United Nations
GENERAL ASSEMBLY
FORTY-FIRST SESSION
*Official Records**

FOURTH COMMITTEE
9th meeting
held on
Wednesday, 8 October 1986
at 10.30 a.m.
New York

SUMMARY RECORD OF THE 9th MEETING

Chairman: Mr. GBEHO (Ghana)

later: Mr. ARNOUSS (Syrian Arab Republic)

CONTENTS

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86-56510 5480S (E)

Distr. GENERAL
A/C.4/41/SR.9
13 October 1986

ORIGINAL: ENGLISH

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CONTENTS (continued)

The meeting was called to order at 10.45 a.m.

REQUESTS FOR HEARINGS (A/C.4/41/4/Add.6 and 7)

1. The CHAIRMAN said that if he heard no objection, he would take it that the Committee decided to grant the requests for hearings on the question of Namibia contained in documents A/C.4/41/4/Add.6 and Add.7.

2. It was so decided.

3. The CHAIRMAN informed the Committee that he had received two communications containing requests for hearings on agenda items 19 and 36. He suggested that, in accordance with the usual practice, the communications should be circulated as Committee documents for consideration at a subsequent meeting.

4. It was so decided.

AGENDA ITEM 19: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Territories not covered under other agenda items) (A/41/23 (Parts VI and VIII), 168 and Corr.1, 332, 341 and Corr.1, 349, 367, 372 and Corr.1-2, 373, 375, 420, 435, 444, 478, 485; A/AC.109/848-868, 873 and Corr.1, 874 and Corr.1-2, 877 and Add.1)

(a) REPORT 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

(b) REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 104: INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS (A/41/2[illegible] (Part IV), 641)

(a) REPORT 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

(b) REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 106: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES BY THE SPECIALIZED AGENCIES AND THE INTERNATIONAL INSTITUTIONS ASSOCIATED WITH THE UNITED NATIONS (A/41/23 (Part IV), 341 and Corr.1, 407 and Add.1; A/AC.109/L.1600; E/1986/114)

(a) REPORT 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

(b) REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (A/41/3 (chaps. I, VI and IX))

AGENDA ITEM 107: UNITED NATIONS EDUCATIONAL AND TRAINING PROGRAMME FOR SOUTHERN AFRICA: REPORT OF THE SECRETARY-GENERAL

AGENDA ITEM 108: OFFERS BY MEMBER STATES OF STUDY AND TRAINING FACILITIES FOR INHABITANTS OF NON-SELF-GOVERNING TERRITORIES: REPORT OF THE SECRETARY-GENERAL (A/41/664)

5. Mr. ARNOUSS (Syrian Arab Republic), Rapporteur 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, introduced the chapters of the Special Committee's report relating to specific Territories under agenda item 19, information from Non-Self-Governing Territories under item 104, and implementation of the Declaration by the specialized agencies and the international institutions associated with the United Nations under item 106 (A/41/23 (Parts IV, VI and VII)) and expressed the hope that the Fourth Committee would support the draft resolutions and decisions set out in the chapters in question.

Hearing of petitioners (A/C.4/41/2/Add.1, A/C.4/41/6)

6. The CHAIRMAN reminded the Committee that it had decided to grant a request for a hearing on the Trust Territory of the Pacific Islands, contained in document A/C.4/41/2/Add.1, and a request for a hearing on the implementation of the Declaration on decolonization by the specialized agencies, contained in document A/C.4/41/6.

7. Mr. CHACON (United States of America) reiterated his delegation's serious reservations about the requests for hearings on the Trust Territory of the Pacific Islands, since that question was not before the General Assembly. In May 1986 petitioners had addressed their comments on the Trust Territory to the Trusteeship Council, in accordance with Article 83 (c) of the United Nations Charter. He wished to emphasize that the peoples of Micronesia had concluded legitimate acts of self-determination in United Nations-observed plebiscites. The constitutional Governments of Micronesia had called for termination of the trusteeship arrangement and that process was under way.

8. At the invitation of the Chairman, Ms. Simon (Center for Constitutional Rights) took a place at the petitioners' table.

