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POLICIES OF APARTHEID OF THE
GOVERNMENT OF SOUTH AFRICA

SECURITY COUNCIL
Forty-fourth year

Letter dated 11 May 1989 from the Chairman of the Intergovernmental
Group to Monitor the Supply and Shipping of Oil and Petroleum
Products to South Africa and the Chairman of the Special Committee
against Apartheid addressed to the Secretary-General

We have the honour, on behalf of the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa and the Special Committee against Apartheid to request that the attached report of the Panel on the Hearings on the Oil Embargo against South Africa held in New York on 12 and 13 April 1989 be issued as an official document of the General Assembly, under item 28 of the preliminary list, and the Security Council.

(Signed) Tom Eric VRAALSEN
Chairman, Intergovernmental Group to
Monitor the Supply and Shipping of
Oil and Petroleum Products to
South Africa

(Signed) Joseph N. GARBA
Chairman, Special Committee
against Apartheid

* A/44/50/Rev.1.

ANNEX

Report of the Panel on the Hearings on the Oil Embargo
against South Africa.

United Nations Headquarters, 12 and 13 April 1989

I. INTRODUCTION

1. In its resolution 43/50 J of 5 December 1988, the General Assembly mandated the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa in co-operation with the Special Committee against Apartheid to hold hearings on this topic. A Task Force was established, chaired by Ms. Nabeela Al-Mulla (Kuwait) and consisting also of the German Democratic Republic, Ghana, Indonesia, Nigeria, Norway, Peru and the Ukrainian Soviet Socialist Republic, which was responsible for organizing the hearings and all of its administrative aspects. The Task Force also arranged for suitable publicity and for the background material used at the hearings.

2. The Panel convened on 12 April 1989 before the opening of the hearings and elected Mr. Abdelaziz Alwattari, Secretary General of the Organization of Arab Petroleum Exporting Countries (OPEC), as its Chairman; Lt.-Gen. Peter Dingli Zuze, Permanent Representative of Zambia to the United Nations, as Vice-Chairman; and Mr. Oystein Maeland, Political Adviser to the Minister for Foreign Affairs of Norway, as Rapporteur. The Panel further consisted of Mr. Solomon Gomez, Special Political Affairs Officer of the Organization of African Unity (OAU); Mr. Suhail Nasser, Adviser to the Minister of Oil of Kuwait; Mr. Yury G. Samsonov, Director of the Dalneft firm of the All-union Foreign Trade Association Soyuznefteeksport of the Union of Soviet Socialist Republics; and Mr. Alberto Valero, Director of International Affairs at the Ministry of Energy and Mines of Venezuela. The Chairman of the Intergovernmental Group, Mr. Tom Eric Vraalsen (Norway) and the Chairman of the Special Committee, Maj.-Gen. Joseph N. Garba (Nigeria), were ex officio members of the Panel.

3. Sessions of the hearings were held under the chairmanship of Mr. Alwattari on 12 and 13 April 1989 at United Nations Headquarters in New York. The following witnesses appeared: Mr. Pallo Jordan, Member of the National Executive Committee of the African National Congress; Mr. Ahmed Gora Ebrahim, Foreign Secretary of the Pan Africanist Congress of Azania; Mr. Calvin Makgaleag and Mr. Rod Crompton, President and General Secretary of the Chemical Workers Union of South Africa, respectively; Mr. Manene Samela of the South African Chemical Workers; Mr. Jaap Woldendorp, Director of the Shipping Research Bureau of Amsterdam, the Netherlands; Mr. Peter Sluiter of the Association of West European Parliamentarians against Apartheid; Ms. Donna Katzin, Director of the Interfaith Centre on Corporate Responsibility of New York; Mr. David Craine, EMBARGO, United Kingdom of Great Britain and Northern Ireland; Mr. Martin Bailey, The Observer, London; Mr. Bernard Rivers, an economist, New York; Mr. Kenneth Zinn, Deputy Administrator, United Mineworkers of America, Washington, DC; Mr. Richard Knight, American

Committee on Africa, New York; Professor Richard Lillich, University of Virginia in Charlottesville, Virginia; Ms. Kate Pfordresher, Labor Committee against Apartheid, New York; and Professor Bashker Vashee of Hampshire College.

II. TESTIMONY OF WITNESSES

4. The Panel heard testimony from witnesses on a number of aspects of the oil embargo against South Africa. The following recurrent subjects were highlighted by the witnesses.

A. Importance of the oil embargo

5. The importance of the oil embargo against South Africa was emphasized by all the witnesses as a means by which apartheid can be eliminated. It is considered complementary to the arms embargo because oil is an essential commodity for the apartheid régime in its repression against the people of South Africa, for the military and police forces of the régime in their occupation and intimidation of the black townships, as well as in its aggression against and destabilization of the front-line States as well as other neighbouring African States. In addition, oil is vital to the effective functioning of the South African economy. It is also virtually the sole raw material in which South Africa is not self-sufficient. Against this background, the hearings highlighted the particular potential of an oil embargo against South Africa. All speakers stressed that the most effective means of curtailing South Africa's access to oil and petroleum products would be for the Security Council to impose a mandatory embargo. At the same time, and pending action by the Security Council, it was emphasized that all States, particularly oil exporting, shipping and handling States, should consider ways and means of strengthening the present voluntary oil embargo by adopting a number of measures, which are referred to below.

