

ity of acquisition of territory by the threat or use of force. In the operative part of the draft resolution, the Council would have, first, affirmed (a) that the Palestinian people, in accordance with the Charter of the United Nations, should be enabled to exercise its inalienable national right of self-determination, including its right to establish an independent State in Palestine; (b) the right of Palestinian refugees wishing to return to their homes and live at peace with their neighbours to do so, and the right of those choosing not to return to receive equitable compensation for their property; secondly, reaffirmed that Israel should withdraw from all the Arab territories occupied since June 1967, including Jerusalem; thirdly, decided that appropriate arrangements should be established to guarantee, in accordance with the Charter, the sovereignty, territorial integrity and political independence of all States in the area, including the sovereign independent State of Palestine as envisaged in paragraph 1 (a) of the resolution and the right to live in peace within secure and recognized boundaries; fourthly, decided that the provisions contained in paragraphs 1, 2 and 3 of the present resolution should be taken fully into account in all international efforts and conferences organized within the framework of the United Nations for the establishment of a just, lasting and comprehensive peace in the Middle East; fifthly, requested the Secretary-General to take all the necessary steps as soon as possible for the implementation of the provisions of the present resolution and to report to the Security Council on the progress achieved; and sixthly, decided to convene within a period of six months to consider the report of the Secretary-General regarding the implementation of the resolution and in order to pursue its responsibilities regarding such implementation.⁷⁸⁸

Prior to the vote, at the same meeting, the representative of the United States indicated that his delegation would oppose the draft resolution as his Government was committed to the approach embedded in the Camp David accords as the only workable framework for a Middle East settlement and did not view the draft resolution as an acceptable alternative.⁷⁸⁹

The President then put the draft resolution to the vote; it received 10 votes in favour, 1 against, and 4 abstentions and was not adopted owing to the negative vote of a permanent member of the Council.⁷⁹⁰

After the vote, the representatives of France and the United Kingdom noted that their delegations had abstained on the draft resolution, because the review of the Palestinian question by the Council of Ministers of the European Community had not been completed.⁷⁹¹ The representative of the PLO called the vote of 10 in favour against a single negative vote a victory and recognition of the inalienable rights of the Palestinian people.⁷⁹²

⁷⁸⁸ 2220th mtg., paras. 80-84. The draft resolution failed of adoption since one permanent member cast a negative vote.

⁷⁸⁹ *Ibid.*, paras. 139-150.

⁷⁹⁰ *Ibid.*, para. 151.

⁷⁹¹ *Ibid.*, France, paras. 154-158; United Kingdom, paras. 153-158.

⁷⁹² *Ibid.*, paras. 174-192.

THE SITUATION IN NAMIBIA

Decision of 6 June 1975 (1829th meeting): rejection of draft resolution

By letter⁷⁹³ dated 24 April 1975 addressed to the President of the Security Council, the President of the United Nations Council for Namibia transmitted the text of a press statement of the Council for Namibia in which it expressed shock and dismay over an incident that had taken place on 23 April in the black township of Katutura (Windhoek) when the South African police had opened fire on unarmed workers, killing one Namibian and seriously wounding 10 others. The Council for Namibia demanded the immediate and unconditional release of another 295 Africans arrested in connection with the incident.

By letter⁷⁹⁴ dated 27 May 1975 addressed to the Secretary-General, the representative of South Africa transmitted the text of a letter from the Minister for Foreign Affairs of South Africa and excerpts from a speech made at Windhoek by Prime Minister Vorster on 20 May which stated that the basis of the South African Government's approach to the question of South West Africa was that it was for the peoples of South West Africa themselves to determine their own political and constitutional future in accordance with their own freely expressed wishes, without interference from South Africa, the United Nations or any other outside entity.

The meeting of the Security Council was called in accordance with resolution 366 (1974)⁷⁹⁵ by which the Council had decided to meet before 30 May 1975 for the purpose of reviewing South Africa's compliance with the terms of that resolution.

At the 1823rd meeting on 30 May 1975 the Council adopted its agenda⁷⁹⁶ and considered the item at the 1823rd to 1829th meetings from 30 May to 6 June 1975.

In the course of its deliberations the Council invited the representatives of Algeria, Bulgaria, Burundi, Cuba, Dahomey, the German Democratic Republic, Ghana, India, Liberia, Nigeria, Pakistan, Romania, Saudi Arabia, Senegal, Sierra Leone, Somalia, the United Arab Emirates, Yugoslavia and Zambia, at their request, to participate, without vote, in the discussion of the item.⁷⁹⁷

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the President and other members of the United Nations Council for Namibia, to Mr. Sam Nujoma, President of the South West Africa People's Organization (SWAPO) and his delegation, to the Reverend Canon Burgess Carr of the All-Africa Conference of Churches and to Mr. Abdul Minty of the Anti-Apartheid Movement of London.⁷⁹⁷

⁷⁹³ S/11709, mimeographed. For the text of the statement, see A/AC.131/L.24.

⁷⁹⁴ S/11701, *OR*, 30th yr., *Suppl. for April-June 1975*, pp. 35-38.

⁷⁹⁵ Resolutions and decisions of the Security Council, 1974, *OR*, 29th yr., pp. 12, 13.

⁷⁹⁶ 1823rd mtg., preceding para. 1.

⁷⁹⁷ For details, see chapter III.

At the 1823rd meeting the President of the United Nations Council for Namibia said that, after an analysis of the statement from South Africa, including attempts to seek clarification from the South African Government, the Council for Namibia concluded that South Africa had in fact rejected operative paragraphs 3 and 4 of the Security Council resolution 366 (1974). Summarizing the position of the Council for Namibia on the matter, he said that South Africa should:

1. Declare its unequivocal acceptance of self-determination and independence for Namibia;
2. Accept the territorial integrity of Namibia and prescribe a solution that would retain the unity of the Territory as a whole;
3. Allow SWAPO total political freedom of movement so as to enable that organization to demonstrate that its support did not lie merely within the Ovambo tribe, as alleged, but in the whole country;
4. Immediately and totally abandon all aspects of the extension of *apartheid* in Namibia, including its police brutality;
5. Implement with integrity and honour the decision to give independence to Namibia;
6. Accept the United Nations role to ensure a fair national election in that Territory.⁷⁹⁸

The representative of Somalia stated that South Africa had unequivocally reaffirmed its position of non-compliance with United Nations resolutions on Namibia and with the findings of the International Court of Justice. The adoption of resolution 366 (1974) had been considered by the international community as the culmination of the long effort of the world body to find an equitable solution to the question of Namibia. Both the interests of the people of the Territory and the authority and credibility of the United Nations would be ill served if yet another ultimatum to South Africa proved to be futile as others had been in the past.⁷⁹⁹

At the same meeting the representative of Burundi called on the Security Council to (1) reject the letter to the Secretary-General from the Minister for Foreign Affairs of South Africa and regard it as null and void; (2) state that the continued occupation of Namibia by South Africa is an act of aggression and a threat to the peace in that part of Africa and take the appropriate measures in conformity with Article 39 of the Charter; and (3) take all the steps necessary to enable the United Nations Council for Namibia to discharge its responsibilities within the Territory of Namibia.⁸⁰⁰

At the 1824th meeting on 2 June 1975 the representative of Zambia expressed the hope that the Security Council would go further than resolution 366 (1974) so that South Africa could be left in no doubt as to where the international community stood on the matter. He called on the Security Council among other things to condemn South Africa's refusal to comply with resolution 366 (1974); call for an effective arms embargo

against South Africa; demand once more that South Africa unconditionally withdraw from Namibia; also demand an immediate end to the creation of Bantustans and so-called homelands; further demand that South Africa accept the holding of free elections in Namibia; and declare that should South Africa not comply with these demands by 30 September 1975 the Council would meet and take stern measures under Chapter VII of the Charter, which might include suspension or expulsion of South Africa from the United Nations.⁸⁰¹

At the same meeting the representative of Ghana stated that South Africa had blatantly refused to comply with the decision of the Security Council and was therefore in serious breach of Article 25 of the Charter. He invited the Security Council to take effective measures against South Africa and to give the Council for Namibia the support and the means to establish its presence and authority in Namibia and to guide the Territory to independence. If South Africa prevented the Council from doing this, then the Council had to suspend South Africa's privileges and rights deriving from membership of the United Nations and should not exclude the possibility of expelling it from the Organization.⁸⁰²

The representative of France said that the South African response was ambiguous with regard to the unity of the Territory of Namibia. It presented such a loose formula that it left room for the fear that several Namibias might be formed and that it did not take into account the resolution whereby the General Assembly and the Security Council requested South Africa to respect the unity of the country. Namibia had to accede to independence as a single State. France drew an essential difference between the concept of unity and that of territorial integrity and considered that the South African Government gave satisfactory assurances when it stated that it did not claim an inch of the Territory for itself. Some control other than that of Pretoria should be exercised in Namibia to ensure that nobody tried to counteract the necessary course of events. He deplored the reference in the letter of the Minister for Foreign Affairs of South Africa to the fact that his Government could not accept United Nations supervision and appealed to the South African leaders to review their position.