9. Ms. SIMON (Center for Constitutional Rights) said that she was speaking at the request of the plaintiffs whom she had represented in litigation in Palau challenging the declaration of the Government of Palau that the proposed Compact of Free Association signed in January 1986 between Palau and the United States had been approved by the people of Palau in a plebiscite held in February 1986. In a decision issued on 17 September 1986, the Appellate Division of the Supreme Court of Palau had held that the proposed Compact had not been ratified by the people of Palau, as required by the Palau Constitution.

(Ms. Simon)

10. In its decision, the Court had held that several sections of the proposed Compact violated provisions of the Palau Constitution, including nuclear control provisions which created a general prohibition against the introduction of nuclear substances into Palau. It had also cautioned the Government of Palau that it would be unable to exercise its powers of eminent domain if it complied with its obligations under the Compact to make land available to the United States for military purposes, but had given no binding ruling on that issue. The Court had unequivocally held that approval of the Compact required a 75 per cent majority of votes in a referendum in which a specific question on the nuclear issue was asked and that, because that approval had not been obtained, the Compact was not a valid agreement in the Republic of Palau.

11. The February 1986 plebiscite at issue in the case had been the third since 1983 on the question of ratification of one or other proposed version of a Compact. At issue in all three plebiscites had been the application of two provisions of the Constitution of the Republic of Palau requiring that any agreement that would allow the introduction of nuclear substances into Palau must be approved by a 75 per cent vote in a referendum that specifically presented that issue. Any agreement that conflicted with those or any other Constitutional provisions was void, in accordance with article II of the Constitution. The aforesaid article had been a key aspect of the political campaign launched in connection with the new Constitution, which had been adopted by a 92 per cent majority in July 1979 and readopted by a 78 per cent majority in July 1980. The nuclear control provisions could therefore be said to reflect the views of the people of Palau on their fundamental governing structure.

12. Against that background a suit had been filed in May 1986 with the Trial Division of the Palau Supreme Court challenging the Government's assertion that the proposed Compact of Free Association had been ratified in the February 1986 plebiscite and also challenging the political education campaign conducted prior to the plebiscite, the voting process and the transmittal of the proposed Compact to the United States Congress for approval. It was also claimed that certain provisions of the Compact regarding the use of land in Palau by the United States armed forces violated restrictions on the use of the power of eminent domain under the Constitution. In July 1986, the Court had held that the proposed Compact had not obtained the 75 per cent majority necessary for ratification and had dismissed all other claims advanced by the plaintiffs. The Government of Palau had appealed the ruling and the plaintiffs had counter-appealed the dismissal of their other claims. In September 1986, the Appellate Division had reaffirmed that the proposed Compact had not been ratified and had additionally held that the constitutional requirement that the question of overriding the nuclear ban be presented to the voters as a separate question had not been met.

13. The Appellate Division had also found it unnecessary to rule on questions concerning the application of the law of the sea in the interpretation of the Palau Constitution and the proposed Compact. The Palau administration had suggested that the nuclear control provisions of the Constitution should not be applied to the Compact because they were an infringement on the right of innocent passage, and had

(Ms. Simon)

argued that port visits could not be regulated by the port State. The right of States to complete control over ports which formed part of their internal waters was universally acknowledged, however, and had been recognized in United States case law for over 150 years. The prohibition on nuclear-powered vessels in ports or other internal waters was therefore entirely justified under applicable international law. The proposed Compact went far beyond the notion of innocent passage in its reservation of rights to the United States however, and the Court's decision not to give a direct ruling on that issue in the litigation could not be interpreted as implying that the international right of innocent passage could render the nuclear control provisions of the Constitution invalid or unenforceable.

