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FOURTEEN HUNDRED AND NINETY-SIXTH MEETING

Held in New York on Monday, 11 August 1969, at 3 p.m.

President: Mr. Jaime DE PINIES (Spain).

Present: The representatives of the following States: Algeria, China, Colombia, Finland, France, Hungary, Nepal, Pakistan, Paraguay, Senegal, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Zambia.

Provisional agenda (S/Agenda/1496)

1. Adoption of the agenda.

2. The situation in Namibia:

Letter dated 24 July 1969 from the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, the United Arab Republic, Turkey, Yugoslavia and Zambia addressed to the President of the Security Council (S/9359).

Adoption of the agenda

The agenda was adopted.

The situation in Namibia

Letter dated 24 July 1969 from the representatives of Chile, Colombia, Guyana, India, Indonesia, Nigeria, Pakistan, the United Arab Republic, Turkey, Yugoslavia and Zambia addressed to the President of the Security Council (S/9359)

1. The PRESIDENT (*translated from Spanish*): In accordance with the Council's previous decision, I shall now invite the representatives of Chile and India to take places at the Council table.

At the President's invitation, Mr. F. Zegers (Chile) and Mr. A. Gonsalves (India) took places at the Council table.

2. The PRESIDENT (*translated from Spanish*): The Council will now continue its consideration of the question of Namibia.

3. Mr. HILDYARD (United Kingdom): Mr. President, may I first of all associate my delegation with the congratulations which have been expressed to you on your assumption of the Presidency of this Council. We all know your long experience of the United Nations and appreciate the outstanding qualities which you have shown. May I also join in the tributes which have been paid to Ambassador Boye of Senegal, who presided over our affairs last month with such great ability and energy. Finally may I also associate my delegation with the warm welcome which you

extended to the Secretary-General on his return. We are indeed very happy to see him with us again.

4. I now turn to the item on our agenda. The question before us is a serious one: serious in itself and serious in its implications for the future of this Council and of our whole Organization.

5. My delegation has made clear on a number of occasions the attitude of my Government to the developments which have been taking place in the Territory. We believe above all that the people of South West Africa should be enabled to exercise the right of free and full self-determination. We believe that South Africa has not been administering the Territory in accordance with the Mandate originally entrusted to it. We believe that South Africa has indeed forfeited the right to administer this Mandate over the Territory.

6. My delegation has repeatedly expressed its repugnance for the Terrorism Act, which we consider to be offensive to the principles which should underlie the framing of criminal legislation. We have expressed particular abhorrence for the retrospective nature of this law, a law which carries the penalty of death. We have shared the universal concern about the trials of South West Africans which have been conducted under this legislation. We have made clear our views on this matter to the Government of South Africa and we demonstrated our concern by sending observers to these trials.

7. In previous statements in this Council my delegation has expressed its concern at the extension to the Territory of the evil practices of *apartheid* and has further set out in detail its objections to the notorious Homelands legislation which has extended the system of Bantustans to South West Africa.

8. At the same time we have consistently expressed our concern at the course of action which the United Nations has followed. Our differences, as we have emphasized throughout, are about means, not about ends. Quite apart from our serious doubts in regard to the legal basis, we believe that the course of action followed will in practice lead nowhere. It will not advance the cause of the people of South West Africa and indeed the only people who will take comfort and encouragement will be the Government of South Africa. Speaking in the General Assembly the United Kingdom Permanent Representative, Lord Caradon, said:

"... we had an obligation not only to the people of South West Africa but to the United Nations itself. We

had, and we still have, an obligation not to raise false hopes by hasty or ineffective methods, not to deceive ourselves or anyone else by shutting our eyes to practical barriers, not to imagine that those barriers can be overcome by words alone . . .”¹

9. All along we have urged that the United Nations must act within its capacity and that the adoption of resolutions which are ineffective and inoperative cannot serve the interests of the people of the Territory. It can only help to increase their indifference and disillusion; it can only aggravate the divisions between us; and it can benefit only South Africa.

10. In his statement to the General Assembly on 26 September 1967 the then Foreign Secretary said that the United Kingdom Government have always made it clear that they cannot and will not now contemplate an economic war with South Africa.² Lord Caradon repeated again in this Council that the United Kingdom would not be prepared to agree to commitments under Chapter VII of the Charter in this regard. We know that the same is true of other permanent members of this Council and of South Africa’s other main trading partners.

