



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1990/34
7 December 1989

ENGLISH
Original: ENGLISH/FRENCH/
RUSSIAN

COMMISSION ON HUMAN RIGHTS
Forty-sixth session
Item 16 of the provisional agenda

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

Views and information submitted by States parties, specialized
agencies and non-governmental organizations in accordance with
Commission on Human Rights resolution 1989/8

Note by the Secretary-General

	<u>Page</u>
Introduction	2
I. REPLIES RECEIVED FROM STATES PARTIES	
Czechoslovakia	3
German Democratic Republic	4
Ukrainian Soviet Socialist Republic	4
Union of Soviet Socialist Republics	5

Introduction

1. In its resolution 1989/8, the Commission on Human Rights, inter alia, requested the Secretary-General (a) to invite States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, and (b) to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the types of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa.

2. By the same resolution, the Commission requested the Group of Three established under the Convention to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporation whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-sixth session.

3. In notes verbales dated 12 June 1989, the Secretary-General brought to the attention of States parties, the specialized agencies and non-governmental organizations the relevant provisions of Commission resolution 1989/8 and invited them to submit their views and any relevant information in time for consideration by the Group of Three and the Commission at its forty-sixth session.

4. Views and information submitted by the Governments of Czechoslovakia, the German Democratic Republic, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics are reproduced below. Any further replies which may be received by the Secretariat will be issue in addenda to this document.

CZECHOSLOVAKIA

[Original: French]
[20 November 1989]

As it has already indicated in its report on the application of the International Convention on the Suppression of the Crime of Apartheid (E/CN.4/1989/31/Add.10), Czechoslovakia considers apartheid to be an extreme form of racist terror and injustice, a manifestation of a gross and large-scale violation of human rights and fundamental freedoms. The struggle against apartheid remains the key issue not only on the African continent, but also in all other parts of the world. In its concrete activities, Czechoslovakia, on the basis of this position of principle, confirms its negative attitude towards any co-operation with the apartheid régime in South Africa, and fully supports all the actions of the international community, international organizations and bodies, particularly the United Nations, and other governmental and non-governmental institutions whose task is to combat this inhuman system. In 1962 Czechoslovakia suspended all political, diplomatic, economic, scientific, cultural and sporting links with South Africa. No transnational corporation maintaining such links operates in Czechoslovakia. Economic co-operation with South Africa is prohibited in Czechoslovakia under order No. 65/1980 of the Federal Ministry of Foreign Trade, banning economic links with South Africa, which has binding legal force.

Czechoslovakia condemns all co-operation with the apartheid régime and all support for it. This is fully in keeping with the provisions of article III of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid, which lays down that criminal responsibility shall apply to individuals, members of organizations and institutions and representatives of the State whenever they commit acts constituting the crime of apartheid, incite them or conspire or co-operate in their commission. This responsibility clearly also applies to transnational corporations which co-operate with the apartheid régime.

In Czechoslovakia's view, a very important aspect of this issue is that the list of contracting parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid contains practically none of the States in which transnational corporations are registered. First and foremost these are the developed Western countries. In Czechoslovakia's view, despite this unfavourable state of affairs, it is possible and justifiable to take as a starting-point the fact that the prohibition of apartheid applies to all States, whether or not they have ratified the Convention. The violation of international law through the commission of the crime of apartheid stems directly from the Charter of the United Nations, which lays down the principle of respect for human rights and for fundamental freedoms for all without distinction as to race, language or religion (art. 1, para. 3), and also the principle of equal rights and self-determination of peoples (art. 55). On the basis of the facts mentioned above, all the States in the world community, and especially those which attach importance to respect for human rights in the world, are expected in their practical activities to consider apartheid as a gross, large-scale and systematic violation of human rights that brings into play the criminal responsibility of those who commit it.

The Czechoslovak Government has repeatedly expressed the view that the apartheid régime cannot be eliminated unless it is subjected to genuine, effective and large-scale isolation on the basis of consistent application of the relevant United Nations resolutions. It has been manifest on many occasions that the tolerant attitude of many influential countries vis-à-vis apartheid enables South Africa to pursue its policies. The parliamentary elections held in the country on 6 September 1989 also further confirmed the policy of racial segregation and were accompanied by bloodshed. Consequently Czechoslovakia condemns all forms of direct or indirect co-operation with the apartheid régime and fully supports the General Assembly's demands in resolution 43/97, and more specifically in paragraph 7, in which the States of which the transnational corporations continue to do business with South Africa and Namibia are called upon to take appropriate steps to terminate those dealings. It also supports the Assembly's demands in resolution 43/92, in which the Security Council is invited to impose comprehensive and mandatory sanctions under Chapter VII of the Charter of the United Nations against the racist régime of South Africa, as the only effective means of attaining the common goal of the forces fighting for the protection of human rights - namely, the elimination of apartheid.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]
[18 October 1989]

The German Democratic Republic reaffirms its view that the activities of transnational corporations in South Africa are a main obstacle to the abolition of apartheid. This position was also reiterated in resolutions adopted at the forty-third session of the General Assembly, among them resolutions 43/29 and 43/92.

Those transnational corporations active in South Africa contribute to the continued existence of apartheid. In the spirit of the International Convention on the Suppression and Punishment of the Crime of Apartheid, they have a share in the responsibility for the crimes of apartheid committed in South Africa.

The German Democratic Republic has repeatedly and extensively explained its fundamental position on this issue in reports submitted to the Secretary-General of the United Nations. It calls attention to its fourth report on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, dated 27 September 1985, and its comments on the conclusions and recommendations of the Group of Three of 7 November 1986. The position of the German Democratic Republic contained therein remains unchanged.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]
[31 August 1989]

One of the fundamental reasons for the absence of any radical steps forward in tackling the problem of apartheid lies in the continuing co-operation with South Africa on the part of economic, financial and military circles in certain States, as well as transnational corporations.

The Ukrainian SSR subscribes to the conclusions drawn by the Group of Three concerning the extent and the nature of the responsibility of transnational corporations for the continued existence of the racist system in South Africa. More detailed information on this issue may be found in particular in the Ukrainian SSR's reply to the United Nations Secretary-General's inquiry concerning the implementation of United Nations General Assembly resolution 43/92 on "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa."

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]

[30 November 1989]

1. The Union of Soviet Socialist Republics reaffirms its position of principle concerning the responsibility borne by transnational corporations for the continued existence of the system of apartheid in South Africa, as set out in earlier replies, notably in 1988.
2. The Soviet Union resolutely condemns the co-operation between transnational corporations and the racist régime of South Africa, and endorses the conclusion of the Group of Three of the United Nations Commission on Human Rights (E/CN.4/1989/33) that such co-operation on the part of international and national monopolies strengthens the criminal apartheid régime and perpetuates the oppression of the majority African population of South Africa. Moreover, transnational corporations are ruthlessly exploiting the natural and human resources of southern Africa, and primarily those of Namibia.
3. The Soviet Union also deems without foundation the assertion that the activities of transnational corporations in South Africa and the close co-operation between certain countries and Pretoria in the political, economic and military fields help to improve the situation of the overwhelming majority of the population of the country and moderate the apartheid régime.
4. The Soviet Union continues to believe that under article III, paragraph (b), of the International Convention on the Suppression and Punishment of the Crime of Apartheid, transnational corporations bear international criminal responsibility as participants in the crime of apartheid. It also favours the adoption of sanctions under Chapter VII of the Charter of the United Nations so as to halt all political, economic and military assistance to the racist South African régime.
