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SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva
on Friday, 12 February 1982, at 10 a.m.

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES,
INCLUDING PALESTINE (agenda item 4) (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES
UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9)
(continued)

1. Mr. FURLAND (United Kingdom) said, in explanation of his vote on draft resolutions E/CN.4/1982/L.3, L.4 and L.6, that his delegation had set out on many occasions its view on the need for Israel to withdraw from the Arab territories it had occupied since 1967. It deplored Israel's refusal to acknowledge the applicability of the Geneva Conventions to those territories, as well as that country's settlement policy. The unilateral initiative taken by Israel to change the status of the Golan Heights was unacceptable, null and void and without legal effect. If the allegations that prisoners were being tortured in Israel were confirmed, that would constitute a grave breach of international humanitarian law and human rights. But the documents before the Commission did not appear to confirm those allegations.
2. The return of peace in the Middle East was one of the principal international problems at present. His delegation therefore regretted that it had been unable to support some of the resolutions adopted the day before, which included unacceptable elements that were unlikely to facilitate a solution. As the language of part A of draft resolution E/CN.4/1982/L.3 was unbalanced and excessive and the allegations of torture referred to in paragraph 5 (g) had not been substantiated, his delegation had abstained in the vote on that text. The sponsors had refrained from introducing Chapter VII of the Charter in part B of the same resolution; his delegation had therefore been able to approve that section, noting, however, that the list of resolutions in preambular paragraph 2 was not complete.
3. His delegation had been unable to support draft resolution E/CN.4/1982/L.4, because it did not keep a proper balance between Israeli rights and Palestinian rights and contained an unacceptable reference to the Camp David accords. His delegation had also voted against draft resolution E/CN.4/1982/L.6 for the same reasons for which it had recently refused to adopt General Assembly resolution ES-9/1 in New York.
4. Mr. GIAMBRUNO (Uruguay) said that he had voted in favour of draft resolution E/CN.4/1982/L.3, although he had reservations concerning operative paragraph 5 (c), (g) and (h) and did not see any need for the holding of the seminar provided for in paragraph 15. His delegation also had certain objections to paragraphs 4, 5, 6 and 7 of draft resolution E/CN.4/1982/L.4 concerning the inalienable right of the Palestinian people to self-determination. The day before, during the separate vote on paragraph 5, his delegation had emphasized that any initiative in favour of peace between two States should be respected. Lastly, his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.6, which, in its opinion, did not come within the competence of the Commission on Human Rights - and for the same reasons which had caused it to abstain at the emergency special session of the General Assembly. Uruguay disapproved of the measures taken by Israel with regard to the Golan Heights, but it did not share the conclusions of the draft resolution in question, which would not help to solve the problem.
5. Mr. BURGERS (Netherlands) said that a comprehensive peace settlement of the Middle East conflict was of critical importance for world peace. It should be based on the principles defined in Security Council resolutions 242 and 338:

the right to existence and security of all the States in the region, including Israel and justice for all peoples, including recognition of the legitimate rights of the Palestinian people, which included their right to self-determination. The Israeli policy on settlements in the occupied territories constituted a serious obstacle to the peace process in the Middle East and a violation of international law. His Government considered that the fourth Geneva Convention of 1949 applied to all the occupied territories. Israel's decision, which amounted to annexation of the Golan Heights, was contrary to Security Council resolution 242 and to international law, as had been argued on various occasions by the States members of the European Community in the General Assembly, and especially during the ninth emergency special session. Although his Government had voted in favour of General Assembly resolution 36/147 E and paragraph 8 of resolution 36/226 A condemning Israel's policy in the occupied Syrian territory of the Golan Heights, it had some difficulties with the resolutions which the Commission had just adopted.

6. In part A of draft resolution E/CN.4/1982/L.3, the reference to torture inflicted on detainees was not in accordance with the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. Moreover, the text of resolution E/CN.4/1982/L.4 was unacceptable, since, inter alia, it did not consider that the Camp David accords might constitute a step towards a comprehensive peace settlement. As for the resolution in document E/CN.4/1982/L.6, his delegation could not accept the criticisms directed at one member of the Security Council in the last preambular paragraph and also could not accept the reference in operative paragraph 4 to General Assembly resolution ES-9/1. The States members of the European Community had expressed their point of view on that subject at the General Assembly's emergency special session. Moreover, the Commission should not make use of formulas which came within the competence of the Security Council.

7. Mr. MARTINEZ (Argentina) said that although his delegation had approved draft resolution E/CN.4/1982/L.3 as a whole, it would have abstained if operative paragraph 3 had been put to the vote separately, for the reasons it had given in the General Assembly in the vote on resolutions 36/120 F and 36/147, which were mentioned in the fourth preambular paragraph. His delegation had abstained in the separate vote on operative paragraph 6 of resolution E/CN.4/1982/L.4, for the reasons it had given in the General Assembly in the vote on resolutions 36/120 F and 36/226 A. Lastly, it had abstained in the vote on draft resolution E/CN.4/1982/L.6, in conformity with the view expressed by the Argentine delegation when the General Assembly, at its emergency special session, had adopted resolution ES-9/1 and especially paragraphs 11, 12 and 13, which were referred to in operative paragraph 4 of draft resolution E/CN.4/1982/L.6.

8. Mr. BELL (Canada) said that his delegation had voted against part A of draft resolution E/CN.4/1982/L.3 and in favour of part B. It had abstained in the vote on the resolution as a whole. Moreover, it was surprising that there had been a vote on the whole of a text composed of two quite distinct parts, even if they came under the same agenda item. It would have been more logical for the sponsors to have submitted two separate draft resolutions so that the Commission would not have had to take a decision on the whole. He hoped that that procedure would be followed at the Commission's next session so that delegations would not be obliged to take over-all decisions which did not clearly and fully reflect their views.

