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THE ARMS EMBARGO, INTERNATIONAL LAW AND THE STRUGGLE AGAINST APARTHEID

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INTRODUCTION

The adoption by the Security Council of Resolution 418 on 4 November 1977 imposing what is generally described as the mandatory arms embargo on the South African regime has significance in a number of areas. Indeed, this was the first occasion on which the Security Council has taken peremptory action against a Member State of the United Nations under Chapter VII of the Charter for particular acts (described in a limited fashion because of Western reluctance to acknowledge the policy of apartheid and its associated dangers as a threat to international peace) constituting a threat 'to the maintenance of international peace and security'.

Resolution 418 has therefore to be seen in the context of major and numerous resolutions passed by the Security Council, the General Assembly, and associated UN bodies since 1960, and the change in the international balance of forces brought about by the movement to independence of nearly 80 countries in the past two decades. Associated with the political pressure generated by the newly-independent states and their allies, has been the consolidation of rules of international law relating to self-determination, the norm of non-discrimination on grounds of race, the development of rules assimilating apartheid to genocide (and therefore constituting a crime against humanity), the recognition of national liberation movements as bearers of rights at the level of international law and therefore affecting the development of humanitarian international law.

The most profound effect of these developments has been the acceptance by the vast majority of the members of the UN that economic, nulcear, diplomatic and military sanctions against South Africa are necessary in order to isolate the regime and weaken its capacity to uphold apartheid, suppress the liberation struggle, and wage aggression against African states.

Resolution 418 is therefore the culmination of the first stage of the struggle for sanctions against South Africa. It was a compromise for two

reasons. Firstly the Western powers (with the three vetoes of the United States, France and Great Britain) rejected the idea that the Security Council should characterise the whole situation in South Africa as a threat to international peace and security. This would have had far-reaching effects. Instead, in operative paragraph 1, the Security Council:

> 'Determines, having regard to the policies and acts of the South African Government, that the acquisition by South Africa of arms and related material constitutes a threat to the maintenance of international peace and security',

knowing full well that it is apartheid and its colonialist policies of violence and aggression that constitute such a threat.

Secondly, the Resolution was a compromise, coming soon after the magnificent spirit of solidarity displayed by most states at the World Conference against Apartheid in Lagos in August 1977, with its clarion call for comprehensive action. Finally, some of the ambiguities in the resolution were meant to be escape valves for the Western powers, who were not willing to concede more than they could get away with.

With all these qualifications, Resolution 418 nonetheless sets the law firmly and clearly against collaboration and restricts the competence of some of those countries who have traditionally underpinned the South African war machine.

NEW OBLIGATIONS

Resolution 418, having been passed under Chapter VII of the Charter, is binding on Member States. In this it differs from previous General Assembly resolutions and, in particular, Security Council Resolution 181 of 1963 which declared a voluntary arms embargo without any supervisory machinery. Under Article 25 of the Charter, 'The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter'. This provision, voluntarily entered into by States, is an important legal restriction on state sovereignty. Resolution 418, in addition, calls on non-members of the United Nations as well as

Member States to act strictly (my emphasis) in accordance with the provisions of this resolution.

Treaty obligations, especially those associated with a Charter which is the basic constituent text of the major international organisation in the world, have to be interpreted and carried out in good faith by states. Non-members are not directly bound by a treaty to which they are not parties, but they may be under other rules of customary international law concerning the obligations of states who aid and abet the commission of an international crime.

The obligations undertaken by states under Resolution 418 are therefore of a most solemn nature. Evasion and non-implementation of these obligations will not only bring the UN into disrepute and undermine its credibility, but will also result in a breach of a state's obligations. A state is obliged, in relation to treaty obligations, not only to carry out the basic obligations, but also to interpret those provisions in such a way as to make the treaty effective.

For example, operative paragraph 3 calls on all States to review existing contractual arrangements and licences granted to South Africa concerning the manufacture and maintenance of arms etc., with 'a view to terminating them'. Lamentably, these arrangements were not terminated by the embargo itself. but there can be little doubt that all members of the UN are obliged to 'review' these arrangements. That is, if States do not do this, they are not acting in good faith. In addition, the review must be carried out with the intention of terminating the arrangements, and not merely for a cosmetic purpose.

In some countries, therefore, the role of the Charter, which is recognised as a higher law, may be tested by legal actions. For example, it is clear that municipal legislation should forbid (under operative paragraph 2 of the Resolution) the supply to South Africa of 'arms and related material of all types, including the sale or transfer of weapons and ammunition...' and forbid the provision of all types of equipment and supplies, as well as licencing arrangements for their manufacture or maintenance.

Some states (such as Ireland) have attempted to carry out the above obligation by having recourse to legislation controlling the exports of various commodities and goods. In the case of Ireland, the annual order (made under authority of the legislation) has not been discussed in Parliament, and does not even refer to South Africa. It does not refer to licencing arrangements and the list of 'related material' is not comprehensive. It is doubtful whether such an approach is consistent with Charter obligations.

In any case, such administrative regulations are not appropriate machineries to regulate such matters as patents, end-user clauses and re-exports. No figures are published concerning licence applications or requests which were granted.(1)

EFFECT IN MUNICIPAL LAW

In many countries, the Charter is part of their local law, either because of the rules of the national systems making ratified treaties part of the national system or because of a specific provision in the legislation.(2) In other countries, national legislation has been passed in order to enable the government to carry out their obligations under Article 25 of the Charter, since no State may plead that its local law does not permit the carrying into effect of a decision of the Security Council.

As in the common law system, many legal systems have rules of interpretation which ensure that a national parliament did not intend, when it passed legislation, to conflict with its international obligations or with international law. It is therefore open to argument whether more restrictive national legislation carrying out the obligations under Resolution 418 may be relied on even in national systems which do not give priority, in their domestic law, to international treaties.

Where the Charter is part of national law or where municipal systems 'receive' international law internally, it is open to argument whether local rules or judicial decisions which may restrict the application of Resolution 418 are

lawful. Most national systems have laws concerning official and industrial secrets or rules relating to confidential information. Clearly, where workers wish to disclose to their trade unions or to the Sanctions Committee of the Cecurity Council that breaches of Resolution 418 have taken place or are threatened, then in these situations the 'higher law' of the Charter should be invoked as a defence.

Similarly, many systems restrict the right to strike or other forms of industrial action to so-called legitimate trade union objectives, or to disputes which may be settled by the entering into force of a new collective agreement. If unions or workers wish to take action against breaches of the arms embargo, they may fall foul of criminal or civil sanctions in their own jurisdiction. The plea of 'justification', i.e. that they are carrying out the higher obligations imposed by international law, must be open to them and the General Assembly, in particular, must support this development towards protecting workers who do not wish to aid and abet breaches of international obligations.

Apart from the provisions of Resolution 418 concerning the specific liability of a State, international law has developed rules concerning the crime of apartheid where liability is defined for individual and corporate collaboration with apartheid.

LEGAL BASIS FOR SANCTIONS

It should be quite obvious that neither this Conference nor the United Nations is concerned with a study of the academic aspect of international law or with the techniques of rule creation or even exegeses on the rules. Law is congealed politics and we are therefore concerned with determing the extent to which the rules assist in the campaign against apartheid and vindicate the right of the peoples of Southern Africa to overthrow apartheid.

The implementation of the rules of law and the invocation of Chapter VII of the Charter depend on the political will of the Member States of the United Nations and the balance of forces within the international community. No-one can doubt that the South African system of apartheid, based as it is on a

refusal to treat the majority of its own inhabitants as citizens, is a denial of the right of self-determination and lacks legitimacy. Coupled with the persistent acts of violence against its own population and against the territorial integrity and political independence of the Front Line States, the South African regime has the hallmarks of an international outlaw, and is guilty of international terrorism on a massive sacle. Can there be any doubt that the one Member State which has persistently violated the principles of the Charter is South Africa ? South Africa therefore should be the prime candidate for the application of Article 6 of the Charter, expulsion from the United Nations.

The refusal of South Africa's collaborators and principal trading partners to carry out their legal and political obligations is reflected in the occasions on which they have used the veto at the Security Council when enforcement action has been proposed because of the illegal occupation of Namibia, most recently in April 1981. This is in the face of the clearest identification of the legal issues by the International Court of Justice in the Namibia Opinion of 1971. One therefore approaches the recent decision of the Human Rights Commission of the Economic and Social Council with some caution. In February 1981, the Human Rights Commission recommended to the General Assembly that the latter body should seek an Advisory Opinion from the International Court of Justice by requesting the Court to consider the following question:

> "Whether a State which prusues a policy of apartheid and denies human rights, as does South Africa, may lawfully continue to hold a place in the international community?"

Tempting as it may be to seek a clearcut definition of the status of the South African regime in the light of contemporary international law, one must guard against the vicissitudes and vagaries of such a recourse to the Court. Additionally, the occasion may provide an opportunity for a long-drawn out postponement of any effective action, the excuse being that the principal legal organ of the UN is now seized of the general issue of apartheid. The history of four Advisory Opinions over Namibia and the two-stage contentious proceeding ending with the fiasco of 1966 do not generate much confidence. In any event, the issues concerning South Africa, interesting as they may be to lawyers, are

primarily concerned with the presence or absence of a political will on the part of South Africa's collaborators to help bring this evil system to an end. The law has a part to play in this, but a modest one.

There are certain basic legal conclusions which can safely be reached which can provide the tools for the struggle against apartheid to complement the decisive role of the liberation movement:

(i) Firstly, it is now recognised that the right of self-determination is not merely a legal right at the level of customary international law but is also part of the peremptory rules of international law, otherwise known as jus cogens.(2)

(ii) Secondly, there exists at the level of customary international law a norm of non-discrimination which, as a result of judicial interpretation by the International Court of Justice (Barcelona Traction Case [1970], and the Namibia Opinion [1971]), is also part of jus cogens.

(iii) The particular form of racialism and colonialism in South Africa, elevated to a philosophy of the State, is a striking example of a breach of these norms and a State which persistently flouts the norms is illegitimate, with resulting consequences for the illegitimate entity,(3) together with international responsibilities which devolve on other States, organisations, corporations and individuals.

(iv) That the South African regime is bound by the rules of international humanitarian law relating to armed conflicts to treat combatants of the liberation movement as prisoners of war, independently of Protocol I of the Geneva Conventions which merely declared and confirmed the law as it has evolved. If the regime continues to torture, imprison and execute as ordinary criminals those combatants they capture, then it is in serious breach of the humanitarian rules of law and, therefore, guilty of war crimes.(4) This is especially so in the light of the historic declaration of November 1980 by the African National Congress of South Africa that they will treat captured troops of the regime as prisoners of war.(5)

(v) The liberation movement of South Africa has a legal right to recognition as the representative of the oppressed people of South Africa, the legal right to use all forms of action for the overthrow of apartheid, racism

and colonialism and the right to seek and obtain all forms of support in prusuit of the legally protected right to self-determination.(6)

(vi) The question of reparation for the crime of apartheid and for aiding and abetting the commission of this international wrong has become an urgent issue for the international community.

The Security Council, in exercising its powers under Chapter VII of the Charter in situations where there is a threat to the peace, breach of the peace or act of aggression, acts autonomously and arrives at a political decision. Whether sanctions should be selective or comprehensive must depend on the role that these sanctions are perceived to play in the evolving situation in Southern Africa and the extent to which such perceptions are concerned with the overthrow of apartheid (as recent General Assembly resolutions have demanded) or simply, on the other hand, with permitting forces among the dominant whites to make necessary adjustments so as to undermine the liberation struggle.

The limited approach to sanctions is posited on the assumption that sanctions (selective or otherwise) will bring about the necessary changes by themselves. Yet the history of the selective and stage-by-stage sanctions over Southern Rhodesia from 1965 onwards shows that such an approach is misguided and dangerous for two reasons. Selective sanctions gave the Smith regime time to transfer resources and develop new techniques to deal with the embargoed areas; secondly, it was the liberation struggle, coupled with the later difficulties attendant on sanctions, that compelled the racists and colonialists to go to the conference table.

Under the guise of 'realism' - in support of selective sanctions - an international out law may be allowed to entrench its illegal rule, while allowing its collaborators time and opportunity to continue their relationship with South Africa. It is time that the view of the liberation movement and the vast majority of mankind was reflected in the response of those who are now, willingly or unwillingly, are prepared to countenance further measures against the regime.

APARTHEID : AN INTERNATIONAL CRIME

For many years the apartheid regime, the racist trimming of which camouflages the colonial rule of force, has been denounced in the United Nations as a international crime.(7) Even states such as the USA, Great Britain and the FRG, which in most of the resolutions directed against the apartheid regime abstain from voting or, as far as they are able to do, prevent sanctions against South Africa in the Security Council, no longer deny the special nature of the apartheid regime. The struggle against the apartheid regime has therefore entered such a phase that the time has come to examine what possibilities exist for enforcing international responsibility for the crime of apartheid, a violation of international law which is of such a magnitude and of such a dimension that it has been recognised as an international crime by the international community as a whole.

South Africa has, under three aspects, been convicted by the General Assembly and the Security Council of the United Nations for having committed serious violations of international law, so-called international crimes, which endanger the maintenance of international peace and security.

(a) For a number of years the apartheid regime as such has been characterized by the General Assembly as a crime against humanity. It suffices to point out the repetition of such statements in Resolution 34/93 A passed in 1979. That assessment was already the basis of the Convention on the Suppression and Punishment of the Crime of Apartheid.(8) Nowadays it has achieved general validity. That is why in Article 19 of the draft of the International Law Commission on the international responsibility of states, apartheid is named, side by side with aggression, the forcible maintenance of colonialism, slavery and genocide, as a typical example of an international crime. A violation of international law is qualified as an international crime if the wrongful act infringes international obligations that are essential for the protection of fundamental interests of the international community as a whole.(9)

(b) Closely linked with the oppression of the South African people by the apartheid regime is the second aspect, the aggressiveness of the apartheid regime towards other countries. Time and again the General Assembly has condemned the aggressive acts perpetrated by South Africa against neighbouring States and confirmed "that the policies and actions of the apartheid regime constitute a threat to international peace and security." As an example one may refer to Resolution 34/93 A adopted by the General Assembly. The Security Council too has already, in its Resolution 387 (1976), expressly condemned the aggression committed against the People's Republic of Angola.(10) South Africa has neither legal right nor warrant to invoke the so-called right of 'hot pursuit' over land territory. International lawyers are now under a duty to work out the implications of South Africa's acts of international terrorism against neighbouring states and its breach of the Charter forbidding the threat of use of force against the territorial integrity of any State (under Article 2(4) of the Charter). The countries attacked have the right to seek and obtain assistance in self-defence.