11. When it comes to action we cannot act beyond our capacity. We cannot go further than the measure of agreement that exists between us. We all know that there is no chance of agreement on effective measures against South Africa such as are envisaged in Chapter VII of the Charter. It is all very well to dismiss as inadequate some of the limited proposals which have been put forward. Is it really better to give to those who may look to us the impression that we can accomplish things which we all know that in practice we cannot accomplish?

12. My delegation believes that the path so far followed has been mistaken and does not believe that this Council should take further steps along that path. We remain ready, however, to join in a common search to see if there is not another, more hopeful line which the United Nations could follow.

13. The PRESIDENT (*translated from Spanish*): I wish to thank the representative of the United Kingdom for the kind words he addressed to me at the beginning of his statement.

14. Mr. YOST (United States of America): May I first, Mr. President, welcome you to your high responsibilities as our presiding officer. We know that you will direct our deliberations with the skill, sympathetic consideration and impartiality for which you have been known for so many years at the United Nations.

15. I should also like to join my colleagues in expressing appreciation to Ambassador Boye for the outstanding fashion in which he presided over this Council last month.

16. Finally, I should like to join in welcoming the Secretary-General back to our midst and expressing our very great satisfaction at his prompt recovery.

17. I now turn to the subject on our agenda. The position of the United States on the question of Namibia is clear. The United States supported General Assembly resolution 2145 (XXI) of 27 October 1966 because South Africa, by its actions, in the former Mandated Territory of South West Africa, had failed to fulfil its obligations. We agreed that, in consequence, the old League of Nations Mandate was terminated, South Africa had no other right to administer the Territory, and South West Africa came under the direct responsibility of the United Nations. The United States also supported Security Council resolutions 245 (1968) and 246 (1968), and most importantly, resolution 264 (1969) of 20 March.

18. In resolution 264 (1969), the Security Council for the first time formally endorsed the historic action of the General Assembly and called upon the Government of South Africa to withdraw immediately its administration from the Territory. In accordance with paragraph 7 of that resolution, my Government approached the Republic of South Africa to urge compliance with the strongly held views of an overwhelming majority of the international community. I regret to report that the efforts of the United States have thus far met with negative results similar to those reported by the Secretary-General in document S/9204.³

19. There is virtual unanimity in the Council as to the situation which has given rise to the complaint before us. There is general agreement among us that South Africa remains in the Territory illegally. There is general concern that South Africa has not lived up to its solemn obligations, either to the Namibians or to the international community, to foster conditions under which the people of the Territory can exercise their right to self-determination or independence.

20. Indeed, far from fulfilling its obligations, the illegal occupying authority has proceeded unilaterally to create so-called Homelands in pursuit of its policy of virtual annexation. It has compounded this evil by applying to this international Territory the odious practice of *apartheid*, with all of the miserable human consequences that that practice entails. And, to enforce its unlawful authority, it has continued to conduct arrests and trials of South West Africans under the infamous Terrorism Act. An unknown number of Namibians remain under indefinite detention under the Act. Thus South Africa introduces into a Territory where it has no right to govern the worst features of that racially discriminatory rule which is its own unhappy trade mark.

21. Those are the essential facts of the state of affairs in Namibia. On those facts, and their causes, there is no significant difference between the view of my Government and those of the previous speakers on this issue. The honest differences that do arise rather concern what steps or measures we can now most appropriately take. When resolution 264 (1969) was adopted, I explained in these words why the United States had been able to support it:

“The United States is able to support the text of the draft resolution before us because it wisely does not

¹ See *Official Records of the General Assembly, Fifth Special Session, Plenary Meetings*, 1504th meeting, para. 150.

² *Ibid.*, Twenty-second Session, Plenary Meetings, 1567th meeting, para. 102.

³ See *Official Records of the Security Council, Twenty-fourth Year, Supplement for April, May and June 1969*.

commit the Council to the narrow path of mandatory sanctions under Chapter VII of the Charter. As we have repeatedly made clear, we believe it would be inappropriate in this situation to consider measures contained in Chapter VII. In our judgement, this is not a situation which can sensibly and humanely be remedied by mandatory sanctions." [1465th meeting, para. 15.]

22. Our view as to the wisdom and efficacy of action under Chapter VII of the Charter remains unchanged.

23. I have listened with attention to the eloquent statements by previous speakers who have, with justified indignation, charged South Africa with disregard of more than ninety resolutions of the General Assembly and the Security Council on this subject. These speakers maintain that the time has come for the Council to compel compliance with previous resolutions by adopting measures under Chapter VII, such as mandatory sanctions.

