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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Measures to be taken against nazi, fascist and neo-fascist activities
and all other forms of totalitarian ideologies and practices based on
racial intolerance, hatred and terror

Report of the Secretary-General

Addendum

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* A/36/150.

** The full texts of the replies received from Governments are available for consultation in the files of the Secretariat.

I. SUMMARY OF COMMENTS PROVIDED BY STATES

1. Pursuant to the request made by the General Assembly in resolution 35/200 of 15 December 1980, the Secretary-General, on 19 January 1981, addressed a note verbale to all States inviting their comments on the implementation of the provisions laid down in General Assembly resolution 2839 (XXVI) and on measures that should be taken at the national and international levels to eradicate nazism, fascism, neo-fascism and related ideologies based on racial intolerance, hatred and terror.

2. The replies received from Burundi, the Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, France, the German Democratic Republic, India, Mongolia, Nauru, Nicaragua, Pakistan, Qatar, Romania, Sri Lanka and the Ukrainian Soviet Socialist Republic were reflected in paragraphs 10 to 30 of document A/36/209 of 16 April 1981.

3. The replies received from Afghanistan, Austria, Botswana, Costa Rica, Egypt, Gabon, Germany, Federal Republic of, Hungary, the Philippines, Poland, San Marino, Senegal, Tunisia and the Union of Soviet Socialist Republics are reflected in the present document.

4. The Government of Afghanistan declared that it was its consistent policy to struggle against all manifestations of racism, of which nazism and fascism, zionism and apartheid are most brutal and inhuman forms. At the national level the Government ensured strict respect for the human rights of all nationalities and ethnic groups in the country and their complete equality in all spheres of life. It added that any manifestation of racial discrimination was punishable by law. The Government referred to article 7 of the Fundamental Principles according to which Afghanistan declared its pursuit of a policy of equal rights, fraternal friendship and all-out development of all nationalities, tribes and clans which lived in their indivisible homeland, Afghanistan, irrespective of their size and supported solidarity among all nationalities, tribes and clans in their struggles to realize the objectives and aspirations of the Saur (April) Revolution and ensured and guaranteed their legal rights. The Government expressed its support for the struggle of nations and peoples of the world for peace, national and social freedom, democracy and progress against colonialism, neo-colonialism, imperialism, zionism, racism, fascism, racial discrimination and apartheid. In particular, it condemned the policy of apartheid of South Africa and supported the struggle of the people of South Africa and Namibia for self-determination.

5. The Government of Austria reported that, having been the victim of nazi and fascist aggression, it had taken effective measures against the resurgence of such ideologies. The report mentioned that Austria had enacted legislation to the effect that any nazi activity on Austrian territory is liable to severe penalty. The Government referred to legislation and decisions of the Austrian Supreme Court as evidence of its commitment to eradicate nazism and fascism. By ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, the Government had taken another step towards the eradication of racial intolerance, hatred and terror. The Government further pointed out that the basic ideas underlying the Convention had been raised to the level of constitutional law

and that there was an effective judicial remedy to safeguard the effective application of the Convention. It considered that the Convention on the Prevention of Genocide, which it had ratified, provides additional safeguards against the resurgence of nazism in all its forms.

6. The Government of Botswana drew attention to section 15 of its Constitution which states that, unless otherwise provided in the Constitution, "no law shall make any provision that is discriminatory either of itself or in its effect". The section further provides that "no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority". The Constitution defines "discriminatory as meaning" ... affording different treatment to different persons, attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinion, colour or creed...".

7. The Government of Costa Rica reported that its legal institutions and the ideologies of its political parties were in conformity with article 1 of its Constitution which defines the Government as a "democratic, free and independent Republic". The Government stated that totalitarian ideologies and practices based on racial intolerance, hatred and terror were alien to its political and legal systems. However, it acknowledged that certain political and economic conditions could be conducive to the emergence of such ideologies and practices. It was pointed out that, while no system of government was immune from nazism and fascism as such, the fact that Costa Rica had no army had been a protective shield against certain internal sources of fascist or neo-fascist practices. In the international context, the Government considered it appropriate to point out that the terms of international trade relations and the meagre success of efforts to achieve a genuine North-South dialogue were rapidly aggravating the already unfavourable conditions in developing countries and hence making it more difficult for such countries to curb the inroads of totalitarianism and fascism.