(c) The third aspect under which the crime of apartheid has been condemned by the UN is the continued occupation, in violation of international law, of Namibia, after the Mandate had been ended by the General Assembly Resolution 2145 (XXI) on 27 October 1966.(11)

The responsibility for the crime of apartheid is not confined to the apartheid regime in South Africa, but extends to its accomplices which artificially keep alive that criminal regime. For a number of years the General Assembly has stated that the "main obstacle to the liquidation of the racist regime and the abolition of the inhuman and criminal apartheid system is the continuation of its cooperation with the most important Western and other trading partners of South Africa with the racist regime."(12) The General Assembly has declared that "any collaboration with the racist regime and apartheid institutions is a hostile act against the purposes and principles of the United Nations and constitutes a threat to international peace and security."(13) In this context the General Assembly does not only refer to states, but expressly singles out

organisations, transnational corporations and other institutions which continue to collaborate with the racist regime. The Assembly most severely condemned "the activities of all foreign corporations operating in Namibia under the illegal administration of South Africa which are exploiting the human and natural resources of the Territory." Time and again the General Assembly stated in warning terms that those "States, which give assistance to the colonial and racist regimes in Southern Africa, become accomplices in the inhuman practices of racial discrimination, colonialism and apartheid perpetrated by those regimes".(14)

The charge of collaboration, complicity and participation in the apartheid crime is based solely on the objective facts of the economic and military collaboration with the apartheid regime or on the fact that some states do not prevent organisations and corporations under their jurisdiction from collaborating with the apartheid regime or institutions of South Africa.

Obviously all the resolutions adopted by the United Nations proceed on the basis that, after the apartheid regime has been exposed as a crime against humanity, the very fact of support given to that regime suffices to establish responsibility for participation in the crime. Resolutions authoritatively interpreting the provisions of the Charter, for example, are now recognised as sources of international law binding on States.

The General Assembly bases its condemnation on the fact that collaboration with a regime or its institutions, the criminal character of which has been established, itself constitutes a mode of taking part in the international crime. This applies not only to actions performed by the states themselves but also to omissions, when for example they do not take positive action to suspend economic relations between companies and banks under their jurisdiction and institutions of the apartheid regime.(15)

The commission of the crime of apartheid in its various forms results in the international responsibility of South Africa and those countries which aid and abet it and it involves the criminal responsibility of the guilty persons and the participating organisations.

The legal consequences which result from or are created by the crime of apartheid differ. They range from the use of military means by the affected peoples and states in exercise of individual and collective self-defence, to economic and political sanctions, and up to reparation claims and measures of criminal responsibility against persons and organisations. International law has recognised the right of peoples held under colonial or racial domination to overthrow colonial or racial rule. This right to revolt, with the attendant use of force, must not be allowed to be equated with "terrorism" and lawyers have a special duty to draw attention to this important dimension of the law. In addition, the national liberation movement has the right to seek and obtain aid in its struggle.

REPARATIONS FOR CRIMINAL RESPONSIBILITY

Owing to the present conditions of the struggle against the apartheid regime, the main emphasis of the actions, resolutions and deliberations is as a rule placed upon the support for the legitimate liberation struggle waged by the peoples of South Africa, the application of more stringent sanctions and their observance, as well as the bringing about of a general economic and, in particular, an oil embargo against South Africa. The decision taken by the UN and the OAU to convene this special international conference in May 1981 to discuss sanctions and their implementation is therefore of great importance.

Within this framework, and also with a view to the future enforcement of reparation claims, is is also important to devote special attention to the careful tracing of those implicated in the crime of apartheid.

If need be, a special set of devices ought to be established. The procedures adopted by the Security Council Committee on the Arms Embargo and the experience of the Southern Rhodesia Sanctions Committee from 1965 to 1979 - dressed in secrecy and refusing to confront governments with serious allegations of breaches - must result in a different kind of supervision and eonforcement procedures by the Security Council.

So far insufficient attention has been paid to the fact that criminal responsibility for the commission of or participation in such crimes as defined by the Convention on the Suppression and Punishment of the Crime of Apartheid does not only apply to individuals but, as Article I, para 2 explicitly states, also to organisations and institutions. Although this provision does not go into details about the responsibility of organisations and institutions and the type of punishment to be applied to them, Article 10 explicitly empowers the Human Rights Commission to compile a list not only of the responsible individuals but also of organisations and institutions.

The activities which have been carried out in connection with the Khalifa Report in the Sub-Commission on Prevention of Discrimination and Protection of Minorities[16] and in the Special Committee against Apartheid establish a good basis on which to single out those enterprises and organisations which are accused of having participated in the crime of apartheid and which must in consequence by placed on the list. In World War II the list of major war criminals contained not only individuals but also organisations and corporations. However, the Charter of the International Military Tribunal and the Control Council Law No. 10 were aimed at prosecuting members of the organisations listed. In the case of the crime of apartheid, the main penalty will be expropriation in favour of the people of Southern Africa or liability to pay compensation. The legislation on the expropriation of enterprises and assets of war and nazi criminals after World War II is, in this regard, an interesting precedent.[17]

The practical significance of these matters becomes immediately obvious if it is considered that, with the liquidation of the apartheid regime, the main criminal, the South African government in its present structure, disappears.

Regarding the issue of reparation for the damage caused by the apartheid regime, it will be of great practical importance that a free and independent South Africa is entitled to claim compensation from collaborators and organisations, and that there exist assets out of which such claims can be satisfied. The implications for the people of Namibia under Decreee No 1 of the Council for Namibia which forbids the exploitation and export of Namibia's natural and mineral resources, should be obvious.

The existence of a claim to reparation in cases of a breach of international law is beyond any doubt. It has also been laid down repeatedly and expressly by the United Nations with regard to the crime of apartheid.

After the liquidation of the apartheid regime in South Africa, the South African people and their new authorities will be faced with the problem against whom and out of which assets they are able to enforce or discharge their own claims for reparation and those of their neighbours. In such a situation it will be important to recall that there exists an international responsibility for collaboration and complicity with the apartheid regime. The drawing on assets of institutions of the apartheid regime and its foreign accomplices in South Africa, Namibia and other countries, which were directly affected by South African acts of aggression is, for the sake of meeting reparation claims, not only justified but will, in many cases, also be the only effective means. The drawing on Germany's foreign assets for the sake of meeting repration claims after the Second World War may serve here as a model.

Another possibility is offered by the imposition of penalties on corporations, enterprises, banks and other organisations for their participation in the crime of apartheid.

The punishment of organisations, as has expressly been provided by the Convention on the Suppression and Punishment of the Crime of Apartheid, is by no means an individual phenomenon. Many countries have anti-trust legislation and legislation on taxes and duties which lay the responsibility for breaches on the organisations concerned. Penalties range from fines to the liquidation of the organisation.

There is no doubt that a new South Africa, when implementing the Convention on the Suppression and Punishment of the Crime of Apartheid, will be entitled to apply such measures when meting out justice against enterprises and organisations which, by their collaboration, took part in the commission of the crime of apartheid. The expropriation of war and nazi criminals after World Wor II presents itself as a parallel case. In addition a liberated South Africa will be under no obligation to repay any debts or loans incurred

or received by the apartheid regime which helped the latter to maintain apartheid rule after it had been stigmatised by the United Nations as a crime against humanity. In other words, private rights, contracts and transactions may be affected because of the violation of jus cogens, because overriding rules of jus cogens produce a situation of irreducible obligation that illegal actions be ignored or not be allowed to affect the obligations of other states.

Under the aspect of listing and securing assets which may serve to discharge reparation claims of the peoples of South Africa and its neighbours, activities taken for the listing of those states, banks, transnational corporations and enterprises which are still collaborating with the apartheid regime and take part in the exploitation of Namibia, are of invaluable importance. It will be necessary to coordinate such investigations and to apply more work and wider publicity to them.

Finally the drawing on such organisations and assets will not only meet claims for reparation. It affects the very roots of the apartheid regime and of racism (18) and will therefore, at the same time, be a decisive step towards the liberation of the peoples of Southern Africa from domination and exploitation by the multinational corporations.

CONCLUSION

Arising out of the right to self-determination, the national liberation movement of South Africa has rights and obligations at the level of international law and international personality. There must be increasing recognition of the primacy of the role of the liberation movement in international and regional organisations.

Where possible, national organisations and individuals should consider bringing actions in their own municipal courts to challenge governmental inactivity or complicity in such matters as the implementation of the arms embargo imposed under Chapter VII of the Charter by the Security Council in November 1977 and possible action under the International Convention for the Elimination of All Forms of Racial Discrimination, 1965.

The legal basis for action against the South African regime has a clear basis in the development of the rules of the international community. Rules of procedure take second place to the basic rules of the international community,

in the United Nations and elsewhere.(19)

The international community, in rejecting colonialism and racialism (especially where it is the official policy of a state) has created new norms. The effect of this development is best reflected in the intervention made by President Julius K. Nyerere, President of the United Republic of Tanzania, at the special meeting marking the 25th anniversary of the United Nations, when he said:

> "... the United Nations has to act against the forces of racialism and colonialism. For these represent the kind of tyranny and oppression which deny all hope to men, and which therefore force them to express their humanity through violence. A man can change in religision if he wishes, he can accept a different political belief - if this would relieve him of intolerable circumstances. But no man can change his colour or his race. And if he suffers because of it, he must either become less than a man or he must fight. And for good or evil, mankind has been so created that many will refuse to acquiesce in their own degradation; they will destroy peace rather than suffer under it." (20)

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FOOTNOTES

1. See the two Reports of the Security Council established to monitor Resolution 418, and the extent to which, if at all, it is able to verify complaints. The Committee is not able to transmit governmental replies (many of which are evasive or tendentious) if governments will not permit this. The Committee does not have authority to investigate or verify the accuracy of information supplied by States. The second report of 19 September 1980 (S/14179) provides some valuable information and makes useful recommendations. The earlier report is of 31 December 1979 (S/13721).

2. Professor Hector Espiell's paper, as Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, is the most comprehensive study: The Right to Self-Determination, U.N., 1980, E/CN.4/Sub. 2/405/Rev. 1.

3. On the whole question of the legitimacy of the South African regime, evaluated from the international and internal law perspectives, covering questions of the international status of the regime, see Law versus Apartheid, (1979) Review of Contemporary Law, No. 1, by Kader Asmal.

4. See Kader Asmal, The Status of Combatants of the Liberation Movement of South Africa under the Geneva Conventions of 1949 and Protocol I of 1977, U.N. Centre against Apartheid, Department of Political and Security Council Affairs, 10/80, June 1980.

5. Official Announcement in Bulletin of the International Committee of the Red Cross, No. 59, 3 December 1980.

6. See National Liberation Movements: Their Status and Role in Contemporary International Law, International Association of Democratic Lawyers, Conference Paper, September 1980, by Kader Asmal.

7. E.g. Resolutions 2202 (XXI), 2391 (XXIII), 2671 F(XXV), 3069 (XXVIII), 3411 G (XXX), 34/93 A, as well as the Resolutions 392 (1976) and 473 (1980) passed by the Security Council.

8. Res. 3068 (XXVIII), General Assembly, (1973).

9. When the Security Council in its Res. 418 (1977), basing itself on Chapter VII of the Charter, decided on the arms embargo against South Africa, it expressly confirmed that "the policies and acts of the South African Government are fraught with danger to international

peace and security". Already in its Res. 393 (1976) it had stated that "the elimination of apartheid in South Africa is necessary for the attainment of justice and lasting peace in the region".

10. Cf. also Res. 428 (1978). The Security Council based its decision regarding sanctions, Res. 418 (1977) not only on the "defiant continuance of the system of apartheid" but expressis verbis also on South Africa's "attacks against neighbouring independent States". Cf already Res. 393 (1976).

11. See my paper, Namibia: The International Law Dimension, International Conference in Solidarity with the Struggle of the People of Namibia, Paris, September 1980, for details of the international legal developments concerning Namibia.

12. Res. 34/93 A, E.Q; cf. also 33/183 H, M; 3411 (XXX).

13. Res. 34/93 A; 34/44; 33/23.

14. Res. 33/23; also cf. 3383 (XXX).

15. Cf. Res. 34/93 A; thus e.g. also the Human Rights Commission of the U.N., having discussed the Khalifa Report, called in February 1980 in its Res. 11 (XXXVI) on States not only "to take effective measures to end the supply of funds and other forms of assistance, including military and nuclear supplies and equipment, to the racist regimes which use such assistance to repress the peoples of southern Africa and their national liberation movements". In the same Resolution we read: "Calls upon the Governments of the countries where the banks, transnational corporations and other organisations named and listed in the revised report are based, to take effective action to put a stop to their trading, manufacturing and investing activities in the territories of the racist and colonial regimes in southern Africa" - see E/CN 4/1366 annex III for this list.

16. E/CN. 4/Sub. 2/383, Rev 1 as well as 425, Corr. 1 and 2 and Add. 1-6; cf. also Res. 11 (XXVI) of the UN Human Rights Commission.

17. Cf. the report on bank loans to South Africa (1972-1978) by Beate Klein, in: Notes and Documents 5/79 of the UN Centre against Apartheid.

18. Reference should be made to Res. 33/182 A of December 1978, in thich the General Assembly explicitly declares: "That South Africa is liable to pay reparations to Namibia for the damage caused by its illegal occupation of Namibia and its act of aggression against the Namibian people since the termination of the mandate over Namibia". In connection with the South

African aggression against Angola, too, the Security Council did not confine itself to a condemnation of the aggression but demanded explicitly of the government of South Africa "to meet the just claims of the People's Republic of Angola for a full compensation for the damage and destruction inflicted on its State and for the restoration of the equipment and materials which its invading forces seized". (SC 387 [1976]).

19. See the arguments raised by the South African regime against the rejection of its credentials at the 35th session of the General Assembly, A/35/802, 5/14395, 9 March 1981.

