

Decrees that

1. No person or entity, whether a body corporate or unincorporated, may search for, prospect for, explore for, take, extract, mine, process, refine, use, sell, export, or distribute any natural resource, whether animal or mineral, situated or found to be situated within the territorial limits of Namibia without the consent and permission of the United Nations Council for Namibia or any person authorized to act on its behalf for the purpose of giving such permission or such consent;
2. Any permission, concession or licence for all or any of the purposes specified in paragraph 1 above whensoever granted by any person or entity, including any body purporting to act under the authority of the Government of the Republic of South Africa or the "Administration of South West Africa" or their predecessors, is null, void and of no force or effect;
3. No animal resource, mineral, or other natural resource produced in or emanating from the Territory of Namibia may be taken from the said Territory by any means whatsoever to any place whatsoever outside the territorial limits of Namibia by any person or body, whether corporate or unincorporated, without the consent and permission of the United Nations Council for Namibia or of any person authorized to act on behalf of the said Council;
4. Any animal, mineral or other natural resource produced in or emanating from the Territory of Namibia which shall be taken from the said Territory without the consent and written authority of the United Nations Council for Namibia or of any person authorized to act on behalf of the said Council may be seized and shall be forfeited to the benefit of the said Council and held in trust by them for the benefit of the people of Namibia;
5. Any vehicle, ship or container found to be carrying animal, mineral or other natural resources produced in or emanating from the Territory of Namibia shall also be subject to seizure and forfeiture by or on behalf of the United Nations Council for Namibia or of any person authorized to act on behalf of the said Council and shall be forfeited to the benefit of the said Council and held in trust by them for the benefit of the people of Namibia;
6. Any person, entity or corporation which contravenes the present decree in respect of Namibia may be held liable in damages by the future Government of an independent Namibia;
7. For the purposes of the preceding paragraphs 1, 2, 3, 4 and 5 and in order to give effect to this decree, the United Nations Council for Namibia hereby authorizes the United Nations Commissioner for Namibia, in accordance with resolution 2248 (S-V), to take the necessary steps after consultations with the President.

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ANNEX X

EXTRACTS FROM THE ADVISORY OPINION OF THE INTERNATIONAL
COURT OF JUSTICE OF 21 JUNE 1971 a/

The Court has therefore reached the conclusion that the decisions made by the Security Council in paragraphs 2 and 5 of resolutions 276 (1970), as related to paragraph 3 of resolution 264 (1969) and paragraph 5 of resolution 269 (1969), were adopted in conformity with the purposes and principles of the Charter and in accordance with its Articles 24 and 25. The decisions are consequently binding on all States Members of the United Nations, which are thus under obligation to accept and carry them out ...

Having reached these conclusions, the Court will now address itself to the legal consequences arising for States from the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970). A binding determination made by a competent organ of the United Nations to the effect that a situation is illegal cannot remain without consequence. Once the Court is faced with such a situation, it would be failing in the discharge of its judicial functions if it did not declare that there is an obligation, especially upon Members of the United Nations, to bring that situation to an end ...

South Africa, being responsible for having created and maintained a situation which the Court has found to have been validly declared illegal, has the obligation to put an end to it. It is therefore under obligation to withdraw its administration from the Territory of Namibia. By maintaining the present illegal situation, and occupying the Territory without title, South Africa incurs international responsibilities arising from a continuing violation of an international obligation. It also remains accountable for any violations of its international obligations, or of the rights of the people of Namibia ...

The Member States of the United Nations are, for the reasons given in paragraph 115 above, under obligation to recognize the illegality and invalidity of South Africa's continued presence in Namibia. They are also under obligation to refrain from lending any support or any form of assistance to South Africa with reference to its occupation of Namibia ...

It is for the Security Council to determine any further measures consequent upon the decisions already taken by it on the question of Namibia ...

Member States are under obligation to abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa

a/ Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, paras. 115-132.

purports to act on behalf of or concerning Namibia. With respect to existing bilateral treaties, Member States must abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation. With respect to multilateral treaties, however, the same rule cannot be applied to certain general conventions such as those of a humanitarian character, the non-performance of which may adversely affect the people of Namibia. It will be for the competent international organs to take specific measures in this respect.

Member States, in compliance with the duty of non-recognition imposed by paragraphs 2 and 5 of resolution 276 (1970), are under obligation to abstain from sending diplomatic or special missions to South Africa including in their jurisdiction the Territory of Namibia, to abstain from sending consular agents to Namibia, and to withdraw any such agents already there. They should also make it clear to the South African authorities that the maintenance of diplomatic or consular relations with South Africa does not imply any recognition of its authority with regard to Namibia.

