



**REPORT
OF THE
COMMITTEE ON THE
ELIMINATION OF RACIAL DISCRIMINATION**

GENERAL ASSEMBLY

OFFICIAL RECORDS: TWENTY-SEVENTH SESSION

SUPPLEMENT No. 18 (A/8718)

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New York, 1972

NOTE

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LETTER OF TRANSMITTAL

25 August 1972

Sir,

I have the honour to refer to article 9, paragraph 2, of the International Convention on the Elimination of all Forms of Racial Discrimination according to which the Committee on the Elimination of Racial Discrimination, established pursuant to the Convention, "shall report annually, through the Secretary-General, to the General Assembly on its activities".

The Committee on the Elimination of Racial Discrimination held two sessions in 1972, and at its 119th meeting, held today, unanimously adopted the attached report in fulfilment of its obligations under the Convention; it is submitted to you for transmission to the General Assembly.

Accept, Sir, the assurance of my highest consideration.

(Signed) Luis Valencia RODRIGUEZ
Chairman
Committee on the Elimination of
Racial Discrimination

Mr. Kurt Waldheim
Secretary-General of the United Nations
New York

I. INTRODUCTION

A. States parties to the Convention

1. As of 25 August 1972, there were 65 States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature in New York on 7 May 1966, and which entered into force on 4 January 1969 (see annex I below).

B. Sessions

2. The Committee on the Elimination of Racial Discrimination held two regular sessions in 1972 at the Headquarters of the United Nations. The fifth session was held from 14 to 25 February 1972 and the sixth session from 7 to 25 August 1972.

C. Membership of the Committee

3. In accordance with the provisions of article 8 of the International Convention, representatives of the States Parties held their Second Meeting at the Headquarters of the United Nations on 10 January 1972, 1/ and elected nine members of the Committee on the Elimination of Racial Discrimination, from a list of persons nominated by the States Parties, to replace those whose terms were to expire on 19 January 1972. Accordingly, the membership of the Committee came to be composed of the following 18 persons:

Mr. Mahmoud Aboul-Nasr (Egypt)
Mr. Marc Ancel (France)
Mr. Naste Dimo Calovski (Yugoslavia)
Mr. Rajeshwar Dayal (India)
Mr. S. K. Dehlavi (Pakistan)
Mr. A. A. Haastrup (Nigeria)
Mr. José D. Ingles (Philippines)
Mr. Ronald St. John Macdonald (Canada)
Sir Herbert Marchant (United Kingdom of Great Britain and Northern Ireland)
Mr. Gonzalo Ortiz-Martin (Costa Rica)
Mrs. Doris Owusu-Addo (Ghana)
Mr. Karl Josef Partsch (Federal Republic of Germany)
Mr. Fayez A. Sayegh (Kuwait)
Mr. Sebastian Soler (Argentina)
Mr. S. T. M. Sukati (Swaziland)
Mr. Nikolai K. Tarassov (Union of Soviet Socialist Republics)
Mr. Ján Tomko (Czechoslovakia)
Mr. Luis Valencia Rodríguez (Ecuador)

1/ For decisions of the States Parties to the Convention at their Second Meeting, see Official Records: Second Meeting, document CERD/SP/4.

4. In accordance with article 8, paragraph 5 (b), of the Convention and rule 13 of the provisional rules of procedure of the Committee, the Secretary-General informed the Committee at the opening of the sixth session that he had received a note dated 4 August 1972 from the Permanent Mission of the Union of Soviet Socialist Republics to the United Nations informing him that Mr. N. K. Tarassov, "the USSR expert on the Committee on the Elimination of Racial Discrimination will be unable, because of a transfer to other work, to continue to discharge his functions" in the Committee. The Secretary-General also brought to the attention of the Committee a note dated 7 August 1972 from the same Permanent Mission stating that "in accordance with article 8, paragraph 5 (b), of the International Convention on the Elimination of All Forms of Racial Discrimination and rule 13 of the provisional rules of procedure of the Committee on the Elimination of Racial Discrimination, it has the honour to inform him that the Government of the USSR nominates Mr. V. S. Safronchuk, Deputy Permanent Representative of the USSR to the United Nations, as its expert on the Committee". A curriculum vitae of Mr. Safronchuk was annexed to the second note from the Permanent Mission of the USSR.

5. The matter was added to the agenda of the sixth session (see paragraph 15 below) and discussed by the Committee at its 100th and 101st meetings, held on 7 August 1972. Three questions were raised and discussed in the course of the consideration of this item.

(a) Mr. Macdonald inquired whether the unavailability of Mr. Tarassov created a "casual" vacancy or a permanent one. If the former, then the provisions of article 8, paragraph 5 (b), of the Convention and rule 13 of the provisional rules of procedure would apply; otherwise, the procedure for the election of members of the Committee, provided for in article 8, paragraph 1, of the Convention, would apply. The Chairman, as well as Messrs. Aboul-Nasr, Dayal, Haastrup and Partsch affirmed that the matter at hand was indeed a "casual" vacancy within the meaning of the Convention and the provisional rules of procedure, that is, indicative of a decision to "cease to function as a member of the Committee".

(b) Mr. Sayegh expressed the view that, since a member served on the Committee in his personal capacity, his resignation should be submitted by him directly and not by his Government. Messrs. Dayal, Ortiz-Martin, Partsch and Soler agreed with this view. Mr. Ingles expressed a similar view at the 101st meeting. Mr. Haastrup emphasized that the information concerning Mr. Tarassov's resignation had not reached the Committee in the proper way, and Mr. Calovski stated that it was questionable whether the procedure established in rule 13 of the provisional rules of procedure had been respected in the case under consideration and urged the Committee to take a practical approach on this matter. On the other hand, Mr. Tomko pointed out that the Convention did not specify that a personal statement of resignation was necessary, and that it was therefore valid for the State Party of which he was a national to announce a member's withdrawal. As for the action to be taken by the Committee, Mr. Ortiz-Martin suggested that it should receive a letter of resignation from Mr. Tarassov himself before taking any action. Mr. Ingles expressed the view that, since Mr. Tarassov had not informed the Committee that he was unable to fulfil his mandate and since there was no indication that he had died or become incapacitated, a vacancy had not formally arisen. On the other hand, Mr. Dayal, supported by Mr. Aboul-Nasr, proposed that the Committee should deal with the case before it immediately in accordance with rule 13 of the provisional rules of procedure, leaving for later decision any amendments that might be submitted to that rule requiring personal notification by a member of his decision to cease to function as a member. The Chairman summed up the consensus

reached by the Committee, to the effect that it should proceed immediately to take a decision on the filling of the vacancy which had occurred, on the understanding that such a procedure would not constitute a precedent for any subsequent casual vacancies which might arise and that the decision would in no way curtail the right of members to propose amendments to rule 13 of the provisional rules of procedure.

(c) Mr. Soler, supported by Messrs. Dayal and Haastrup, suggested that a secret ballot should be taken regarding the successor of Mr. Tarassov. Mr. Aboul-Nasr, on the other hand, was of the opinion that, since the matter before the Committee was not an election but the approval of a nomination, rule 56 of the provisional rules of procedure, providing that "all elections shall be decided by secret ballot", did not apply. Mr. Ortiz-Martin stated that, whatever procedure might be adopted, members should have an opportunity to explain their views concerning the procedure followed in notifying the Committee of Mr. Tarassov's resignation and that those views should be placed on record. Mr. Ingles announced that, in view of the position he had taken on the existence of a casual vacancy under the provisional rules of procedure, he would be unable to participate in the approval of the newly nominated expert, whatever the procedure adopted. Messrs. Aboul-Nasr and Partschi proposed that the Committee should first take a decision on whether to put the matter to a vote. The Committee decided, by a vote of 8 to 3, with 3 abstentions, not to take a vote. Subsequently, it approved the nomination of Mr. Safronchuk by consensus. On 14 and 17 August 1972, Messrs. Sayegh and Macdonald submitted separate proposed amendments to rule 13 of the provisional rules of procedure (see paragraph 34 below).

D. Attendance

6. All the members, except Mrs. Owusu-Addo, attended the fifth session of the Committee; Mr. Delhavi attended only part of the session. As mentioned above Mr. Safronchuk replaced Mr. Tarassov as a member of the Committee at the sixth session of the Committee. With this change, all members except Mr. Sukati attended the sixth session of the Committee.

E. Solemn declaration by new members of the Committee under rule 14 of the provisional rules of procedure

7. At its 83rd meeting, on 14 February 1972, the new members of the Committee and those who had been re-elected made the solemn declaration contained in rule 14 of the provisional rules of procedure.

8. At the 101st meeting, on 7 August 1972, a new member of the Committee, Mr. Safronchuk, made the solemn declaration contained in rule 14 of the provisional rules of procedure.

F. Election of officers

9. At its 83rd meeting, on 14 February 1972, the Committee elected the following officers in accordance with article 10, paragraph 2, of the Convention for a term of two years:

Chairman:

Mr. Luis Valencia Rodriguez

Vice-Chairmen:

Mr. Marc Ancel

Mr. A. A. Haastrup

Mr. Ján Tomko

Rapporteur:

Mr. Fayez A. Sayegh

G. Agenda

Fifth session

10. The Committee considered its agenda at the 83rd and 84th meetings, held on 14 and 15 February 1972. It had before it the provisional agenda submitted by the Secretary-General under rule 6 of the provisional rules of procedure of the Committee.

11. The Committee decided to change the title of item 6 of the provisional agenda from "Amendments to the rules of procedure: item proposed by Mr. K. J. Partsch under rule 6 (d) of the provisional rules of procedure" to "Amendments to the provisional rules of procedure", since it was noted that amendments to the provisional rules of procedure were submitted by more than one member of the Committee.

12. The Committee decided also to delete item 9 of the provisional agenda, entitled "Consideration of such action as may be required by the Committee under article 11 of the Convention", because there was no action to be taken by the Committee under article 11 of the Convention. The decision to delete the item was adopted by 7 votes to 6, with 2 abstentions.

13. As regards item 10 of the provisional agenda, which read: "Scale of assessments for apportioning the expenses of the Committee: question referred to the Committee by the Second Meeting of the States Parties to the Convention", several members of the Committee were of the view that the Committee was not competent to discuss this item under its terms of reference under the Convention, nor was it a body composed of financial experts. Some members, however, felt that the Committee should welcome the initiative of the States Parties as a group to refer a question to it, and believed that the item should be retained on the agenda. The Committee, by 7 votes to 3, with 5 abstentions, agreed to delete the words "Scale of assessments for apportioning the expenses of the Committee". This proposal was put forward by Mr. Sayegh in order to avoid giving any indication of whether the inclusion of the item on the agenda was or was not outside the Committee's competence. The Committee thereafter decided by 8 votes to 3, with 4 abstentions, to retain the item as reworded as item 9 of the agenda of its fifth session.

14. The agenda of the fifth session of the Committee, as adopted at the 84th meeting, reads as follows:

1. Opening of the session by the representative of the Secretary-General.
2. Solemn declaration by new members of the Committee under rule 14 of the provisional rules of procedure.
3. Election of officers of the Committee.
4. Adoption of the agenda.
5. Action by the General Assembly on the annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention (General Assembly resolutions 2783 (XXVI) and 2784 (XXVI), section III).
6. Amendments to the provisional rules of procedure.
7. Consideration of reports submitted by States Parties under article 9 of the Convention:
 - (a) Initial reports of States Parties which were due in 1970;
 - (b) Initial reports of States Parties which were due in 1971;
 - (c) Initial reports of States Parties which are due in 1972;
 - (d) Second periodic reports of States Parties which are due in 1972.
8. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.
9. Question referred to the Committee by the Second Meeting of States Parties to the Convention.
10. Co-operation with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO): report of the Secretary-General on his consultations with the ILO and UNESCO.
11. Meetings of the Committee in 1973.

Sixth session

15. The agenda submitted by the Secretary-General was considered at the 100th meeting of the Committee on 7 August 1972. The Committee agreed to add a new item as item 2 of the provisional agenda and to renumber items 2 to 6 of the

provisional agenda as items 3 to 7. The agenda of the sixth session as adopted at the 100th meeting reads as follows:

1. Adoption of the agenda.
2. Question raised by a casual vacancy in the Committee: replacement of Mr. N. K. Tarassov.
3. Amendments to the provisional rules of procedure.
4. Consideration of reports submitted by States Parties under article 9 of the Convention:
 - (a) Initial reports of States Parties which were due in 1970;
 - (b) Initial reports of States Parties which were due in 1971;
 - (c) Initial reports of States Parties which are due in 1972;
 - (d) Second periodic reports of States Parties which are due in 1972.
5. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.
6. Co-operation with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO): report of the Secretary-General on his consultations with the ILO and UNESCO.
7. Report of the Committee to the General Assembly under article 9, paragraph 2, of the Convention.

II. ACTION BY THE GENERAL ASSEMBLY ON THE ANNUAL REPORT SUBMITTED BY THE
COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

16. At its 85th and 86th meetings during its fifth session, held on 15 and 16 February 1972, the Committee discussed the views expressed by members of the Third Committee at the twenty-sixth session of the General Assembly and the action taken by the Assembly in its resolutions 2783 (XXVI) and 2784 (XXVI).
17. Opening the discussion, Mr. Sayegh welcomed the beginning of a dialogue between the General Assembly and the Committee as an important new development in the implementation of the Convention. He noted the need to distinguish between positions taken by representatives during the debate and official pronouncements of the Assembly itself as recorded in its resolutions. Accordingly, he proposed that the Committee thoroughly examine and take due account of both resolutions of the General Assembly.
18. Messrs. Aboul-Nasr, Ancel, Dayal, Haastrup and Tarassov agreed that the Committee should not allow itself to be unduly influenced by the opinions of individual representatives of Member States in the General Assembly. It was impossible, in their opinions, to take all the varied views into account and take action unless asked to do so specifically by the Assembly. However, the Committee should examine the suggestions made and, when appropriate, adopt those which might improve its work and help to promote the objectives of the Convention. In the opinion of Messrs. Ancel, Dayal and Tarassov, the General Assembly in resolutions 2783 (XXVI) and 2784 (XXVI), section III, had confined itself to expressing certain views in a form which was in no way peremptory.
19. Mr. Soler was of the opinion that comments made by representatives of States at the General Assembly could not be totally ignored by the Committee, although they might not all be pertinent. Sir Herbert Marchant and Messrs. Partsch and St. John Macdonald considered that the Committee should follow the Assembly's suggestions without disregarding opinions of individual Member States.
20. Mr. Calovski indicated that the Committee had an obligation to consider the views expressed by the General Assembly and to discuss the various points made in the Assembly discussion with regard to the Committee's work, which should be taken as a basis for the future work of the Committee.
21. The Committee shared the view expressed by its Chairman that the debate on the General Assembly discussion and resolutions were very useful since it enabled the Committee to clarify the Assembly's objectives and to determine the scope of the points of views put forward by States in the light of the objectives of the Convention. The Committee then agreed to proceed with the examination of certain amendments to the provisional rules of procedure which were said by their respective proponents to have been mainly inspired by the decisions and discussions of the Assembly (see paragraphs 22 to 33 below).

III. AMENDMENTS TO THE PROVISIONAL RULES OF PROCEDURE

22. At its fifth and sixth sessions, the Committee considered certain procedural aspects of the questions arising out of its discussion of the opinions and decisions of the General Assembly contained in its resolution 2783 (XXVI) of 6 December 1971 and discussed various other amendments to the provisional rules of procedure.

23. In paragraph 5 of resolution 2783 (XXVI), the General Assembly expressed the view that the work of the Committee would be facilitated if the reports submitted by States Parties conformed to the guidelines laid down by the Committee for that purpose and if the Committee invited representatives of States Parties to be present at its meetings when their reports were examined. A draft amendment to the provisional rules of procedure proposed by Mr. Partsch provided that the Committee shall, through the Secretary-General, notify the States Parties of the date of the session at which their reports will be examined and shall invite these States Parties to send representatives authorized to reply to questions raised by the members of the Committee. Most members agreed that States Parties should be given the opportunity to attend meetings at which their reports were discussed; some felt, however, that it would be necessary to define more clearly the rights and responsibilities of the representatives of the States Parties. Several members felt that, since States Parties may or may not accept an invitation to attend, the Committee should retain its freedom to proceed with its consideration of a report whether the representative of the State Party concerned was present or not. Some members expressed dissatisfaction with the final sentence of the proposal, stating that it was not for individual members of the Committee to put questions to a representative of a State Party, that the representative of a State Party should not be subjected to a hearing in which questions were put to him which might or might not reflect the consensus of the Committee, and that the Committee should consider each report and formulate questions which may be put to the representative of the State Party concerned by the Chairman on behalf of the Committee. In the light of discussions, a joint draft was submitted by Messrs. Partsch and Sayegh which, as amended, was adopted as rule 64 A by the Committee at its 89th meeting, on 17 February 1972 (see chapter IX, section A, decision 1 (V)). The Committee agreed that this new rule would come into operation from the sixth session of the Committee.

