

Repertory of Practice of United Nations Organs
Supplement No. 7

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Repertory of Practice of United Nations Organs)

Volume V

ARTICLE 81

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ARTICLE 81

TEXT OF ARTICLE 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

INTRODUCTORY NOTE

1. Studies under Article 81 in the Repertory have in the past treated questions regarding the terms under which trust territories are administered by designated Administering Authorities. However, no further Trusteeship Agreements had been proposed, and studies under the Article in previous *Supplements* have concentrated exclusively on the responsibilities of the United Nations over South West Africa, known since 1968 as Namibia¹. The present *Supplement* deals solely with matters arising from the administration of Namibia by the United Nations and the impediments posed by South Africa's continued illegal occupation of the territory.

2. The study closely follows the structure and headings presented in *Supplement No. 6*, with some exceptions, as noted below.

3. The headings "Establishment of standing committees" and "Other Committees and working groups" have been merged under the single heading "Committee and working groups". The new subheading describes the measure taken by the Council in relation to the Steering Committee, Standing Committees and Drafting Committee.

4. Under the section "Action concerning foreign economic interests in Namibia" the new heading "General" has been added which illustrates the decision taken by the General Assembly to protect the natural resources of Namibia. The following headings "Decree No. 1 for the Protection of the Natural Resources in Namibia" and "Council for Namibia hearing on uranium" describe specific tools that were utilized to protect these resources.

5. Some questions considered under this Article, in particular the endorsement of armed struggle, the intervention of the General Assembly in matters of domestic jurisdiction and the competence of the General Assembly to adopt binding resolutions, are in fact matters that also relate to other Articles of the Charter of the United Nations (Articles 2(3), 2(7) and 10 respectively). They are included in the present study under Article 81 to offer an integrated and complete consideration of all matters related to the question of Namibia as a unique Territory under the de jure administration of the United Nations.

I. GENERAL SURVEY

¹ G A resolution 2372 (XXII).

6. During the period under review, the General Assembly, in particular through its subsidiary organ, the Council for Namibia, continued to act as the legal Administering Authority for Namibia. The Council for Namibia continued to report to the General Assembly. The Council was composed of the same 31 members and elected its President and five Vice-Presidents for a one-year term. As in the previous period, a Steering Committee, Three Standing Committees and a Drafting Committee carried out various functions in the Council. The General Assembly approved every year the measures taken by the Council regarding its internal structure and appointed a United Nations Commissioner for Namibia.

7. The General Assembly, the Security Council and other United Nations bodies continued to recognize the movement South West Africa People's Organization (SWAPO) as the sole and authentic representative of the Namibian people, which in its turn continued to participate in the meetings of the Council of Namibia, the Economic Commission for Africa and in the Specialized Agencies. As in the previous period, the Fourth Committee of the General Assembly heard petitioners who wished to speak on the question of Namibia.

8. During the period under review, the Council for Namibia, acting as a designated authority for Namibia, continued to maintain close co-operation with the Organization of African Unity and to participate in its meetings. The Council also continued to co-operate with the Special Committee on decolonization and the Special Committee against Apartheid on matters pertaining to the question of Namibia. The Special Committee on decolonization continued to keep the question of Namibia under continuous review. As in the previous period, Namibia, represented by the Council enjoyed membership in various specialized agencies. The General Assembly continued to seek the participation of the people of Namibia as full member of the specialized agencies and requested the specialized agencies to grant a waiver of the assessment of Namibia. During the period under review, the General Assembly continued to condemn the links that the International Monetary Fund and the World Bank maintained with South Africa. This issue is discussed in more detail under Article 73, in the context of the implementation of the Declaration on decolonization.

9. As in previous periods, the General Assembly requested the Council for Namibia to continue its consultation on the issuing of travel documents for Namibians. The Council also continued to expand consular and related social assistance services and to issue new travel and identity documents.

10. As in previous periods, assistance to Namibia continued to be provided through the United Nations Educational and Training Program for Southern Africa (UNETPSA). In 1985, the Advisory Committee recommended that the Programme should devote more attention and resources to vocational and technical assistance to South Africans and Namibians. Nonetheless, the primary vehicle of assistance to Namibians continued to be the United Nations Fund for Namibia which concentrated on three main programmes: (a) the Institute for Namibia; (b) the Nationhood Programme for Namibia; and (c)

educational, social and relief assistance. The United Nations Development Programme increased its contribution to the Fund.

11. During the reporting period, the Institute for Namibia completed a comprehensive study on all aspects of economic planning in an independent Namibia. In addition, the General Assembly requested the Institute to finalize, publish and disseminate at an early date a comprehensive reference book on Namibia covering all aspects of the question of Namibia as considered by the United Nations since its inception. The Nationhood Programme for Namibia continued to include two major components, namely manpower training programmes for Namibians and survey and analysis of the Namibian economic and social sectors. The educational, social and relief assistance continued to provide scholarships for individual Namibians.

12. During the period under review, the General Assembly continued to call upon Member States to render sustained and increased support, to the South West Africa People's Organization and to provide material assistance to Namibian refugees. The General Assembly also called upon specific States to discontinue all programmes of development aid and assistance to illegally occupied Namibia, and urged all States to consult the United Nations Council for Namibia regarding any assistance to Namibia.

13. As in previous years, the matters of foreign economic interests in Namibia were addressed by the General Assembly resolutions where it reaffirmed that the natural resources of Namibia, including its marine resources, were the inviolable heritage of the Namibian people, and expressed its deep concern at the depletion of these resources. The Assembly strongly condemned the activities of all foreign economic interests operating in Namibia, which were illegally exploiting the resources of the Territory. The Assembly continued to endorse Decree No. 1 for the Protection of the Natural Resources of Namibia, according to which the exploitation of the natural resources of Namibia by foreign economic interests without the consent of the Council was deemed to be illegal. The General Assembly also endorsed the actions taken by the Council of Namibia for the implementation of Decree No. 1. In particular, the Council decided to take legal action in the domestic courts of States against corporations or individuals involved in the exploitation, transport, processing or purchase of Namibia's natural resources. The Council also proclaimed an exclusive economic zone for Namibia.

14. Although the Council did not hold further hearings² on Namibian uranium, it continued to examine the exploitation of the resource and trade by foreign economic interests. Council's lawyers instituted legal proceedings in national courts.

15. During the period under review, the Government of South Africa continued to refuse to withdraw from the Territory of Namibia, despite repeated calls by the General Assembly. Throughout the period the General Assembly continued to reject the attempts by South Africa of linking the independence of Namibia to extraneous issues. The General Assembly repeatedly expressed its dismay at the failure of the Security Council to discharge effectively its responsibilities for the maintenance of peace and security in

² *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 92-107.

southern Africa and condemned the use of veto power by some permanent members of the Security Council. The General Assembly also urged the Security Council, to impose comprehensive and mandatory sanctions against the South African regime as provided for in Chapter VII of the Charter. During the period under review, an “International Conference for the Immediate Independence of Namibia” was convened by the Council for Namibia and adopted a Final Document, containing a Declaration and a Programme of Action.