A concrete measure likely to promote new developments would be to try to benefit from the resolution on Namibia, recently adopted by the Organization of African Unity (OAU) in Dar es Salaam under which a special committee had been set up to deal with all problems concerning the Territory and also to benefit from one positive element of the South African letter: the offer of the Pretoria Government to receive the President of the Council for Namibia and the Special Committee of OAU. The Council could thus entrust a contact committee with the task of rapidly getting in touch with the South African Government and inviting it to negotiate on the means to permit the earliest

⁷⁹⁸ 1823rd mtg., paras. 13-29

⁷⁹⁹ *Ibid.*, paras. 33-51

⁸⁰⁰ *Ibid.*, paras. 54-61

⁸⁰¹ 1824th mtg., paras. 32-44

⁸⁰² *Ibid.*, paras. 48-70

possible attainment of independence by Namibia, with respect for its territorial integrity and unity. One of the most appropriate means to attain that objective lay in the organization, under international supervision, of general elections throughout the Territory based on universal suffrage. Those elections should be held with the participation of all interested parties and movements, including the party which was probably the most important of all, SWAPO. They should take place as soon as possible and, in any case, within a year. France did not agree with the opinion stated by some that the situation in Namibia came under Chapter VII of the Charter or under one of its Articles.⁸⁰¹

At the 1825th meeting on 3 June 1975 the representative of Dahomey called on the Council to impose an embargo on South Africa both at the economic level and with regard to arms. There could be no doubt but that, in order to justify their position, those who protected Pretoria would not fail to find certain positive notes in Vorster's reply to resolution 366 (1974) and would claim that in fact the reply constituted a favourable response to the appeals of the Council. Were the Council to fail to act, the African people, in defence of the just cause of SWAPO, could not fail to give that liberation movement the moral, material and logistic support it needed to attack the enemy everywhere at any time and to liberate the Territory of Namibia.⁸⁰⁴

The representative of the United States stated that in view of the facts of the Namibian situation, it was difficult to find that a threat to international peace and security existed within the meaning of the Charter. It would not be appropriate to invoke mandatory sanctions specifically reserved for threats to the peace.⁸⁰⁵

At the 1826th meeting on 4 June 1975 the representative of Nigeria urged the Council to appoint a committee of the Council to facilitate the implementation of the programme for the transfer of power to the people of Namibia.⁸⁰⁶

At the same meeting the representative of the United Republic of Tanzania noted that during the previous year the Council had given an ultimatum on Namibia to the South African régime by adopting resolution 366 (1974). The three Western permanent members of the Security Council supported that ultimatum. Yet, the United Kingdom conducted sea manoeuvres with South Africa. France did the same and continued to sell arms to South Africa. The United States received the Chief of the South African defence forces. It had been argued by some in the Council that the situation in Namibia did not constitute a threat to international peace and security. Yet there was a war going on in Namibia itself between the freedom fighters and the illegal occupation forces. South Africa had consolidated its military arsenals in Namibia and was waging a war of repression in that Territory and at the same time was posing a direct threat to the peace and security of the whole

region. The Council had a responsibility to ensure that its decisions were respected. At least, the Council had to impose a mandatory arms embargo against South Africa. Any measure contemplated by the Council in the form of a resolution should include: reaffirmation by the Council of the United Nations' authority over Namibia; a clause to the effect that the United Nations should organize and supervise elections to enable the people of Namibia freely to determine their own future; complete rejection of Bantustans and a call to South Africa to abandon that policy; reaffirmation of the territorial integrity of Namibia; a call for a halt to repression and for the release of all political prisoners; a call for the dismantling of all military bases set up by the South African régime in Namibia contrary to the Charter of the United Nations; a call for the suspension by all States Members of the United Nations of any investments in South Africa for the time being as a clear demonstration that this would continue only until South Africa gave a clearer positive response; and the rejection by the Council of sham elections organized by the South African régime in Namibia.⁸⁰⁷

At the 1827th meeting on 5 June 1975 the representative of the USSR said that South Africa was ignoring the decisions of the United Nations and was refusing to implement them. The South African leaders had in essence reaffirmed their policy aimed at breaking the unity of the country. It was not persuasion that was needed, but rather effective, concrete enforcement measures against South Africa that would be mandatory for all States Members of the United Nations. Those who were attempting to distract the attention of the United Nations and the Security Council from the real state of affairs had done so as far back as 1972 at the series of meetings of the Security Council in Addis Ababa, where they prodded the Council and the United Nations into a dialogue with the racists of Pretoria. At that time the delegation of the Soviet Union expressed serious doubts and spoke out against dialogue with the racists of South Africa, fully realizing that it was a futile and hopeless undertaking. Life and subsequent developments had fully vindicated the position taken by the Soviet Union in that regard. The idea of dialogue was merely a convenient pretext for the racist régime of South Africa and its protectors in the United Nations to postpone endlessly and to put off any solution of the problem of Namibia's independence. The racist régime of Vorster, with the support of only an insignificant group of his protectors, had found itself facing complete international isolation. As reaffirmations of this there were the just proposals of the African States, justified by the United Nations Charter, that South Africa be expelled from the United Nations. Voices were sometimes heard alleging that the United Nations Charter was at fault because thus far the decisions of the Council on Namibia and on a number of other important questions had not been implemented. The fault for this rested not with the Charter but with those States Members of the United Nations which failed to observe the provisions of the

⁸⁰¹ *Ibid.*, paras. 85-106, 1829th mtg., paras. 190-195.

⁸⁰² 1825th mtg., paras. 7-26.

⁸⁰³ *Ibid.*, paras. 74-89, 1829th mtg., paras. 173-177.

⁸⁰⁴ 1826th mtg., paras. 31-37.

⁸⁰⁷ *Ibid.*, paras. 68-99.

Charter and acted contrary to and in violation of the lofty and humanitarian principles and purposes proclaimed in it. In fact, they attempted to conceal and to justify South Africa's failure to observe the Charter and it was this that enabled South Africa to put itself against the Security Council and the United Nations at large and against the countries of Africa and world opinion.⁸⁰⁸

At the 1829th meeting on 6 June 1975 the representative of the United Kingdom said that South Africa had made an offer to have discussions on the future of Namibia with a representative of the Secretary-General, with the newly created Special Committee of OAU and with the President of the Council for Namibia. Any such discussions should be unconditional. They could not, for example, be confined merely to examination of the situation in Namibia—a sort of African visiting mission. The discussions, to be useful, would have to encompass the future constitutional and political development of Namibia. The United Kingdom did not regard the situation in Namibia as a threat to international peace and security; it would oppose any resolution of the Council to that effect. It would equally oppose any attempt to prejudge what action the Council should take if and when it reassembled to consider Namibia later this year. Some delegations had been considering a draft resolution which would have authorized renewed contacts with the South African Government, but would have pointed them in the correct direction right from the start. That draft resolution would have condemned South Africa's failure to comply satisfactorily with resolution 366 (1974); condemned its illegal occupation of Namibia; condemned its illegal application of racial discriminatory and repressive laws; demanded an end to the policy of Bantustans, and South Africa's urgent withdrawal from the Territory; and called upon South Africa to enter into early contact with a committee to be established by the Council for the purpose. But this proposal proved unacceptable to other members of this Council. Had such a resolution been adopted by consensus, the whole weight of the Security Council would once again have been invoked against South Africa's continued occupation of Namibia. More important, the Council would have been able to record its general agreement on the way in which it hoped the situation would develop, namely towards free elections under United Nations supervision.⁸⁰⁹

