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11 October 1993

Note to the Members of the Intergovernmental Group
to Monitor the Supply and Shipping of oil
and Petroleum Products to South Africa

Please find attached a summary of the decisions of the meeting
of the Intergovernmental Group to Monitor the Supply and Shipping
of oil and Petroleum Products to South Africa held on 8 October
1993 and the revised draft report of the Group. This is the second
revision of the report by the Secretariat in accordance with the
decision taken at the meeting of the Group on the above mentioned
date.

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Secretary

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oi 0;; and Petroleum Erodgcts to Sogth Africa
held on 8 October ;993

1. The Intergovernmental Group decided that the German Company Marimpex was no longer associated with Case World Victozx.
2. The Group decided that Switzerland was no longer associated with the Case of the ship Azugg.
3. The Group decided to close the case of the ship Essi Elora.
4. The Group also decided to close the following cases involving India: 92-148 Chu , 92-156 QiLettag, 92-224 ECC Asig, 92-301 Stott Sydness.
5. The Group decided to request the certificate of discharge of the Case No. 92-217 Meghanik Khazcnengo.
6. The Group decided to close the following cases involving Cyprus: No. 92-292 St. Johg, No. 92-309 and 92-310 Tzade nomad, and No. 92-249 chan Centuzion. As for the case 92-269 Ezotgghitos-Ocegg Voyageg, Cyprus will no longer be associated with the case.
7. The Group considered its draft report to the General Assembly and decided to establish an open-ended drafting group under the Chairmanship of the Vice-Chairman Ms. Nabeela Al-Mulla (Kuwait), and requested the Secretariat to redraft the Introduction and the Conclusions and Recommendations in light of the general discussion on the report.

General Assembly
GENERAL ASSEMBLY
Forty-oighth session

I.
II.
III.
IV.

REPORT OF THE INTERGOVERNMENTAL GROUP TO MONITOR THE SUPPLY
AND SHIPPING OF OIL AND PETROLEUM PRODUCTS TO SOUTH AFRICA
Security Council

Distr.
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ORIGINAL:
CONTENTS

INTRODUCTION I...IOIO...IOIDIIIOOOIOOOOOOOOOIII
ACTIVITIES OF THE INTERGOVERNMENTAL GROUP

A.

B.

Cases of Alleged Violations of the Oil
Embargo Reported Between 1987 and 1992 ...
Survey of Port Calls Reported
in 1990 and 1992IOOOOOIOOI0.00.00...

THE MISSION OF THE CHAIRMAN OF THE
INTERGOVERNMENTAL GROUP TO SOUTH AFRICA
STATUS OF THE OIL EMBARGO AGAINST SOUTH AFRICA
CONCLUSIONS AND RECOMMENDATIONS

A.

B.

Conclusions ...I0.....OIIIOOOOIIIIIIIOIOII
Recommendations

AQDQKQE

Ships and companies reported to have been
involved in supplying oil to South Africa
between 1987 and 1992

ara a hs

1 -- 13

6 -- 8

9 -- 11

12 -- 14

15 -- 16

17 -- 26

27 -- 38

27 -- 29

30

ENGLISH

CONTENTS (Continued)

II. Summary of cases of alleged violations reported
in 1993 .0.0IIIOIIOC0IIOC0.00IOOI0IOO0D00000II

III. Survey of unclarified tanker calls at
South African ports reported in 1991
and 1992...0.0.0.0.0....'000000Q00CIOC00IO0II...

IV. Survey of unclarified tanker calls at
South African ports reported in 1993

I . INTRODUCTION

1. It may be recalled that the General Assembly in its resolution 40/64F requested all States to adopt effective measures and/or legislation in order to ensure the complete cessation of the supply and shipping of oil and petroleum products to South Africa. In resolution 41/35F of 10 November 1986, the General Assembly inter alia; requested Member States to broaden the scope of the oil embargo and, in particular:

"(a) To apply strictly the lend users' clause and other conditions concerning restriction on destination to ensure compliance with the embargo:

(b) To compel the companies originally selling or purchasing oil or petroleum products, as appropriate for each nation, to desist from selling, reselling or otherwise transferring oil and petroleum products to South Africa and Namibia, whether directly or indirectly:

(c) To establish strict control over the supply of oil and petroleum products to South Africa and Namibia by intermediaries, oil companies and traders by placing responsibility for the fulfillment of the contract on the first buyer or seller of oil and petroleum products who would, therefore, be liable for the actions of these parties;

(d) To prevent access by South Africa to other sources of energy, including the supply of raw materials, technical know-how, financial assistance and transport;