9. The Canadian delegation had voted against draft resolution E/CN.4/1982/L.6. The unilateral action of the Israeli Government with regard to the occupied Syrian territory of the Golan Heights had been considered in a number of United Nations forums in the previous two months, and especially at the ninth emergency special session of the General Assembly a week before. It was well known that his Government had stated its opposition to Israel's action, which it considered contrary to international law and detrimental to peace. It had therefore endorsed Security Council resolution 497 (1981) and hoped that Israel would reverse its decision. However, certain other elements in draft resolution E/CN.4/1982/L.6, which had been taken from General Assembly resolution ES-9/1, were objectionable, particularly the eighth preambular paragraph and operative paragraph 3, which encroached on the field of competence of the Security Council. Paragraph 4, which called for actions amounting to sanctions under the Charter and which challenged the bona fides of Israel as a Member of the United Nations, was also unacceptable. His delegation had therefore had to vote against draft resolution E/CN.4/1982/L.6.

10. Mr. FELDMAN (United States of America) said he had hoped that the resolutions submitted under agenda items 4 and 9 would have been moderate, practical and reasonable approaches towards a settlement of the problem of the Middle East. Unfortunately, that had not been the case and his delegation had been obliged to vote against the draft resolutions in documents E/CN.4/1982/L.3, L.4 and L.6.

11. His Government deplored Israel's action with regard to the Golan Heights, which it regarded as null and void. It had therefore supported Security Council resolution 497 (1981) and had also taken steps at the bilateral level. Since the Security Council had considered that question properly and taken a decision which represented the consensus of the international community, he wondered why the sponsors of draft resolution E/CN.4/1982/L.6 wished to involve the Commission on Human Rights. His delegation supported the statements made at the preceding meeting by the representative of Peru and rejected any idea of mandatory or voluntary sanctions against Israel.

12. The resolutions adopted the day before were based on a spirit of revenge and tended to aggravate differences of opinion and conflicts. They condemned the process of negotiation which had brought about peace between two former antagonistic countries and they suggested that peace and negotiations were a violation of human rights. It was encouraging, however, to note that less than half of the members of the Commission had voted in favour of paragraph 6 of draft resolution E/CN.4/1982/L.4 when it had been put to the vote separately.

13. It was shocking that the Commission should take a position opposed to peace. The resolutions in question made no mention of the rights of all States in the region to exist in peace and within secure and recognized boundaries, in conformity with Security Council resolution 242, to which they did not refer. It would be interesting to know whether the Syrian Arab Republic accepted Security Council resolution 242, which remained the essential basis for peace in the Middle East.

14. Those resolutions were also unacceptable in that they attacked the process of autonomy for the inhabitants of the West Bank and the Gaza Strip, a process in which his country was involved. That process, however, was the only means of meeting the hopes of the population by enabling it to participate in the determination of its own future. His delegation also had reservations with regard to the phrase "Palestinian and other Arab territories occupied since 1967, including Jerusalem" in paragraph 1 of part B of draft resolution E/CN.4/1982/L.3. A new idea had also been introduced into the same draft with the demand that Israel should cease acts of

torture against detainees. However, in the interest of truth it should be noted that according to the annual report on human rights prepared by the United States, which had been quoted earlier by the representative of Jordan, those allegations of torture had not been substantiated.

15. Draft resolution E/CN.4/1982/L.4 referred to the "inalienable right of the Palestinian people" to establish a State "in Palestine", but without specifying where. A State in Palestine already existed, the State of Israel, but the resolution in question made no mention of its continued existence.

16. Tendentious resolutions such as those which had been submitted to the Commission did not further peace. Peace might be obtained by implementing Security Council resolutions 242 and 338 but not resolutions such as those against which his delegation had been obliged to cast a negative vote.

17. Mr. HUTTON (Australia) said that he had had to vote against draft resolution E/CN.4/1982/L.3, part A, paragraphs 2, 3, 5, 6 and 9 of which were formulated in an unbalanced and totally unacceptable way. His Government remained opposed to the annexation of Jerusalem by Israel and could have supported paragraph 4 if it had been put to the vote separately. Since his delegation also approved part B of the draft resolution, which referred to the fourth Geneva Convention of 1949, it had abstained when the draft resolution as a whole had been put to the vote.

18. His delegation could not support the wording of several paragraphs of draft resolution E/CN.4/1982/L.4, and especially paragraphs 5 and 6. The Camp David accords constituted one of the very few steps forward which had been achieved in the Middle East; it was deplorable to try to undermine them.

19. Australia had been unable to support draft resolution E/CN.4/1982/L.6 on the Golan Heights, because of the language of the last preambular paragraph and operative paragraph 3; it was also regrettable that reference had been made in paragraph 4 to General Assembly resolution ES-9/1, which provided for unacceptable measures. However, his delegation fully supported paragraphs 1 and 2 of the draft. On the whole, his delegation regretted that the Commission engaged in sterile debates and was adopting resolutions which were not likely to promote the cause of human rights in the Middle East.

20. Mr. CALERA RODRIGUES (Brazil) said that his delegation had voted in favour of parts A and B of document E/CN.4/1982/L.3. However, it had abstained on draft resolution E/CN.4/1982/L.4, because it could not accept paragraphs 4 and 5 or the reaffirmation, in the preamble, of previous Commission resolutions of which Brazil had not approved. Although his country favoured a comprehensive solution to the problem of Palestine and the Palestinian people, it could not condemn separate partial agreements that were not aimed at preventing such a solution or taking its place, but had been conceived as steps towards that solution.