At the same meeting the representative of the United Republic of Cameroon introduced a draft resolution sponsored by Guyana, Iraq, Mauritania, the United Republic of Cameroon and the United Republic of Tanzania⁸¹⁰ by which the Council would (1) condemn South Africa's failure to comply with terms of Security Council resolution 366 (1974) of 17 December 1974; (2) condemn once again the continued illegal occupation of the Territory of Namibia by South Africa; (3) further condemn the illegal and arbitrary application by South Africa of racially discriminatory and repressive laws

and practices in Namibia; (4) demand that South Africa put an end forthwith to its policy of Bantustans and the so-called homelands aimed at violating the national unity and the territorial integrity of Namibia; (5) further demand that South Africa proceed urgently with the necessary steps to withdraw from Namibia and, to that end, to implement the measures stipulated in resolution 366 (1974); (6) reaffirm the legal responsibility of the United Nations over Namibia and demand that South Africa take appropriate measures to enable the United Nations Council for Namibia to establish its presence in the Territory with a view to facilitating the transfer of power to the people of Namibia, (7) declare that in order for the people of Namibia to determine freely their own future it is imperative that free elections be organized under the supervision and control of the United Nations as soon as possible and, in any case, not later than 1 July 1976; (8) affirm its support of the struggle of the people of Namibia for self-determination and independence; (9) acting under Chapter VII of the United Nations Charter: (a) determine that the illegal occupation of the Territory of Namibia by South Africa constituted a threat to international peace and security; (b) decide that all States should prevent: (i) any supply of arms and ammunition to South Africa; (ii) any supply of aircraft, vehicles and military equipment for use of the armed forces and paramilitary organizations of South Africa; (iii) any supply of spare parts for arms, vehicles and military equipment used by the armed forces and paramilitary organization of South Africa; (iv) any activities in their territories which promote or are calculated to promote the supply of arms, ammunition, military aircraft and military vehicles to South Africa and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa and Namibia; (10) decide that all States should give effect to the decision set out in paragraph 9 (b) above notwithstanding any contract entered into or licence granted before the date of the present resolution, and that they notify the Secretary-General of the measures they have taken to comply with the aforementioned provision; (11) decide that provisions of paragraph 9 (b) above should remain in effect until it had been established, to the satisfaction of the Security Council, that the illegal occupation of the Territory of Namibia by South Africa had been brought to an end; (12) request the Secretary-General, for the purpose of the effective implementation of the present resolution, to arrange for the collection and systematic study of all available data concerning international trade in the items which should not be supplied to South Africa under paragraph 9 (b) above; (13) request the Secretary-General to report to the Security Council concerning the implementation of paragraph 7 and other provisions of the present resolution; (14) decide to remain seized of the matter and to meet on or before 30 September 1975 for the purpose of reviewing South Africa's compliance with the terms of the relevant paragraphs of the present resolution and, in the event of non-compliance by South Africa, to take further appropriate measures under the Charter.

⁸⁰⁸ 1827th mtg., paras. 75-99

⁸⁰⁹ 1829th mtg., paras. 8-37.

⁸¹⁰ S/11713, *OR*, 30th yr., *Suppl. for April-June 1975*, pp. 47-48

Speaking in explanation of the vote before the vote, the representative of China said that in the opinion of his delegation the wording of operative paragraph 13 of the draft resolution did not authorize the Secretary-General to enter into any so-called "dialogue" with the South African authorities. Although his delegation had reservations on operative paragraph 7, it would vote for the draft.¹¹¹

The representative of Sweden said his delegation would vote for the draft, although it would have wished to have a text much more explicit with regard to United Nations contacts with South Africa in order to explore possibilities that might exist to promote a peaceful movement towards the goal of a free and independent nation of Namibia. Operative paragraph 13 requested the Secretary-General to report to the Council concerning the implementation of paragraph 7 regarding United Nations supervision of free elections in Namibia. That implied, in Sweden's view, that the Secretary-General had to make all the contacts necessary in that context to create a base for his reporting to the Council regarding implementation.¹¹²

The Council then proceeded to vote on the draft resolution, which received 10 votes in favour, 3 against and 2 abstentions and was not adopted, owing to the negative votes of three permanent members of the Council.¹¹³

Speaking in explanation of vote, the representative of Japan said that his delegation found it difficult to accept a finding that the situation in Namibia constituted a threat to international peace and security. There was still a possibility for a peaceful solution through talks between the parties directly concerned.¹¹⁴

The representative of Italy stated that his delegation was not able to support those provisions of the draft resolution which referred to action under Chapter VII of the Charter. As a matter of fact the problem of Namibia was still one of illegal occupation of a Territory by the administering Power and of violation of human rights for which the Charter made provision under other rules.¹¹⁵

The representative of the United Republic of Tanzania declared that paragraph 6 of resolution 366 (1974) specifically stipulated that if South Africa failed to comply with its provisions, the Council would consider "the appropriate measures to be taken under the Charter of the United Nations". South Africa had not complied with the provisions of resolution 366 (1974). Logic demanded that the Council should have proceeded to take the appropriate measures that it had undertaken to implement.¹¹⁶

Speaking in exercise of his right of reply the representative of the United Kingdom said the speech by the representative of the United Republic of Tanzania was

based upon three propositions. The first was that there had been total non-compliance by the South African Government with resolution 366 (1974). The United Kingdom did not accept the totality of that proposition. Secondly, there was the proposition that if there had been non-compliance by South Africa with a Council resolution, that automatically made the situation one in which there was a threat to international peace and security within the terms of Chapter VII of the Charter. That was not a proposition the United Kingdom could accept. The third proposition was that, leaving aside all legalities, to move into Chapter VII at the moment would be the best way of putting effective pressure on the South African Government and the best way of moving forward. That was inappropriate at a time when the South African Government had made certain offers and had proposed certain contacts. It was quite inappropriate to take a step so drastic and far-reaching without first trying to ensure whether those contacts would produce anything or indeed whether those statements meant anything.¹¹⁷

At the end of the meeting the President stated that the Council had concluded the present phase of its consideration of the situation in Namibia. It would remain seized of the matter.

Subsequent to the 1829th meeting, the Acting Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples transmitted by letter¹¹⁸ dated 27 June 1975 to the President of the Security Council a copy of the text of a consensus concerning the question of Namibia¹¹⁹ adopted by the Special Committee on 18 June, in which it urged the Security Council to consider taking all appropriate measures under the United Nations Charter, including those provided for in Chapter VII, with a view to securing the full and speedy compliance of South Africa with United Nations decisions concerning Namibia, in particular, Security Council resolution 366 (1974) of 17 December 1974.

Decision of 30 January 1976 (1885th meeting): resolution 385 (1976)

By letter¹²⁰ dated 16 December 1975 the Secretary-General transmitted to the President of the Security Council the text of General Assembly resolution 3399 (XXX), adopted on 26 November, and drew attention to paragraph 11 of the resolution, whereby the Assembly urged the Security Council to take up again the question of Namibia and to give effect to Security Council resolution 366 (1974).

¹¹¹ *Ibid.*, paras. 228-233.

¹¹² S/11745, mimeographed. For the text, see *G.AOR, 30th Session, Suppl. No. 23*, chap. X, paras. 12-13.

¹¹³ The original text of the consensus was transmitted to the Permanent Representative of South Africa to the United Nations for the attention of his Government. Copies of the consensus were also transmitted to the President of the United Nations Council for Namibia, to all States and to the specialized agencies and other organizations within the United Nations.

¹¹⁴ S/11918, mimeographed. For the text, see *G.AOR, 30th Session, Suppl. No. 34*.

¹¹¹ 1829th mtg., para. 155.

¹¹² *Ibid.*, paras. 156-158.

¹¹³ *Ibid.*, para. 160.

¹¹⁴ *Ibid.*, paras. 162-167.

¹¹⁵ *Ibid.*, paras. 168-172.

¹¹⁶ *Ibid.*, paras. 196-226 and para. 235.

In a letter⁸²¹ dated 27 January 1976 addressed to the Secretary-General, the representative of South Africa set out his Government's position with regard to the question of South West Africa. He stated that South Africa did not recognize any right of the United Nations to supervise the affairs of the Territory and added that the advisory opinion of the International Court of Justice of 21 June 1971 was advisory only. The South African Government reiterated its offer to negotiate with a mutually acceptable personal representative of the Secretary-General in order that he might acquaint himself with the process of self-determination in the Territory and attend the Constitutional Conference as an observer. It also reiterated its offer to discuss the development with leaders of Africa, the Chairman of the United Nations Council for South West Africa and the Special Committee of the OAU. They would also be welcome to visit South West Africa. Additional information regarding the Territory was provided in an annex entitled "South West Africa Survey 1974".

At its 1880th meeting on 27 January 1976 the Security Council adopted the agenda and considered the item at the 1880th to 1885th meetings between 27 and 30 January 1976.