16. During the period under review, the General Assembly continued to call upon all Governments to support the actions of the United Nations to defend the national rights of the Namibian people until independence and to isolate the racist regime of South Africa by ceasing all co-operation with the regime in the political, economic, diplomatic, military, nuclear, cultural, sports and other fields. In addition, as in previous periods, the General Assembly referred to specific States that maintained links with the regime and urged them to suspend these links.

17. The General Assembly continued to denounce all fraudulent constitutional and political schemes by which the illegal racist regime of South Africa attempted to perpetuate its colonial domination of Namibia. Following the installation in 1985 of an interim government in Namibia, the General Assembly strongly condemned the imposition of the interim government in Namibia and declared the measure null and void.

18. As described in previous Supplements³, the General Assembly had endorsed the “armed struggle” of the Namibian people in their quest for independence and national unity. During the period under review, the General Assembly consistently reaffirmed the principle. During the period under review, the General Assembly continued to demand that South Africa immediately released all Namibian political prisoners, and that it account for all "disappeared" Namibians. Finally, the General Assembly demanded that all captured freedom fighters be accorded prisoner-of-war status.

³*Repertory, Supplement No.5*, vol. V, under Article 81, paras. 175-183; *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 156-158.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Organization and operation of the United Nations administration in Namibia

1. NATURE OF THE MACHINERY

19. As previously reported⁴, the General Assembly, by its resolution 2145 (XXI) of 27 October 1966, terminated South Africa's mandate over Namibia and assumed direct responsibility for the Territory; and by resolution 2248 (S-V) of 19 May 1967, established the United Nations Council for Namibia as legal Administering Authority of the Territory with full responsibility for the Territory until its independence.

20. During the period under review, the General Assembly continued to adopt resolutions⁵ reaffirming the direct responsibility of the United Nations in regard to Namibia and its people and requesting the Council for Namibia to continue to perform the functions entrusted to it under resolution 2248 (S-V) of 19 May 1967.

21. Pursuant to these resolutions, the Council for Namibia continued to carry out its responsibilities with regard to the administration of Namibia and to report on its progress to the General Assembly.

2. COMPOSITION OF THE UNITED NATIONS COUNCIL FOR NAMIBIA AND APPOINTMENT OF THE UNITED NATIONS COMMISSIONER FOR NAMIBIA

(a) *The United Nations Council for Namibia*

22. As has been reported⁶, the United Nations Council for Namibia was composed of 31 members. During the period under review, members of the United Nations Council for Namibia were: Algeria, Angola, Australia, Bangladesh, Belgium, Botswana, Bulgaria, Burundi, Canada, Chile, China, Colombia, Cyprus, Egypt, Finland, Guyana, Haiti, India, Indonesia, Liberia, Mexico, Nigeria, Poland, Romania, Senegal, Turkey, Union of Soviet Socialist Republics, United Republic of Cameroon, Venezuela, Yugoslavia and Zambia.

23. There was no change in the composition of the Council during the period under review.

(i) *The tenure of the Presidency*

24. During the period under review, the Council for Namibia maintained its previous practice⁷ to elect its President for a term of one year⁸.

⁴ *Repertory, Supplement No. 3*, vol. III, under Article 80, paras. 285-321; see also *Repertory, Supplement No. 5*, vol. IV, under Article 80, paras. 18-22.

⁵ G A resolutions 40/97 A, 41/39 A, 42/14 A, 43/26 A.

⁶ *Repertory, Supplement No. 5*, vol. V, under Article 81, para. 24; *Repertory, Supplement No. 6*, vol. V, under Article 81, paras. 18 and 19.

⁷ *Repertory, Supplement No. 6*, vol. V, under Article 81, paras. 20.

25. As has been reported in the previous *Supplement*⁹, the Council had decided to increase the number of vice-president from three to five. The number of vice-presidents was maintained throughout the period under review. The representatives of Algeria, Guyana, India, Turkey and Yugoslavia served as vice-presidents.

(ii) Committees and working groups

26. As has been reported¹⁰, at the twenty-eight session of the General Assembly, the Council decided to elect a Steering Committee.

27. During the period under review the Steering Committee of the Council maintained the same configuration it had since the thirty-sixth session¹¹. It consisted¹² of the President of the Council, the five vice-presidents, the chairmen of the three Standing Committees and the Vice-Chairman and Rapporteur of the Committee on the United Nations Fund for Namibia.

28. As has been reported¹³, the Council also established three committees, Standing Committee I, Standing Committee II and Standing Committee III, to carry out various functions that would improve its efficiency. During the period under review, the Council reported¹⁴ every year to the General Assembly on the changes in the composition of its Standing Committees.

29. With regard to the responsibilities of the three Standing Committees the Council continued to refer to the terms of references approved¹⁵ at its thirty-fourth session in 1979. Consequently there were no changes in the term of references of Standing Committee I, Standing Committee II and Standing Committee III during the period.

30. In accordance with established practice, the Council appointed a Drafting Committee to prepare the annual report of the Council to the General Assembly. The Council also appointed other working groups as required to fulfil the terms of its mandate¹⁶.

⁸ G A(40), Suppl. No. 24, para. 1044; G A(41), Suppl. No. 24, para. 110; G A(42), Suppl. No. 24, para. 144; G A(43), Suppl. No. 24, para. 70.

⁹ *Repertory, Supplement No. 6*, vol. V, under Article 81, para. 21.

¹⁰ *Repertory, Supplement No. 5*, vol. IV, under Article 81, para. 33.

¹¹ *Repertory, Supplement No. 6*, vol. V, under Article 81, para. 32.

¹² G A(40), Suppl. No. 24, para. 1046; G A(41), Suppl. No. 24, para. 111; G A(42), Suppl. No. 24, para. 150; G A(43), Suppl. No. 24, para. 71.

¹³ *Repertory, Supplement No. 5*, vol. IV, under Article 81, paras. 30-32; *Repertory, Supplement No. 6*, vol. V, under Article 81, paras. 24-25.

¹⁴ G A(40), Suppl. No. 24, paras. 1047-1051; G A(41), Suppl. No. 24, paras. 112-117; G A(42), Suppl. No. 24, paras. 147-150; G A(43), Suppl. No. 24, paras. 72-76.

¹⁵ *Repertory, Supplement No. 6*, vol. V, under Article 81, paras. 26-29.

¹⁶ G A(40), Suppl. No. 24, para. 1055; G A(41), Suppl. No. 24, para. 121; G A(42), Suppl. No. 24, para. 154; G A(43), Suppl. No. 24, para. 80.

31. The General Assembly approved all of the above measures taken by the Council regarding its procedures and organization throughout the period. The relevant resolutions are 40/97 C, 41/39 C, 42/14 C and 43/26 C.

