commission's report). Accordingly, it seems clear to the United Kingdom Government that the Commission's draft articles (which, as shown above, can only have a secondary, and not a primary, character) will in fact be secondary in a dual sense: secondary because they are by their very nature residual rules subject to being overriden by a particular agreement between the parties, and secondary also in that they would only operate in the interstices of the general rules of the law of treaties. The United Kingdom Government feel bound to point out, therefore, that, as a matter of pure law, the scope of operation of the Commission's draft articles would be an exceptionally restricted one.

7. As regards the substance of the matter, the United Kingdom Government are satisfied, after a careful examination of the United Kingdom's own practice, that most-favoured-nation clauses no longer occupy the central place in international economic relations which they once held. A similar conclusion was reached by the Commission and is reflected in paragraphs 51 to 54 in the general part of the Commission's report. It is also reflected in draft articles 23 and 24 and again in draft article 30. In drafting articles 23 and 24 the Commission proceeded from the express conviction that a generalized application of most-favoured-nation treatment does not correspond to the present needs of the world economy, and that any statement of the law must needs reflect new developments designed to counter this fact. Furthermore, in drafting article 30, the Commission acknowledge that this process is far from complete, and that international economic relations are in fact in the throes of significant new developments in this general field. The Commission concedes, in paragraph 54 of its report, that this state of affairs was not one "that lent itself easily to codification of international law ... because the requirements for that process, as described in article 15 of the Statute, namely, extensive State practice, precedent and doctrine were not easily discernible". For the United Kingdom Government, these carefully measured words from the Commission raise a serious question as to the effect that would be produced on international economic relations by proceeding to the adoption of a new convention on the basis of the draft articles. Clearly, there must be a serious danger that such a convention might lead to an ossification of the system, to the detriment of new rules and new institutional arrangements that are currently being worked out in the appropriate international fora with the participation of the States and international organs concerned. At best, the Commission's own conclusions

suggest that the problems inherent in an attempt at codification at the present stage could only be addressed, and the necessary flexibility maintained, by way of provisions as patently unsatisfactory (from a legal point of view) as the present article 30. The United Kingdom Government do not in any sense take issue with the motive behind article 30, which it supports, but simply wishes to draw attention to the unacceptably broad and one-sided nature of the draft (over and above the specifically legal difficulties it poses and the very great problems of interpretation to which it would give rise) as an indicator of the major difficulties confronting any attempt in present circumstances to achieve an acceptable draft convention without inhibiting current and future developments.

8. As stated on previous occasions in the Sixth Committee, the United Kingdom Government do not approach the question, how the product of the Commission's work on a particular topic should be dealt with at the governmental level, in any fixed spirit. They do not, however, believe that there should be an automatic assumption that each and every final set of draft articles emanating from the Commission must necessarily be transformed into a multilateral convention. The richness of the methods available for giving effect to the work of the Commission has, in general, been but little explored in the practice of the United Nations. This was understandable in the period of the great law-making Conventions of the 1950s and 1960s (the subject matter of those Conventions being inherently suitable for codification by convention), but the time has now come, in the view of the United Kingdom Government, to adopt a more flexible approach. For the reasons given above, a multilateral convention on most-favoured-nation clauses would, in their opinion, be largely ineffective; moreover, they believe that major difficulties still stand in the way of formulating a generally acceptable convention. The United Kingdom Government do not, therefore, regard the topic as a suitable one for the preparation of a convention and are ready to explore alternative ways of preserving and building on the valuable work done by the International law Commission.

B. Comments from intergovernmental organizations

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

/Original: English/
/5 December 1979/

While FAO does not consider that the draft articles raise any questions relating specifically to international trade in the agricultural sector, it wishes to make the observation set forth below.

Draft article 24 provides that:

> "A developed beneficiary State is not entitled under a most-favoured-nation clause to any preferential treatment in the field of trade extended by a developing granting State to a developing third State ..."

The provision quoted above does not preclude a developing beneficiary State from receiving the preferential treatment extended by a developing granting State to another developing State. In addition, draft article 30 leaves the door open for the establishment of new rules of international law in favour of developing countries. Nevertheless, it would seem desirable for the draft articles expressly to regulate the position of a developing beneficiary State. In this connexion it may be noted that this question has been considered by the GATT in relation to Article XXXVII.1 of the General Agreement. 6/

You may rest assured that FAO will follow with great interest all further action to be taken on the most-favoured-nation clause, since the operation of this clause has a significant bearing on international trade relations in the agricultural sector.

GENERAL AGREEMENT ON TARIFFS AND TRADE

/Original: English/
/27 December 1979/

1. I have submitted, on behalf of the GATT secretariat, general comments on the articles on most-favoured-nation clauses in my letter of 30 December 1977. In the present letter I shall limit myself to comments on articles 23 and 24 of the proposed convention on most-favoured-nation clauses and their relationship to recently adopted GATT rules on preferences for and among developing countries.

6/ See GATT, Basic Instruments and Selected Documents, Twenty-fifth Supplement, Geneva, January 1979.

2. On 28 November 1979, the Contracting Parties to GATT adopted by consensus a decision on differential and more favourable treatment, reciprocity and fuller participation of developing countries. This decision allows GATT contracting parties to provide differential treatment in favour of developing countries in respect of: (a) tariff preferences accorded under the Generalized System of Preferences, (b) non-tariff measures governed by codes negotiated under GATT auspices; (c) tariff and, under certain conditions, non-tariff preferences granted to one another by developing countries in the framework of regional or global trade arrangements; and (d) special treatment of least-developed countries. The decision requires that any action taken under it be designed to facilitate and promote the trade of developing countries and to respond positively to those countries' development, financial and trade needs. Arrangements providing for differential treatment of developing countries must not prevent the further reduction of trade barriers on a most-favoured-nation basis, nor create obstacles to the trade of countries not parties to the arrangements. Differential treatment, by way of GSP preferences or under codes regulating the use of non-tariff measures, can be modified to respond to the changing needs of developing countries. The decision establishes consultation procedures that may be used to deal with any difficulties arising from such modifications or from other aspects of the operation of arrangements covered by it.

3. In view of the practical importance of the GATT decision - it was adopted by, and binds, 84 States representing 85 per cent of world trade - the International Law Commission may find it useful to take it into account in its further work.

4. We noted that articles 23 and 24 of the proposed convention on most-favoured-nation clauses sanction, as far as States members of a "competent international organization" are concerned, only preferential treatment granted in accordance with the relevant rules and procedures of that organization. The Commission states in its annotation to article 24 that this requirement is intended to make the provision "conform with the relevant provisions of the Charter of Economic Rights and Duties of States". Would it be correct to assume that the reference to competent international organizations is intended to include the GATT?

5. We would like to draw your attention to the fact that the GATT decision, to the extent that it embraces non-tariff measures, is wider than the proposed articles, which only exempt differential treatment from most-favoured-nation clauses but not other provisions stipulating equal treatment. Differential treatment applied to developing territories, which are among the beneficiaries of most GSP schemes, is covered by the GATT decision whereas articles 23 and 24 appear to cover only differential treatment granted to States.

6. In concluding I would like to stress that the views expressed in this letter are those of the GATT secretariat and not necessarily those of the Contracting Parties to GATT.

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EUROPEAN ECONOMIC COMMUNITY

/Original: English/French/
/20 December 1979/

I

1. The European Economic Community (EEC) wishes to refer to resolution 33/139 of 19 December 1978 adopted by the General Assembly of the United Nations inviting comments and observations on chapter II of the report of the International Law Commission on the work of its thirtieth session and, in particular, on (a) the draft articles on most-favoured-nation clauses adopted by the International Law Commission; and (b) those provisions relating to such clauses on which the International Law Commission was unable to take decisions.

II

2. The Community has on earlier occasions 7/ commented on the deliberations in the International Law Commission on the most-favoured-nation clause. The purpose of the present comments is again to draw attention to the particular aspects of the EEC use of the most-favoured-nation clause which derive from the special nature of the regional integration process in which the Community is engaged.

3. EEC recalls that its member States have transferred to the Community their competence with regard to external trade policy and that, accordingly, questions concerning the application of the most-favoured-nation clause within this important area are now exclusively a matter for the Community. It is therefore the Community, and not its member States, which has the power to grant and receive most-favoured-nation treatment in that regard.

III

4. Having made these general observations, the Community wishes to submit the following proposals for amendments to the draft articles on the most-favoured-nation clause as adopted by the International Law Commission at its thirtieth session, while at the same time reiterating the remarks (A/CN.4/308, pp. 38-49) on the draft articles which the Community has made on earlier occasions, as referred to above.

7/ Written comments submitted on 24 January 1978 to the Secretary-General of the United Nations, reproduced in document A/CN.4/308 of 28 March 1978, and oral statements made during the debate in the Sixth Committee of the General Assembly in 1975, 1976 and 1978.

The most-favoured-nation clause in relation to treatment extended within a customs union or a free-trade area

5. It would not be consistent with well established and unambiguous international practice that a State which is not a member of a customs union or is not included in a free-trade area arrangement should be entitled, on the basis of a most-favoured-nation clause, to be granted special benefits accruing to the members of a customs union or parties to a free-trade agreement. A customs union or a free-trade area agreement is a form of far-reaching co-operation which entails far-reaching obligations for the parties involved, in exchange for the rights that they grant each other. (See in particular article XXIV of the General Arrangement on Tariffs and Trade (GATT).)

6. It should also be mentioned that the contracting parties to a treaty containing a most-favoured-nation clause do not normally intend the clause to be applicable to benefits which either of them might subsequently grant to another party in connexion with the establishment of a customs union or a free-trade area. An exception for such cases is a generally accepted customary rule in international law, based on legal writing as well as on general agreement of the States and their unanimous practice. This situation must be expressly covered by the draft articles.

7. The Community further recalls that a member of the International Law Commission, during the Commission's deliberations on this issue at its thirtieth session, proposed a new article 23 bis 8/ containing a customs union exception.

8. The International Law Commission found that there was no final agreement on the subject. Accordingly, as stated in the Commission's report on its thirtieth session, the Commission decided not to include an article containing any exception for customs unions and free-trade areas. It is difficult to explain why the Commission, while being ready to adopt draft articles 23 and 24 as part of the progressive development of international law, has left out this exception for customs unions and free-trade areas which is simply codifying an existing rule of customary international law.

9. The Community considers that an express exception in the application of the most-favoured-nation clause must be made for customs unions, free-trade areas, composed either of States or of entities other than States, which, like the Community, have power to grant and receive the most-favoured-nation treatment provided for in an international agreement.

10. It should be recalled that the Community's misgivings about the draft clauses on this point are shared by numerous States and groups of States, both industrialized and developing, which likewise are engaged in a more or less advanced process of economic integration.

8/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 10 (A/33/10), paras. 57-58.

11. The Community reserves the right to propose at a later stage the text of an article regarding this matter, to be added to the draft proposed by the International Law Commission.

Scope of the draft articles

12. The draft articles on the most-favoured-nation clause are in their present form restricted to clauses contained in treaties between States. This would greatly restrict the value of them since they do not take account of the fact that, following the extensive establishment by sovereign States of regional economic integration organizations in various parts of the world, the clause is likely to be found more and more frequently in agreements concluded by unions or groups of States. This development should be taken into account and the scope of the articles should be revised accordingly.

13. The Community agrees with the position taken by the International Law Commission to let the draft articles follow as closely as possible the structure and terminology of the Vienna Convention on the Law of Treaties. At the same time, these articles should, however, not ignore the important work which, since the adoption of the Vienna Convention in 1969, has taken place in the International Law Commission on the question of treaties concluded between States and international organizations or between two or more international organizations.

14. The scope of the draft articles should therefore be broadened in order to cover the case of entities other than States having rights or duties according to international law within fields covered by a most-favoured-nation clause included in an international agreement to which such entities are contracting parties.

15. This could be obtained, for example, by revising the present article 1 of the draft articles and by including consequential amendments to article 2, paragraph 1 (a), (b) and (c), article 4 and article 6.

Effect of a most-favoured-nation clause made subject to reciprocal treatment

16. It is appreciated that the International Law Commission, during its second reading, made important changes so that the present draft clearly recognizes that the obligation to accord most-favoured-nation treatment might be subject to certain conditions and that the granting of such treatment is not even presumed to be unconditional.

17. In its written comments (A/CN.4/308) EEC has emphasized that relations between States with different socio-economic systems depended upon certain rules and that, in particular, application of most-favoured treatment in this respect would be without real meaning if the conditions under which such treatment is granted were not spelled out in mutually measurable facts which made it possible to evaluate the results achieved.

18. EEC recalled in this connexion that the Final Act of the Conference on Security and Co-operation in Europe made the principle of reciprocity a

guiding principle in the preamble to the chapter on "co-operation in the field of economics, of sciences and technology and of the environment" and that it was only in this context that the signatory powers of the Final Act had accepted that beneficial effects could result "from application of the most-favoured-nation clause for the development of mutual relations".

19. EEC also referred to the rules adopted by GATT, whereby, upon the accession to the agreement of certain States with a socio-economic system different from that applied in market-economy countries, it had been necessary to establish special protocols taking these differences into account.

20. The Community reiterates its earlier proposal that the draft articles should be supplemented accordingly.

IV

21. In conclusion, EEC wishes to restate its position that any general rules on the most-favoured-nation clause, regardless of their final form and legal status, even if they were only of a supplementary nature, could not be accepted by the Community unless they constituted a well-balanced set of rules which, as a whole, reflected practical realities and in particular took account of the matters referred to above. It is only on such basis that EEC, whish is the major international trading partner and which has full delegated powers in this area from the member States as regards the granting or acceptance of most-favoured-nation treatment, could contemplate accepting an instrument of international law on this subject.

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CONSIDERATION OF THE DRAFT ARTICLES ON MOST-FAVOURED-NATION CLAUSES

Report of the Secretary-General

Addendum

CONTENTS

* A/35/150.

COMMENTS AND OBSERVATIONS

A. COMMENTS FROM GOVERNMENTS

UNITED STATES OF AMERICA

[Original: English]
[13 June 1980]

1. The United States believes that the Commission's draft articles are a generally excellent work which should be adopted in appropriate form by the international community.

2. The United States does not favour the calling of a conference of plenipotentiaries with a view to adopting a convention on this subject, in view of the following considerations. With respect to articles 23 and 24 in particular, the United States continues to believe that the terms "developing" and "developed" country would have to be defined in a convention. This has thus far not proved possible. Moreover, the concept of generalized preferences is still a relatively new concept that will probably continue to evolve. The recent agreements in the multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade include provisions on this subject, but are not likely to be the final word. In fact, the entire subject of the most-favoured-nation clause is itself evolving and questions remain concerning the many exceptions to the general principle.