In the course of its deliberations the Council invited the representatives of Algeria, Bangladesh, Burundi, Cuba, Egypt, Guinea, India, Indonesia, Jamaica, Jordan, Kenya, Kuwait, Liberia, Mali, Mauritania, Mauritius, Nigeria, Poland, Saudi Arabia, South Africa, Tunisia and Yugoslavia, at their request, to participate without the right to vote in the discussion of the item.⁸²²

The Security Council also extended invitations, as requested, under rule 39 of the provisional rules of procedure to a delegation of the United Nations Council for Namibia, composed of the President of that body and the representatives of Finland, Indonesia, Poland and Mexico, to Mr. Moses M. Garoeb of SWAPO and to the Rapporteur of the Special Committee against *Apartheid*.⁸²³

At the 1880th meeting the representative of Zambia speaking as the President of the United Nations Council for Namibia stated that the people of Namibia had continued to suffer under the illegal South African occupation. The Pretoria régime had escalated its police-state measures against Namibians through killings, mass arrests, detention and other repressive actions. Its continued illegal occupation of Namibia had been reflected in the expanding application of *apartheid* and the continuing Bantustanization of the Territory. The most recent attempt to mislead the Namibian people and the international community was the so-called Constitutional Conference. The Declaration of Intent which it adopted was blatant in its violation of the rights of the Namibian people; it did not recognize Namibia as a unitary State and made no reference to majority rule or to the institutions of a central government. SWAPO had already decisively rejected that mystification. The

Council for Namibia had also condemned the so-called Constitutional Conference. Moreover, the Council for Namibia had reaffirmed the territorial integrity of Namibia as well as the inalienable right of the Namibian people to self-determination and independence. They had no alternative left but to struggle for their right to self-determination and independence by all means at their disposal. There was still a chance for peaceful change in Namibia. That chance lay only in the convening of a national election in Namibia under United Nations supervision. Such an election, in which all the political parties of Namibia, including SWAPO, must participate on an equal footing, would constitute a genuine act of self-determination by the people of Namibia. The Council must, at the very minimum, do the following: (1) strongly condemn the continued illegal occupation of Namibia by South Africa and demand that South Africa comply with the relevant General Assembly and Council resolutions calling upon it to withdraw from Namibia; (2) strongly condemn the attempts by South Africa to divide Namibia into so-called homelands and to apply its racially discriminatory and repressive laws and practices in the Territory; (3) strongly condemn the South African military build-up in Namibia and the recent convening of a so-called Constitutional Conference in the Territory; (4) declare and direct that, in order that the people of Namibia might be enabled freely to determine their own future, free elections under United Nations supervision and control be held for the whole of Namibia as one political entity; and (5) demand that South Africa urgently make a solemn declaration accepting the requirement for the holding of free elections in Namibia under United Nations supervision and control.⁸²⁴

The representative of Guinea said that in June 1975 France, the United Kingdom and the United States of America used their right of veto to block an arms embargo against South Africa under Chapter VII of the Charter. The need for such action was even more evident now that South Africa, encouraged by the West, was using Namibian territory as a base for aggression against the new State of Angola.⁸²⁵

At the same meeting the representative of Algeria noted that South Africa, by refusing to comply with resolution 366 (1974), had failed to fulfil its obligations as a Member, in particular those arising out of Article 25 of the Charter.⁸²⁶

At the 1881st meeting on 27 January 1976 the representative of the United Kingdom, speaking about the Constitutional Conference convened by South Africa, regarded it as a step forward. However, the composition of the Conference was inadequate. Those who believed that Namibia should become a unitary State had been excluded from the Conference since they were reluctant to take part in the ethnic elections from which the Conference had drawn its representation. The current talks did not constitute a process of self-deter-

⁸²¹ S/11948 and Add 1, OR, 31st yr. Suppl. for Jan.-March 1976, pp. 39-78.

⁸²² For details, see chapter III.

⁸²³ *Ibid.*

⁸²⁴ 1880th mtg., paras. 11-31.

⁸²⁵ *Ibid.*, paras. 56-65.

⁸²⁶ *Ibid.*, paras. 67-82.

mination. Some useful proposals might be made at the Conference; but those would need the approval of the Namibian people as a whole through a single electoral process conducted throughout Namibia and supervised by the United Nations. The United Nations team should closely monitor the election and report back to the Security Council. It was by no means certain that South Africa would accept the principle of United Nations supervision. South Africa believed that the United Nations was determined to impose a preconceived pattern of political development upon the Territory. Neither the Administering Authority nor the United Nations could choose on behalf of the Namibian people. Strict election supervision was necessary, but it would be unrealistic to demand that the South Africans should leave the Territory before any act of self-determination took place. That was why the United Kingdom advocated contacts between South Africa and the United Nations as the only way to bring about the acceptance by South Africa of United Nations supervision.⁸²⁷

The representative of the Philippines, as Rapporteur of the Special Committee against *Apartheid*, stressed that the régime of South Africa constituted a threat to international peace and security, and issued open threats to neighbouring independent African States. The international community could not idly stand by while South Africa undertook to destroy the national unity and territorial integrity of Namibia, and built up its military forces using Namibia as a base for intervention against independent neighbouring countries. The Council must take urgent and effective measures against the South African racist régime, particularly by enforcing an arms embargo against that criminal and aggressive régime.⁸²⁸

The representative of South Africa stated that his country did not recognize and had never recognized any right of the United Nations to supervise the affairs of the Territory of South West Africa, nor could it be expected to agree to United Nations supervision of any electoral process as long as the majority of United Nations Members continued their campaign in regard of the Territory.⁸²⁹

At the 1882nd meeting on 28 January 1976 the representative of China said that the Namibian question should be solved as follows: the relevant General Assembly and Security Council resolutions adopted on Namibia should be adhered to; and the South African authorities must immediately end their illegal occupation of Namibia, withdraw all their troops and administration therefrom and let the Namibian people achieve their independence free from outside interference.⁸³⁰

At the 1883rd meeting on 29 January 1976 the representative of the USSR observed that it was obvious that the major goal of the South African régime was to postpone its withdrawal indefinitely, and to preserve in that area a citadel of neo-colonialism and racism against

the peoples of Africa. Many sophisticated arms were being delivered to South Africa through transnational corporations, in violation of the decisions of the United Nations and the Organization of African Unity. These deliveries had increased, especially in recent times, in connection with an unprecedented increase in military expenditures in South Africa. The arms and military supplies entering South Africa were being used widely by the racist régime to suppress the national liberation movement in Namibia and to turn the Territory itself into a base to threaten and directly attack neighbouring African countries. This was a flagrant violation of international law and fully confirmed that the racist régime of South Africa was a serious threat to peace and security on the African continent. The delegation of the Soviet Union was convinced that the continued struggle of the United Nations and of the entire international community against the last bastion of colonialism and recession was fully in keeping with the goals of international détente and with the task of extending it to all countries of the world, including the continent of Africa.⁸³¹

At the same meeting the representative of France said that since South Africa had taken certain initiatives, even though they did not appear to be satisfactory, it behoved the international community to maintain its pressure in an effort to guide the actions of the Government of Pretoria. But pressure should be exercised realistically, taking into account what was possible without sacrificing the fundamental options of the United Nations. He welcomed the draft resolution prepared by seven non-aligned countries and others. The requirements for free elections in Namibia with the participation of all parties, including SWAPO, met with the approval of his delegation. Those elections should be held under United Nations supervision and with the necessary control by the United Nations. When the time came, it would be up to the Council, taking into account the attitude of the Pretoria authorities, to determine how the United Nations intervention should be translated in practice.⁸³²

The representative of the United States expressed the belief that a single electoral process should be held throughout Namibia carefully supervised by the United Nations to allow the Namibian people to decide on the future constitutional structure of their country. The supervision could be worked out as soon as possible between the United Nations and the Government of South Africa and both parties should be encouraged to meet and make the necessary arrangements.⁸³³

At the 1884th meeting on 29 January 1976 the representative of Guyana introduced the draft resolution⁸³⁴ sponsored by Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania, Sweden and the United Republic of Tanzania. He noted that the draft resolution was fashioned on the basis of a set of

⁸²⁷ 1881st mtg., paras. 38-48.

⁸²⁸ *Ibid.*, paras. 53-82.

⁸²⁹ *Ibid.*, paras. 85-131.

⁸³⁰ 1822nd mtg., paras. 27, 28, 32 and 33.

⁸³¹ 1823rd mtg., paras. 5-25.

⁸³² *Ibid.*, paras. 26-39.

⁸³³ *Ibid.*, paras. 82-92.

⁸³⁴ 1884th mtg., paras. 60-72. S. 11950 was adopted without change as resolution 385 (1976).

principles which members of the Council should regard as the fundamentals for the maintenance of peace and security in the world at large. The foremost principle was the inalienable right of the people of Namibia to self-determination and independence. The second was that South Africa had no legal jurisdiction whatsoever over the Territory of Namibia. The third was that the United Nations, through the Council for Namibia, had a direct responsibility for the administration of the Territory of Namibia. Fourthly, the Security Council itself had acknowledged its own responsibility to take such initiatives as might be of assistance in finding a solution to the issue of South Africa's illegal occupation of Namibia.

At the same meeting the representative of Kenya appealed to the three permanent members of the Security Council which exercised their veto right in October 1974 and in June 1975, to reconsider their position and to facilitate the adoption by the Security Council of effective measures to ensure the withdrawal of South Africa from Namibia.⁸¹⁵

At the 1885th meeting on 30 January 1976 the representative of Mali observed that the South African aggression against Angola launched from Namibia gave a new dimension to the problem before the Council. The Council's decision must take into account the possible dire consequences of the continued illegal occupation of that Territory. The Council had a great responsibility because the expansionism of South Africa, if not contained in time, would engulf southern Africa in a virulent racial war with unpredictable implications.⁸¹⁶

The representative of the United Republic of Tanzania called for the disruption of diplomatic, other political and all economic relations with South Africa in so far as it related to Namibia. It was important that all exiled political leaders of the people of Namibia should be allowed to return without any restriction, and that they should be allowed to exercise their right to political expression freely as well as to propagate their opinions without let or hindrance. It was a necessary condition that the South African régime adhere strictly to the Declaration of Human Rights and the repeal of all restrictive laws.⁸¹⁷

At the same meeting the draft resolution S/11950 was adopted unanimously as resolution 385 (1976).⁸¹⁸

The resolution reads as follows:

The Security Council.