(b) The United Nations Commissioner for Namibia

32. The General Assembly, in paragraph 3, section II, of its resolution 2248 (S-V) of 19 May 1967, had decided that the United Nations Council for South West Africa should entrust such executive or administrative tasks as it deemed necessary to a United Nations Commissioner for South West Africa, who should be appointed by the General Assembly on the nomination of the Secretary General.

33. At its thirty-seventh session the General Assembly appointed Mr. Brajesh Chandra Mishra as United Nations Commissioner for Namibia¹⁷. Mr. Mishra's appointment was extended thereafter by subsequent decisions¹⁸ of the General Assembly until the end of June 1987.

34. At its forty-first session on the Secretary-General's proposal¹⁹, the General Assembly by decision 41/320, adopted without a vote, appointed Mr. Bernt Carlsson as United Nations Commissioner for Namibia for a sixth month term beginning July 1987. Mr. Carlsson's appointment was extended thereafter by subsequent decisions of the General Assembly for the remainder of the period under review²⁰. On 21 December 1988, Mr. Carlsson died in an airplane crash.

3. CONSIDERATION OF COMMUNICATIONS AND REQUESTS FOR HEARINGS

35. As in the previous period, the Council for Namibia did not hear any petitioners. However SWAPO, declared by the General Assembly to be the sole and authentic representative of the Namibian people, continued to participate in the meetings of the Council with observer status, as it had during the previous reporting period.

36. The Fourth Committee heard petitioners who wished to speak on the question of Namibia²¹.

4. PARTICIPATION OF THE PEOPLE OF NAMIBIA IN THE WORK OF THE COUNCIL FOR NAMIBIA AND OTHER UNITED NATIONS BODIES

(b) The Council for Namibia

¹⁷ *Repertory, Supplement No. 6*, vol. V, under Article 81, para. 37.

¹⁸ GA decisions 38/312; 39/325 and 40/317.

¹⁹ A/41/957.

²⁰ GA decisions 42/311; 43/311

²¹ A/40/882; A/41/761; A/42/698; A/43/780.

37. Resolution 3111 (XXVIII) had declared that SWAPO was the “authentic” representative of the Namibian people while resolution 31/146 recognized SWAPO as the “sole and authentic” representative of the Namibian people. These principles were reaffirmed in a number of resolutions²² during the period under review. The General Assembly also reaffirmed that the United Nations Council for Namibia, in the discharge of its responsibilities as the legal Administering Authority for Namibia until independence, would continue to consult with SWAPO by inviting their representatives to New York and away from United Nations headquarters and by sending high-level missions to the provisional headquarters of the organization. In addition, the General Assembly decided to continue to defray the expenses of representatives of SWAPO, whenever the United Nations Council for Namibia so decided.

(b) The Economic Commission for Africa

38. The Council for Namibia, in implementing resolutions of the General Assembly, continued²³ to allocate the necessary funds for the President of SWAPO to represent, in an associate member capacity, the people of Namibia in sessions of the Economic Commission for Africa.

(c) Representation in the specialized agencies

39. During the period under review, the Council continued to discharge the responsibilities conferred upon it by the General Assembly by representing Namibia in conference and meetings of international organizations with a view to protecting and defending the rights and interests of the people of Namibia²⁴. On certain occasions the Council designated members of SWAPO to represent it in the meetings of the specialized agencies and at regional and international conferences hosted by those agencies.

5. RELATIONSHIP OF THE COUNCIL FOR NAMIBIA WITH THE ORGANIZATION OF AFRICAN UNITY, UNITED NATIONS BODIES AND THE SPECIALIZED AGENCIES

(c) Organization of African Unity (OAU)

40. During the period under review, the Council for Namibia,²⁵ continued to maintain close co-operation with the Organization of African Unity and to participate in its meetings²⁶.

²² G A resolutions 40/97; 41/39; 42/14; 43/26.

²³ *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 42-43.

²⁴ GA(40), Suppl. No. 24, para. 735; G A(41), Suppl. No. 24, para. 573; G A(42), Suppl. No. 24, para. 607; G A(43), Suppl. No. 24, paras. 341.

²⁵ G A resolutions 39/50 C; 40/97 C; 41/39 C; 42/14 C.

²⁶ GA(40), Suppl. No. 24, paras. 130-172; G A(41), Suppl. No. 24, paras. 457-553; G A(42), Suppl. No. 24, paras. 543-584; G A(43), Suppl. No. 24, paras. 305-330.

41. As in previous years, the Council participated in meetings of the OAU Assembly of Heads of State and Government and the OAU Council of Ministers, as well as in meetings of its Co-ordinating Committee for the Liberation of Africa. Representatives of OAU participated to various meetings organized by the Council of Namibia.

(b) *United Nations bodies*

(i) *The Special Committee on decolonization and the Special Committee on Apartheid*

42. As previously reported²⁷, in compliance with General Assembly resolution 2671 (XXV) on the question of the policies of apartheid of the Government of South Africa, the Council for Namibia, the Special Committee on decolonization and the Special Committee against Apartheid on 13 September 1971 had adopted a consensus whereby they agreed to cooperate among themselves.

43. During the period under review, the Council continued to co-operate with the Special Committee on decolonization and the Special Committee against Apartheid on matters pertaining to the question of Namibia²⁸.

44. The Special Committee on decolonization continued to keep the question of Namibia under continuous review and to invite the Council for Namibia to attend its meetings on the subject. For its part, the Council invited the Special Committee to its meetings and other events it organized.

(ii) *Advisory Committee on the United Nations Educational and Training Programme for Southern Africa*

45. As previously reported²⁹, the United Nations Educational and Training Program for Southern Africa (UNETPSA) had been established to provide scholarship assistance to southern African students, including Namibian, despite the creation of the United Nations Fund for Namibia.

46. Throughout the period under review, the General Assembly, in its resolutions 40/97 E, 41/39 E, 42/14 E and 43/26 E reaffirmed that Namibians should continue to receive assistance from UNETPSA. Representatives of the United Nations Commissioner for Namibia continued to participate in the meetings of the Advisory Committee of UNETPSA³⁰.

²⁷ *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 51-52.

²⁸ GA(40), Suppl. No. 24, paras. 130-172; GA(41), Suppl. No. 24, paras. 457-553; GA(42), Suppl. No. 24, paras. 543-584; G A(43), Suppl. No. 24, paras. 305-330.

²⁹ *Repertory, Supplement No.4*, vol. II, under Article 81, paras. 89-101.

³⁰ A/40/781, para. 10; A/41/678, para. 10; A/42/628, para. 10; A/43/681, para. 10.

47. In 1985, in order to promote the development and expansion of the Programme, among other provisions, the Advisory Committee recommended³¹ that the Programme should devote more attention and resources to vocational and technical assistance to South Africans and Namibians. At the same time, it should continue to provide educational assistance to South African and Namibian students for graduate and post-graduate work in priority fields of study.