21. His delegation had also abstained in the vote on draft resolution E/CN.4/1982/L.6, operative paragraph 4 of which contained a reference to General Assembly resolution ES-9/1. It had already abstained at the emergency special session of the General Assembly when that resolution had been adopted, as it had not felt that the diplomatic isolation of a State would serve any useful purpose, even if its conduct was to be condemned. While disapproving of the annexation by Israel of the Golan Syrian Territory, his delegation had stated that it did not wish to give Israel a further pretext for continuing to defy the basic norms of international conduct. Furthermore, under operative paragraph 3, the Commission was called upon to determine the existence of a threat to international peace and security. Under Article 39 of the Charter, however, that was the prerogative of the Security Council, not of the Commission.

22. Mr. ZORIN (Union of Soviet Socialist Republics) said that his country had voted in favour of the three draft resolutions submitted under agenda items 4 and 9. In adopting them, the Commission had condemned Israel's foreign policy and expressed the hope of reaching a comprehensive solution of the Middle East problem and putting an end to the violations of human rights by Israel in that region. It had also condemned those who claimed to advocate peace while giving assistance to the Israeli Government. The Commission had therefore voted in favour of a stable and durable peace in the Middle East and had condemned Israel. Only one delegation had voted against those resolutions, that of the United States of America, which supported Israel in every possible way.

23. Mr. APOSTOLIDES (Greece) said that his country had always condemned Israeli policy in the occupied Arab territories, in particular, at the emergency special session of the General Assembly convened following Israel's decision concerning the occupied territory of the Golan Heights. His delegation had therefore voted in favour of draft resolution E/CN.4/1982/L.6. However, it would have abstained if a separate vote had been taken on the final preambular paragraph, which was similar to operative paragraph 7 of General Assembly resolution ES-9/1. With regard to operative paragraph 4, which referred to paragraphs 12 and 13 of resolution ES-9/1, his delegation drew attention to the fact that at the time of the adoption of that resolution, the Greek delegation had pointed out that, if a separate vote had been taken, it would have abstained on paragraphs 12 (c) and (d) and would have voted against paragraph 13.

24. Mr. GONZALEZ DE LEON (Mexico) said that his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.4 because, while it approved the spirit of that text, it considered the wording of paragraphs 5 and 6 unsatisfactory. It was understandable that the sponsors had been concerned that the conclusion of partial agreements in the Middle East might be detrimental to the legitimate rights of the peoples of that region, including the Palestinian people, but that was no justification for rejecting out of hand any kind of effort likely to hasten the solution of the Middle East problem.

25. Miss CARTA (France) said that in the view of her Government, the decision taken by the Israeli authorities with regard to the Golan was tantamount to annexation and constituted a violation of international law. It was therefore null and void and her country condemned it. Nevertheless, her delegation had been obliged to vote against draft resolution E/CN.4/1982/L.6 because of the elements in operative paragraphs 3 and 4, which were unacceptable and on which it had recently explained its position in New York.

26. Mr. BETTINI (Italy) said that his delegation had abstained in the vote on part A of resolution E/CN.4/1982/L.3 because it felt that the issue could be settled to the satisfaction of all parties provided that a constructive dialogue was sought, based on negotiations which took full account of the right to existence of all the countries and peoples of the region.

27. For the same reason, his delegation had voted against resolution E/CN.4/1982/L.4, for it regarded the Camp David accords as a first important step towards a solution consistent with the Charter of the United Nations. His delegation had voted against draft resolution E/CN.4/1982/L.6, for reasons it had already made clear in New York.

28. Mr. LANG (Federal Republic of Germany) said that his delegation had voted against draft resolution E/CN.4/1982/L.4, although it attached fundamental importance to the right to self-determination of the Palestinian people and had repeatedly affirmed, in particular in the joint statements of the 10 countries members of the European Community, that that basic right should also be exercised by the Palestinian people. It had cast a negative vote because a number of elements of the draft resolution, in particular operative paragraphs 5 and 6, were not calculated to advance that cause.

29. For similar reasons, his delegation had voted against draft resolution E/CN.4/1982/L.6. While it agreed with operative paragraphs 1 and 2, the Federal Republic of Germany objected to other parts of the resolution, in particular the last preambular paragraph and operative paragraphs 3 and 4.

30. Mr. OTUNNU (Uganda) said that the international community must do its utmost to find a solution to the highly explosive situation in the Middle East. The only possible course was to negotiate a comprehensive settlement, with the direct participation of all the parties concerned. In so far as the Palestinian question was at the root of the problem, provision must necessarily be made for the participation of the Palestine Liberation Organization, which was the legitimate representative of the Palestinian people. The cause of peace could not be served by acting otherwise. That was why his delegation had voted in favour of draft resolution E/CN.4/1982/L.4.

31. Mr. DYRLUND (Denmark) said that his Government had voted unequivocally against Israel's decision concerning Jerusalem and the Golan Heights and had urged Israel to comply with the relevant Security Council resolutions. However, his delegation had voted against draft resolution E/CN.4/1982/L.6 because of its reference to General Assembly resolution ES-9/1, which Denmark had been unable to accept, for the reasons explained just recently in New York.

32. Mr. ALVAREZ VITA (Peru) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.4 because it supported the cause of the Palestinian people, including its right to self-determination and return. The solution of the Palestinian and Middle East question must be based on Security Council resolutions 242 and 338. His delegation supported all the efforts that were being made to find a solution to that problem and had therefore abstained in the separate vote on operative paragraphs 5 and 6 of the draft resolution.