Having heard the statement of the President of the United Nations Council for Namibia,

Having considered the statement by Mr Moses M. Garoeb, Administrative Secretary of the South West Africa People's Organization,

Recalling General Assembly resolution 2145 (XXI) of 27 October 1966, by which the Assembly terminated South Africa's Mandate over the Territory of Namibia, and resolution 2248 (S V) of 19 May 1967, by which it established a United Nations Council for Namibia, as well as all other subsequent resolutions on Namibia, in particular resolution 3295 (XXIX) of 13 December 1974 and resolution 3399 (XXX) of 26 November 1975,

Recalling its resolutions 245 (1968) of 25 January and 246 (1968) of 14 March 1968, 264 (1969) of 20 March and 269 (1969) of 12 August 1969, 276 (1970) of 30 January, 282 (1970) of 23 July, 283 (1970) and 284 (1970) of 29 July 1970, 300 (1971) of 12 October and 301 (1971) of 20 October 1971, 310 (1972) of 4 February 1972 and 366 (1974) of 17 December 1974,

Recalling the advisory opinion of the International Court of Justice of 21 June 1971 that South Africa is under obligation to withdraw its presence from the Territory,

Reaffirming the legal responsibility of the United Nations over Namibia,

Concerned at South Africa's continued illegal occupation of Namibia and its persistent refusal to comply with the resolutions and decisions of the General Assembly and the Security Council, as well as with the advisory opinion of the International Court of Justice,

Gravely concerned at South Africa's brutal repression of the Namibian people and its persistent violation of their human rights, as well as its efforts to destroy the national unity and territorial integrity of Namibia, and its aggressive military build-up in the area,

Strongly deploring the militarization of Namibia by the illegal occupation régime of South Africa,

1. *Condemns* the continued illegal occupation of the Territory of Namibia by South Africa;
2. *Condemns* the illegal and arbitrary application by South Africa of racially discriminatory and repressive laws and practices in Namibia;
3. *Condemns* the South African military build-up in Namibia and any utilization of the Territory as a base for attacks on neighbouring countries;
4. *Demands* that South Africa put an end forthwith to its policy of bantustans and the so-called homelands aimed at violating the national unity and the territorial integrity of Namibia;
5. *Further condemns* South Africa's failure to comply with the terms of Security Council resolution 366 (1974);
6. *Further condemns* all attempts by South Africa calculated to evade the clear demand of the United Nations for the holding of free elections under United Nations supervision and control in Namibia;
7. *Declares* that, in order that the people of Namibia may be enabled freely to determine their own future, it is imperative that free elections under the supervision and control of the United Nations be held for the whole of Namibia as one political entity;
8. *Further declares* that, in determining the date, time-table and modalities for the elections in accordance with paragraph 7 above, there shall be adequate time, to be decided upon by the Security Council, for the purpose of enabling the United Nations to establish the necessary machinery within Namibia to supervise and control such elections, as well as to enable the people of Namibia to organize politically for the purpose of such elections;
9. *Demands* that South Africa urgently make a solemn declaration accepting the foregoing provisions for the holding of free elections in Namibia under United Nations supervision and control, undertaking to comply with the resolutions and decisions of the United Nations and with the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia, and recognizing the territorial integrity and unity of Namibia as a nation;

10. *Reiterates its demand* that South Africa take the necessary steps to effect the withdrawal, in accordance with Security Council resolutions 264 (1969), 269 (1969) and 366 (1974), of its illegal administration maintained in Namibia and to transfer power to the people of Namibia with the assistance of the United Nations,

11. *Demands again* that South Africa, pending the transfer of power provided for in paragraph 10 above

(a) Comply fully in spirit and in practice with the provisions of the Universal Declaration of Human Rights,

⁸¹⁵ 1884th mtg., paras. 128-148.

⁸¹⁶ 1885th mtg., paras. 40-60.

⁸¹⁷ *Ibid.*, paras. 62-81.

⁸¹⁸ *Resolutions and Decisions of the Security Council 1976*, pp. 8, 9.

(b) Release all Namibian political prisoners, including all those imprisoned or detained in connection with offences under so-called internal security laws, whether such Namibians have been charged or tried or are held without charge and whether held in Namibia or South Africa;

(c) Abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices, particularly bantustans and homelands;

(d) Accord unconditionally to all Namibians currently in exile for political reasons full facilities for return to their country without risk of arrest, detention, intimidation or imprisonment;

12. *Decides* to remain seized of the matter and to meet on or before 31 August 1976 for the purpose of reviewing South Africa's compliance with the terms of the present resolution and, in the event of non-compliance by South Africa, for the purpose of considering the appropriate measures to be taken under the Charter of the United Nations.

Speaking in explanation of vote after the vote the representatives of France and the United Kingdom expressed their reservations in regard to the decision of the Council since it referred to certain previous resolutions on which they abstained and also in regard to its operative paragraph 3.⁸³⁹

The representative of the United States said it was clear that the Council was leaving open the exact form of United Nations supervision of the elections, leaving it to be worked out subsequently by the United Nations. In that way the Council avoided prejudging the exact nature of the United Nations role until the matter could be specifically considered.⁸⁴⁰

Decision of 19 October 1976 (1963rd meeting): rejection of draft resolution

By letter⁸⁴¹ dated 18 August 1976 addressed to the Secretary-General, the representative of South Africa transmitted the text of a statement by the Constitutional Committee of the South West African Constitutional Conference. The Committee was in agreement that 31 December 1978 could, with reasonable certainty, be fixed as the date for independence for South West Africa. The Committee reaffirmed, with regard to the question of territorial integrity, the interdependence of the Territory's various population groups and the firm desire to maintain South West Africa as a unity. The Committee rejected any attempt to solve the country's problems by violence.

By letter⁸⁴² dated 20 August 1976 addressed to the Secretary-General, the Acting President of the United Nations Council for Namibia transmitted the text of the statement of the United Nations Council for Namibia of 18 August 1976. According to the statement, the proposals of the so-called Constitutional Conference of representatives hand-picked by the illegal South African administration in Windhoek did not even approach any of the requirements laid down by the United Nations for genuine self-determination and independence, but merely sought to perpetuate the homelands (bantustans) policies and prolong South Africa's illegal occupation of Namibia.

At the 1954th meeting on 31 August 1976 the Council adopted its agenda⁸⁴³ and considered the item at the 1954th meeting on 31 August 1976 and at the 1956th to 1963rd meetings between 28 September and 19 October 1976.

In the course of its deliberations the Council invited the representatives of Algeria, Bangladesh, Botswana, Burundi, Cuba, Democratic Kampuchea, Egypt, Ethiopia, the German Democratic Republic, Ghana, Guinea, Kenya, Liberia, Madagascar, Malawi, Mauritius, Morocco, Mozambique, the Niger, Nigeria, Poland, Saudi Arabia, Sierra Leone, Somalia, Sri Lanka, the Yemen Arab Republic, Yugoslavia and Zambia to participate without the right to vote in the discussion of the item.⁸⁴⁴

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to a delegation of the United Nations Council for Namibia headed by its Acting President, to Mr. Sam Nujoma, President of SWAPO and to Mr. Theo-Ben Gurirab of SWAPO.⁸⁴⁵

At the 1954th meeting the President stated that the Council had been convened to consider the question contained in the agenda in accordance with its resolution 385 (1976)⁸⁴⁶ and after consultations with its members.

At the same meeting the representative of Madagascar speaking on behalf of the African Group said that the Group favoured a policy of sanctions against South Africa in the context of the Namibian question as well as in the context of the questions of Southern Rhodesia and *apartheid*. As soon as a member violated the basic rules of the Organization in a flagrant and repeated manner, there was no alternative other than to take appropriate sanctions against it, which might go as far as expulsion. Such sanctions could bear witness to the Organization's solidarity with those who for 10 years had been struggling to be rid of the domination of the white minority in Namibia and to banish from their country the *apartheid* system. The African Group, like the United Nations Council for Namibia, held that the proposals of the so-called constitutional conference did not even approach any of the requirements for genuine self-determination and independence laid down by the United Nations. South Africa had not complied with the provisions of Security Council resolution 385 (1976), and the Council found itself under obligation to take appropriate measures as stated in that resolution. South Africa was waging a real war in Namibia in contravention of the preamble of resolution 3314 (XXIX) containing the definition of aggression. In the case of Namibia, South African troops were acting in a Territory over which South Africa held no title and had repeatedly used it as a base for aggression against neighbouring independent countries. Resolution 3314

⁸³⁹ 1885th mtg., France, paras. 89-94 and United Kingdom, paras. 101-106.

⁸⁴⁰ *Ibid.*, paras. 107-112.

⁸⁴¹ S/1180 OR (1976), Suppl. for July-Sept. 1976, pp. 48, 49.