(c) The specialized agencies and other organizations within the United Nations system

48. During the period under review, the General Assembly³² continued to seek the participation of the people of Namibia, represented by the Council of Namibia, as members of the specialized agencies. The General Assembly also requested to all specialized agencies and other organizations of the United Nations system to grant a waiver of the assessment of Namibia during the period in which the United Nations Council for Namibia represented it.

49. As in the previous period³³, Namibia, represented by the Council³⁴ enjoyed membership in UNCTAD, the Executive Committee of the Programme of UNHCR, ILO, FAO, UNESCO, ITU, UNIDO and IAEA. Namibia was also an associate member of WHO and was a signatory to the Final Act of the Third United Nations Conference on the Law of the Sea, as well as the United Nations Convention on the Law of the Sea which it had ratified. The Council for Namibia continued to seek membership for Namibia in all appropriate specialized agencies and other United Nations bodies.

50. During the period under review, the Council represented Namibia in international conferences sponsored by the United Nations and specialized agencies and in other international meetings. In certain occasions, representatives of SWAPO accompanied the delegation of the Council³⁵.

51. At the same time, during the reporting period, the General Assembly³⁶ continued to condemn the links that the International Monetary Fund (IMF) and the World Bank maintained with South Africa. The issue is discussed in more detail under Article 73, in the context of the implementation of the Declaration on decolonization.³⁷

52. In its resolutions the General Assembly continued to request all committees and other subsidiary bodies of the General Assembly and of the Economic and Social Council to invite the United Nations Council for Namibia to participate whenever the rights and

³¹ A/40/781 para. 14 O.

³² G A resolutions 40/97 C; 41/39 C; 42/14 C; 43/26 C.

³³ *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 55-65.

³⁴ GA(40), Suppl. No. 24, para. 738; GA(41), Suppl. No. 24, para. 576; GA(42), Suppl. No. 24, para. 610; G A(43), Suppl. No. 24, para. 342.

³⁵ GA(40), Suppl. No. 24, paras. 742-776; GA(41), Suppl. No. 24, paras. 580-608; GA(42), Suppl. No. 24, paras. 613-639; GA(43), Suppl. No. 24, paras. 344-361.

³⁶ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

³⁷ See in the present *Supplement*, under Article 73, paras. 191-197.

interests of Namibians were discussed, and to consult closely with the Council before submitting any draft resolution which may involve the rights and interests of Namibians.

6. ASSISTANCE TO NAMIBIANS OUTSIDE THE TERRITORY

(a) Travel and identity documents

53. As previously reported³⁸, by its resolution 2372 (XXII) of 12 June 1968, the General Assembly requested the Council for Namibia to continue, with a sense of urgency, its consultation on the issuing to Namibians of travel documents to enable them to travel abroad.

54. During the period under review, the Council for Namibia, through its offices at Lusaka and Gaborone, continued to expand consular and related social assistance services to Namibians. The offices continued to issue new travel and identity documents and effected renewals and cancellations of such documents³⁹.

(b) United Nations Fund for Namibia

55. As previously reported⁴⁰, the activities of the fund had been streamlined to concentrate on three main programmes: (a) the Institute for Namibia; (b) the Nationhood Programme for Namibia; and (c) educational, social and relief assistance.

56. Since voluntary contributions were the major source of financing of the Fund, the Vice-Chairman and Rapporteur of the Committee on the Fund and the United Nations Commissioner for Namibia carried out fund-raising activities during the period under review to ensure the financing of activities of the Institute, the Nationhood Programme and other programmes financed by the Fund⁴¹.

57. In its resolutions 40/97 and 41/39 the General Assembly called upon the United Nations Development Programme to raise the indicative planning figure for Namibia for the 1987-1991 programming cycle. In resolutions 42/14 and 43/26 the General Assembly expressed its appreciation to the United Nations Development Programme for its decision to increase the indicative planning figure for Namibia.

(i) Institute for Namibia

58. As previously reported⁴², the General Assembly, by its resolution 3296 (XXIX) on the United Nations Fund for Namibia endorsed the Council's decision to establish an

³⁸ *Repertory, Supplement No.6*, vol. V, under Article 81, para. 66.

³⁹ GA(40), Suppl. No. 24, paras. 1018, 1030; GA(41), Suppl. No. 24, paras. 823, 841; GA(42), Suppl. No. 24, paras. 848, 855; GA(43), Suppl. No. 24, paras. 499, 504.

⁴⁰ *Repertory, Supplement No.5*, vol. IV, under Article 81, paras. 120-143.

⁴¹ GA(40), Suppl. No. 24, para. 865; GA(41), Suppl. No. 24, para. 704; GA(42), Suppl. No. 24, para. 712; GA(43), Suppl. No. 24, para. 417.

⁴² *Repertory, Supplement No.5*, vol. IV, under Article 81, paras. 141-143.

Institute for Namibia, to undertake research, training, planning and related activities with special reference to the struggle for freedom of the Namibians and the establishment of an independent State of Namibia.

59. During the period under review, the Institute was financed by the Council through the Fund. Additional financial assistance was also provided by allocations from the UNDP indicative planning figure for Namibia and by UNHCR⁴³. The Council for Namibia continued to report annually on the programmes and activities of the Institute.

60. By resolution 37/233 E of 20 December 1982, the General Assembly requested the Institute to prepare, in co-operation with SWAPO, the Office of the Commissioner for Namibia and UNDP, a comprehensive study on all aspects of economic planning in an independent Namibia⁴⁴. The study was completed and published in 1986.

61. In resolution 40/97 E the General Assembly noted “with appreciation the completion by the United Nations Institute for Namibia, in co-operation with the South West Africa People's Organization, the Office of the United Nations Commissioner for Namibia and the United Nations Development Programme, of a comprehensive document on all aspects of economic planning in an independent Namibia” and commended “the Secretary-General for providing substantive support through the Office of the Commissioner for the preparation of that document”.

62. In addition, in resolutions 40/97 E and 41/39 E the General Assembly requested “the United Nations Council for Namibia, through the United Nations Institute for Namibia, to finalize, publish and disseminate at an early date a comprehensive reference book on Namibia covering all aspects of the question of Namibia as considered by the United Nations since its inception”.

(ii) *Nationhood Programme for Namibia*

63. By its resolution 31/153, the General Assembly decided to launch, in support of the nationhood of Namibia, a comprehensive development-oriented programme of assistance within the United Nations system covering the period of struggle for independence and the initial years of independence. By the same resolution, the Assembly called upon the Council for Namibia to elaborate, in consultation with SWAPO, guidelines and policies for this programme and to direct and co-ordinate its implementation.

64. The Nationhood Programme consisted of two major components: (a) manpower training programmes for Namibians; and (b) surveys and analyses of the Namibian

⁴³ GA(40), Suppl. No. 24, para. 905; GA(41), Suppl. No. 24, para. 744; GA(42), Suppl. No. 24, para. 750; GA(43), Suppl. No. 24, para. 443

⁴⁴ See GA(41), Suppl. No. 24, para. 749 and GA(42), Suppl. No. 24, para. 756, on completion and publishing of the study.

economic and social sectors. Throughout the period, the Council for Namibia⁴⁵ continued to report to the General Assembly on the implementation and financing of the Programme.