24. In paragraph 6 of its resolution 2783 (XXVI), the General Assembly recognized that its consideration of the reports of the Committee would be facilitated by the inclusion of the criteria used by the Committee when it examined in greater depth the substance of the reports from States Parties submitted under article 9 of the Convention. Certain draft amendments to its provisional rules of procedure proposed by Sir Herbert Marchant provided that, when considering a report submitted by a State Party under article 9, the Committee shall first determine whether the report provides all the information requested in the communication of the Committee dated 28 January 1970. ^{2/} If a report does not contain all such

^{2/} Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027), annex III A (originally issued under the symbol CERD/C/R.12).

information the Committee shall determine it to be unsatisfactory, and shall request the State Party to submit the missing information. The draft amendments proposed by Sir Herbert Marchant further provided that, if the Committee considers that a report by a State Party provides all the information requested, it shall then determine whether the State Party has discharged all its obligations under the Convention. The Committee shall determine to be unsatisfactory any report which, in the opinion of the Committee, indicates that a State Party has not discharged all its obligations under the Convention, and shall request that State Party to submit information on the manner in which it proposes to discharge its undischarged obligations. Some members of the Committee pointed out that the draft placed too much emphasis on classifying the reports of States Parties not only as regards their form, but also covering their substance. It was further recalled that the classification of the States Parties' reports at previous sessions of the Committee was designed merely to ascertain which States Parties needed to supply further information and to help the Committee in its main task, which was to assess the substance of the reports. Other members stressed the need for the Committee to show flexibility in its consideration in greater depth of the reports of the States Parties to the Convention and to take into account the particular circumstances of each country. They stated that the proposed amendments to the provisional rules of procedure were too rigid and that if the Committee sought to apply the same criteria to every report, this would prevent the Committee from taking into account the special circumstances of each country. In the light of discussions, further amendments and proposals were submitted by Messrs. Aboul-Nasr, Macdonald, Sayegh and Tarassov. The text proposed by Sir Herbert Marchant, as amended, was adopted as rule 66 A by the Committee at its 91st meeting, on 18 February 1972 (see chapter IX, section A, decision 2 (V)).

25. Mr. Partsch proposed the inclusion of a rule whereby, if a State Party submitted a report or information under article 9 concerning measures affecting its territory, but taken by another State Party, the Committee should inform the reporting State that the procedure under article 11 of the Convention was applicable. It further provided that if such information referred to measures taken by a State not party to the Convention, the matter should not be considered by the Committee unless the provisions of article 15 of the Convention apply. The Committee considered this proposal from its 86th to 90th meetings. Several members said that the proposal went beyond the provisions of the Convention, and was tantamount to amending the Convention, which left the initiative of invoking article 11 to States Parties. By deciding at what stage and in what circumstances a State Party should invoke article 11, the Committee would be encroaching on the States Parties' prerogatives. It was recalled that situations involving two States not parties to the Convention had arisen during the fourth session of the Committee. In both cases, the Committee by a majority of its members had decided to take note of the information and, recognizing that it had no competence to request the relevant information on these questions from the States concerned, had agreed to draw the attention of the General Assembly to those situations. It was pointed out that the Committee had no alternative. The Committee could not forbid States Parties to submit information relating to their territories and, if such information involved States not parties to the Convention, the Committee was obliged to draw the attention of the General Assembly to such information. It was further pointed out that the General Assembly in its resolution 2784 (XXVI), section III, paragraph 2, had endorsed the decisions of the Committee. Although, in the light of the discussions, Mr. Partsch submitted a revised proposal, to

which further amendments were submitted by Messrs. Haastrup and Soler, and the Committee adopted some of the amendments, the proposal as a whole, as amended, was rejected at its 90th meeting, on 18 February 1972.

26. The Committee continued discussion of amendments to its provisional rules of procedure at the 102nd and 103rd meetings of its sixth session.

27. A draft amendment (rule 14 A) proposed by Sir Herbert Marchant read as follows:

"In the consideration of reports submitted to the Committee pursuant to article 9, or of petitions and reports received pursuant to article 15, members of the Committee may raise any matter relevant to the situation described in the documents before the Committee or related to the implementation of the Convention in the territory of the State Party concerned."

28. The sponsor of the draft stressed the point that the members of the Committee, who were experts, as provided in the Convention, should not be expected to ignore or put aside their expertise and merely confine themselves to a discussion of information placed before them. Members of the Committee could and should use any relevant information in order to discharge properly and adequately their functions under the Convention, which did not prohibit recourse to such information. The Committee's practice also indicated that it had done so in the past.

29. Some members (Messrs. Ancel, Macdonald, Partsch and Soler) supported the proposal and stated that the Committee could not be expected to operate effectively while disregarding information that had become common knowledge, emanated from reliable and official sources, such as governmental publications, law reports, official gazettes, reports of debates in various legislative bodies, or was contained in documents of the United Nations and its specialized agencies. Moreover, in examining the reports, a body of experts could not be expected to abdicate or give up its expertise.

30. Other members (Messrs. Aboul-Nasr, Haastrup, Safronchuk and Tomko) believed that the Convention had restricted the sources of information available to the Committee to reports and information submitted to it under articles 9 and 15 of the Convention. They stated that the proposed amendment went beyond the provisions of the Convention and sought to enlarge the competence of the Committee. For that purpose, recourse should be had to the provisions on amending the Convention and not the rules of procedure.

31. Certain members (including Messrs. Calovski, Dayal and Dehlavi) stated that they fully appreciated the aim of Sir Herbert Marchant's amendment, which was in accord with some of the practice of the Committee and was intended to expand the sources of information available to it, but felt that the Committee should not adopt an amendment which might introduce a rigid element into its procedures.

32. In the light of the discussions, Sir Herbert Marchant agreed to withdraw his amendment, stating that the debate would not have been in vain if it was duly reflected in the summary records and the Committee's report to the General Assembly.

33. The Chairman stated that it appeared from the discussion that the Committee would continue the practice it had followed to date allowing members to use any information they might have as experts.

34. At its sixth session, the Committee also had before it draft amendments to its provisional rules of procedure submitted by Mr. Safronchuk (rule 11 A and rule 56) and Mr. Sayegh as well as Mr. Macdonald (rule 13) relating to questions of appointment and participation of alternates to members of the Committee, of the mode of election of officers of the Committee, and of the manner in which casual vacancies in the Committee may arise and how they should be filled under article 8, paragraph 5 (b) of the Convention. Owing to lack of time, the sponsors of these drafts agreed that consideration of their amendments should be postponed until the next session.

35. At its 117th meeting, on 24 August 1972, the Committee requested the Secretary-General to make available to the members and to States Parties an up-to-date consolidated text of the provisional rules of procedure, but agreed not to revise the numbers of the provisional rules of procedure as a result of the adoption of rules 64 A and 66 A.

IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

A. Receipt of "initial", "second periodic" and "supplementary" reports

36. At the sixth session of the Committee, there were 65 States Parties to the Convention. Initial reports under article 9, paragraph 1, of the Convention were due from 50 States Parties; 47 had been received since the establishment of the Committee, of which seven were received in the year under review, as follows: the initial report of Uruguay, which was due on 5 January 1970, but had not yet been received by the end of the fourth session of the Committee, 3/ was received in the interval between the fourth and fifth sessions, as were the reports of Canada, Morocco, Norway and Romania, which fell due during that interval. Of the five initial reports which were due in the interval between the fifth and sixth sessions of the Committee (namely, those of Cameroon, the Central African Republic, Jamaica, Malta and Nepal), only the reports of Malta and Nepal had been received by the end of the Committee's sixth session.

37. At the 112th meeting, held on 18 August 1972, the Committee decided to request the Secretary-General to send reminders to Cameroon, the Central African Republic and Jamaica, in accordance with rule 66, paragraph 1, of the provisional rules of procedure, requesting them to submit their initial reports by 1 January 1973.

38. Second periodic reports from 36 States Parties were due at the sixth session of the Committee, of which 30 had been received by the end of that session; six States Parties had not yet submitted their second periodic reports, although a first reminder had been sent to four of them in accordance with a decision adopted by the Committee at the 93rd meeting of its fifth session. In addition, the second periodic report of Mongolia, which was not yet due, was submitted well ahead of time.

39. At its 112th meeting, the Committee decided that second reminders be sent to Cyprus, Egypt, Sierra Leone and Spain, and first reminders to the Holy See and Swaziland, and that these States Parties be requested to submit their second periodic reports by 1 January 1973.

40. In addition, four supplementary reports, submitted in response to requests made by the Committee at its third, fourth or fifth sessions, were received in the year under review, while three States Parties included the requested additional information in their second periodic reports, as suggested by the Committee. However, supplementary reports expected from four other States had not yet been received by the end of the sixth session. These consisted of the supplementary reports of Bolivia, Iraq and Sierra Leone, which were requested in pursuance of

3/ Ibid., Twenty-sixth session, Supplement No. 18 (A/8418), para. 21

decisions adopted at the fourth session, 4/ and Uruguay, as decided at the 95th meeting of the Committee's fifth session (see paragraph 54 below).

41. At the 109th meeting, the Committee decided to request Bolivia and Iraq to include in their second periodic reports, due in 1973, the additional information which had been requested of them at the fourth session. At the 112th meeting, the Committee decided that Uruguay be requested to submit the additional information, which it had been asked to submit in accordance with the decision adopted by the Committee at its fifth session (see paragraph 54 below), by 1 January 1973; and that Sierra Leone be asked to include the information which it had been requested to submit in the decision adopted by the Committee at its fourth session 5/ in its second periodic report, with respect to which the Committee decided at the same meeting (112th) to send a second reminder (see paragraph 39 above).

42. The dates on which all reports - initial, second periodic and supplementary - were due, or received, in the year under review, and reminders sent out in accordance with decisions adopted by the Committee, may be found in annex II.

B. Preliminary analysis of reports

43. At the 92nd meeting, fifth session, when the Committee opened its consideration of reports submitted by States Parties in accordance with article 9, paragraph 1, of the Convention, the Rapporteur presented a preliminary comparative analysis of the 79 reports (45 initial reports, 11 second periodic reports, and 23 supplementary reports) which had been received since the establishment of the Committee from 45 States Parties.

44. According to that analysis, 25 of the reporting States Parties had declared in their reports that racial discrimination did not exist on their territories. Many of these States Parties explained the reason for the absence of racial discrimination from their territories, 10 attributing that absence to their respective "national traditions", "national outlooks", or "deep-seated convictions"; four, to their respective religions; five, to their respective social systems; and two, to the absence of conditions conducive to the rise of racial discrimination. Only six States Parties admitted, or implied, the existence of practices of racial discrimination on their territories; but two of these States Parties attributed such practices to other States, not parties to the Convention, controlling or occupying portions of the national territory of the reporting States Parties.

45. Regarding legislative measures that give effect to the provisions of the Convention, 24 of the reporting States Parties asserted that no such measures were required; however, four of these States Parties added that they would enact, or consider enacting, new legislation should the need arise in the future. Of the 24 States Parties under reference, eight asserted that there was no legislation on their statute books implying or permitting racial discrimination; three emphasized that, if there were any such laws or regulations, they would be incompatible with the anti-discrimination provisions of their national constitutions and, as such, invalid; and four pointed out that the Convention had become an integral part of their municipal law.

4/ See ibid., paras. 35 and 36.

5/ Ibid.

46. On the other hand, seven States Parties reported on relevant legislative measures adopted since the entry into force of the Convention for them, including two States Parties which reported that they had in the meantime promulgated new constitutions containing anti-discrimination provisions.

47. The majority of the reporting States Parties supplied information on existing legislation which antedated the Convention but corresponded to some of its provisions. The reports of 38 States Parties quoted, paraphrased, summarized, or merely cited some relevant provisions of their national constitutions or fundamental laws, and the reports of 27 States Parties provided information on other laws or regulations.

48. As far as judicial measures were concerned, three States Parties supplied information on cases before the courts relating to racial discrimination, and five stated that no cases involving racial discrimination had been brought before the courts.

49. Administrative measures designed to combat racial discrimination or to promote racial tolerance and harmony were reported by six States Parties; seven reported on educational programmes they were undertaking for the same purpose; and two mentioned economic measures benefiting all racial groups and therefore contributing to the objectives of the Convention.

50. Finally, four States Parties reported that they were implementing resolutions adopted by United Nations organs concerning relations with racist régimes in southern Africa, and another State Party reported that it was contributing to certain international educational programmes relating to southern Africa.

C. Examination of reports

51. Consideration of the reports of States Parties engaged the Committee in 15 of the 37 meetings it held at its fifth and sixth sessions: the 92nd to 99th meetings at the fifth session, and the 106th to 112th meetings at the sixth session.

Fifth session

52. At its fifth session, the Committee examined two supplementary reports submitted by Iceland and Madagascar and three initial reports, due in 1971, submitted by Canada, Norway and Uruguay. (The initial report of Uruguay, which was due on 5 January 1970 and was received on 22 October 1971, was examined in conjunction with its second periodic report, which was due on 5 January 1972 and was received during the fifth session.)

Iceland, Norway and Canada

53. The Committee noted with satisfaction that the reports submitted by Iceland, Norway and Canada conformed with the guidelines laid down by the Committee for that purpose (CERD/C/R.12) 6/ and that they contained sufficient information on measures adopted to give effect to the provisions of the Convention. However, in

6/ Ibid., Twenty-fifth Session, Supplement No. 27 (A/8027), annex III-A.

conjunction with its examination of the report submitted by Iceland, the Committee adopted general recommendation I (see paragraphs 79-85 below). Moreover, general recommendation III, which the Committee adopted at its sixth session, was proposed in the course of the examination of the report submitted by Canada (see paragraphs 92-95 below).

Uruguay and Madagascar

54. Noting that neither the initial and second periodic reports submitted by Uruguay, which were examined conjointly, nor the supplementary report submitted by Madagascar, conformed to the guidelines laid down by the Committee (CERD/C/R.12) 6/ or contained sufficient information to enable it to determine whether or not the States Parties concerned had discharged their obligations under the Convention, the Committee decided at its 95th and 97th meetings to request Uruguay and Madagascar to compare the reports they had submitted with the guidelines laid down by the Committee in its communication under reference and, in the light of the discussion of those reports by the Committee, to furnish it with all pertinent information. Furthermore, the Committee adopted general recommendation II in conjunction with its examination of the report submitted by Madagascar (see paragraphs 85-91 below).

Sixth session

55. At the sixth session, the Committee inaugurated a new procedure relating to its examination of reports submitted under article 9, paragraph 1, of the Convention, in accordance with rule 64 A of its provisional rules of procedure, which was adopted at the 89th meeting, fifth session, but which, as decided by the Committee at its 90th meeting, was to come into force as of the following session (see paragraph 23 above). For the text of the new rule, see chapter IX, section A, decision 1 (V).

56. At the 102nd meeting, the Committee requested the Secretary-General to notify Romania, Greece, Morocco, Nepal and Malta of the dates on which their respective reports would be considered, in accordance with rule 64 A of the provisional rules of procedure. The Committee is happy to note that all five States Parties responded to that notification by designating representatives who attended the meetings in question and made statements in which they answered questions raised by members of the Committee and submitted additional information.

The Socialist Republic of Romania

57. The initial report of Romania, which was due in 1971, was examined by the Committee at the 106th to 109th meetings. A majority of the members of the Committee indicated their satisfaction with the scope and organization of the report and declared it satisfactory.

58. Several aspects of the situation in Romania relevant to the question of racial discrimination, as described in the report, were emphasized by one or more members as indicative of satisfactory conditions in that country. It was pointed out that, although the social system prevailing in the country was said to preclude racial

discrimination, measures for prohibiting and combating such discrimination had nevertheless been adopted; that the Constitution proclaimed the principle of equality; that special guarantees for the protection of the rights of minorities were in force; and that, in some respects the measures adopted went beyond the scope of the undertakings of States Parties under the Convention. Thus, the equality of aliens (whether citizens of other States or stateless persons) with citizens in all spheres of life, except the political sphere, exceeded the provisions of article 1, paragraph 2, of the Convention. The existence of institutions designed to guarantee the enforcement of the equality prescribed in the Constitution and the laws of Romania were cited with approval by some members; and the functions of the Procurator's Office, as well as the provisions of article 35 of the Romanian Constitution regarding the annulment of illegal acts of State organs and the reparation of damages, were singled out in that regard and deemed to discharge the obligations of Romania under article 6 of the Convention. The provisions of legislation relating to the participation of minorities in political life and to their educational rights, as well as labour legislation ensuring non-discrimination in employment, were deemed to meet the obligations of Romania under article 5 of the Convention. Some members felt that the provisions of article 4, paragraphs (a) and (b), of the Convention, were adequately met by the relevant provisions of the Romanian Constitution and Penal Code cited in the report.