14. The decision of the Appellate Division had confirmed that the Compact had not been ratified in the February 1986 plebiscite, although the United States administration had characterized the Compact approval process in Palau as not yet complete. It also provided an authoritative interpretation of important provisions of the Palau Constitution: the people of Palau had the right to determine Palau's future political status; the nuclear control provisions constituted a general prohibition against the introduction of nuclear substances into Palau; and the prohibition on the use of the power of eminent domain for the benefit of a foreign entity applied to the use of land by the United States armed forces. The Court's decision established the parameters for continuing the process of decolonization through the further development of self-government and political life in Palau. She urged the Committee to report to the General Assembly on the various ways in which peoples were working to reduce the impact of militarization on decolonization and self-determination.

15. In Palau the preservation of the Territory's land and environment, the prevention of the militarization of Palauan society, and public participation in building Palau's future political status had been reaffirmed as central constitutional values. Any further steps should enhance the opportunities of the people of Palau to put their values into practice, encourage the application of the Constitution and demonstrate respect for the values which the people of Palau had chosen.

16. Ms. Simon withdrew.

17. Mr. Arnouss (Syrian Arab Republic) took the Chair.

18. At the invitation of the Chairman, Mr. Morrell (Center for International Policy) took a place at the petitioners' table.

19. Mr. MORRELL (Center for International Policy) said that he had recently learned from a well-placed source in the International Monetary Fund (IMF) that the Fund would respond favourably to a South African request for another billion dollar loan. The Committee must press the IMF to stop making loans to South Africa and insist on the immediate repayment of the $705 million loan that the IMF was extending to South Africa at a low interest rate in defiance of the Committee's resolutions and of the IMF's own rules and precedents. South Africa's largest

foreign loan was thus being extended by an international public agency and a specialized agency of the United Nations. The United States Government was refusing to insist on immmediate repayment, even though it had made its original approval of the loan contingent on early repayment. In June 1986, Canada had indicated publicly that it would approve another IMF loan to South Africa. The result of the position taken by the United States, Canada and other Western countries was that Pretoria still had the use of $705 million to finance its violence against the black community.

20. He recalled that in 1982, South Africa had asked the IMF for a $1.1 billion loan to help with its balance-of-payments problems. The IMF Executive Board had met in November 1982 and although nine officials had expressed doubts about South Africa's request, the United States had insisted that the loan met the economic and financial criteria of the IMF. The loan had thus been approved. South Africa's economy had soon shown a substantial surplus and the IMF had asked the South African Government to consider repaying the loan early. The Government had repayed only a token 6 per cent in 1983 and a further 10 per cent in February 1986, however.

21. South Africa had thus successfully manipulated the IMF in order to secure a loan which was supposed to compensate for balance-of-payments problems which never materialized, so the IMF was in effect subsidizing South Africa. South Africa had deflected criticism by agreeing to repay the loan ahead of time, and then had not done so. There was no way of determining exactly how the money had been spent, but there had been a $1 billion increase in South Africa's military spending and most other expenditures had decreased.

22. It was clear that South Africa felt no need to live up to its commitments to the IMF. The United States, as the largest donor, must put pressure on the South African Government to meet those commitments. Although legislation had been introduced in the United States to prohibit further loans to South Africa, a 1983 compromise version had included the loophole that loans were permissible if they could be shown to benefit the majority of the South African population. That loophole must be closed.

23. The continuing scandal had escaped public attention because the IMF deliberately cultivated a low profile, yet the huge loan was one of the factors behind the daily toll of victims in South Africa. It reinforced apartheid, it had been obtained under false pretences and its repayment was long overdue. The world community must demand immediate recall of the loan and take steps to prevent any new ones.

24. Although year after year the IMF disregarded the Committee's pleas, that in no way diminished the Committee's function. Indeed, it heightened the Committee's importance as the only official body to which the IMF was answerable. The Committee must monitor IMF relations with South Africa closely. It should also note that it was too late to stop a loan once an application had been announced publicly; efforts must begin before applications were made.

25. Mr. Morrell withdrew.

AGENDA ITEM 36: QUESTION OF NAMIBIA

Hearing of petitioners (A/C.4/41/4/Add.1, 3 and 4)

26. The CHAIRMAN reminded the Committee that it had decided to grant the requests for hearings on the question of Namibia contained in documents A/C.4/41/4/Add.1, 3 and 4.