3. For these reasons, among others, the United States favours adoption of the draft articles as a General Assembly resolution which might describe the articles as a code of conduct or a declaration. The result of this process would be substantially as useful as a convention, and might well accomplish more than a convention which failed to attract many ratifications. Most-favoured-nation rights arise out of treaties and other international agreements, not out of customary international law. The draft articles rightly apply only to future agreements (art. 28). Moreover, as provided in article 29, States may agree to different rules even in future agreements. Thus, States retain the right to accept, vary or reject the articles on the most-favoured-nation clause regardless of which form the articles take. As a United Nations resolution, the articles could be incorporated by reference in international agreements and could serve as a most useful guide in the negotiation of future most-favoured-nation clauses.

B. COMMENTS FROM INTERGOVERNMENTAL ORGANIZATIONS

COUNCIL FOR MUTUAL ECONOMIC ASSISTANCE

/Original: Russian/
/17 April 1980/

1. The secretariat of the Council for Mutual Economic Assistance is pleased to note the important work done by the United Nations International Law Commission on the preparation of the draft articles on most-favoured-nation clauses.

2. The consistent application of the most-favoured-nation principle in relations between States creates favourable conditions for comprehensive and fruitful international co-operation, having due regard for the commercial and economic interests of the largest possible number of States.

3. The codification of rules of international law in this area is undoubtedly particularly timely and important for the establishment of just and mutually advantageous international commercial and economic relations based on equal rights and the elimination of discrimination in such relations. The articles on most-favoured-nation clauses can therefore be of great help in promoting the practical implementation of the principle of sovereign equality of States enshrined in the Charter of the United Nations.

4. In view of the above it would seem that many of the draft articles merit favourable consideration and can serve as the basis for a future document on this subject. This applies in particular to the definition of the most-favoured-nation clause, to most-favoured-nation treatment, to the scope of rights under a most-favoured-nation clause, and to the provisions giving certain advantages to developing and land-locked countries, as well as to those on the facilitation of frontier traffic, etc.

5. However, the draft articles include some provisions which would not only not serve to promote the development of international commercial and economic relations but would, on the contrary, be a serious obstacle to the implementation of the most-favoured-nation principle in this area. We refer specifically to the provisions in the draft permitting application of a "condition of compensation" and the imposition of a condition of "reciprocal treatment" in connexion with the granting of most-favoured-nation status in commercial and economic relations.

6. Such provisions would not be in keeping with the international legal principles on which the draft articles should be founded, or with the generally accepted practice of States whereby most-favoured-nation treatment is granted unconditionally and without obligation. They could be a serious obstacle to the implementation of the draft articles referred to above as meriting favourable consideration.

7. In the light of the foregoing, it would seem that work on the draft articles should be continued in order to produce a document which may be used as an instrument fully serving the development of international co-operation.

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CONSIDERATION OF THE DRAFT ARTICLES ON MOST-FAVOURED-NATION CLAUSES

Report of the Secretary-General

Addendum

CONTENTS

COMMENTS FROM INTERGOVERNMENTAL ORGANIZATIONS

LEAGUE OF ARAB STATES

/Original: Arabic/
/12 September 1980/

1. In general, this draft Convention comprises a definition of the meaning and scope of the most-favoured-nation clause and of an international legal obligation binding on all States of the world, regardless of their economic circumstances. However, the Tokyo Declaration of 14 March 1978 and the Conferences of UNCTAD called for the granting of preferential treatment to the developing countries by the developed countries, with observance of the principle of "non-reciprocity", i.e., the developed countries are not to expect reciprocity for the undertakings which they have made in the negotiations, so that customs, tariffs and other barriers affecting the trade of the developing countries will be reduced or eliminated. In its resolution 33/199 the General Assembly also called upon the developed countries to abide by agreements relating to the principle of non-reciprocity. We therefore consider that article 24 of the draft Convention on the Most-favoured-Nation Clause should be amended to form two paragraphs:

(a) Consisting of the text of the article as it now stands in the draft Convention.

(b) Reading as follows:

"The most-favoured-nation clause does not give a beneficiary developed country the right to the most-favoured-nation treatment granted by a developing country to a third developing country in accordance with the relevant rules and procedures in force in a special international organization of which the granting State and the third State are members."

2. We consider that the addition of new texts to this draft Convention will protect the interests of developing countries, where they are beneficiary States, from being bound to accord compensation and reciprocal treatment.

3. We believe that there should be a statement of the principle of compensation upon the suppression of preferential treatment accorded by developed countries to developing countries in agreements concluded between them within the framework of the multilateral trade negotiations.

4. We consider that the generalized system of preferences is merely a courtesy obligation on the developed countries, and, on the occasion of its inclusion in a legally binding convention in article 23 of this draft Convention, we believe that this system should be expanded and placed in a legal framework giving it a legally binding character.

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CONSIDERATION OF THE DRAFT ARTICLES ON MOST-FAVOURED-NATION CLAUSES

Report of the Secretary-General

Addendum

CONTENTS

COMMENTS FROM GOVERNMENTS

AUSTRIA

/Original: English/
/26 September 1980/

1. The structure chosen by the International Law Commission for its draft articles on most-favoured-nation clauses would suggest that the Commission already at an early stage of its preparatory work had, for all practical purposes, decided in favour of the elaboration and eventual adoption of a convention (rather than any other instrument). This is, inter alia, confirmed by the Commission in the recommendation "that those draft articles should be recommended to Member States with a view to the conclusion of a convention on the subject". While recognizing that the work of the Commission concerning the most-favoured-nation clause is very useful and further proof of the quality of the Commission's work (of particular value as it encompasses a thorough and well researched analysis of the legal aspects of this subject matter) Austria finds it regrettable that the Commission did not explore in more depth possible alternative legal frames for the draft but rather hastily, and somewhat prematurely, opted for a convention and accordingly structured the draft articles in such a manner so as to almost exclude other alternatives.

2. The draft is based on a painstaking analysis of the treaty practice of States. This is due to the fact that the subject of most-favoured-nation clauses is practically exclusively dealt with in treaties and that, as a consequence, seemingly no significant body of customary rules developed. That study of State practice undertaken by the Commission is certainly an admirable piece of work. Unfortunately, however, it did not result in a set of draft articles which would reflect all aspects of such State practice. Since it cannot be ignored that numerous treaties have in fact been concluded between States, on the one hand, and other subjects of international law, on the other, Austria would feel that the Commission when drafting the present articles should have taken this undeniable fact into consideration. In any event, the provision of draft article 6 does not satisfactorily deal with this problem. It is true, that the scope of the Vienna Convention on the Law of Treaties is confined to treaties between States and that the present draft articles are based on that Convention. One should not, however, overlook the fact that the Convention of the Law of Treaties will eventually be supplemented by a second legal instrument, presumably of a similar nature, dealing with the law of treaties between States and international organizations. In fact, the Commission itself is actively engaged in such a project of codification which undoubtedly is in conformity with actual treaty practice.

3. The fact that the present draft articles had to be based almost exclusively on the practice of States and that no significant rules of customary international law have been established in that field raises doubts about the practicability and usefulness of a codification in the traditional sense of "the law" on this subject. The only source of the beneficiary States rights are treaty provisions to that effect in force between two subjects of international law (articles 4 and 7 of the draft).

The draft articles by themselves cannot be regarded as constituting a source of primary obligation. They can only be intended to facilitate the interpretation and application of the primary treaty obligation. This clearly demonstrates the subsidiary nature of the draft articles which are, in addition, of a residual character inasmuch as States remain - and must remain - free to agree among themselves differently. This residual character of the draft articles derives from general international law and accordingly found its explicit expression in draft article 29. The subsidiary and residual nature of the draft articles would seem to make widespread practical application of the rules a rather restricted possibility and accordingly, at least in the view of Austria, would not justify the exercise of drawing up a convention on this subject.

4. Apart from the issue of the usefulness of a convention, which is questionable as explained above, the existing imbalance of the draft in its present form would undoubtedly make it unacceptable to a number of States, both developed and developing. This, in turn, would make a widespread application of the rules adopted even more unlikely. Should, therefore, in the final analysis a significant number of States indeed wish to elaborate a convention on the subject of most-favoured-nation clauses, the existing imbalances will have to be removed if one cares for adherence, to the convention, of a large number of States. While Austria appreciates the efforts deployed by the International Law Commission in order to take into account the realities of contemporary economic intercourse and State practice as regards the needs of developing countries lead the Commission to adopt draft articles 23 et seq. Austria feels that these articles could be improved in the light of arrangements which have been and are being worked out in the framework of GATT, taking into account, among others, in particular the decision adopted on 28 November 1979 by the Contracting Parties to GATT on differential and more favourable treatment, reciprocity and fuller participation of developing countries, which allows GATT Contracting Parties to provide differential treatment in favour of developing countries.

5. Austria, like other States and the various international organizations which have already expressed their views on the draft articles, considers the absence of an adequate provision on customs unions/free trade areas, which would take into account the realities of present-day economic life, a major deficiency of the draft which thus ignores a practice that has been confirmed in a great number of treaties and which has become an established practice of inter-State trade relations. It is therefore imperative that specific provisions be included in the draft articles excluding from their field of application customs unions and free trade areas as well as existing and future treaty arrangements with such groups of States. The inclusion of provisions of this nature must in fact be regarded as a prerequisite for a generally acceptable text.

6. As regards other provisions of the draft, the Austrian Government would limit its remarks at this stage to the general observation that the non-inclusion of a provision on dispute settlement is most regrettable. However, this question will have to be carefully studied in view of the fact that the draft provisions are only of a subsidiary nature and that a specific method of dispute settlement might already have been agreed upon by the parties to the original most-favoured-nations treatment clause.

7. Summing up, Austria wishes to state that it does not regard the subject of most-favoured-nation treatment as particularly well suited for the conclusion of a convention and that other possibilities in putting the valuable work done by the International Law Commission to a practical use should be explored. Should a significant majority of States feel that there is indeed a need for a convention on the subject, Austria would not oppose the adoption of such an instrument. It would, however, continue to insist, that the interests and needs of all States be duly taken into consideration.

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Thirty-fifth session
Item 23 of the preliminary list*
QUESTION OF CYPRUS

SECURITY COUNCIL
Thirty-fifth year

Letter dated 30 April 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the Secretary-General

I have the honour to attach herewith a letter dated 30 April 1980 addressed to you by Mr. Nail Atalay, the representative of the Turkish Federated State of Kibris.

I should be grateful if this letter were circulated as a document of the General Assembly, under item 23 of the preliminary list and of the Security Council.

(Signed) Altemur KILIÇ
Deputy Permanent Representative
Chargé d'Affaires a.i.

* A/35/50.

ANNEX

Letter dated 30 April 1980 from Mr. Nail Atalay
to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letter of Mr. Andreas V. Mavrommatis, the representative of the Greek Cypriot administration, which was circulated on 24 April 1980 as a document of the United Nations (A/35/180-S/13904).

The allegations of Mr. Mavrommatis concerning the violations of airspace of Cyprus on 17 April 1980 hardly deserve any reply, since those areas are under full control and sovereignty of the Turkish Federated State of Kibris.

The following is the text of the statement made on 18 April 1980 by the spokesman of the Ministry of Foreign Affairs, Defence and Tourism of the Turkish Federated State of Kibris in this connexion:

> "The military exercises which took place on 17 April 1980 in the territory of the Turkish Federated State of Kibris are routine exercises and are carried out in accordance with a scheduled programme, about which prior notification is always provided to the authorities of the United Nations Peace-keeping Force in Cyprus. These two jet aircraft flew over the Turkish Federated State of Kibris area, without violating the Greek Cypriot airspace at all. Therefore, complaints that the airspace of south Cyprus has been violated are totally unfounded and irrelevant.
>
> "The attempt of the Greek Cypriot administration of south Cyprus to present itself as only sovereign authority in the island of Cyprus is futile. North Cyprus is under the full control and the sovereignty of the Turkish Federated State of Kibris. The writ of the Greek Cypriot administration does not run over north Cyprus. The Greek Cypriots must come to terms with the existing reality prevailing in the island of Cyprus and stop deceiving themselves.
>
> "We hope that the authorities of the United Nations will remind the Greek Cypriot leadership of these realities."

I should be grateful if this letter were circulated as a document of the General Assembly, under item 23 of the preliminary list, and of the Security Council.

(Signed) Nail ATALAY
Representative of the
Turkish Federated State of Kibris

UNITED NATIONS

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Thirty-fifth session
Item 50 of the preliminary list*

REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

Letter dated 23 April 1980 from the representatives of the German Democratic Republic and Nicaragua to the United Nations addressed to the Secretary-General

We have the honour to transmit to you, upon instructions from our respective Governments, the attached excerpt from the text of the joint communiqué released on the occasion of the visit of an official delegation of the Government of National Reconstruction of the Republic of Nicaragua and the National Executive of the Sandinist Front for National Liberation in the German Democratic Republic from 27 March to 2 April 1980.

We should be grateful if you could have the text of this letter and of the excerpt from the communiqué issued as an official document of the General Assembly under item 50 of the preliminary list.

(Signed) Peter FLORIN
Ambassador Extraordinary and Plenipotentiary
Deputy Minister for Foreign Affairs
Permanent Representative of the German Democratic Republic to the United Nations

(Signed) Casimiro SOTELO
Ambassador
Alternate Permanent Representative
Permanent Representative a.i. of Nicaragua to the United Nations

* A/35/50.

ANNEX

Excerpt from the joint communiqué

Proceeding from the identity of views found between the two parties as a result of the deliberations on fundamental international questions, the German Democratic Republic and Nicaragua emphasized that the present worsening of the international situation, resulting from the aggressive actions of imperialist forces and other reactionary sectors, makes it necessary to expand the struggle for peace to the broadest level, with a view to preventing a return to the "cold war" in international relations. They believe that joint action by the socialist States, the non-aligned States, the national liberation movement and all progressive sectors constitutes the indispensable prerequisite to the struggle for peace, social progress and national independence.

The two parties advocate the early adoption of effective measures on the road to arms limitation and disarmament. They support those proposals which would help put an end to the manufacture of all types of nuclear weapons and would facilitate the progressive reduction of existing arsenals, as well as the conclusion of a treaty for the general and complete prohibition of nuclear tests. They emphatically favour the conclusion of an international treaty to strengthen safeguards in the case of States which do not possess nuclear weapons, as well as an agreement prohibiting the emplacement of such weapons in the territories of States in which such weapons have not been stationed thus far.

The German Democratic Republic and Nicaragua declared their support for the early convening of a world disarmament conference and for the conclusion of a universal treaty on the renunciation of the use of force in international relations.