33. Mr. NGONDA BEMPU (Zaire) said that his country had abstained in the vote on draft resolution E/CN.4/1982/L.4 as a whole, operative paragraph 6 of which opposed Egyptian efforts to find a peaceful solution to the Middle East problem. Since peace was so long in coming, even a partial peace between Egypt and Israel constituted a step towards it that could not be ignored. His Government had supported Security Council resolution 497 (1981), as his delegation had pointed out during the debate on item 4. Israel must accord to other peoples the same right that had been accorded it by the international community, to exist as a State entity. Zaire had nevertheless abstained on the content of General Assembly resolution ES-9/1, paragraphs 11, 12, 13 and 15 of which envisaged enforcement measures which could only serve to exacerbate tensions in the region. For the same reasons his delegation had been obliged to abstain in the vote on draft resolution E/CN.4/1982/L.6.

34. Zaire did not encourage Israel in any way and condemned the annexation of the Golan Heights, the bombing of the Iraqi nuclear installations and certain measures taken in the occupied territories. The Palestinian people were entitled to a homeland, which they would finally succeed in obtaining, just as had the peoples of Mozambique, Angola, Zimbabwe and, shortly, those of Namibia and South Africa. His delegation had therefore voted in favour of draft resolution E/CN.4/1982/L.3.

35. Mrs. ODIO BENITO (Costa Rica) said that her delegation had voted in favour of draft resolution E/CN.4/1982/L.3, but had abstained in the vote on draft resolution E/CN.4/1982/L.4 because of its condemnation of the Camp David accords in operative paragraphs 5 and 6. In its view, no efforts towards peace, even partial, were entirely worthless.

36. Her delegation had also abstained in the vote on draft resolution E/CN.4/1982/L.6, because the measures provided for in operative paragraphs 3 and 4 were not part of the Commission's functions and expelling or isolating a particular country could in no way help to promote peaceful co-existence. It subscribed, however, to the principles of international law underlying operative paragraphs 1 and 2: an illegal act could never give rise to a right.

37. Mr. MUBANGA-CHIPOYA (Zambia) said that his Government had always opposed the expansionist policies followed by Israel since 1948, whatever economic benefits it might have brought to the inhabitants of territories occupied or annexed by Israel.

38. His delegation believed that the settlement of the Palestinian question lay in the establishment of a sovereign Arab Palestinian State, the maintenance of a Jewish Palestinian State and the restoration by Israel of all the Arab lands occupied since the 1967 war. The return to Egypt, in April 1982, of the last portion of Sinai occupied by Israel must be seen as a clear indication of Israel's wish to negotiate its borders, in preference to military confrontation. The Zambian delegation had therefore abstained in the vote on the draft resolution E/CN.4/1982/L.4 as a whole and on its operative paragraphs 5 and 6.

39. In his delegation's view, all the States in the area should enter into negotiations, having regard to the objectives he had mentioned, and should consider also the possibility of establishing an Arab Palestinian State on the West Bank of the Jordan and in the Ghaza Strip.

40. The CHAIRMAN announced that the Commission had completed its consideration of agenda item 4.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 6) (E/CN.4/1479; E/CN.4/1485; E/CN.4/1486; E/CN.4/1497; E/CN.4/1982/L.8; E/CN.4/1982/L.9)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 7) (E/CN.4/Sub.2/469 and Corr.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 16) (E/CN.4/1505 and Add.1-10; E/CN.4/1507; E/CN.4/1982/L.13)

- (a) STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF THE UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION
- (b) IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 18) (E/CN.4/1510; E/CN.4/1982/5; ST/HR/SER.A/9)

41. Mr. NYAMEKYE (Deputy Director, Division of Human Rights), introducing agenda item said that by resolution 5 (XXXVII), the Commission had decided to renew the two-year mandate of the Ad hoc Working Group of Experts on southern Africa, requesting it, inter alia, to continue to examine policies and practices which violated human rights

in South Africa and Namibia. The Ad hoc Group of Experts had submitted to the Commission a report (E/CN.4/1485) which contained an analysis of information dealing with specific cases of violation of human rights in South Africa and Namibia, as well as a survey of the conditions of imprisonment and the state of health of persons captured at Kassinga and imprisoned at Hardap Dam Camp near Marienthal in the south of Namibia; a study (E/CN.4/1497) concerning the effects of the policy of apartheid on black women and children in South Africa, prepared in accordance with General Assembly resolution 35/206 N; and another report (E/CN.4/1486) prepared by the International Confederation of Free Trade Unions, in accordance with Economic and Social Council decision 1981/155, dealing with allegations regarding infringements of trade union rights in South Africa.

42. Turning to agenda item 7, he said that the problem under consideration had been a matter of concern within the United Nations system for many years. The Commission, in resolution 7 (XXXIII), had entrusted a task to Mr. Khalifa, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities who had been investigating the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to racist and colonial régimes in southern Africa. The Commission had requested Mr. Khalifa to prepare a provisional general list identifying the persons, institutions, particularly banks, and other entities or groups, as well as the representatives of States whose activities constituted political, military, economic or other forms of assistance to racist and colonial régimes in southern Africa. That list had been published in a report (E/CN.4/Sub.2/425) which had been submitted to the Commission at its thirty-sixth session and had been welcomed by the General Assembly. The Commission had taken a special interest in the list and had asked the Sub-Commission to request the Special Rapporteur to continue to up-date it, subject to annual review. An up-dated list had therefore been submitted to the Sub-Commission at its thirty-fourth session in 1981. The Sub-Commission had asked the Special Rapporteur to continue to up-date the list and had requested the Secretary-General to give the Special Rapporteur every assistance in accomplishing his work, including the possible use of computer services.