⁸⁴² S/1185 *ibid.*, pp. 52, 53.

⁸⁴³ 1954th mtg., preceding para. 1.

⁸⁴⁴ For details, see chapter III.

⁸⁴⁵ *Ibid.*

⁸⁴⁶ *Resolutions and Decisions of the Security Council, 1976 OR 31st yr.*, pp. 8, 9.

(XXIX) and Chapter VII of the Charter should be applied in this situation.⁴⁴⁷

At the 1956th meeting on 28 September 1976 the representative of Benin noted that South Africa's illegal occupation of the Namibian territory, in violation of the relevant provisions of the United Nations Charter, in violation of General Assembly resolution 1514 (XV), and above all in violation of resolution 2145 (XXI), by which the General Assembly terminated South Africa's Mandate over Namibia, was an open act of aggression against the Namibian people. The utilization by the South African régime of the Namibian territory as a base for aggression against the neighbouring African States was also a grave threat to peace and security in that region of the world.⁴⁴⁸

At the same meeting Mr. Nujoma said that, as the sole and authentic representative of the Namibian people, SWAPO had always been ready to talk directly to the South African Government on modalities of transferring power. Such talks had to be under United Nations auspices, and before they could take place, all political prisoners had to be released. He also said that SWAPO demanded that South Africa give a commitment to withdraw its armed forces from Namibia.⁴⁴⁹

At the 1957th meeting on 30 September 1976 the representative of Kenya said that the defiance by South Africa of the opinion of the international community was eroding the authority of the United Nations and, if allowed to continue, would constitute a dangerous precedent. Article 25 of the Charter obliged all Member States to comply with the decisions of the Council. He urged that all countries should refrain from placing short-term economic interests above human dignity and the ideas of the Organization. The Council should discharge its obligations and demand that South Africa fully comply with its decisions. Intransigent Members like South Africa ought to be expelled from the United Nations.⁴⁵⁰

At the 1958th meeting on 1 October 1976 the representative of Mozambique stated that the Security Council must recognize that South Africa posed a serious challenge to the fundamental principles of the Charter. The Council should apply Chapter VII against South Africa, in particular with regard to the mandatory arms embargo. The Council should give substantial material aid to SWAPO to enable it to cope with its enemy. The Council should decide to give a full mandate to the Secretary-General to convene a real constitutional conference in which the main participants would be the United Nations, South Africa and SWAPO. SWAPO must be the determining party in regard to any solution to be found.⁴⁵¹

At the 1959th meeting on 5 October 1976 the representative of Yugoslavia emphasized that though the Security Council had condemned in clear terms the militarization of Namibia and the utilization of that

Territory by South Africa for attacks against neighbouring African States it had twice been faced in the course of that year with deliberate aggression of the armed forces of South Africa against Angola and Zambia. Namibia's territory had been utilized in both cases. It was imperative that the Council act resolutely and take such measures against South Africa, including mandatory sanctions under the Charter, as would make it possible to fulfil the mandate and to achieve the independence of Namibia.⁴⁵²

The representative of Morocco wondered whether it was still conceivable for the Security Council to postpone implementation of the essential measures that should be taken with regard to Namibia. If those measures were not implemented the Pretoria Government would resort to new manoeuvres to delay again the day of independence of Namibia.⁴⁵³

At the 1960th meeting on 7 October 1976 the representative of Burundi noted that certain members of the Organization believed that some elements of the problem in southern Africa could be dealt with whereas others might be left aside for the moment. Any attempt to seek a partial solution was doomed to failure if the entire problem of southern Africa was not taken into account.⁴⁵⁴

The representative of China stated that the recent South African plan of establishing a so-called multiracial government in Namibia was merely a clumsy scheme designed to shirk its responsibility for the non-implementation of Security Council resolution 385 (1976), to deceive world opinion and to prolong its illegal rule in Namibia. The Security Council should among other things condemn South Africa for refusing to implement that resolution and should consider the adoption of all necessary measures, including sanctions, against the South African authorities in accordance with the relevant provisions of the Charter.⁴⁵⁵

At the 1961st meeting on 13 October 1976 the representative of the USSR said that the South African activities in Namibia had shown that the racists were unwilling to leave that Territory, where they had strengthened their military and police presence. South Africa had considerably increased its military expenditures and its armed forces. The escalation of military preparations was clearly calculated to help retain Namibia as a base for the struggle against the national liberation movements in the neighbouring countries, and against the young independent States of Africa. Realizing that the situation in Namibia was a threat to international peace and security and taking into account that South Africa had not complied with the minimal demands of the Security Council concerning the liberation of Namibia and the withdrawal of its troops from that Territory, the Soviet Union considered that the Security Council this time had to adopt the sternest and most effective measures against the racist régime of

⁴⁴⁷ 1954th mtg., paras. 6-40.

⁴⁴⁸ 1956th mtg., paras. 37-50.

⁴⁴⁹ *Ibid.*, paras. 71-89.

⁴⁵⁰ 1957th mtg., paras. 83-97.

⁴⁵¹ 1958th mtg., paras. 36-51.

⁴⁵² 1959th mtg., paras. 6-23.

⁴⁵³ *Ibid.*, paras. 102-115.

⁴⁵⁴ 1960th mtg., paras. 7-21.

⁴⁵⁵ *Ibid.*, paras. 46-54.

South Africa, as provided for in Chapter VII of the Charter.⁵⁵⁶

At the 1962nd meeting on 18 October 1976 the representative of Guyana recalled that last year, when the question of Namibia was debated in the Council, some endeavoured to persuade it to take action under Chapter VII. Those efforts, however, attracted a triple veto. Today a crisis existed in southern Africa. This crisis was universally recognized and it threatened international peace and security.

Then he introduced a draft resolution⁵⁵⁷ on behalf of Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania. By the operative part of this draft resolution the Council would (1) condemn South Africa's failure to comply with resolution 385 (1976); (2) condemn South Africa's attempts to evade the demand of the United Nations for holding free elections under United Nations supervision and control in Namibia; (3) denounce the so-called Turnhalle constitutional conference as a device for evading the responsibility to comply with Security Council resolutions, particularly resolution 385 (1976); (4) reaffirm the legal responsibility of the United Nations over Namibia; (5) reaffirm its support for the Namibian people's struggle for self-determination and independence; (6) reiterate its demand that South Africa take immediately the necessary steps to withdraw from Namibia and to transfer power to the Namibian people, with United Nations assistance; (7) demand that South Africa end forthwith its policy of bantustans and so-called homelands; (8) reaffirm its declaration that, in order for the people of Namibia to determine freely their own future, it was imperative that free elections under United Nations supervision and control be held for the whole of Namibia as one political entity; (9) demand that South Africa urgently comply with the foregoing provisions for the holding of free elections in Namibia; (10) demand again that South Africa, pending such transfer of power: (a) comply fully with the Universal Declaration of Human Rights, (b) release all Namibian political prisoners, whether held in Namibia or South Africa, (c) abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices, particularly bantustans and homelands, and (d) accord unconditionally to all Namibians currently in exile for political reasons full facilities for return without risk of arrest, detention, intimidation or imprisonment; (11) acting under Chapter VII of the Charter: (a) determine that South Africa's illegal occupation of Namibia and the war it was waging there constituted a threat to international peace and security, (b) decide that all States were to cease and desist from, and prohibit any form of, direct or indirect military consultation, co-operation or collaboration with South Africa, (c) decide that all States were to take effective measures to prevent the recruitment of mercenaries, however disguised, for service in Namibia or South Africa, (d) decide that all States were to take steps to

ensure the termination of all arms licensing agreements between themselves or their nationals and South Africa, and prohibit the transfer to South Africa of all information relating to arms and armaments, and decide that all States were to prevent any supply to South Africa of arms and ammunition, aircraft, vehicles and military equipment, as well as any activities in their territories which promoted the supply of arms, ammunition, military aircraft and military vehicles to South Africa and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa and Namibia; (12) decide that all States were to give effect to the decisions set out in the preceding paragraph, notwithstanding any contract entered into or licence granted before the date of this resolution, and that they notify the Secretary-General of the measures taken to comply with the above provision; (13) request the Secretary-General, for effective implementation of the resolution, to arrange for the collection and systematic study of all available data concerning international trade in the items which should not be supplied to South Africa under the above decision; (14) request the Secretary-General to follow the implementation of the resolution and to report to the Security Council on (a date to be decided); and (15) decide to remain seized of the matter.⁵⁵⁸

At the 1963rd meeting on 19 October 1976 the representative of France emphasized that the Security Council in accordance with its role, should let the negotiations take their course; it should promote peaceful solutions as far as possible. In the current circumstances the conditions justifying the application of the measures provided under Chapter VII of the Charter were not present and there was no situation which threatened international peace and security.⁵⁵⁹

The representative of Sweden said that it could hardly be questioned that the situation in southern Africa, including Namibia, constituted a threat to international peace and security. The history of southern Africa and the attitude adopted by the South African Government were strong arguments for a policy of strong diplomatic and political pressure. So far, a lenient attitude towards the *apartheid* régime had not resulted in significant progress. Support from all Council members for mandatory sanctions against South Africa would amply demonstrate the isolation of the Pretoria Government and assist in pressing South Africa towards making the concessions necessary to get proper negotiations under way. He appealed to all Council members to support the draft resolution.⁵⁶⁰

The representatives of Japan⁵⁶¹ and Italy⁵⁶² questioned whether it was politically wise to take so drastic a decision, however well founded in principle, such as that foreseen in the draft resolution, because it would not be instrumental in an effective solution of the problem and might introduce a disturbing factor in a complex and

⁵⁵⁶ 1961st mtg., paras. 35-56.