24. In all sincerity, my Government still cannot support that view. Tragic and deplorable though the existing state of affairs in Namibia is, my Government still would not consider that in present circumstances the application of international sanctions in this case would be wise or effective. Despite our indignation at the callous behaviour of the illegitimate occupying authority, we should all be careful not to embark on an unrealistic course of action which could have the opposite result from the one we intend.

25. It has not been demonstrated to the satisfaction of my Government that the application of sanctions under Chapter VII would induce South Africa to abandon its present policy in Namibia or elsewhere. As long ago as March 1965, the Council received, at its request, a thorough report on this subject by a committee of experts who concluded that South Africa, while not immune to damage from economic sanctions, "would not be readily susceptible" to such measures. The experts commented in particular on "the psychological effects of these measures" along with "South Africa's present economic capacity to withstand such measures and the will of its people to do so" [S/6210 and Add.1.]⁴.

26. Nothing in the intervening four years gives ground for any brighter prognosis than that of 1965 which I have just cited. On the contrary, there is strong reason to doubt that such measures would be effective either economically or politically. Their economic effect could be considerably offset, especially in the short run, by rationing or redeployment of resources within South Africa; and, in the long run, would further depend on how long present and potential trading partners could be expected to co-operate with a sanctions programme. As for their political effect, such sanctions could well operate as a catalyst, crystallizing public opinion within South Africa against United Nations decisions on Namibia and producing further defiance rather than co-operation.

27. All of us most earnestly desire that the United Nations acquire the capability to deal more effectively not only with threats to international peace and security but also

with other flagrant violations of the purposes and principles of the Charter such as that which is occurring in Namibia. It should be our constant endeavour to strengthen our Organization so that it will be able to do so. It would not serve this purpose, however, if we were prematurely to impose upon the United Nations burdens which it is still incapable of carrying, to demand that it fulfil tasks which we Member States have not yet collectively given it the power to fulfil. For us to do so in this case, far from ensuring the compliance of South Africa with United Nations decisions, would, I fear, more probably demonstrate in even more conspicuous fashion the inability of our Organization, at its present stage of evolution and growth, to carry out vast enforcement measures of a sort which public opinion in many States is not yet prepared to support.

28. Let us not, I beg of you, even though impelled by honest and legitimate indignation, subject our Organization to tests which we ourselves have not yet prepared it to meet and overcome. Let us in coming years find means and will to give it the necessary collective strength and authority, but let us not in the meantime confuse the goal we seek with the reality we face.

29. Those are the realities to which my Government feels obliged to call attention, unpleasant though they are to all of us who oppose South Africa's policy. There are many wrongs and injustices in the world which, unfortunately, cannot be corrected quickly; and wrongs of racism and colonialism in southern Africa are among them. This is no cause for despair. The evils we face are stubborn but they are not eternal.

30. Our opposition to them should be steadfast. There are ways available to this Council, and to each of us as Member States, to express that opposition. We can and should continue to assert the responsibility of the United Nations for Namibia. We should observe events there closely and inform the world fully and candidly on what is taking place. We should keep the pressure of world opinion focused on the actions of the illegal occupying authority in violation of the Charter, of General Assembly resolution 2145 (XXI) and the other relevant resolutions of the United Nations. We should unswervingly insist on the application to Namibia of the standards of the Charter concerning the right of dependent Territories to self-determination and independence. All of our Governments, moreover, are free to take whatever further action is permitted by their constitutional processes to express their cognizance of the illegitimacy of the South African presence in Namibia and hence of the illegality of all actions and transactions carried out in Namibia under the authority, the laws and the regulations of South Africa.

31. In this connexion my Government continues in its bilateral relations to call the attention of the Government of South Africa to what the United States considers to be the illegal application of its domestic legislation to the Territory of Namibia. Most recently, we have protested the application of clauses 10 and 29, the so-called "Boss" clauses, of the General Law Amendment Act of 1969. We have also made clear our concern at the continued application of the Terrorism Act of 1967 to Namibia as

⁴ *Ibid.*, Twentieth Year, Special Supplement No. 2, para. 13..

evidenced by the current trial at Windhoek. We have continued to reiterate our concern as to the South West African Affairs Act of 1969, the Homelands Act, and indeed the application to Namibia of all legislation inconsistent with the rights of the people of Namibia under the Covenant of the League of Nations, the Mandate Agreement, and Chapters IX and XI of the United Nations Charter.