20. Official Records of 25 June 1970, 1867th meeting.

INTERNATIONAL CONFERENCE ON SANCTIONS
AGAINST SOUTH AFRICA

(Paris, 20-27 May 1981)

27 May 1981

DECLARATION OF THE INTERNATIONAL CONFERENCE

Pa-81-121

1. The International Conference on Sanctions against South Africa, organized by the United Nations in co-operation with the Organization of African Unity, was held at Unesco House, Paris, from 20-27 May, 1981.

2. The Conference was attended by representatives of 124 Governments, the United Nations Organs, Organization of African Unity, Movement of Non-aligned Countries, specialized agencies of the United Nations, intergovernmental organizations, national liberation movements, international and national non-governmental organizations as well as a number of experts and leading statesmen. The national liberation movements of South Africa and Namibia - the African National Congress of South Africa, the Pan Africanist Congress of Azania and the South West Africa People's Organization - were represented by high-level delegations led by their respective Presidents.

3. The Conference reviewed the situation in South Africa, and in southern Africa as a whole. There was also an extensive exchange of views on the feasibility of sanctions and other means as credible measures not involving force, which the world community can employ to exert diplomatic, economic and other pressures against the racist regime of South Africa. Such measures could avert the grave danger to international peace and security arising from the policy and action of the racist regime of South Africa. The International Conference, then adopted the following declaration which it commends for the earnest and urgent attention of all governments, organizations and peoples for appropriate action to secure the expeditious eradication of apartheid and the liberation of Namibia from illegal occupation by South Africa's racist regime.

Grave situation

4. The Conference expresses its profound concern over the situation in South Africa, and in southern Africa as a whole, resulting from the policies and actions of the South African regime of racism, repression and terrorism.

5. The stubborn efforts of that regime to perpetuate racist domination by an ever-increasing dependence on violence and repression and to continue its illegal occupation of Namibia, in defiance of repeated appeals by the international community and in flagrant contravention of the United Nations Charter, the Universal Declaration of Human Rights and the Declaration on Granting of Independence to Colonial Countries and Peoples, have created an explosive situation in southern Africa and constitute no longer a threat to, but a manifest breach of international peace and security.

6. The Pretoria regime is, moreover, continuing its illegal occupation of Namibia in defiance of the United Nations and the advisory opinion of the International Court of Justice, thereby undermining the authority of the United Nations and violating the principles of the Charter of the United Nations. It has resorted to the militarization of the Territory, for which the United Nations has assumed direct responsibility, and to brutal repression of the Namibian people. It has frustrated the implementation of the United Nations plan for the independence of Namibia through free and fair elections. To this end, the South African racist regime deliberately caused the collapse of the pre-implementation meeting held at Geneva from 7 to 19 January 1981. The result has been a continuing and escalating armed conflict against the people of Namibia and its sole and authentic representative - the South West Africa People's Organization (SWAPO).

7. In pursuance of its policies of seeking to perpetuate racist domination in South Africa and to maintain illegal occupation of Namibia, as well as expand its imperialist influence beyond its borders, the Pretoria regime has resorted to constant acts of aggression, subversion, destabilization and terrorism against neighbouring independent African States, thereby aggravating existing international tensions.

8. It has built up a massive military machine and repressive apparatus and has embarked on acquisition of nuclear weapon capability in an attempt to suppress resistance by the oppressed people and terrorize neighbouring States into effective subservience.

9. Acquisition of military equipment and nuclear weapon capability by the racist regime of South Africa, with its record of violence and aggression, poses a grave menace to humanity.

10. The situation in southern Africa is, therefore, characterized by repeated breaches of the peace and acts of aggression and an ever-growing threat of a wider conflict with grave repercussions in Africa and the world.

11. The continuing political, economic and military collaboration of certain Western States and their transnational corporations with the racist regime of South Africa encourages its persistent intransigence and defiance of international community and constitutes a major obstacle to the elimination of the inhuman and criminal system of apartheid in South Africa and the attainment of self-determination, freedom and national independence by the people of Namibia.

Action by the International Community

12. The United Nations and the international community must take energetic and concerted action because the oppressed people of South Africa and Namibia deserve full support in their legitimate struggle for self-determination, freedom and national independence. The independent sovereign States of southern Africa have a right to protection from the repeated armed attacks, acts of aggression and depredations by a racist regime which acts as an international outlaw.

13. The United Nations and the international community must take action to stop the continuing breaches of the peace, and to avert a wider conflict. Such action is urgent and indispensable for the maintenance of international peace and security; for the elimination of apartheid and illegal occupation; for the discharge of the solemn obligations to the people of Namibia; for ensuring the emancipation of Africa after centuries of oppression, exploitation and humiliation; and for promoting genuine international co-operation.

14. The Conference strongly condemns the minority racist regime of South Africa for its criminal policies and actions.

15. The Conference declares that the racist regime of South Africa - by its repression of the great majority of the people of the country and their national liberation movements, by its illegal occupation of Namibia, and by its acts of aggression against neighbouring States - bears full responsibility for the present conflict and for its inevitable escalation.

16. The Conference further stresses that this responsibility of South Africa is shared by those States whose assistance and multifaceted support encourage the aggressive policy of the Pretoria racist regime.

17. It expresses its deep conviction that the situation in South Africa, and in southern Africa as a whole, is of deep concern to all governments and organizations and to humanity as a whole.

18. It declares that the United Nations and its family of organizations, as well as other intergovernmental organizations, have a vital interest in the elimination of apartheid and the achievement of genuine independence by Namibia. It recognizes that governments, intergovernmental and non-governmental organizations, as well as men and women of conscience can and must play a role in the international effort to support the oppressed people of South Africa and Namibia.

19. It emphasizes the importance of close co-operation between the United Nations and the OAU, as well as of co-operation between governments and public organizations to contribute to the elimination of apartheid and the independence of Namibia.

Consensus achieved

20. During the many years that the United Nations and the international community have considered the problem of apartheid in South Africa and its international repercussions, a consensus has emerged on the fact that apartheid is a crime against the conscience and dignity of mankind, incompatible with the provisions of the United Nations Charter and the Universal Declaration of Human Rights. There is also consensus that reliance on violence and repression by the South African racist regime and its continuing denial of human and political rights to the great majority of the South African people will certainly lead to escalation of a violent conflict and to a racial conflagration in South Africa with serious international repercussions. The international community recognizes that the struggle of the South African people for the elimination of apartheid and for the establishment of a democratic society, in which all the people of South Africa as a whole, irrespective of race, colour or creed, will participate freely in the determination of their destiny, is legitimate.

21. There is also an international consensus on the legitimacy of the struggle of the Namibian people for self-determination, freedom and national independence. Namibia, being a direct responsibility of the United Nations, the international community has repeatedly condemned the continued illegal occupation of the territory by South Africa in defiance of United Nations decisions and the advisory opinion of the International Court of Justice of 21 June 1971. South Africa's brutal repression of the Namibian people and its ruthless exploitation of the resources of their territory is a matter of profound concern to the international community.

22. It is on the basis of the foregoing consensus and in response to the aspirations of the oppressed people of South Africa and Namibia that the Conference has made its recommendations.

23. It recalls that the United Nations and the international community have adopted a number of measures, including a mandatory arms embargo, aimed at forcing South Africa to abrogate all its racist and oppressive laws, to terminate its illegal occupation of Namibia, and to put an end forthwith to its repeated and flagrant violation of the sovereignty and territorial integrity of neighbouring African States. It is a source of the deepest regret and concern that these measures have been circumvented or not fully implemented, particularly by some of the very Security Council members who are essential parties to them. The Conference, therefore, considers that action taken so far by the international community has proved inadequate.

Need for further action

24. The Conference considers it imperative that the Security Council should recognize that the situation in southern Africa, arising from the policies and actions of the racist regime of South Africa, is characterized by constant breaches of the peace and therefore, measures under Chapter VII of the United Nations Charter must be taken.

25. The Conference expresses its concern that the Security Council of the United Nations has yet been unable to effectively perform its solemn responsibilities in this connection due to the opposition of the Western permanent members of the Council. It draws the particular attention of those permanent members of the Security Council to their responsibilities under the Charter. It urges all governments and organizations to exert their influence to facilitate action by the Security Council.

26. The Conference expresses grave concern and dismay that the Security Council, convened in April 1981 at the instance of the Member States of the OAU and the Movement of Non-Aligned States to impose comprehensive mandatory sanctions against South Africa for its continued illegal occupation of Namibia, failed to adopt the necessary decisions. The Conference supports the report of the OAU and the Movement of Non-Aligned Countries for an early meeting of the Security Council to adopt comprehensive and mandatory sanctions against the racist regime of South Africa for its policies of apartheid.

The need for sanctions

27. The Conference affirms that the sanctions provided under Chapter VII of the United Nations Charter, universally applied, are the most appropriate and effective means to ensure South Africa's compliance with the decisions of the United Nations. The choice is between an escalation of conflict and the imposition of international sanctions, if all other attempts to reach a peaceful settlement have failed.

28. The Conference notes that an overwhelming majority of States - as well as most governmental and non-governmental organizations, including trade unions and religious organizations - share this view. It notes with appreciation the sacrifices made by many States, especially the developing States, in accordance with the decisions of United Nations, OAU, and the Movement of Non-aligned countries to promote freedom and peace

in southern Africa. It urges those Powers which have so far opposed sanctions, to heed the views of the rest of the international community and harmonize their policies in order to facilitate concerted action.

Purpose of sanctions being recommended

29. The purpose of sanctions is:

(a) to force South Africa to abandon its racist policy of apartheid and to put an end to its illegal occupation of Namibia.

(b) to demonstrate, by action, the universal abhorrence of apartheid and solidarity with the legitimate aspirations and struggles of the people of South Africa and Namibia;

(c) to deny the benefits of international co-operation to the South African regime so as to oblige it and its supporters to heed world opinion, to abandon the policy of racist domination and to seek a solution by consultation with the genuine leaders of the oppressed people;

(d) to undermine the ability of the South African regime to repress its people, commit acts of aggression against independent States and pose a threat to international peace and security;

(e) to remove economic support from apartheid so as to mitigate suffering in the course of the struggle of the people of South Africa and Namibia for freedom, and thereby promote as peaceful a transition as possible.

A programme of sanctions

30. In the light of the above, the Conference urgently calls for a programme of sanctions and related measures against South Africa. The mandatory arms embargo against South Africa, instituted by a unanimous

decision of the Security Council under Chapter VII of the Charter of the United Nations, must be effectively implemented and reinforced, so as to serve its purposes fully and should be the first step in the programme of sanctions.

31. The Conference attaches great importance and urgency: (1) to the cessation of all collaboration with South Africa in the military and nuclear fields; (2) to an effective oil embargo against South Africa; (3) to the cessation of investments in and loans to South Africa; (4) to the cessation of purchase and marketing of South African gold and other minerals as well as co-operation with South African marketing organizations for such minerals; and (5) to the denial to South Africa of certain essential supplies such as electronic and communications equipment, machinery and chemicals, as well as technology.

32. The Conference expresses its conviction that South Africa is vulnerable to sanctions and that sanctions under Chapter VII of the United Nations Charter are feasible and will be effective. South Africa is more dependent on world trade than the rest of the world is on trade with South Africa.

33. The Conference recognizes that sanctions against South Africa will involve adjustments and sacrifices by other States, as well as hardships for the oppressed people of South Africa. It takes into account the possibility that the South African regime may, in its desperation, retaliate against the oppressed majority of the population of South Africa as well as against neighbouring States.

34. Nevertheless, the Conference affirms that the cost of sanctions is very small compared to the cost of the existing human suffering and degradation in South Africa and to the dangerous consequences of a widening conflict in Southern Africa, both to the people of southern Africa and to the international community.

35. The Conference considers that the international community can and should devise ways and means to enable the independent states of southern Africa to withstand the effects on them of sanctions against South Africa, rather than use their presumed plight as a pretext to avoid applying swift and effective sanctions against South Africa.

36. The Conference recognizes that for sanctions to be decisive, they must be effectively applied so as to remove their "immunization potentials" which prolong unnecessary suffering to innocent persons. Above all, they must be implemented by all members of the international community, particularly the major trading partners of South Africa. Financial and economic relations with the South Africa racist regime, based on cheap labour and exploitation of resources which should be used to improve the quality of life of the majority of the population of South Africa, buttress and sustain the nefarious system of apartheid.

37. It urges all States to take note of the fact that their trade with the independent States of Africa alone - not to count their trade with all countries committed to sanctions against South Africa - is already far greater than trade with South Africa.

38. While stressing the importance of action by the major trading partners of South Africa, the Conference recognizes the importance of action by the entire international community, and of measures by the public.

39. The Conference considers that concerted action by all States and organizations committed to sanctions has not merely a moral value but can have a significant political, economic and material impact. Such action can also exert a positive influence on the attitudes of governments opposing sanctions and facilitate mandatory action by the United Nations Security Council.

40. The Conference expresses appreciation of the measures taken by many states - members of the OAU and Non-Aligend Movement, the socialist countries, the Nordic and some other west European states and hopes that other countries will take similar measures.

41. The Conference urges all States, while vigorously campaigning for action by the Security Council, to take immediate unilateral and collective action to impose comprehensive sanctions against the racist regime of South Africa.

Arms embargo

42. The Conference attaches utmost importance to the effective implementation and reinforcement of the existing mandatory arms embargo against South Africa.

43. The Conference endorses the recommendations submitted in September 1980 by the Security Council Committee established in pursuance of resolution 421 (1977) on the Question of South Africa for the implementation and reinforcement of the embargo and urges that the Security Council adopt them without delay. It expresses the hope that the Committee will be provided with all necessary means to accomplish fully the task which has been entrusted to it.

44. The embargo, as so far implemented, has not succeeded in reducing the danger of aggression and repression by the South African regime. To this end it calls upon all States to enact effective legislation or issue appropriate policy directives on the arms embargo, covering all forms of military collaboration, direct or indirect, transfers through third parties and involvement in arms production in South Africa, and including end-user clauses designed to monitor and enforce the embargo scrupulously. Such legislation should also cover the existing loopholes with regard to "dual purpose" items and related materials including computers, electronic equipments and related technology.

45. The Conference further emphasises the need for strengthening the relevant provision of Security Council resolution 418 (1977) in order to ensure the immediate cessation of all nuclear collaboration with South Africa.