⁵⁵⁷ S/12211, *OR, 31st yr., Suppl. for Oct.-Dec. 1976*, pp. 6, 7.

⁵⁵⁸ 1962nd mtg., paras. 3-28.

⁵⁵⁹ 1963rd mtg., paras. 3-15.

⁵⁶⁰ *Ibid.*, paras. 16-28.

⁵⁶¹ *Ibid.*, paras. 29-38.

⁵⁶² *Ibid.*, paras. 39-55.

intricate process of negotiations covering the whole region.

The representative of the United States noted that the measures called for in the draft resolution would not improve the chances to gain a free and independent Namibia. They could do just the opposite; the United States would vote against the draft resolution.⁸⁵⁹

The representative of the United Kingdom added that the draft resolution was inappropriate both in timing and in substance. The Council should not be asked to vote for a determination that the situation in Namibia constituted a threat to international peace and security under Chapter VII of the Charter.⁸⁶⁰

The representative of France agreed that under the current circumstances the conditions justifying the application of the measures provided under Chapter VII of the Charter were not present.⁸⁶¹

During the discussions a number of speakers observed that the Security Council had the responsibility to adopt appropriate measures against South Africa under Chapter VII of the Charter.⁸⁶²

The Council proceeded then to vote on the draft resolution S/12211. The draft resolution received 10 votes in favour, 3 against and 2 abstentions and failed of adoption due to the negative votes of three permanent members.⁸⁶³

At the same meeting the representative of the United Republic of Tanzania speaking in explanation of the vote, regretted the triple veto cast against the draft resolution by the three permanent members of the Council who agreed that the situation in Namibia did not constitute a threat to international peace and security. South Africa had mounted naked aggression against Angola. For the first time in history, a Member of the Organization had been specifically condemned as an aggressor. The Council also specifically condemned South Africa's aggression against Zambia. There was one common factor in both resolutions and in both situations—in the perpetration of the aggression South Africa had used towards the Territory of Namibia. South Africa had also proceeded with major military build-up in Namibia itself, thus not only continuing its role of repression against the people of Namibia, but posing a constant threat to the sovereignty, territorial integrity and independence of African States. Yet the Council had been told that the situation in Namibia did not constitute a threat to international peace and security. He asked what would constitute such threat—a

full-scale, bloody racial war in the region, an all-out confrontation?⁸⁶⁴

The representative of the USSR said that the Security Council's decision had been blocked by those States which, in accordance with the Charter, bore, along with other States, the major responsibility for the maintenance of international peace and security and for promoting the principles of equality and self-determination for all peoples. By preventing the Council from taking a useful decision the representatives of those states had attempted to undermine Charter principles with regard to the people of Namibia. The draft resolution had been the very minimum that could have been proposed in an attempt to achieve some useful results from the activities of the Council. Even that minimum had been blocked.⁸⁶⁵

The representative of Zambia, in the name of the Council for Namibia, declared that by reason of their negative votes, France, the United States and the United Kingdom had to assume full responsibility for the inevitable escalation of the war of liberation by the Namibian patriots in their struggle for self-determination, freedom and national independence in a united Namibia.⁸⁶⁶

Condemning the veto, Mr. Theo-Ben Gurirab declared that veto or no veto, Namibia remained a direct responsibility of the United Nations.⁸⁶⁷

Decision of 27 July 1978 (2082nd meeting): resolution 431 (1978)

Decision of 27 July 1978 (2082nd mtg.): resolution 432 (1978)

By letter⁸⁶⁸ dated 14 July 1978 addressed to the Secretary-General the representatives of Canada, France, the Federal Republic of Germany, the United Kingdom and the United States transmitted the text of a joint communiqué issued in Luanda on 12 July by the representatives of their five Governments and of SWAPO, headed by Mr. Sam Nujoma, on the results of discussions held between the two sides on 11 and 12 July, during which certain points in the proposal of the five Powers had been clarified and the two sides accordingly agreed to proceed to the Security Council.

At the 2082nd meeting on 27 July 1978 the Council resumed the consideration of the situation in Namibia. Following the adoption of the agenda,⁸⁶⁹ the representatives of Angola, Benin, Mali, Senegal, South Africa, Sri Lanka and the Sudan were invited at their request, to participate, without vote, in the discussion of the item.⁸⁷⁰

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the President and other members of the United Nations Council for Namibia and to Mr. Sam Nujoma, President of SWAPO.⁸⁷¹

⁸⁵⁹ 1963rd mtg., paras. 98-101.

⁸⁶⁰ *Ibid.*, paras. 103-109.

⁸⁶¹ *Ibid.*, paras. 110-113.

⁸⁶² 1956th mtg., para. 21 (Zambia); *ibid.*, para. 86 (Mr. Sam Nujoma); 1957th mtg., para. 27 (Nigeria); *ibid.*, para. 63 (Egypt); *ibid.*, para. 79 (Algeria); 1958th mtg., paras. 9 and 18 (Ghana); *ibid.*, paras. 32 and 34 (Zambia); *ibid.*, para. 70 (Sierra Leone); *ibid.*, para. 81 (Democratic Kampuchea); 1959th mtg., para. 30 (Niger); *ibid.*, para. 31 (United Republic of Tanzania); *ibid.*, para. 99 (Ethiopia); *ibid.*, para. 165 (Cuba); 1960th mtg., para. 21 (Burundi); *ibid.*, para. 70 (Panama); 1961st mtg., para. 78 (Bangladesh); *ibid.*, para. 105 (Liberia); 1962nd mtg., para. 7 (Guyana); 1963rd mtg., para. 79 (Panama); *ibid.*, para. 88 (Pakistan).

⁸⁶³ 1963rd mtg., para. 121.

⁸⁶⁴ *Ibid.*, paras. 126-143.

⁸⁶⁵ *Ibid.*, paras. 144-156.

⁸⁶⁶ *Ibid.*, paras. 158-162.

⁸⁶⁷ *Ibid.*, paras. 194-205.

⁸⁶⁸ S/12775, *OR, 33rd yr., Suppl. for July-Sept. 1978*, pp. 6, 7.

⁸⁶⁹ 2082nd mtg., paras. 3-5.

⁸⁷⁰ For details, see chapter III.

⁸⁷¹ *Ibid.*

At the outset of the meeting the President emphasized the importance of the meeting of the Council which would take the first of two steps envisaged to put into effect the proposed settlement agreed upon by the principal interested parties. He drew attention to two draft resolutions in documents S/12792 and S/12793⁸⁷² and put them to the vote.

The first draft resolution was adopted as resolution 431 (1978) by 13 votes in favour, none against, with 2 abstentions.⁸⁷³ The resolution reads as follows:

The Security Council,

Recalling its resolution 385 (1976) of 30 January 1976,

Taking note of the proposal for a settlement of the Namibian situation contained in document S/12636 of 10 April 1978,

1. *Requests* the Secretary-General to appoint a Special Representative for Namibia in order to ensure the early independence of Namibia through free elections under the supervision and control of the United Nations;

2. *Further requests* the Secretary-General to submit at the earliest possible date a report containing his recommendations for the implementation of the proposal for a settlement of the Namibian situation in accordance with Security Council resolution 385 (1976);

3. *Urges* all concerned to exert their best efforts towards the achievement of independence by Namibia at the earliest possible date.

The second draft resolution received 15 votes and was adopted unanimously⁸⁷⁴ as resolution 432 (1978).

The Security Council,

Recalling its resolutions 385 (1976) of 30 January 1976 and 431 (1978) of 27 July 1978,

Reaffirming in particular the provisions of resolution 385 (1976) relating to the territorial integrity and unity of Namibia,

Taking note of paragraph 7 of General Assembly resolution 32/9 D of 4 November 1977, in which the Assembly declares that Walvis Bay is an integral part of Namibia,

1. *Declares* that the territorial integrity and unity of Namibia must be assured through the reintegration of Walvis Bay within its territory;

2. *Decides* to lend its full support to the initiation of steps necessary to ensure early reintegration of Walvis Bay into Namibia;

3. *Declares* that, pending the attainment of this objective, South Africa must not use Walvis Bay in any manner prejudicial to the independence of Namibia or the viability of its economy;

4. *Decides* to remain seized of the matter until Walvis Bay is fully reintegrated into Namibia.

