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ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

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

Report of the Secretary-General

I. INTRODUCTION

1. The General Assembly, by its resolution 3068 (XXVIII) of 30 November 1973, adopted and opened for signature and ratification the International Convention on the Suppression and Punishment of the Crime of Apartheid and appealed to all States to sign and ratify it as soon as possible.
2. By its resolution 3380 (XXX) of 10 November 1975, the General Assembly, convinced that ratification of or accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid on a universal basis and implementation of its provisions were necessary for the achievement of the goals of the Decade for Action to Combat Racism and Racial Discrimination, appealed to the Governments of all States to sign, ratify and implement the Convention without delay and requested the Secretary-General to submit to it annual reports on the status of the Convention.
3. By its resolution 31/80 of 13 December 1976, the General Assembly welcomed the entry into force on 18 July 1976 of the Convention, appealed to all States that had not yet become parties to the Convention to accede thereto, requested the Secretary-General to include in his annual report under General Assembly resolution 3380 (XXX) a special part concerning the implementation of the Convention, and decided to consider annually, starting with its thirty-second session, the question

* A/45/150 and Corr.1.

entitled "Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid".

4. By its resolution 44/69 of 8 December 1989, the General Assembly appealed once again to the States that had not yet done so to ratify or to accede to the Convention without further delay, in particular those States which had jurisdiction over transnational corporations operating in South Africa and Namibia and without whose co-operation such operations could not be halted.

II. STATUS OF THE CONVENTION

5. In accordance with the provisions of its article XV, paragraph 1, the International Convention on the Suppression and Punishment of the Crime of Apartheid entered into force on 18 July 1976.

6. As at 1 August 1990, the Convention had received 35 signatures, 31 of which had been followed by ratification. In addition, 58 States had acceded to the Convention, bringing the total of ratifications and accessions to the Convention to 89. A list of States that have signed, ratified or acceded to the Convention and the dates of their signature, ratification or accession appears in the annex to the present report.

7. In paragraph 13 of its resolution 44/69, the General Assembly requested the Secretary-General to intensify his efforts, through appropriate channels, to disseminate information on the Convention and its implementation with a view to promoting further ratification of or accession to the Convention.

III. IMPLEMENTATION OF THE CONVENTION

8. Under article VII of the Convention, the States parties 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. Copies of the reports are transmitted through the Secretary-General to the Special Committee against Apartheid.

9. In accordance with article IX, paragraphs 1 and 3, of the Convention, the Chairman of the Commission on Human Rights is authorized to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII. The group may meet for a period of not more than five days, either before the opening or after the closing date of the session of the Commission, to consider the reports submitted in accordance with article VII.

10. Under article X of the Convention, the States parties to the Convention empower the Commission on Human Rights to undertake a number of tasks enumerated therein, *inter alia*, to prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States parties, a list of individuals, organizations, institutions and representatives of States that 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.

11. By its resolution 44/69, the General Assembly commended those States parties to the Convention that had submitted their reports under article VII thereof and requested the Secretary-General to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission on Human Rights with relevant information concerning the forms of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa, and further requested the Secretary-General to include in his next annual report a special section concerning the implementation of the Convention.

12. The Group of Three on the implementation of the Convention, appointed by the Chairman of the Commission on Human Rights at its forty-fifth session under article IX of the Convention, was composed of the representatives of Nigeria, Panama and the Ukrainian Soviet Socialist Republic. The Group met at the United Nations Office at Geneva from 22 to 26 January 1990. It had before it reports submitted since its 1989 session by seven States parties.