The German Democratic Republic praised the Treaty for the Prohibition of Nuclear Weapons in Latin America, as well as the initiative of Latin American States which, through the reduction of conventional weapons in the region, wish to give their support to the safeguarding of universal peace.

The two parties agreed that ratification of the SALT II agreement concluded between the USSR and the United States and annulment of the decisions taken by NATO to station new rockets in Europe would facilitate the initiation of new disarmament negotiations along the lines of the proposals presented by the USSR on 6 October 1979.

The German Democratic Reupblic and Nicaragua stressed the inescapable need for strict observance of the universal principles established in the Charter of the United Nations, reaffirming their decision to implement those principles consistently and to undertake efforts to make the United Nations even more effective in maintaining, safeguarding and consolidating world peace.

They opposed any attempt to use economic assistance, including assistance furnished by international bodies, as an instrument for exerting political pressure and for undermining the independence and sovereignty of States.

/...

The German Democratic Republic and Nicaragua support the preparations for and the holding of the Madrid meeting of the Conference on Security and Co-operation in Europe and the proposal made by the socialist States for convening a multilateral conference on military détente and disarmament in Europe.

The two parties emphasized that strict observance of the treaties concluded by the socialist States with the Federal Republic of Germany and of the Quadripartite Agreement on West Berlin is especially important to the achievement of a stable order of peace in Europe.

The German Democratic Republic congratulated Nicaragua on joining the movement of non-aligned countries. Both parties praised that movement as an important factor in international politics, welcoming the positive results of the Sixth Summit Conference, held at Havana. Both parties concluded that the resolutions adopted at that forum helped to consolidate peace, security and international détente and to strengthen the struggle of peoples against imperialism, colonialism, neo-colonialism, racism and apartheid.

They expressed their support for the aspirations of peoples to consolidate their political independence and socio-economic development, as well as for the establishment of egalitarian international economic relations.

The German Democratic Republic and the Republic of Nicaragua expressed their solidarity with the peoples of Latin America in those peoples' struggle for freedom, democracy, national independence and social progress. They salute the results achieved in the process of decolonization in the Caribbean region and support the right of those States to form a unified group and join forces with a view to promoting their interests.

Both parties emphatically condemned any attempt by imperialistic reactionary forces to hinder peoples in the exercise of their right to self-determination, the choice of their road to development and the disposal of their natural resources.

They demanded an immediate end to the Fascist terror unleashed in Chile, Paraguay and other Latin American States and the restoration of the rights and democratic freedoms of the peoples of those countries.

In particular, they condemned the assasination of Monsignor Oscar Arnulfo Romero, Archbishop of San Salvador, and many other crimes committed against the heroic people of El Salvador in its struggle to become master of its own destiny.

The two sides reaffirmed their fraternal support for the Republic of Cuba.

The German Democratic Republic and Nicaragua emphatically condemned the manoeuvres of the imperialist and reactionary forces which, in connexion with the events in Afghanistan, are inflaming the international situation.

The two parties praised the heroic struggle being waged by the peoples of Viet Nam, Laos and Kampuchea to consolidate their independence, achieve national

reconstruction and defend their sovereignty. They regard the Revolutionary Council of the People of Kampuchea as the sole legitimate representative of the Kampuchean people, authorized to represent that country in the United Nations and other international bodies.

The German Democratic Republic and Nicaragua vigorously condemned the hegemonistic and expansionistic line taken by the Chinese leadership, which constitutes a serious danger to the peace and security of peoples.

The German Democratic Republic and the Republic of Nicaragua congratulated the Zimbabwe Patriotic Front on its magnificent victory in the recent elections. At the same time, they reaffirmed their solidary support for all the peoples of southern Africa which are struggling for their freedom and independence. In particular, they called for the granting of independence to the Namibian people and for the transfer of power to SWAPO, the legitimate representative of that people.

The two parties condemned the policy of apartheid of the racist South African régime and the acts of aggression perpetrated by that régime against neighbouring States.

The German Democratic Republic and Nicaragua spoke out for a just and lasting peace in the Middle East and the complete and unconditional withdrawal of Israel from all the territories occupied in 1967 and for respect for the inalienable rights of the Palestinian people, particularly its right to establish its own State under the leadership of the PLO. In that connexion, they took account of the fact that separate agreements only worsen the situation in that region, making it more difficult to arrive at a definitive settlement of the conflict.

The two parties attach great value to the results achieved in the talks and negotiations, regarding them as a contribution to the further fruitful development of bilateral relations and the strengthening of unity of action in the struggle against imperialistic aggression and interference and for a policy beneficial to their peoples, in the service of peace and social progress.

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Item 57 of the preliminary list*
REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Thirty-fifth year

Letter dated 2 May 1980 from the Permanent Representative of Democratic Yemen to the United Nations addressed to the Secretary-General

I have the honour, in my capacity as Chairman of the Arab Group for the month of May 1980, to enclose herewith a letter addressed to you by Mr. Zehdi Labib Terzi, Permanent Observer of the Palestine Liberation Organization to the United Nations.

I would very much appreciate if this letter would be circulated as an official document of the General Assembly, under item 57 of the preliminary list, and of the Security Council.

(Signed) Abdalla S. ASHTAL
Ambassador
Permanent Representative

* A/35/50.

ANNEX

Letter dated 1 May 1980 from the Permanent Observer of the Palestine Liberation Organization to the United Nations addressed to the Secretary-General

Upon instructions of Chairman Arafat, I wish to draw your attention to the very grave situation in the occupied Palestinian territories, a result of the brutality of the SS troops of Zionist occupation.

Today, in the village of Anabta, the SS Zionist troops, under the command of the Military Governor, tried to confront Palestinian students who were manifesting their rejection of and opposition to the Carter-Begin-Sadat conspiracy on the occasion of May Day. The commander ordered his men to shoot at the demonstrators. Seventeen-year-old Najah Ahmad Abu Aliyeh was wounded in his leg, but he managed to rise and attempted to take away the gun from an SS trooper. At that moment the SS Zionist racist commander gave the order to shoot to kill. Seventeen-year-old Najah joined the ranks of the martyrs in the struggle for liberation and against racism. The commander instructed the troopers to beat the other students; as a result, two other students received serious injuries and were rushed to a hospital. Anabta was "sealed" and the press was banned from visiting the site.

Today, again, other SS troopers raided a girls' college in Bireh, kidnapped a girl student and took her away. Her schoolmates demonstrated and used the only weapons available, stones, against the SS troopers. The situation in Jerusalem, Birzeit, Ramallah, Bireh and Jalazon, in particular, is very tense.

In Jerusalem again today the so-called police force attempted to break up a rally, again to protect against the Camp David accords, and arrested and detained 22 young Palestinian students.

I am instructed to recall that a United States citizen, the Zionist Meir Kahane, in complicity with the racist SS troopers, has started a campaign to harass Palestinians and vandalize their property. Kahane's campaign began on the infamous "night of the hammers", when he and his gang damaged 150 cars, property of the Palestinian Arabs in Ramallah and Bireh. It appears that other agents have vandalized Palestinian property in Deir El Asal.

As a result of these provocations, there were demonstrations in Ramallah and Bireh and the police shot at the demonstrators with the tragic result of five wounded. They are:

George Boulos Awais (bullet in leg)
Issa Tannous (bullet in head)
Mohammed Mahmoud Said (fractures in both legs)
Omar Abdul Jawad Saleh (fractures in feet and arms)
Samir Abdel Nour Shahin (fractures in both arms)

In Bethlehem the Zionist forces of occupation warned the city municipal council that a financial blockade will be imposed if the people and the students continue in their uprising. Girl students were threatened with expulsion.

I am instructed by Chairman Arafat to draw your attention to the above and to request that the United Nations intervene by whatever means necessary to bring to an end this tragic and explosive situation. I am also instructed to draw your attnetion to the fact that this is the form by which the Palestinian people greet the so-called "framework for peace".

Zehdi Labib TERZI
Permanent Observer

UNITED NATIONS

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REPORT OF THE SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION OF THE OCCUPIED TERRITORIES

SECURITY COUNCIL
Thirty-fifth year

Letter dated 2 May 1980 from the Permanent Representative of Democratic Yemen to the United Nations addressed to the Secretary-General

Corrigendum

Annex, page 1, paragraph 4, line 2

For protect read protest

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* A/35/50.

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Thirty-fifth session
Item 26 of the preliminary list*
THE SITUATION IN THE MIDDLE EAST

SECURITY COUNCIL
Thirty-fifth year

Letter dated 4 May 1980 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General

I wish to draw your attention to a particularly brutal and vicious terrorist attack perpetrated by the criminal PLO in the city of Hebron on Friday, 2 May 1980, which resulted in the deaths of 6 persons and the injury of 16 others, among them women and children; 2 of the injured remain in critical condition.

This outrage was aimed against a group of Jewish worshippers, mostly students at religious seminaries who were returning from their Friday eve devotions at the Tomb of the Hebrew Patriarchs (Cave of Machpelah) in Hebron on foot, in accordance with Jewish religious law regarding the Sabbath.

At about 19.30 hours (local time) while they were walking in a narrow alley, PLO terrorists attacked them from the roofs of two buildings, first by hailing them with bullets from the rear and then by hurling hand-grenades and explosives at them from several directions.

An Israel Defence Forces detachment, stationed nearby, repelled the assailants and found more ammunition and explosives in the area.

Within hours, Fatah, (the largest constituent group of the criminal PLO) headed by Yasser Arafat, took responsibility for the outrage in a statement broadcast on the terrorists' radio in Lebanon. Yesterday, 3 May 1980, Arafat himself applauded the atrocity on arrival in Kuwait for a visit.

It will be recalled that in 1929 the existence of the millenia-old Jewish community of Hebron was brought temporarily to a close, as a result of a brutal pogrom staged by the forerunners of the terrorist PLO. At that time the community consisted mainly of pious scholars and students. More than 60 of them were

* A/35/50.

brutally murdered and scores of others were wounded and tortured, their homes pillaged and their places of worship desecrated. That pogrom was instigated by the notorious Mufti of Jerusalem, Haj Amin al-Husseini, who during the Second World War collaborated with the Nazis in the extermination of the Jews of Europe and was wanted thereafter as a war criminal to answer at Nuremberg for his crimes.

By perpetrating this latest outrage in Hebron, the terrorist PLO has proved once again that its criminals are the faithful disciples of their infamous mentor.

Once again the aim was mass murder for its own sake. The target was a peaceful group of worshippers returning from prayer, and the timing was the Sabbath eve.

Beyond indiscriminate murder, the object of this unconscionable atrocity was to inflame religious sentiments among local Arabs, and to foment incitement in an attempt to interfere with the ongoing peace process in the Middle East and in particular with the stepped-up negotiations on full autonomy for the Palestinian Arabs in Judea, Samaria and the Gaza district.

Cowardliness and callousness have characterized PLO terror since its inception and this criminal incident illustrates once again the true character of the PLO and its violent aims.

I should like to request that this letter be circulated as an official document of the General Assembly, under item 26 of the preliminary list, and of the Security Council.

(Signed) Yehuda Z. BLUM
Ambassador
Permanent Representative of Israel
to the United Nations

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GENERAL ASSEMBLY
Thirty-fifth session
Item 64b of the preliminary list*
SPECIAL ECONOMIC AND DISASTER RELIEF ASSISTANCE

SECURITY COUNCIL
Thirty-fifth year

Assistance to Zambia

Report of the Secretary-General

1. In its resolution 34/128 of 14 December 1979, the General Assembly requested the Secretary-General, inter alia, to continue his efforts to mobilize the necessary resources for an effective programme of financial, technical and material assistance to Zambia, to keep the situation in Zambia under constant review and to submit a report on the progress achieved in time for the matter to be considered by the Assembly at its thirty-fifth session.

2. In its resolution 460 (1979), adopted on 21 December 1979, the Security Council, in paragraph 5, called upon all States Members of the United Nations and the specialized agencies to provide urgent assistance to Southern Rhodesia 1/ and the front-line States for reconstruction purposes and to facilitate the repatriation of all refugees or displaced persons to Southern Rhodesia. Further, in paragraph 8, the Security Council requested the Secretary-General to assist in the implementation of paragraph 5 by organizing, with immediate effect, all forms of financial, technical and material assistance to the States concerned in order to enable them to overcome the economic and social difficulties facing them.

3. In pursuance of these resolutions, the Secretary-General arranged for a mission to visit Zambia in February 1980 to consult with the Government. The report of the mission, which is annexed hereto, summarizes the economic and financial position of the country, stresses the major transport and food problems facing the country, provides a list of the Government's requirements in transport and telecommunications, and for agricultural and other reconstruction, and reports on the implementation of the special economic assistance programme.

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* A/35/50.

1/ Southern Rhodesia acceded to independence at midnight, 17 April 1980, as the Republic of Zimbabwe.

4. In paragraph 10 of resolution 34/128, the General Assembly invited a number of specialized agencies and other organizations of the United Nations system to bring to the attention of their governing bodies, for their consideration, the assistance they were rendering to Zambia and to report the results of that assistance and their decisions to the Secretary-General in time for consideration by the Assembly at its thirty-fifth session. The responses of the agencies and organizations will be reproduced in a report of the Secretary-General covering Zambia and other countries for which the General Assembly has requested the Secretary-General to organize special economic assistance programmes.

Annex

Report of the review mission to Zambia

(17 to 23 February 1980)

CONTENTS

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CONTENTS (continued)

I. INTRODUCTION

1. Previous reports of the Secretary-General on assistance to Zambia (A/34/407, A/33/343 and E/1978/114/Rev.1) listed various resolutions adopted by the Security Council, the General Assembly and the Economic and Social Council, and the reports on assistance to Zambia submitted to them by the Secretary-General.

2. On 14 December 1979, the General Assembly adopted resolution 34/128 on assistance to Zambia. In that resolution the General Assembly called upon the international community to provide financial, material and technical assistance to Zambia and requested the Secretary-General to arrange for a review of the situation in Zambia and the progress made in organizing and implementing the special economic assistance programme for that country in time for the matter to be considered by the Assembly at its thirty-fifth session.

3. Following the successful outcome of the Lancaster House Conference in producing agreement on a constitution for a free and independent Zimbabwe, and on arrangements for a ceasefire, the Security Council, at its 2181st meeting on 21 December 1979, adopted resolution 460 (1979). In paragraph 5 of that resolution, the Security Council called upon Member States and the specialized agencies to provide urgent assistance to Southern Rhodesia and the front-line States for reconstruction purposes and to facilitate the repatriation of all refugees or displaced persons to Southern Rhodesia. In paragraph 8, the Secretary-General was requested to assist in organizing financial, technical and material assistance to the States concerned.