46. The Conference expresses concern at reports regarding the efforts by the South African regime to force military alliances and arrangements involving certain Western Powers and certain regimes in other regions, and to convene a conference to that end.

47. It considers that any military alliances or arrangements with the South African regime would be an act of hostility against the legitimate struggle of the people of South Africa and Namibia and would greatly aggravate the situation in southern Africa. It commends those States which have firmly opposed any links by existing military alliances with the South African regime and calls for vigilance by the international community to prevent any military arrangements with that regime.

Oil embargo

48. The Conference considers that an effective oil embargo against South Africa is an indispensable complement to the embargo on arms and nuclear co-operation. The racist regime of South Africa, having no oil of its own, is vulnerable to an oil embargo and will remain so notwithstanding the expansion of its oil-from-coal plants (SASOL).

49. Supplies of oil and petroleum products facilitate the acts of aggression and repression by the racist regime of South Africa. The need for an oil embargo is therefore urgent and complements the embargo on arms and nuclear collaboration.

50. The Conference notes with satisfaction that major oil-exporting States have imposed an embargo on the supply of their oil to South Africa. It further welcomes with appreciation their intention to consider establishing a mechanism, including a monitoring agency, to ensure that their oil embargo is effectively and scrupulously respected. It calls on other countries which supply oil or refined oil products to South Africa to join in implementing the oil embargo against South Africa through legislative enforcement measures or appropriate policy directives.

51. The Conference calls upon the Security Council of the United Nations to take action to support the measures by the oil-exporting countries, and to institute a mandatory embargo on the supply of oil and oil products to South Africa and on the provision of any assistance to the oil industry in South Africa.

Economic sanctions

52. Pending action by the Security Council to impose comprehensive mandatory sanctions, the Conference urges all States to unilaterally and collectively impose economic sanctions against the apartheid regime of South Africa.

53. It recommends, as a first step, that all governments end any promotion of trade with South Africa, including the exchange of trade missions, government guarantees and insurance for trade with South Africa or investment in South Africa.

54. The Conference calls for a freeze on all new investments in, and financial loans to, South Africa. It is a well-established fact that foreign capital, loans and other financial facilities sustain the apartheid economy, provide it with resources to expand its repressive apparatus, as well as to acquire and increase its military and nuclear capability, to the detriment of peace and security in the entire southern African region.

55. It notes with satisfaction that the United Nations General Assembly has, repeatedly and by overwhelming majorities, recognized that "a cessation of all new foreign investments in and financial loans to South Africa would constitute an important step in international action for the elimination of apartheid, as such investments and loans abet and encourage the apartheid policies in that country."

56. It welcomes the actions of those governments which have taken legislative and other measures towards that end.

Transport

57. The Conference calls for the adoption of measures aimed at terminating airline and other connections with apartheid South Africa and Namibia while under South African occupation. It further urges all countries concerned to take action to ensure that airlines registered in their countries terminate "pool arrangements" with South African airlines.

Other measures

58. The Conference urges all States to take appropriate steps to prohibit sporting, cultural and scientific contacts with South Africa. Formal agreements promoting activities in these fields, except in dire humanitarian cases, should be abrogated.

59. The Conference also urges all States to take appropriate steps to prohibit or discourage emigration of their nationals to South Africa, especially of skilled personnel.

Public actions

60. The Conference emphasizes the importance of action by local authorities, mass media, trade unions, religious bodies, co-operatives and other non-governmental organizations, as well as men and women of conscience, to demonstrate their abhorrence of apartheid and their solidarity with the legitimate struggle of the oppressed people of South Africa and Namibia.

61. It draws particular attention to the constructive value of consumer boycott, sports boycott, cultural and academic boycott, divestment from transnational corporations and financial institutions operating in South Africa. It encourages assistance to the victims of apartheid and their national liberation movements, as appropriate actions by the public, in support of international sanctions against South Africa.

Assistance to neighbouring States

62. The Conference draws attention to the problems encountered by the independent States in Southern Africa as a result of the aggressive actions of the South African regime, and the sacrifices they have made in the cause of freedom and human rights.

63. It recognizes that these States will be adversely affected by a programme of sanctions against South Africa.

64. It considers, therefore, that the imposition of sanctions must be accompanied by a programme of assistance to those States in the Southern African region which would be seriously affected, in accordance with Article 50 of the United Nations Charter. Such assistance should include the provision of supplies of food, oil and other essential commodities, and the establishment of facilities for their stockpiling, as well as necessary financial assistance.

65. It urges support by all States to the Southern African Development Co-ordination Conference (SADCC) aimed at reducing the dependency of the neighbouring States on the racist regime of South Africa.

66. States carrying out their international duty of assistance to the liberation movements of Southern Africa are entitled to the protection of the international law, when confronting the violence of the racist regime and have the right to seek and obtain assistance from other states in protecting their territorial integrity and political independence.

Conclusion

67. The Conference declares its solidarity with the oppressed people of South Africa and Namibia in their legitimate struggle for freedom, to all persons imprisoned, restricted or exiled for their participation in the struggle, and to the independent States in Southern Africa.

68. The Conference affirms its solidarity with Nelson Mandela, as well as all other leaders and patriots, imprisoned or restricted for their part in the struggle for freedom and demands their immediate and unconditional release.

69. It recognizes the right of the oppressed people and their national liberation movements to choose their means of struggle, including armed struggle, for liberation from the oppressive regime in South Africa.

70. It declares that the racist regime of South Africa, by its escalating repression and defiance of world opinion, bears full responsibility for precipitating violent conflict. It draws the attention of those States which oppose sanctions but express their fulsome abhorrence at the brutalities of apartheid, particularly during dramatic crises such as Sharpeville and Soweto, that their policies are in effect aiding and abetting the escalation of violence. Sanctions are a legitimate and appropriate instrument of coercion prescribed by the Charter of the United Nations for the resolution of conflicts.

71. The Conference considers that the oppressed people of South Africa and Namibia, and their national liberation movements, deserve the support of the international community in their legitimate struggle. It considers that comprehensive sanctions against South Africa constitute appropriate and effective support to facilitate freedom for the people of South Africa and Namibia and to put an end to racist violence.

72. The Conference recognizes the urgent need for the mobilization of all governments and peoples for comprehensive sanctions against the South African regime, as well as for all other appropriate assistance to the oppressed people of South Africa and Namibia and their national liberation movements.

73. It calls on all governments and organizations committed to freedom and human dignity, to counteract all moves to assist and encourage the apartheid regime. It appeals to them to concert their efforts in an international campaign for comprehensive sanctions against South Africa, in the light of the discussions and decisions of the present conference.

74. It commends the United Nations Special Committee against Apartheid, the anti-apartheid and solidarity movements and other organizations for their efforts in support of comprehensive sanctions against South Africa.

75. It urges the United Nations. in co-operation with the OAU, and in close consultation with the national liberation movements and other organizations, to take all necessary measures to promote, secure and monitor the programme of comprehensive sanctions against South Africa.

76. The Conference recognizes and pays tribute to the historic and continuing struggle of the peoples of South Africa and Namibia to end apartheid and illegal occupation, as well as to promote justice, freedom and independence in their countries. It is their courageous and persistent struggle which have made the Conference possible and relevant. The Conference responds to the noble aspirations and efforts of the South African and Namibian patriots and issues a fervent appeal for individual and collective support to them.

Special Declaration on Namibia

(adopted by the International Conference on Sanctions against South Africa - 20-27 May 1981)

1. The Conference reaffirms the solemn, direct responsibility of the United Nations for Namibia which under GA resolution 2248 (1967) is exercised through the United Nations Council for Namibia, the legal Administering Authority for the Territory until genuine independence is achieved in a united Namibia.

2. The Conference expresses its solemn support for the legitimate struggle of the Namibian people for self-determination, freedom and national independence under the leadership of the South West Africa People's Organization (SWAPO), their sole and authentic representative.

3. The Conference expresses its profound concern over the situation in Namibia resulting from the continued illegal occupation of the Territory by South Africa in defiance of United Nations resolutions and the Advisory Opinion of the International Court of Justice of 21 June 1971. South Africa's continued illegal occupation of Namibia, its brutal repression of the Namibian people and its ruthless oppression of the people and exploitation of the resources of Namibia, as well as its attempts to destroy the national unity and territorial integrity of Namibia are acts which undermine the authority of the United Nations and violate the principles of the Charter of the United Nations.

4. The Conference strongly condemns the South African racist regime which has escalated its militarization of Namibia and intensified its massive repression of the Namibian people, increasing its arrests and detentions of leaders and members of SWAPO.

5. The South African regime has furthermore:

(a) increased its military attacks against independent African States, particularly Angola, Botswana, Mozambique and Zambia, and its threats and acts of subversion aimed at destabilizing neighbouring States, in particular, Angola;

(b) taken various measures to subvert the territorial integrity of Namibia notably by attempting to separate Walvis Bay from Namibia and by claiming sovereignty over the Penguin and other islands off the coast of Namibia in acts that have been rejected and declared illegal, null and void by the General Assembly;

(c) persisted in the systematic plunder of Namibia's natural resources in collusion with foreign economic interests in violation of United Nations resolutions and Decree No. 1 for the Protection of the Natural Resources of Namibia enacted by the United Nations Council for Namibia in 1974; and

(d) persistently frustrated the implementation of Security Council resolutions 385 (1976) of 30 January 1976 and 435 (1978) of 29 September 1978 which envisage the attainment of independence by Namibia through the holding of free and fair elections under the supervision and control of the United Nations

6. Concerned that the Western Contact Group of Five has so far failed to exert the necessary pressure on the Pretoria regime to force it to comply with the United Nations Security Council decisions on Namibia, particularly resolution 435 (1978), the Conference deeply deplores the obstacles placed in the way of the implementation of those decisions and calls upon the Western Contact Group of Five to exert the necessary pressure on the South African regime in order to enable Namibia to attain independence without further delay.

7. Having assessed the current situation in Namibia, the Conference considers that in view of South Africa's continued illegal occupation of Namibia, its defiance of United Nations resolutions, its brutal repression of the Namibian people, its intransigence as demonstrated most recently in its refusal at the Geneva Pre-implementation Meetings to accept the implementation of Security Council resolution 435 (1978), its military escalation, its repeated acts of armed aggression against the people of Namibia, its use of the Territory of Namibia to launch armed attacks against African States, the situation in Namibia constitutes a threat to international peace and security. In this regard, the Conference solemnly calls upon all Member States to impose comprehensive sanctions against South Africa in order to ensure South Africa's immediate compliance with the resolutions and decisions of the United Nations relating to Namibia.

8. The Conference strongly condemns South Africa for the recruitment of mercenaries and other agents in order to perpetuate its illegal occupation of Namibia and to carry out military attacks against African States. It calls upon all States to take effective measures to prevent the recruitment, financing, training and transit of mercenaries for service in South Africa and occupied Namibia.

9. The Conference further calls upon all States to discourage their nationals or companies of their nationality from investing or obtaining concessions in occupied Namibia.

10. The Conference, deeply concerned about the rapid depletion of the natural resources of Namibia as a result of their systematic plunder by foreign economic interests in collusion with South Africa, strongly condemns the activities of all foreign economic interests operating in Namibia and demands that they cease their illegal activities forthwith.

11. The Conference further reaffirms that South Africa and the foreign economic interests which are exploiting Namibian resources are liable to pay reparations to Namibia for the damages caused by the illegal occupation and the ruthless plundering of the Territory's resources.

12. The Conference strongly condemns the plunder of Namibian uranium by South Africa and urges the governments of the States, whose nationals and corporations are involved in the trade and traffic of Namibian uranium, to take immediate measures to prohibit their State-owned corporations and other corporations from all dealings in Namibian uranium and all prospecting activities in Namibia.

13. The Conference condemns South Africa's inhuman exploitation of Namibian workers in detriment of the health of the Namibian population and future generations.

14. The Conference recognizes the fact that because of the intransigence and brutal repression by the illegal regime, the Namibian people, under the leadership of SWAPO, felt obliged to embark on an armed struggle as a last resort. It declares that the South African regime bears full responsibility for the armed conflict in the Territory.

15. The Conference, furthermore, emphasizes the need for increased political and diplomatic pressure reinforced by sanctions against racist South Africa to ensure the speedy independence of Namibia. It calls upon the international community to provide increased material, financial, political, diplomatic and moral assistance to the Namibian people and SWAPO to strengthen their efforts for the liberation of Namibia.

16. The Conference calls for an urgent and scrupulous implementation of the United Nations Plan for Namibia as embodied in Security Council Resolution 435 (1978).

INTERNATIONAL CONFERENCE ON SANCTIONS
AGAINST SOUTH AFRICA
UNESCO HOUSE, PARIS 20-27 MAY 1981

26 May 1981

R E P O R T

OF

THE TECHNICAL COMMISSION

PA-81-125

I. INTRODUCTION

1. The Commission held 4 meetings from 21 to 26 May 1981. It was open to Member States, intergovernmental and non-governmental organizations, national liberation movements, anti-apartheid movements, trad unions, religious organizations, women's organizations and other organizations and individuals invited to attend the Conference.

2. The Commission agreed that the Declaration of the Ministerial Conference of the Non-Aligned Countries (New Delhi, 9-12 February 1981): the final documents of the International Non-Governmental Organizations Action Conference for Sanctions against South Africa (Geneva, 30-31 July 1980); the Declaration of Western European Parliamentarians on an Oil Embargo against South Africa (Brussels, 30-31 January 1981); the conclusions and recommendations of the Seminar on the Implementation of the Arms Embargo against South Africa (London, 1-3 April 1981); the Second Session of the International Commission of Inquiry into the crimes of the racist apartheid regime in southern Africa (Luanda, 30 January - 3 February 1981); the Hearings on all aspects of sanctions against South Africa (New York, 11-13 March: 24 March and 27 March 1981); the International Seminar on Bank Loans to South Africa (Zurich, 5-7 April 1981); and the conclusions of first joint meeting of the OAU Sanctions Committee and the OAU Committee of 19 (Arusha, Tamzania, 16 March 1981) constituted important contributions to the consideration of effective sanctions against South Africa. It therefore decided to take those conclusions and recommendations as guidelines for its work and to focus its deliberations on the modalities of their implementation and on new proposals that would ensure, in accordance with the United Nations Charter, comprehensive and mandatory sanctions called for by the General Assembly.