43. Introducing agenda item 16, he drew the attention of the Commission to the fact that the International Convention on the Suppression and Punishment of the Crime of Apartheid, which had so far been ratified or acceded to by 65 States, had entered into force in July 1976. Shortly thereafter, in December 1976, the General Assembly, by its resolution 31/80, had invited the Chairman of the Commission at its thirty-third session to appoint a group of three members of the Commission, who were also representatives of States Parties to the Convention, to consider the periodic reports which States Parties, under article VII of the Convention, had to submit on the legislative, administrative and other measures adopted to give effect to the provisions of the Convention. At its first session, in 1978, the Group of Three had considered the reports received and had drawn up general guidelines concerning their future form and content. By its resolution 7 (XXXIV), the Commission had decided to bring those general guidelines to the attention of States Parties, requesting them to submit their initial reports within two years of the entry into force of the Convention for the States Parties concerned, and their periodic reports at two-yearly intervals, on the understanding that they could submit additional information to the Group of Three in the intervening period.

44. In the reports subsequently submitted to the Commission, the Group of Three had made a number of recommendations regarding certain practical measures to be adopted by States parties, the Commission and the Group itself for the implementation of the Convention. By its resolution 6 (XXXVII), the Commission had taken note with appreciation of the report of the Group of Three, and particularly the recommendations it contained.

45. The Group of Three appointed by the Chairman of the Commission at its thirty-seventh session had met in Geneva from 25 to 29 January 1982. It had had before it a note by the Secretary-General concerning reports submitted by States parties under article VII of the Convention (E/CN.4/1505), as well as reports submitted by 10 States parties reproduced in addenda to that document. All those documents and the report of the Group of Three on its fifth session (E/CN.4/1507) were before the Commission.

46. It should be noted that, under article X of the Convention, States parties had undertaken to empower the Commission 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 alleged to be responsible for the crimes enumerated in article II of the Convention, as well as of those against whom legal proceedings had been undertaken by States parties themselves. By its resolution 12 (XXXVI), the Commission, after noting the special report of the Ad Hoc Working Group of Experts on Southern Africa on cases of torture and murder of detainees in South Africa, had requested the Group of Three to continue its compilation of the aforementioned list, in co-operation with the Special Committee against Apartheid, as appropriate. In its report to the Commission at its thirty-seventh session (E/CN.4/1429, chapter II.H), the Ad Hoc Working Group of Experts had included information concerning persons guilty of the crime of apartheid or a serious violation of human rights. In its resolution 5 (XXXVII), the Commission had taken a number of measures to give effect to the provisions of article X of the Convention: it had congratulated the Ad Hoc Working Group of Experts on the excellent work it had accomplished and had decided that it should continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or any other serious violation of human rights and to bring the results of those inquiries to the Commission's attention. The work of the Ad Hoc Working Group of Experts on the subject was outlined in the progress report it had submitted to the Commission (E/CN.4/1485). Lastly, in accordance with General Assembly resolution 36/13, the Secretary-General had arranged for the publication in the Bulletin of Human Rights (Issue No. 28) of the list of persons allegedly guilty of the crime of apartheid under the Convention and for the circulation of that list to all United Nations Information Centres around the world, as well as to the local media. Moreover, in compliance with General Assembly resolution 35/39, the Secretary-General, by a note dated 29 May 1981, had transmitted that list to all States parties to the Convention and all States Members of the United Nations.

47. Introducing agenda item 18 (a) he pointed out that, under General Assembly resolution 34/24, the Commission at its thirty-sixth session had requested the Sub-Commission to carry out a study of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination and to submit the study, with its conclusions, to the Commission at its thirty-eighth session. The discussion of that matter at the thirty-fourth session of the Sub-Commission was reflected in the latter's report (E/CN.4/1512, chapter IV, paragraph 54).

48. Introducing agenda item 18 (b) on the implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination, he said that the seminar on effective measures to prevent transnational corporations and other established interests from collaborating with the racist régime of South Africa had been held at the United Nations Office at Geneva in 1981 and its report was available in document ST/HR/SER.A/9. The study on specific measures whose application by all States, intergovernmental organizations, private institutions and non-governmental organizations would make it possible to end all collaboration with the racist régimes of southern Africa had been postponed. The Secretary-General had suggested that the study should await the report of the seminar on transnational corporations and South Africa. The Commission had before it the Secretary-General's note on that question (E/CN.4/1510).

49. The Sub-Commission had continued its consideration of the study on discriminatory treatment against members of racial, ethnic, religious or linguistic groups at various levels in the administration of criminal justice proceedings, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences, including the ideologies or beliefs which contributed or led to all forms of racism in the administration of criminal justice.

50. At its thirty-sixth session, the General Assembly had continued its consideration of the item on the implementation of the Programme for the Decade and had adopted resolution 36/8 in that connection. In that resolution, the Assembly had referred to the second World Conference to Combat Racism and Racial Discrimination, which was to be held in 1983 and had invited the appropriate organs of the United Nations, including the Commission, to participate in the preparations for that Conference. The first session of the Preparatory Sub-Committee would be held in New York from 15 to 26 March 1982 and the Commission, if it wished to do so, might submit suggestions to the Sub-Committee on the organization of the Conference, its agenda, rules of procedure, venue and participation.

51. Under that item, the Commission also had before it the annual reports on racial discrimination submitted by the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization, in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XVI).