4. In response to General Assembly resolution 34/128 and Security Council resolution 460 (1979), the Secretary-General arranged for a Mission to visit Zambia from 17 to 23 February 1980 to consult with the Government on the economic situation, the progress made in implementing the special economic assistance programme and the needs for rehabilitation and reconstruction. The Mission was led by the Joint Co-ordinator of Special Economic Assistance Programmes in the Office for Special Political Questions and included representatives of the Food and Agriculture Organization of the United Nations, the United Nations Conference on Trade and Development, and the Department of Technical Co-operation for Development.

5. The Head of the Mission was received by the President of the Republic of Zambia, His Excellency Dr. Kenneth D. Kaunda, who described the progress which had been made in implementing the economic stabilization programme during 1978 and 1979 and outlined the urgent requirements for reconstruction assistance.

6. The Mission met with the Minister of Transport and Communications who described the serious transport situation facing Zambia and the needs for reconstruction assistance in the transport and communications sector.

7. The Government of Zambia had prepared a number of background papers to facilitate the work of the Mission. These papers dealt with government finances, the balance of payments, economic and monetary developments during 1979, food

requirements, and the requirements for rehabilitation and reconstruction following the settlement of the Southern Rhodesia problem.

8. Throughout its stay in Zambia, the Mission met regularly with a Committee of Senior Officials chaired by the Deputy Secretary of the Cabinet. The Committee included representatives of the Bank of Zambia, the Ministry of Finance and Technical Co-operation, the Ministry of Transport and Communications, the Ministry of Agriculture, the National Planning Commission, the Ministry of Home Affairs, and the Contingency Planning Secretariat. Members of the Mission also met with senior officials from the National Agricultural Marketing Board (NAMBOARD), Zambia Railways, Zambia Airways and Zambia/Tanzania Road Services. During these meetings the reconstruction requirements and various aspects of the economic and financial situation were thoroughly discussed. The Mission also met with resident members of the diplomatic community in Lusaka to give them a preliminary briefing on its findings.

9. The Mission wishes to record its appreciation of the assistance it received from the Government of Zambia. The Mission also wishes to acknowledge the assistance it received from the Resident Representative of the United Nations Development Programme (UNDP) and other representatives of the United Nations system in Zambia.

II. SUMMARY OF PRINCIPAL FINDINGS

10. Zambia has successfully carried out an economic stabilization programme and has succeeded in reducing its arrears of external payment. Furthermore, Zambia's balance-of-payments position has moved from deficit into surplus; the provisional estimate for 1979 shows a surplus of kwacha a/ (K) 37 million.

11. The gross domestic product measured in real terms declined by 5 per cent in 1979 from the previous year's level. The gross domestic product in current values, however, was significantly higher in 1979 largely as a result of higher prices for mineral exports.

12. The Government of Zambia expects an improvement of the economic situation and a larger surplus on the balance of payments in 1980. Moreover, the Government expects almost all its expenses to be covered by revenues and long-term borrowing.

13. Transport continues to be the major problem. The situation has been exacerbated by the destruction of 11 bridges (see map at end of report). As a result, large backlogs of exports and imports have accumulated. Since it will take some time to repair the damage, transport is likely to remain a serious constraint in the near future.

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a/ The national unit of currency is the kwacha. Conversions to United States dollars in this report have been made at the rate of 1 kwacha = $1.27.

14. Zambia faced a severe maize shortage in 1979 as a result of drought and delays in the arrival of fertilizers. The Government had to import large quantities for which additional external financial assistance is required. These large imports will further strain the available transport capacity.

15. The outlook for the 1980 crop is unfavourable, and, at the time of the Mission's visit, it was estimated that about 209,000 tonnes of maize would have to be imported. All of it will require external financing.

16. Zambia will have to undertake major reconstruction and rehabilitation programmes to take advantage of the new circumstances and to recover from the losses of recent years. In total, approximately K 295 million will be required.

17. In the transport sector, assistance totalling K 267,493,000 will be needed. Of this amount, about K 94 million will be required to rehabilitate Zambia's railway system, approximately K 34 million to meet the requirements for road transport, and more than K 140 million to meet the requirements for air transport.

18. Investments in telecommunications are estimated to cost about K 1.7 million.

19. More than K 26 million will be needed to rehabilitate the border areas.

20. The Government has signed a number of international assistance agreements in 1979. These amount to about $US 232.6 million, of which about 29 per cent was in the form of grants.

III. THE ECONOMIC SITUATION

A. General

21. Previous reports of the Secretary-General (A/34/407, A/33/343, and E/1978/114/Rev.1) described in some detail the development of the serious economic and financial situation in Zambia. In summary, since 1973, the year in which the border with Southern Rhodesia was closed, the gross domestic product, in real terms, has shown virtually no growth. Indeed, there were actual declines in 1973, 1975, 1977 and 1979. Over the same period the Government's financial position deteriorated sharply, the over-all accumulated deficit totalled K 1,300 million for the period from 1973 to 1979. Even more serious was the weakness of Zambia's external position. The over-all foreign balance became highly unfavourable and the accumulated deficit on external account amounted to more than K 900 million for the period from 1973 to 1979. Substantial arrears in payment accumulated, particularly after 1975.

22. The major factor responsible for the development of the economic and financial crisis was the application of mandatory sanctions against Southern Rhodesia which not only resulted in massive direct cost but also seriously disrupted Zambia's normal development programme. Further, the price of copper, Zambia's major export, remained low for most of the period and the transport

system proved unable to carry Zambia's imports and exports. As a non-oil producing developing country Zambia was faced with a higher import bill as a result of the increased oil prices, and incurred sharply higher transport cost for both imports and exports. In addition, heavy losses and damage resulted from armed attacks by the illegal régime in Southern Rhodesia.

23. During 1978 and 1979 Zambia successfully implemented a major economic stabilization programme. This programme resulted in a significant improvement in the financial position of the Government and in Zambia's external payments position. It involved strict control of the level of imports and a slower growth of government expenditures. Although the programme improved the financial position of the Government it had a depressing effect on economic development in the short run.

24. The real gross domestic product is estimated to have declined by 5 per cent in 1979 from 1978. Capacity utilization remained low in a number of major industries as a consequence of the shortage of imported spare parts and required raw materials arising from the scarcity of foreign exchange and the transportation bottle-necks.

25. Mineral output declined in 1979 as compared with 1978; the volume of copper production, at about 585,000 tonnes, was some 12 per cent lower. During 1979, however, there was a substantial improvement in the price of Zambia's major mineral exports. The price of copper increased from $1,440 per tonne in December 1978 to over $2,000 per tonne in March 1979. Cobalt prices increased by three-and-a-half times, making cobalt a major contributor to foreign exchange earnings and to the improvement in the profit position of the mining industry. The price of lead increased to record levels. As a consequence, the value of output of the mining sector in current prices increased by nearly 40 per cent.

26. The value of industrial production in real terms increased by 9 per cent in 1979. On the other hand, the agricultural sector did not have a successful year and it is estimated that total output declined by 9 per cent in real terms. This decline resulted almost entirely from the very poor maize harvest caused by the partial failure of the rains during the 1978/79 growing season and the shortage of fertilizer caused by transport problems. As a consequence, maize production was less than 50 per cent of domestic requirements and a large volume of maize had to be imported. Wheat production was also slightly lower in 1979. However, the situation with respect to other crops showed significant improvements: cotton production almost doubled, the output of tobacco increased by nearly 25 per cent and the sunflower seed crop was 50 per cent higher than in the previous year.

27. Performance in the other sectors in the economy was varied. In the construction industry, which was seriously affected by reduced capital expenditures, value of output fell by 19 per cent. As a result of marginally higher imports and increased supplies from domestic industries, the volume of wholesale and retail trade increased slightly. Transport continued to be a major constraint on the country's economic activities.

B. Government finances

28. One of the major problems facing the Government of Zambia in recent years has been the internal imbalances created by large government deficits. In 1979, the Government continued to implement a policy of relating expenditures strictly to the level of revenue and agreed financing. This enabled the Government to honour all of its commitments while still maintaining the high level of fiscal management and discipline achieved in 1978.

29. Government revenues in 1979 amounted to K 615 million, about 5 per cent above the budget estimates. Receipts from income taxes totalled K 230 million and receipts from customs and excise duties and sales taxes totalled K 300 million. Because of accumulated losses the mining companies made no contribution to government revenues during the year, although they returned to a profit-making situation.

30. Recurrent expenditures for 1979 were strictly controlled by the Government and capital expenditure was held some K 67 million below budget estimates. As a result total government expenditure was only marginally above budget estimates in spite of large unexpected requirements by NAMBOARD for financial assistance. During 1979, NAMBOARD experienced a financial crisis resulting in part from a long-standing divergence between its buying and selling prices and in part from the high cost of imported maize to cover the shortfall in local production. The accumulated losses of NAMBOARD over the previous three years were estimated at about K 93 million, and these had to be covered by advances from the Government. Additional advances were provided to NAMBOARD by the Government on capital account. With the exception of this extraordinary demand, Government's combined recurrent and capital expenditure were well below the budget figures for the year.

31. The Government's accounts for 1979 and the estimates for 1980 are shown in table 1.

C. Balance of payments

32. Preliminary estimates indicate a turn around in Zambia's balance-of-payments surpluses being recorded on both current and over-all accounts. Exports were at a record level and amounted to K 1,080 million. Imports of goods rose by 25 per cent to K 625 million, giving a trade surplus of K 455 million. Although a slightly higher volume of goods was imported than in 1978, the volume of imports is still little more than one half of the volume in the early 1970s.

33. Preliminary estimates show that, in 1979, there was a surplus of K 37 million in the balance-of-payments current account, compared to a deficit of K 162 million in 1978.

Table 1

Government accounts 1979 and 1980

(In million kwachas)

	1979 Budget	1979 Actual (provisional)	1980 Budget
Revenue	584.0	615.0	758.0
Recurrent expenditure	641.7	757.0	838.3
Current surplus (deficit)	(57.7)	(142.0)	(80.3)
Capital expenditure	195.4	128.0	191.3
Total expenditure	837.1	885.0	1,029.6
Over-all surplus (deficit)	(253.1)	(270.0)	(271.6)

Source: Government of Zambia.

34. The Government has very successfully carried out a stabiliztion programme over the past two years. At the end of the programme in March 1980, all scheduled quarterly drawings from the International Monetary Fund had been made on time; these totalled K 325 million. The external resources which were made available allowed Zambia to maintain a minimum level of imports while reducing arrears in external payment by about K 157 million. Arrears amounted to K 360 million at the end of 1979. Taking into account all receipts and payments, the over-all balance of payments for 1979 is expected to show a modest surplus compared with a deficit of K 260 million in 1978.

D. Outlook for 1980

35. In introducing the 1980 budget, the Minister of Finance announced that the country would pursue an economic policy characterized by a cautious and restrained approach in order to further improve the country's financial position. He stated that, in order to reduce the inflationary effect of excessive Government borrowing from the banking system, restraints would continue on public expenditure. Attention would be given to the private sector and the parastatals as means of promoting economic growth, and to improving the transport sector and creating new and productive employment opportunities.

36. In general, the economic position is expected to improve in 1980. As compared with 1979, the Government is projecting a modest balance-of-payments surplus and a reduced budget deficit. The budget estimates for 1980 are presented in table 2 below.

37. The Minister of Finance stated that the 1980 budget is intended to achieve three objectives: the control of inflation; the stimulation of employment; and, further strengthening of the country's balance of payments and the reduction of arrears in payment. As can be seen from the table the projected over-all budget deficit for 1980 is at the level of the previous year. Most of the deficit will be financed by long-term borrowing from internal and external sources. Only about K 60 million is to be financed by short-term borrowing from the banking system.

Table 2

Domestic budget: 1979 and 1980

(In million kwachas)

	1979 Budget estimate	1979 Actual	1980 Budget estimate
Recurrent revenue	584.0	615.0	758.0
Recurrent expenditure	641.7	757.0	838.3
Current deficit	(57.7)	(142.0)	(80.3)
Capital expenditure	195.4	128.0	191.3
Over-all deficit	253.1	(270.0)	(271.6)
Financing:			
Internal	41.0	41.0	67.0
External	149.5	141.0	144.6
Net deficit	(62.6)	(88.0)	(60.0)

Source: Government of Zambia.

38. The Government expects revenues to reach K 758 million, up more than K 140 million from 1979. The introduction of new measures which are intended to discourage consumption of luxury goods and expensive imported merchandise will yield K 27 million. Items affected will be alcoholic beverages, cigarettes, petrol and diesel oil. The Government is forecasting a small but significant amount of revenue from the mining sector, about K 40 million. In view of the moderate improvement in economic conditions and marginally better prospects for revenue collections, the Government is planning to increase the level of capital expenditure. It is proposed to allocate K 191 million for capital expenditure in 1980, compared to actual expenditures of K 128 million in 1979. The increase of recurrent expenditures, about 11 per cent, is mainly due to a wage and salary award to civil servants.

IV. SPECIAL FEATURES OF THE SITUATION IN ZAMBIA

39. There are three special features of the situation in Zambia which merit detailed consideration. These are: the transport system; the food situation; and the problem of refugees.

A. Transport system

40. As a land-locked country, with a large volume of imports and exports, Zambia depends on a well-functioning transport system. In 1965, when the Government of Southern Rhodesia illegally declared independence, Zambia's imports and exports were carried almost exclusively on the southern rail route. Only a small amount of Zambia's traffic moved through Lobito in Angola over the Benguela Railway. After 1965, with the progressive application of international sanctions against the illegal régime in Southern Rhodesia, and the determined policy of Zambia to redirect its trade to and through other countries in accordance with Security Council resolutions, there was a significant increase in the amount of imports and exports carried by road to Dar es Salaam and by rail to Lobito. In addition, the road/rail route through Mozambique began to be used to a greater extent. In spite of these efforts, about two thirds of Zambia's external trade was still being carried by the southern route when the border between Zambia and Southern Rhodesia was closed in 1973.

41. The closure of the border seriously disrupted the normal trade and development of Zambia. Between 1973 and mid-1975, the rail route via Zaire to Lobito became the most important means of moving Zambia's imports and exports. However, in order to handle all of the traffic, there was increased use of trucking over inadequate road systems to Dar es Salaam, Mombassa and Mozambique, at higher costs. When the Tanzania/Zambia Railway (TAZARA) opened in 1975, coinciding with the closure of the Lobito route, the road and rail routes to Dar es Salaam became the major route for Sambia's imports and exports. By 1977, nearly 1 million tonnes of Zambia's traffic moved to Dar es Salaam on TAZARA and over 300,000 tonnes were hauled by road to and from the port of Dar es Salaam.