(e) To prohibit all assistance to apartheid South Africa, including the provision of finance, technology, equipment or personnel for the prospecting, development or production of hydrocarbon resources, the construction or operation of oil-

from-coal plants or the development and operation of plants producing fuel substitutes and additives such as ethanol and methanol;

(f) To prevent South African corporations from maintaining or expanding their holdings in oil companies or properties outside South Africa;

(g) To terminate the transport of oil to South Africa by ships flying their flags, or by ships that are ultimately owned, managed or chartered by their nationals or by companies within their jurisdiction;

(h) To develop a system for registration of ships, registered or owned by their nationals, that have unloaded oil in South Africa in contravention of embargoes imposed;

(i) To impose penal action against companies and individuals that have been involved in violating the oil embargo;

(j) To gather, exchange-and disseminate information regarding violations of the oil embargo."

2. By the same resolution, the General Assembly established the Intergovernmental Group to monitor the observance of the oil embargo and requested it to report on it to the following session of the Assembly. Since then, that request has been repeated in the subsequent resolutions of the General Assembly.

3. Its mandate covering all aspects of the monitoring of the supply and shipping of oil and petroleum products to South Africa, the Intergovernmental Group has also dealt with questions relating publicity for the oil embargo, the holding of hearings, assisting

Governments by publicizing their laws and regulations adopted with respect to the embargo and by formulating a draft model law for the effective enforcement of the oil embargo against South Africa.

4. Since 1987, when the Intergovernmental Group submitted its first report to the General Assembly, its work has been endorsed by the Assembly, most recently in its resolution 47/116 D of 18 December 1992. At present the Intergovernmental Group consists of the following Member States: Algeria, Cuba, Indonesia, Kuwait, New Zealand, Nicaragua, Nigeria, Ukraine and the United Republic of Tanzania. At its meeting on 14 January 1992, the Intergovernmental Group re-elected Mr. Anthony B. Nyakyi (United Republic of Tanzania) as Chairman and Ms. Nabeela Al-Mulla (Kuwait) as Vice-Chairman and elected Mr. Abelardo Moreno Fernandez as Rapporteur for the current year.

5. On 16 March 1993, the Chairman of the Intergovernmental Group received a letter from the Permanent Representative of Norway informing him of the decision of his Government to withdraw from the Group.

6. Representatives of the liberation movements of South Africa recognized by Organization of African Unity (OAU), namely, the African National Congress of South Africa (ANC) and the Pan Africanist Congress of Azania (PAC), have participated in the meetings of the Intergovernmental Group as observers. The Intergovernmental Group, since its inception, has cooperated with the Organization of African Unity (OAU) and other intergovernmental and non-governmental organizations.

7. Since its report to the General Assembly at its forty-seventh session the Intergovernmental Group has followed the same method of work as in previous years. It has considered information received on alleged violations and port calls in South Africa of ships that

have the capability of carrying oil and petroleum products. The cases investigated are categorized in four groups. First, cases of alleged violations of the oil embargo against South Africa from 1987 to 1992 are contained in Annex I. The second category represents cases of alleged violations of the oil embargo in 1992 (and some related to previous years) which were investigated in 1993. These cases are contained in Annex II. The third category comprises the cases of ships capable of carrying oil or petroleum products which called at South African ports from 1989 to 1991. These cases were investigated from 1990 to 1992 and are contained in Annex III. Cases of ships from the same category which called at South African ports in 1992 and investigated in 1993 are contained in Annex IV.

8. The Intergovernmental Group has maintained contacts with Governments, intergovernmental and non-governmental organizations on all questions that fall under its mandate. The Intergovernmental Group highly appreciates the cooperation extended by those Governments which have responded to its communications and investigated the cases of alleged violations of the oil embargo against South Africa, or cases of calls at South African ports by ships capable of carrying oil or petroleum products. The contributions of non-governmental groups have been especially valuable to the work of the Group.

II. ACTIVITIES OF THE INTERGOVERNMENTAL GROUP

9. As was the case in previous years, the major part of the work of the Intergovernmental Group is the collection of data on voyages of ships to South Africa which strongly indicate that a delivery of oil or petroleum products took place. The Group gathers information on the movements of ships that might have violated the embargo from non-governmental organizations and the shipping industry. Inquiries are sent to Governments concerned in order to obtain information that would allow the Group to decide whether a *prima facie* case exists requiring further consideration. Once a response is

12.

received, the Intergovernmental Group examines closely all the information at its disposal. The Intergovernmental Group has always strived for the cooperation of all Governments concerned. Since 1987 the Intergovernmental Group has removed a number of cases of alleged violations from further consideration on the basis of one or more of the following criteria: 1) when the certificate of discharge submitted confirms the delivery of oil to ports other than those in South Africa, 2) when there is no oil loading facility in the port concerned and 3) when it is certified that the ship in question is not capable of transporting oil or petroleum products. 10. Since 1990, the Intergovernmental Group began to collect and examine its own information on calls at South African ports by ships capable of carrying oil and petroleum products. There is an indication that some of these calls might have resulted in possible deliveries of oil to South Africa. This initiative has supplemented the important contributions made by Governments and non-governmental organizations on the subject. This process helped to cover most cases of possible supply and shipping of oil and petroleum products to South Africa.

