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The Role of Transnational Corporations in  
Namibia

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Presentation by David de Beer, The Netherlands.

It is common cause that South Africa's occupation of Namibia has led to the systematic military, political and economic domination of the Namibian people.

In some ways these three issues are intertwined: for example the United States of America is quite happy with South Africa's military domination of the region ("resisting Communist expansion"), and this is one of the reasons there are no meaningful political steps to end South Africa's illegal occupation of Namibia.

In a similar way the economic wealth of Namibia has been used by South Africa to "buy off" criticism and to delay or avoid any action by South Africa's major trading partners.

Other researchers have shown which countries are involved in investing in Namibia and are trading in Namibian goods. Uranium is here the major strategic commodity, and the United Kingdom, West Germany and France are major clients. It is obvious that the strategic economic links of these countries to the South African-dominated nuclear trade with Namibia has been one of the factors why the Western Contact Group has allowed the negotiations over Namibia to drag on for five fruitless years. Fruitless for Namibians, but very fruitful for the uranium trading figures of these three countries.

A Dutch researcher, Mr. Ruurd Huisman, proved as early as 1978 that West German and British electricity companies which purchase Namibian uranium send part of that uranium to the Urenco enrichment factories in Almelo in the Netherlands for enrichment.

I am not going to go into the details of this research. It has been or will be partly explained by others, and the full details are to be found in the records of the United Nations Council for Namibia Hearings on Namibian Uranium held in New York in 1980.

What is of more concern to us here today is the question of what has been done to prevent this uranium trade from taking

place, and particularly for me coming here from the Netherlands, what has been done in the Netherlands to stop this illegal trade.

Mr. Huisman's research was made public by the four anti-apartheid groups in the Netherlands. It received much publicity in the press and on the radio. At least two TV programmes were also devoted to this issue in the course of the last few years. But our main concern has not been to gain publicity for this indirect, but important, Dutch involvement in the illegal uranium trade. Our concern has been to have action taken by a competent body to have this trade stopped. Our major campaign has been aimed at getting the Dutch Government to end the Dutch involvement in enriching Namibian uranium. In this we have had the co-operation of many Members of Parliament representing the Christian Democratic Party, the Labour Party, Democrats '66, the Radical Party and the Pacifist Socialist Party. Together these parties form a majority in the parliament, even though for most of the time there has been a Centre-Right coalition governing the Netherlands, and such a coalition looks like remaining in power for the next few years.

But I wish to give a short history of the political debate in the Dutch parliament on Namibian uranium. From the short play you will now see we can draw several conclusions....

Namibian Uranium in The Netherlands : a Parliamentary Play

C = Commentator

P = Member of Parliament

M = Ministers of Economic Affairs and of Foreign Affairs

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C: It is October 1977. We are seated in the Dutch Parliament in The Hague. Our Member of Parliament, concerned about developments in Namibia and the continued South African occupation of that country, questions the Ministers of Foreign Affairs and of Economic Affairs on the possibility that The Netherlands is involved in trade in uranium from Namibia. Because Namibia is illegally occupied by South Africa, the United Nations, through the U.N. Council for Namibia, has issued Decree No. 1, declaring all trade in minerals from Namibia to be illegal.

P: From which countries, and in what quantities, is uranium bought either for use by the Netherlands or which is sent to the Urenco enrichment factory in Almelo?

And can the Ministers guarantee that no uranium is imported from or through South Africa? If not, can such deliveries be quickly brought to an end?

M: The Netherlands obtains its uranium neither directly nor indirectly from South Africa or Namibia.

The Urenco enrichment factories in Almelo enrich the uranium that is offered to them by various clients - chiefly foreign electricity companies. But the Dutch Government is given no authority by the Treaty of Almelo which governs the operations of the Urenco plant to check on the origin of the uranium which is to be enriched.

However the Dutch Government will both now and in the future refuse to import uranium from countries which, in the opinion of the Government, should not be considered for political reasons.