13. In its report to the Commission on Human Rights at its forty-sixth session (E/CN.4/1990/35), the Group of Three, inter alia, noted with concern that, as at 31 December 1989, more than 190 reports were overdue under the Convention, and it strongly urged the States parties concerned to fulfil their reporting obligations and to expedite the submission of their overdue reports, as requested by the General Assembly in its resolution 44/69. The Group noted that some of the reports submitted by States parties were not in line with the general guidelines, and reiterated its recommendation that the general guidelines regarding the form and content of reports should be strictly followed by all States parties when preparing their reports. The Group called upon all States parties to the Convention to incorporate in their legislation provisions relating to the "crime of apartheid", including practices of racial segregation and discrimination in accordance with article II of the Convention, and to provide appropriate penalties in respect of persons guilty of the crime of apartheid, as stipulated in article IV (b) of the Convention, and in that connection it reiterated the view that consideration should be given to the drawing up of model legislation which would serve the States parties as a guide for the implementation of the provisions of the Convention. It wished to appeal once again to States parties, through the Commission on Human Rights, to strengthen their co-operation at the international level and to adopt legislative and administrative measures to implement fully and expeditiously, in accordance with the Charter of the United Nations, the decisions taken by the Security Council and other competent organs of the United Nations and its specialized agencies aimed at the prevention, suppression and punishment of the crime of apartheid, in accordance with article VI of the Convention. The Group wished to emphasize once again the importance of measures to be taken in the field of teaching and education for fuller implementation of the Convention and invited the States parties to include information on these measures in their reports. It also reiterated its opinion that the assistance given to national liberation movements in South Africa should be strengthened and called upon the international

community to contribute generously to such movements. It further reiterated its conviction that the very important means available to the international community to put an end to the system of apartheid consisted in imposing comprehensive and mandatory sanctions against the racist régime in South Africa. At the same time the Group considered that it would be desirable to undertake serious efforts to bring to an end the policies and practices of apartheid of the Government of South Africa through negotiations based on the principle of justice and peace for all as stated in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted unanimously by the General Assembly at its sixteenth special session on 14 December 1989 in resolution S-16/1.

14. By its resolution 1990/12 of 23 February 1990, entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid", the Commission on Human Rights took note with appreciation of the report of the Group of Three, and in particular of the conclusions and recommendations contained therein; requested the States parties to the Convention to continue to submit their initial reports not later than two years after the entry into force of the Convention for the States parties concerned and their periodic reports at four-year intervals, on the understanding that they may submit additional information to the Group at any time in the intervening period if they wish to do so; recommended once again that all States parties should take full account of the general guidelines laid down by the Group of Three in 1978 for the submission of reports (E/CN.4/1286, annex); drew the attention of all States to the opinion expressed by the Group in its reports that transnational corporations operating in South Africa and Namibia must be considered accomplices in the crime of apartheid, in accordance with article III (b) of the Convention; called upon all States whose transnational corporations continued to do business with South Africa and Namibia to take appropriate steps to terminate their dealings with South Africa and Namibia; drew the attention of the States parties to the desirability of disseminating further information on the Convention, the implementation of its provisions and the work of the Group of Three; requested the Secretary-General to invite States parties to the Convention 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; requested the Group 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 corporations whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-seventh session; and decided that the Group of Three should meet for a period of not more than five days before the forty-seventh session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

15. In notes verbales dated 18 May and 15 June 1990, the Secretary-General brought to the attention of the States parties the relevant provisions of the Convention and Commission on Human Rights resolution 1990/12, as well as the conclusions and recommendations of the Group of Three in the report on its 1990 session, and requested them to submit their reports within the time-limits indicated in Commission resolution 7 (XXXIV) of 22 February 1978 for transmission to the Group of Three at its 1991 session.

16. In another note verbale dated 14 June 1990, the attention of the specialized agencies and non-governmental organizations was drawn, in particular, to the provisions of General Assembly resolution 44/69 and Commission on Human Rights resolution 1990/12, by which the Assembly and the Commission requested them 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.