59. On the other hand, several members felt that, like most other reports received from States Parties, the report submitted by Romania furnished more information on legislative measures than on administrative or judicial measures. Information on the implementation of the laws cited in the report and the practices of the institutions mentioned in it was largely lacking. Information on the composition of minorities and other social and demographic data was, in the opinion of some members, also lacking in the report. Questions were raised about the educational system applicable to minorities and whether it adequately guarded against the dangers envisaged in article 1, paragraph 4, and article 2, paragraph 2, of the Convention; about the implementation by Romania of resolutions of the United Nations bodies concerning relations with the racist régimes in southern Africa; about the enjoyment by everyone, on an equal footing, of the right set forth in article 5, paragraph d (ii), of the Convention; about the texts of article 29 of the Romanian Constitution and articles 1 and 317 of the Penal Code, which related to the provisions of article 4 of the Convention, and whether, and in what circumstances, these provisions were applied; about the provisions corresponding to article 6 of the Convention and the extent to which such provisions effectively assisted the citizens of Romania in defending their rights; about how the right of petition was exercised; and about what measures, if any, have been adopted to give effect to the obligations of the reporting State Party under article 7 of the Convention.

60. The representative of Romania made a statement at the 108th meeting of the Committee in which he provided clarification regarding some of the comments made by members and answered some of the questions raised during the discussion.

61. At the 109th meeting, the Committee decided to consider the initial report of Romania satisfactory.

Greece

62. The supplementary report submitted by Greece was considered by the Committee at its 107th, 108th and 109th meetings. The majority of the members who

participated in the discussion expressed the view that the supplementary report of Greece was more satisfactory than its initial report.

63. Several members of the Committee pointed with satisfaction to the explanations, contained in the introductory part of the report under examination, of the reasons because of which there were no policies or practices of racial discrimination in Greece, namely, the provisions of articles 7 and 8 of the national Constitution and of other legislation, the national traditions of the country, and the promulgation by legislative decree of the Convention, which made it an integral part of the law of the land and made its implementation mandatory.

64. Questions were raised, in the course of the discussion, about judicial and administrative measures, as distinct from legislative measures, giving effect to the provisions of the Convention. Some members stated that the inclusion, in future reports, of social and demographic data would be helpful to the Committee. Some members inquired about the relations between Greece and the racist régimes in southern Africa and the degree to which relevant resolutions of United Nations organs were being implemented. Questions were put forward regarding individual articles of the Convention. How, and in accordance with what provisions of the law, were violations of article 3 of the Convention dealt with? The texts of legislation cited in connexion with article 4, paragraphs (a) and (b), of the Convention were not supplied by the reporting State Party, and it was indicated by some members that it would be necessary to examine those texts (such as articles 183 to 201 of the Penal Code of Greece) in order to determine whether or not they fully met the requirements of the Convention. Article 24, paragraph 1, of the Constitution of Greece, cited in the supplementary report in conjunction with article 5 of the Convention, stated that the enjoyment of some of the rights enumerated in that article of the Convention was "within limits"; and some members inquired about those limits in order to ascertain whether or not racial discrimination was countenanced. The laws giving effect to the provisions of article 6 were the subject of inquiry, inasmuch as the report, while referring to the existence of such laws, neither provided the relevant texts nor gave precise indication of the scope of the applicable legislation, particularly with respect to the remedies against acts of racial discrimination and the right to seek adequate reparation or satisfaction for damages suffered as a result of such discrimination. Some members asked for information on the measures adopted, if any, to give effect to the provisions of article 7 of the Convention.

65. There was extensive discussion in the Committee of the assertion, repeatedly made in the supplementary report submitted by Greece, that the promulgation of the Convention by legislative decree made it an integral part of the law of the land and rendered the implementation of its provisions mandatory. Some members accepted this assertion with satisfaction, but others pointed out that, while it was true that some of the provisions of the Convention were automatically incorporated into the municipal law of a State Party on ratification, other provisions could not be said to be in effect in a State Party until certain measures, particularly legislative measures, had been taken.

66. Another subject which gave rise to extensive discussion in the Committee, in the course of its examination of the supplementary report submitted by Greece, related to a question which was raised about the status of certain articles (particularly article 14, paragraph 1, and articles 18 and 19) of the Constitution of Greece. The following question was asked: In view of article 138 of that Constitution, were those articles still excepted from coming into immediate effect,

or were they all now in force, as stated in the report? And, if so, when were they placed into effect under the authority given the Government by the said article 138? While some members questioned the competence of the Committee to address such questions to a State Party, other members upheld a member's rights to pose such questions. Some members pointed out that suspension of the rights laid down in those articles could only be examined by the Committee for the sole purpose of determining whether, because of such emergency measures, racial discrimination was practised or tolerated in Greece. As the discussion that ensued raised broader questions relating to the meaning of article 5 of the Convention, the scope of the obligations of the States Parties under that article, and the corresponding scope of the mandate of the Committee under article 9, paragraph 1, of the Convention, and showed wide divergence of opinions among members, Mr. Sayegh proposed - in accordance with rule 6, paragraph (d), of the provisional rules of procedure - that this matter be inscribed on the agenda of the seventh session of the Committee, in order that it might be discussed not in connexion with the examination of a report submitted by a State Party, but in a more general way and in the hope that some consensus might be reached by the Committee.

67. At the 108th meeting, the representative of Greece made a statement in which he furnished clarifications and further information and replied to some of the questions raised in the course of the discussion. Regarding the discussion summarized in paragraph 65 above, he repeated the assertion made in his Government's report and added that "the relevant clauses of the Constitution, in conjunction with the special legislation on the administration of justice, made it obligatory for the courts to apply the relevant provisions of the Convention". As for the discussion summarized in paragraph 66 above, he remarked that members of the Committee should not overlook the distinction to be drawn between the obligations under the Convention and the obligation not to interfere in the internal affairs of a State Party" and added that "any suspension of any article of the Constitution... applied to all Greek nationals".

68. At the 109th meeting, the Committee decided that the supplementary report submitted by Greece was satisfactory, in view of the fact that, in its second periodic report, that State party "would clarify a number of points and provide additional information".

Nepal

69. The initial report of Nepal, which was due in 1972, was considered at the 110th and 112th meetings of the Committee. While some members noted with satisfaction that the report expressed Nepal's opposition to racial discrimination, all the members who participated in the discussion observed that it contained no information on measures taken to give effect to the provisions of the Convention, including those which laid down mandatory obligations requiring specific legislative action by a State Party.

70. In the statement he made before the Committee at its 110th meeting the representative of Nepal explained why his Government had chosen to submit a brief report: Firstly, the Government of Nepal deemed it appropriate to explain the basic philosophy underlying its accession to the Convention and, secondly, as there was no racial problem in Nepal, it did not consider that there was any immediate need to adopt legislative, judicial, administrative or other measures to give effect to the provisions of the Convention. He assured the Committee that both the letter and spirit of the Convention would be observed in his

country through the adoption of pertinent legislative, judicial, administrative and other measures, as and when necessary, and that the next report to be submitted by his Government would be more detailed than the present one.

71. At its 112th meeting, the Committee decided to consider the initial report submitted by Nepal unsatisfactory and to address a communication to the Government of Nepal, through the Secretary-General, noting the statement made by the representative of Nepal before the Committee and expressing the hope that the information required under article 9, paragraph 1, of the Convention, will be furnished by 1 June 1973 in accordance with the guidelines contained in the Committee's communication of 28 January 1970 (CERD/C/R.12) 7/ and the general recommendations adopted by the Committee at its fifth session (see paragraphs 79 to 91 below). The Committee at its 119th meeting on 25 August 1972, approved the text of the communication to be sent to the Government of Nepal (see annex III below).

Malta

72. The initial report of Malta, which was due in 1972, was considered at the 110th to 112th meetings. The members who participated in the discussion welcomed the statements contained in the report, to the effect that Malta was free of racial discrimination; that the Constitution nevertheless expressly provides for protection from racial discrimination and prohibits any legislation which is discriminatory either in itself or in its effects; that a Constitutional Court exists, with powers to uphold the fundamental rights of the individual irrespective of race, colour or place of origin; and that that Court had never had occasion to pronounce on any allegation of racial discrimination because no case alleging such discrimination had been brought before it. Many members, however, regretted that more detailed information on the relevant provisions of the Constitution and other laws cited in the report had not been included in it. Some members expressed the opinion that the statement contained in the report, to the effect that, because of the "total absence" of racial discrimination, "the need has never been felt of promulgating legislation or issuing administrative directions to combat", it failed to take cognizance of some of the provisions of the Convention which created mandatory obligations applicable to all States Parties, regardless of whether or not racial discrimination was practised on their territories. Other members, however, counselled greater caution in the implementation of those provisions.

73. In his statement before the Committee, at its 111th meeting, the representative of Malta provided some of the information requested by some members. He stated that his Government would not hesitate to introduce legislation to implement the Convention should the problems of racial discrimination ever arise in Malta and assured the Committee that the remarks made by members during the discussion of his Government's report would be taken into consideration in the preparation of the next report of Malta.

74. With respect to the initial report submitted by Malta the Committee adopted, at its 112th meeting, a decision identical with the one it had adopted at the same meeting regarding the report of Nepal (see paragraph 71 above).

7/ Ibid.

Morocco

75. The initial report of Morocco, which was due in 1972, was examined at the 111th and 112th meetings of the Committee. All members who participated in the discussion expressed satisfaction with the report. It was pointed out that the report was faithfully prepared along the lines suggested by the Committee in its relevant communication (CERD/C/R.12) 8/ and that the report furnished the texts of all articles of the national Constitution it cited.

76. It was asked whether there were any specific provisions prohibiting discrimination by individuals, as distinct from laws against discrimination by public bodies. Some members inquired about the implementation by Morocco of resolutions adopted by United Nations bodies concerning relations with the racist régimes in southern Africa, and some members asked whether non-citizens living permanently in Morocco enjoyed equal rights without racial discrimination as defined in article 1, paragraph 1, of the Convention.

77. In the statement he made before the Committee at its 111th meeting, the representative of Morocco furnished further information and replied to some of the questions put forth in the course of the examination of his country's report.

78. At its 112th meeting, the Committee decided to consider the initial report submitted by Morocco satisfactory.

D. General recommendations adopted by the Committee

General recommendation I

79. In paragraphs 3 (d) and 3 (e) of its supplementary report (see paragraphs 52 and 53 above), the Government of Iceland stated that "laws containing the substance of articles 4 (a) and 4 (b) of the Convention have not been enacted. Yet careful consideration will be given to the enactment of such laws. In this respect, Iceland will be guided by the discussions held in the Committee and by any recommendations issued by it".

80. The question raised by the statement quoted in the preceding paragraph was discussed by the Committee at the 93rd, 94th and 96th meetings. Several members recalled that the provisions of article 4, paragraphs (a) and (b), of the Convention were mandatory. Some of these members felt that, inasmuch as the Government of Iceland had welcomed the guidance and the recommendations of the Committee, the Committee should address a communication to Iceland, drawing attention to the mandatory nature of the provisions in question and recommending the adoption of appropriate legislation to give effect to those provisions. Other members, however, pointed out that the reports submitted by States Parties and examined by the Committee showed that the problem of absence of appropriate legislation to give effect to the provisions of paragraphs (a) and (b) of article 4 of the Convention was not confined to Iceland but existed in many other States Parties as well. Accordingly, these members thought that it might be helpful if the Committee addressed a general communication to all States Parties, stressing

8/ Ibid.

the mandatory nature of the first two paragraphs of article 4 of the Convention and requesting the States Parties whose legislation did not include measures to implement those provisions of the Convention to enact appropriate legislation. Finally, the Committee agreed that the best way to deal with the matter would be to make a general recommendation, in accordance with article 9, paragraph 2, of the Convention, and to report that recommendation to the General Assembly, as the article under reference requires it to do, in addition to communicating it to all States Parties in accordance with rule 67 (1) of the Committee's rules of procedure.

81. At the 94th meeting of the Committee, Mr. Tarassov proposed the following draft general recommendation:

"On the basis of the consideration at its fifth session of reports submitted by States Parties under article 9 of the Convention, the Committee found that the legislation of a number of States Parties did not include the provisions envisaged in article 4 (a) and (b) of the Convention, the implementation of which is obligatory under the Convention for all States Parties.

"The Committee accordingly adopted a recommendation calling upon States Parties whose legislation was deficient in this respect to consider, in accordance with their national legislative procedure, the question of supplementing their legislation with provisions conforming to the requirements of article 4 of the Convention."

82. In discussing this draft, some members recalled the clause contained in the preamble to article 4 of the Convention, which appeared to them to qualify the mandatory nature of the provisions of paragraphs (a) and (b), and which reads: "... with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". These members raised the question as to the extent to which article 4 was intended to provide that prohibition of dissemination of ideas based on racial superiority or hatred etc., should take precedence over freedom of opinion and of expression. Other members suggested, however, that in the light of article 29, paragraphs 2 and 3, and article 30 of the Universal Declaration of Human Rights, the right enunciated in article 19 of the Declaration could not be considered as an absolute right.

83. An amendment was proposed by Mr. Calovski, to replace the words "adopted a recommendation calling upon", which appear in paragraph 2 of the draft proposed by Mr. Tarassov, by the words, "recommends that the". Two amendments were proposed by Mr. Sayegh: the first, inserting the above-mentioned clause contained in the preamble of article 4 of the Convention in paragraph 1 of the draft proposed by Mr. Tarassov; and the second, adding reference to paragraphs (a) and (b) after the reference to article 4 of the Convention contained in the second paragraph of Mr. Tarassov's proposal. These amendments were accepted by Mr. Tarassov.

84. At its 96th meeting, the Committee decided, without a vote, to adopt the draft general recommendation proposed by Mr. Tarassov, as amended. Mr. Soler asked that his reservations on the adopted recommendation be placed on record.

85. The text of general recommendation I, as adopted, may be found in chapter IX, section A, decision 3 (V).

General recommendation II

86. The supplementary report of Madagascar (see paragraph 54 above) contained the following statements:

"The Malagasy Government has taken note of communication CERD/C/R.12 of 28 January 1970 in which the Committee on the Elimination of Racial Discrimination indicates the types of information it would like to receive, through the Secretary-General, under article 9 of the Convention.

"In this connexion, the Malagasy Government considers that the detailed questionnaire in the aforementioned communication is intended for countries in which either de facto or de jure racial discrimination exists. As such problems are unknown in Madagascar, it has taken no new legislative, judicial or administrative action to implement the above-mentioned Convention."

87. The Committee discussed the question raised by this statement in conjunction with its consideration of the supplementary report of Madagascar at the 95th and 97th meetings. During the discussion, some members pointed out that an interpretation of the guidelines laid down by the Committee, such as that contained in the report from Madagascar, would have the effect of dividing States Parties into two groups - those which were required to meet the obligations set forth in the Convention and those which were exempt from so doing. In so far as the guidelines laid down by the Committee in its communication of 28 January 1970 were merely a recapitulation, in a different form, of the provisions of the Convention which were applicable to all States Parties, they were intended for all States Parties without distinction, whether or not racial discrimination existed in their respective territories.

88. It was suggested that the Committee should make a general recommendation stating that the guidelines set forth in its communication of 28 January 1970 (CERD/C/R.12) 9/ were intended for all States Parties. At the suggestion of Mr. Tarassov, the Rapporteur was asked to prepare a draft general recommendation in the light of the discussion that had taken place in the Committee. The draft prepared by the Rapporteur reads as follows:

At its fifth session, the Committee considered some reports from States Parties which expressed or implied the belief that the information mentioned in the Committee's communication of 28 January 1970 (CERD/C/R.12), 9/ need not be supplied by States Parties on whose territories racial discrimination does not exist.

9/ Ibid.

However, inasmuch as, in accordance with article 9, paragraph 1, of the Convention, all States Parties undertake to submit reports on the measures that they have adopted and that give effect to the provisions of the Convention, and since all the categories of information listed in the Committee's communication of 28 January 1970 refer to obligations undertaken by the States Parties under the Convention, that communication is addressed to all States Parties without distinction, whether or not racial discrimination exists in their respective territories.

89. An amendment was proposed by Mr. Haastруп to add, at the end of the second paragraph of the draft prepared by the Rapporteur, a sentence reading: "Hence all States Parties should provide necessary information in conformity with all the headings set out in the Committee's aforementioned communication." A subamendment was proposed by Sir Herbert Marchant, replacing the first part of the sentence proposed by Mr. Haastруп by the words: "The Committee would therefore welcome the inclusion in the reports from all States Parties of the necessary information..." Messrs. Haastруп and Sayegh accepted that proposed change. Mr. Tarassov proposed that the words "which have not done so", be added after the words, "all States Parties" in the added text, and Messrs. Haastруп and Sayegh as well as Sir Herbert Marchant accepted that amendment.