42. For a number of reasons, however, the routes to Dar es Salaam proved unable to handle all the traffic. Because the situation in the port is subject to the smooth functioning of railway and road traffic, the inability to move Zambia's imports and exports caused congestion at the port which itself contributed to inefficiencies in the system and further congestion. The situation became so serious that, in late 1978, Zambia reopened the southern rail route to South African ports. In 1979, this became the major single route for Zambia's imports and exports, although combined road and rail traffic through Dar es Salaam was greater, and amounted to nearly half of Zambia's total trade.

43. Table 3 shows the total volume of traffic over the various routes available to Zambia during the past eight years.

44. It will be noted that Zambia was utilizing a number of routes for imports and exports. These included road haulage to Dar es Salaam, TAZARA, the combined road and rail route through Mozambique, and the southern rail system. None of these systems were operating without restraints. The southern route had only limited capacity because, for part of the year, trains were operating only during daylight hours and only 35 railway wagons were allowed across the border daily in each direction. TAZARA was faced with a serious problem of the lack of available locomotives, and with the disruption of traffic when a large section of the line was affected by flooding. The road haulage system was faced with a shortage of vehicles. All parts of the transport system suffered from a shortage of imported spare parts and foreign exchange.

45. This serious transport situation was exacerbated during 1979 by destruction caused by the forces of the illegal régime in Southern Rhodesia. In April, the ferry at Kazungula was destroyed, effectively cutting the road link through Botswana to the rail head at Francistown. At the same time, Rhodesia Railways introduced a system of daytime only operations, thus reducing by nearly half the traffic carried by rail on the southern route. During October and November, 11 bridges were blown up in Zambia, 2 of which were rail bridges and 9 road bridges. Details of the destruction of bridges were provided in the second interim report of the Security Council Ad Hoc Committee established under resolution 455 (1979)(S/13694). In summary the destruction of the Chambeshi and Lunsenfwa rail bridges seriously disrupted rail traffic to Dar es Salaam. The road bridges over the Chambeshi and Lunsenfwa rivers were also destroyed, closing the road traffic route to Dar es Salaam. Alternate routes through Malawi and Mozambique were also closed. The Chongwe bridge, and two other bridges near Rufunsa were blown up, effectively stopping traffic on the Great East Road. Although the southern rail connexion was not affected by the attacks, three bridges were blown up on the Kafue-Chirundu road, and the Lusaka-Livingstone road was cut when the Kaleya road bridge was destroyed.

Table 3

Zambia's foreign trade routes

Total imports and exports, 1972-1979

(In thousands of tonnes)

	1972	1973	1974	1975	1976	1977	1978	1979
Lobito/Zaire rail	314	807	947	566	135*	132*	98*	54*
Dar es Salaam road	412	484	590	660	571	337	226	305
Dar es Salaam rail	-	-	-	115	675	937	913	451
Mombasa road	-	113	172	24	34	4	-	-
Mozambique road/rail	46	150	135	235	212	68	104	68
Southern rail	1,331	40	-	-	-	-	136	637
Other (including air)	8	78	62	61	30	65	52	34
Total	2,111	1,672	1,906	1,661	1,657	1,543	1,529	1,549

Source: Government of Zambia.

* Zaire traffic only after mid-1975 when international traffic ceased on the Benguela railway to Lobito.

46. The Government of Zambia estimated that $18.7 million would be required to repair and replace the damaged bridges. In its resolution 455 (1979) of 23 November 1979, the Security Council appealed to the international community to assist Zambia to reconstruct its infrastructure. Pledges of international assistance for this purpose are listed in the report of the Security Council Ad Hoc Committee established under resolution 455 (1979)(S/13774 dated 31 January 1980).

47. In addition, the Government of Zambia established a bridge reconstruction fund and appealed to the nation for donations for rebuilding the bridges. The people of Zambia responded to this appeal by donating K 2.3 million.

48. By the end of 1979, therefore, the only undamaged route for Zambia's imports and exports was the rail link to the south which was also carrying a significant tonnage for Zaire and which only operated during daylight hours. Although arrangements were made to bypass some of the destroyed bridges, and ad hoc methods of handling transit traffic were developed, these involved substantially higher costs and were unable to move the required tonnages. As a result, large backlogs of imports and exports developed. In February 1980, more than 80,000 tonnes of Zambian imports had accumulated in the port at Dar es Salaam; 15,000 tonnes of imports were stranded on the routes through Malawi and Mozambique; and 300,000 tonnes of imports had accumulated in South Africa, Botswana and Southern Rhodesia. Copper and other mineral exports were also stockpiled inside Zambia. It will take some time to increase the capacity of existing routes and repair all the damages. Transport, therefore, is likely to remain a serious problem during 1980. The requirements in the transport sector are discussed in detail below.

B. Food situation

49. Zambia was self-sufficient in maize in 1976, and one year later was able to export surplus maize to neighbouring countries. However, in 1978/79, an extremely poor maize harvest caused by the partial failure of rains and the late arrival of fertilizers necessitated large imports of maize to meet domestic requirements. The marketed maize production for 1978/79 was only 3.5 million bags, or 315,000 metric tonnes, compared with 6.5 million bags (585,000 tonnes) in 1977/78.

50. Fortunately, loans and grants from a number of countries for food purchases enabled Zambia to meet most of the shortfall in production. Most of the maize covered by agreements negotiated in early 1979 was delivered on time. Generally, the quality was acceptable, except for about 2,000 tonnes of a World Food Programme shipment which reached Zambia in extremely bad condition as a result of long and inadequate storage at the port of Dar es Salaam.

1. Maize-stock situation

51. Domestic maize stocks as at 19 February 1980 were estimated by NAMBOARD at 117,000 tonnes. Considering Zambia's monthly consumption of about 54,000 tonnes, domestic stocks would meet only a little more than two months' consumption needs. Before the new harvest (1979/80) becomes available to the consumer about 1 July, the Government will have to import about 150,000 tonnes of maize. Although it is known that this quantity is available for early delivery, transport will be a major problem. Financing has not been secured for all the maize available, and additional international assistance is required for this purpose. Table 4 shows the estimated maize position for the period ending July 1980.

2. Maize production: 1979/80 crop

52. During the 1979/80 planting season, the rainfall was plentiful throughout the country and the Government expected a good harvest. However, in the early months of 1980, rain occurred only moderately in the eastern and northern provinces and virtually no rain fell in the rest of the country.

53. The most recent projection of the forthcoming harvest commencing in July 1980, provided by the Ministry of Agriculture, indicates that production may amount to only 5.5 million bags or 495,000 tonnes. The Government estimates consumption at about 704,000 tonnes. This projected consumption figure makes provision for an annual increase in consumption of 7 per cent and assumes losses of 5 per cent in storage and transit. Based on this projection, Zambia will need to import about 209,000 tonnes of maize in 1980. The final harvest will depend on rains during March and April. The mission was informed that the Government would make a revised crop forecast available to potential donors.

Table 4

Maize sales and stocks for the period ending July 1980

(In thousands of tonnes)

(Estimates as at 19 February 1980)

	Aug. 79	Sept.	Oct.	Nov.	Dec.	Jan. 80	Feb.	March	April	May	June	July
Opening stock	142.8	243.9	286.2	267.2	252.6	206.8	161.5	106.7	127.0	148.2	106.6	63.4
Purchases Imports	141.2	95.1	23.8	33.8	.1	-	-	72.0 2/	72.0 2/	-	-	150.0 3/
Subtotal	284.0	339.0	310.0	301.0	252.7	206.8	161.5	178.7	199.0	148.2	106.6	213.4
Consumption	40.1	52.8	42.8	48.4	45.9	45.3 1/	54.8	51.7	50.8	41.6	43.2	52.7
Closing balance	243.9	286.2	267.2	252.6	206.8	161.5	106.7	127.0	148.2	106.6	63.4	160.7

Source: National Agricultural Marketing Board of Zambia.

Assumptions:

1/ Beginning in January 1980, projected consumption is 7 per cent above monthly consumption for previous year.

2/ Delivery expected of agreements signed in 1979.

3/ Purchases of own production from new harvest.

3. Special food measures

54. The Government is concerned about the periodic shortfalls in maize production. Consideration is being given to installing an early-warning system and a food security programme. This programme, which was drawn up by an FAO/WFP mission, calls for a reserve of at least 1 million bags, the construction of improved silos throughout the country, and, in view of the serious internal transport problem, a better maize delivery system.

55. Furthermore, the Government will give priority to importing fertilizers so that farmers will receive fertilizers on time, thus leading to an increase of acreage under cultivation. In addition to the measures mentioned above, the Government has recently announced an increase in the producer price as an incentive for farmers in the subsistence sector to sell maize to the local marketing agencies.

56. In view of Zambia's serious shortage of foreign exchange, the need for food assistance from the international community is clear.

C. Refugees

57. During 1979, the number of refugees in Zambia continued to rise and by early 1980 more than 45,000 Zimbabwean refugees, mainly children and women, were in camps. In addition, Zambia also provided refuge for Namibians and South Africans.

58. Following the cease-fire in Southern Rhodesia, a major repatriation exercise was initiated in co-operation with the United Nations High Commissioner for Refugees (UNHCR). Under the procedures laid down in the Lancaster House Agreement, 4,292 Zimbabwean refugees were repatriated during the first phase of this exercise which ended by 24 February. A number of refugees appear to have returned on their own. At the time of the mission's visit in February 1980, there were about 40,000 refugees left in camps awaiting repatriation. The second phase of the repatriation programme was expected to begin in March. A rehabilitation and resettlement programme will be necessary, and new schools and clinics will have to be constructed for the refugees on their return.

59. Even though most Zimbabwean refugees are expected to be repatriated in the near future some will remain in Zambia for reasons of health or education. There will thus be a continuing need for international assistance for these Zimbabwean refugees as well as for the refugees from South Africa and Namibia.

V. NEEDS FOR RECONSTRUCTION AND REHABILITATION

60. The independence of Zimbabwe and the re-establishment of normal relations in the region open up new opportunities for Zambia to pursue a normal development programme. For nearly 15 years since Southern Rhodesia illegally declared itself independent in 1965, Zambia's economic development has been severely distorted.

In addition, the country suffered heavy losses from the observance of United Nations economic sanctions and sustained substantial damages from attacks by the forces of the illegal régime. Zambia will have to undertake major reconstruction and rehabilitation programmes to take advantage of the new circumstances and to recover from the losses of recent years. In total, some K 295 will be required. The major reconstruction and rehabilitation needs relate to the transport system, communications, and the reconstruction and rehabilitation of the border regions.

A. Transport

61. The most immediate requirement for reconstruction assistance arises in the transport sector. Prior to 1965, Southern Rhodesia had been a major trading partner for Zambia. With the establishment of normal relations with Zimbabwe, the volume of both cargo and passenger traffic can be expected to increase considerably. This will necessarily involve substantial improvement and expansion of Zambia's whole transport system.

1. Railways

62. There are two independently operated and managed railway systems in Zambia. Zambia Railways operates between the southern border and the border of Zaire, and serves the copper-belt region. The Tanzania/Zambia Railway (TAZARA) connects with Zambia Railways at Kapiri Mposhi and extends to the port of Dar es Salaam in the United Republic of Tanzania.

(a) Zambia Railways

63. The cargo traffic on Zambia Railways has averaged about 5 million tonnes annually in recent years, made up of 3 million tonnes of local traffic, 1.4 million tonnes of exports and imports, and 0.6 million tonnes of transit traffic for Zaire. More than 50 per cent of the local traffic and almost all the export traffic results from the mining and refining of copper.

64. The locomotive fleet of Zambia Railways is made up of 64 mainline locomotives and 12 shunters which are also used on mainline services. In addition, Zambia Railways has obtained 10 locomotives for shunting and six for mainline operation on a rental basis. On average, only 48 locomotives, about 63 per cent of the fleet, are available for service, as a number of locomotives have been damaged and there is a chronic shortage of spare parts which have to be imported. In addition to the above-noted fleet, Zambia Railways has 15 low-powered diesel-hydraulic shunting locomotives for yard service and track maintenance but only two units are presently operating.

65. The wagon fleet consists of 8,000 wagons of which 2,000 are foreign-owned. With the exception of 100 wagons which have been badly damaged in derailments and 150 wagons which are out of service and awaiting spare parts, most of the wagons are considered to be in good condition. In addition to the above wagon fleet, there are still about 500 wagons remaining in Angola where they were stranded when the Angola-Zaire border was closed in 1975. Although these wagons are now being returned to Zambia, many will require major repairs before they can be put into service.

66. In order to handle its passenger traffic, Zambia Railways has 93 coaches and 17 rail cars in operation, most of which have only recently been purchased.

67. In order to carry the expected future traffic, major operating improvements will be necessary. After two years of negotiations, Zambia has now concluded an agreement for an extensive project to improve its railway system. The total project is estimated to cost K 144.6 million. It will be financed by a consortium organized by the World Bank which is providing the major part of the loan. The project will provide for the following:

(a) Renewing 112 kilometres of track;

(b) Improving the telecommunications system;

(c) Purchasing 40 locomotives and 1,000 wagons, including spare parts;

(d) Improving maintenance facilities;

(e) Advisory services at senior and middle management levels and training at all levels to reduce the dependence of Zambia Railways on expatriate managerial and technical personnel.

68. Despite the assistance under this World Bank project, Zambia Railways will still require the following additional locomotives and wagons to cope with the increased traffic:

	Cost (in thousands of kwachas)
(a) Locomotives	
12 locomotives, plus spare parts	12,000

	Cost (in thousands of kwachas)
(b) Locomotive and wagon workshops	
Renovation and upgrading of locomotive, carriage and wagon workshops at Livingstone	1,000
(c) Wagon fleet	
Purchase of 300 container flats	4,000
Purchase of 800 high-sided wagons	32,000
Purchase of 42 passenger coaches	14,700
	63,700

(b) Tanzania/ Zambia Railway

69. Tanzania/Zambia Railway is jointly owned by the Government of Zambia and by the United Republic of Tanzania. The Railway extends some 1,860 kilometres, of which 880 kilometres are in Zambia. The service began operation in October 1975, and its construction and equipment were financed by a loan from the People's Republic of China.

70. The Tanzania/Zambia Railway has a fleet of 85 locomotives and 1,818 wagons. As a result of operational problems with the locomotive fleet, difficulties in ensuring adequate maintenance and spare parts, and landslides which occurred after heavy rains in an area of volcanic soils between Limba and Makumbako, the levels of traffic have declined during the past two years and have been well below the planned targets. In late 1979 and early 1980, traffic levels were further reduced by the destruction of rail bridges.