52. Mr. CATO (Member of the Ad Hoc Working Group of Experts on southern Africa) said that the Group had, needless to say, not had the benefit of the South African Government's co-operation and, in order to carry out its mandate, it had studied and analysed carefully all the information available: United Nations documents, information from reputable international or quasi-international organizations with knowledge of the situation, records of parliamentary debates in South Africa itself, and reports published in newspapers and various magazines in South Africa or elsewhere. The Group had also heard testimony from people from all walks of life in South Africa, black and white, with direct or indirect knowledge of the situation. It had also carried out missions in the field, particularly in New Delhi and Bombay. It had carefully considered all the information available to it and, as far as possible, it had checked the authenticity of that information. In other words, the reports provided an accurate and objective account of the prevailing situation in southern Africa.

53. In accordance with Commission resolution 5 (XXXVII), the Group had submitted a progress report (E/CN.4/1485) on the policies and practices of the South African régime which violated human rights in South Africa and Namibia; the report covered the treatment of political prisoners and detainees, the deaths of some detainees, the Bantu homelands policy, infringements of trade union rights, conditions of imprisonment and the condition of Namibian refugees captured in 1978 at Kassinga, as well as the conferences, symposia and seminars on the struggle against apartheid in which the Group had participated. It was evident from that report that the human rights situation in South Africa remained disturbing and painful. The racist Government of South Africa resorted to all kinds of subterfuge, pressure and oppression to maintain its policy and had used brute force to silence opposition through physical repression, imprisonment and detention without trial, under the Terrorism Act, the General Laws Amendment Act, the Criminal Procedure Act of 1977 or the Internal Security Act; the so-called nationals of the so-called "independent homelands", such as Transkei, Bophuthatswana, Venda and Ciskei, were held under special proclamations which were still in force even after so-called independence; through the torture of prisoners and political detainees which sometimes led to their death, mass removals of population from their traditional homes or places of origin, a practice which was equivalent to "domestic deportation"; arrests of trade union leaders and the maintenance of inequalities in employment and salaries between races; and persecution of students.

54. The Group had provided information in its report (E/CN.4/1485) on United Nations efforts to bring about a negotiated settlement of the dispute over Namibia's independence, in accordance with Security Council resolutions 385 (1976), 431 (1978) and 435 (1978). It described the methods employed by South Africa to delay progress towards Namibia's independence, to confer legality on unrepresentative groups in Windhoek and thereby to maintain South Africa's illegal occupation and exploitation of Namibia, which was also subjected to the inhuman system of apartheid. The report also gave an account of the attacks which the South Africans had launched against the front line States particularly Angola, part of whose territory might still be occupied by South African troops.

55. In the same report, the Group, in response to the Commission's request, gave the names of four further persons alleged to have been guilty in Namibia of the crime of apartheid as defined in article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid. The Group also described the conditions of detention and the state of health of the refugees captured at Kassinga in 1978 and detained in the Hardap Dam Camp. They were still being subjected to ill-treatment.

56. In accordance with General Assembly resolution 35/206, the Group had submitted to the Commission a study on the effects of apartheid on black women and children in southern Africa (E/CN.4/1497). The study viewed the situation of such women and children from the point of view of their role either in the family or as workers or citizens or political prisoners: in all cases, they suffered from enforced insecurity, injustice and misery. The Group had reached the conclusion that black children in South Africa, particularly since the Soweto events in 1976, had become the victims of some of the more vicious and brutal aspects of official oppression. Child labour in South Africa could amount to a form of slavery.

57. In accordance with Economic and Social Council decision 1981/155, the Group had submitted to the Commission a report on infringements of trade union rights in South Africa prepared by the International Confederation of Free Trade Unions (E/CN.4/1486). The Group had reached the conclusion that South Africa, although not a member of the ILO, was nonetheless bound by the general principles governing trade union rights as set forth in various international instruments, such as the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, and that it had violated international standards concerning trade union rights. Trade unionists continued to be harassed, banned or imprisoned without trial. Some members of the Media Workers Association of South Africa, for example, had been arrested during the period under consideration. In April 1980, sanctions had been imposed on some trade union leaders and journalists. The Group concluded that the South African Government was guilty of the crime of apartheid as defined under articles I, II and III of the International Convention on the Suppression and Punishment of the Crime of Apartheid. It therefore recommended that its report and its conclusions on infringements of trade union rights should be referred to the Group of Three.

58. The strategic, economic or other relations which certain States members of the Commission maintained with South Africa, far from alleviating the situation of the South African majority, only encouraged the policy of apartheid. It was not sufficient to demand that South Africa merely soften its policy of apartheid; it must treat non-whites as human beings, as citizens of their country of origin, with rights and responsibilities.

59. He expressed appreciation of the work done as Chairman of the Group by Mr. Keba M'baye, who would have a considerable contribution to make to the International Court of Justice at The Hague in his new post as Judge.

60. He wished to thank the Division of Human Rights for its untiring assistance, which had enabled the Ad Hoc Working Group of Experts to carry out the mission entrusted to it. He wished also to pay a tribute to the Director of the Division, Mr. van Boven, for his dignity, dedication and great courage.

61. Mr. CALERO RODRIGUES (Brazil) deplored the fact that there was a tendency ultimately to take for granted the evils of apartheid in South Africa, which were described year after year. As Beaumarchais had said, "the telling of too well-known an evil hurts but little". Yet new evidence appeared every year of the brutal and systematic violations of human rights in South Africa and it continued to be a duty to seek ways and means of ending that unbearable situation. In the report of the Ad hoc Working Group of Experts (E/CN.4/1485) Mr. M'Baye, in a final direct contribution to the Commission he had left, had, together with his colleagues, presented a devastating picture of apartheid, which alone would be a sufficient basis for its condemnation.