8. The Government of Egypt reported that it was participating in international endeavours aimed at combating racial discrimination. This position was an outstanding feature of Egyptian policy and reflected the basic constituents of Egyptian society as defined in the constitution and confirmed through legislative enactments. The Government also reported that in the quest for measures to be taken to combat the propagation of nazism, fascism and related ideologies based on the concept of racial discrimination and segregation, its pioneering experiences may be seen from a review of its constitutional and legislative provisions. The Government pointed out that its Constitution recognized the rights of individuals and guaranteed the protection of such rights within the framework of the fundamental principle that all persons were equal before the law "without discrimination on grounds of sex, origin, language, religion or belief" (art. 40 of the Constitution). Consistent with the principles contained in the Constitution, numerous legislative instruments have been promulgated to combat racial discrimination and forbid the dissemination or propagation of its ideology. The Government referred to certain legislative acts and several provisions of its legal code which prohibited and provided measures against organizations attempting to change the social systems of the State. The Government stated that the

establishment of a private association pursuing the principles of nazism or fascism was included in the general proscription since any racist propaganda was incompatible with the basic constituents of the society of the country.

9. The Government of Gabon stated that since its motto was "Unity-Work-Justice", and that of the national political party, the Parti démocratique Gabonais, "Dialogue-Tolerance-Peace", needless to say, such crimes against humanity would never be the work of Gabonese nationals and the Government would on no account allow foreigners to commit such crimes in Gabonese territory. Gabon would therefore always vigorously support the action that would continue to be taken to remove that scourge from the face of the earth.

10. The Government of the Federal Republic of Germany recalled its particular interest in questions relating to combating nazism, fascism and neo-fascism. For many years it has been taking effective measures to prohibit Nazi and racist organizations and groups. As a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination, the Government expressed its full agreement with the objectives of this Convention. It pointed out that the legal system of the Federal Republic of Germany was based on respect for the dignity of the individual as the primary principle of human co-existence. In this connexion, reference was made to the first 19 articles of the country's Constitution of 1949. The rights contained therein were binding on the executive and the judiciary as direct valid law. As an additional deterrent to the formation of Nazi organizations, the Government states that the legislation enacted by Allied and German authorities for the liberation of the German people from National Socialism and militarism was still in force. In addition, the Basic Law also required that individual citizens subordinate their rights and interests to the principle of respect for the dignity of their fellowman. In addition, numerous laws, including the Penal Code, enabled governmental agencies, especially prosecuting authorities, to prosecute for violations of the ban on dissemination of Nazi ideology. The Government referred to the results of recent parliamentary elections held on 5 October 1980 as an indication of lack of any appreciable support for the adherents of nazism or racist ideologies. The Government pointed out, however, that certain disjointed military neo-Nazi groups without a fixed organizational structure maintain contacts with like-minded groups abroad. While such groups have not managed to develop a nation-wide organization, their potential dangers have not been underrated. These dangers were demonstrated in particular by the fact that the membership of such groups had grown so have their excesses. The Government reported 113 incidents involving violence by such groups in 1970. However, the trend was being observed very closely and the authorities responsible for security and criminal prosecution were taking the necessary steps. It was pointed out that in numerous cases criminal proceedings have been instituted and penalties imposed. In addition, the Government was encouraging intensified international co-operation in the matter. It felt that an important method of combating right-wing extremism was to inform people of the crimes perpetrated by the Hitler régime and immunize young people, in particular those who did not experience that régime, against neo-Nazi propaganda. In this respect, the television series "Holocaust", which was shown in the Federal Republic of Germany, proved especially valuable and useful. The series had a substantial effect and

undoubtedly helped considerably to promote a critical awareness of neo-fascism. The Government reported that the German public was in favour of the continued prosecution of persons guilty of crimes committed under the Nazi régime.