90. The draft general recommendation, as amended, was adopted at the 97th meeting by 13 votes to 3.

91. The text of general recommendation II, as adopted, may be found in chapter IX, section A, decision 4 (V).

General recommendation II:

92. The initial report of Canada (see paragraph 53 above) contained in its opening paragraph an extract from a statement made by that country's Secretary of State for External Affairs before the General Assembly, stating that "Canada fully complies with the arms embargo against South Africa" and that this compliance was but one manifestation of "the emphatic opposition of the Canadian Government and people to the practice of apartheid". During the discussion of that report at the 98th meeting of the Committee, Mr. Sayegh recalled that other States Parties in addition to Canada had volunteered information on their implementation of resolutions adopted by organs of the United Nations concerning relations with the racist régimes in southern Africa, and submitted the following draft general recommendation for consideration by the Committee:

The Committee has considered some reports from States Parties containing information about measures taken to implement resolutions of United Nations organs concerning relations with the racist régimes in southern Africa.

The Committee notes that, in paragraph 10 of the preamble to the Convention, States Parties have "resolved", inter alia, "to build an international community free from all forms of racial segregation and racial discrimination".

It notes also that, in article 3 of the Convention, "States Parties particularly condemn racial segregation and apartheid".

Furthermore, the Committee notes that, in resolution 2784 (XXVI), section III, the General Assembly, immediately after taking note with appreciation of the Committee's second annual report and endorsing certain opinions and recommendations submitted by it, proceeded to call upon "all the trading partners of South Africa to abstain from any action that constitutes an encouragement to the continued violation of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination by South Africa and the illegal régime in Southern Rhodesia".

The Committee expresses the view that measures adopted on the national level to give effect to the provisions of the Convention are interrelated with measures taken on the international level to encourage respect everywhere for the principles of the Convention.

The Committee welcomes the inclusion in the reports submitted under article 9, paragraph 1, of the Convention, by any State Party which chooses to do so, of information regarding the status of its diplomatic, economic and other relations with the racist régimes in southern Africa.

93. At the 99th meeting, the Committee decided to postpone consideration of that draft until the sixth session. At the 112th meeting (sixth session) of the Committee, when the draft was taken up again, Mr. Haastруп, supported by Messrs. Dayal and Ingles suggested that the words "by any State Party which chooses to do so", which appear in the final paragraph of the draft general recommendation, should be deleted. Messrs. Ancel, Partsch and Soler indicated that they would find difficulty in supporting the draft if those words were deleted.

94. The Committee unanimously adopted the draft general recommendation without amendments.

95. The text of general recommendation III, as adopted, may be found in chapter IX, section B, decision 1 (VI).

96. The Committee agreed that the Secretary-General would communicate this recommendation to the States Parties under article 9, paragraph 2, of the Convention and in accordance with rule 67 of the provisional rules of procedure of the Committee, but that the comments, if any received from the States Parties would be submitted in the first instance to the Committee at its next session before being reported to the General Assembly.

E. Comments received from States Parties on general recommendations I and II

97. In accordance with rule 67, paragraphs 1 and 2, of its provisional rules of procedure, the Committee decided at the 96th and 97th meetings of its fifth session to request the Secretary-General to transmit general recommendations I and II to the States Parties for comments in accordance with article 9, paragraph 2, of the Convention and to indicate that, if any comments which a State Party might wish to make were received by the Secretary-General by 1 July 1972, the Committee would be able to report on them in its third annual report to the General Assembly.

98. By 1 July 1972, comments were received from Ecuador, Kuwait and the Niger. By the end of its sixth session, the Committee had also received comments from the Byelorussian Soviet Socialist Republic, Czechoslovakia, Finland, Norway, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland.

99. The Committee agreed at its 118th meeting, on 24 August 1972, to include in an annex to this report (see annex IV below), the comments received from States Parties up to 25 August 1972 on general recommendations I and II adopted at the fifth session of the Committee. The Committee also agreed that any further comments received from States Parties subsequent to 25 August 1972 should be brought to the attention of the Committee in the first instance at its seventh session in 1973.

F. Consideration of related organizational matters

100. During the consideration of the initial report submitted by Morocco, at the Committee's sixth session, Mr. Tomko suggested informally at the 111th meeting, that a comparative survey of the provisions of the criminal laws of States Parties relating to penalties for acts of racial discrimination should be prepared. In response to observations made by other members, Mr. Tomko subsequently submitted a draft recommendation to that effect, which was considered at the 116th meeting.

101. Observing that "the criminal laws of many States Parties provide penalties for racial discrimination, which is considered a crime", while some States Parties, although they prohibit racial discrimination, "do not provide specific penalties therefor"; and that, of the penalties specified in the laws of the former group, some are "very severe" and others are "moderate", the Committee would - in accordance with Mr. Tomko's draft recommendation - consider that "a survey should be made of the question" and request its Rapporteur, in co-operation with the Secretariat, "to prepare such a survey by the seventh session of the Committee on the basis of the reports received from States Parties". In accordance with the draft recommendation, the Committee would also note that "such a survey would be of use not only for the work of the Committee, but also to States Parties", inasmuch as it could be "of assistance in the legislative activities" of the States Parties.

102. All members of the Committee who participated in the discussions welcomed the proposal and emphasized its usefulness; but certain members expressed objections and reservations pertaining to some aspects of its practical implementation. Some members expressed the fear that the proposed survey might be misconstrued as an attempt to make the laws of the States Parties uniform despite the diversity of their legal systems; others thought that the survey duplicated existing studies already made under the auspices or at the behest of other United Nations bodies. Opinions were expressed to the effect that the scope of the proposed survey was too broad, and that it would be better if it were confined - at the initial stage - to one article of the Convention, such as article 4, under paragraphs (a) and (b) of which the States Parties have undertaken to "declare an offence punishable by law" certain specified types of action and organization.

103. In view of the objections to the proposal in its present form, expressed by some members, Mr. Tomko agreed that further consideration of his draft

recommendation be postponed until a later session, when a revised text which would take into account some of the views expressed during the discussion might be introduced.

104. At the 109th meeting, during the Committee's sixth session, Sir Herbert Marchant drew the attention of the Committee to the difficulties it is likely to encounter in the not-too-distant future in discharging its responsibilities under article 9, paragraph 1, of the Convention. He recalled the following facts: first, the number of the States Parties had risen from 37 to 65 since the establishment of the Committee; secondly, the reports submitted by them were becoming increasingly more detailed and more lengthy - partly as a result of requests addressed by the Committee to many States Parties for additional information, and partly in response to the Committee's recommendation that States Parties include in their reports information corresponding to all the headings set out in its communication of 28 January 1970 (CERD/C/R.12); 10/ and, thirdly, representatives of States Parties had begun to participate in the Committee's consideration of the reports submitted by their Governments. As a result of all these factors, the Committee had come to devote more time to the examination of individual reports at a time when the number of the reports received had considerably increased. Sir Herbert Marchant concluded that some consideration must be given to the possibility of devising new methods for performing the Committee's tasks under article 9 of the Convention, lest the Committee find itself, before long, unable to cope with its rapidly increasing workload. He noted that even the decision, adopted at the fifth session, to add one week to the duration of the Committee's spring session in 1973 (see paragraph 132, below) might prove insufficient to meet the anticipated difficulties, unless acceptable time-saving devices were found.

105. At the 116th meeting, when the Committee resumed consideration of the question, Sir Herbert Marchant tentatively proposed various alternative methods. However, the Committee agreed that, for the time being, it would continue to follow the course it had pursued at its first six sessions.

10/ Ibid.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS
AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-
GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO
WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN
CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

106. The Committee considered this item at the 91st meeting of its fifth session and the 104th, 105th, 109th, 113th, 116th and 119th meetings of its sixth session.

107. The action taken by the Trusteeship Council at its thirty-eighth session in 1971 and by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples at its session in 1970, in conformity with article 15 of the Convention and General Assembly resolution 2106 B (XX), was discussed in the second annual report of the Committee to the General Assembly at its twenty-sixth session. 11/ The opinions and recommendations of the Committee based on its consideration of copies of petitions, copies of reports and other information submitted to it by the Trusteeship Council and the Special Committee under article 15 of the Convention were contained in decision 5 (IV) of the Committee as reported to the General Assembly last year. 12/

108. The General Assembly, in section III, paragraph 2, of its resolution 2784 (XXVI), endorsed the opinions and recommendations submitted by the Committee in its decision 5 (IV) and, in paragraph 7 of its resolution 2783 (XXVI), drew the attention of the Trusteeship Council and of the Special Committee to the report of the Committee and requested them to take appropriate action within their terms of reference in their respective spheres of activity, as expressed in the relevant parts of the report.

109. At its sixth session, the Committee was informed by the Secretary-General that the Trusteeship Council, at its 1402nd meeting on 12 June 1972, decided to invite the Administering Authorities to include in their annual reports information on the matters listed in the relevant parts of decision 5 (IV), section III, paragraph 1, of the Committee's report and that the Council further decided to take note of the Committee's recommendation, contained in decision 5 (IV), section III, paragraph 3, and to consider it, as appropriate, at the time the Trusteeship Council decides to dispatch a visiting mission to a Trust Territory.

110. The Committee was also informed by the Secretary-General of the following action taken by the Special Committee at its 841st meeting, on 16 March 1972, with regard to the opinions and recommendations of the Committee:

11/ Ibid., Twenty-sixth Session, Supplement No. 18 (A/8418), chap. IV.

12/ Ibid., chap. VII, section B, decision 5 (IV).

"Having regard to the tasks entrusted to the Special Committee under article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination and in the light of the relevant provisions of General Assembly resolution 2783 (XXVI) of 6 December 1971, the Special Committee requests its Chairman to draw the attention of the administering Powers concerned and the United Nations Educational, Scientific and Cultural Organization (UNESCO) to the relevant sections of the report of the Committee on the Elimination of Racial Discrimination for appropriate action."

111. As a consequence of the decisions of the Trusteeship Council and the Special Committee mentioned in the foregoing paragraphs, the Committee had before it at its sixth session the documents listed in annex V below.

112. At the Committee's fifth session, the Chairman appointed four working groups to examine the material submitted to it by the Trusteeship Council and by the Special Committee in 1971 and 1972 and to report to the Committee on their findings as well as their expressions of opinions and recommendations. The four working groups consisted of the following members of the Committee:

(a) Pacific and Indian Ocean Territories:

(Mr. Aboul-Nasr and Mr. Tomko with Mr. Macdonald as convenor);

(b) Atlantic Ocean and Caribbean Territories, including Gibraltar:

(Mr. Dahlavi, Mrs. Owusu-Addo and Mr. Soler with Mr. Partsch as convenor);

(c) Territories under Portuguese Administration:

(Mr. Calovski, Sir Herbert Marchant and Mr. Sukati with Mr. Dayal as convenor);

(d) Other African Territories:

(Mr. Ancel, Mr. Ingles, Mr. Ortiz-Martin and Mr. Tarassov 13/ with Mr. Haastrup as convenor).

113. The reports of the working groups, which were considered by the Committee at the 104th, 105th, 109th and 113th meetings of its sixth session, were adopted paragraph by paragraph with some amendments. The Committee postponed action on the text of these reports as a whole until the convenors of the working groups had had an opportunity to meet, together with the Rapporteur, in order to consolidate them in final form.

114. The convenors of the working groups and the Rapporteur held one informal meeting for that purpose on 22 August 1972. At its 116th meeting, the Committee was informed by the Rapporteur that the reports had been consolidated at the informal meeting he had had with the four convenors and that that consolidation resulted in two texts, namely, the drafts of decisions 3 (VI) and 4 (VI).

13/ At the sixth session of the Committee, Mr. Tarassov was replaced by Mr. Safronchuk (see paragraphs 4 and 5 above).

115. The Committee agreed at its 116th meeting to the suggestion made by the Rapporteur on behalf of the four convenors and himself to the effect that the final text of the Committee's decision 4 (VI) should be prefaced by the following observations: (1) that the Committee was submitting, in lieu of a "summary of the petitions and reports it had received from United Nations bodies", as required by article 15, paragraph 3, of the Convention, a list of those documents, which may be found in annex V; and (2) that the "expressions of opinion and recommendations" which the Committee was required to submit to different United Nations bodies relating to the petitions and reports it received from them (in accordance with subparagraphs (a) and (b), respectively, of article 15, paragraph 2, of the Convention) were prepared not in separate texts, but in one integrated text, which is hereby submitted to the General Assembly in accordance with article 15, paragraph 3, of the Convention, and also to the United Nations bodies concerned.

116. At its 119th meeting, on 25 August 1972, the Committee unanimously adopted decision 3 (VI). It adopted decision 4 (VI) by consensus; Mr. Ancel reiterated the reservations he had made earlier concerning part II, sections C (1) and D; and Mr. Soler also reiterated his earlier reservations regarding part II. The texts of decisions 3 (VI) and 4 (VI) may be found in chapter IX, section B.

VI. QUESTION REFERRED TO THE COMMITTEE BY THE SECOND MEETING
OF THE STATES PARTIES TO THE CONVENTION

117. Under article 8, paragraph 6, of the Convention, States Parties are "responsible for the expenses of the members of the Committee while they are in performance of Committee duties". At the First Meeting of the States Parties to the Convention, held in 1969, the States Parties decided that all the States Parties would share equally the expenses of the Committee for the first year and thereafter, until they met again to elect half of the members of the Committee on the Elimination of Racial Discrimination, 50 per cent of the expenses of the members of the Committee would be borne equally among the States Parties and 50 per cent on the basis of the scale of assessment of the regular budget of the United Nations. 14/

118. After a prolonged discussion at the Second Meeting of the States Parties in January 1972, it was decided to continue with the above-mentioned system for another year and to hold another meeting in 1973 to reconsider the whole question of apportioning, possibly retroactively. 15/

119. The States Parties also agreed to request "the Committee on the Elimination of Racial Discrimination to formulate a scale of assessment of the expenses of the Committee, bearing in mind the moral principles and purposes of the Convention and the importance of its universal application and implementation, and taking into account the problems of small countries which might be unable to become parties to the Convention by reason of inability to afford the appropriate expenses assessed". In the light of this action by the States Parties, the Secretary-General included an item on the subject in the provisional agenda of the fifth session of the Committee; the change of wording of this item, as adopted by the Committee for the agenda of its fifth session, is indicated in paragraph 13 above.

120. After a brief discussion at the 98th meeting of its fifth session, the Committee adopted a proposal made by Mr. Sayegh, as revised in the light of an amendment made by Mr. Haastrup, which read as follows:

At its fifth session, the Committee was informed by the Secretary-General, in the note contained in document CERD/C/R.37, that the Second Meeting of States Parties had decided on 10 January 1972 to request the Committee "to formulate a scale of assessment of the expenses of the Committee".

While welcoming the practice, initiated by this decision, of consultation between the States Parties as a group and itself, the Committee, having

14/ Official Records, First Meeting of States Parties, Decisions (CERD/SP/3), p. 5.

15/ Official Records, Second Meeting of States Parties, Decisions (CERD/SP/4), pp. 1 and 2.

carefully considered the question of its competence, regrets that, in this instance, the action which it was asked to take does not fall within the Committee's competence under the Convention.

121. The phrase "while welcoming the practice, initiated by this decision, of consultation between the States Parties as a group and itself," was retained by 10 votes to none, with 6 abstentions, and the proposal, as a whole, was adopted by 11 votes to none, with 5 abstentions, at the 98th meeting on 25 February 1972 (see chapter IX, section A, decision 5 (V)).

VII. CO-OPERATION WITH THE INTERNATIONAL LABOUR
ORGANISATION AND THE UNITED NATIONS
EDUCATIONAL, SCIENTIFIC AND CULTURAL
ORGANIZATION

122. It was noted in the Committee's second annual report to the General Assembly 16/ that, in response to communications received from the ILO and UNESCO at its third session, the Committee requested the Secretary-General to consult those two agencies concerning possible arrangements between itself and the competent organs of those agencies, and to report to it at its fourth session on the results of the consultations. At the fourth session, when the Committee considered the Secretary-General's report, which contained some suggestions for the Committee's consideration, several members questioned some aspects of the proposed arrangements. Mr. Sayegh subsequently placed before the Committee the text of a proposal made in the light of the opinions expressed during the discussion. However, on being informed that the Secretary-General would have further consultations with the ILO and UNESCO in the light of the discussions which had taken place at its 60th meeting, the Committee decided to postpone consideration of the question until its fifth session and to request the Secretary-General to report to it by then on the results of the resumed consultations.

123. At the opening of the fifth session, the representative of the Secretary-General told the Committee that "the Secretary-General would not be in a position to submit an additional report on the matter to the Committee at its current session but would endeavour to submit one to the summer session". 17/ Accordingly the Committee decided to defer consideration of the item to its sixth session. 18/

124. When the Committee took up the question at its sixth session, it had before it a new report from the Secretary-General as well as the proposal submitted by Mr. Sayegh at the fourth session. In his new report, the Secretary-General stated that he wished to "resubmit to the Committee, for its further consideration, the paper which he had earlier presented on this question in document CERD/C/R.28. The Secretary-General hopes that the Committee will give favourable consideration to suitable arrangements being established between itself and the ILO and UNESCO. The Secretary-General also suggests that the Committee might wish to hear representatives of the ILO and UNESCO during the discussion of this item on its agenda". 19/

125. The principal provisions of the two proposals which were before the Committee may be summarized as follows:

16/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 18 (A/8418), paras. 111-117.