27. At the invitation of the Chairman, Mr. Campbell (National Lawyers Guild) took a place at the petitioners' table.

28. Mr. CAMPBELL (National Lawyers Guild) said that the Guild, an association of some 9,000 lawyers, law students, legal workers and jailhouse lawyers across the United States, had, since its founding in 1937, been providing desperately needed legal support to struggles against racism and colonialism. It denounced the Reagan Administration's policy of "constructive engagement" in Namibia and South Africa, which was blocking Namibian independence and encouraging the use of occupied Namibia as a springboard for aggression against Angola. It was committed to the rule of law, not to racism, colonialism and the perpetuation of the international crime of apartheid.

29. The illegality of the South African occupation of Namibia had been established beyond a doubt by the International Court of Justice, which had ruled that States Members of the United Nations were under an obligation to recognize the illegality of South Africa's presence in Namibia. The United States had failed to meet its obligations under international law, however, under both Republican and Democratic Administrations. The Reagan policy, a particularly cynical and destructive defence of racism and colonialism, had in 1980 promised speedy independence for Namibia: with United States assistance, South Africa was to implement Security Council resolution 435 (1978). Instead, the notion of "linkage" between invited Cuban troops in Angola and the illegal army of occupation in Namibia had been injected into the negotiations by the United States Government and had paralysed proceedings. Far from bringing self-determination to Namibia, Reagan's policy had encouraged the continued illegal occupation of the Territory by South Africa, its exploitation by transnational corporations based in the United States, and the destabilization of southern Africa.

30. Many Guild members had lobbied for sanctions against South Africa, the recent Congressional passage of which demonstrated the growing strength of the anti-apartheid and solidarity movements in the United States. The Guild would continue to work for comprehensive sanctions and to fight, in solidarity with the South West Africa People's Organization (SWAPO), for self-determination for the Namibian people.

31. Mr. Campbell withdrew.

32. At the invitation of the Chairman, Mr. Jordan (Southern Africa Support Project) took a place at the petitioners' table.

33. Mr. JORDAN (Southern Africa Support Project) said that the Project was a solidarity organization based in Washington, D.C. that had been working on

(Mr. Jordan)

anti-apartheid issues for almost 10 years. It had raised funds to aid Namibians in refugee centres in Angola and Zambia, and considered that public education campaigns and militant public protest were important tools for influencing United States foreign policy and corporate investments.

34. The Project had been working with some of the more than 250 organizations in the United States engaged in anti-apartheid work to help the Free South Africa Movement, established in 1984, create a national political climate of protest and civil disobedience. The Movement was aware that South Africa's apartheid system and its atrocities against black South Africans dominated the established media but that little coverage was given to South Africa's illegal occupation of Namibia and the brutal apartheid system imposed on the Namibian people. Although the Movement had not neglected the Namibian issue in its activities, it was aware that the public relations aspect of its work had not been effective. In the case of South Africa, the daily television coverage of security forces brutalizing men, women and children had helped to stir the collective conscience of people in the United States and world-wide. Such eyewitness accounts of the atrocities committed in Namibia were a critical missing element in the struggle to expose United States collaboration with South Africa. He recommended that the Committee should consider ways of providing timely information to the press and of supporting groups in the United States. The Southern Africa Support Project was committed to finding more co-operative means of working with SWAPO and the United Nations agencies devoted to the struggle for the independence of Namibia.

35. Mr. Jordan withdrew.

36. At the invitation of the Chairman, Mr. Roberts (Namibia Support Committee took a place at the petitioners' table.

37. Mr. ROBERTS (Namibia Support Committee) said that the Namibia Support Committee had been formed in the United Kingdom in 1969 to support the efforts of the Namibian people, under the leadership of SWAPO, to achieve their liberation and independence.

38. Although the passage of a sanctions bill in the United States Congress was an historic event, efforts must be made to ensure that such sanctions were not only monitored but also effectively and fully applied. It should be noted that at no point in that bill was any reference made to Namibia. It was therefore essential for the United Nations, through the Security Council, to ensure that comprehensive mandatory sanctions were imposed on South Africa specifically in order to end its illegal presence in Namibia.