6. All speakers stressed the importance of the oil embargo in the struggle for the elimination of apartheid. The oil embargo and other sanctions that were seen as a complement to the internal struggle of the South African people was considered one of the main target areas for sanctions, the others being gold, coal and loans. Representatives of the chemical workers of South Africa testified that the dependence of South African industry on foreign sources of oil supplies, technology and investments was well known to them from their daily experiences in the work-place.

B. How the oil embargo is violated

7. The oil embargo against South Africa is being violated, according to witnesses, because of the lack of effective co-operation on the part of certain Powers that have opposed the oil embargo primarily in order to protect transnational corporations. In addition, the lack of measures by many oil exporting, shipping and handling States in enforcing the embargo has also

contributed to the circumvention of the oil embargo, and steps taken by States when violations are brought to their attention are still not adequate. For these reasons oil and shipping companies, as well as oil traders, have been able to circumvent the oil embargo.

C. Legislative measures

8. Legislative and other comparable measures - as opposed to general policy statements - to be adopted by oil exporting, shipping and handling States, as well as other States, are considered the basic steps that should be taken in order to pursue an oil embargo against South Africa. It has been noted that many of these States do not have adequate legislative or comparable measures to ensure the implementation of their policies with regard to the oil embargo. The lack of appropriate legislative action at the national level has adversely affected the implementation of the oil embargo. It was emphasized that legislation concerning the oil embargo should be made public and widely advertised and that criminal and/or civil penalties should be more coherent. Furthermore, executives and workers in the relevant industries (oil, shipping) should be made aware of this legislation and the fact that attempts are being made to circumvent the oil embargo against South Africa.

9. The importance of legislative measures that would be unambiguous as well as binding was stressed. Particular reference was made by some speakers to the status of most of the oil embargo laws, which were considered unclear and insufficiently standardized and ineffectively implemented. Supplying oil to South Africa should constitute a violation of national law, otherwise effective monitoring and enforcement of the embargo would be rendered impossible.

D. Enforcement

10. Witnesses called for greater efforts at enforcement in cases where a violation is uncovered. The following measures should be taken: (a) criminal and civil proceedings against oil companies, middlemen and shipping companies involved in violations of the oil embargo; (b) blacklisting of these companies; (c) contractual sanctions; and (d) publicizing the measures taken.

Verification of discharge documentation

11. It was emphasized that any existing legislative or forthcoming action to enforce the oil embargo against South Africa should be supported by technical measures to counter efforts to circumvent the embargo. Oil producing, shipping and handling States must ensure that the final destination of their oil and petroleum products should not be South Africa. Destination control is one of the major steps that could be taken to ensure implementation of the oil embargo against South Africa. The insistence of oil exporting, shipping and handling States on receiving and verifying these certificates when necessary will enable them to check whether their oil and petroleum products supplies have reached South Africa contrary to their political decision.

12. It was stated that these certificates of discharge are subject to forgery and fraud, particularly by oil companies and traders who gained tremendously by illegally supplying oil and petroleum products to South Africa. To this extent co-operation between Governments concerned and the Intergovernmental Group as well as all other interested parties was emphasized in order to put an end to the fraud and falsification of discharge certificates. It was also stressed that certain countries whose ports are used as dummy destinations in forged discharge documents should take action to stop this.

E. Co-operation with the Intergovernmental Group

13. Witnesses generally stressed their willingness to co-operate with the Intergovernmental Group and felt that Governments and other interested parties should do the same. The Vice-Chairman of the Intergovernmental Group made a statement stressing the importance for the Intergovernmental Group to diversify its sources, which would require co-operation with an increasing circle of interlocutors. While existing co-operation has been acknowledged, it was felt that there is a need to strengthen the exchange of information with the Intergovernmental Group. Particular reference in this regard has been made to responding to the inquiries of the Group. It was also felt that in addition to co-operation of Governments with the Intergovernmental Group concerned international organizations, the liberation movements of South Africa, and non-governmental organizations should also expand their co-operation.

F. Co-operation between Governments and other organizations

14. Co-operation amongst Governments, individually and collectively, as well as with intergovernmental and non-governmental organizations with regard to enforcing and publicizing the oil embargo against South Africa has been considered inadequate at this stage. It has therefore been stressed that such co-operation is urgently needed and that the Intergovernmental Group could play an enhanced role in this regard. While action by OPAEC has been highly appreciated, it is suggested that more co-operation should be achieved between it and the Intergovernmental Group. The political importance of the oil embargo should be emphasized to the Organization of Petroleum Exporting Countries (OPEC) by the Intergovernmental Group.