32. I realize full well that the considerations I have outlined will not commend themselves to all members of this Council. I entirely share their wish that there were more we could effectively do. I submit to the Council, however, that a continued assertion by this body of our unequivocal and unrelenting condemnation of the violation of the Charter in Namibia, coupled with whatever voluntary steps Member States may deem it possible to take, constitutes the most promising means of realizing our common objectives.

33. Proposals for more drastic action, however appealing they may seem at first blush, can in fact divide the Council, prove ineffectual, and operate to the detriment both of the people of Namibia and of the United Nations. Let us avoid that unhappy result and, instead, emphasize that which unites us and, since it demonstrates our united resolution, is most likely to convince South Africa that it cannot stand for ever alone.

34. The PRESIDENT (*translated from Spanish*): I wish to thank the representative of the United States for the kind words he addressed to me in the course of his statement.

35. If no other member of the Council wishes to speak at this time, I shall now make a statement in my capacity as representative of SPAIN.

36. The question of Namibia is not new to this Council. Last March we met at the request of a large number of countries which asked the Council to examine the tense situation created in Namibia by the attitude of the South African authorities. The position of my delegation was clearly set forth at that time [*1465th meeting*], as it had been previously when we voted in favour of General Assembly resolution 2145 (XXI) of 27 October 1966, which declared South Africa's Mandate over South West Africa terminated, and resolution 2248 (S-V), which established the United Nations Council for South West Africa,⁵ to which the United Nations entrusted some powers and functions necessary to carry on the administration of the Territory until the people of Namibia achieved complete independence.

37. Last March, my delegation paid a tribute in this Council to the tireless and extremely difficult work of the United Nations Council for Namibia in its effort to be equal to the important mission entrusted to it by the General Assembly. We shall not therefore repeat the reasons which led my delegation to vote in favour of those resolutions,

⁵ See *Official Records of the General Assembly, Fifth Special Session, Plenary Meetings*, 1517th meeting, paras. 76-86.

and of Security Council resolution 264 (1969) ratifying what the General Assembly had laid down when it had assumed responsibility for the effective implementation of those provisions.

38. However, the situation in the territory of Namibia has not improved. The Security Council has again been convened at the request of a large number of countries which are gravely concerned by the attitude of the authorities of South Africa toward the people of Namibia and toward this Organization. The Government of South Africa has not only failed to comply with Security Council resolution 264 (1969), but has declared itself unwilling to comply with it and has even denied the very competence of the Council to deal with the problem of Namibia. This Council cannot allow its authority to be disregarded, its competence denied, and its resolutions to go unimplemented; nor can the United Nations, at this moment of international crisis and tension, permit its authority and prestige to be dealt yet another blow on a matter which has so far brought it only bitter frustrations. It is the grave responsibility of this Council and of every country now a member of it to see to it that the Government of South Africa heeds the voice of the international community, which is the voice of reason and the voice of the period of history in which it is our fortune to live.

39. My delegation would therefore be prepared to support a draft resolution which, again affirming the authority and responsibility of the Security Council, censured the failure of the South African authorities to comply with resolution 264 (1969). That resolution reaffirms, beyond all doubt, that the United Nations has terminated the Mandate of South Africa over Namibia and has assumed direct responsibility for the Territory until its independence. Consequently, the presence of the authorities of South Africa in Namibia is illegal and must cease.

40. My delegation feels it would be advisable to enjoin the authorities of South Africa to change their attitude; and perhaps it would not be out of place to set a deadline for the withdrawal of South Africa's administration from the Territory, an administration which the South African authorities are at present exercising counter to the provisions of the resolutions of the General Assembly and the Security Council. If, despite this new appeal, the deadline should be reached without South Africa's having taken account of the provisions of the resolution which the Security Council may eventually adopt, this body must again meet without delay to consider the adoption of appropriate measures to compel South Africa to comply with the obligations it has assumed toward the United Nations and the international community.

41. Acting now in my capacity as PRESIDENT of the Council, I shall give the floor to any other representative who wishes to speak. There being no other speakers, I shall adjourn the meeting and convene the Council for the next meeting, to take place tomorrow, Tuesday, at 3.30 p.m.

The meeting rose at 4.14 p.m.