11. Below are the results of these two main investigating methods.

A. Case: of alleged violations of the oil embargo reported between 1987 and 1992

The Intergovernmental Group has continued to follow up cases of alleged violations by communicating with Governments concerned requesting their cooperation in gathering information with the purpose of shedding light as to the accuracy of information regarding each case.

13. During 1993 the Intergovernmental Group queried 79 cases of alleged violations that had occurred mainly during the past twelve months. There were cases dating as far back as 1988.

14. Since the previous report, few substantive replies were received from Governments. A summary of communications received from those Governments is given in section B of annex I of the present report. Documentation received was reviewed, and the cases with sufficient evidence to dispel the allegations that the oil shipments in question had probably been delivered to South Africa, were closed. The cases were consequently removed from annex I of the present report. The remaining cases, where sufficient evidence has not been received, have been included in section A of annex I of the present report. Section A of annex I of the present report contains cases.

3. Survey of port calls reported from 1990 to 1992

15. From 1990 to 1992, the Intergovernmental Group sent inquiries to the Governments concerned for a total of cases of port calls that had occurred in the previous year and removed ___ cases from further consideration after receiving information from Governments that excluded the possibility of a delivery of oil or petroleum products. During 1993, the Intergovernmental Group removed another ___ cases from further consideration after receiving information from Governments. These cases are listed in Annex III of this report.

16. In 1993 it collected information on an additional voyages involving ships, most of which took place in calendar 1992.

17. The time frame in this survey covers the equivalent of a chronological year. As it was in the previous years, the majority of the cases involved ships registered in what the Intergovernmental Group has generally termed "oil-shipping States".

III. THE MISSION OF THE CHAIRMAN OF THE INTERGOVERNMENTAL
GROUP TO SOUTH AFRICA

18. The Chairman of the Intergovernmental Group acceptedh on behalf of the Members, an invitation to attend the International Solidarity Conference organized by the ANC in Johannesburg from 19 to 21 February 1993. The Conference represented an important action in support of not only the ANC but also the negotiations process, to bring about a united, democratic and non-racial South Africa. The Conference also amply demonstrated the strength of anti-apartheid and democratic forces in South Africa, the extent of their external support and their common determination to defeat apartheid. It was also a signal that the end of apartheid is within sight.

19. The participants in the Conference, as well as the Chairman of the Intergovernmental Group, paid special attention to the issue of sanctions against South Africa and in particular, the strategy of phased lifting of sanctions against South Africa in accordance with the progress achieved in the negotiations aiming at the elimination of apartheid and the establishment of a united, non-racial and democratic South Africa. At the Conference, it was suggested that economic 'sanctions should be lifted upon the announcement on an agreed date for elections and the establishment of the TEC and the Independent Electoral and Media Commissions as well as the enactment of the Transition to Democracy Act. The Conference also called for the retention of the arms and oil embargoes against South Africa until a democratically elected Government had been formed.

IV. THE STATUS OF THE OIL RKBARGO AGAINST SOUTH AFRICA

20. It may be recalled that since the beginning of the negotiations process, the question of the timing of the lifting of the oil embargo has continuously been raised. It has been repeatedly stressed that once there is a profound and irreversible change towards the transformation of South Africa into a united, democratic and non-racial society, all sanctions imposed by the General Assembly should be lifted.

21. The Intergovernmental Group has followed closely developments in South Africa and particularly the process of negotiations to find a peaceful end to apartheid through the establishment of a new, democratic and non-racial society in South Africa. The Group noted with appreciation the decisions made within the framework of the multi-party negotiations for South Africa's first non-racial election and on the Transitional Executive Council, the Independent Election Commission, the Independent Media Commission and the Independent Broadcasting Authority which have been enacted into law.