G. Role of transnational corporations and oil traders

15. The role played by transnational oil corporations and oil traders in securing oil supplies to South Africa was highlighted. It was stated that the disinvestment that had so far taken place from South Africa had led on the whole to a change of ownership but did not affect the oil sector, and in this respect the process of disinvestment should be expedited. Several witnesses held that transnational oil companies did provide South Africa with some assistance in oil procurement despite their claims to the contrary. It has been emphasized that all oil companies operating in South Africa and oil shipping companies, as well as oil traders, still doing business with South Africa, whether overtly or covertly, should stop doing so

H. Technology

16. The dependence of the South African oil and chemical industries on foreign technology was stressed by several witnesses. There was widespread agreement among the witnesses that it would be desirable to embargo the transfer of relevant oil industry technology to South Africa.

I. Financing and insurance

17. In addition to the above, reference was also made to the crucial role played by foreign companies in providing finance, credit or insurance services in support of supplies of oil and technology to South Africa. The Intergovernmental Group was requested to study possible ways of dissuading these companies from providing such support, inter alia, by ascertaining whether or not the circumstances of oil deliveries to South Africa conflict with standard commercial terms in credit and insurance agreements.

III. CONCLUSIONS OF THE PANEL

18. The Panel came to the following conclusions:

(a) A mandatory decision by the Security Council to adopt an oil embargo against South Africa in accordance with Chapter VII of the Charter of the United Nations is the most appropriate means to complement the arms embargo against South Africa imposed by Council resolution 418 (1977) and to assist the people of South Africa in their struggle to eliminate apartheid.

(b) The Panel underscored South Africa's heavy dependence on imported oil, while noting at the same time that a substantial portion of South Africa's energy needs are met from internal sources at extremely high cost. The cost to South Africa as a consequence of the voluntary embargo was enormous financially, politically and strategically.

(c) The Panel noted that an effective oil embargo would further increase the economic and political pressure on South Africa, internally and on the international level, inasmuch as oil is virtually the sole strategic raw material in which South Africa is not self-sufficient.

(d) The Panel stressed that, pending the adoption of mandatory sanctions, efforts on the national, regional and multilateral levels should be taken to support the oil embargo and make it more effective.

(e) The Panel emphasized that a comprehensive approach to the embargo would have to comprise both the supply, shipping and handling of oil to South Africa, as well as the financing and investment in its petroleum industry. In this respect, the role of the transnationals in the continued supply of oil to South Africa was underscored.

(f) The Panel called for the enactment of specific and detailed legislation as a prerequisite to ensuring clarity and facilitating co-ordination and further enhancing co-operation in the implementation of the embargo. Improved co-operation and co-ordination between Member States, international and non-governmental organizations should be encouraged.

(g) The Panel welcomed the results achieved by the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa, as well as by other organizations.

IV. RECOMMENDATIONS

19. The Panel recommends the following measures for tightening the oil embargo against South Africa:

(a) The Security Council should invoke Chapter VII of the Charter of the United Nations and impose an embargo on the supply and shipping of oil and petroleum products to South Africa.

(b) All States, particularly oil exporting, shipping and handling States, should adopt, pending a decision from the Security Council, the following measures:

- (i) Legislative and/or comparable measures should be enacted to impose an effective oil embargo against South Africa. In this respect, it was recommended that the Intergovernmental Group should undertake a study of existing legislations with a view to achieving a greater uniformity;
- (ii) Effective steps should be taken to ensure the application of the end user clause and other destination restriction measures. The most practical among them is to ensure the strict observance of the certificates of discharge. Captains and crews of ships, custom and oil officials as well as dock workers should be informed of the importance of these documents and documentation procedures;
- (iii) Enforcement measures should be enhanced, *inter alia*, by introducing particularly punitive measures against violators of the oil embargo;
- (iv) Governments should co-operate amongst themselves bilaterally and as member countries of relevant institutions and with intergovernmental and non-governmental organizations. Governments should extend their full co-operation to the Intergovernmental Group;
- (v) Governments should publicize cases of violation of the oil embargo and successful cases of prosecution.

Action by the United Nations

(c) The Panel recommends that the work of the Intergovernmental Group be reinforced through the provision of all necessary technical and administrative requirements.

(d) All States should respond to the inquiries of the Group.

(e) All States should voluntarily provide information to the Intergovernmental Group concerning the oil embargo against South Africa.

Action by intergovernmental organizations

(f) The Panel recommends strengthening the role of other intergovernmental organizations, i.e. OAU, OPEC and others, in the implementation of the oil embargo against South Africa through arrangements for the systematic exchange of information.

Action by non-governmental organizations

(g) The Panel recommends that action be taken by non-governmental organizations in support of the oil embargo against South Africa and urge them to continue their work. Particular attention should be given to the fact that reporting on the oil embargo should be made more comprehensive so as to cover all aspects of the oil embargo and all sources of oil supplies to South Africa.