71. Table 5 provides statistics on the Railway's performance in recent years.

Table 5

Performance of the Tanzania/Zambia Railway, 1976-1979

(in thousands of tonnes)

	1976/77	1977/78	1978/79	1979/80
Line capacity	2,000	2,000	2,000	2,000
Planned targets	1,400	1,600	1,400	1,060
Actual haulage	1,135	1,273	756	n.a.
Shortfall on the planned targets	29%	21%	46%	n.a.

72. The main reasons for the poor performance of the Tanzania/Zambia Railway have been the low availability of motive power and the long wagon turnaround time. Only 34 main line locomotives out of a fleet of 85 are in service. Lack of foreign exchange for the purchase of spares, frequent failure of locomotives, and the shortage of skilled manpower for maintenance and operations have all contributed to the low availability of motive power.

73. Recently, arrangements have been made with financial assistance from the Federal Republic of German to refit four locomotives with new engines on a trial basis. If the project proves to be successful, it is planned to refit 40 diesel hydraulic locomotives. This exercise will be a lengthy process and it will be therefore necessary to provide additional motive power by purchasing new locomotives.

74. Initially, wagon turnaround time between Dar es Salaam and Kapiri Mposhi was calculated at 10 days and, in the early years of operation, turnaround times were fairly close to this target. However, the actual turnaround time has lengthened in the past two years and averaged 24.4 days in 1979 compared to 11.4 days in 1977. This has been an important factor in reducing the total tonnage carried on the Tanzania/Zambia Railway.

75. In order to enable the Tanzania/Zambia Railway to carry its estimated capacity of 1 million tonnes annually in each direction, the following investments are required:

	Cost (In thousands of kwachas)
(a) Permanent way	
Investigations of causes of landslides which undermined the track on the Mlimba to Makumbako section	1,500
(b) Locomotives	
Re-powering and refitting 40 locomotives	8,207
25 new 2,000 HP diesel-hydraulic locomotives . .	14,000
(c) Wagon fleet	
Purchase of 120 new wagons	5,346
(d) Equipment and machinery	
1 Tamping machine	286
3 Railway cranes	643
1 Wheel lathe	76
	30,058

2. Roads and road transport

76. Zambia's total vehicle fleet amounts to 160,000 of which about 18,000 are lorries used for the transport of goods. About 40 per cent of the trucks are operated by Contract Haulage, a subsidiary of the National Transport Corporation owned by the Government of Zambia, and Zambia-Tanzania Road Service jointly owned by the Governments of Zambia and the United Republic of Tanzania. Contract Haulage operates on the Mozambique and southern routes, and Zambia-Tanzania Road Service on the Dar es Salaam route. United Bus Company, another subsidiary of the National Transport Corporation, operates passenger bus services and taxi traffic.

With the advent of normal travel and traffic in the region, the demand for road transport is expected to increase. In addition, until the rail routes are improved, it is expected that road haulage between Zambia and Zimbabwe will be heavily used for the import of maize, fertilizer and other essential inputs.

(a) Zambia-Tanzania Road Services

77. With the commencement of operations by the Tanzania/Zambia Railway, it was hoped that road services to Dar es Salaam would be reduced. However, the difficulties experienced on the Railway made it necessary to continue to handle significant volumes of imports and exports by road. The performance of the Zambia-Tanzania Road Service to date has been hampered by an inadequate vehicle fleet and poor maintenance. In order to modernize its fleet and to handle road traffic complementary to the Tanzania/Zambia Railway, the Zambia-Tanzania Road Service embarked on a programme for the acquisition of new vehicles and the improvement of existing workshops in Kitwe and Dar es Salaam.

78. Table 6 below illustrates the vehicle fleet of the Zambia-Tanzania Road Service and traffic carried over the past years as well as the outlook for the immediate future.

Table 6

Vehicle fleet (Units)	1978/79	1979/80	1980/81
Vehicle	478	475	500
Additions	236	98	75
Total	714	573	575
Write-offs	239	73	75
Balance	475	500	500
Effective availability	416	372	375
Traffic forecast (in thousands of tonnes)			
Exports	202	181	182
Imports	187	167	169

79. As can be seen from table 6 Zambia-Tanzania Road Service has projected only a moderate increase in additional tonnage carried. However, with the restrictions on the capacities on various railroads, it is now estimated that higher tonnages of exports and imports will need to be trucked for at least the next two years. This will necessitate substantial investments in the Zambia-Tanzania Road Service, which, in any event, requires a programme of modernization to handle its normal traffic.

80. The investment programme for the Zambia-Tanzania Road Service is as follows:

	Cost (in thousands of kwachas)
Replacements of trucks and trailers	
Purchase of 75 trucks	3,450
Purchase of 20 trailers	440
Improvement of workshops in	
Kitwe	50
Dar es Salaam	50
Subtotal	3,990

(b) Contract Haulage Ltd.

81. Contract Haulage played an important role in the early rerouting of Zambia's imports and exports via Dar es Salaam but, in recent years, has operated mainly on the routes to Mozambique ports. However, it was also used for emergency operations when the road and rail bridges were destroyed in late 1979. The company was organized under emergency conditions and, since its inception, has had to face problems arising from a lack of standardization, the use of unsuitable vehicles, and inadequate repair and maintenance facilities. For the past three years, the lack of spare parts has seriously affected the operation of the fleet of lorries. The company now has some 400 vehicles operating of which 104 are tankers. Its total fleet amounts to nearly 700 trucks and tankers.

82. Contract haulage has been assigned to handle cargo traffic from the south, particularly maize and fertilizer from Lions Den and Wankie. In 1979 Contract Haulage handled 343,000 tonnes and it is estimated that nearly double this tonnage will be handled in 1980. The Federal Republic of Germany is providing technical assistance for the workshops and agreement has been reached for a programme to train mechanics.

83. The additional requirements for the rehabilition of Contract Haulage are as follows:

	Cost (in thousands of kwachas)
Mechanical horses	
Purchase of 18 units (235 HP)	10,000
Purchase of 50 heavyduty units (320 HP)	3,500
Trailers	
210 dropside trailers/draw bar	7,350
70 road tanker semi-trailers/draw bar	4,200
Subtotal	25,850

(c) United Bus Company of Zambia

84. The United Bus Company accounts for about half of the total passenger traffic in Zambia. Bus operations are hampered by a lack of workshops, a shortage of skilled labour and the scarcity of essential spare parts. The company needs to purchase new coaches and to improve its workshop facilities at various centres in the country in order to carry the expected traffic. Assistance required is as follows:

	Cost (in thousands of kwachas)
Coaches	
Purchase of 10 passenger coaches	960
Workshops	
Establishing new and strengthening existing workshops	2,735
Subtotal	3,695

3. Air transport

85. Zambia Airways was established in 1967 as a result of the formal dissolution of Central African Airways. In the beginning of its operations for lack of aircraft, equipment and manpower Zambia Airways was unable to mount any regional or international operations. Only after large government investments were made was Zambia Airways able to establish regular regional and international services.

86. The present fleet consists of:

4 Hawker Siddeley 748 aircraft for regional flights;

1 Boeing 737 aircraft for regional flights;

4 Boeing 707 aircraft, of which 2 are cargo carriers and 2 passenger planes, used for intercontinental flights to Europe.

Because of the rising costs of fuel, Zambia Airways has discontinued a number of less profitable flights (to Cyprus, Yugoslavia and Mozambique). Flights to Salisbury, where prior to the unilateral declaration of independence by Southern Rhodesia traffic was rather important, have now commenced.

87. It is considered vital to make a number of large investments to put the airline on a sound operational footing. In addition, in order to cope with the inrease in the traffic in southern Africa, to prepare itself for more stringent noise regulations on intercontinental routes, and to meet expanding competition from other airlines, the company requires the following:

	Cost (in thousands of kwachas)
Aircraft	
Purchase of one wide-body aircraft	68,200
Purchase of one Boeing 737	10,100
Purchase of 12 small capacity (20 seater) aircraft for domestic routes	14,400
Technical infrastructure	
Technical infrastructure, servicing facilities and manpower training	47,500
Subtotal	140,200

88. In summary, the additional assistance required for the transport sector alone totals K 267,493,000.

B. Telecommunications

89. With the re-establishment of normal relations, modern telecommunication services between Zimbabwe and Zambia will need to be established.

90. At the present time, existing telecommunication services are inadequate to meet the demand. Service is provided by a combination of groundwire hook-ups, microwave links and satellite ground stations. However, the existing telecommunication systems have been damaged by bombings and raids.

91. A new system is required to meet the expected increase in traffic with Zimbabwe.

	Cost (In thousands of kwachas)
(a) Telecommunication requirements for Zimbabwean traffic	
(i) HF link via Chirundu	
The present open-wire route is very long and vulnerable to lightning, physical damage and noise interference. It is planned to link Zambia and Zimbabwe through a broad band system terminating at Livingstone. Installation would take about 36 months.	400
(ii) UHF link: Siavonga via Kariba to Karoi	
To provide about 60 channels from Siavonga to Lusaka via the Siavonga-Kariba-Karoi link	200
(iii) Improvement of existing telephone switching capacity	
To cater for the expected increase in traffic between the two countries	200
(iv) Extension of telex services	
To accommodate increased demand	60
(v) Microwave link	
A 120-channel microwave link is planned with a repeater station at Katombola near Livingstone which will also permit an interlink with Botswana . . .	150
Subtotal	1 010
(b) Telecommunication requirements for Mozambique traffic	
(i) UHF links	
To restore communications with Mozambique, a UHF channel link to Kaleto-Tefe area, where railhead facilities exist and through which considerable volumes of Zambia's exports and imports are to be routed in the future, will be needed	200
(ii) Microwave links	
A 120-channel microwave link between Lusaka and Chipata is now under construction. A spur is needed to connect with Mozambique	150
(c) Improvement of telecommunications with Angola	
A 120-channel UHF is envisaged to link Kalabo to Angola . .	300
(d) Improvements on international routes	
To facilitate satellite communication for access to international routes, Zambia needs to expand its Earth station	50
Subtotal	700

92. In summary, the investment needed to improve communications to take advantage of the opportunity to develop normal relations in the region totals K 1,710,000.

C. Agricultural and other rehabilitation in the border areas

93. Over the past seven years, Zambia's agricultural development has been affected by transport problems, armed attacks and the security situation in the border areas. These factors, together with marketing and distribution problems, have depressed agricultural production in the commercial and traditional sectors. With the return of normal relations with Zimbabwe, it now becomes possible to rehabilitate agriculture and fisheries in the border areas and to implement development projects which had to be postponed because of the security situation. Because the continuous attacks necessitated relocating people in safer areas, communities have been seriously dislocated and there is a need to re-establish more normal economic and social conditions. Water development schemes and livestock disease controls were also disrupted. In addition, a substantial amount of damage was done to buildings and other infrastructure in the border regions. The actual assessment of all damage will take some time as land mines have not been cleared from certain areas and reports of accidental destruction are still being received.

1. Water projects

94. The following four water projects, which are partially financed at an estimated cost of K 23.7 million, were either postponed or disrupted.

(a) Catchment project - Kariba North, Gwembe district

A project to construct a number of dams in the area was approved and was fully covered by assistance from the Netherlands. Due to the security situation, however, the project had to be suspended. The Government wishes to revive it as soon as possible. It is estimated to cost K 5.7 million;

(b) Water supply project - Luangwa district

Proposals for the improvement and rehabilitation of water supplies in the Luangwa district were prepared for negotiations for assistance from the European Economic Community (EEC). Before the agreement was finalized, however, the district came under attack by rebel forces making it impossible to implement the project. Some K 400,000 is required to revive this project;

(c) Water supply project - Chirundu area

Because of the security situation, it was impossible to implement this project in the Chirundu area, although the project document had been prepared

for negotiations with EEC. The Government now wishes to revive this project which will cost K 600,000;

(d) Water development scheme - Sesheke district

It was intended to carry out an intensive scheme in the Sesheke district under a NORAD technical assistance agreement. The project had to be halted because of continuous raids by rebel forces. The estimated cost of implementing the project is K 17 million.

2. Animal disease control projects

95. Animal disease control used to be of very high standard in Zambia but at the present time, the situation is alarming. Disease control has broken down in the border areas with Zimbabwe, Botswana and Angola. Early in June 1979, an outbreak of foot-and-mouth disease occurred on the banks of the Zambezi river. Curative measures could not be carried out and the infected milk and livestock had to be destroyed. A project to build a cordon fence in Zambia to secure cattle from contagious diseases in the Angola border region was also started. With the deterioration of the security situation, it was not possible to supervise project staff, and the cordon fence project was abandoned. It is difficult to assess the extent to which Bovine Pleuropneumonia has made fresh inroads into Zambia and is threatening the Zambian livestock industry. With the return to normal relations in the region, the Government of Zambia is anxious to obtain international assistance to undertake an over-all assessment of animal health.

96. However, it has been possible to identify some projects for immediate implementation. The outbreak of foot-and-mouth disease along the Zambezi river, which is still spreading, needs to be controlled urgently. Manpower, at various levels, is needed to examine animals and man road blocks. In addition, three officers are required to supervise the road blocks and to vaccinate animals in the area. At least 100,000 doses of foot-and-mouth disease vaccine, as well as automatic syringes and sodium carbonate, are needed. Five land rovers would be required for the vaccination campaign. All told, it is estimated that this campaign will cost K 111,000.

97. In addition, 78,000 head of cattle should be vaccinated in the area from Livingstone to Sesheke. The vaccine for this campaign will cost K 100,000. The total cost of animal disease control projects is K 210,905.

3. Other agricultural projects

98. There has been extensive disruption of two important projects in the Chirundu-Kariba area and, as a result of shelling by rebel forces, buildings, dams, canals, water pumps and machinery have been damaged. Some buildings had to be abandoned, resulting in damage by termites and general deterioration.

99. Financial assistance amounting to about K 295,000 is urgently required for two projects:

(a) Zambezi Farm Training Institute

The Government estimates that the immediate assistance required to bring this farm training institute back into operation is K 250,000 to repair the buildings and replace furniture;

(b) Chirundu banana scheme

The banana scheme suffered severely from attacks. A new water pump is needed and a motor boat for access to the camps along the Zambezi River needs to be replaced. It will require K 45,000 to make the banana scheme again operational.

4. Repair and replacement of buildings and equipment

100. The Government provided the mission with a list of buildings and vehicles, etc. which had been damaged and the estimated cost of repair and replacement. A particularly urgent need is for 200 hand mine detectors and 20 motorized mine detectors to allow the Government to locate and dispose of mines which are still buried in roads, fields and ditches.