62. In South Africa those who did not have the advantage of being white could enjoy none of the rights enunciated in the Universal Declaration, and even whites in South Africa found themselves outcast if they expressed their solidarity with the oppressed majority. Leaving aside the cases of brutality and torture, the most elementary rights were refused in daily life; examples of that were the poignant cases referred to in paragraph 86 of document E/CN.4/1485. Some positive reactions did exist, such as the attempts made by some students to form a non-racial body, mentioned in paragraph 230; those examples were few, however, and such dissenters found difficulty in organizing themselves and expressing their views. Unfortunately, the sick régime of

South Africa was still supported by the majority of the society it represented which dared to call itself a civilized society in the midst of so many iniquitous acts.

63. Brazil, which had built a harmonious multiracial society, found it difficult to understand how different treatment could be given to a man or a woman on account of the colour of their skin; but when racial discrimination was even elevated to the rank of state policy, Brazil could not but be in the forefront of those who condemned that abhorrent situation and expressed their deeply-felt solidarity to the oppressed.

64. Mr. BENHIMA (Morocco) expressed his delegation's appreciation of the reports of the Ad hoc Working Group of Experts (E/CN.4/1485 and 1497) and thanked, in particular, the Chairman of the Group, Mr. M'Baye. For years, the international community, and the Commission in particular, had been condemning the South African régime for its disgraceful policy of apartheid, the maintenance of its illegal occupation of the territory of Namibia and its brutal acts of armed aggression against neighbouring States; but the South African leaders, prompted by narrow-minded egoism, had paid no heed.

65. The shameless practices of South Africa's racist régime continued and the number of victims continued to mount. Torture and disappearances were continuing on a large scale under the cover of the notorious Internal Security Act. Many of the deaths amongst black prisoners were disguised murders, which added to the death rate resulting from the total lack of hygiene in the prisons. The situation of black women and children described in the report was equally shocking. The South African slave-type régime, devoted solely to the prosperity of a racial minority, produced nightmarish scenes: small children were imprisoned, young girls were raped by white planters, children of 8 to 16 years were forced to work in the mines for a pittance. Such things were the very essence of the South African régime, and it was its entire structure which must be dismantled, while the thinking on which it was based should be opposed with the utmost vigour.

66. The same philosophy and methods had spread to Namibia where South Africa was opposing by every means the people's desire for emancipation and the struggle whose legitimacy the United Nations and almost the entire international community had recognized. The pillaging of the country's natural resources was continuing and the South African occupier was sabotaging all endeavours to reach an arrangement on the basis of United Nations decisions. It had been argued in the past by some people that the maintenance of economic and trade links with South Africa would make that country more sensitive to dialogue and to appeals to reason; developments had shown that, on the contrary, as his delegation had always asserted, such links actually encouraged the South African Government to persevere in its activities and to extend the reign of violence to neighbouring States.

67. His delegation once again called for the strict and full application of Security Council resolution 418 (1977) concerning the embargo on arms for South Africa, as well as the economic isolation of that country, so as to enable the indigenous population to exercise all its rights and to allow the people of Namibia to become a sovereign nation. His delegation also considered that no State or organization should bargain over its support for the South African and Namibian nationalists, particularly the ANC.

68. Mr. MUNTASSEK (Observer, Organization of African Unity) deplored the fact that, despite the discussions on apartheid which had been taking place for many years in the Commission and other United Nations bodies, the situation in southern Africa continued to deteriorate because South Africa had persisted in violating the fundamental principles upon which the United Nations was established. In South Africa the black people were subjected to conditions of servitude, humiliation and oppression; they were denied their share of the country's wealth, and experienced daily systematic racism in transportation, health, education and housing. The apartheid imposed on them was a violation of all the principles of the Declaration of Human Rights; all individuals and institutions which represented the interests of humanity had an obligation to work towards the complete elimination of apartheid.
69. The oppressed people of South Africa were being subjected to mass arrests, detentions without trial, and torture. It was only a few days since the international press had reported that a trade union official had been found hanged at Security Police Headquarters in Johannesburg; he had been one of the very many detainees to die in what was called indefinite detention. This detainee, Dr. Aggett, had been a white. Even if he had taken his own life, that simply meant that he had found death preferable to the cruel conditions of detention without trial.
70. The Organization of African Unity condemned the "homelands" policy by which the South African régime was attempting to dismember the country by removing 72 per cent of the population to segregated areas. It had denounced the threat to peace and security, even beyond Africa, created by the apartheid régime, through its illegal occupation of Namibia and continuous acts of aggression against neighbouring States. The OAU also condemned the continuing political, economic and military collaboration of certain western countries and transnational corporations with the minority régime of South Africa, which encouraged its intransigence and defiance of the international community. It would support the peoples of South Africa and Namibia until they obtained their independence, freedom and dignity. It hoped that the United Nations would intensify its co-operation with the legitimate representatives of those peoples: SWAPO, ANC and PAC. It reaffirmed the right of the Namibian people to national independence, including Walvis Bay, in accordance with all the resolutions of the United Nations and the negotiated settlement called for in Security Council resolution 435 (1978).
71. At its session in Nairobi in July 1981, the Assembly of Heads of State and Government of OAU had adopted resolutions condemning the South African Government for the continued pursuit of its apartheid policy, its acts of repression and brutality, including the shooting of school children, as well as its acts of aggression against independent African States. It had called for world-wide actions by all opponents of apartheid aimed at exerting pressure on South Africa for the immediate release of Mr. Nelson Mandela and all political prisoners. It had also called for the application of mandatory sanctions against South Africa and, with regard to Namibia, the implementation of Security Council resolution 435 (1978). At that same session, the Assembly of African Heads of State and Government had adopted the African Charter on Human and People's Rights.
72. His organization was also very concerned about the situation in the Middle East, which figured prominently in the agenda of both the OAU Heads of State and Government and the Council of Ministers. Since 1967, OAU had called upon Israel to withdraw

from all Arab occupied territories and allow the Palestinian people, under their sole and legitimate representative, the PLO, to establish a State of their own. Israel was the ally of South Africa and was daily strengthening its relations with the Pretoria régime in nuclear, economic, political and military matters. The OAU condemned Israel's decision to impose its laws in the occupied Syrian Golan Heights, and its act of aggression against Iraq's nuclear installations. In the name of human dignity it appealed for an ending of the absurd sequence of terror and arrogance in the Middle East and in southern Africa.