17. As regards the implementation of the provisions of article X of the Convention, the General Assembly, in its resolution 44/69, requested the Commission on Human Rights to intensify, in co-operation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as those against whom or which legal proceedings had been undertaken; requested the Secretary-General to circulate the above-mentioned list to all States parties to the Convention and all Member States and to bring such facts to the attention of the public by all means of mass communication; and appealed to all States, United Nations organs, the specialized agencies and international and national non-governmental organizations to step up their activities in enhancing public awareness by denouncing the crimes committed by the racist régime of South Africa.

18. In connection with the requests of the General Assembly contained in paragraphs 8 and 9 of its resolution 44/69, the Secretary-General wishes to refer to part two, chapter IV, of the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1985/8, paras. 511-513) and to part two, chapter IX, of the progress report of the Group of Experts (E/CN.4/1986/9, paras. 414-416), which contains a consolidated list of persons deemed responsible for the crime of apartheid or for serious violations of human rights, as well as to part two, chapter IX, of the interim report of the Group of Experts (E/CN.4/1988/8, paras. 416-417), which provides information concerning persons suspected of being guilty of the crime of apartheid or of a serious violation of human rights. These lists have been given wide publicity by the Secretary-General on several occasions since the publication of the original list by the Group of Experts in 1985.

19. During the period under review, the Ad Hoc Working Group of Experts did not receive sufficient information to enable it to determine the responsibilities of persons suspected of being guilty of the crime of apartheid.

ANNEX

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

| <u>State</u> | <u>Date of signature</u> | <u>Date of receipt of the instrument of ratification or accession</u> |
|---|--------------------------|---|
| Afghanistan | | 6 July 1983 a/ |
| Algeria | 23 January 1974 | 26 May 1982 |
| Antigua and Barbuda | | 7 October 1982 a/ |
| Argentina | 6 June 1975 | 7 November 1985 |
| Bahamas | | 31 March 1981 a/ |
| Bahrain | | 27 March 1990 a/ |
| Bangladesh | | 5 February 1985 a/ |
| Barbados | | 7 February 1979 a/ |
| Benin | 7 October 1974 | 30 December 1974 |
| Bolivia | | 6 October 1983 a/ |
| Bulgaria | 27 June 1974 | 18 July 1974 |
| Burkina Faso | 3 February 1976 | 24 October 1978 |
| Burundi | | 12 July 1978 a/ |
| Byelorussian Soviet Socialist Republic | 4 March 1974 | 2 December 1975 |
| Cambodia | | 28 July 1981 a/ |
| Cameroon | | 1 November 1976 a/ |
| Cape Verde | | 12 June 1979 a/ |
| Central African Republic | | 8 May 1981 a/ |
| Chad | 23 October 1974 | 23 October 1974 |
| China | | 18 April 1983 a/ |

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| <u>State</u> | <u>Date of signature</u> | <u>Date of receipt of the instrument of ratification or accession</u> |
|----------------------------|--------------------------|---|
| Colombia | | 23 May 1988 a/ |
| Congo | | 5 October 1983 a/ |
| Costa Rica | | 15 October 1986 a/ |
| Cuba | | 1 February 1977 a/ |
| Czechoslovakia | 29 August 1975 | 25 March 1976 |
| Democratic Yemen b/ | 31 July 1974 | |
| Ecuador | 12 March 1975 | 12 May 1975 |
| Egypt | | 13 June 1977 a/ |
| El Salvador | | 30 November 1979 a/ |
| Ethiopia | | 19 September 1978 a/ |
| Gabon | | 29 February 1980 a/ |
| Gambia | | 29 December 1978 a/ |
| German Democratic Republic | 2 May 1974 | 12 August 1974 |
| Ghana | | 1 August 1978 a/ |
| Guinea | 1 March 1974 | 3 March 1975 |
| Guyana | | 30 September 1977 a/ |
| Haiti | | 19 December 1977 a/ |
| Hungary | 26 April 1974 | 20 June 1974 |
| India | | 22 September 1977 a/ |
| Iran (Islamic Republic of) | | 18 April 1985 a/ |
| Iraq | 1 July 1975 | 9 July 1975 |
| Jamaica | 30 March 1976 | 18 February 1977 |
| Jordan | 5 June 1974 | |
| Kenya | 2 October 1974 | |