101. The following is an estimate of the cost of repair and replacement of essential buildings and equipment:

	Cost (in kwachas)
Rehabilitation of police and immigration buildings at Chirundu border post	600,000
Repair of Chirundu customs post	250,000
Repair of police and immigration buildings at Kazungula	700,000
Repair of Kazungula and Katima Mulilo custom posts	75,000
Replacement of speed boats for police and immigration departments	123,000
Replacement of five vehicles for border patrol	35,000
Telephone, electricity, water, communications and barriers at customs posts	94,000
Subtotal	1,877,000

102. In summary, the immediate rehabilitation of the severely affected border areas will require the following four projects:

1.	Water projects	23,700,000
2.	Animal disease control projects	210,905
3.	Other agricultural projects	295,000
4.	Replacement and repair	1,877,000
	Total	26,082,905

D. Other rehabilitation and development projects

103. Development in the border region with Zimbabwe has been neglected for a number of years as a result of the security situation. In the new circumstances, the Government of Zambia is anxious to develop the tourist potential all along the Zambezi River. In this connexion, a number of projects have been identified by the Government. No estimates for the costs of these projects are available.

104. A study is needed on establishing guesthouses, improving the road network and building an airfield in order to develop the tourist industry in the Lake Kariba area. In addition, the Government is anxious to re-establish the lake fisheries not only to provide fish for tourist hotels, but also to provide food for the local population and to create employment opportunities. Furthermore, the Government wishes to examine the possible development of islands in Lake Kariba as tourist and recreation resorts. The existing road network will need to be improved substantially in order to develop tourism in the border areas. It will also be necessary to improve the road for the expanded output of cotton in the region.

105. The development of another major tourist area - Luangwa - has been retarded by the security situation. The Government wishes to explore the possibility of establishing a Tourist Training College at Luangwa, and of having a study made on the upgrading of major roads and the provision of flood prevention services in order to extend the tourist season.

106. Another area to which the Government of Zambia gives high priority is expanded trade with Zimbabwe. To that end, a thorough study of possible markets for exports from Zambia to Zimbabwe and imports from the latter will be required.

VI. PROGRESS IN IMPLEMENTING THE SPECIAL ECONOMIC ASSISTANCE PROGRAMME

107. Over the past two years, Zambia has been facing a severe financial crisis and has been receiving international assistance mainly under two headings. As mentioned earlier in this report, the stabilization programme which had been undertaken with the support of the International Monetary Fund has been successfully carried out with all quarterly drawings finalized. The stabilization programme significantly improved Zambia's over-all economic position and, up to 31 March 1980, a total of K 324.7 million was provided under this programme. In addition, the Government continued to receive assistance for food and fertilizer requirements, for strengthening the transport sector and towards the priorities of the Third Development Plan (1979-1983).

A. International assistance

108. A list of major bilateral assistance agreements entered into during 1978 was given in the report of the Secretary-General (A/34/407) to the General Assembly at its thirty-fourth session.

109. Table 7 of the present report, provided by the Government of Zambia, shows the major international assistance agreements entered into during 1979.

Table 7

Major international assistance agreements - 1979

Donor/Lender		Type of assistance	Amount (in millions of United States $)
1. United States of America	(a)	fertilizer - grant	20.0
	(b)	food - grant	10.0
	(c)	food - loan	12.5
	(d)	commodity - loan	8.8
2. Iraq	(a)	general loan - purpose to be agreed	30.0
	(b)	grant - purpose to be agreed	9.0
3. Japan		commodity loan	26.2
4. European Economic Community	(a)	cotton development project - grant	2.2
	(b)	cotton development project - loan	8.1
	(c)	site and service - loan	3.2
	(d)	Batoka breeding ranch - loan	2.4
	(e)	Npika urban water supply - loan	2.7
	(f)	Agricultural multipurpose - loan	2.9
5. Romania		commodity loan	15.0
6. Netherlands	(a)	commodity loan	10.6
	(b)	commodity loan	2.4
7. India		commodity loan	12.3
8. International Development Association	(a)	coffee production project - grant	6.0
	(b)	technical assistance credit	5.0
9. Sweden		grant - for development projects	10.8
10. Agricultural Development Fund		water supply and sewage - loan	10.2
11. Africa Development Bank		Maamba collieries - loan	6.4
12. Federal Republic of Germany	(a)	food aid - grant	1.3
	(b)	commodity assistance - grant	5.0
13. OPEC Special Fund		railway project - loan	4.5
14. Canada		food aid - grant	3.0
15. Norway		emergency food aid - grant	1.9
16. Austria		emergency aid - grant	.2
		Total	232.6

/...

110. In total, these agreements amounted to $US 232.6 million, of which $69.4 million was in the form of grants and $163.2 million in the form of loans.

B. Assistance for specific development projects

111. While specific areas - such as transportation, communications, and Zambia's heavily affected border areas - call for urgent short-term assistance, the country is also anxious to obtain assistance for longer-term development projects and programmes reflecting the Government's development priorities. These projects, listed in table 8, form part of the country's Third Development Plan (1979-1983).

112. The emphasis which Zambia is giving to rural development and the establishment of industries based on domestic raw materials is clear from table 8. The list of projects also reflects the Government's efforts to spread development throughout the whole country.

Table 8

Urgent development projects requiring financial assistance

	Project and assistance required	Status	Estimated total cost a/
			(in thousands of US dollars)
	A. Rural development projects		
1.	Integrated pig management schemes		
	To establish two pig management schemes at Choma and Kabompo to encourage small-scale farmers through extension and co-ordination advice to improve their pig production techniques	Ongoing	500
2.	Rural milk production scheme		
	To involve 25 additional small-scale dairy farmers each year of the Plan by way of providing them with stock, building materials, basic equiment and extension advice	Ongoing	650
3.	Fruit nurseries		
	To fully utilize existing facilities for the production and sale of citrus fruit plants by provincial nurseries	Ongoing	500
4.	Cashew-nut development		
	To establish a viable tree cash-crop in the Western Province to supply the requirements of a cashew-nut processing factory in Mongu	Ongoing	50
5.	Provincial pig-breeding schemes		
	To establish breeding units at all provincial farm institutes in order to meet the ever-growing demand for breeding stock	Ongoing	650
6.	Central Veterinary Research Station		
	To complete work already started on the establishment of a Central Veterinary Research Station	Ongoing	930
7.	Zambia Cattle Development (Ltd.)		
	To assist a parastatal agency for all rural dairies formerly financed exclusively by the Government	Ongoing	18 750
8.	Chipata pork-processing plant		
	To establish a pork-processing factory in Chipata	Ready for implementation	2 500
9.	Zambia Farm Development		
	To assist a parastatal agency for farms formerly financed exclusively by the Government	Ready for implementation	5 000

Table 8 (continued)

Project and assistance required	Status	Estimated total cost (in thousands of US dollars)
10. Afe (Ltd.)(Tinkabi Tractor Project)		
To provide for simple low-horsepower tractors suitable for use by small-scale farmers	Ready for implementation	3 750
11. Dairy Produce Board (Dairy Farm expansion)		
To increase stock on the Farm	Ongoing	625
12. Zambia Horticultural Products Ltd.		
To assist the new company (formed in 1978) whose responsibilities cover marketing and processing of horticultural products in establishing:	Ready for implementation	7 500
(a) Mango product and pulping station;		
(b) Banana-ripening plants;		
(c) Depots, cold rooms and other processing facilities.		
13. Lint Company of Zambia		
To assist a newly established company whose responsibilities will cover marketing and processing of cotton to establish storage sheds, purchase vehicles, plants and machinery	Ready for implementation	2 250
14. Beeswax processing		
To establish a beeswax plant at Mwekero	Ready for implementation	105
15. Charcoal production		
To start up large-scale production of charcoal, using sufficiently advanced technology to cater for the ever-increasing demand for charcoal in major towns	Ready for implementation	135
16. NAMBOARD storage programme		
To establish both maize and fertilizer storage facilities in the form of permanent sheds in selected centres in all provinces	Ready for implementation	16 250
17. Additional projects		
Cold Storage Board: Manufacturing industrial glue as a by-product from CSB's abbatoir	Ready for implementation	130

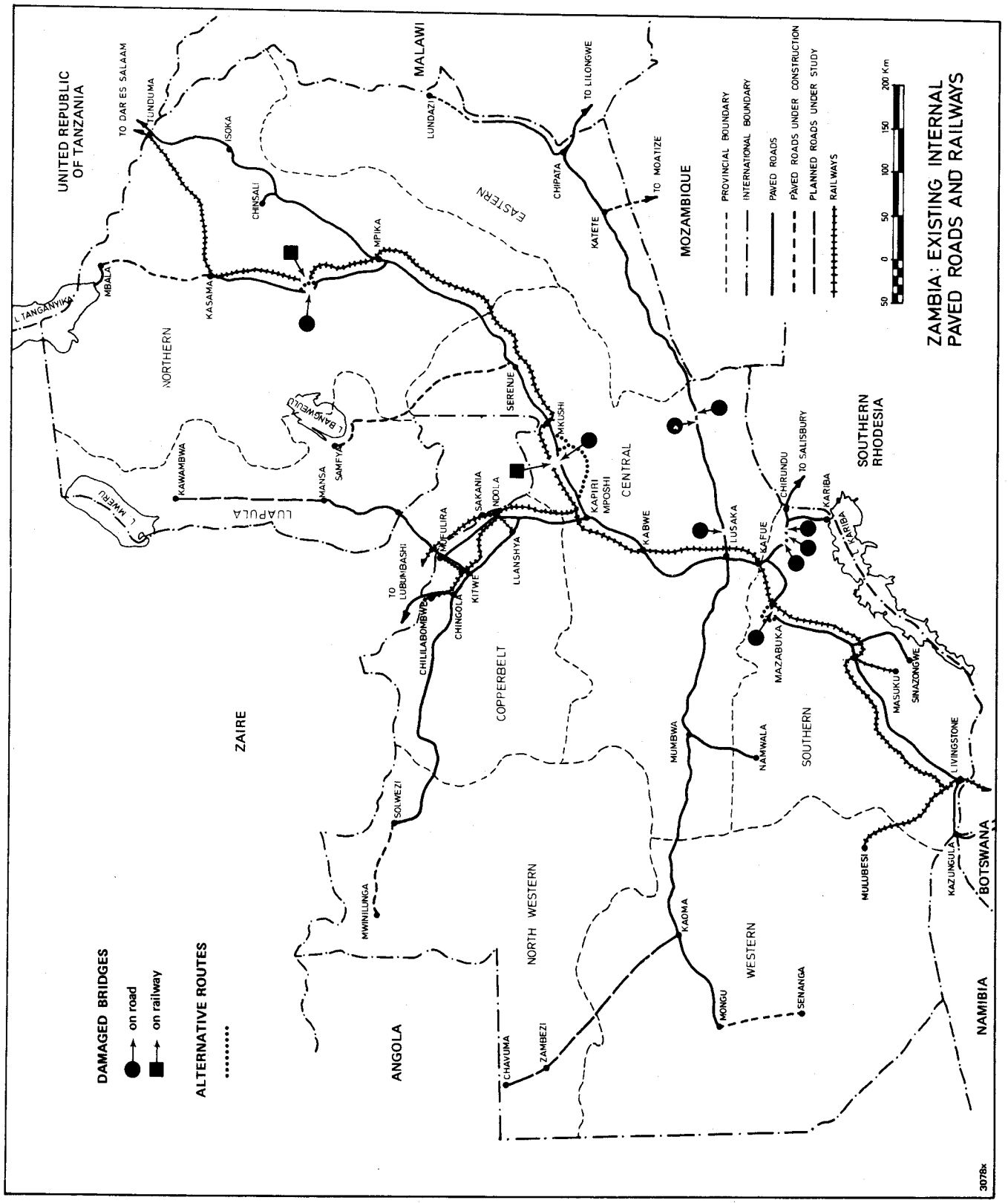
Table 8 (continued)

	Project and assistance required	Status	Estimated total cost a/
			(in thousands of US dollars)
18.	Irrigation schemes		
	To put up pilot medium-size irrigation projects in Districts to demonstrate to peasants irrigation techniques	Feasibility studies being undertaken	9 000
19.	Trypanosomiasis and Tsetse control: to clear 44,500 square kilometres of land for agricultural purposes in areas where the presence of tsetse fly has hampered development	Ongoing	24 500
20.	Regional and District Diagnosis laboratories - to establish provincial and district diagnosis laboratories for quick diagnosis of animal diseases	Ongoing	6 500
21.	Construction of dip tanks		
	To construct dip tanks and dipping facilities in livestock disease-infested areas particularly senkobo skin diseases and other tick-borne diseases	Ongoing	11 500
22.	Water Supplies (National)		
	New works and improvements to existing township and district water supplies		19 400
23.	River basin plans and Catchments		
	Construction of dams and wells in the rural areas for obtaining water supplies for domestic, livestock and irrigation purposes		5 800
		Subtotal	136 975

Table 8 (continued)

Project and assistance required	Status	Estimated total cost a/
		(in thousands of US dollars)
B. Industrial projects based on domestic raw materials		
24. Alcohol distillery and fodder yeast plant	Ready for implementation	15 000
25. Kraft pulp and paper mill	Ready for final feasibility study and financing	125 000
26. Sulphuric acid plant	Ready for final feasibility study and financing	30 000
27. Copper fabrication plant (copper sheet plant)	Project under discussion	not yet known
28. Ceremic project	Ready for implementation	18 000
	Subtotal	188 000
C. Mining		
29. Seismic basin survey of the Western sediments - to undertake seismic and other geophysical surveys and drilling to identify coal, oil shales and possible petroleum deposits in the Western part of Zambia	To be commenced in 1980	3 350
Subtotal		3 500
Total		328 325

a/ The costs estimated cover the entire plan period, 1979-1983.