65. During the period under review the General Assembly⁴⁶ continued to request the Council for Namibia to co-ordinate, plan and direct the Programme in consultation with SWAPO. Moreover, as in previous periods, it requested the specialized agencies and other organizations of the United Nations system to make every effort to expedite the execution of the Nationhood Programme for Namibian projects.

(iii) *Educational, social and relief assistance*

66. During the period under review the main activity in this category was the scholarship programme for individual Namibians. Assistance was also provided to finance vocational and technical training; to provide assistance in the fields of health and medical care, nutrition and social welfare; to acquire books and periodicals for refugee camps and SWAPO offices; and to facilitate the attendance of Namibian representatives at international seminars, meetings and conferences⁴⁷.

(c) *The specialized agencies and other organizations within the United Nations system*

(i) *Withholding of assistance from South Africa*

67. As in previous *Supplements*⁴⁸ the question of withholding of assistance from South Africa by the specialized agencies and other organizations within the United Nations system is not dealt with under Article 81. It is mentioned here in order to draw attention to the consistent adoption throughout the period under review of resolutions by the General Assembly urging the specialized agencies to withhold assistance from South Africa until it recognized the colonial people's rights to self-determination. The Assembly adopted these provisions in connection with the withholding of assistance from colonial Powers in the context of the Declaration on decolonization. Consequently, in this *Supplement*, the matter is dealt with under Article 73d. The relevant General Assembly resolutions of the period under review were: 40/56 of 2 December 1985, 40/53 of 2 December 1985, 41/15 of 31 October 1986, 42/75 of 4 December 1987, and 43/30 of 22 November 1988.

68. In addition, the resolutions on the "Question of Namibia"⁴⁹ included paragraphs that called "upon all specialized agencies, in particular the International Monetary Fund, to ensure the termination of all collaboration with, and assistance to, the racist regime of

⁴⁵ GA(40), Suppl. No. 24, paras. 875-898; GA(41), Suppl. No. 24, paras. 714-741; GA(42), Suppl. No. 24, paras. 722-747; GA(43), Suppl. No. 24, paras. 429-442.

⁴⁶ G A resolutions 40/97 E; 41/39 E; 42/14 E; 43/26 E.

⁴⁷ GA(40), Suppl. No. 24, para. 915; GA(41), Suppl. No. 24, para. 754; GA(42), Suppl. No. 24, para. 760; GA(43), Suppl. No. 24, para. 450.

⁴⁸ *Repertory, Supplement No.5*, vol. IV, under Article 81, para. 144; *Repertory, Supplement No.6*, vol. V, under Article 81, para. 79.

⁴⁹ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

South Africa, since such assistance serves to augment the military capability of the Pretoria regime, thus enabling it not only to continue the brutal repression in Namibia and South Africa itself, but also to commit acts of aggression against independent neighbouring States”.

69. In paragraph 40 of its resolution 42/14 A, the General Assembly called “upon the Government of the Federal Republic of Germany to discontinue all programmes of development aid and assistance to illegally occupied Namibia. The issue is discussed in paragraphs 103-107 below.

(ii) *Assistance to Namibians and the South West Africa People’s Organization*

70. During the period under review, the General Assembly⁵⁰ continued to call upon Member States and the specialized agencies and other organizations of the United Nations system to render sustained and increased support, as well as material, financial, military and other assistance, to the South West Africa People's Organization so as to enable it to intensify its struggle for the liberation of Namibia.

71. The General Assembly also urged all Governments, the specialized agencies and other intergovernmental organizations to provide increased material assistance to the thousands of Namibian refugees who had been forced by the oppressive policies of the apartheid regime to flee Namibia, especially into the neighbouring front-line States.

7. ACTION CONCERNING FOREIGN ECONOMIC INTERESTS IN NAMIBIA

(a) *General*

72. As in previous years, the matters of foreign economic interests in Namibia were reflected in the General Assembly resolutions adopted annually under the headings “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”⁵¹ and “Question of Namibia”⁵².

73. In these resolutions, the General Assembly reaffirmed that the natural resources of Namibia, including its marine resources, are the inviolable heritage of the Namibian people, and expressed its deep concern at the depletion of these resources, particularly uranium deposits, as a result of the plunder by South Africa and certain Western and other foreign economic interests. The General Assembly also declared that, the incessant exploitation of the human and natural resources of the Territory and the accumulation and

⁵⁰ Ibid.

⁵¹ G A resolutions 40/52; 41/14; 42/74; 43/29.

⁵² G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

repatriation of huge profits, the foreign economic, financial and other interests constituted a major obstacle to its independence.

74. The General Assembly strongly condemned “the activities of all foreign economic interests operating in Namibia which are illegally exploiting the resources of the Territory, and demands that these interests comply with all the relevant resolutions and decisions of the United Nations by immediately refraining from any new investment or any other activity in Namibia, by withdrawing from the Territory and by putting an end to their co-operation with the illegal South African administration”.

(b) Decree No. 1 for the Protection of the Natural Resources in Namibia

75. As reported in previous *Supplements*⁵³, the General Assembly endorsed Decree No. 1 for the Protection of the Natural Resources of Namibia, enacted by the United Nations Council for Namibia on 27 December 1974, according to which the exploitation of the natural resources of Namibia by foreign economic interests without the consent of the Council was deemed to be illegal.

76. During the period under review the General Assembly⁵⁴ reiterated that all activities of foreign economic interests in Namibia were illegal under international law and that all the foreign economic interests operating in Namibia were liable to pay damages to the future lawful Government of an independent Namibia.

77. The General Assembly endorsed actions taken by the Council of Namibia for the implementation of Decree No. 1. In particular in 1985, the Council decided⁵⁵ to take legal action in the domestic courts of States against corporations or individuals involved in the exploitation, transport, processing or purchase of Namibia's natural resources, as part of its efforts to give effect to Decree No. 1 for the Protection of the Natural Resources of Namibia, with such legal action to commence in the Netherlands.

78. In its resolution 40/97, 41/39, 42/14, and 43/26 the General Assembly approved the legal action taken by the Council in domestic courts of States. In the same resolutions, the General Assembly also endorsed the decision⁵⁶ by the United Nations Council for Namibia to proclaim a maritime Exclusive Economic Zone for Namibia, and stated that any action for the implementation of that decision should be taken in consultation with the South West Africa People's Organization, the representative of the people of Namibia.

79. In the same resolutions, the General Assembly also called upon the United Nations Council for Namibia to take the necessary steps to compile statistical information on the wealth illegally extracted from Namibia with a view to assessing the extent of

⁵³ *Repertory, Supplement No.5*, vol. IV, under Article 81, paras. 151-159; *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 85-91.

