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CONCLUSIONS AND RECOMMENDATIONS OF THE PARTICIPANTS IN THE REGIONAL
SYMPOSIUM ON INTERNATIONAL EFFORTS TO IMPLEMENT DECREE NO. 1 FOR
THE PROTECTION OF THE NATURAL RESOURCES OF NAMIBIA, HELD AT GENEVA
FROM 27 TO 31 AUGUST 1984

A. Conclusions

1. The Regional Symposium on International Efforts to Implement Decree No. 1 for the Protection of the Natural Resources of Namibia, 1/ held at Geneva from 27 to 31 August 1984, was recognized by the participants, who included representatives of non-governmental and trade union organizations, lawyers, parliamentarians and others, as representing the culmination of 10 years of activity and effort towards the implementation of the Decree.
2. In view of the persistent plunder and exploitation of Namibia's natural resources, the participants, while recognizing the extensive research and relevant legal work undertaken with regard to the implementation of the Decree, expressed their considerable concern at the time that had elapsed since the Council's enactment of the Decree on 27 September 1974 without its full and effective implementation in those countries whose corporations and concerns had engaged in such plunder and exploitation.
3. In that regard, the participants concluded that it was imperative that the Council and the United Nations Commissioner for Namibia take urgent action to implement the Decree.
4. As a result, the participants identified various options available to the Council to facilitate the implementation of the Decree and stressed that appropriate steps should be taken in that regard as soon as possible.
5. The participants expressed their continuing support to the Council as the legal Administering Authority for Namibia and pledged their full co-operation to the Council when the time came to institute legal proceedings to implement the Decree.

6. The participants condemned the operations of Western-based corporations and concerns in Namibia under South Africa's illegal administration in violation of the Decree, particularly the increased involvement of corporations based in the United Kingdom of Great Britain and Northern Ireland, such as the Rio Tinto Zinc Corporation, Ltd., and Consolidated Gold Fields, Ltd.

7. The participants expressed concern over the tendency in some political circles to view the Namibian question as part of a regional political problem, thereby ignoring the illegality under international law of South Africa's illegal occupation of Namibia. The participants agreed that implementation of the Decree would reverse that tendency and once again emphasize the illegality of South Africa's occupation of Namibia.

B. Recommendations

8. On the basis of research and legal studies in their possession the Council and the Commissioner should take a decision to institute legal proceedings in the Netherlands as soon as possible. They should also instruct lawyers in the Netherlands to prepare appropriate briefs in order to commence legal proceedings in the courts of the Netherlands to implement the Decree at the earliest opportunity.

9. At the same time, the Council and the Commissioner should prepare to undertake similar legal action in other countries known to be involved in mining or transporting, processing or receiving Namibian minerals. Particular attention could be given to Belgian companies, since Belgium is a member of the Council.

10. In order to uphold the principles and rules of international law, the Council and the Commissioner should, in addition:

(a) Send formal letters to Governments and parliaments notifying them of the known operations and activities of their national corporations and concerns in defiance of the Decree and other relevant decisions of the United Nations concerning Namibia;

(b) Send formal letters to each member of each parliament of all States transmitting the text of the Decree and requesting them to take measures to promote its implementation in their own countries;

(c) Notify each corporation, including transport and shipping companies, known to be violating the Decree of their intention to institute legal proceedings and to inform the appropriate insurance companies involved of their actions;

(d) Consider recommending that the Security Council or the General Assembly request another advisory opinion from the International Court of Justice on what measures and sanctions the Security Council should apply to States that refuse to comply with the Decree and the relevant Security Council resolutions;

(e) Invite the relevant political organs of the United Nations, especially the Security Council, to continue to reaffirm the illegality of South Africa's occupation of Namibia, as well as the illegality of the exploitation of the natural resources of Namibia in defiance of the Decree;

(f) Engage expert consultants in those Western States whose corporations and concerns are engaged in the exploitation of Namibia's natural resources to compile a list of corporations and concerns that continue to violate the Decree and to substantiate the nature of such violations. The Council should publish the list in Western countries at regular intervals.

11. The Council should consider and act upon the legal studies prepared by lawyers in Western States as soon as they become available, in order to take appropriate steps to institute legal proceedings to implement the Decree.

12. The Council should inform all Member States and the specialized agencies of the United Nations system, in particular the International Monetary Fund (IMF) and the World Bank, of their responsibility, in accordance with Security Council resolution 276 (1970) of 30 January 1970, to refuse to grant to South Africa the loans it requires to resolve its economic problems which the participants recognize are indirectly a result of the cost of maintaining its illegal occupation of Namibia.

13. The Council should establish and maintain an official register of profits earned by transnational and other corporations through their illegal operations in Namibia and elsewhere. The register could be used in assessing claims for damages submitted after Namibia achieves its independence.

14. In addition to ensuring the widest possible distribution of the Decree, the Council should also prepare and publish, in the appropriate languages:

(a) A leaflet, on the Decree and the illegal exploitation of Namibia's natural resources, to be distributed internationally to, among others, parliamentarians, press and media organizations and non-governmental organizations;

(b) A booklet summarizing the authority of the Council for the Territory of Namibia, the text of the Decree and the reasons for its necessary implementation;

(c) A legal compendium and related documentation concerning the Decree.

15. The Council and the Commissioner should seek the assistance of public relations experts in order to mobilize, with the utmost effectiveness, international public opinion in support of the Namibian cause.

16. The Council should take appropriate action to ensure the territorial integrity of Namibia by actively countering South Africa's claims to the Orange River, Walvis Bay and the offshore islands of Namibia. In order to protect the Territory's marine resources the Council should take steps to proclaim an exclusive economic zone for Namibia in accordance with the provisions of the United Nations Convention on the Law of the Sea. 2/

17. The Council should develop and reinforce relations with the non-governmental organizations, especially those involved with the United Nations, as well as international associations of lawyers, and seek their active co-operation in publicizing and implementing the Decree.

18. The Council should organize appropriate meetings with lawyers and researchers from the non-governmental organizations concerned in order to obtain information with a view to the speedy implementation of the Decree.

19. The Council should give appropriate assistance and encouragement to trade union organizations that take active measures to prevent the movement and transportation of natural resources known to have originated in Namibia in violation of the Decree.

20. The participants, recognizing the importance of action by parliaments for the protection of Namibia's natural resources, draw the attention of the Inter-Parliamentary Union (IPO) to the present conclusions and recommendations and express the hope that it may pursue and intensify its actions in this field.

21. The Council should stimulate further research on strategic shipping links with Namibia and publish a list of tankers and oil companies involved in shipping oil and oil products to Namibia. These petroleum deliveries facilitate the operations of those corporations and concerns exploiting the natural resources of Namibia in violation of the Decree. The Council should urge those Governments exporting or selling crude oil to enact legislation introducing "No South African end user" clauses into sales contracts and to monitor the contracts to verify final destinations. Sanctions should then be applied against oil and shipping companies that violate government policy.

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22. Finally, while recognizing the legal and specialized nature of the Symposium, aimed at ensuring the soonest possible implementation of the Decree, the participants stressed that the implementation of the Decree was itself only one contribution to the liberation struggle of the Namibian people, under the leadership of the South West Africa People's Organization (SWAPO), for freedom and independence.

Notes

1/ For the text of the Decree, see Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 24 (A/35/24), vol. I, annex II.

2/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII (United Nations publication, Sales No. E.84.V.2), document A/CONF.62/122.