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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE
SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Note by the Secretary-General

1. The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the General Assembly of the United Nations in resolution 3068 (XXVIII) of 30 November 1973, entered into force on 18 July 1976, on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, as provided for in article XV, paragraph 1, of the Convention. As of 15 December 1976, there were 23 States parties to the Convention. The list of the States parties and the dates on which their instruments of ratification or accession were deposited with the Secretary-General are contained in annex I; the text of the Convention is reproduced in annex II to the present document.
2. As envisaged under article IX, paragraph 1, of the Convention, the Chairman of the Commission on Human Rights shall 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. Paragraph 3 of article IX provides that the group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.
3. In accordance with article VII of the Convention, the States parties to the Convention undertake to submit periodic reports to the group to be established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention. Copies of the reports are to be transmitted through the Secretary-General of the United Nations to the Special Committee on Apartheid.

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4. Under article X of the Convention, the States parties empower the Commission on Human Rights to undertake a number of tasks, in connexion with the implementation of the Convention, as listed under subparagraphs (a), (b) and (c) of article X, paragraph 1, of the Convention.

5. In this connexion, the General Assembly, in its resolution 31/80 of 13 December 1976 concerning the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, inter alia, invited the Chairman of the thirty-third session of the Commission on Human Rights to appoint a group consisting of three members of the Commission as provided for by article IX of the Convention. The Assembly also invited the Commission on Human Rights to undertake the functions set out in article X of the Convention, in particular to prepare 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. The text of General Assembly resolution 31/80 is reproduced as annex III to the present document.

6. As regards the appointment by the Chairman of the Commission of 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, it may be noted that the Commission on Human Rights as presently constituted includes representatives of the following seven States which are also parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid:

Bulgaria
Byelorussian Soviet Socialist Republic
Ecuador
Libyan Arab Republic
Syrian Arab Republic
Union of Soviet Socialist Republics
Yugoslavia

ANNEX I

STATES PARTIES TO THE INTERNATIONAL CONVENTION ON THE
SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>
Benin	30 December 1974
Bulgaria	18 July 1974
Byelorussian Soviet Socialist Republic	2 December 1975
Chad	23 October 1974
Czechoslovakia	25 March 1976
Ecuador	12 May 1975
German Democratic Republic	12 August 1974
Guinea	3 March 1975
Hungary	20 June 1974
Iraq	9 July 1975
Liberia	5 November 1976 <u>a/</u>
Libyan Arab Republic	8 July 1976 <u>a/</u>
Mongolia	8 August 1975
Poland	15 March 1976
Qatar	19 March 1975
Somalia	28 January 1975
Syrian Arab Republic	18 June 1976
Ukrainian Soviet Socialist Republic	10 November 1975
Union of Soviet Socialist Republics	26 November 1975
United Arab Emirates	15 October 1975
United Republic of Cameroon	1 November 1976 <u>a/</u>
United Republic of Tanzania	11 June 1976 <u>a/</u>
Yugoslavia	1 July 1975

a/ Accession.

Annex II

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

The States Parties to the present Convention,

Recalling the provisions of the Charter of the United Nations, in which all Members pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering the Universal Declaration of Human Rights, which states that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour or national origin,

Considering the Declaration on the Granting of Independence to Colonial Countries and Peoples,¹³ in which the General Assembly stated that the process of liberation is irresistible and irreversible and that, in the interests of human dignity, progress and justice, an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Observing that, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination,¹⁴ States particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction,

Observing that, in the Convention on the Prevention and Punishment of the Crime of Genocide,¹⁵ certain acts which may also be qualified as acts of *apartheid* constitute a crime under international law,

Observing that, in the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity,¹⁶ "inhuman acts resulting from the policy of *apartheid*" are qualified as crimes against humanity,

Observing that the General Assembly of the United Nations has adopted a number of resolutions in which the policies and practices of *apartheid* are condemned as a crime against humanity,

Observing that the Security Council has emphasized that *apartheid* and its continued intensification and expansion seriously disturb and threaten international peace and security,

Convinced that an International Convention on the Suppression and Punishment of the Crime of *Apartheid* would make it possible to take more effective measures at the international and national levels with a view to the suppression and punishment of the crime of *apartheid*,

Have agreed as follows:

Article I

1. The States Parties to the present Convention declare that *apartheid* is a crime against humanity and that inhuman acts resulting from the policies and practices of *apartheid* and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.

2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of *apartheid*.

Article II

For the purpose of the present Convention, the term "the crime of *apartheid*", which shall include similar policies and

¹³ Resolution 1514 (XV).

¹⁴ Resolution 2106 A (XX), annex.

¹⁵ Resolution 260 A (III), annex.

¹⁶ Resolution 2391 (XXIII), annex.

practices of racial segregation and discrimination as practised in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

(a) Denial to a member or members of a racial group or groups of the right to life and liberty of person:

- (i) By murder of members of a racial group or groups;
- (ii) By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment;
- (iii) By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;

(b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;

(c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;

(d) Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof;

(e) Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;

(f) Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose *apartheid*.

Article III

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

(a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;

(b) Directly abet, encourage or co-operate in the commission of the crime of *apartheid*.