3. The Commission endorsed the statements and proposals for action which were made in the Plenary Sessions of the Conference, supporting the imposition of comprehensive sanctions against South Africa under Chapter VII of the Charter. The Commission judged that such sanctions are not only technically feasible but urgently necessary for the peace and security of Africa and the world, for ending South Africa's illegal occupation of Namibia, and for assisting in the eradication of the entire apartheid system.

4. The Commission recognized that South Africa's ability to ignore and defy international pressures for the eradication of apartheid is due to the support and protection provided by particular States, transnational companies and banks. The Commission accordingly felt that all States committed to sanctions against apartheid should fulfil this commitment by exercising the strongest possible pressure upon States, international companies and banks which serve to sustain the apartheid regime. To this end, the Commission advanced certain specific proposals.

5. While comprehensive mandatory economic sanctions against South Africa, under Chapter VII of the United Nations Charter, must remain an imperative and urgent objective, the Commission believes that there exists more than sufficient authority in successive United Nations resolutions and a compelling need for States which have not yet done so, to adopt immediate unilateral sanctions against the South African regime.

II. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

1. The Commission was unanimously of the view that, after 21 years of debate, the question now before the United Nations and the international community is not whether or not to have sanctions, but under what conditions, in what form, and with what international support should such sanctions take place.

2. The Commission considered reports which dealt in great detail with (a) sanctions strategies, i.e. selective or comprehensive and mandatory sanctions and their respective impact on the neighbouring economies of southern Africa, both in the short and long-run; (b) various adjustments required both on a regional and national basis as well as international support mechanisms and options which could in the end make sanctions a viable proposition; (c) elements of economic dependence on South Africa with regard to fuel and energy, finance, food, transport systems and communication and employment, general imports and export markets; (d) contingency plans to be made by national governments and international support agencies concerned, particularly as regards a comprehensive and mandatory sanctions programme.

3. It was agreed that although the cost of sanctions may be high in certain sectors and for particular economies in southern Africa, a racial conflagration in South Africa would entail even higher costs in both human and financial terms.

4. The Commission, therefore, concluded that a viable comprehensive and mandatory sanctions programme, under the aegis of the United Nations and the international community, was technically feasible, and the only peaceful way for the international community to induce the Pretoria régime to withdraw from the international territory of Namibia it now occupies illegally and to abandon its state-imposed system of racial discrimination, exploitation and oppression of the black majority in South Africa.

5. The Commission felt that the concurrent imposition of an effective arms and oil embargo on South Africa together with the ending of nuclear collaboration, economic sanctions, the cessation of sports and cultural contacts, airlines and shipping connexions with South Africawere the most practicable and cost-effective optionsopen now to the United Nations and the international community.

B. Recommendations

1. Means for full and effective implementation of the arms embargo against South Africa

The Commission drew attention to contingency plans of the Pretori régime to place the South African economy under military control on short notice. These plans indicate that there cannot be any effective arms embargo without effective economic sanctions and vice-versa.

The Commission emphasized that the mandatory arms embargo imposed by the Security Council on South Africa on 4 November 1977 was being violated and that no corrective measures were being taken by Governments concerned. There was a need for an effective monitoring and enforcement machinery. In this connexion the Commission supported the following recommendations put forth by the report of the Security Council Committee established by resolution 421 (1977) concerning the questions of South Africa (S/14179of 19 September 1980):

(i) All States should undertake concrete steps to close existing loop-holes in the embargo. To this end, all States should ensure that arms-export agreements include guarantees which would prevent embargoed items from raching the South African military establishment and police through third countries. The guarantees should cover components of embargoed items subcontracted by firms from one country to another.

(ii) States should prohibit the export of spare parts for embargoed aircraft and other military equipment belonging to South Africa, and the maintenance and servicing of such equipment.

(iii) States should revoke or terminate all industrial licences previously concluded with South Africa to manufacture arms and related matériel of all types.

(iv) States should prohibit government agencies and corporations under their jurisdiction from transferring technology or using technology subject to their control in the manufacture of arms and related matériel of all types in South Africa.

(v) States should prohibit corporations under their jurisdiction from investing in the manufacture of arms and related matériel in South Africa.

(vi) States should prohibit the export to South Africa of "dual purpose" items, i.e., items provided for civilian use but with the potential for diversion or conversion to military use. In particular, they should cease the supply of aircraft, aircraft engines, aircraft parts, electronic and telecommunications equipment and computers to South Africa. Supplies of four-wheel drive vehicles destined for the military or police forces should also be prohibited.

(vii) The term "arms and related matériel of all types", referred to in resolution 418 (1977), should be clearly - defined to include all equipment intended for the military and police forces of South Africa. For instance, any and all components, no matter how innocent in isolation, civilian goods which have any potential military use such as computers, communications equipment, etc., oil and all nuclear related equipment, training, information or technology need to be covered. Furthermore, any goods which are supplied to the South African army or security forces, such as blankets, food, clothes, etc., should be included in the embargo.

It was felt that the parent company must be held responsible for any violation of the embargo, whether in terms of manufacturing, sales or licensing by any of its plants within South Africa or anywhere else in the world. The original licenser must bear the ultimate responsibility but any and all sub-licensors must also be held responsible for any violation of the embargo regarding licences or other transfers of know-how and technology.

(viii) All forms of nuclear collaboration with South Africa should cease. There should also be a termination of the exchange of nuclear scientists with South Africa as well as the termination of the training of South African nuclear scientists in any country.

(ix) The Commission declared that there can be no distinction between "peaceful" and "military" nuclear collaboration.

(x) All States should ensure that their national legislation or comparable policy directives guarantee that specific provisions to implement resolution 418 (1977) include severe penalties for violations.

(xi) All States should include in their national legislation or comparable policy directives provisions to prohibit within their national jurisdiction the enlistment and/or the recruitment of mercenaries or any other personnel for service with South Africa's military and police forces.

(xii) States which have not done so should put an end to exchanges of military attachés, as well as exchanges of visits by government personnel, experts in weapons technology and employees of arms factories under their jurisdiction, when such visits and exchanges maintain or increase South Africa's military or police capabilities.

(xiii) No State should contribute to South Africa's arms-production capability: thus the embargo should include imports of arms and related matériel of all types from South Africa.

(xiv) NATO countries, in implementing the terms of resolution 418 (1977), should reject any arms purchase orders by South Africa, submitted through the codification system used by NATO member States.

2. Means to prevent the development of nuclear weapons capability by South Africa

The Commission expressed grave concern over the serious and immediate threat which South Africa's nuclear capability now presents to world peace and in particular to African States.

On the basis of available evidence, the Commission was of the view that South Africa has developed and tested a design weapon and that producing a small arsenal from its available weapons-grade material is only a matter of weeks.

This capability was acquired with the assistance which the United States of America, the United Kingdom, France and the Federal Republic of Germany, as well as Belgium, Israel, Japan, the Netherlands and Switzerland extended to apartheid South Africa in uranium extraction and processing, supply of nuclear equipment, transfer of technology, provision of training and exchange of scientists.

The Commission agreed that it is essential for the international community to bring such a collaboration to an immediate end, in particular by adopting and implementing the following measures, as part of an international policy of comprehensive sanctions.

(a) Governments and corporations concerned should end their uranium trade with apartheid South Africa and Namibia. Raw uranium fuel is obtainable from other sources than South Africa and Namibia;

(b) The Security Council should review its decision of 4 November 1977 on the arms embargo against South Africa with a view to strengthening the ban on all forms of nuclear collaboration with South Africa;

(c) The United Nations and the international community should press for the termination of

- all nuclear contracts and agreements between apartheid South Africa and other countries,
- the training of, and exchange with, South African scientists involved in the nuclear sector and the granting of visas to them,
- the import of Namibian and South African uranium,
- the transfer of technology, supply of equipment and financial support for South Africa's uranium enrichment programme, including isotope separation,
- the transfer of enriched uranium fuel elements,
- the transfer of equipment and technology for power plants, the preparation and processing of uranium, reprocessing plants and plants for the fabrication of fuel elements,
- the reprocessing of South Africa's spent nuclear fuel; and
- all financial, economic and other forms of support for South Africa's nuclear industry or any related industry;

(d) All Governments committed to the elimination of apartheid should take initiatives at the United Nations to promote the adoption of separate and collective legislation so as to make it illegal for all corporations and institutions to enter in any form of nuclear collaboration with apartheid South Africa.

3. Feasibility, effectiveness and implications of other sanctions against South Africa

The Commission recalled the conclusions and recommendations* of the Expert Committee of the Security Council established in pursuance of Security Council resolution 191 (1964) "to undertake a technical and practical study, and report to the Security Council as to the feasibility, effectiveness and implications of measures which could, as appropriate, be taken by the Security Council under the United Nations Charter."

While pointing out that those conclusions and recommendations remain, pari passu, fundamentally valid today, the Commission drew attention to the fact that 17 years of continued collaboration with the apartheid régime in the diplomatic, economic, trade, military and nuclear fields have rendered the adoption and implementation of a comprehensive and mandatory sanctions programme a far more arduous task today.

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* See Document S/6210 of 2 March 1965, Report of the Expert Committee established in pursuance of Security Council resolution 191 (1964).

In this connection, it was agreed that sanctions delayed are sanctions denied. For several decades now, the Pretoria regime has steadfastly implemented a policy of import-substitution which has forced South African subsidiaries to establish a local manufacturing capacity.

Since the early 1960's South Africa has been preparing for the prospects of internationally-imposed sanctions.

In deciding and implementing a mandatory sanctions programme time is of the essence.

The Commission expressed concern over the following developments:

(a) Investment of South African capital overseas was enabling South Africa to gain access to strategic commodities such as petroleum.

(b) Investment of South African capital in neighbouring States which are heavily dependent on the economy of South Africa is an attempt to increase their dependence upon the apartheid economy within the proposed racist constellation of States;

(c) The use of vessels sailing under "Flags of Convenience" to supply oil and other commodities to South Africa, was preventing any national control over the activities of such vessels;

(d) South Africa was developing petroleum substitutes and additives in addition to oil-from-coal through the transfer of technology and "know-how" by Trans-National Corporations and other interests;

(e) The discovery of oil by the Etosha Petroleum Company, a wholly owned subsidiary of Brilund Corporation of Liechenstein, during test drilling near the Etosha Pan in northern Namibia, and the interest taken in the exploration for and exploitation of oil in that area by Superior Oil Company of Texas;

(f) The extensive relations between Member States of the European Economic Community and South Africa, including the granting to South Africa of favourable concessions in respect of a number of commodities and products including steel;

(g) The development of joint investment and other similar projects by South African interests with institutions in a number of States, including the major Western powers and Israel, in order to disguise the point of origin of South African products; and

(h) The effect of the massive rise of the price of gold which has directly benefited the apartheid economy, in particular in respect both of its balance of payments and the supply of foreign exchange.

The Commission proposed the following forms of action on the basis of their technical feasibility and cost effectiveness:

A. Action by States and Non-governmental organizations against TNC operations in South Africa

(a) The Technical Commission recommends that the Special Committee against Apartheid, in consultation with the United Nations Council for Namibia and the liberation movements of South Africa and Namibia, should ensure that effective monitoring procedures are established with a view to investigating all financial and commercial dealings, including the transfer of technology, between companies and transnational corporations and the South African economy. It proposed that regular reports of such dealings be provided to individual Governments and the United Nations Council for Namibia and that all Governments committed to sanctions should take serious note of these reports in the award of public contracts and in all other appropriate ways.

(b) The extension of campaigns against emigration to South Africa to include especially the transfer of personnel by TNCs to South Africa as a contribution towards halting the exchange of technology and "know-how";

(c) The co-ordination of campaigns to expose the role of TNCs in South Africa in order to secure their withdrawal from South Africa and a halt to the promotion of trade with South Africa by TNCs.

B. Action by States and Non-governmental organizations against the supply of oil and other strategic commodities to South Africa

The Commission recommended the following forms of action:

(a) The intensification of the international campaign to secure the imposition of a mandatory oil embargo against South Africa by the United Nations Security Council under Chapter VII of the Charter;

(b) Action to ensure the effective implementation of the oil embargoes imposed by OPEC members, OAPEC, the OAU and other States by the introduction, where necessary, of national legislation which places responsibility for ensuring that oil does not reach South Africa from the original purchaser and by the adoption of measures to ensure that such legislation will be enforced; by the enforcement of "end-user" agreements to stop the supply of oil to South Africa directly or through "third parties"; and by the monitoring of the movement of oil by trade unionists and others in the oil producing and trans-shipment countries.

(c) Action to secure the effective implementation of the oil embargo against South Africa by oil exporting and oil refining countries which have refused to support such an embargo as well as action in the countries where the oil companies which supply oil to South Africa are based or operate;

(d) Penalties for breaches of the oil embargo should not be minimal or token and should include the refusal to make any further sale, the revocation of existing contracts, concessions and licences; and refusal of any future concessions and licences;

(e) Action to stop the development of oil from coal and other petroleum substitutes and additives in South Africa through action by States and non-governmental organizations to stop the supply of loans and other forms of "know-how", and to force the withdrawal of foreign corporations currently involved in particular the Fluor Corporation of the USA and companies of the Federal Republic of Germany, for example, Lurgi;

(f) Action to prohibit the importation of alternative energy technologies from South Africa, with particular emphasis on the transfer of SASOL oil-from-coal technology to industrialized countries;

(g) Action to prevent South African corporate interests from obtaining holdings in oil companies and/or properties outside South Africa, and to terminate all such existing holdings;

(h) The immediate launching of an international campaign against all companies and TNCs involved in prospecting, drilling or extracting oil in all areas under the jurisdiction of the United Nations Council for Namibia including off-shore Namibia, since such operations are not only in defiance of United Nations Decree No. 1 but would seriously undermine the prospects for an effective oil embargo against South Africa.

(i) The Technical Commission recommends that a study be immediately undertaken on the dependence of the South African economy on particular imported components or machinery with a view to tightening international pressure.