The restraints which are implicit in the non-recognition of South Africa's presence in Namibia and the explicit provisions of paragraph 5 of resolution 276 (1970) impose upon Member States the obligation to abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory.

In general, the non-recognition of South Africa's administration of the Territory should not result in depriving the people of Namibia of any advantages derived from international co-operation. In particular, while official acts performed by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid, this invalidity cannot be extended to those acts such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the Territory.

As to non-member States, although not bound by Articles 24 and 25 of the Charter, they have been called upon in paragraphs 2 and 5 of resolution 276 (1970) to give assistance in the action which has been taken by the United Nations with regard to Namibia. In the view of the Court, the termination of the Mandate and the declaration of the illegality of South Africa's presence in Namibia are opposable to all States in the sense of barring erga omnes the legality of a situation which is maintained in violation of international law: in particular, no State which enters into relations with South Africa concerning Namibia may expect the United Nations or its Members to recognize the validity or effects of such relationship, or of the consequences thereof. The Mandate having been terminated by decision of the international organization in which the supervisory authority over its administration was vested, and South Africa's continued presence in Namibia having been declared illegal, it is for non-member States to act in accordance with those decisions.

As to the general consequences resulting from the illegal presence of South Africa in Namibia, all States should bear in mind that the injured entity is a people which must look to the international community for assistance in its progress towards the goals for which the sacred trust was instituted ...

The Court finds that no factual evidence is needed for the purpose of determining whether the policy of apartheid as applied by South Africa in Namibia is in conformity with the international obligations assumed by South Africa under the Charter of the United Nations. In order to determine whether the laws and decrees applied by South Africa in Namibia, which are a matter of public record, constitute a violation of the purposes and principles of the Charter of the United Nations, the question of intent or governmental discretion is not relevant; nor is it necessary to investigate or determine the effects of those measures upon the welfare of the inhabitants.

It is undisputed, and is amply supported by documents annexed to South Africa's written statement in these proceedings, that the official governmental policy pursued by South Africa in Namibia is to achieve a complete physical separation of races and ethnic groups in separate areas within the Territory. The application of this policy has required, as has been conceded by South Africa, restrictive measures of control officially adopted and enforced in the Territory by the coercive power of the former Mandatory. These measures establish limitations, exclusions or restrictions for the members of the indigenous population groups in respect of their participation in certain types of activities, fields of study or of training, labour or employment and also submit them to restrictions or exclusions of residence and movement in large parts of the Territory.

Under the Charter of the United Nations, the former Mandatory had pledged itself to observe and respect, in a territory having an international status, human rights and fundamental freedoms for all without distinction as to race. To establish instead, and to enforce, distinctions, exclusions, restrictions and limitations exclusively based on grounds of race, colour, descent or national or ethnic origin which constitute a denial of fundamental human rights is a flagrant violation of the purposes and principles of the Charter.

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The Government of South Africa also submitted a request that a plebiscite should be held in the Territory of Namibia under the joint supervision of the Court and the Government of South Africa ...

This proposal was presented in connexion with the request to submit additional factual evidence and as a means of bringing evidence before the Court. The Court having concluded that no further evidence was required, that the Mandate was validly terminated and that in consequence South Africa's presence in Namibia is illegal and its acts on behalf of or concerning Namibia are illegal and invalid, it follows that it cannot entertain this proposal.

APPENDIX I

SELECTED FOREIGN COMPANIES OPERATING IN NAMIBIA
BY NATIONALITY AND ACTIVITY

A. Subsidiaries or associates of companies registered
in the United States of America

<u>Parent company</u>	<u>Related company in Namibia</u>	<u>Activities</u>
American Metal Climax, Inc. (AMAX)	Tsumeb Corporation, Ltd.	Mining copper, lead and zinc
Standard Oil Company of California (operating through Chevron Oil)	Chevron/Regent consortium	Prospecting for petroleum
Regent Petroleum	" "	"

B. Subsidiaries or associates of companies registered
in the United Kingdom of Great Britain and Northern
Ireland

Consolidated Gold Fields, Ltd.	Gold Fields of South Africa, Ltd.	Prospecting for uranium
Rio Tinto Zinc Corporation Ltd. (RTZ)	Rössing Uranium, Ltd.	Mining uranium
Selection Trust, Ltd.	Tsumeb Corporation, Ltd.	Mining copper, lead and zinc