C: It is now seven months later, May 1978. And in the meantime, Mr. Burke, a Commissioner of the E.E.C., the European Communities, proposed to the European Parliament that because of the demand for uranium within the E.E.C., no single delivery of uranium, even from South Africa, should be excluded. Our Member of Parliament questions the Ministers on this topic.

P: What consequences do the Ministers see in the position of EEC-Commissioner Burke, and is the Dutch Government prepared to take initiatives within the EEC to try and win support in other countries for the Dutch policy?

M: Leaving the remarks by EEC-Commissioner Burke as his responsibility, the Dutch Government takes the view that these remarks will have no consequences for Dutch policy regarding uranium imports for Dutch use. In addition,

the Dutch Government will on future occasions not refrain from stating its view on policies which should be followed with regard to South Africa.

C: Up till now our Member of Parliament has not achieved much except the promise that the Dutch Government would maintain an active policy within the EEC with regard to uranium from Namibia and South Africa.

But action groups within the Netherlands continue with their research, and in November 1978 they present their results at a press conference in The Hague. Here it is conclusively shown that British and West German electricity companies buy Namibian uranium in defiance of Decree No. 1 of the United Nations Council for Namibia. The uranium is first processed in France before it is sent to the Urenco factories in Almelo to be enriched. It is further shown that Euratom, the European Atomic Agency which checks on nuclear contracts knows of the links between the Netherlands' partners in the Treaty of Almelo, West Germany and the United Kingdom.

In December 1978 our Member of Parliament, strengthened by these new facts, asks a new series of questions...

P: Have the Ministers studied the material submitted by the action groups?

M: The answer to this question is yes.

P: What measures has the Dutch Government taken to ensure that Decree No. 1 of the United Nations Council for Namibia is reflected in Dutch law?

M: The Government has admitted that the U.N. Council for Namibia was empowered to promulgate a measure by which the exploitation of the natural resources of Namibia was made subject to the granting of permission by the U.N. Council for Namibia. The Government has never recognised that the Council has the power to create a direct duty for the Dutch state which it would then have to carry out. Decree No. 1 of the Council can only be viewed as an act of governing Namibia.

P: Do the Ministers share the opinion that it is desirable to alter the Treaty of Almelo so that the clients of the Urenco enrichment factories are forced to report on the origin of the uranium? And should Urenco not be able to refuse orders if the clients refuse to report on the origin, or if the uranium is of a "less desirable origin"?

M: Such an alteration in the Treaty of Almelo is not considered useful, because in practice it is not possible to check on the origin of the uranium.

P: Are the Ministers prepared to raise the problem of contracts which cover uranium from Namibia in the framework of Euratom as soon as possible?

M: The Government is of the opinion that contracts with government agencies within the EEC covering uranium from Namibia are probably not in agreement

with resolutions of the United Nations Security Council. On these grounds the Government plans to consult with the European Commission on those contracts which could be contrary to these resolutions.

C: After this round of questions our Member of Parliament has made a little progress: The Government still plans to take up the issue within the European Community. However it does not regard altering the Treaty of Almelo so as to ensure stricter supervision as a useful strategy, because according to the Government it is not possible to physically determine the origin of the uranium.

More important is the observation that the United Nations Council for Namibia should itself implement Decree No. 1. But a few points are still not clear, and in June 1979 our Member of Parliament once again goes into action.

P: What are the consequences which should be borne by The Netherlands as a result of the recognition of Decree No. 1 of the U.N. Council for Namibia by the Dutch Government?

M: In our opinion the only consequence of the Dutch Government recognising the right of the U.N. Council for Namibia to issue Decree No. 1 as an act of governing Namibia is that the Dutch Government would have to request the permission of the Council for Namibia for any purchase of uranium - or other minerals - by the Netherlands.

P: Has the expressed intention of consulting with the European Commission been carried out? If so, with what results?

M: The answer to this question is yes. The European Commission replied by simply referring to a debate in the European Parliament on the 15th of February this year. We are convinced that a motion asking for a political decision by the Council of Ministers preventing the importing of uranium from Namibia into the European Community would not receive sufficient support to be adopted. We do not, therefore, consider putting forward such a resolution.