C. Action by States and non-governmental organizations to halt the provision of loans and other forms of finance capital to the apartheid regime

The Commission recommended the following forms of action:

(a) The intensification of existing campaigns against those banks and financial institutions which provide loans to South Africa, such as:

Belgium

Kredietbank
Société Générale de Banque

Canada

Bank of Nova Scotia
Canadian Imperial Bank of Commerce
Royal Bank of Canada
Bank of Montreal

Federal Republic of Germany

Dresdner Bank AG
Deutsche Bank AG
Commerzbank AG
Berliner Handels-und Frankfurter Bank
Bayerische Vereinsbank
Westdeutsche Landesbank Girozentrale
(as well as 15 other State-controlled banks)

France

Banque de l'Indochine
Crédit Commercial de France
Crédit Lyonnais
Banque de Paris et des Pays-Bas
Société Générale
Banque Nationale de Paris

Switzerland

Union de Banques Suisses
Crédit Suisse
Société de Banque Suisse

United Kingdom

Hill Samuel and Company
Barclays Bank
Standard Chartered
Hambros Ltd.

USA

Citibank
Manufacturers Hanover Trust
First Pennsylvania Bank
Morgan Guaranty Trust
Bank of America
Continental Illinois
First Chicago Bank Corporation
(and numerous investment banks)

These campaigns, particularly against those banks with extensive operations in South Africa such as Barclays and Standard Chartered, should aim at severing all banking links with South Africa;

(b) The organization of investigations of, and campaigns against, banks involved in South African trade financing. In addition, action should be undertaken to stop all government trade programmes from providing any assistance to South African related trade, and to assure the effective application of such measures in those States which adopt any such restrictions or prohibitions.

(c) Campaigns against sales of Kruggerands;

The Commission also endorsed a number of proposals which were made in relation to the general campaign for the implementation of economic sanctions against South Africa as follows:

(a) the need to ensure informed and educated public opinion through the production of campaign material including leaflets, pamphlets, etc.

(b) Increased action by national and international trade union organizations to secure the implementation of the resolutions of the 1973 and 1977 International Conferences of Trade Unions against Apartheid;

(c) The necessity for the OAU and its member states to implement the OAU resolutions for an effective ban on the entry into their air space and ports of all flights and all ships to or from South Africa;

(d) The need for various kinds of action to support the implementation of United Nations Decree No. 1 for the protection of all natural resources of Namibia, particularly to prevent the plundering of Namibia's mineral resources. In this context the Commission welcomed the conclusions for and recommendations of both the United Nations Council of Namibia's Hearings on Uranium and the International Conference in Solidarity with the Struggle of the People of Namibia, Paris, 11 to 13 September 1980.

(e) Action to end the abuse of "Flags of Convenience" which enable vessels to supply oil and other commodities to South Africa without the possibility of any effective national control; in light of UNCTAD's policy to end "Flags of Convenience" and the opposition from business, shipping and other interests to this change, NGOs should where appropriate make representations regarding this issue in respect of its implications for the enforcement of economic sanctions against South Africa;

(f) The proposal that the United Nations and OAU should organize an action seminar for representatives, in particular from trade union organizations from countries which maintain economic relations with South Africa, in order to plan practical action by trade unionists to ensure the application of economic sanctions against South Africa.

(g) Requests African, non-aligned, oil producing and other States committed to the liberation of southern Africa, as well as parliaments and public organizations in the countries concerned, urgently to consider appropriate and effective action to persuade banks and financial institutions concerned to desist from all further involvement in apartheid South Africa.

(h) Action by churches and other religious bodies, trade unions, universities and other institutions to sever relations with banks continuing loans to South Africa, particularly those banks which

- maintain facilities in South Africa
- appear regularly as a "manager" of loans and/or bond issues to South Africa and its parastatals
- have continued substantial lending since the Soweto massacre of 1976
- grant loans having direct/indirect military purpose
- make loans which benefit the nuclear industry
- are involved in gold sales or as buyers of South African gold
- lend to Bantustans

(i) Call on all United Nations bodies and specialized agencies to terminate financial relations with, or facilities to, any banks which persist in supporting the apartheid régime.

(j) Withdrawal of pension funds of United Nations agencies from such banks, financial institutions and corporations. Such action by the United Nations and its agencies will set an example to Governments, organizations and institutions.

(k) Call on the United Nations and Member Governments to take action to exclude South Africa from the International Monetary Fund (IMF).

(l) Concerted campaigns to bring pressure on Member States of the International Monetary Fund (IMF) and the World Bank to take all necessary action to terminate loans and credits to South Africa and to end all other forms of collaboration including the expulsion of South Africa from the IMF, IDA and the World Bank.

(m) The expulsion of South Africa from the General Agreement on Tariffs and Trade (GATT); and pending this, the non-extension of the most favoured-nation treatment and the termination of all direct or indirect links between the European Economic Community and the racist régime.

D. Action against "apartheid gold"

The following points were highlighted by the Commission:

(a) The mining of gold is of major importance to the stability of the apartheid system and its economy.

(b) This industry accounts for some 18 per cent of South Africa's gross domestic product and one-third of its exports, and finances well over half of the country's imports.

(c) Gold now provides much of the resources to finance the militarization of the South African economy.

(d) South Africa's annual gold production remains less than one per cent of world gold bullion stocks.

(e) The international marketing of South Africa's gold output is concentrated in the hands of three leading Swiss banks, four London bullion houses, and three New York gold dealers.

(f) Over 20 per cent of South Africa's gold output is fabricated into the Kruggerrand coin for sale to small investors and distributed internationally by some 25 banking outlets.

The Commission consequently agreed that a viable international strategy for a boycott of "apartheid gold" had become an urgent necessity and further study should be undertaken to strengthen this strategy.

The Commission recommended that the United Nations and its agencies should seek commitments from all governments to freeze the import of apartheid gold as an essential element in a programme of mandatory sanctions against South Africa. It felt that all gold producing countries should reject and actively oppose South Africa's plans to create an international cartel of gold producing countries under its leadership. It encouraged campaigns launched in a number of countries against the sale of Kruggerrands.

E. Mandatory oil embargo against South Africa

The Commission recognized that oil is South Africa's most vulnerable point of dependence on the outside world, and the country's repressive and aggressive capacity would be diminished and that the South African economy would rapidly grind to a halt if oil supplies were exhausted. Indeed South Africa would probably only be able to survive for a maximum of two and a half years if all oil imports were halted. The Commission agreed therefore that an oil embargo is a key element in any sanctions programme against apartheid South Africa.

The Commission recalled that in December 1979 the United Nations General Assembly overwhelmingly approved an oil embargo against South Africa; 124 countries voted in favour (including Denmark, Finland, Ireland, Netherlands, Norway, Sweden and Turkey), 13 countries abstained (including Austria, Italy, Greece, Portugal and Spain) and 7 countries voted against (Belgium, Canada, France, Federal Republic of Germany, Luxembourg, the United Kingdom and the United States of America). In December 1980 a similar resolution was again overwhelmingly approved by the United Nations General Assembly.

For the existing oil embargo to be made effective, actions should urgently be taken in three main areas: legislation, monitoring and enforcement. Within these areas the Commission recommends the implementation of the following specific proposals:

Legislation

1. That all oil-exporting and re-exporting States ensure that they have effective legislation, and/or effective clauses in their oil-sales contracts, which require companies and State corporations to which they sell oil to prevent that oil from going directly or indirectly to South Africa. In support of this, the legislation and/or oil-sales contracts should specify that:

(a) The original purchaser of oil is liable for ensuring that the oil does not reach South Africa;

(b) The original purchaser of the oil must obtain an "end-user" certificate from the authorities of the country to which each consignment of oil is destined, confirming that the entire consignment was indeed delivered there;

(c) The end-user certificate must be promptly sent back to the authorities of the oil-exporting country for examination;

(d) If the original purchases re-sells the oil, it must inform the country from which it obtained the oil of this sale. The original purchaser must insist that the new purchasers too obtain and transmit end-user certificates. The original purchaser retains the responsibility for ensuring that the oil does not reach South Africa;

(e) In the event of evidence being obtained that a particular consignment of oil has ended up in South Africa, then even if it went there after re-sale, appropriate action will be taken by the oil-exporting country against the company originally purchasing the oil.

2. That all States ensure that they have effective legislation and carry out any necessary further measures to prohibit tankers which sail under their flags, or are ultimately owned, managed or chartered by their or other nationals, from calling at South Africa, and that States take action against tankers and/or their owners, managers or charterers if they violate such regulations. The Commission urgently appealed to Governments and shipping companies to end the abuse of "flags of convenience" which enable vessels to supply oil, arms and other strategic commodities to South Africa without the possibility of any effective national control of such traffic.

3. That all States refuse to permit any tanker to load or unload oil in their territory or to call there for supplies if during the previous twelve months it has called at South Africa, and that the Log Book of each incoming tanker be inspected to assist in the enforcement of this measure.

4. That all States prohibit their nationals and companies from participating in, having commercial dealings with, or assisting in any other way the oil industry and the oil-from-coal industry in South Africa.

Monitoring

5. That existing efforts by national and non-governmental organizations to monitor the transportation of oil to South Africa be supplemented by the establishment of an inter-governmental monitoring agency. This agency should gather and disseminate information regarding actual and possible deliveries of oil to South Africa, and assist States in the developing of more effective measures for the enforcement of the embargo.

Enforcement

6. That States enforce their legislation regarding the embargo by penalising any company which violates the embargo, and that they do so using means such as the following:

(a) The imposition of fines or other judicial penalties against the company in question;

(b) The refusal to sell oil to the company in question;

(c) The refusal to load, unload or provide supplies to any tankers owned, managed or chartered by the company in question;

(d) The removal of registration facilities for tankers owned by the company in question.

(e) The revocation of licences and concessions.

7. That trade unions and other non-governmental organizations be encouraged to assist in the effective implementation of the oil embargo.

8. That pending action by the United Nations Security Council on the Special Emergency Session of the General Assembly, all States take immediate unilateral and collective action to strengthen the oil embargo and to enact the necessary legislation in conformity with General Assembly resolution 35/206 D of 16 December 1980.

9. The Commission further supported the proposal of the Ministerial Conference of the Non-ligned Movement (New Delhi, 9-12 February 1981) to the effect that measures be adopted by States to ensure the monitoring and prevention of any violation of the arms embargo.

E. Boycott of apartheid sport

1. The Technical Commission recognizes that the racist régime is increasingly using sport to create a favourable international image for its apartheid policy and has gone on the offensive to break out of its isolation.

2. The Commission condemned those individuals and organizations who act as agents of the régime to propagate links with apartheid sport. It therefore commends the United Nations Special Committee against Apartheid for compiling a register of sportsmen and women and administrators who flagrantly violate the sports boycott. The Commission appeals to all Governments and non-governmental organizations concerned to consider appropriate action against these collaborators with apartheid. It especially calls on such Governments and non-governmental organizations to take stern action against administrators who encourage contacts with apartheid sport or who provide the régime's sports policy with respectability.

3. The Commission condemned sports organizations, notably in the United Kingdom, the United States of America, Ireland, France and New Zealand who actively promote sporting links with apartheid.

4. The Commission condemned the tour of the Irish Rugby Football Union to South Africa as a betrayal of non-racial sport and in violation of the International Declaration against Apartheid in Sport. It expressed warm support to the Irish and New Zealand Anti-Apartheid Movements for their dedicated efforts to end all sports relations between their countries and apartheid South Africa. It called upon the New Zealand Government to deny visas to the members of the South African rugby team if the New Zealand Rugby Football Union insists on going ahead with the forthcoming tour. It called upon African and other Commonwealth countries to transfer the Commonwealth Finance Ministers Conference to a venue outside New Zealand if the tour takes place. It also called upon those States to take other forms of action where appropriate.

5. The Commission recommended that the United Nations Convention against Apartheid in Sport should be finalized at the earliest possible date and called upon all countries to support the Convention as a means of totally isolating South Africa in sport.

6. The Commission condemned certain Governments for not taking more decisive action against national sporting bodies which continue to collaborate with South Africa. It commended the principled position of the Irish Government whose active opposition to the present rugby tour is in sharp contrast to the silence of other Governments.

7. In particular the Commission demanded that all grants, facilities and preferences be withdrawn by Governments and public bodies from collaborating sports federations until such time as undertakings are given that they would cease contacts with South Africa.

8. The Commission praised the sportsmen and women in South Africa who openly defy the apartheid sports policy and commended those individuals in South Africa who uphold the principle that there cannot be a non-racial sports structure in a racially segregated society.

Other aspects of sanctions:

The Commission also dealt with social, cultural and other aspects of sanctions against South Africa which it considers as an integral part of the sanctions programme against South Africa.

It drew attention to the necessity of breaking social, sports and cultural links to apartheid South Africa.

Direct action by Governments and non-governmental organizations in this area can have immediate and effective result

The Commission urges action to:

- oppose all forms of tourism to South Africa, encouraging trade unions and other organizations concerned to refuse to co-operate with South African Airways and other airlines ferrying tourists to and from South Africa;
- student and lecture tours, training and research programmes;
- cancel all cultural agreements and exchange programmes entered into between Governments and the South African régime as well as between institutions and their South African counterpart;
- Encourage artists, actors, writers, performers, musicians and sports personalities and others to avoid any contact or association with apartheid South Africa;
- The publication of boycott lists from time to time would act as an effective deterrent in this connexion;
- Expose further South African propaganda activities in the mass media and the collaboration of the major news agencies;

Cessation of airline and shipping connexions

The Commission identified airlines and shipping as highly vulnerable sectors of the South African economy. In order for a mandatory oil and arms embargo to be effective, airline and shipping connections had to be severed.

The severance of airline and shipping connexions would involve, in particular

(a) The refusal of landing and passage facilities to all aircraft belonging to the racist régime of South Africa and companies registered under the laws of South Africa;

(b) The closing of ports to all vessels flying the South African flag;

(c) The prohibition of airlines and shipping lines registered in their countries from providing services to and from South Africa

In conclusion, the Commission recommended that a much greater priority had to be given to the mobilization of support for sanctions at a local, national and international level through the involvement of political parties, trade unions, youth and student organizations, church and other religious bodies, women's organizations as well as anti-apartheid and solidarity movements.

INTERNATIONAL CONFERENCE ON SANCTIONS
AGAINST SOUTH AFRICA
UNESCO HOUSE, PARIS 20-27 MAY 1981

26 May 1981

R E P O R T

OF

THE POLITICAL COMMISSION

PA-81-123

INTRODUCTION

1. The Political Commission heard statements by representatives of the national liberation movements of Namibia and South Africa, Governments, non-governmental organizations, anti-apartheid and solidarity movements, as well as specially invited guests.