ZAMBIA: EXISTING INTERNAL PAVED ROADS AND RAILWAYS
PROVINCIAL BOUNDARY
INTERNATIONAL BOUNDARY
PAVED ROADS
PAVED ROADS UNDER CONSTRUCTION
PLANNED ROADS UNDER STUDY
RAILWAYS
200 Km
DAMAGED BRIDGES
on road
on railway
ALTERNATIVE ROUTES
UNITED REPUBLIC OF TANZANIA
TO DAR ES SALAAM
TUNDUMA
ISOKA
CHINSALI
KASAMA
MBALA
L. TANGANYIKA
MPIKA
MALAWI
LUNDAZI
CHIPATA
TO LILONGWE
KATETE
TO MOATIZE
MOZAMBIQUE
EASTERN
NORTHERN
LUAPULA
L. BANGWEULU
L. MWERU
KAWAMBWA
MANSA
SAMFYA
SERENJE
MKUSHI
KAPIRI MPOSHI
CENTRAL
KABWE
LUSAKA
KAFUE
CHIRUNDU
TO SALISBURY
SOUTHERN RHODESIA
KARIBA
ZAIRE
MUFULIRA
SAKANIA
NDOLA
LUANSHYA
TO LUBUMBASHI
CHILILABOMBWE
CHINGOLA
KITWE
COPPERBELT
MAZABUKA
MASUKU
SINAZONGWE
MUMBWA
NAMWALA
SOUTHERN
LIVINGSTONE
SOLWEZI
MWINILUNGA
ANGOLA
NORTH WESTERN
KAOMA
MULOBESI
KAZUNGULA
BOTSWANA
CHAVUMA
ZAMBEZI
MONGU
WESTERN
SENANGA
NAMIBIA
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GENERAL ASSEMBLY

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Thirty-fifth session
Item 24 of the preliminary list*

QUESTION OF PALESTINE

Letter dated 2 May 1980 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a letter addressed to Your Excellency by the Second International Conference in Solidarity with the Peasants and People of Palestine, held at Baghdad from 30 March to 2 April 1980, (annex I) together with the Final Statement, in Arabic, English and French, issued by the Conference (annex II).

I would kindly request that the above enclosures be circulated as an official document of the General Assembly under item 24 of the preliminary list.

(Signed) Salah Omar AL-ALI
Permanent Representative

* A/35/50.

80-11180

ANNEX I

Letter dated 2 April 1980 from the Second International Conference in Solidarity with the Peasants and People of Palestine to the Secretary-General

At the time the Security Council is treating the topic of the Palestinian people's inalienable right to self-determination and to repatriation and to set up their independent State in Palestine,

We, members of the Second International Conference in Solidarity with the Peasants and People of Palestine who convened in Baghdad from 30 March to 2 April 1980, would like to inform you, and through you to inform all the United Nations Members, that we totally support and uphold the inalienable rights of the people of Palestine and consider that for the Palestinian people to exercise their right is the main criterion by which to judge abidance by the United Nations principles and aims, and the measure by which to judge the efficaciousness of the United Nations, as well its abidance by its Charter and resolutions.

We, members of the Conference, see that belated exercise by the Palestinian people of these rights dispels security and peace, not only in the Middle East area, but in the whole area as well.

The Conference greets the Security Council members who agreed to and abided by the latest resolution which first condemned the Zionist entity's policy of setting up settlements on the occupied land of Palestine as violating the principles of international law, and of the Fourth Geneva Accord, and which secondly required that these settlements should be removed.

The Conference also denounces the United States of America's going back on its stand of supporting this resolution, which is a new evidence of the close co-operation between American imperialism and world zionism.

As peasants, agricultural workers and agricultural co-operatives workers, who are basically and inextricably linked to the land, we severely denounce the Zionist entity's policy of sequestrating the Palestinian land regardless of its rightful owners for the purpose of setting up Zionist settlements to be occupied by alien Zionists brought forth from every nook and corner in the world. We deem that this policy means uprooting the Palestinian people from their rightful land, and is an attempt to obliterate and efface their identity as well as a step on the way to exterminating them from the Palestinian land and having them expelled from it.

In the light of all this we call on you, proceeding from the responsibilities with which you are entrusted in accordance with the Charter, to make your utmost efforts to put an end to this racist policy which the Zionist entity follows and to acquaint world public opinion with the aim of this policy, which is to terminate Arab presence in Palestine.

/...

In this connexion we attach a copy of the resolutions approved by the Conference, in order that you may know the extent of world support enjoyed by the peasants and people of Palestine, as well as the solidarity of the forces participating in the Conference with the Palestine Liberation Organization and the Palestinian people's inalienable rights and cause.

With all the Conference's appreciation and thanks to Your Excellency.

ANNEX II

Final Statement issued by the Second International Conference in Solidarity with the Peasants and People of Palestine, held at Baghdad from 30 March to 2 April 1980

In accordance with the resolution taken by the preparatory committee which included in its membership :

a) The World Union of Agricultural, Forestry and Horticulture workers.

b) Arab Peasants' Union.

c) Peasant Unions in each of :

The Soviet Union

Bulgaria

Poland

Cuba

Belgium

Italy

India

Ghana

Syria

Iraq

Algeria

Al Gamahiriya

Palestine,

And under the slogan :

We liberate from the land of Palestine in paralled with the process of liberating the Arab man, the General Union of the Farmers' Cooperative Societies has hosted the Second International Conference in Solidarity with the Peasants and People of Palestine.

This conference was held in Baghdad from the 30th of March to 2nd of April 1980, under the patronage of the militant leader President Saddam Hussain, who deputied Mr. Ezzat Ibraheem to attend on his behalf.

Mr. Ezzat Ibraheem gave an inclusive address that stressed the pan-Arab nature of the battle with the zionist entity which is backed by American imperialism, the enemy of the Arab Nation and of all peoples of the world. Mr, Ibraheem also hailed in his address the farmers' role in the battle. The address was an objective analysis of all the national, revolutionary and progressive dimensions of the battle.

The conference was also attended by brother Mohammed Zohdi Al-Nashasheebi, Secretary General of the Palestinian Liberation Organization's Executive Committee, as representative of militant brother Yassir Arafat, Chairman of the Executive Committee and Commander-in-Chief of the Palestinian Revolution's forces. Brother Al-Nashashibi delivered an address that dealt with the Land Day, the struggle of the peasants and people of Palestine and the repressive measures taken by the zionist entity against the farmers and people of palestine.

After the conference had listened to the addresses of each of the Preparatory Committee, the General Union of the Farmer's Cooperative Societies in Iraq, and the Palestinian Peasants Union, each of the 173 participating delegations addressed the conference. These were delegations from peasant and agricultural labour Unions and from agricultural cooperatives, as well as from some world forces and organizations in Asia, Africa, Latin America, Eastern and Western Europe, the U.S.A., and Canada.

The conference discussed the report forwarded by its preparatory committee, and the two documents forwarded by both the Palestinian Peasants Federation and the General Union of the Farmers' Cooperative Societies in Iraq. Both documents dwelt on the palestinian cause, and the struggles mounted by

the Arab people of Palestine under the leadership of the Palestinian Liberation Organization as the legitimate and sole representative of the Arab People of Palestine.

The conference also listened to the message sent the conference by militant brother Yassir Arafat. The message outlined measures followed by the zionist entity for the forcibile expatriation of Arab peasants and people from their rightful land.

The convention of this conference coincided with the fourth anniversary of the Land Day in occupied Palestine; which is the day that witnessed a violent popular revolution mounted by peasants against the zionist entity's attempts and his repressive measures to gain control of the Arab land of Palestine and to expropriate the Palestinian peasants thereof. Also, the conference examined the Palestinian issue and the zionist acts of aggression against South Lebanon, the issue of struggle to liberate palestine has human dimensions and does not end at the borders of palestine or the Arab homeland but it goes beyond that to international horizons since the palestinian people and the Arab Nation, in their struggle against Zionism and American imperialism, are undertaking a human task that concerns all the people of the world becaus they are fighting against the enemies of the peoples of the world i.e. imperialism and zionism.

The conference considers that the solidarity and support lent in the international gatherings by the peace, freedom, and independence loving peoples of the world to the palestinian and Arab struggle for the purpose of consolidating the Palestinian issue and promoling the legitimate rights of the Arab People

of Palestine; and to offer them material and moral support is a profoundly human stand expressive of the solidarity of the whole world with the issue of justice and peace, as well as that of standing against aggression, injustice and aggression,

The conference agreed upon the following resolutions and recommendations :

At the level of Palestine :

1 - The right of the Arab people of Palestine to their homeland, Palestine, and their right to independence and sovereignty has always been existent long before the establishment of the Zionist entity and the foundation of the United Nations. So it is impermissible to impose any condition on the people of Palestine in return for practising their legitimate rights.

2 - The conference condemns the Zionist movement since it is one of the aspects of racism and racial discrimination, and it condemns the zionist racist occupation of the Arab land of Palestine. The conference calls for total withdrawal of the zionist entity from all the occupied Arab Land of Palestine.

3 - The conference considers the zionist racist entity as an advanced base of American imperialism in the Arab homeland.

4 - The conference condemns the measures taken by the zionist racist entity and its suppressive practices against the peasants and people of Palestine, as well as the acts of usurping lands, exappropriation of properties, zionist acts of settlement, and usurpation of water resources.

Also, the conference supports the struggle of the peasants and people of Palestine to keep their lands and possessions, and it announces its solidarity with these struggles.

5. The conference announces its solidarity with the P.L.O., the legitimate and sole representative of the Arab People of Palestine, and the struggle the P.L.O. is mounting for the liberation of Palestine from the zionist racist occupation.

6. The conference calls upon all the forces of the world to support morally and materially the struggles of the peasants and people of Palestine, within the framework of the P.L.O. under the leadership of militant brother Yassir Arafat so that the People of Palestine may get their unalienable national rights, including their right to return to their homeland, to their self-determination, and the unconditional establishment of their independent state in their homeland, palestine.

Moreover, the conference the United Nations and the Arab League to give all forms of essential aid, to the Palestinian cause.

7. The conference calls for supporting the Arab Palestinian Agricultural Cooperatives in the occupied lands, as well as making world market accessible to the products of the peasants and people of Palestine to enable them to stand against the zionist acts of aggression on their land and properities and plundering of their products. The conference also calls for boycotting the products of zionist racist entity.

8. The conference calls for raising an Arab Fund with a view of lending assistance to the peasants and people of Palestine inside the occupied land which would help them to stands against the policies of suppression, oppression, land expropriation and property usurpation.

9. The conference calls for granting the palestinian issue, the central cause of the Arab revolution its prominent importance in the conferences and at all Arab and international levels.

10. The conference condemns all political attempts at liquidating the palestinian cause, and rejects all formulas and practices condusive to this end.

11. The conference hails the martyros of the Land Day in occupied palestine as well as all the martyros of the Palestinian and Arab revolution.

12. The conference calls for conducting training courses and for offering medical treatments educational opportunities and to the palestinian peasants and their sons as well.

13. The conference support the resolutions taken by the first conference and compasizes that 30th March the Land Day in the occupied Palestine shall be the World Peasants Day as representing peasants' struggle against aggressors and usurpers.

At the Arab Level :

1. The conference condemns the American Zionist aggression against the Arab homeland and the whole world. The conference also condemns Camp David accords, the Sadat Zionist American

tripartite alliance, the normalization of relations between the zionist entity, Sadat's regime and autonomy conspiracy. The conference supports the struggle of the Arab Nation to abort this conspiracy.

2. The conference hails the Egyptian progressive and national movement and supports the struggle it mounts to overthrow the puppet regime of Sadat drawing Egypt back into the Arab rank. The conference also hails the movement's adherence with the Palestinian revolution and people.

3. The conference condemns the repeated zionist-American agressors against South Lebanon, and highly praises the stead fastness of the Lebanese peasants and people against the zionist acts of aggressiors. The conference also hails the militant cohesion existing between the Palestinian revolution and the national,progressive, and the pan-Arab Lebanese movement.

4. The conference hails the freedom fighters of the palestinian revolution and the national, progressive and the pan-Arab movement in their joint struggle against the isolationist American agression.

5. The conference calls for supporting the peasant and people of South Lebanon, and regards their cause and sufferings as indivisible from the cause and sufferings of the people and peasants of palestine.

6. The conference condemns the fascist practices of the isolationist agents of zionism. It supports the struggle of the Palestinian revolution and the national, progressive and then pan-Arab movement to preserve the Arabism of Lebanon and its territorial integrity.

7. The conference hails the principled pan-Arab stand followed by the forces of the Arab revolution, and its continued support for the palestinian revolution as it discharges into militant tasks. It calls that the Arab forces stick cooperatively together, uniting their ranks against the zionist-Imperialist danger that threators the Arab homeland.
8. The conference condemns the zionist deployment of military troops along the Syrian front and South Lebanon. It calls for reinforcing of military capabilities along the Northern and the Eastern fronts, placing material and military facilities at their disposal, and enhancing the militant cohesion between their parties that comprise the Palestinian revolution, the Lebanese National movement, Syrian, Iraq, and the Arab people of Jordan.
9. The conference calls for making all the Arab fronts accessible to the Palestinian revolution forces to enable them discharge their militant tasks.

<u>At the International level</u> :

1. The conference condemns world imperialist and colonialist policy led by U.S. imperialism, and regards it as an enemy to the peoples of the world. It condemns also the colonialist and imperialist existence in the Arab homeland especially the existence of U.S. imperialism, and calls for the withdrawal of the fleets and the removal of this imperialist military bases from all parts of Arab homeland, particularly from Arab Gulf Area.

2. The conference hails the great role played by the Islamic Countries, the non-aligned countries, and by the socialist states, foremost among them being the Soviet Union, in support of the Arab people of Palestine, the P.L.O., and the Arab Nation, for the realisation of their just and legitimate objectives.

3. The conference hails the struggle of all peoples of the world and of the national liberation movements against imperialism, zionism and racial descrimination.

4. The conference calls upon all the organizations of peasants, agricultural workers and cooperatives to establish their relations with the world organizations in the light of their attitude toward the Palestinian Cause.

General Resolutions:

1. To send ammessage of thanks to the militant leader President Saddam Hussein the Chairman of the Revolution Command Council.

2. To send a message of support and solidarity to the militant brother Yassir Arafat, the Chairman of the Executive Committee and the Commander-in-Chief of the Palestinian Revolution Forces.

3. To send a message to Mr. Kurt Waldheim, the U.N. Secretary General about terrorism practised by the Zionist entity against the peasants and people of Palestine, and to inform him of the conferences's resolutions and recommendations.

4. To set up a permanent committee to follow up the implementation of the resolutions and recommendations taken by this conference.

The Second International Conference in Solidarity with peasants and people of palestine heartly thanks Iraqi people and government for the efforts they made under the leadership of the militant leader Saddam Hussein to bring about the success of this international conference, and for the generous Arab hospitality extended.

The conference also thanks the General Union of Farmers' Cooperative Societies in Iraq and its Chairman, the militant brother Karim Al-Jassim for the warm welcome extended to the conference's members, and appreciate the great efforts exerted to bring about the success of the conference.

The conference thanks the Preparatory Committee and the International Federation of the Agricultural, Forestry and Horticulture Workers, and appreciates their efforts for the preparation of this conference.

The Second International
Conference in Solidarity with Peasants
and People of Palestine
Baghdad 30/3 - 2/4/1980