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| <u>State</u> | <u>Date of signature</u> | <u>Date of receipt of the instrument of ratification or accession</u> |
|----------------------------------|--------------------------|---|
| Kuwait | | 23 February 1977 a/ |
| Lao People's Democratic Republic | | 5 October 1981 a/ |
| Lesotho | | 4 November 1983 a/ |
| Liberia | | 5 November 1976 a/ |
| Libyan Arab Jamahiriya | | 8 July 1976 a/ |
| Madagascar | | 26 May 1977 a/ |
| Maldives | | 24 April 1984 a/ |
| Mali | | 19 August 1977 a/ |
| Mauritania | | 13 December 1988 a/ |
| Mexico | | 4 March 1980 a/ |
| Mongolia | 17 May 1974 | 8 August 1975 |
| Mozambique | | 18 April 1983 a/ |
| Namibia | | 11 November 1982 a/ |
| Nepal | | 12 July 1977 a/ |
| Nicaragua | | 28 March 1980 a/ |
| Niger | | 28 June 1978 a/ |
| Nigeria | 26 June 1974 | 31 March 1977 |
| Oman | 3 April 1974 | |
| Panama | 7 May 1976 | 16 March 1977 |
| Pakistan | | 27 February 1986 a/ |
| Peru | | 1 November 1978 a/ |
| Philippines | 2 May 1974 | 26 January 1978 |

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| <u>State</u> | <u>Date of signature</u> | <u>Date of receipt of the instrument of ratification or accession</u> |
|-------------------------------------|--------------------------|---|
| Poland | 7 June 1974 | 15 March 1976 |
| Qatar | 18 March 1975 | 19 March 1975 |
| Romania | 6 September 1974 | 15 August 1978 |
| Rwanda | 15 October 1974 | 23 January 1981 |
| Saint Vincent and the Grenadines | | 9 November 1981 a/ |
| Sao Tome and Principe | | 5 October 1979 a/ |
| Senegal | | 18 February 1977 a/ |
| Seychelles | | 13 February 1978 a/ |
| Somalia | 2 August 1974 | 28 January 1975 |
| Sri Lanka | | 18 February 1982 a/ |
| Sudan | 10 October 1974 | 21 March 1977 |
| Suriname | | 3 June 1980 a/ |
| Syrian Arab Republic | 17 January 1974 | 18 June 1976 |
| Togo | | 24 May 1984 a/ |
| Trinidad and Tobago | 7 April 1975 | 29 October 1979 |
| Tunisia | | 21 January 1977 a/ |
| Uganda | 11 March 1975 | 10 June 1986 |
| Ukrainian Soviet Socialist Republic | 20 February 1974 | 10 November 1975 |
| Union of Soviet Socialist Republics | 12 February 1974 | 26 November 1975 |
| United Arab Emirates | 9 September 1975 | 15 October 1975 |
| United Republic of Tanzania | | 11 June 1976 a/ |
| Venezuela | | 28 January 1983 a/ |

| <u>State</u> | <u>Date of signature</u> | <u>Date of receipt of the instrument of ratification or accession</u> |
|--------------|--------------------------|---|
| Viet Nam | | 9 June 1981 a/ |
| Yemen b/ | | 17 August 1987 a/ |
| Yugoslavia | 17 October 1974 | 1 July 1975 |
| Zaire | | 11 July 1978 a/ |
| Zambia | | 14 February 1983 a/ |

a/ Accession.

b/ In a communication dated 19 May 1990, the Ministers for Foreign Affairs of the Yemen Arab Republic and the People's Democratic Republic of Yemen informed the Secretary-General of the formation on 22 May 1990 of a single sovereign State called the "Republic of Yemen".