C. Subsidiaries or associates of companies registered
in France

Société nationale des pétroles d'Aquitaine	Consortium with De Beers Consolidated Mines, Ltd.	Prospecting for petroleum
Total-Compagnie minière et nucléaire (CMN)	Rössing Uranium, Ltd.	Mining uranium

D. Subsidiaries or associates of companies registered in Canada

<u>Parent company</u>	<u>Related company in Namibia</u>	<u>Activities</u>
Brilünd Mines, Ltd.	Etosha Petroleum (Pty.), Ltd.	Petroleum exploration
Falconbridge Nickel Mines, Ltd.	Oamites Mining Company (Pty.), Ltd.	Mining copper

E. Subsidiaries or associates of companies registered in the Federal Republic of Germany

Metallgesellschaft, AG a/	South West Africa Lithium Company	Mining lithium
	Kiln Products, Ltd.	Produces zinc oxide from concentrates
Ohlthaver group	Khan Mine (Pty.), Ltd.	Mining copper

F. Subsidiaries or associates of companies registered in South Africa b/

Anglo American Corporation of South Africa, Ltd.	Consolidated Diamond Mines of South West Africa, Ltd., (CDM) (through Anglo American's holding in De Beers Consolidated Mines, Ltd.)	Diamond mining (jewellery and industrial)
Kiln Products, Ltd.	SWACO	Mining lead and vanadium
Anglo-Transvaal Consolidated Investment Company, Ltd. (ANGLOVAAL)	African Triangle Mining, Prospecting and Development Company (Pty.), Ltd.	Prospecting for copper

a/ Metallgesellschaft is owned by the Klöckner and Company/Duisenberg Mannheim Gesellschaft group.

b/ The name of the related company in Namibia has been included only when it differs from that of the parent company.

<u>Parent company</u>	<u>Related company in Namibia</u>	<u>Activities</u>
De Beers Consolidated Mines, Ltd.	CDM	Diamond mining (jeweller and industrial)
	Consortium with Société nationale des pétroles d'Aquitaine	Prospecting for petroleum
	Marine Diamond Corporation	Off-shore diamond mining
	Tidal Diamonds (SWA) (Pty.), Ltd.	Prospecting for diamonds
Desert Finds (Pty.), Ltd.		Prospecting for uranium
DiGamma Mining Company		" "
Federale Mynbou (Bpk.) of South Africa	Klein Aub Copper Company	Mining copper
	FEDSWA Prospekteerders (Edms.) (Bpk.)	Prospecting for copper
Federale Volksbeleggings (Bpk.) of South Africa	Klein Aub Copper Company	Mining copper
	FEDSWA Prospekteerders (Edms.) (Bpk.)	Prospecting for copper
Fedmar, Ltd.	Otjihase Mining Company (Pty.), Ltd.	Opening new copper and zinc mine
General Mining and Finance Corporation, Ltd.	Klein Aub Copper Company	Mining copper
	FEDSWA Prospekteerders (Edms.) (Bpk.)	Prospecting for copper
	Rössing Uranium, Ltd.	Mining uranium
Gold Fields of South Africa, Ltd.		Prospecting for uranium
Industrial Development Corporation of South Africa (IDC)	Oamites Mining Company (Pty.), Ltd.	Mining copper
	Rössing Uranium, Ltd.	Mining uranium

<u>Parent company</u>	<u>Related company in Namibia</u>	<u>Activities</u>
Iron and Steel Corporation of South Africa (ISCOR)	Uis Tin Mine	Mining tin
	Rosh Pinah	Mining zinc
Johannesburg Consolidated Investment Company, Ltd. (JCI)	B and O Mineral Exploration Company (Pty.), Ltd.	Prospecting for copper
	Otjihase Mining Company (Pty.), Ltd.	Copper and zinc mine
Marine Products, Ltd.	Klein Aub Copper Company	Mining copper
	FEDSWA Prospekteerders (Edms.) (Bpk.)	Prospecting for copper
Minerts Development (Pty.), Ltd.	Otjihase Mining Company (Pty.), Ltd.	Opening new copper and zinc mine
O'okiep Copper Company, Ltd.	Tsumeb Corporation, Ltd.	Mining copper, lead and zinc
	O'okiep Copper Company, Ltd.	Prospecting for uranium
Southern Oil Exploration Corporation (Pty.), Ltd. (SOEKOR)	Southern Oil Exploration Corporation (South West Africa) (Pty.), Ltd. (SWAKOR)	Prospecting for petroleum in partnership with various international oil companies which are mentioned individually in the present table

APPENDIX II

SWAPO CENTRAL COMMITTEE DECLARATION OF SEPTEMBER 1977

The following is the text of the Declaration of the South West Africa People's Organization (SWAPO) of Namibia Central Committee adopted at its meeting held from 21-24 September 1977:

The annual meeting of the Central Committee of SWAPO of Namibia was held in Lubango, Southern Angola from 21-24 September 1977.