⁵⁴ G A resolutions 40/97; 41/39; 42/14 ; 43/26.

⁵⁵ GA(40), Suppl. No. 24, paras. 982-983.

⁵⁶ Decision taken at the extraordinary plenary meetings, held at Vienna from 3 to 7 June 1985

compensation eventually due to an independent Namibia and it urged the Council to consider the promulgation of additional legislation in order to protect and promote the interests of the people of Namibia and to implement effectively such legislation.

80. The General Assembly requested all Member States, “particularly those States whose corporations are engaged in the exploitation of Namibian resources, to take all appropriate measures, including legislative and enforcement action, to ensure the full application of, and compliance by all corporations and individuals within their jurisdiction with, the provisions of Decree No. 1 for the Protection of the Natural Resources of Namibia”.

81. In 1985, in response to General Assembly resolution 37/233 D, the Office of the Commissioner for Namibia published a reference book on trans-national corporations operating or investing in Namibia and in 1986 a book on Namibian perspective for national reconstruction and development.

(c) Council for Namibia hearings on uranium

82. As reported in the previous *Supplement*⁵⁷, pursuant to resolution 31/148, the Council for Namibia held hearings on Namibia uranium in New York, from 7 to 11 July 1980. Although during the period under review the Council did not hold further hearings on the subject, it continued “to examine the exploitation of and trade in Namibia uranium by foreign economic interests and report on its findings to the General Assembly”.

83. Pursuant to the decision⁵⁸ to promote actively the implementation of Decree No.1 through legal action in the domestic courts of States, on 14 July 1987, on instruction of the Council, the Council’s lawyers instituted legal proceedings in the District Court of The Hague against Urenco Nederland V.O.F. and Ultra-Centrifuge Nederland N.V., its state controlled managing partner, as well as against the Government of the Netherlands. By instituting the proceedings, the Council sought to prevent Urenco Nederland V.O.F. from filling orders, which were based on purchase of Namibian uranium⁵⁹.

84. Consequent upon the institution of legal proceedings in the District Court of The Hague, the Government of the Netherlands maintained⁶⁰ that Netherlands electricity company did not buy Namibian uranium and that it did not consider the activities of Urenco to be in conflict with Decree No. 1.

85. During the period under review, the General Assembly⁶¹ continued to call “upon the Governments of all States, particularly those whose corporations are involved in the mining and processing of Namibian uranium, to take all appropriate measures in compliance with United Nations resolutions and decisions and Decree No. 1 for the Protection of the Natural Resources of Namibia, including the practice of requiring

⁵⁷ *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 92-95.

⁵⁸ See paras. 77-78.

⁵⁹ GA(43), Suppl. No. 24, para. 479.

⁶⁰ A/42/414

⁶¹ G A resolutions 40/97; 41/39; 42/14 ; 43/26.

negative certificates of origin, to prohibit State-owned and other corporations, together with their subsidiaries, from dealing in Namibian uranium and from engaging in any uranium-prospecting activities in Namibia”.

86. In the same resolutions, the General Assembly also requested the Governments of the Federal Republic of Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, which operate the Urenco uranium-enrichment plant, to have Namibian uranium specifically excluded from the treaty⁶² that regulates the activities of Urenco.

B. The illegal presence of South Africa in Namibia

1. NON-WITHDRAWAL OF SOUTH AFRICA FROM THE TERRITORY

87. During the period under review, the Government of South Africa continued to refuse to withdraw from the Territory of Namibia, despite repeated calls by the General Assembly⁶³ that continued to strongly condemn “the South African regime for its continued illegal occupation of Namibia in defiance of the resolutions of the United Nations relating to Namibia”.

88. In these resolutions, the Assembly reaffirmed that Security Council resolutions 385 (1976) and 435 (1978), relating to the United Nations plan for the independence of Namibia, constituted the only internationally accepted basis for a peaceful settlement of the Namibian problem, and demanded their immediate and unconditional implementation.

89. Throughout the period the General Assembly⁶⁴ continued to reject the attempts by South Africa of linking the independence of Namibia and extraneous issues, such as the presence of Cuban forces in Angola. In particular the General Assembly rejected “the policies of ‘constructive engagement’ and ‘linkage’, which have served to encourage the racist regime of South Africa to continue its illegal occupation of Namibia, and called for their abandonment so that resolutions and decisions of the United Nations on the question of Namibia could be implemented”.

90. In resolution 40/97, the General Assembly for the first time, rejected “all manoeuvres aimed at diverting attention from the central issue of the decolonization of Namibia by introducing East-West confrontation to the detriment of the legitimate aspirations of the Namibian people to self-determination, freedom and national independence”. Resolutions 41/39, 42/14, and 43/26 maintained similar provisions.

⁶² Treaty of Almelo.

⁶³ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

⁶⁴ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

(a) Question of the competence of the General Assembly to recommend Chapter VII actions to the Security Council

91. United Nations efforts to obtain South Africa's withdrawal of its illegal occupation from Namibia and thus enable the people of that Territory to exercise their right to self-determination and independence continued during the period under review.

92. During the period under review, the General Assembly⁶⁵ continued to discuss the actions of the Security Council in relation to actions under Chapter VII of the Charter, including the application of sanctions. In particular, the Assembly repeatedly expressed its dismay at the failure of the Security Council to discharge effectively its responsibilities for the maintenance of peace and security in southern Africa and condemned the use of the veto by two permanent members of the Security Council. In particular, the General Assembly⁶⁶ referred to the use of veto powers on 15 November 1985 and 9 April 1987, "as a result of which the Council was prevented from taking effective measures under Chapter VII of the Charter [...]."

93. The General Assembly strongly urged the Security Council, to impose comprehensive and mandatory sanctions against that regime⁶⁷ as provided for in Chapter VII of the Charter. In resolutions 40/97 and 42/14 the General Assembly declared that "comprehensive mandatory sanctions under Chapter VII of the Charter of the United Nations are the most effective measures to ensure South Africa's compliance with the resolutions and decisions of the United Nations".

94. In 1985, a draft resolution⁶⁸ that would have decided to impose mandatory selective sanctions under article 41, Chapter VII was submitted to the Security Council. The draft was not adopted owing to the negative votes of two permanent members. In 1987, another draft resolution⁶⁹ was submitted to the Security Council by which the Council would have decided to impose comprehensive mandatory sanctions. Owing to the negative votes of two permanent members, the draft was not adopted.

95. During the discussions in the General Assembly the question of the competencies of the General Assembly and the Security Council were raised. At the fortieth session of the General Assembly, Finland⁷⁰ stated that "only the Security Council can adopt decisions binding on Member States and that the permanent members of the Security Council must be allowed to exercise their right of veto". The United States⁷¹ stated: "The right of veto a

⁶⁵ G A resolutions 40/97 A; 41/39 A; 42/14 A

⁶⁶ G A resolution 42/14

⁶⁷ In G A resolutions 40/97 the word "regime" reads "country" instead

⁶⁸ S/17618 and the revised version S/17633

⁶⁹ S/18785

⁷⁰ GA (40), Plenary, 115th mtg., Finland, para. 32.