C: Along these lines our Member of Parliament is making no further progress. On the contrary, although the Government had previously said that the importing of Namibian uranium into the European Community was probably contrary to United Nations Security Council resolutions, now the Government is not prepared to undertake any actions within the European Community to prevent such imports.

Our Member of Parliament therefore asks for a consultative meeting between the Ministers and the parliamentary committees for energy and for foreign affairs. This consultation takes place in October 1980. The Ministers prepare a discussion paper in which they say nothing new.

- M: (Paging through his papers)...The Government would have to ask the U.N. Council for permission to import uranium from Namibia.... The Government considers the importation of Namibian uranium for Dutch use to be undesirable.... When uranium is offered for enrichment to the Urenco factories three streams are, on an administrative basis only, divided into an American, a Canadian, and a "Remainder" stream.... The original country of origin of the material cannot be traced through customs formalities.... The Government is convinced that an alteration of the Treaty of Almelo cannot be considered as a possibility.... It is to be hoped that Namibia will soon gain its independence.
- C: Forty-three Members of Parliament debated long and hard with the Ministers. But no new facts came to light.
- P: In this discussion paper there is no sign of a statement of the political principles involved or of the policies which should flow from them. As far as the Treaty of Almelo is concerned: Would it not be possible to include in the Treaty a clause that the enrichment of uranium of undesirable origin could be refused?
- M: The Netherlands is a member of the European Community in which no limitations of trade occur. In addition, according to the Treaty of Almelo no orders for the enrichment of uranium can be refused if these come from one of the partner countries. Because of the policy of the European Commission Euratom provides no framework for action in this question. Because we do not in any event import any Namibian uranium, I feel inclined to opt for a Declaration of Negative Origin.
- C: The first achievement: The Ministers want importers of uranium to declare that the uranium does not come from Namibia. The discussion continues.
- P: Is the Government prepared to discuss with the United Nations Council for Namibia the possibility of seeking a mandatory resolution of the Security Council which would prohibit the purchase of Namibian uranium?
- M: I am certainly willing to contact the Council for Namibia in New York during the next session of the General Assembly. This contact, which could take place within a few weeks, should be aimed at getting an insight into the opinion of the Council for Namibia with regard to this whole problem.
- C: The second achievement: The Minister wants to contact the Council for Namibia in New York within a short period of time.
- These steps were promised in October 1980. We wait for the next developments.
- (Silence)

C: .... Six months later, in May 1981, our Member of Parliament once again goes into action - but not in reaction to any action by the Ministers. No. A leading Dutch academic lawyer, Professor Verheul, has written an article on the legal background to the discussion on Namibian uranium.

P: Have the Ministers taken note of the article by Professor Verheul in which transactions in Namibian uranium and the Dutch involvement in these transactions are treated as a test-case for international law, and in which he determines that the Netherlands is both liable and responsible for any treatment of Namibian uranium by the Urenco factories?

M: Yes, notice has been taken of this. We reject out of hand the suggestion in the relevant article that the Dutch Government has acted unjustly.

P: Do the Ministers recall their promises made in the oral consultation in October 1980 to check on certain issues and to report back on them?

M: Yes. We can report the following progress which has so far been made: With regard to contact between the Netherlands and the United Nations Council for Namibia it can be said that the Council has expressed its intention of visiting the Netherlands. There are consultations taking place with the Council on a suitable date on which a specially empowered committee of the Council will visit the Netherlands with a view to holding discussions on Namibian uranium and other topics.

C: No real progress, therefore. Only consultations about consultations. But no report is made on the possibility of a Declaration of Negative Origin. And then there is a General Election in the Netherlands. And after the election it takes a long time to form a new coalition government. It is some ten months later, in March 1982, before our Member of Parliament takes any further action.

P: Is it true that discussions were recently held in The Hague with a delegation of the United Nations Council for Namibia? And was the question of Namibian uranium discussed at all?