The opening session was honoured by the presence of two Presidents of sister revolutionary states of the People's Republic of Angola, Comrade Agostinho Neto and the Republic of Guinea-Bissau, Comrade Luis Cabral. In addition, representatives of the Soviet Union and Cuba delivered fraternal messages of solidarity.

The presence of the Presidents of the two revolutionary African sister states and also the military and diplomatic representatives of the Soviet Union and Cuba, testifies to the critical stage which the Namibian struggle has reached.

The Central Committee meeting reviewed the overall political, military and diplomatic situation pertaining to Namibia in particular and the whole of southern Africa in general, and did map out strategies and tactics of the organisation vis-a-vis speedy liberation of Namibia.

The deliberations were held in comradely and revolutionary spirit and as a result of these frank and penetrating discussions the Organisation resolved that:

1. In spite of all the diplomatic undertakings by the Five Western members of the Security Council and notwithstanding South Africa's public pronouncements that she is ready to end her illegal occupation of Namibia, the situation in Namibia has not changed for the better.
2. On the contrary, it has deteriorated as the balkanization of the country continues unabated. For instance, the process of creating eleven tribal "Parliaments" and eleven tribal armies, is still going on in a full swing.
3. Furthermore, the repressive machinery of the South African Armed Forces remains intact thus intimidation, arrest, detentions, trials, torture and executions are still the order of the day.
4. Moreover, there is a new and even more alarming development, namely, the South African act of aggression in violation of Namibian territorial integrity by proclaiming Walvis Bay as a part of South Africa.

5. Another new explosive element has been added to the already dangerous situation in southern Africa. This element is South Africa's development of nuclear weapons using the Kalahari Desert of Namibia as a testing ground. Responsibility regarding this dangerous development rests squarely with the major western countries who provide the nuclear technological know-how to Fascist South Africa.
6. The Central Committee vehemently condemns the continued South African political and military manoeuvres to impose a puppet confederation of eleven tribal mini "states" on the Namibian people.
7. The Central Committee resolutely denounces South Africa's aggressive violations of Namibia's territorial integrity in regard to Walvis Bay.
8. The Central Committee strongly condemns South Africa's use of Namibia as a testing ground for nuclear devices, as a springboard for aggressive designs against neighbouring countries and as a training ground for UNITA counter-revolutionaries which are being used to undermine the sovereignty and stability of the People's Republic of Angola.
9. Furthermore, the Central Committee resolutely denounces and categorically rejects South Africa's political manoeuvres aimed at holding bogus elections under the armed forces with a view to installing a puppet, neo-colonial Turnhalle régime.
10. The Central Committee re-affirms SWAPO's stand that a negotiated settlement regarding Namibia's independence can only be achieved on the basis of complete withdrawal of South African armed forces from Namibia.
11. In the light of the above-mentioned facts the Central Committee resolves to continue with and intensify the armed liberation struggle as the most effective means of compelling the Fascist régime of South Africa to end its illegal occupation of Namibia.
12. Furthermore, the Central Committee expresses its profound gratitude to the broad masses of the Namibian people for their impressive unity of purpose and action against South Africa's illegal occupation of our country, and calls on them to remain united and to redouble their efforts to bring about the liberation of Namibia in the shortest possible time.

13. The Central Committee warmly congratulates the People's Liberation Army of Namibia (PLAN) for its heroic exploits on the battlefield and brilliant victories and successes scored over the enemy forces.

14. By the same token, the Central Committee pays homage to the Namibian patriots who have fallen in the battle, to the executed, to the injured and to those languishing in enemy jails, detention camps and those under house arrest.

15. The Central Committee re-affirms its deep gratitude and appreciation to the frontline states, namely, Angola, Botswana, Mozambique, Tanzania and Zambia, and other OAU-Member States for their unflinching and disinterested material, moral and political support to the Namibian people through SWAPO.

16. The Central Committee equally expresses sincere thanks to all the Socialist countries, Nordic countries, the Netherlands and all other progressive and peace-loving countries and organisations for their unrelenting support to the Namibian people in their just struggle for national liberation.

17. The Central Committee re-affirms its militant solidarity with and extends revolutionary salutations to the Liberation Movements, namely, ANC (South Africa), Patriotic Front (Zimbabwe), Polisario, PLO and Canary Island Movement.