⁷¹ Ibid., paras. 34-35

draft resolutions is enshrined in the United Nations Charter”. Other delegations⁷² expressed similar views throughout the period under review.

96. At the fortieth session, the General Assembly⁷³ decided that “an International Conference for the Immediate Independence of Namibia should be held in Western Europe in 1986, preceding the special session of the General Assembly on the question of Namibia”. In pursuance of this resolution, the Council for Namibia convened a conference in Vienna in 1986. The Conference adopted by acclamation a Final Document, containing a Declaration and a Programme of Action.⁷⁴

97. At the forty-first session, the General Assembly⁷⁵ decided that “the United Nations Council for Namibia shall hold extraordinary plenary meetings in southern Africa during the week of 19 May 1987 and that these meetings should be provided with verbatim records”. The Council for Namibia held extraordinary plenary meetings at Luanda and adopted the Luanda Declaration and Programme of Action⁷⁶. Among other things the Programme recalled that the full implementation of the Council’s mandate as the legal Administering Authority for Namibia had been prevented solely by South Africa’s intransigence. The Council decided to take in the future specific measures to establish its administration in the Territory.

98. In resolution 41/39B, the General Assembly requested the Security Council to meet urgently in order to exercise its authority with regard to Namibia and to undertake decisive action in fulfilment of the direct responsibility of the United Nations over Namibia. In paragraph 15 of resolution 42/14 B, the General Assembly “urgently requests the Security Council to set a date not later than 31 December 1987 for the commencement of the implementation of its resolution 435 (1978), bearing in mind that all the necessary conditions have already been met, and to commit itself to applying the relevant provisions of the Charter, including comprehensive and mandatory sanctions under Chapter VII, in the event that South Africa continues to defy the Council and, in this connection, urges the Council to undertake forthwith consultations for the composition and emplacement of the United Nations Transition Assistance Group in Namibia”.

99. During the debate in the Plenary, some African States⁷⁷ expressed their concerns regarding the imposition of mandatory sanctions against South Africa and reaffirmed their inability to participate in the imposition of these measures because of their close economic links with South Africa.

⁷² GA (40), Plenary, 115th mtg., Belgium, para. 43; Luxembourg, para 27; GA (41), Plenary, 79th mtg., Belgium, para. 39; Norway, para 76; Denmark, para. 51

⁷³ G A resolution 40/97 D.

⁷⁴ A/CONF.138/11 & Add.1

⁷⁵ G A resolution 41/39 C.

⁷⁶ A/42/325-S/18901

⁷⁷ GA (40), Plenary, 115th mtg., Botswana, para. 37; Luxembourg, para 27; GA (42), Plenary, 59th mtg., Malawi, para. 71; Lesotho, para 96.

100. In 1986, the General Assembly held its fourteen special session, its third dealing with the issue of Namibia. Resolution S-14/1, adopted during this session, reiterated that comprehensive mandatory sanctions under Chapter VII of the Charter are the most effective peaceful measures to ensure the compliance of racist South Africa [...] and urged the Security Council to exercise its authority “through the adoption of comprehensive mandatory sanctions under Chapter VII of the Charter”.

101. Speaking in explanation of vote, the representative of the United Kingdom⁷⁸ stated: “Our respect for the division of competence among the main bodies of the Organization remains unchanged. The Security Council alone is authorized to take decisions binding upon Member States”. The representative of Togo⁷⁹ stated, “My country believes that the imposition of comprehensive mandatory economic sanctions against South Africa is the only effective way of ensuring that the regime will put an end to its illegal occupation of the international Territory of Namibia”.

102. In relations to the public campaign to impose sanctions on South Africa, in resolution 40/97 C the General Assembly requested the United Nations Council for Namibia to continue intensifying the international campaign for the imposition of comprehensive mandatory sanctions against South Africa under Chapter VII of the Charter of the United Nations. In resolution 41/39 C, the General Assembly welcomed “the world-wide support that has been given to the call for sanctions against South Africa”. Finally, in resolution 42/14 C and 43/26 C, the General Assembly requested “the United Nations Council for Namibia, in co-operation with the Department of Public Information of the Secretariat and in consultation with the South West Africa People's Organization to intensify the international campaign for the imposition of comprehensive and mandatory sanctions against South Africa under Chapter VII of the Charter of the United Nations”.

(b) Question of competence of the General Assembly to request Member States to take specific actions to isolate South Africa

103. During the period under review, the General Assembly⁸⁰, in its resolutions under the headings “Question of Namibia” continued to call “upon all Governments, especially those which have close links with South Africa, to support, in co-operation with the United Nations Council for Namibia, the actions of the United Nations to defend the national rights of the Namibian people until independence and to isolate the racist regime of South Africa”. The General Assembly continued to call upon all States “to cease all co-operation with that [South African] regime in the political, economic, diplomatic, military, nuclear, cultural, sports and other fields”. More specifically, it reiterated its request to all States “to take legislative, administrative and other measures individually and collectively, as appropriate, in order effectively to isolate South Africa [...]”

⁷⁸ G A, 14th Special Session, 7th mtg., United Kingdom, paras. 8-10.

⁷⁹ Ibid., para 11.

⁸⁰ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

104. The General Assembly also addressed specific measures that Member States should take with the intent of isolating the South African regime. In particular, the General Assembly called upon States to terminate their collaboration with South Africa in the nuclear field and in the military field. In that regard, the General Assembly called upon “all States to implement fully the arms embargo imposed against South Africa under Security Council resolution 418 (1977)”.

105. In addition, as in previous periods, the General Assembly referred to specific States when it deplored “the establishment and operation by racist South Africa of the so-called Namibia Information Offices in France, the Federal Republic of Germany, the United Kingdom of Great Britain and Northern Ireland and the United States of America, aimed at legitimizing its puppet institutions in Namibia” and when it requested “the Governments of the Federal Republic of Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, which operate the Urenco uranium-enrichment plant, to have Namibian uranium specifically excluded from the Treaty of Almelo, which regulates the activities of Urenco”.

106. At the forty-second session, the General Assembly⁸¹ called “upon the Government of the Federal Republic of Germany, as a measure of its recognition of the direct responsibility of the United Nations over Namibia and the United Nations Council for Namibia as the sole legal Administering Authority for the Territory until independence, to discontinue all programmes of development aid and assistance to illegally occupied Namibia, and urges all States to consult the United Nations Council for Namibia regarding any such assistance, in order to ensure that it will not prolong the illegal occupation of Namibia by the Pretoria regime and the colonial institutions in the Territory”. Resolution 43/26 A of the following year contained similar provision.