17/ CERD/C/SR.83.

18/ CERD/C/SR.95.

19/ CERD/C/R.46, para. 6.

(a) Attendance at the Committee's meetings. Under both proposals "observers" of the ILO and UNESCO are invited to attend the Committee's public meetings and, subject to the Committee's decision whenever the occasion arises, its private meetings. In the Secretary-General's suggested arrangements, however, those observers are invited by the Secretary-General; in Mr. Sayegh's proposal, the Committee authorizes the Secretary-General to invite them. Neither proposal provides for inviting observers of the Committee to attend the meetings of the corresponding bodies of the ILO and UNESCO.

(b) Participation in the Committee's deliberations. According to the Secretary-General's suggested arrangements, the observers "shall be afforded opportunity for presenting to the Committee and its subsidiary bodies information relevant to the application of the Convention... and to make statements at their meetings with respect to items on their agenda in which the ILO or UNESCO has indicated that it has a special interest". Mr. Sayegh's proposal did not provide for such participation.

(c) Written statements submitted by the ILO and UNESCO. According to the Secretary-General's suggested arrangements, such statements "shall be distributed by the Secretary-General to the members of the Committee". In Mr. Sayegh's draft, a distinction is made between statements referring to territories covered by article 15 of the Convention and those referring to other areas, including the territories of States Parties; whereas the former shall be transmitted by the Secretary-General to the Committee, the latter shall be distributed by him to the members of the Committee.

(d) Exchange of information and documentation. The Secretary-General's suggested arrangements envisage "a full exchange of information and documentation" between the Committee and the corresponding bodies of the ILO and UNESCO, "subject to arrangements as may be necessary for the safeguarding of material considered confidential". In Mr. Sayegh's proposal, the Secretary-General is authorized by the Committee, in accordance with rules 34 (paragraph 1), and 62 of its provisional rules of procedure, to make the records of its public meetings and the texts of its reports, formal decisions and other official documents available to the competent bodies of the ILO and UNESCO.

126. The Committee considered the question at the 114th and 115th meetings of its sixth session. The representative of the Secretary-General reported on the consultations which were held with the ILO and UNESCO since the fifth session of the Committee. He pointed out that the report of the Secretary-General contained a statement of the position of the agencies concerned and documentary material as to the functions of their organs active in the field of racial discrimination. The agencies had been fully informed of the views expressed by the members of the Committee at its 60th meeting. Bearing in mind the importance of the assistance which the Committee may obtain from the agencies concerned in the performance of its functions within the general framework of co-operation and co-ordination between the organizations operating in the United Nations system, the Secretary-General hoped that the Committee would decide on suitable arrangements which may be based on suggestions he had previously made.

127. The representative of UNESCO, who addressed the Committee on behalf of the ILO as well as UNESCO, expressed the interest of the two agencies in "active co-operation with the Committee", emphasizing in particular two aspects of such co-operation: participation by the representatives of the two agencies in the

Committee's deliberations on all issues of mutual concern and on a regular basis; and the transmission of information in written form to the Committee, not only in relation to its functions under article 15 of the Convention, but also in relation to article 9 thereof.

128. Mr. Sayegh introduced the draft which he had submitted at the fourth session, but which had not yet been considered by the Committee. He pointed out that, whereas some aspects of the Secretary-General's suggested arrangements were considered by some members of the Committee at the fourth session to be irreconcilable with some provisions of the Convention, and other aspects of that proposal required amendments to the Committee's provisional rules of procedure, the proposal he himself had prepared, which reflected views expressed by Committee members at the fourth session, was neither incompatible with the Convention nor contingent upon the adoption of amendments to the Committee's provisional rules of procedure. Messrs. Aboul-Nasr, Ancel, Calovski, Dayal, Ingles, Partsch, Safronchuk and Soler supported the proposal submitted by Mr. Sayegh. Mr. Ingles said that the arrangements envisaged in that proposal could be viewed as interim arrangements, which might be supplemented in future sessions by other decisions providing for active participation by the representatives of the ILO and UNESCO in the deliberations of the Committee. Mr. Partsch shared that opinion. Mr. Dayal proposed the addition to Mr. Sayegh's draft of the following words: "The Committee may request the observers of the ILO and UNESCO, through the Chairman, to make statements on specific matters." On the other hand, Messrs. Aboul-Nasr and Safronchuk expressed the view that the Convention categorically precluded the participation by representatives of the ILO and UNESCO in the deliberations of the Committee when it was engaged in the examination of reports submitted by States Parties in accordance with article 9 of the Convention, as well as the receipt by the Committee of written material relating to that article from any source other than the States Parties directly concerned. Furthermore, they pointed out that they agreed to paragraph 3 of Mr. Sayegh's proposal authorizing the Secretary-General to transmit material relevant to article 15 of the Convention from UNESCO and the ILO to the Committee as a body, because such a procedure may be considered valid under paragraph 4 of that article; but they could agree to the procedure laid down in paragraph 4 of the draft submitted by Mr. Sayegh (which authorizes the Secretary-General to circulate material from the ILO and UNESCO, relative to article 9 of the Convention, to the members of the Committee and not to the Committee as a body) only on the understanding that such material would be received by members in their personal capacity, would be for their personal information and would not be placed formally before the Committee.

129. At the suggestion of Messrs. Aboul-Nasr and Partsch, the Committee decided to recess the meeting briefly in order to make possible informal consultations between interested members and the representatives of the ILO and UNESCO. When the meeting was resumed, Mr. Sayegh presented a revision to his draft, which added a preamble to the text and altered some words appearing in paragraph 1. The proposed preamble stated:

"Without prejudice to such decisions as the Committee on the Elimination of Racial Discrimination may take in the future regarding the possibility of participation in its meetings by representatives of the ILO and UNESCO under certain circumstances, the Committee decides".

In paragraph 1, the word "observers" was replaced by "representatives"; the word "public", appearing in the first sentence, was deleted; and the word "every", appearing in the second sentence, was replaced by "any".

130. The draft, as revised by its sponsor, was adopted by the Committee at its 115th meeting without a vote and without dissent. The text of the decision is set forth in chapter IX, section B, decision 2 (VI).

131. The Chairman announced that the Committee would retain the item under consideration on its agenda for its seventh session, and that, if any decisions were adopted at that session regarding that item which required consequential amendments to the provisional rules of procedure, such amendments also would be considered at that session.

132. The representative of UNESCO, once again speaking on behalf of the ILO as well as UNESCO, thanked the Committee for the decision it had taken which, he pointed out, fell short of the earlier expectations of the two agencies as a result of objective factors, relating to the Convention and the Committee's rules of procedure, which the agencies had not foreseen. Stating that both he and the representative of the ILO appreciated the problems "which have been apparent to the Committee and which have prevented it from coming to a final decision on this matter" and recognized that "for Committee members, the problem of article 9 of the Convention is wider than the issue of relations between the Committee and the two agencies", he expressed the hope that the Committee would succeed at its seventh session in finding a way to surmount the difficulties relating to the two outstanding issues, namely, participation in the Committee's deliberations and bringing formally to the Committee's attention written material containing information relevant to article 9 of the Convention. Regarding the first question, he said: "We do feel that a participation by our organizations in the work of the Committee which is limited entirely to written information would be a defective one." In his comments on the second question, he described as an "unfortunate limitation" the inability of the Committee as such to receive written communications relating to article 9 of the Convention, in the same manner in which - it had just decided - it would receive material relating to article 15.

VIII. MEETINGS OF THE COMMITTEE IN 1973

133. At the 99th meeting of its fifth session, the Committee took the following decisions about its meetings in 1973, in accordance with rule 5 of the provisional rules of procedure:

(a) To hold its seventh session at Headquarters in New York from 16 April to 4 May 1973; the normal period of two weeks for spring sessions was extended to three weeks because of the larger number of States Parties to the Convention and the consequent increase in the number of reports to be received from them to be considered by the Committee, (b) To hold its eighth session at the United Nations Office at Geneva from 6 to 24 August 1973. Mr. Tarassov objected to extending the duration of the spring sessions and to holding the eighth session at Geneva.

134. Two suggestions were put forward during the discussion. One related to the possibility of holding a session in a Non-Self-Governing Territory, which would be devoted entirely to consideration of reports and petitions referred to the Committee under article 15 of the Convention, in order to highlight the concern of the international community about racial discrimination in such Territories. The other suggestion related to holding future sessions of the Committee at the headquarters of each of the regional economic commissions of the United Nations, in order to bring greater awareness of the work of the Committee to these regions and to enable members of the Committee to be better informed of the actual situation in those regions. No decision was taken by the Committee on either of these suggestions.

IX. DECISIONS ADOPTED BY THE COMMITTEE AT ITS
FIFTH AND SIXTH SESSIONS

A. FIFTH SESSION

1 (V). Rule 64 A of the provisional rules of procedure of the Committee^{20/}

The Committee shall, through the Secretary-General, notify the States Parties (as early as possible) of the opening date, duration and place of the session at which their respective reports will be examined. Representatives of the States Parties may be present at the meetings of the Committee when their reports are examined. The Committee may also inform a State Party from which it decides to seek further information that it may authorize its representative to be present at a specified meeting. Such a representative should be able to answer questions which may be put to him by the Committee and make statements on reports already submitted by his State, and may also submit additional information from his State.

2 (V). Rule 66 A of the provisional rules of procedure of the Committee^{21/}

1. When considering a report submitted by a State Party under article 9, the Committee shall first determine whether the report provides the information referred to in the relevant communications of the Committee.

2. If a report of the State Party to the Convention, in the opinion of the Committee, does not contain sufficient information, the Committee may request that State to furnish additional information.

3. If, on the basis of its examination of the reports and information supplied by the State Party, the Committee determines that some of the obligations of that State under the Convention have not been discharged, it may make suggestions and general recommendations in accordance with article 9, paragraph 2, of the Convention.

3 (V). General Recommendation I^{22/}

On the basis of the consideration at its fifth session of reports submitted by States Parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee found that the legislation of a number of States Parties did not include the provisions envisaged in article 4 (a) and (b) of the Convention, the implementation of which (with due

^{20/} Adopted at the 89th meeting on 17 February 1972 (see chap. III, para. 23 above).

^{21/} Adopted at the 91st meeting on 18 February 1972 (see chap. III, para. 24 above).

^{22/} Adopted at the 96th meeting on 24 February 1972 (see chap. IV, para. 84 above).

regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention) is obligatory under the Convention for all States Parties.

The Committee accordingly recommends that the States Parties whose legislation was deficient in this respect should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (a) and (b) of the Convention.

4 (V). General recommendation II^{23/}

The Committee has considered some reports from States Parties which expressed or implied the belief that the information mentioned in the Committee's communication of 28 January 1970 (CERD/C/R.12), ^{24/} need not be supplied by States Parties on whose territories racial discrimination does not exist.

However, inasmuch as, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, all States Parties undertake to submit reports on the measures that they have adopted and that give effect to the provisions of the Convention and, since all the categories of information listed in the Committee's communication of 28 January 1970 refer to obligations undertaken by the States Parties under the Convention, that communication is addressed to all States Parties without distinction, whether or not racial discrimination exists in their respective territories. The Committee welcomes the inclusion in the reports from all States Parties, which have not done so, of the necessary information in conformity with all the headings set out in the aforementioned communication of the Committee.

5 (V). Question referred to the Committee by the Second Meeting of States Parties to the Convention ^{25/}

At its fifth session, the Committee was informed by the Secretary-General in the note contained in document CERD/C/R.37, that the Second Meeting of States Parties had decided on 10 January 1972 to request the Committee "to formulate a scale of assessment of the expenses of the Committee".

While welcoming the practice, initiated by this decision, of consultation between the States Parties as a group and itself, the Committee, having carefully considered the question of its competence, regrets that, in this instance, the action which the Committee was asked to take does not fall within its competence under the International Convention on the Elimination of All Forms of Racial Discrimination.

^{23/} Adopted at the 97th meeting on 24 February 1972 (see chap. IV, para. 90 above).

^{24/} Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027), annex III.

^{25/} Adopted at the 98th meeting on 25 February 1972 (see chap. VI, para. 121 above).

B. SIXTH SESSION

1 (VI). General recommendation III^{26/}

The Committee has considered some reports from States Parties containing information about measures taken to implement resolutions of United Nations organs concerning relations with the racist régimes in southern Africa.

The Committee notes that, in the tenth paragraph of the preamble to the International Convention on the Elimination of All Forms of Racial Discrimination, States Parties have "resolved", inter alia, "to build an international community free from all forms of racial segregation and racial discrimination".

It notes also that, in article 3 of the Convention, "States Parties particularly condemn racial segregation and apartheid".

Furthermore, the Committee notes that, in resolution 2784 (XXVI), section III, the General Assembly, immediately after taking note with appreciation of the Committee's second annual report and endorsing certain opinions and recommendations submitted by it, proceeded to call upon "all the trading partners of South Africa to abstain from any action that constitutes an encouragement to the continued violation of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination by South Africa and the illegal régime in Southern Rhodesia".

The Committee expresses the view that measures adopted on the national level to give effect to the provisions of the Convention are interrelated with measures taken on the international level to encourage respect everywhere for the principles of the Convention.

The Committee welcomes the inclusion in the reports submitted under article 9, paragraph 1, of the Convention, by any State Party which chooses to do so, of information regarding the status of its diplomatic, economic and other relations with the racist régimes in southern Africa.

2 (VI). Co-operation with the International Labour Organisation (ILO)
and the United Nations Educational, Scientific and Cultural
Organization (UNESCO) ^{27/}

Without prejudice to such decisions as the Committee on the Elimination of Racial Discrimination may take in the future regarding the possibility of participation in its meetings by representatives of the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization under certain circumstances, the Committee decides that:

1. The Committee authorizes the Secretary-General of the United Nations to invite representatives of the ILO and of UNESCO to attend the meetings of the

^{26/} Adopted at the 112th meeting on 18 August 1972 (see chap. IV, para. 94 above).

^{27/} Adopted at the 115th meeting on 21 August 1972 (see chap. VII, para. 130 above).

Committee. The Committee shall decide at any private meeting it holds whether the observers of the ILO and UNESCO may attend the private meeting in question.

2. In accordance with rules 34 (1) and 62 of its provisional rules of procedure, the Committee authorizes the Secretary-General to make the records of its public meetings and the texts of its reports, formal decisions and other official documents available to the ILO Committee of Experts and the UNESCO Executive Board's Committee on Conventions and Recommendations in Education.

3. Written statements submitted by the ILO and UNESCO, providing information on the application of the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and the Convention and Recommendation against Discrimination in Education, 1960, in the Territories mentioned in paragraph 2 (a) of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination shall be transmitted by the Secretary-General of the United Nations to the Committee on the Elimination of Racial Discrimination, in accordance with paragraph 4 of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination and paragraph 3 (b) of the "Statement of the responsibilities of the Committee under article 15 of the Convention", adopted by the Committee on the Elimination of Racial Discrimination on 29 January 1970. 28/

4. Written statements submitted by the ILO and UNESCO, providing information on the application of the Discrimination (Employment and Occupation) Convention and Recommendation, 1958, and the Convention and Recommendation against Discrimination in Education, 1960, in Territories other than those mentioned in the preceding paragraph shall be distributed by the Secretary-General of the United Nations to the members of the Committee on the Elimination of Racial Discrimination.

3 (VI). Information requested by the Committee in accordance with article 15 of the Convention 29/

The Committee on the Elimination of Racial Discrimination,

While expressing its gratitude to the Trusteeship Council and the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for making available to it their reports and other information on the situation applying to Trust and Non-Self-Governing Territories.

Would greatly appreciate it if those bodies would request the Secretary-General to include in each working paper prepared for them by the Secretariat all information available to him pertaining to racial discrimination in those Territories and relating to the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, as this would be of considerable assistance to the Committee in discharging its responsibilities under article 15 of the Convention.

28/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27 (A/8027), annex IV.

29/ Adopted at the 117th meeting, on 24 August 1972 (see chap. V, para. 116 above).

4 (VI). Opinions and recommendations of the Committee based on its consideration of copies of petitions, copies of reports and other information submitted to it under article 15 of the Convention 30/

The Committee on the Elimination of Racial Discrimination,

Having examined the material submitted to the Committee, in accordance with the provisions of paragraph 2 of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination relating to the Trust and Non-Self-Governing Territories and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies,

Agrees on the following opinions and recommendations:

I. AFRICAN TERRITORIES OTHER THAN TERRITORIES UNDER
PORTUGUESE ADMINISTRATION 31/

A. SOUTHERN RHODESIA

The Committee on the Elimination of Racial Discrimination,

1

Having noted that the working paper forwarded by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/AC.109/L.760) clearly indicates that the illegal régime in Southern Rhodesia is intensifying its policy of racial discrimination,

Strongly condemns the illegal racist minority régime and the policies of those Governments which directly or indirectly continue to maintain political, economic, military and other relations with the régime.

