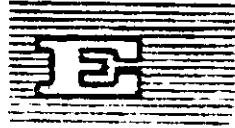


64610

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.14/292
20 August 1964

Original: ENGLISH

ECONOMIC COMMISSION FOR AFRICA
Seventh session
Nairobi, 9-23 February 1965

THE LEGAL ASPECTS OF THE QUESTION OF PARTICIPATION
OF ANGOLA, MOZAMBIQUE AND SOUTH WEST AFRICA
IN THE WORK OF THE ECONOMIC COMMISSION FOR AFRICA

(Note circulated by the Secretariat of the Economic
and Social Council to the thirty-seventh session)

64-3256

Distr.
GENERAL
E/3963
5 August 1964
Original: ENGLISH

Thirty-seventh session
Agenda item 17

Dual distribution

REPORTS OF THE REGIONAL ECONOMIC COMMISSIONS

The question of participation of Angola, Mozambique and South West Africa in the work of the Economic Commission for Africa

Note by the Secretariat on certain legal aspects

1. At the 1318th and 1319th meetings of the Economic and Social Council held on 15 July 1964, in connexion with the consideration of the reports of regional economic commissions, several representatives requested the Secretariat to submit observations on the legal aspects of the question of participation by Angola, Mozambique and South West Africa in future sessions of the Economic Commission for Africa. The present note has been prepared in response to that request.

2. This question was the subject of resolution 94 (VI), adopted by the Economic Commission for Africa on 28 February 1964, in which the Commission, recalling the decision of the Economic and Social Council to expel Portugal from membership and to suspend the Republic of South Africa from participating in the work of the Commission, requested the Executive Secretary to make representations to the Council on the terms and conditions for inviting representatives of the non-self-governing territories of Angola, Mozambique and South West Africa to attend future sessions of the Commission as associate members and to report to the Commission at its seventh session on measures taken in this regard. Since the three territories are already associate members of the Commission, the question before the Council is not one of their admission but of the participation by their representatives in the work of the Commission. In this sense, the first and foremost question is who should designate such representatives.

3. Under international law, external representation of dependent territories is the responsibility of the States administering those territories and responsible for their international relations. This principle is also recognized in the Charter and practice of the United Nations, and in a number of resolutions defining the participation of non-self-governing territories in the work of certain United Nations organs or dealing with specific questions which affected non-self-governing territories.

4. Thus, in several resolutions (e.g. 566(VI), 647(VII), 1466(XIV) and 1539(XV)) adopted by the General Assembly which have specifically sought to further the direct participation of representatives of the indigenous peoples of the non-self-governing territories in the work of various organs of the United Nations, the Assembly has invited or urged the Administering Members to take steps to provide for such participation. In other resolutions dealing with matters relating to non-self-governing territories, such as resolution 1695(XVI) on dissemination of information on the United Nations in those territories and resolutions 1540(XV), 1696(XVI), 1849(XVII) and 1974(XVIII) on study and training facilities for inhabitants of the territories, the Assembly has invited Administering Members to take necessary measures to implement the provisions of these resolutions. In all of the resolutions mentioned the Assembly recognized the legal position of the Administering Members as responsible for the conduct of the international relations of the territories in question.

5. It may be noted that in some cases a non-self-governing territory has designated its own representatives to United Nations bodies as, for example, where the territory is an associate member of a regional economic commission or where it has been invited to participate in a United Nations meeting. From the legal standpoint the naming of representatives by the territorial Government in such cases takes place pursuant to an implied or express authorization by the Government responsible for the foreign relations of that territory. Whether a request to appoint representatives may be made directly to the

territorial Government by a United Nations organ depends on whether authorization for such a direct approach has been granted (expressly or by implication) by the competent authorities of the State responsible for the international relations of the territory.

6. There have of course been a number of situations in the United Nations involving conflicting claims between groups claiming the right to be recognized as the Government of a territory. In a case of this kind a determination by a United Nations organ as to which group is entitled to appoint representatives for the territory in question involves a determination as to which is the government of the area. This question, it will be recalled, has been considered as one appropriate for the General Assembly and not within the competence of a subsidiary organ (see, for example, General Assembly resolution 396(V)).

7. Finally, it may be noted that a regional economic commission or any other body of the United Nations may seek information within the scope of its competence from sources other than the Government of that territory. Therefore, the Economic Commission for Africa would be free to hear individuals who come from the territories in question if the Commission considers them competent to inform the Commission of matters relevant to its activities. It is also pertinent to refer in this connexion to paragraphs 12 and 13 of the terms of reference of the Commission under which it may establish liaison with international organizations in Africa or make arrangements for consultation with non-governmental organizations granted consultative status by the Economic and Social Council. Such liaison and consultative arrangements may provide a further link with non-self-governing territories that are not otherwise represented.