M: Last February a delegation of the U.N. Council for Namibia visited the Ministry of Foreign Affairs. This mission was aimed only at asking for financial contributions to United Nations funds for Southern Africa.

P: What action has the Government taken to carry out its promises made during the oral consultation of October 1980, namely to contact the United Nations Council for Namibia, and to check of the possibility of a Declaration of Negative Origin for imports of uranium?

- M: We have started consultations with the U.N. Council for Namibia as to how the use of Namibian uranium can be prevented. It is known that the Netherlands itself imports no Namibian uranium. The possibility of a Declaration of Negative Origin has been investigated. The result is that a requirement imposed only by the Netherlands to produce a Declaration of Negative Origin when importing uranium is not the right way to solve this problem. On the one hand it is questionable as to whether such a procedure is in line with European Community law, while on the other hand it is practically impossible to check on the correctness of the facts contained in such a declaration.
- O: And then there was another General Election in the Netherlands, and another governing coalition was formed, and any mention of attempts to end Dutch involvement in the processing of Namibian uranium were removed from the Government's programme....
- ... And a few weeks ago General Magnus Malan, the South African Minister of Defence, announced that South Africa could not withdraw from Namibia now.

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The play is a direct translation of the discussion over the last five years in the Dutch parliament, but reduced into fifteen minutes.

The play shows to some extent what limitations there are when a political campaign is carried out. None of the research done by the action groups was ever disputed by the Government and yet the illegal Namibian trade continues in spite of a seemingly sympathetic approach by the Dutch Government. The Dutch at least recognize the powers of the U.N. Council for Namibia, and give some legal validity to Decree No.1. And yet there is no real progress.

We are continuing with our parliamentary contacts, and the issue will certainly be raised again. But we have come up against the limitations of action groups working on their own. The Dutch Government when under pressure merely said that the Council for Namibia should take the initiative if they want to stop the uranium trade. Probably the Dutch government would have been less confident if there was an aggressive approach by the U.N. Council for Namibia. As it happened it was the Dutch government, under pressure from parliament, which was forced to raise the issue. And so we see that action groups, when it comes to the crunch, sometimes need strong and affirmative action by the United Nations bodies to end economic involvement by foreign countries in Namibia.

As it is the Netherlands will become a member of the U.N. Security Council for 1983 and 1984, while its attitudes will be influenced by the still continuing enrichment of Namibian uranium.

We still have other ideas in the Netherlands, apart from continuing our parliamentary campaign. Legal issues are involved and our contacts with lawyers are good. The work of Professor Hans Verheul is mentioned in the play, and his opinion that in Dutch law the enrichment of Namibian uranium is illegal has the support of several leading academic lawyers at Dutch universities.

However the backing received from lawyers must also be channelled towards action. Pure research and messages of support are not going to end the lucrative uranium trade. And the involvement by lawyers inevitably leads to the possibility of court action.

Not only do we have the co-operation of academic lawyers, but also of practicing attorneys. A small group of attorneys has investigated the possibilities of legal action in the Dutch Courts to stop the Dutch involvement in the uranium trade. The Dutch Government has made it known that they will not "shy away" from a court case, if one is brought before the Dutch Courts.

Here perhaps is the challenge to the U.N. Council for Namibia. For the Dutch lawyers have said that as the U.N. Council has the responsibilities of the legal authority of Namibia they have the legal authority to instruct lawyers to prepare a case of their behalf. Here again the action groups have reached the limit of their legal campaign, and the next strong and affirmative steps must be taken by others more competent to do so.

The Dutch involvement in the uranium trade as commercial enricher of the uranium bought by West Germany and the United Kingdom is small. But it is crucial - and vulnerable to the right kind of action. West German and British links through the uranium trade to Namibia can be disrupted if the Dutch involvement is stopped. And that can only weaken the support South Africa receives from these countries, which is in turn an important step on the hard-fought road to Namibian independence. And that is surely the goal of all of us gathered here today.

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