30/ Adopted at the 119th meeting on 25 August 1972 (see chap. V, para. 115 above).

31/ The following documents were before the Committee at its sixth session:

A/AC.109/L.760 (Southern Rhodesia)

A/AC.109/L.761 (Namibia)

A/7623/Add.4 and Corr.1 and 2 (Ifni, Spanish Sahara and French Somaliland)

A/8023/Add.4 (Spanish Sahara and French Somaliland)

A/8423/Add.5 (part II) and Corr.1 (Spanish Sahara and French Somaliland)

A/AC.109/PET.1166 (Territories in southern Africa)

A/AC.109/PET.1171 (Namibia)

A/AC.109/PET.1194 (Namibia)

Having noted the terms of the "proposals for a settlement" (A/AC.109/L.760, paras. 14-36),

Endorses their rejection as expressed in General Assembly resolution 2877 (XXVI) of 20 December 1971,

Recommends that the General Assembly once again call upon all States to comply with the resolutions of the Security Council imposing sanctions against the racist minority régime in Southern Rhodesia.

Having noted the reports on the gravity of the situation arising from further intensification of repressive actions against the people of Zimbabwe (A/AC.109/L.760, paras. 68-71, 74-75, 80, 83-85),

Draws the attention of the General Assembly and the Security Council to the necessity of taking decisive steps to put an end to the illegal racist minority régime.

Having noted that there is discrimination in schools and in the University of Southern Rhodesia (A/AC.109/L.760, paras. 72-74, 76),

Recommends to the Special Committee to take appropriate measures to remedy the situation of Africans in the schools and in the University of Southern Rhodesia,

Confirms its opinions and recommendations adopted at the fourth session, 32/

Recommends once again that the General Assembly address an appeal to the United Kingdom of Great Britain and Northern Ireland, as the administering Power, to take all measures within its power to eliminate the policies of racial discrimination in Southern Rhodesia.

B. NAMIBIA

The Committee on the Elimination of Racial Discrimination,

Having noted General Assembly resolutions 2775 (XXVI) of 29 November 1971 and 2871 (XXVI) of 20 December 1971 as well as Security Council resolutions 309 (1972) of 4 February 1972 and 310 (1972) of 4 February 1972 in which, inter alia, the Government of South Africa was strongly condemned for the continued occupation of Namibia, which is illegal and detrimental to the interests of the people of the Territory,

Emphasizes the importance which it attaches to the implementation of these resolutions.

32/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 18 (A/8418).

Convinced that the policies of the Government of South Africa are aimed at destruction of the unity of the people and the territorial integrity of Namibia through the establishment of separate "homelands" based on racial and tribal distinctions and the forcible removal of the Africans to those areas (A/AC.109/L.761, paras. 12-44),

Recommends to the General Assembly to condemn once again the establishment of so-called "homelands" and to request the Security Council to take effective measures to put an end to these policies.

Having noted the recent strikes of African labourers in Namibia against the labour system enforced by the South African Administration in the Territory and repressive measures taken against them (A/AC.109/L.761, paras. 96-101),

Recommends that the General Assembly condemn such action and take effective steps to abolish the system of labour, which is in conflict with the provisions of the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

Also recommends that the General Assembly call upon all States whose companies are operating in Namibia to ensure that such companies conform in their policies of hiring Namibian workers to the provisions of the Universal Declaration of Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination,

Confirms the opinions and recommendations adopted at its fourth session, 33/

Recommends once again that the General Assembly address an appeal to the major trading partners of South Africa to abstain from any action that might constitute an encouragement to the continued violation by South Africa of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination and to use their influence to ensure the eradication of the policies of apartheid and racial discrimination in Namibia.

C. FRENCH SOMALILAND 34/

The Committee on the Elimination of Racial Discrimination,

Having noted the reports that the electoral system in the Territory may not reflect the actual composition of the population (A/8423/Add.5 (part II), para. 9),

Is of the opinion that such system should be reviewed to ensure appropriate representation of the minority groups.

33/ The new name for the Territory formerly known as French Somaliland is the French Territory of the Afars and the Issas.

34/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 18 (A/8418).

D. SPANISH SAHARA

The Committee on the Elimination of Racial Discrimination,

Having noted General Assembly resolution 2711 (XXV) of 14 December 1970,

Recommends to the Special Committee to invite the administering Power to supply further information on the progress which has been achieved in the preparation of the people of Spanish Sahara for self-determination as an essential element in the elimination of racial discrimination.

E. PETITIONS

1. With regard to the petition from Mr. Roy Kakrabah-Quarshie, Secretary-General, Ghana United Nations Association, concerning Territories in southern Africa (A/AC.109/PET.1166):

The Committee on the Elimination of Racial Discrimination,

Condemns the sale of arms by certain Member States to South Africa under whatever pretext,

Recommends to the General Assembly to call once again upon all Governments to implement fully the arms embargo against South Africa and to request the Security Council to take effective measures to this end in accordance with the Charter of the United Nations,

Also condemns the activities of foreign nationals and corporations engaged in sales of arms to the racist régimes in southern Africa,

Recommends to the General Assembly to call upon the Member States concerned to take appropriate legislative, administrative and other measures to put an end to such activities.

2. With regard to the petition from Chief Clemens Kapuuo concerning Namibia (A/AC.109/PET/1171):

The Committee on the Elimination of Racial Discrimination,

Having noted the attempt being made by the South African Government to interfere in the internal affairs of the Herero people, particularly in the matter relating to the appointment of the new Chief,

Strongly condemns this intervention, which is in contradiction to the decisions of the United Nations relating to the legal status of Namibia.

3. With regard to the petition concerning Namibia (A/AC.109/PET.1194):

The Committee on the Elimination of Racial Discrimination,

Strongly condemns the Government of South Africa for all manifestations of racial discrimination as listed in the petition and also for the detention, prosecution and the killing of the people of Namibia,

Therefore recommends to the General Assembly to call upon South Africa to release all the detainees and to put an end to all these crimes.

II. TERRITORIES UNDER PORTUGUESE ADMINISTRATION 35/

A. The Committee has taken note of General Assembly resolution 2795 (XXVI) of 10 December 1971 and Security Council resolution 312 (1972) of 4 February 1972, which have deplored the continuance of measures of repression by the Government of Portugal against the African people of Angola, Mozambique and Guinea (Bissau). The Committee believes that the process of decolonization of these and all the other Territories under Portuguese administration will be greatly assisted by the insistence of the General Assembly on a full compliance with its reiterated decision by all Member States, without exception.

B. The Committee regrets to have to report that, in some material respects, the situation in the Territories under Portuguese administration in regard to the implementation of the provisions of the Convention has, far from improving, deteriorated during the year under report. The number of Africans who have been rounded up and resettled in new aldeamentos (strategic villages) has markedly increased. Furthermore, an increasing percentage of the budget of the Territories is being utilized to finance Portuguese military operations against the inhabitants. The repressive war, involving wanton destruction of life and property, is continuing unabated and constitutes a massive form of racial discrimination.

C. In regard to the observance by the Portuguese Administration of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination, the position in the respective Territories is as follows:

1. The existence of a state of what virtually amounts to martial law in the Territory of Angola and parts of Mozambique represents a denial of the right to justice and fair treatment, especially to the overwhelming majority of the African population.

(a) The right to freedom of movement has been greatly abridged by a legislative order (originally introduced as an emergency measure in 1961), which requires all movements of persons and material to be subject to the authorization of the District Governor.

(b) The right to freedom of opinion and expression is curbed by the requirement that all public meetings must receive prior authorization, and that all forms of correspondence, notices and public information be subject to censorship.

35/ The following documents were before the Committee at its sixth session:

A/AC.109/L.765	General information concerning all the Territories
A/AC.109/L.766	Angola
A/AC.109/L.767	Mozambique
A/AC.109/L.768	Guinea, called Portuguese Guinea
A/AC.109/L.804	Report of the Special Mission established by the Special Committee at its 840th meeting on 14 March 1972
A/AC.109/PET.1170	Petition concerning Dr. Domingos Arouca
A/AC.109/PET.1190	Petition concerning Cape Verde Archipelago

2. The waging of war by the Portuguese Administration against the inhabitants of the three African Territories severely violates the right of the African population to security of person and protection against violence and bodily harm.

3. Political rights are greatly restricted since only a fraction of the indigenous population enjoys the franchise, while the element of African participation in the government and administration of the African Territories is nominal. The territorial legislature, in fact, is in no way representative of the African population. Even according to the constitutional reforms, under which the Portuguese Government claims to give the Territories a wider degree of autonomy, the Portuguese Governor remains vested with wider powers to legislate than the Legislative Assemblies of the Territories of Angola and Mozambique, and he will continue to be responsible not to the local legislature, but to the Government of Lisbon. The territorial legislature will still remain powerless in regard to concessions relating to the natural resources of the Territory, including land and underground minerals, which are defined as the public domain of the State, and also in regard to decisions which would affect its economic relations with Portugal and the other overseas Territories.

4. The right to free choice of employment and just and favourable conditions of work is qualified by the order, introduced in some Territories ostensibly for security reasons, that all persons authorized to carry arms immediately form part of the volunteer corps and that all public service personnel automatically become subject to military discipline. The right to free choice of employment is automatically denied to the African population compulsorily relocated in strategic villages.

5. Portuguese law, which is applied to the Territories under its administration, fails to take account of customary law, thereby denying full participation in the political and administrative organs of the Territories by the majority of the indigenous population and free development of their personality in the field of economic as well as civic life.

6. In the economic field,

(a) Portuguese policy has continued to subordinate the interests of the indigenous population of the Territories to that of Portugal. Together with Portugal, companies from several other States Members of the United Nations participate in the exploitation of the indigenous population of the Territories. The Committee appeals to these countries to take all the necessary measures, in accordance with United Nations decisions, to put an end to such activities.

(b) The Committee noted in its last report that large European plantations employed African labour at low wages and that, in the wage sector of the economy, Africans received substantially lower wages. This was partially attributed to the absence of trade unions. No fresh information was transmitted to the Committee in this regard in the current year.

7. In the field of education, the Committee noted, last year, the abysmally low percentage of literacy, which has been a constant feature of the situation existing in the Territories. There has been no further information on the subject this year.

D. The Committee was particularly concerned at the fact that an increasingly larger proportion of the territorial budgets of Angola and Mozambique are being spent on the colonial wars waged against the inhabitants, which amounts to making the inhabitants pay for their own repression. This is an intolerable situation to which the Committee wishes to draw particular attention in the hope that it is speedily ended.

E. Furthermore, there are official declarations to the effect that Portugal is determined to pursue a policy of what it describes as cultural "integration", which in fact amounts to a denial of African personality to the people of the African Territories. This is a unilateral decision taken by the Portuguese administration without any attempt to ascertain the wishes of the indigenous inhabitants by means of normal democratic processes.

F. Portugal has been increasingly developing its relations with the racist régimes of South Africa and Southern Rhodesia with which it appears to be making common cause in order to suppress the natural and legitimate aspirations of the indigenous populations of Africa to attain equality of status and political freedom. It receives broad financial and military assistance from certain countries, in particular the member countries of the North Atlantic Treaty Organization (NATO). The Committee welcomes General Assembly resolution 2795 (XXVI) of 10 December 1971, in which the Assembly appealed once again to all States, particularly to the members of NATO, to withdraw any assistance that enables Portugal to prosecute the colonial war in Angola, Mozambique and Guinea (Bissau).

III. PACIFIC AND INDIAN OCEAN TERRITORIES 36/

A. BRUNEI

1. No information relating directly to the principles and objectives of the Convention is contained in the report before the Committee (A/8423/Add.6, part III). However, the Committee was able to find some information which might indicate the existence of various matters relevant to the objectives of the Convention.

2. It was found, for example, that the per capita income in Brunei is \$1,000 per year. In spite of this, the Administering Authorities are unable to train local officers to replace the expatriates, especially in higher posts. Equally, it has been noticed that unemployment could become a problem within the next few years. Statistics contained in the report show that among 80,000 persons presently in the labour force only 8,000 are local workers.

3. In view of these facts, the Committee recommends that the administering Powers should exert greater efforts to prepare the indigenous population to replace the foreign personnel.

36/ The following documents were before the Committee at its sixth session:

A/8423/Add.6 (part III) (Brunei and Hong Kong)

A/AC.109/L.777 (New Hebrides)

A/AC.109/L.790 (Seychelles...)

A/AC.109/L.794 (Gilbert and Ellice Islands, Pitcairn and the Solomon Islands)

A/AC.109/L.798 (Guam and American Samoa)

A/AC.109/L.802 (Trust Territory of the Pacific Islands)

A/AC.109/L.803 (Papua, New Guinea and Cocos (Keeling) Islands)

A/AC.109/L.809 (Niue and the Tokelau Islands)

A/AC.109/PET.1164 and Add.1 (Petition concerning New Hebrides)

Report of the Administering Authority relating to the Trust Territory of the Pacific Islands, 1970-1971 (T/1735).

Report of the Administering Authority relating to Papua New Guinea, 1970-1971 (T/1733).

Report of the Trusteeship Council to the General Assembly: Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 4 (A/8704).

Report of the Trusteeship Council to the Security Council: Official Records of the Security Council, Twenty-seventh Year, Special Supplement No. 1 (S/10753).

Report of the United Nations Visiting Mission to observe the Elections to the Papua New Guinea House of Assembly (T/1732).

Report of the United Nations Visiting Mission to Niue, 1972 (A/AC.109/L.810/Rev.1).

B. NEW HEBRIDES

1. The Committee had before it two petitions transmitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/AC.109/PET.1164 and Add.1) as well as a working paper prepared by the Secretariat (A/AC.109/L.777). In paragraph 10, the working paper contained information on a debate in the Advisory Council of the Territory concerning the petitions by the "Na-Griamel" Organization addressed to the United Nations (A/AC.109/PET.1164 and Add.1). It was stated that the Resident Commissioners were supposedly requested to correct what was alleged to be false information supplied to the United Nations in the petition... and to enable the United Nations to have access to more complete information. Mr. Archdeacon Rawcliffe, a member of the Council, cited portions of the petition dealing with land, cash crops, exports, marriage customs and education as being in error.

2. The Committee notes that the administering Powers have contested the information contained in these petitions. In order to enable the United Nations to obtain further information, the Committee recommended that an investigation be conducted by the competent bodies of the United Nations.

C. SEYCHELLES

Paragraph 16 of the working paper before the Committee (A/AC.109/L.790) states that, in January 1972, the Seychelles Government declared Mr. John Mascarenhas, the public relations officer of the Seychelles People's United Party (SPUP), a prohibited immigrant. He was accused of writing and publishing a pamphlet discussing racial prejudice in the Seychelles. The Committee did not have before it sufficient information on the basis of which to express an opinion.

D. PAPUA AND NEW GUINEA

1. The Committee noted with satisfaction the inclusion in the report of the Administering Authority before it (T/1733) of a separate chapter relating to human rights and fundamental freedoms and observed that the useful information contained therein and the relevant manner in which it was presented were of great assistance to its work. The Committee hopes that future reports will continue to be organized in this commendable, thorough and revealing fashion.

2. The Committee noted that, on 10 June 1971, the House Assembly passed a Human Rights Bill aiming at the protection by law of the fundamental rights of the citizens. While commending this positive development, the Committee would nevertheless welcome the opportunity of examining the contents of this Bill, in so far as it relates to racial discrimination, and of learning the ways and means by which its provisions are enforced in the Territory concerned.

3. The Committee noted that no important judicial decisions under the new Human Rights Bill were handed down during the years 1970 and 1971. The Committee considers that it would be helpful to know of any disputes relating to racial discrimination that might have arisen before administrative organs and non-judicial tribunals and of the results, if any.

4. The Committee noted that, according to the report (page 51), the indigenous inhabitants have the right of free recourse to the courts and are guided in such matters by officers of the Division of District Administration and by the Public Solicitor, whom they may approach on any matter. The Committee would wish to be kept informed in the future of occasions on which these provisions have been complied with and in which cases they pertained to racial discrimination.

5. The Committee noted that Public Ordinance 1970 permits restrictions on public meetings and processions in any specified area, if the Administrator's Executive Council considers peace and public order are endangered (page 125). The Committee would welcome an indication as to whether this Ordinance has been applied to any cases that may have involved racial discrimination.

6. The Committee further noted that a new criminal code for Papua and New Guinea will be introduced in the House Assembly in 1972. In this regard, the Committee wishes to observe that this might be an appropriate occasion on which to ensure that provisions comparable to those of articles 4 and 5 of the Convention are introduced into the law of the Territory.