107. In explanation of its vote, the representative of Germany⁸² stated that: “There is no co-operation between the Federal Government and illegally occupied Namibia. [...] My country has been willing to mitigate, on humanitarian grounds, the suffering of the Namibian people and to prepare the Namibian population for independence”. Explaining their votes, some delegations⁸³ rejected the practice of name-calling and placing blame on specific countries.

(c) Question of the use of armed struggle by the people of Namibia to achieve independence and national unit

⁸¹ G A resolutions 42/14.

⁸² GA (40), Plenary, 59th mtg., Federal Republic of Germany, para. 59-60

⁸³ GA (40), Plenary, 115th mtg., United States, para. 33; United Kingdom, para 44-45; Canada, para 48; Australia, para 51; Ireland, para. 53; Turkey, para. 82; Chile, para 83; GA (41), Plenary, 79th mtg., United Kingdom, para. 26; Germany, para. 28; Ireland, para 31; Australia, para. 37; GA (40), Plenary, 59th mtg., Sweden, para. 88 ; Chile, para 90; New Zealand , para 92, Australia, para. 93.

108. As described in previous *Supplements*⁸⁴, the General Assembly had endorsed the “armed struggle” of the Namibian people in their quest for independence and national unity.

109. During the period under review, the General Assembly⁸⁵ consistently reaffirmed its “full support for the armed struggle of the Namibian people under the leadership of the South West Africa People’s Organization”, as well as the legitimacy of their struggle by all the means at their disposal, including armed struggle, against the illegal occupation of their territory by South Africa” and supported the “armed struggle of the Namibian people, led by the South West Africa People’s Organization, to achieve self-determination, freedom and national independence in a united Namibia”.

110. As reported in the previous *Supplement*⁸⁶ the General Assembly declared that “South Africa's illegal occupation of Namibia constitutes an act of aggression against the Namibian people in terms of the Definition of Aggression contained in General Assembly resolution 3314 (XXIX)”. The Assembly⁸⁷ reiterated this provision throughout the period under review.

2. SOUTH AFRICAN LAWS AND PRACTICES AFFECTING THE TERRITORY

111. As already reported,⁸⁸ in its resolution 2288(XXII) of 7 December 1967, the General Assembly had mandated the Council for Namibia to take “urgent and effective measures to put an end to laws and practices established in the Territory” of Namibia by the Government of South Africa which were contrary to the purposes and principles of the Charter of the United Nations.

112. In the previous period⁸⁹, in resolution 37/233 A the General Assembly denounced all fraudulent constitutional and political schemes by which the illegal racist regime of South Africa attempted to perpetuate its colonial domination of Namibia, and, in particular, called upon the international community to continue to refrain from according any recognition or extending any co-operation to any regime imposed by the illegal South African administration upon the Namibian people in violation of Security Council resolutions 385 (1976), 435 (1978), 439 (1978), and of other relevant resolutions of the General Assembly and the Council. In the same resolution, the General Assembly declared that all so-called laws and proclamation, issued by the illegal occupation regime were illegal, null and void. During the period under review, in resolutions 40/97, 41/39, 42/14, and 43/26 the General Assembly reiterated the provisions of resolution 37/233 A.

⁸⁴ *Repertory, Supplement No.5*, vol. IV, under Article 81, paras. 175-183; *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 156-158.

⁸⁵ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

⁸⁶ *Repertory, Supplement No.6*, vol. V, under Article 81, para. 158

⁸⁷ G A resolutions 40/97 A; 41/39 A; 42/14 A; 43/26 A.

⁸⁸ *Repertory, Supplement No.4*, vol. II, under Article 81, para. 165.

⁸⁹ *Repertory, Supplement No.6*, vol. V, under Article 81, paras. 164-165.

113. In its reports⁹⁰, The Council for Namibia continued to bring to the attention of the General Assembly those laws and practices, and to make recommendations for their termination. During the period, the Government of South Africa continued to enact and apply laws in Namibia. In 1985, the Council reported that the South African regime, in an attempt to entrench further its control of the Territory, installed an “interim government at Windhoek through the so-called Multy-Party Conference.

114. The General Assembly in its resolution 40/97 A strongly condemned “South Africa for the imposition of the so-called interim government in Namibia on 17 June 1985, declares this measure null and void, and affirms that this new manoeuvre clearly shows once again that Pretoria does not have the slightest intention of respecting the United Nations plan, as embodied in Security Council resolution 435 (1978), and is seeking, quite to the contrary, to consolidate its illegal hold over the Territory by creating puppet political institutions to serve its own interests”. In the same resolution, the General Assembly also took note of Security Council resolution 566 (1985) by which the Council, inter alia, condemned South Africa for its installation of a so-called interim government in Namibia and further condemned that regime for its obstruction of the implementation of Council resolution 435 (1978) by insisting on conditions contrary to the provisions of the United Nations plan for the independence of Namibia as embodied in that resolution”.

115. The General Assembly continued to condemn the imposition of the so-called interim government in resolutions S-14/1, 41/39 A, 42/14 A, 43/26 A.

116. During the reporting period, the Economic and Social Council⁹¹ dealt with the situation in Namibia. In particular in resolution 1986/23, it denounced, among other things, “the forceful conscription of Namibian men and women between the ages of 17 and 55 years into the racist army in order to consolidate and facilitate widespread repression throughout the country”.

3. ILLEGAL ARREST AND TRIALS OF NAMIBIANS BY SOUTH AFRICA

117. During the period under review, the General Assembly⁹² continued to demand “that South Africa immediately release all Namibian political prisoners, including all those imprisoned or detained under the so-called internal security laws, martial law or any other arbitrary measures, whether such Namibians have been charged or tried or are being held without charge in Namibia or South Africa”. The Council for Namibia⁹³ continued to maintain under review the social condition in the Territory and the adoption of new legislation.

⁹⁰ GA(40), Suppl. No. 24; GA(41), Suppl. No. 24; GA(42), Suppl. No. 24; GA(43), Suppl. No. 24.

⁹¹ ECOSOC resolutions 1985/59, 1986/23, 1987/78, 1988/53.

⁹² G A resolutions 40/97 ; 41/39 ; 42/14 ; 43/26.

⁹³ GA(40), Suppl. No. 24, paras. 414-422; GA(41), Suppl. No. 24, paras. 385-388; GA(42), Suppl. No. 24, paras. 456-460; GA(43), Suppl. No. 24, paras. 254-264.

118. In addition, the Assembly continued to demand “that South Africa account for all "disappeared" Namibians and release any who were still alive, and declared that South Africa should be liable to compensate the victims, their families and the future lawful Government of an independent Namibia for the losses sustained”.

119. Finally, the Assembly⁹⁴ demanded that all captured freedom fighters be accorded prisoner-of-war status as called for by the Geneva Convention and requested the United Nations Council for Namibia, in co-operation with the Department of Public Information, to prepare and disseminate, in consultation with the South West Africa People's organization, a list of Namibian political prisoners.

⁹⁴ G A resolutions 40/97 D; 41/39 D; 42/14 D; 43/26 D.