11. The Government of Hungary recalled its support of initiatives to take measures against nazism, fascism, neo-colonialism, and racial discrimination. It affirmed that the manifestations of these ideologies and practices threatened international peace and security and constituted a serious obstacle to friendly relations between States and people and to the full and universal observance of human rights. The Government expressed its deep concern at the increase of activities at the national and international levels which propagated nazism, fascism, neo-fascism and racial discrimination and afflicted peoples in a number of politically-sensitive areas of the world. The Government felt that the United Nations should take action against the increase of such activities and should urge the adoption of universal and effective measures designed to end political practices which not only left scope for activities based on fascism, neo-fascism and racial discrimination but also raised them to the level of state or government policy. The Government made reference to various national laws and regulations which provided among other things, that (a) certain war crimes and certain crimes against humanity shall not be subject to statutory limitations; (b) acts aimed at exterminating a national, ethnic, racial or religious group, wholly or in part, shall be a criminal offence; the attempted domination of one racial group by another is punishable as a crime; (c) whoever, in presence of others and with intent to arouse hatred against any people, religious denomination or race, commits an act likely to arouse such hatred shall be punishable for a crime. The Government also referred to article 261 of its Criminal Code covering acts of terrorism. Finally, the Government stated that its citizens were equal before the law and enjoyed equal rights and that any discrimination of citizens on grounds of sex, religion or nationality was a severely punishable offence. The Government pointed out that it was a party to the relevant international conventions and had consistently complied with its obligations under such instruments.

12. The Government of the Philippines reported that the ideologies of fascism, nazism, or neo-nazism were practised nor did they overtly exist in the country. The Government further stated that in its open and free society the basic human rights were fully observed and respected in accordance with relevant international instruments. Furthermore, the Government reaffirmed its commitments to the maintenance of its democratically-based institutions and practices. Under such conditions, it was indicated that the ideologies of fascism, nazism or neo-nazism could take root in the country.

13. The Government of Poland recalled the tremendous loss of life and property and the interruption of Polish education endeavour occasioned during the struggle against nazism and fascism in the Second World War. The Government expressed its concern at the recent increase in Fascist and neo-Nazi activities and in the dissemination of ideologies based on racial intolerance, hatred and terror. The Government emphasised that racism, fascism and neo-fascism and other ideologies based on racial intolerance, hatred and terror constitute a threat to world peace, international security and to the realization of human rights and fundamental freedoms. It stressed the importance of taking appropriate action at the national

and international level. At the national level, the Government suggested that the perpetrators of Nazi and fascist crimes committed during the Second World War should be severely punished. In this connexion, the Government referred to its decree of 2 August 1944 on the punishment of Fascist-Hitlerite criminals, and to its law of 22 April 1964 on the Non-Applicability of Statutory Limitations to Nazi War Crimes. The Government reported that through its Central Commission for the Investigation of Nazi Crimes in Poland it was co-operating with similar organs of other countries. In addition, in the field of education and information the Government was taking all possible measures to expose the danger inherent in the propagation of ideologies and practices based on racial discrimination, hatred and terror.

14. The Government of San Marino stated that under the "Declaration of the Rights of Citizens and the Fundamental Principles of the Legal System of San Marino", adopted by Law No. 59 of 8 July 1974, the Republic of San Marino condemned and rejected fascism and any totalitarian concept of the State. In addition to that important and solemn declaration of principle, there was also Law No. 24 of 1 September 1950, which prohibited the reorganization, in any form whatever, of the Fascist Party, as well as Law No. 43 of 29 September 1972, which prohibited the sale of objects reproducing symbols or figures of fascism.

15. The Government of Senegal stated that the preamble to the Constitution proclaimed Senegal's commitment to fundamental rights as set forth in the 1789 Declaration of the Rights of Man and of the Citizen in the Universal Declaration of Human Rights of 10 December 1948. The Constitution also guaranteed equality before the law to all citizens without distinction as to race. The Government added that the sacred nature of the human person was affirmed in the Constitution and that the State had the obligation to respect and protect the human person. The Government stated that it had taken measures to protect the human person and to combat all forms of attacks against the inviolable and inalienable fundamental rights of the human person.

16. The Government of Tunisia stated that such forms of ideologies and practices based on racial intolerance and hatred had never existed in Tunisia. It added that Tunisia had chosen, since its independence, a régime in which human rights and those of the citizen were proclaimed in the Constitution and governed by legislation. The Government referred to several articles of the Constitution which guaranteed equality to all citizens with respect to their rights and duties, affording them equality before the law.

17. The Government of the Union of Soviet Socialist Republics stated that the recent revival in a number of countries and the growing scale of activities of neo-fascist and racist organizations that openly exist render urgent and timely consideration of the question in the United Nations of effective measures to be taken at the national and international levels to combat this dangerous trend. The Government believed that a systematic struggle to strengthen world peace was an important factor and real guarantee for the prevention of a resurgence of nazism and the spread of other ideologies which served to incite hostility among nations. The Government indicated that the legislation presently in force in the country obviated any possibility of the emergence of any ideologies and practices based on

racial intolerance, hatred and terror. In this connexion, reference was made to article 36 of the country's Constitution and article 74 of its Criminal Code which prohibited and penalized any direct or indirect limitation of the rights of citizens.