39. The Security Council had called on the Government of South Africa to withdraw from Namibia as long ago as 1969, but the Namibian people were still waiting because of a lack of pressure and resolve on the part of the Governments of the United States, the United Kingdom and the Federal Republic of Germany. It was those Governments that, with the Governments of France and Canada, had formed the Western Contact Group and had drawn up the Namibian settlement plan. While SWAPO

(Mr. Roberts)

had accepted every point of that plan, however, the efforts of the Contact Group to engage South Africa in diplomacy had resulted in South Africa's continued illegal occupation of Namibia, its 1981 invasion and occupation of southern Angola and its imposition of a puppet government in Namibia in 1985. During that period, there had been no form of effective pressure by the Western States to prevent South Africa from doing just as it pleased.

40. The absence of such pressure to terminate South Africa's illegal occupation was apparent in the human rights situation in Namibia. There had been thousands of cases of Namibians who had been arrested, imprisoned without trial, tortured and subjected to all kinds of abuse by the security forces, under South African security legislation. Such events were not documented in the media because the movement and activities of the press were severely restricted under the state of emergency in Namibia and the numerous security regulations brought into force by the South African Administrator General since 1972.

41. The deteriorating economic situation in Namibia was another area of concern. Western Governments had applied no pressure to the mining companies based in their countries, and operating in Namibia, to terminate their activities there. As a result, Namibia had lost much of its potential as a mineral-rich country. The depletion of resources had caused a sharp reduction over the past ten years in Namibia's base metal mining operations, which had once accounted for most of the Territory's mining production. Three of the nine largest such mines had suspended operations and two had closed - resulting in the loss of 3,000 jobs - while only three continued to operate at relatively high levels of production. In any case, the profits made had brought no economic benefit to Namibia since they were routinely repatriated in the form of dividends. Production had also declined in Namibia's gem-diamond mining industry, which accounted for approximately two thirds of the Territory's total mineral sales. In addition, reliable sources (including South Africa's own Thirion Commission which had conducted an independent inquiry into the Namibian mining industry) indicated that, since 1979, the more valuable gem diamonds were being stockpiled in South Africa. Such high grade reserves could later be released onto the world market by South Africa in direct competition with what would generally be second-grade diamonds produced by an independent Namibia. As for uranium mining, the Rössing mine continued to operate at two-thirds capacity, thereby depleting Namibia's most strategic mineral resource. In the context of such illegal and detrimental mining activity, the Council for Namibia was to be congratulated on its 1984 decision to institute legal proceedings in States' domestic courts in order to enforce its Decree No. 1, commencing with legal action against the URENCO nuclear enrichment company in the Netherlands.

42. Responsibility for the immediate implementation of Security Council resolution 435 (1978), without pre-conditions or reference to extraneous issues, rested with all Member States. It was up to the Western States, however, particularly the United States and the United Kingdom which had the largest economic interests in both Namibia and South Africa itself, to exert every pressure within their power in order to terminate South Africa's illegal occupation and ensure the long overdue independence of Namibia.

43. Mr. Roberts withdrew.

AGENDA ITEM 105: ACTIVITIES OF FOREIGN ECONOMIC AND OTHER INTERESTS WHICH ARE IMPEDING THE IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES IN NAMIBIA AND IN ALL OTHER TERRITORIES UNDER COLONIAL DOMINATION AND EFFORTS TO ELIMINATE COLONIALISM, APARTHEID AND RACIAL DISCRIMINATION IN SOUTHERN AFRICA: REPORT 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 (continued)

44. Mr. ALMANSOORI (United Arab Emirates) asked that the Committee vote again on the draft resolution and draft decision adopted at the previous meeting on agenda item 105, because his delegation believed that the voting had not been appropriate and because similar texts had been voted on in the Security Council.

45. The CHAIRMAN assured the representative of the United Arab Emirates that the Secretariat was aware of the problem he was alluding to and would deal with it.

The meeting rose at 12.40 p.m.