2. The Commission reviewed developments in southern Africa especially during the period since the World Conference for Action against Apartheid held in August 1977 in Lagos, Nigeria. It congratulated the Government and people of Zimbabwe who through their independence have not only secured peace and justice in Zimbabwe but have transformed the situation in southern Africa as a whole.

3. The Commission considered it important to stress that comprehensive mandatory sanctions should be understood by the international community as complementary to the struggle of the people of South Africa and Namibia under the leadership of the national liberation movements recognized by the Organization of African Unity. Furthermore, sanctions are prescribed under Chapter VII of the United Nations Charter as corrective measures to be applied when a country like South Africa, refuses to comply with the decisions of the Security Council. It would therefore be necessary for the international community to continue to urge the Security Council to approve the institution of mandatory comprehensive sanctions against the South African regime for its continued defiance of Security Council decision calling for the total elimination of apartheid.

4. The Commission was confident that the struggle to put an end to the apartheid system, as demonstrated recently by the heavy blows inflicted upon the petroleum, railway and other installations of the South African regime, would succeed. The legitimacy of the struggle of the people of South Africa and Namibia under the leadership of their liberation movements was recognized by the decisions of the United Nations and drew its strength from the struggle for freedom throughout history, including that of the principal Western countries who had also attained their freedom by fighting for it. This meant that all support given to the liberation movements at whatever level -- governmental, intergovernmental, non-governmental or purely private - fell in the scope of international law as advanced by the United Nations and was also consecrated by the history of the freedom struggle in most countries of the world.

APARTHEID A THREAT TO INTERNATIONAL PEACE AND SECURITY

5. There could no longer be any question as to the acts of aggression and the grave breach of international peace and security existing in southern Africa today. The Commission in particular recognized that the situation was now characterized by the following factors:

a) The escalation of crimes of aggression against independent African States.

The apartheid regime has carried out repeated breaches of international peace through acts of aggression which violate the sovereignty and independence of Angola, Zambia, Mozambique and Botswana. In the last three years South African aggression against Angola alone has taken on the character of an outright war. There have been in this period

- 1,400 Reconnaisance flights;
- 290 Air raids;
- 70 Hit and run operations by heliported troops;
- 1,800 Dead, mostly civilians including women and children;
- More than 1000 seriously wounded;
- Material losses totalling over 7 billion US dollars.

The aggression against neighbouring States was continuing in spite of repeated condemnations by the Security Council. It must be stopped, and full reparations paid to the Governments concerned. At the same time South Africa is financing and training puppet organizations such as UNITA in Angola and MRM in Mozambique to carry out acts of terror and sabotage against the Front-line States as well as itself carrying out kidnappings and commando raids.

b) The entrenchment of the illegal occupation of Namibia

The apartheid regime, in defiance of the Security Council and in the face of the advisory opinion of the International Court of Justice, persists in its illegal occupation of Namibia with a military strength now reaching 100,000

troops. In addition it uses the territory as a base for aggression against independent African States. Moreover the South African regime has proceeded with its plans to create an "internal settlement" through the "granting" of powers to the so-called Council of Ministers and the creation of "separate" military and police structures for the territory. South Africa refuses to end its illegal occupation of Namibia and in particular its refusal to implement the United Nations plan for Namibia (Security Council resolution 435 (1978)) is a continuing aggression. It constitutes a further threat to international peace and security and undermines the authority of the United Nations itself.

(c) South Africa's re-inforcement of its apartheid policies and the expansion of its war machine

South Africa's policies of apartheid have been declared a crime against humanity, and in themselves constitute a threat to international peace and security, and a violation of the norms of international law. The apartheid regime is brutally repressing all opposition banning and detaining opponents of apartheid and cracking down on independent Black trade unions. It is insolently refusing to heed the widespread appeals from within South Africa, and from the international community including the Security Council, for the release of Nelson Mandela and all other political prisoners in South Africa and Namibia. At the same time the regime continues with its military and nuclear build-up, intensifying its security measures to counter all forms of opposition. In pursuing its policy of apartheid, aggression and illegal occupation of Namibia, the racist South African regime takes advantage of the increased tension in the international situation and the trend towards a new spiral of the arms race in the world.

6. The Commission was convinced of the necessity for the Security Council to declare that South Africa's continuing aggression against neighbouring States, its illegal occupation of Namibia, and its policies of apartheid constituted a breach of international peace and security, and not simply a threat thereto. In this situation it is incumbent upon the Security Council to go beyond the mandatory arms embargo of 1977 and to adopt further measures under Chapter VII of the Charter, including the imposition of mandatory and comprehensive sanctions against South Africa. The Commission, therefore, totally condemned the three Western Permanent Members of the Security Council (United States of America, the United Kingdom and France) who, on 30 April 1981 vetoed the 4 resolutions which called for comprehensive

and mandatory sanctions against South Africa, for its refusal to comply with Security Council resolutions on Namibia.

7. The Commission expressed its belief that the blantant and repeated abuse of the power of the veto by the three Western Permanent Members of the Security Council, was in total conflict with their solemn responsibility enshrined in the Charter for the maintenance of international peace and security. The Commission, therefore, welcomed the initiative of the Organization of African Unity endorsed by the Movement of the Non-Aligned Countries in proposing that the General Assembly should meet in Emergency Special Session to consider proposals for sanctions if the Security Council fails to discharge its responsibility on this question under the Charter.

MILITARY, NUCLEAR AND OTHER COLLABORATION WITH SOUTH AFRICA

8. The Commission recognized that the apartheid economy and its war machine were created primarily through the active participation of a number of Western powers and transnational corporations (TNCs). These relations have developed into a direct alliance between those transnational corporations operating in South Africa and Namibia and the apartheid regime. These TNCs arm, fuel and finance the apartheid war machine whilst at the same time reaping huge profits through the super-exploitation of the cheap labour of Black workers. In the military field - in defiance of both the letter and spirit of Security Council resolution 418 (1977) - South Africa has been able to intensify its military build-up. It continues to manufacture under licence in South Africa military planes and engines and other military equipment originating from several countries including France, Italy, and the United Kingdom. It has obtained sophisticated military communications equipment from Netherlands, France, the Federal Republic of Germany, and the United Kingdom including an advanced military mobile radar system from Plessey Ltd., (U.K.). Danish vessels have been involved, on a charter basis, in the transport of arms to South Africa, and the Commission noted that the Government of Denmark, has, on two occasions, assured the Security Council Committee on the question of South Africa established by resolution 421 (1977) that it will take prompt and effective corrective action. Spain has acted as a conduit for arms and it was noted that the company concerned had been procescuted and fined. The joint United States-Canadian company,

Space Research Corporation, has provided South Africa with the 155 mm extended range artillery system and shells, as was duly established by the courts of these countries by which the company concerned was penalized. Israel has supplied arms and munitions, and has assisted in South Africa's military and nuclear development. All these examples demonstrated not only the lack of political will on the part of a number of powers to strictly implement the arms embargo but also the need for the Security Council to adopt further measures to strengthen the arms embargo imposed under its resolution 418 (1977) and to ensure its strict compliance and effective implementation.

9. The Commission noted with profound concern the meeting between the Foreign Minister of South Africa and the Secretary-General of the North Atlantic Treaty Organization (NATO) in November 1980, and urges the NATO Ministerial Council to prohibit all such future meetings and contacts with the authorities of South Africa.

10. The Commission expressed concern at reports of the proposed formation of a South Atlantic defence alliance embracing the United States and South Africa, with efforts being made to obtain the collaboration of certain States in South America as well. It appreciated that some countries in South America were hostile to such a scheme, and called upon all the States in the region to reject it.

11. In the nuclear field there is abundant evidence that South Africa has embarked on a nuclear weapons programme. The latest announcement by the apartheid regime that it has developed the capability to produce enriched uranium fuel elements highlights the danger. In this context the Commission regarded it as indefensible that governments and institutions, notably in the United States of America, Federal Republic of Germany, the United Kingdom, France and Israel, persist in collaborating with South Africa in the nuclear field, including permitting the training and recruitment of nuclear scientists, the supply of technology and "know-how" and in particular the construction of the Koeburg reactors. The Commission recognized the urgent need for action, including the application of Chapter VII of the Charter, to prevent all forms of nuclear collaboration with South Africa. It demanded that all these Governments should withdraw from such collaboration. A further aspect of collaboration in the nuclear field was the exporting of uranium from South Africa and Namibia, including the prospect of South Africa providing enriched uranium to countries seeking a nuclear capability. The Commission called for action to stop all imports of uranium from South Africa and Namibia.

12. The Commission recognized that it was the economic relationship between a number of Western powers and South Africa which mainly causes them to protect the apartheid regime. Some 2,000 major foreign companies, preponderantly Western, operate in South Africa and Namibia. The total foreign investment exceeds US $27 billion. The United States of America, the United Kingdom, the Federal Republic of Germany, France and Japan account for 59 per cent of classified imports into South Africa. The transnational corporations operating in South Africa and Namibia not only strengthen the apartheid economy but also contribute directly or indirectly to the apartheid war machine, through the supply of equipment, finance, fuel or other services, and through payment of taxes and dues. Furthermore, these transnational corporations co-operate with the apartheid regime in its Bantustan policies and its sinister design for a "Constellation of States" whereby it can dominate economically, politically and militarily the entire southern African region.

13. The Commission also condemned all other forms of collaboration with South Africa including diplomatic, political, cultural, sporting and academic links. The South African regime has persistently exploited these relations in order to propagate its racist policies and undermine international action against apartheid. Indeed South Africa has invested millions of dollars in covert operations to further collaboration in these fields. The commission called for the discouragement and cessation of such links.

14. The Commission therefore recognized that only comprehensive and mandatory sanctions can deny all forms of support to the apartheid economy and its war machine. It rejected as diversionary and unrelated to the abolition of apartheid, the palliative measures recommended to transnational corporations operating in South Africa in so-called "codes of conduct" towards their labour force put forward by the European Economic Community and certain organizations in the United States of America and Canada.

15. The Commission appreciated the fact that a policy of sanctions would not necessarily be painless. This had been recognized by the oppressed people of South Africa when they had first called for the isolation of the apartheid regime. Sanctions were regarded by the peoples of southern Africa and their liberation movements as complementary to the struggle for liberation, and would make that struggle shorter and less bitter. The Commission found itself in total accord with this view.

16. In the network of collaboration with South Africa, the Commission found particularly deplorable the attitudes adopted by the current administrations of the United States of America and the United Kingdom, which openly dealt with South Africa as a friendly government which they were not ashamed to defend. The Commission utterly condemned the moves within the executive and the Congress of the United States of America to repeal the Clark amendment, in order that the United States of America could then freely collaborate with South Africa in seeking to destabilize Angola.

ASSISTANCE TO NATIONAL LIBERATION MOVEMENTS AND FRONTLINE STATES

17. The peoples of South Africa and Namibia under the leadership of their national liberation movements, recognized by the Organization of African Unity, have the inalienable right to use all available means of struggle, including armed struggle, in order to terminate South Africa's illegal occupation of Namibia and to destroy the illegitimate system of apartheid and colonialism in South Africa itself.

18. The international community has the obligation to provide material, political and diplomatic support to the national liberation movements in order to enable them to carry on their struggle more effectively. Furthermore the international community has a responsibility to provide material assistance for the many refugees, in particular the aged women and children, who have been forced to flee Namibia and South Africa. In view of the aggressive policies of the apartheid regime including the kidnapping and assassination of refugees in neighbouring States all Member States are under an obligation to provide refuge to victims of apartheid. In that respect it urges all States and solidarity organizations to lend exclusive and maximum assistance to the fighting and authentic liberation movements recognized by the Organization of African Unity.

19. In view of the aggressive policies of the apartheid regime including the kidnapping and assassination of refugees in neighbouring independent States in violation of international law, notably the Geneva Convention of 1949 and the additional Protocols thereto, as well as the United Nations Convention on Refugees of 1968 the international community is under an obligation to vigorously pressure South Africa to put an immediate end to these policies and

practices. The Commission also affirms that all Member States of the international community have a legal, moral and humanitarian responsibility to provide refuge to refugees including victims of apartheid. They should alleviate the burden borne by African States, particularly those bordering South Africa by themselves also providing refuge and protection to such persons.

20. The Commission expressed its warm appreciation of the assistance granted to the national liberation movements by United Nations agencies, by Member States of the Organization of African Unity and Non-Aligned Movement, by the Socialist countries and Nordic and certain other countries as well as that provided by non-governmental and anti-apartheid and solidarity movements. The Commission urges all States and solidarity organizations to continue to lend exclusive and maximum assistance to the fighting and authentic liberation movements recognized by the Organization of African Unity.

21. The Commission recognized that a further concrete form of assistance to the national liberation movements are campaigns of solidarity with political prisoners and captured freedom fighters. In particular, it welcomed recent developments in international law under which captured freedom fighters in Namibia and South Africa are fully entitled to prisoner-of-war status. It applauded the action of the African National Congress of South Africa who deposited a Declaration in November 1980 with the International Committee of the Red Cross undertaking to accord such status to captured members of the forces of racist South Africa. It appealed to all signatories of the Geneva Convention to ensure that the South African regime grants such status to the combatants of the liberation movements.

22. The Commission affirmed its solidarity with the Front-line States which have made enormous sacrifices in order to assist the national liberation struggle in Southern Africa. The Commission recognized the responsibility of the international community to enable to Front-line States to develop the capability to defend themselves from South African aggression and it expressed its appreciation for all States which are providing such assistance.

23. Furthermore, the Commission appealed for material aid to neighbouring independent African States in order to assist them in overcoming the consequences of South African aggression and economic sabotage. The Commission further appealed for assistance to those States which for historical and geographical factors still maintain economic relations with South Africa so that they can reduce any such dependency. In particular the Commission recognized the need for emergency measures of assistance to such States as part of any programme of sanctions, as envisaged by Article 50 of the Charter.