7. Concerning the Discriminatory Practices Ordinance 1963-1969 (page 127 of the report), the Committee noted that such ordinance relates to discrimination in "shops, hotels and in the publishing, distribution or use in any public place of words or behaviour likely to stir up racial or sectional hatred". The Committee would welcome further particulars as to the application and enforcement of the Ordinance.

8. The Committee also noted the statement (page 127) to the effect that, while the above legislation attempts to deter acts of racial discrimination, it is recognized that such discrimination is not necessarily prevented by legislation alone. The Administration encourages the people of Papua New Guinea to co-operate so that social separateness is minimized. The Committee would also welcome in this connexion any indication concerning the concrete steps that the administering Power might be taking to achieve the objectives in question.

9. The Committee finally noted that the report (page 217) refers to ways and means in which teaching about the United Nations is encouraged and promoted. The Committee commends this practice and suggests that it might include teaching about United Nations activities pertaining to the struggle against racial discrimination.

E. TRUST TERRITORY OF THE PACIFIC ISLANDS

1. The Committee noted that, in chapter 2 of part VII of the report of the Administering Authority (T/1735), which contains information relevant to human rights and fundamental freedoms of the inhabitants of the Territory, it is generally stated that the Trust Territory inhabitants are guaranteed fundamental rights and freedoms as set forth in the Trust Territory Code.

2. The Committee also observed that, according to the report of the Administering Authority (page 141), no segregation on the basis of race, religion or colour exists in the Trust Territory in either public or non-public schools. Children of any race, religion or colour may attend any school, public or private, in the Territory. However, the Committee is unable to verify the authenticity of those statements and noted the absence of petitions from the Territories concerned which might have enabled it to ascertain the de facto situation in the Territory.

F. GILBERT AND ELLICE ISLANDS, PITCAIRN AND SOLOMON ISLANDS, AMERICAN SAMOA
AND GUAM AND NIUE AND THE TOKELAU ISLANDS

1. The Committee observed that the following information contained in the documents before it might indicate that racial discrimination exists:

(a) The request of Mr. Won Pat for a cost-of-living differential for federal employees on Guam because mainlanders from the United States recruited for federal jobs received 25 per cent more than their Guamanian counterparts, while federal workers in other areas - Hawaii, Puerto Rico, Alaska and the United States Virgin Islands - were entitled to cost-of-living differentials (A/AC.109/L.798, para. 66);

(b) The allegations of mistreatment of domestic and foreign labourers. Seven domestic and foreign companies on Guam have been cited for illegal practices, including the non-payment of minimum wages or overtime pay required by law (A/AC.109/L.798, para. 116).

2. Although no indication was given in the information at the disposal of the Committee as to the existence of racial discrimination, it was found that primary education is largely in the hands of churches and other voluntary agencies in the Gilbert and Ellice Islands and in the Solomon Islands (A/AC.109/L.794, paras. 57 and 131). Given the small proportion of the children attending schools in relation to the total population of the foregoing Territories, the question arises whether the administering Power is fulfilling its obligation under Article 73 of the United Nations Charter, particularly the educational advancement of the inhabitants of these Territories in order to prepare them for self-government. The Committee, therefore, welcomes further information on the matter in order to be able to express an opinion and make recommendations.

IV. CARIBBEAN AND ATLANTIC TERRITORIES INCLUDING
GIBRALTAR 37/

1. The working papers and copies of petitions relating to Caribbean and Atlantic Territories including Gibraltar submitted by the Special Committee contain certain information relevant to the principles and objectives of the Convention.
2. In most cases, however, this information does not directly refer to actual issues of racial discrimination, but only indicates the possible existence of questions of racial discrimination.
3. The following general comments of a congressional group on the labour situation in the United States Virgin Islands may indicate the possibility of the existence of racial discrimination: that aliens were employed, and sometimes "exploited", to do manual and service tasks; that while the Government had eliminated the system of bonding an alien worker to one employer and had granted aliens access to social services including schools, additional measures seemed to be required to protect these workers from "exploitation"; and that social tensions existed between aliens, immigrants from the United States and Virgin Islanders (A/AC.109/L.800, para. 61). The petition concerning the United States Virgin Islands (A/AC.109/PET.1176) raises the question of possible discrimination against West Indian nationals without valid working permits as the investigations conducted with regard to it had no clear results. 7

37/ As regards these Territories, the following documents were before the Committee at its sixth session:

A/8423/Add.5 (part II) (Gibraltar)

A/8423/Add.7 (part I) (Antigua, Dominica, Grenada, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent)

A/8423/Add.7 (part II) (United States Virgin Islands)

A/8423/Add.7 (part IV) (Falkland Islands (Malvinas))

A/8423/Add.7 (part IV) (British Honduras)

A/AC.109/L.776 (Montserrat)

A/AC.109/L.778 (Bahamas)

A/AC.109/L.779 (Turks and Caicos Islands)

A/AC.109/L.782 (Cayman Islands)

A/AC.109/L.783 (British Virgin Islands)

A/AC.109/L.790 (... St. Helena)

A/AC.109/L.796/Add.1 (Bermuda)

A/AC.109/L.800 (United States Virgin Islands)

A/AC.109/PET.1182 (Petition concerning Montserrat)

A/AC.109/PET.1176 (Petition concerning United States Virgin Islands)

4. The Committee would welcome further information which would enable it to form an opinion as to the existence of racial discrimination in the United States Virgin Islands and to formulate the corresponding recommendation.

5. In different reports, the question of immigration from dependent Territories to the United Kingdom is raised (see documents A/8423/Add.5 (part II), chap. 11, annex I, paras. 6-9, and A/AC.109/PET.1182). The material, however, derives from a time prior to the enactment of the United Kingdom Immigration Act of 1971. Since the Act came into force on 28 October 1971, it remains to be seen whether its application will be satisfactory and whether, in the future, further information in this regard may be required.

6. Regarding requests for further information pertaining to a number of Territories of this region dependent on the United Kingdom and contained in the report of the Committee to the General Assembly at its twenty-sixth session, 38/ new material reached the Committee at a late stage of its sixth session. The examination of the situation in these Territories was therefore postponed.

38/ Official Records of the General Assembly, Twenty-sixth Session,
Supplement No. 18 (A/8418).

ANNEX I

STATES PARTIES TO THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION AS OF 25 AUGUST 1972

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Algeria	14 February 1972	15 March 1972
Argentina	2 October 1968	4 January 1969
Austria	9 May 1972	8 June 1972
Bolivia	22 September 1970	22 October 1970
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Byelorussian Soviet Socialist Republic	8 April 1969	8 May 1969
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970
Central African Republic	16 March 1971	15 April 1971
Chile	20 October 1971	19 November 1971
Costa Rica	16 January 1967	4 January 1969
Cuba	15 February 1972	15 March 1972
Cyprus	21 April 1967	4 January 1969
Czechoslovakia	29 December 1966	4 January 1969
Denmark	9 December 1971	8 January 1972
Ecuador	22 September 1966 ^{a/}	4 January 1969
Egypt	1 May 1967	4 January 1969
Federal Republic of Germany	16 May 1969	15 June 1969
Finland	14 July 1970	13 August 1970
France	28 July 1971 ^{a/}	27 August 1971
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Holy See	1 May 1969	1 June 1969
Hungary	4 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Iran	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Jamaica	4 June 1971	4 July 1971

^{a/} Accession.

<u>State</u>	<u>Date of receipt of the instrument of ratification or accession</u>	<u>Entry into force</u>
Kuwait	15 October 1968 ^{a/}	4 January 1969
Lebanon	12 November 1971 ^{a/}	12 December 1971
Lesotho	4 November 1971 ^{a/}	4 December 1971
Libyan Arab Republic	3 July 1968 <u>a/</u>	4 January 1969
Madagascar	7 February 1969	9 March 1969
Malta	27 May 1971	26 June 1971
Mauritius	30 May 1972 <u>a/</u>	29 June 1972
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Nepal	30 January 1971 <u>a/</u>	1 March 1971
Netherlands	10 December 1971	9 January 1972
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967 <u>a/</u>	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Romania	15 September 1970 <u>a/</u>	15 October 1970
Senegal	19 April 1972	19 May 1972
Sierra Leone	2 August 1967	4 January 1969
Spain	13 September 1968 ^{a/}	4 January 1969
Swaziland	7 April 1969 <u>a/</u>	7 May 1969
Sweden	6 December 1971	5 January 1972
Syrian Arab Republic	21 April 1969 ^{a/}	21 May 1969
Tonga	16 February 1972 ^{a/}	17 March 1972
Tunisia	13 January 1967	4 January 1969
Ukrainian Soviet Socialist Republic	7 March 1969	6 April 1969
Union of Soviet Socialist Republics	4 February 1969	6 March 1969
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
Uruguay	30 August 1968	4 January 1969
Venezuela	10 October 1967	4 January 1969
Yugoslavia	2 October 1967	4 January 1969
Zambia	4 February 1972	5 March 1972

ANNEX II

SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION DURING THE YEAR UNDER REPORT

10 SEPTEMBER 1971 TO 25 AUGUST 1972

A. Initial reports

<u>States Parties</u>	<u>Date due</u>	<u>Date of submission</u>
Cameroon ^{a/}	24 July 1972	Not yet received
Canada	12 November 1971	5 November 1971
Central African Republic ^{a/}	14 April 1972	Not yet received
Jamaica ^{a/}	5 July 1972	Not yet received
Malta	26 June 1972	14 July 1972
Morocco	17 January 1972	10 January 1972
Nepal	1 March 1972	18 May 1972
Norway	6 September 1971	20 October 1971
Romania	14 October 1971	4 December 1971
Uruguay	5 January 1970	22 October 1971

B. Second periodic reports

<u>States Parties</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Date of first reminder, if any</u>
Argentina	5 January 1972	10 November 1971	
Brazil	5 January 1972	31 January 1972	
Bulgaria	5 January 1972	12 February 1972	
Byelorussian Soviet Socialist Republic	7 May 1972	12 June 1972	
Costa Rica (Supplement)	5 January 1972	4 February 1972 8 August 1972	
Cyprus ^{a/}	5 January 1972	Not yet received	9 March 1972
Czechoslovakia	5 January 1972	24 February 1972	

^{a/} During the sixth session, the Committee agreed to send reminders to the States Parties whose reports or replies to requests for further information were overdue.

B. Second periodic reports (continued)

<u>States Parties</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Date of first reminder, if any</u>
Ecuador	5 January 1972	26 January 1972	
Egypt <u>a/</u>	5 January 1972	Not yet received	9 March 1972
Federal Republic of Germany	14 June 1972	23 June 1972	
Ghana	5 January 1972	10 August 1972	9 March 1972
Holy See <u>a/</u>	1 June 1972	Not yet received	
Hungary	5 January 1972	23 February 1972	
Iceland	5 January 1972	21 October 1971	
India	5 January 1972	19 June 1972	9 March 1972
Iran	5 January 1972	17 December 1971	
Kuwait	5 January 1972	3 January 1972	
Libyan Arab Republic	5 January 1972	2 August 1972	9 March 1972
Madagascar	8 March 1972	24 July 1972	
Mongolia	4 September 1972	7 August 1972	
Niger	5 January 1972	14 February 1972	
Nigeria	5 January 1972	17 February 1972	
Pakistan	5 January 1972	18 February 1972	
Panama	5 January 1972	25 April 1972	9 March 1972
Philippines	5 January 1972	10 February 1972	
Poland	5 January 1972	18 February 1972	
Sierra Leone <u>a/</u>	5 January 1972	Not yet received	9 March 1972
Spain <u>a/</u>	5 January 1972	Not yet received	9 March 1972
Swaziland <u>a/</u>	6 May 1972	Not yet received	
Syrian Arab Republic	20 May 1972	8 August 1972	
Tunisia (Supplement)	5 January 1972	31 January 1972 7 August 1972	
Ukrainian Soviet Socialist Republic	5 April 1972	20 April 1972	
Union of Soviet Socialist Republics	5 March 1972	19 April 1972	
United Kingdom of Great Britain and Northern Ireland	5 April 1972	10 August 1972	
Uruguay	5 January 1972	9 February 1972	
Venezuela	5 January 1972	4 January 1972	
Yugoslavia	5 January 1972	6 June 1972	9 March 1972

C. Additional information requested by the Committee

<u>States Parties to which request for additional information was sent</u>	<u>Requested by the Committee at its:</u>	<u>Date on which requested additional information was submitted</u>
Brazil <u>b/</u>	Fourth session	31 January 1972
Bolivia <u>a/</u>	Fourth session	Not received
Greece	Fourth session	12 February 1972
Hungary <u>b/</u>	Fourth session	23 February 1972
Iceland	Third session	4 September 1971
Iraq <u>a/</u>	Fourth session	Not received
Madagascar	Fourth session	22 December 1971
Madagascar	Fifth session	24 July 1972
Sierra Leone <u>a/ b/</u>	Fourth session	Not received
Tunisia <u>b/</u>	Fourth session	31 January 1972
Uruguay <u>a/</u>	Fifth session	Not received

b/ At its fourth session, the Committee also decided that those States Parties from whom further information was requested, and whose second periodic reports were due on 5 January 1972, might embody such information in their second periodic reports.

ANNEX III

TEXT OF COMMUNICATION TO BE SENT TO MALTA AND NEPAL IN ACCORDANCE WITH THE DECISION ADOPTED BY THE COMMITTEE AT THE 112TH MEETING, SIXTH SESSION

The Committee on the Elimination of Racial Discrimination considered the initial report submitted by _____ at the _____ meetings of its sixth session, which were held on _____, in the presence of the duly accredited representative of _____. The final summary records of the meetings at which the report was considered will be forwarded as soon as they are available.

The Committee listened carefully to the statement made by the representative of _____ at its _____ meeting, and noted with appreciation his assurance that the information which, in the opinion of the Committee, was lacking in that initial report would be furnished to the Committee in a subsequent report, to the extent to which it is possible to do so. The Committee therefore hopes that a supplementary report, containing such relevant information as is available to the Government of _____ but was lacking in its initial report, will be received by the Committee no later than 1 June 1973, in order that it may be able to consider the report at its eighth session and include in its fourth annual report to the General Assembly any suggestions or general recommendations it may deem appropriate to make on the basis of its examination of that report, in accordance with article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination.

In this connexion, the Committee draws attention to the first communication it issued on the subject of reports from States Parties, on 28 January 1970, as well as to the subsequent general recommendations which it has adopted and which deal with the contents of reports submitted by States Parties in accordance with article 9, paragraph 1, of the International Convention. Copies of the relevant portions of the original communication of 28 January 1970 and the subsequent general recommendations are attached, in the hope that they, as well as the relevant summary records of the meetings of the Committee, will be taken into account in the preparation of the forthcoming report by the competent authorities of the Government of _____.

ANNEX IV

TEXTS OF COMMENTS OF STATES PARTIES TO GENERAL RECOMMENDATIONS
I AND II, ADOPTED BY THE COMMITTEE AT ITS FIFTH SESSION,
RECEIVED UP TO THE END OF THE SIXTH SESSION, IN ACCORDANCE
WITH PARAGRAPH 2 OF ARTICLE 9 OF THE CONVENTION a/

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/

17 August 1972

The Byelorussian Soviet Socialist Republic fully supports the general recommendations adopted at the fifth session of the Committee on the Elimination of Racial Discrimination (24 February 1972).

It is a well-known fact that the legislation of a number of States Parties to the Convention does not include the provisions envisaged in article 4 (a) and (b) of the Convention, although the implementation of the provisions of those paragraphs is obligatory for all States Parties. For that reason, the adoption by the Committee of a recommendation calling upon States Parties whose legislation is deficient in this respect to supplement their legislation with appropriate provisions represents a vital contribution to the struggle for the elimination of all forms of racial discrimination.

As has already been pointed out in previous documents, the Byelorussian Soviet Socialist Republic pursues a policy of complete equality for all citizens and provides firm guarantees against discrimination of any kind. Any restriction of the rights of, or, conversely, the establishment of any privileges for, citizens on account of their racial or national origin and any preaching of racial or national exclusiveness or hatred and contempt are punishable by law.

The relations which have grown up between people in the Byelorussian Soviet Socialist Republic, as in the other republics of the Soviet Union, on the basis of friendship and fraternal assistance bear witness to the triumph of the Leninist nationalities policy and represent a great achievement by all the peoples of the multinational Union of Soviet Socialist Republics, whose fiftieth anniversary will be observed at the end of 1972.

Thus, legislation and current practice in the Byelorussian Soviet Socialist Republic, fully conform to the requirements of article 4 (a) and (b) of the Convention, so that there has been no need to enact any supplementary legislation as a result of the adoption of the recommendation in question by the Committee on the Elimination of Racial Discrimination.

a/ See chap. IV, para. 99; and, for the texts of general recommendations I and II, see chap. IX, section A, decisions 3 (V) and 4 (V).