22. It is a source of great concern to the Intergovernmental Group that despite the signing of the National Peace Accord and the contributions of the United Nations Observer Mission in South Africa (UNOMSA) and other observer missions by the Organization of African Unity, the Commonwealth and the European Community, the violence has not only cost tremendous suffering in life and prosperity but has not yet been put under control. The Intergovernmental Group regrets that despite the involvement of most of the political parties in the negotiations process, the violence in South Africa continues. The increase in levels and number of incidents of violence following events of significant progress in the negotiations have further lent credibility to suspicions of a "third force" intent on derailing the process, at the same time as it has further discredited assurances on the part of the South African authorities that it was determined to bring violence under control. It may further be recalled that on 25 June 1993, armed members of the right-wing Africaner Resistance Movement (AWB) attacked the site

of the multi-party negotiations in the World Trade Center, Johannesburg, and insulted the negotiators. The leaders of the PAC and several other parties condemned the attack and questioned the role played by the South African authorities pointing to the passivity of the security forces deployed to protect the negotiators. As a result of this attack, the President of the ANC called on the South African government to agree on joint control of the security forces in South Africa.

23. The Group considered it encouraging that despite this incident and other manifestations of violence, the negotiating parties continued with the process and agreed on 2 July 1993 on a number of constitutional principles. While the Inkatha Freedom Party (IFP), the Conservative Party (CP) and a few other groups declared their opposition, a decision was taken on that date also by a majority of participants in the Negotiation Forum, on setting 27 April 1994 as the date for the first democratic elections in South Africa.

24. While the Intergovernmental Group considers the withdrawal from the multi-lateral negotiations by the Inkatha Freedom Party, the Conservative Party and some other groups to be regrettable, the Group is encouraged by the fact that it did not halt the process. On the contrary, the remaining participants in the Negotiations Forum (particularly the government and the ANC) confirmed in September 1993 that the elections would take place as scheduled, and, with the abstention of the PAC, agreed on the establishment of the TEC, the Independent Elections Commission, the Independent Broadcasting Commission and the Independent Media Commission. On 23 September 1993 these decisions were enacted into law by the South African Parliament.

25. As a result of these developments, on 24 September 1993, the President of the ANC, Mr. Nelson Mandela, at a meeting of the Special Committee against Apartheid called for the lifting of economic sanctions against South Africa. As far as the oil embargo against South Africa is concerned, Mr. Mandela stated that:

"This Organization imposed special sanctions relating to arms, nuclear matters and oil. In this regard, we would like to urge that mandatory sanctions be maintained until the new government has been formed. we would leave the issue of oil embargo to the discretion of the Committee of the General Assembly responsible for the enforcement of this particular sanction (the Intergovernmental Group)."

26. The Secretary-General of the Pan Africanist Congress of Azania, Mr. Benny Alexander, in a statement before the Special Committee against Apartheid on 28 September 1993, said:

"Since the proposed TEC neither constitutes a new government nor an important shift of power, it is our considered notion that it cannot be used as a reference point of whether or not to lift remaining sanctions. All remaining sanctions should remain in force until a new Constitution is in place to ensure elections for a new government.

27. However, at an Extraordinary Ministerial meeting held in New York on 29 September 1993, the 5g 39; Committee of the OAU on Southern Africa called on behalf of the OAU, on all the African States, the international community at large and on the United Nations in particular to respond to the appeal to lift economic sanctions, and stated:

"More specifically, the 5g 59; Committee supports the call for the lifting of all economic sanctions with the exception of those relating to arms and nuclear matters. With respect to the oil embargo, the Committee urges that this should be lifted after the establishment and the commencement of the work of the Transitional Executive Council (TEC)."

28. In view of the agreements reached on the TEC and other transitional arrangements and the establishment of the date for the first democratic and non-racial elections to be held in South Africa on 27 April 1994,

31. Therefore, the Intergovernmental Group endorsed the decision of the OAU 5g Egg Committee on Southern Africa that the oil embargo against South Africa "be lifted after the establishment and commencement of the work of the Transitional Executive Council."

32. On 8 September, the General Assembly adopted resolution 48/1 by which it decided that all provisions adopted by it relating to prohibitions or resolutions on economic relations with South Africa and its nationals should cease to have effect as of that date and that all provisions adopted by it relating to the imposition of an embargo on the supply of petroleum and petroleum products to South Africa and on the investment in this petroleum industry there, would cease to have effect as of the date that the Transitional Executive Council becomes operational.

33. Observing that a number of cases initiated prior to the adoption by the General Assembly of resolution 48/1 are still pending, the Intergovernmental Group is of the view that an addendum to this report should be issued within the next three months, to reflect the responses of States which have not yet replied to requests addressed to them but may wish to do so.

RECOMMENDATIONS

34. The Intergovernmental Group, in view of the above, recommends to the General Assembly that, provided the Transitional Executive Council is operational at that time, the mandate of the Intergovernmental Group be terminated when it has adopted and issued the final amendment of this report, and no later than 30 January 1994.

35. This report was unanimously adopted by the Intergovernmental Group on October 1993.