MOBILIZATION FOR SANCTIONS

24 The Commission recognized the duty and the responsibility of the international community to impose mandatory and comprehensive sanctions against South Africa. The necessity for such action arises because of the dangerous situation which exists in Southern Africa due to the policies of the apartheid regime. The legal basis for sanctions exists because of threats posed to international peace and security, and continuing breaches of the peace and acts of aggression by South Africa. The obstacle for the effective application of sanctions against South Africa is the policy of a small number of the most powerful Western powers together with a few reactionary and facist regimes which persistently frustrate the overwhelming majority of mankind. The Western powers are able to pursue these policies because of the difficulties in mobilizing public opinion for sanctions within their countries, and because of the lack of sufficient diplomatic and other pressures against them. The Political Commission recognized that its major responsibility was to propose forms of action which can transform speeches and resolutions into effective measures which will secure the total isolation of apartheid South Africa.

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25. The experience of the arms embargo had established, however, that it was not legislation alone which would enjoin the respect and observance of Western countries, who had found many means for their governments and their transnational corporations to circumvent it. What would ultimately enforce comprehensive sanctions, and make the mandatory arms embargo respected, would be done only through the collective vigilance of, and action by, those Member States who stood for sanctions, with the active support of the anti-apartheid organizations in the Western countries.

26. The Commission received a wide range of proposals for action by the United Nations, Specialized Agencies and other bodies within the United Nations system, the Organization of African Unity, other intergovernmental organizations committed Governments, anti-apartheid and solidarity movements as well as international and national non-governmental organizations including trade unions, political parties, religious organizations, peace movements, women's organizations and youth and student organizations.

27. The Commission applauded the persistent action by Governments, organizations and individuals who have campaigned to expose and stop all forms of collaboration with apartheid South Africa. In particular it expressed its appreciation for the actions of those Governments which have severed all relations with South Africa.

28. The Commission expressed its confidence that the International Conference on Sanctions against South Africa would lead to the adoption of concrete measures by the United Nations and Member States as well as intensified activity by anti-apartheid and solidarity movements as well as other non-governmental organizations. It was of the utmost urgency that the Security Council should be convened again to impose mandatory comprehensive sanctions under Chapter VII of the Charter.

29. Such an initiative must be complemented by a major international campaign to stop the use of the veto by one or more of the Permanent Members of the Security Council. Such a campaign must not only involve the anti-apartheid and democratic forces in these Western countries but also action by all committed governmments including diplomatic and other actions to persuade the Western Permanent Members of the Security Council to cease abusing their power of veto over resolutions relating to South Africa.

30. The Commission considered that committed governments should review their diplomatic and economic relations with any State which impeded the imposition of sanctions by the Security Council, in particular those Permanent Members who might use their veto to that end.

31. Furthermore Governments should also examine their relations with transnational corporations which persist in exploiting the apartheid market. The Commission welcomed the action of the United Nations Centre against Apartheid in preparing profiles on 65 major transnational corporations operating in South Africa and Namibia. In particular the Commission proposed that, in order to encourage the enforcement of the oil embargo imposed by OPEC members, all oil-exporting States should consider reviewing their relations with the major oil companies which supply petroleum products to South Africa, namely, Shell. BP, Total. Mobil, and Caltex. In respect of the arms embargo, in order to ensure its effective implementation, the Commission suggested that all Governments pledge to review their relations with any transnational corporation which is proved to have supplied military equipment to South Africa. This should be done immediately in relation to

Plessey Ltd (United Kingdom), which is currently supplying a mobile military radar system to South Africa which will increase its capacity to commit acts of aggression against neighbouring States.

32. Governments and non-governmental organizations should also consider further measures which will not only serve to challenge the policies of these Western powers but also encourage the actions of those in the Western countries who were opposed to the use of the veto.

33. Without waiting for comprehensive mandatory sanctions to be internationally imposed, Governments should apply sanctions unilaterally.

34. In the case of Namibia, as a territory under illegal occupation, and one whose resources were being illegally exploited and plundered by South Africa, there were particular foundations upon which specific international actions should be based. Decree No. 1 of the United Nations Council for Namibia gave the basis for authorizing Member States to stop Namibian natural resources being illegally exported from the territory and for their seizure abroad. Consequently the Commission called upon all States to confiscate Namibian resources which are being transported to, or in transit through, their territory or being carried on the high seas.

35. The Commission took note with appreciation the statement made at the Conference by the First Secretary of the French Socialist Party. In this connection, the Commission launched a special appeal to the newly elected president and to the Government of the Republic of France to pledge not to use the veto to protect apartheid South Africa; to immediately terminate the supply of nuclear reactors to South Africa; and to cease to supply all forms of military equipment including spare parts and components; and to stop the manufacture under licence in South Africa of military aircraft and other military equipment. Governments should give every encouragement to assist the new French administration to evolve such a change of policy.

36. The Commission also made appeal to the Nordic Governments, which have a record of opposition to apartheid, to implement more effective measures to isolate South Africa, in view of reports of Nordic vessels transporting arms and oil to South Africa, and Nordic based transnational corporations expanding their operations in South Africa.

TRADE UNIONS AND OTHER NON-GOVERNMENTAL ORGANIZATIONS

37. Action by trade unions: The Commission recognized the crucial contribution that could be made by trade unionists in helping to break all links with South Africa. It called on them to boycott all shipments to and from South Africa as well as transport and communications with that country. Trade unionists were also urged to support the struggle of the Black workers of South Africa and Namibia, both through direct solidarity as well as by giving material assistance to the South African Congress of Trade Unions, and to the National Union of Namibian Workers.

38. Action by anti-apartheid and solidarity movements: The Commission commended the activities of these bodies, especially in the countries collaborating with South Africa, in challenging the policies of their governments and in exposing the activities of transnational corporations based in their countries and other forms of support flowing from these countries to the apartheid system. These activities included:

- campaigns to halt all forms of nuclear collaboration;
- action to ensure the strengthening and strict application of the arms embargo, including the exposure of breaches and loopholes in national legislation;
- action to impose an oil embargo, including campaigns against oil companies supplying South Africa;
- action to boycott South African products, including the bulk purchase of South African goods by public institutions;
- action against banking links with, and loans to South Africa, including the international Boycott Barclays campaign;
- action to boycott the sale and advertisement of apartheid gold and apartheid Krugerrands;
- action against transnational corporations and other companies investing in or trading with South Africa;
- action to stop the importing of South African and Namibian uranium;
- action against sporting, cultural, and academic links with South Africa;
- action to halt new investments, to stop governmental promotion of trade, including financing of trade missions and export credit guarantees, and to stop emigration and tourism to South Africa.

In commending these activities, the Commission recognised that a new alliance was required between anti-apartheid movements and governments pledged to fight apartheid, to ensure that these campaigns achieve greater results.

39. Actions by Black organizations: The Commission noted the contribution of Black organizations in the United States of America, the United Kingdom and other Western countries in solidarity with the liberation struggles in South Africa and Namibia, and in support of comprehensive sanctions against the South African regime. The Commission, in commending these activities, appealed to Black organizations to continue and to intensify their efforts particularly in North America and Western Europe. It also noted the particular significance of Black support within the United States. Activities of these groups include: introduction of specific legislation for comprehensive sanctions; convening high-level Black foreign policy conferences on the South Africa question; initiation and support of divestiture and boycott campaigns; mass mobilization and demonstrations; and attempts to pressure United States administration officials and representatives to the United Nations to adopt effective policies against South Africa.

40. Action by religious organizations: The Commission noted that whilst the South African regime purports to be based on the values of "Christian civilization" in practice it pursues policies of repression against religious leaders who oppose apartheid including those from the Christian, Islamic and Hindu communities. In this context the Commission applauded the contributions of religious leaders to international action against apartheid and urged all religious organizations to intensify their activities. Profound regret was expressed however that a number of churches in Western countries persisted in investing in companies operating in South Africa, thereby themselves directly profiting from apartheid.

41. Action by political parties and organization: The Commission recognized that political parties, both governing and opposition parties, have a special responsibility in relation to international mobilization for sanctions against South Africa. It appealed to all political parties to adopt support for sanctions as party policy, if this is not already the case, and to mobilize support for sanctions in their political campaigns.

42. Action by Youth and Student Organizations: Young people have been at the forefront of the international campaign against apartheid. By their militancy they put an end to many sporting links with South Africa. They have campaigned in their universities and colleges against all links with apartheid institutions including powerful disinvestment campaigns. The Commission appealed to the youth of the world to redouble their solidarity with the youth and students of South Africa and Namibia who are playing such a vital role in their national liberation struggle.

43. Action by Women's organizations: Black women in South Africa and Namibia experience double-exploitation - because of their race and because of their sex. Women the world over have expressed their solidarity with their sisters in Southern Africa, but this needs to be transformed intc new levels of activity, especially amongst women in countries collaborating with apartheid in South Africa. The Commission appealed to women's organizations to initiate new campaigns to expose the exploitation of black women in Namibia and South Africa.

44. The Commission approved that the duty to act against the apartheid regime of South Africa falls on every individual. It appealed in particular to people engaged in sports, the arts and the professions, as well as to their organizations, to boycott contacts with South Africa and to contribute by their work to the campaign against apartheid.

CONCLUSION

45. The Commission carefully considered the many important points brouhgt to its attention and declared that a clear consensus now exists in the international community in favour of the imposition of comprehensive mandatory sanctions against the South African regime. The facts of South Africa's aggression against independent African States, its illegal occupation of Namibia, and the expansion of its war machine and of its internal repressive apparatus, demonstrate that this consensus is totally justified.

46. The Commission recalled that the Security Council had already imposed mandatory sanctions through the arms embargo under Chapter VII of the Charter. This action resulted from the then acknowledged threat to international peace and security created by the South African regime. The intent of the Security Council decision was to put an end to South Africa's threat to international peace and security and its acts of aggression. This has not happened; on the contrary the threat to international peace and security has become more serious, and the acts of aggression have been repeated on an increased scale. In this situation the Security Council could not remain complacent. The Commission held that the Security Council was duty bound to take further measures under Chapter VII of the Charter which it had invoked in 1977.

47. The negative votes of three Western Permanent Members of the Council were in violation of their responsibility under the Charter as primary custodians of international peace and security comprehensive mandatory sanctions and further measures under Chapter VII must be taken, complementing the armed struggle of the liberation movements. The conflagration which would result if this were not done would be of unimaginable proportions, setting ablaze the whole sub-continent of Southern Africa and regions beyond.

Check against delivery

Speech by Mr. P.A. van Buuren, Deputy Director-General, International Cooperation of the Netherlands Ministry of Foreign Affairs, at the International Conference on Sanctions against South Africa in Paris on May 22, 1981

Mr. Chairman,

Throughout history my country has taken a keen interest in human rights violations throughout the world and has traditionally done its best to host people who fled their country because their human rights, in the political, economic, personal or other fields had been violated. Since the increasing gravity of the situation in South Africa is caused by apartheid, an institutionalised form of human rights violations sparking feelings of disgust and anger in my country, one can readily understand the total condemnation of apartheid by all levels of the Dutch population. The intensity of emotions sparked by this problem can best be illustrated by the fact that the ways and means to combat apartheid have been for some time the subject of serious and deep discussion, a discussion which has found its reflection in one of the most important foreign policy debates in

our parliament.

Mr. Chairman, on numerous occasions, both in the U.N. and in other instances my government has made it clear that the international community has a duty to help bring about the abolition of apartheid by peaceful means at the earliest possible date. My government has also declared itself prepared to participate in international efforts aimed at improving the human rights situation in South Africa. We have carefully followed developments in that country hoping that a seemingly increased willingness on the side of South Africa's leaders to bring about the necessary fundamental changes would herald the end of the era of apartheid, but the changes have been disappointingly minimal. For that reason my government has decided to continue certain measures it has taken against South Africa and to increase pressure by instituting new ones. Although these measures in themselves cannot be expected to force the government of South Africa to effectuate the necessary reforms they make clear to the South African leaders our conviction that time is indeed running out. To increase the pressure, we have taken measures of different kinds. We have

decided to terminate the existing cultural agreement with South Africa and together with Belgium and Luxemburg we will institute visa requirements for South African nationals. Furthermore, my government while respecting the autonomy of sportsorganisations in the Netherlands, actively opposes sports contacts with South African sportsmen or teams selected on a racial basis. Finally, it goes without saying that we will continue to implement the arms embargo scrupulously. In fact we effectuated an arms embargo against South Africa even before the Security Council decided, in 1977, that South Africa's armament poses a threat to international peace and security.

Mr. Chairman, on several occasions, in particular during debates on the question of apartheid in the United Nations General Assembly we have indicated that we believe that further international pressure on South Africa is called for and that we would welcome a Security Council resolution instituting an oil embargo against South Africa. History has taught us that a measure of this kind can only be effective if it is imposed by the Security Council. In the case of

voluntary measures, these can only have significant effect if they are adopted by a sufficient number of relevant countries. My government has consulted a number of friendly governments on the issue of a voluntary oil embargo by a limited number of countries but has found that wider international support was considered important and that Security Council measures were called for.

The question of further international measures against South Africa - which is the subject of our conference - raises the question of the purposes and the effects of sanctions as a means of bringing about the abolition of apartheid. In our view sanctions can play a useful role if they are applied selectively and in combination with other measures. These other measures should consist of both support to the states surrounding South Africa, in order to decrease their economic dependence on South Africa and active encouragement of those forces which have the will and the power to bring about peaceful change. In this respect my government has supported extensively the efforts of the South African neighboring states to

develop their economic structures to become more independent and has, to this effect, participated in the conferences at Maputo in November 1980 and Salisbury in March 1981.

In our view comprehensive sanctions, aimed at the total isolation of South Africa, are not helpful because they will result in greater internal oppression of the opponents of apartheid and in direct economic damage to the countries surrounding South Africa.

It is my delegation's hope that it will be possible to have a fruitful and realistic discussion on all aspects regarding sanctions against South Africa. My delegation is particularly interested in a realistic assessment of the effects of measures in the various fields, not only on South Africa but also on the neighbouring countries.

Mr. Chairman, on 15 December of last year, we voted in favour of the resolution concerning the international conference on sanctions against South Africa. We are attending this conference because the

preparatory report of the special committee against apartheid appeared to leave room for our policy of dialogue and pressure that I have just described. I sincerely hope that the final results of our deliberations will contribute constructively to the necessary changes in South Africa for which goal I pledge my country's wholehearted support.