CZECHOSLOVAKIA

/Original: English/

12 July 1972

As regards the recommendations pertaining to the implementation of article 4, paragraph (a) and (b), of the International Convention on the Elimination of All Forms of Racial Discrimination, Czechoslovak legislation is in full conformity with the requirements of the above-mentioned provisions of the Convention. Those are especially the appropriate provisions of the Czechoslovak Criminal Law, quoted in the supplement to the report on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted to the Committee in the last year, which enable the criminal prosecution of the acts which, under article 4, paragraph (a), of the Convention, shall be declared criminal.

Under S 260 of the Criminal Law, the persons supporting or propagating fascism or any other movement of a similar nature, proclaiming national or racial hate shall be criminally prosecuted as required by article 4, paragraph (b), of the Convention.

The Czechoslovak Socialist Republic fully supports the demand that the legislatures of the States Parties to the Convention include the provisions conforming to the requirements of article 4 (a) and (b) of the Convention, since the effective struggle against racism and racial discrimination requires that not only all its manifestations in any form be prosecuted, but also measures be undertaken to prevent its spreading and to eradicate it at the very beginning. Therefore, it is necessary to take steps against the propagation of racial discrimination and against the organizing of groups and organizations supporting it.

The Czechoslovak Socialist Republic has carried out its obligation under article 9, paragraph 1, of the Convention, completed in accordance with its requirements. Since the Convention creates an obligation to all States Parties to undertake all measures against racial discrimination and racism and to transmit information about those measures to the Committee, the Czechoslovak Socialist Republic deems it right for all States Parties to carry out their obligations and to furnish the appropriate information. In spite of the fact that in some States racial discrimination does not exist at the given time, the Convention binds them to take such measures that would eliminate any occurrence of any manifestation of racial discrimination at any time in the future.

ECUADOR

/Original: Spanish/

27 March 1972

The Minister for Foreign Affairs of the Republic of Ecuador acknowledges receipt of the documents transmitted to him and in connexion with the request, which clearly is of a general nature, for comments in accordance with article 9, paragraph 2, of the Convention on the Elimination of All Forms of Racial Discrimination has the honour to make the following observations:

1. Article 9 of the Convention very explicitly provides for two procedures for supplying information; on the one hand, the States Parties undertake to submit "every two years and whenever the Committee so requests" (subparagraph (b)), a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of the Convention; and on the other hand, the Committee is to report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and, more specifically, "may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties" (article 9, paragraph 2). Moreover, the same paragraph recognizes that States may also submit comments on the suggestions and recommendations of the Committee.

2. In accordance with the procedures described above, in the specific case of my country, the Government of Ecuador, in accordance with its mandate under article 9, paragraph 1 (b), of the Convention on the Elimination of All Forms of Racial Discrimination, in notes dated 17 June 1970 and 26 January 1972, respectively, b/ submitted to the Secretary-General of the United Nations the relevant reports on the legislative, judicial and administrative provisions in force in Ecuador, which indisputably reveal its traditional policy of preventing all forms of racial discrimination.

3. In these circumstances, States Parties are not required to comply with article 9, paragraph 2 of the Convention and in fact the Committee on the Elimination of Racial Discrimination has proceeded on this basis.

4. With regard to the general recommendations adopted by the Committee at its 96th and 97th meetings, on 24 February 1972, the Minister for Foreign Affairs of the Republic of Ecuador wishes to state the following:

(a) Positive law in Ecuador is an indivisible whole, based on the Political Constitution of the State. It is precisely on the basis of the Constitution that a whole code of law has been drawn up which allows the country to incorporate in its legislation all international agreements that have been duly concluded; and

(b) For that reason, when Ecuador formally undertook the commitment deriving from the International Convention on the Elimination of All Forms of Racial Discrimination, it deposited its instrument of ratification on 22 September 1966 and incorporated in its legislation in extenso the rules contained in the above-mentioned Convention; the provisions of article 4 (a) and (b), article 5 and so forth are thus clearly part of Ecuadorian law, and there is no need to adopt additional legislative measures in order to ensure complete compliance.

FINLAND

/Original: English/

10 July 1972

The Government of Finland would like to refer to its earlier answer to the Secretary-General of 23 August 1971, c/ stating that the Finnish legislation

b/ CERD/C/R.3/Add.25 and CERD/C/R.30/Add.6.

c/ See CERD/C/R.25/Add.3.

is already in accordance with the provisions of article 4 (a) and (b) of the Convention: (a) the Penal Code, chapter 16, 6a, and (b) the Societies Act, article 21, section a. Further supplementation is thus unnecessary.

The Government of Finland will, in accordance with the provisions of article 9, provide the Committee with relevant reports and information in the future.

KUWAIT

/Original: English/

29 May 1972

The Committee should ask States on whose territory racial discrimination exists to adopt the necessary legislative and other measures which will completely eliminate racial discrimination.

If States do not have racial discrimination in their territory, then it may not be necessary for them to adopt legislative or other measures to eradicate practices which do not exist. This is particularly true of States whose constitution proscribes racial discrimination in all its forms and ensures equality to all people before the law without distinction as to race, origin, language or religion.

Racial discrimination has become a matter of international concern. It cannot be confined to the parties to the International Convention on the Elimination of All Forms of Racial Discrimination. Naturally States who practise racial discrimination or who tolerate racial discrimination in their territory are reluctant to become parties to the Convention. It is precisely for this reason that the Committee on the Elimination of Racial Discrimination should address communications to these States so as to expose their wrongdoing and bring pressure to bear on them in a manner that will ultimately lead to their abandonment of these practices and the elimination of racial discrimination from their territory.

NIGER

/Original: French/

22 May 1972

In the preamble to the Constitution of 8 November 1960 "the people of Niger proclaim their attachment to the principles of democracy and human rights as laid down in the Declaration of the Rights of Man and the Citizen of 1789 and the Universal Declaration of 1948, and as guaranteed by this Constitution".

They affirm their desire to co-operate in peace and friendship with all peoples who share their ideal of justice, freedom, equality, fraternity and human solidarity.

Article 3 of the Constitution states: "No section of the people... may assume the exercise of national sovereignty." Further on, article 6 adds: "The Republic shall ensure equality before the law for all without distinction as to origin, race, sex, or religion. It shall respect all beliefs. Any propaganda advocating racial or ethnic separation or any manifestation of racial discrimination shall be a punishable offence."

Lastly, article 102 of the Penal Code provides that: "Any act of racial or ethnic discrimination, any regionalist propaganda and any demonstration contrary to freedom of conscience and freedom of worship whereby discord among the citizens is apt to be aroused shall be punishable by imprisonment for a term of not less than one nor more than five years and by restriction of movement."

As is clear from a reading of these texts, our country has adopted laws enabling it to ensure complete racial equality within its national territory.

With regard to the political, civil, economic, social and cultural rights referred to in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, it should be pointed out that the laws and regulations of the Niger do not provide for any special discrimination with regard to the enjoyment of these rights.

It is hardly necessary to add that the penalties referred to in article 102 of the Penal Code have never, so far as I know, been imposed, as our people have long practised tolerance, hospitality and racial fraternity.

NORWAY

/Original: English/

12 July 1972

The Norwegian Government would like to make the following comments with regard to the subject-matters of these recommendations:

I. Implementation of article 4 (a) and (b) of the Convention.

1. Under article 4 (a) of the Convention a State Party to the Convention undertakes to "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof".

As has been mentioned in the report submitted by Norway on 20 October 1971 (CERD/C/R.25/Add.4), a new section 135 (a) has been added to the Penal Code in order to implement subsection (a) of article 4 of the Convention. The new section 135 (a) expressly provides for punishment of incitement or other acts of assistance to the acts mentioned in the section.

It should be mentioned that the provisions of chapter 22 (felonies against another's person, life and health) and chapter 39 (misdemeanours against persons) of the Penal Code make all acts of violence punishable, whatever the motive. It was therefore not considered necessary to implement the Convention any further. The fact that an act of violence has been motivated by racial hatred - or any similar motive - may, however, be taken into consideration by the court when deciding the appropriate punishment.

2. Under article 4 (b), a State Party to the Convention undertakes to "declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination and shall recognize participation in such organization or activities as an offence punishable by law".

Under section 330 of the Norwegian Penal Code, it is an offence to establish or participate in an association which is prohibited by law, or whose aim is the commission or promoting of offences. The acts mentioned in subparagraph (b) may also be punishable as acts of incitement or assistance.

It should be noted that freedom of speech and of association have long traditions in Norway. These freedoms are expressly mentioned in article 5 (d) of the Convention and in the Universal Declaration of Human Rights. Article 4, paragraph 1, of the Convention contains an express proviso with regard to such rights. The Norwegian authorities - with due regard to the duty under subparagraph (b) of article 4 - have for these reasons not found it necessary to implement the provisions of the said subparagraph any further.

II. The Norwegian Government supports the view of the Commission put forward in the second of the recommendations.

UNION OF SOVIET SOCIALIST REPUBLICS

/Original: Russian/

28 July 1972

The Soviet Union considers that the recommendations adopted on 24 February 1972 by the Committee on the Elimination of Racial Discrimination (CERD/C/R.41) represent an important contribution by the Committee to the effective implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. The adoption of these recommendations will unquestionably further the attainment of the main objective of the Convention, namely, the speedy elimination of racial discrimination in all its forms and manifestations.

The Soviet Union strongly supports this positive step taken by the Committee in recommending that States Parties to the Convention, whose legislation lacks the provisions envisaged in article 4 (a) and (b) of the Convention, should consider the question of supplementing their legislation with appropriate additional provisions.

The legislation of the USSR fully conforms to the requirements of article 4 (a) and (b) of the International Convention on the Elimination of All Forms of Racial Discrimination.

The Criminal Code of the RSFSR (article 74) and the criminal codes of the other Union Republics prescribe severe penalties for any propaganda or agitation aimed at inciting racial or national enmity or discord, or any direct or indirect restriction of the rights of, or, conversely, the establishment of any direct or indirect privileges for, citizens on account of their racial or national origin. The principle of equality before the law and of equal protection before the law without discrimination of any kind, which is embodied in the legislation of the USSR, and the various institutions and procedures that exist in the Soviet Union for the purpose of ensuring the practical exercise and protection of the fundamental rights and freedoms of citizens, further the strict implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination. Thus, with reference to the adoption of the recommendation in question by the Committee, the Soviet Union has no need to adopt any special additional legislation.

Since the Committee found that the legislation of a number of States Parties to the Convention lacked the provisions referred to above, whose implementation is obligatory under the Convention for all States Parties, it is essential that all States Parties should promptly and without reservations of any kind consider the question of supplementing their legislation with additional provisions conforming to the requirements of article 4 (a) and (b) of the International Convention on the Elimination of All Forms of Racial Discrimination.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

/Original: English/

25 July 1972

The United Kingdom Government welcome the opportunity to comment on these recommendations and applaud the manner in which the Committee on the Elimination of Racial Discrimination has discharged its obligations in this area.

The United Kingdom Government have examined the recommendation (recommendation I) that States Parties should consider the question of supplementing their legislation with additional provisions conforming to the requirements of article 4 of the Convention. They consider, however, that the Race Relations Acts 1965 to 1968 discharge their obligations to the maximum extent compatible with the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention.

The United Kingdom Government have reservations about the assertion in recommendation II that there are States Parties on whose territories racial discrimination does not exist and doubt whether this is the case. It is their view that all States Parties to the Convention are bound by article 9 to report on the legislative, judicial, administrative and other measures which they have adopted and which give effect to the provisions of the Convention. They consider, therefore, that the information requested in the Committee's communication of 28 January 1970 should be provided by all States Parties to the Convention.

ANNEX V

DOCUMENTS RECEIVED BY THE COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION AT ITS FIFTH AND SIXTH SESSIONS
PURSUANT TO DECISIONS OF THE TRUSTEESHIP COUNCIL AND THE
SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE
IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF
INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

A. Documents submitted pursuant to the decision of the Trusteeship Council at its thirty-ninth session (1972)

1. Reports of the Administering Authorities relating to the Pacific Islands and New Guinea:

New Guinea (Australia)

For the year ending 30 June 1971

Trust Territory of the Pacific
Islands (United States of America)

For the year ending 30 June 1971

2. Report of the United Nations Visiting Mission to observe the elections to the Papua New Guinea House of Assembly in 1972 (T/1732).
3. Reports of the Trusteeship Council to the General Assembly and to the Security Council incorporating the working papers prepared by the Secretariat:
 - (a) Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 4 (A/8704);
 - (b) Official Records of the Security Council, Twenty-seventh Year, Special Supplement No. 1 (S/10753).
4. Petitions

At its 1403rd meeting, on 14 June 1972, the Council agreed that none of the petitions before it related to racial discrimination and that therefore it would not be transmitting any petitions to the Committee this year.

B. Documents submitted pursuant to decisions of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

1. Petitions submitted by the Special Committee pursuant to decisions taken at its 803th, 814th and 831st meetings, on 7 July, 11 August and 5 November 1971.

<u>Petitions concerning</u>	<u>Document symbol</u>	<u>Meeting at which decision taken</u>
Montserrat	A/AC.109/PET.1182	808th, 7 July 1971
New Hebrides	A/AC.109/PET.1164	814th, 11 August 1971
Territories in southern Africa	A/AC.109/PET.1166	831st, 5 November 1971
Territories under Portuguese administration	A/AC.109/PET.1170 A/AC.109/PET.1190	ditto ditto
Namibia	A/AC.109/PET.1171	ditto
United States Virgin Islands	A/AC.109/PET.1176	ditto

2. Working Papers submitted by the Special Committee in 1972 and documents deferred from previous sessions of the Committee

<u>Title</u>	<u>Documents deferred from previous sessions</u>		
	<u>1969-1970</u>	<u>1971</u>	<u>1972</u>
Southern Rhodesia			A/AC.109/L.760
Namibia			A/AC.109/L.761
Territories under Portuguese administration ^{a/}			A/AC.109/L.765 A/AC.109/L.766 A/AC.109/L.767 A/AC.109/L.768
Seychelles and St. Helena			A/AC.109/L.790

^{a/} With regard to Hong Kong and Macau and dependencies, the Special Committee, at its 839th meeting, on 10 March 1972, referred to its Working Group for consideration and recommendation a letter dated 8 March 1972 from the Permanent Representative of China to the United Nations addressed to its Chairman (A/AC.109/396). At its 873rd meeting, on 6 June 1972, the Special Committee, on the recommendation of its Working Group (A/AC.109/L.795, para. 4), took the following decisions:

"(a) The Special Committee recommends to the General Assembly that Hong Kong and Macau and dependencies be excluded from the list of Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples is applicable.

"(b) The Special Committee decides to defer consideration of these questions pending a decision by the General Assembly on (a) above.

"(c) The Special Committee decides to instruct the Secretariat to defer the preparation of any working papers relating to these questions pending further directives from the Committee itself."

The representatives of Fiji, Sweden and Venezuela reserved the positions of their respective Governments.

<u>Title</u>	<u>Documents deferred from previous sessions</u>		<u>1972</u>
	<u>1969-1970</u>	<u>1971</u>	
Spanish Sahara	A/7623/Add.4 and Corr.1 and 2 A/8023/Add.4	A/8423/Add.5 (Part II) and Corr.1	
Gibraltar		A/8423/Add.5 (Part II) and Corr.1	
French Somaliland	A/7623/Add.4 and Corr.1 and 2 A/8023/Add.4	A/8423/Add.5 (Part II) and Corr.1	
Gilbert and Ellice Islands, Pitcairn and the Solomon Islands			A/AC.109/L.794
Niue and the Tokelau Islands			
New Hebrides			A/AC.109/L.777
Guam and American Samoa			A/AC.109/L.798
Trust Territory of the Pacific Islands			A/AC.109/L.802
Papua and the Trust Territories of New Guinea and the Cocos (Keeling) Islands			A/AC.109/L.803
Brunei		A/8423/Add.6 (Part III)	
Hong Kong ^{b/}		A/8423/Add.6 (Part III)	
Antigua, Dominica, Grenada, St. Kitts- Nevis-Anguilla, St. Lucia and St. Vincent		A/8423/Add.7 (Part I)	
United States Virgin Islands			A/AC.109/L.800
Bermuda			A/AC.109/L.796 and Add.1
Bahamas			A/AC.109/L.778 and Corr.1
Turks and Caicos Islands			A/AC.109/L.779

^{b/} See foot-note ^{a/} above.

<u>Title</u>	<u>Documents deferred from previous sessions</u>		
	<u>1969-1970</u>	<u>1971</u>	<u>1972</u>
Cayman Islands			A/AC.109/L.782
Montserrat			A/AC.109/L.776
British Virgin Islands			A/AC.109/L.783
Falkland Islands (Malvinas)		A/8423/Add.7 (Part IV)	
British Honduras		A/8423/Add.7 (Part IV)	

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