Article IV

The States Parties to the present Convention undertake:

(a) To adopt any legislative or other measures necessary to suppress as well as to prevent any encouragement of the crime of *apartheid* and similar segregationist policies or their manifestations and to punish persons guilty of that crime;

(b) To adopt 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 present Convention, whether or not such persons reside in the territory of the State in which the acts are committed or are nationals of that State or of some other State or are stateless persons.

Article V

Persons charged with the acts enumerated in article II of the present Convention may be tried by a competent tribunal

of any State Party to the Convention which may acquire jurisdiction over the person of the accused or by an international penal tribunal having jurisdiction with respect to those States Parties which shall have accepted its jurisdiction.

Article VI

The States Parties to the present Convention undertake to accept and carry out in accordance with the Charter of the United Nations the decisions taken by the Security Council aimed at the prevention, suppression and punishment of the crime of *apartheid*, and to co-operate in the implementation of decisions adopted by other competent organs of the United Nations with a view to achieving the purposes of the Convention.

Article VII

1. The States Parties to the present Convention undertake to submit periodic reports to the group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.

2. Copies of the reports shall be transmitted through the Secretary-General of the United Nations to the Special Committee on *Apartheid*.

Article VIII

Any State Party to the present Convention may call upon any competent organ of the United Nations to take such action under the Charter of the United Nations as it considers appropriate for the prevention and suppression of the crime of *apartheid*.

Article IX

1. The Chairman of the Commission on Human Rights shall appoint a group consisting of three members of the Commission on Human Rights, who are also representatives of States Parties to the present Convention, to consider reports submitted by States Parties in accordance with article VII.

2. If, among the members of the Commission on Human Rights, there are no representatives of States Parties to the present Convention or if there are fewer than three such representatives, the Secretary-General of the United Nations shall, after consulting all States Parties to the Convention, designate a representative of the State Party or representatives of the States Parties which are not members of the Commission on Human Rights to take part in the work of the group established in accordance with paragraph 1 of this article, until such time as representatives of the States Parties to the Convention are elected to the Commission on Human Rights.

3. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission on Human Rights, to consider the reports submitted in accordance with article VII.

Article X

1. The States Parties to the present Convention empower the Commission on Human Rights:

(a) To request United Nations organs, when transmitting copies of petitions under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination, to draw its attention to complaints concerning acts which are enumerated in article II of the present Convention;

(b) To prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States Parties to the present Convention, 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;

(c) To request information from the competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December

1960 applies, with regard to such individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction.

2. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV), the provisions of the present Convention shall in no way limit the right of petition granted to those peoples by other international instruments or by the United Nations and its specialized agencies.

Article XI

1. Acts enumerated in article II of the present Convention shall not be considered political crimes for the purpose of extradition.

2. The States Parties to the present Convention undertake in such cases to grant extradition in accordance with their legislation and with the treaties in force.

Article XII

Disputes between States Parties arising out of the interpretation, application or implementation of the present Convention which have not been settled by negotiation shall, at the request of the States Parties to the dispute, be brought before the International Court of Justice, save where the parties to the dispute have agreed on some other form of settlement.

Article XIII

The present Convention is open for signature by all States. Any State which does not sign the Convention before its entry into force may accede to it.

Article XIV

1. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article XV

1. The present Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article XVI

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article XVII

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

Article XVIII

The Secretary-General of the United Nations shall inform all States of the following particulars:

(a) Signatures, ratifications and accessions under articles XIII and XIV;

(b) The date of entry into force of the present Convention under article XV;

(c) Denunciations under article XVI;

(d) Notifications under article XVII.

Article XIX

1. The present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

ANNEX III

RESOLUTION 31/80 ADOPTED BY THE GENERAL ASSEMBLY
ON 13 DECEMBER 1976

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

The General Assembly,

Recalling its resolution 3068 (XXVIII) of 30 November 1973, by which it adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid, and its resolution 3380 (XXX) of 10 November 1975,

Expressing its appreciation to those States which have become parties to the Convention,

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 are necessary for the achievement of the goals of the Decade for Action to Combat Racism and Racial Discrimination,

Reaffirming its firm conviction that apartheid constitutes a total negation of the purposes and principles of the Charter of the United Nations and is a crime against humanity seriously disturbing international peace and security,

Underlining Security Council resolution 392 (1976) of 19 June 1976, in which the Council condemned the Government of South Africa for its resort to massive violence against and killings of the African people, including school children and students and others opposing racial discrimination,

Noting that the legitimate struggle of the oppressed African peoples against apartheid demands all necessary assistance by the international community,

1. Takes note of the report of the Secretary-General on the status of the International Convention on the Suppression and Punishment of the Crime of Apartheid; a/

2. Welcomes the entry into force on 18 July 1976 of the above-mentioned Convention;

3. Appeals to all States which have not yet become parties to the Convention to accede thereto;

4. Invites the Chairman of the thirty-third session of the Commission on Human Rights to appoint a group consisting of three members of the Commission on Human Rights as provided for by article IX of the Convention;

a/ A/31/209.

5. Invites the Commission on Human Rights to undertake the functions set out in article X of the Convention, in particular to prepare 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;

6. Requests the Secretary-General to include in his next annual report under General Assembly resolution 3380 (XXX) a special part concerning the implementation of the Convention;

7. Decides 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".