18. The Government reported on its publicity and enlightenment campaigns and the orientation of its education systems and the use of the mass media towards educating its citizen in the spirit of the ideals of peace, equality of rights and friendship among nations.

II. MEASURES SUGGESTED BY STATES

19. The Government of Austria expressed the view that all States Members of the United Nations should make an effort to increase awareness of the responsibilities which ensue from the respect of human rights in a democratic society. To this end, an appropriate information campaign at all educational levels and in all types of schools should start immediately with a view to fostering understanding of and respect for others. The Austrian Government believed that such a process had to begin with primary education and had to lead to education in the field of human rights which was - first and foremost - education towards tolerance. Austria was convinced that initiatives similar to those undertaken in this field by the Council of Europe might serve as an example for measures to be taken on a regional level. Austria was of the opinion that a harmonization and strengthening of the legislation applicable in the field of prevention of any form of intolerance would constitute an effective measure. The uniform application and meticulous observation of the relevant conventions of the United Nations was another means of implementing the thrust of resolution 35/200. Finally, the Government suggested that the best way of countering the forms of intolerance in question lay in the preservation and consolidation of democratic institutions and in encouraging citizens to take an active part in democratic procedures.

20. The Government of Costa Rica suggested that in order to prevent the emergence of such practices efforts must be aimed at strengthening such democratic practices as informed, active and conscious participation by citizens in solving the many national problems and by consolidating a legal and institutional system that guaranteed the rights of the individual and also his basic social rights (work, health, housing, education) and his economic rights.

21. The Government of the Federal Republic of Germany considered it useful to discuss international measures for the eradication of ideologies based on racial intolerance, hatred and terror. It felt that intolerance, hatred and terrorism were to be condemned in all instances, regardless of whether they were founded on right-wing or left-wing extremism. The Government further stated that for international measures against neo-fascism to be credible and effective, they must form part of the struggle against all forms of racial or group hatred.

22. The Government of Hungary recommended that: the General Assembly should resolutely reaffirm its position against Nazi, fascist and neo-fascist activities; the question should be maintained on the agenda of the General Assembly; the

General Assembly should call on Member States to keep the Secretary-General informed of the measures they have taken to eradicate ideologies propagating nazism, fascism, neo-fascism, racial intolerance, hatred and terror, and should request the Secretary-General to prepare period reports on the measures contained in the information received; the General Assembly should request the Secretary-General to make available to Member States a list of the States parties to the relevant international conventions, with a view to promoting consideration of this question. Finally, with regard to the illegal occupation of Namibia by South Africa, the Government of Hungary called for the application of effective sanctions against South Africa.

23. The Government of Poland suggested that the dissemination and manifestation of all ideologies and practices based on racial discrimination, hatred and terror should be punishable by law. At the international level, the Government suggested that the United Nations make an appeal to all States which have not yet done so to ratify the relevant international instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Discrimination, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the Convention on the Prevention and Punishment of the Crime of Genocide, and the International Convention on the Suppression and Punishment of the Crime of Apartheid. In addition, it suggested that the United Nations adopt a declaration concerning all manifestations of those ideologies and practices relating to racial discrimination, hatred and terror. Such a Declaration could, in addition, proclaim 1 September International Day of the Struggle against Fascism, to epitomize the sufferings and losses inflicted on mankind by fascism and nazism.

24. The Government of the Union of Soviet Socialist Republics recommended that: the drafting of a declaration on this question, and the intensification and expansion of publicity and educational campaigns in international organizations; effective State action at the national level; national organs of supreme legislative and executive power should be given the main responsibility for taking timely and effective measures to suppress the activities of fascist, neo-facist and other racist organizations as they emerge in the national territory; calling upon States which have not yet done so to ratify or accede to such important international agreements as the International Covenants on human rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, with a view to incorporating their provisions in their laws and systematically implementing them. The Government also considered that the systematic struggle to strengthen peace, deepen international détente, curb the arms race and ensure steadfast observance of the principles of the territorial integrity of States and inviolability of their frontiers was an important factor and a real guarantee in preventing the resurgence of Nazism and the spread of other theories calculated to incite hostility among nations.