73. Mr. NANGOLO (Observer, South West Africa People's Organization) said that the people of Namibia had been denied all their rights and were being massacred daily for demanding them. Namibia was a nation of less than two million people and was being terrorized by 110,000 troops of the South African racist army, including 8,000 mercenaries, 5,000 paramilitary police, 2,500 security police and the newly formed commando unit called "Koevoet". The martial law proclaimed in 1980 by the illegal South African Administrator General placed 50 per cent of the territory and 30 per cent of the population under direct military authority. The atrocities committed by the racist troops were worse than those committed by Hitler's soldiers during the Second World War, by the United States militarists in Viet Nam or by Israel against the Palestinian people.

74. He drew attention to the statement of Mr. Wildbald Joseph, an ex-member of the South African racist army who had recently defected to SWAPO, who had told how the platoon to which he had belonged had killed presumed supporters of SWAPO at random, raped the women and planted mines on roads and footpaths. SWAPO supporters who were captured had their hands, or legs or ears cut off with an electric machine. Among the numerous victims of that type of treatment, he had recalled Johannes Joseph from Ekeke Village near Ondangura and Shuweni Panduleni from Outale in Ondonga District, who had had their legs amputated. In Akaku, soldiers of the South African army had mutilated a woman and forced her to eat parts of her own body; they had also cut off her ears and split her upper lip to disfigure her. In Okakwiu near Ondangura members of the South African army had robbed a man selling meat and when he complained had cut off a muscle from his thigh, roasted it and forced him to eat it. Another ex-member of the South African army, Mr. Shikongo, had told how the soldiers castrated those who refused to join the army. Women who had been raped by the racist army of South Africa in Namibia included Victoria Mupewa, of the village of Onandijamba in Okalongo District, Claudia Samuel of Ohadiva, Rosaria Hamukoto of Omhedi and Rosaria Heita of Okanghudi village. The "Koevoet" commando unit, responsible for anti-guerrilla operations, had caused the disappearance of many Namibians including the SWAPO activists and businessmen John Nakawa, Mathias Ashipumba, Mathews Nahnga and Nangolo Jacob. He also had other names which he could communicate to the Commission in order to facilitate the search for disappeared persons.

75. The situation prevailing in southern Africa had gone on too long. The peoples of the region had chosen freedom instead of slavery and, in so doing, had been obliged to take up arms; no other solution was open to them. Like the people of Viet Nam against the United States, they would be victorious. The United States of America was supporting South Africa. He recalled a statement made the previous year by President Reagan about that country, which was too disgusting to be quoted. South Africa was the watchdog of imperialism; it was protecting the Western companies which were exploiting the wealth of southern Africa and thus providing enormous profits for the capitalists of Washington, London, Paris, Bonn, Tokyo and Tel Aviv. For their part, the capitalists of the companies established in South Africa paid taxes which permitted the upkeep of the South African army.

76. The presence of its troops in Namibia was costing South Africa more than \$1 million a day. South Africa was pursuing its policy with the support of Western and Israeli companies and large-scale financial resources from that collaboration. He mentioned a British-based transnational company, "Trafalgar House", owner of the South African company "Cementation Engineering", which was furnishing the South African army with new artillery systems based on space research techniques. The Governments of Western countries had frequently given South Africa moral and political support both in the General Assembly and in the Security Council. In April 1981 there had been a triple veto by the three Western permanent members of the Security Council on the issue of sanctions against South Africa for its illegal occupation of Namibia. Western Power support for South Africa enabled that country to be intransigent in the negotiations for a peaceful settlement in Namibia. The United States had recently cast another veto to protect the terrorist régime of South Africa following an act of aggression against Angola which had cost the lives of thousands of innocent people. As the People's Republic of Angola had no borders with South Africa, it was the territory of Namibia that was being used as a spring-board for that aggression.

77. With the support of the Washington Government, racist South Africa was using delaying tactics to undermine the revolutionary achievements of the Namibian people under the leadership of SWAPO, and to have more time to install leaders and form a puppet army on the pretext of avoiding "SWAPO's monopoly". The people of Namibia did not accept those tactics, however, since they had already waited long enough; while they waited their people were dying in South African prisons and concentration camps, such as Tenegab military base near Marintal and Robben Island, where Brendon Simbwaya, Vice-President of SWAPO, had been imprisoned for more than 20 years and Shimwefeleni had been held since 1966. SWAPO would like the Commission to enquire about the disappearances and deaths in those prisons and concentration camps.

78. He hoped that the people of Palestine, who were being subjected to all kinds of dehumanization, torture and massacre, would be able to obtain their freedom and determine their own future under the leadership of the PLO. Their victory was certain, like the victory over apartheid in South Africa. He also hoped that the Saharawi people would be given a chance to determine their own future. He reasserted the solidarity between SWAPO and the combatants of South Africa in the fight for the total liberation of the African continent. Lastly, he thanked the Ad Hoc Working Group of Experts for its reports, which informed the international community of the situation in southern Africa.

The meeting rose at 1 p.m.