Following the voting the Secretary-General stated that the agreement reached by the Council to implement the terms of a peaceful solution would enable the people of Namibia to exercise their inalienable right to self-determination and independence in accordance with the purposes and principles of the Charter. He intended to appoint a Special Representative for Namibia who would head a mission to the Territory to conduct a survey of the arrangements necessary for the implementation of the Council resolution. On the basis of the mission's findings, he would submit to the Council detailed plans for attaining the objectives set forth in the settlement proposal.⁸⁷⁵

The representative of the United States said that the successful solution to the Namibian question could encourage solutions for other pressing problems of Africa. Speaking on behalf of the five Western States, he said that since the opposing views on Walvis Bay had appeared irreconcilable, the proposal of five Governments contained no provisions on it as they believed that a discussion on the legal status of Walvis Bay could only hamper a solution at the current stage. Nevertheless, they recognized that there were arguments of geographical, political, social, cultural and administrative nature which supported the union of Walvis Bay with Namibia. It was thus appropriate that the Security Council should adopt a resolution calling for initiation of steps necessary to ensure the early reintegration of Walvis Bay into Namibia. The resolution neither prejudiced the legal position of, nor sought to coerce, any party. The five Governments had voted in favour of the resolution and were ready to offer diplomatic support to achieve the objective of a successful negotiation. They viewed their undertaking as consistent with the fundamental principle of the Charter that disputed questions were to be settled peacefully. They considered that the "steps necessary" referred to in paragraph 2 of the resolution were negotiations between the two parties directly concerned. Accordingly they would encourage negotiations on the subject between the Government of South Africa and the Government of Namibia that would be elected as a result of the implementation of the settlement proposal.⁸⁷⁶

The representative of France said that the efforts undertaken by the five members of the Council had been within the framework of resolution 385 (1976) and that they had been in conformity with the spirit and the objectives of many resolutions adopted by the General Assembly on the question of Namibia. He stressed that the Western proposal was the result of lengthy negotiations with South Africa and SWAPO and close consultations with the Secretary-General, the front-line countries and Nigeria, Gabon and Mauritius—it was a collective undertaking. He added that France subscribed entirely to the interpretation given on behalf of the five members of the Council by the Secretary of State of the United States in respect of resolution 432 (1978). The plan which the Council had adopted constituted a practical means to implement resolution 385 (1976), but prompt action was required.⁸⁷⁷

The representative of the United Kingdom associated his Government with everything that had been said on behalf of the Governments of the Five in the Security Council. The people of Namibia could look forward to early independence achieved peacefully under leaders of their choice. It was hoped that a settlement of the problem would further the cause of peace, stability and economic development not only inside Namibia, but in the whole region of southern Africa. The first resolution adopted was only the starting point of a process which would lead Namibia to independence. It was hoped that the Secretary-General would be able to act speedily in

⁸⁷² 2082nd mtg., paras. 10 and 11.

⁸⁷³ *Ibid.*, para. 12.

⁸⁷⁴ *Ibid.*, para. 13.

⁸⁷⁵ *Ibid.*, paras. 15-20.

⁸⁷⁶ *Ibid.*, paras. 22-32.

⁸⁷⁷ *Ibid.*, paras. 33-42.

order to install the United Nations Transition Assistance Group (UNTAG) in Namibia at the earliest possible day. At the end of the transition period, the newly independent Namibia would enjoy the full support of the United Nations. The question of Walvis Bay would have to be resolved as envisaged in the second resolution. The international community would have an important role to play in supporting the Namibian Government, and the United Kingdom would play its full part.⁸⁷⁸

Associating himself with what had been said by the previous speakers, the representative of the Federal Republic of Germany noted that his country would actively support the United Nations in the implementation of the Namibia Plan in all its parts.⁸⁷⁹

Mr. Nujoma said that the Western proposal was a compromise plan, heavily weighted in favour of South Africa's colonial interests in Namibia. Its language was deliberately so vague and ambiguous that it was subject to different and unavoidably conflicting interpretations. It was particularly so with regard to the position, powers, authority and working relations between the United Nations Special Representative and the local colonial representative of South Africa. In this regard, he stated the interpretation of SWAPO's understanding of the role and functions of the Special Representative which had been expressed to the representatives of the five Western Governments in Luanda; and it had been on the basis of their concurrence, among other things, that SWAPO had agreed to proceed to the Security Council. The Special Representative must (1) exercise effective supervision and control of the transitional administration, all the security arrangements and the conduct of elections in accordance with Security Council resolution 385 (1976), (2) have the preponderant power and authority to approve or disapprove any action by the colonial Administrator-General, (3) have the power and authority to initiate measures towards the implementation of all the necessary steps for transferring power to the Namibian people in all aspects of the electoral procedures, (4) have the final say regarding the good conduct of the police forces and ensure that necessary steps were taken to guarantee against the possibility of their interfering in the political process. SWAPO expected to be consulted about the composition of the peace-keeping force and insisted that the remaining enemy troops be confined to one base under strict and elaborate surveillance to prevent them from being used for purposes of intimidation and repression of the Namibian people and for aggression against neighbouring States. He regarded the South African decision to annex Walvis Bay as illegal, null and void and an act of aggression against the Namibian people and a flagrant violation of the territorial integrity of Namibia.⁸⁸⁰

The representative of Nigeria expressed his delegation's understanding that Walvis Bay would be reinte-

grated into Namibia as speedily as circumstances permitted after Namibia's transition to independence. It was only after this objective had been secured that the task could be considered as completed.⁸⁸¹

The representative of Mauritius expressed his concern about the omission of the question of Walvis Bay from the communiqué issued in Luanda. This question had to be settled in accordance with previous decisions of the General Assembly and the Security Council. There could not be a real settlement which did not recognize Walvis Bay as an integral part of Namibia. Even after long months of negotiation, there remained a difficulty as far as the Namibian situation was concerned. South Africa was still in a position to prevent truly free elections in Namibia, and there was ample evidence that it was seeking to use the power it had to frustrate the aims of the Council. The Special Representative should have the authority to use United Nations military force to prevent interference with free and fair elections, intimidation and fraud.⁸⁸²

The representative of China stated that its affirmative vote for resolution 431 (1978) in no way signified approval of the provisions of the Western proposal, which in his view contained serious defects. China had always held a different position in principle with respect to the dispatch of UN forces and had serious reservations concerning the dispatch of UNTAG. The Security Council should enjoin South Africa to withdraw immediately all its military and police forces from Namibia, end its occupation of the territory and transfer political power to the Namibian people. China also expressed serious reservations with regard to the wording of the resolutions on Walvis Bay, which it considered an integral part of Namibia.⁸⁸³

The representative of the USSR said that major responsibility for the continued occupation of Namibia by South Africa lay with those countries which, in spite of many United Nations decisions, continued to lend South Africa political, economic and military support. The basis for a solution to the Namibian problem was set forth in the well-known resolutions of the Security Council and of other United Nations bodies, which provided for the immediate cessation of the occupation of Namibia by the Pretoria régime and the immediate withdrawal of all troops and police forces as well as of the Pretoria administration from all parts of Namibia, including Walvis Bay. A reliable way of ensuring compliance with those solutions was strict observance of the sanctions against South Africa adopted by the Council, and also the adoption by the Council of further effective measures for the complete international isolation of the régime on the basis of sanctions against it in the economic, commercial, financial and all other spheres, in full application of Article 41 of the Charter. That explained the negative view which the USSR had expressed concerning the Namibian settlement plan as proposed by the five Western countries; especially with

⁸⁷⁸ 2082nd mtg., paras. 44-51

⁸⁷⁹ *Ibid.*, paras. 54-64

⁸⁸⁰ *Ibid.*, paras. 66-108

⁸⁸¹ *Ibid.*, paras. 110-120

⁸⁸² *Ibid.*, paras. 126-154

⁸⁸³ *Ibid.*, paras. 152-161

respect to its provisions regarding the presence in Namibia of South African troops and of an Administrator-General. However, bearing in mind the position by SWAPO and a number of African States, the USSR had not objected to the adoption of resolution 431 (1978). He expressed reservations on the purpose and role of the United Nations military and civilian contingents proposed by the five Powers, and stressed that matters regarding their establishment, composition, leadership, functions and length of stay in Namibia should be settled directly by the Security Council and remain under its constant strict supervision. Expenditures for such operations should be borne by countries that were imposing a plan for settlement that provided for the maintenance in Namibia of South African troops and the dispatch to Namibia of United Nations military contingents.⁸⁸⁴

The representative of Zambia, speaking as the President of the Council for Namibia, noted that since August 1977 the South African Government had adopted measures which were contrary to the spirit of a negotiated settlement and had put into effect numerous repressive emergency regulations. It was, therefore, difficult to conceive that South African claims to accept the eventual independence of Namibia were to be taken at face value. The United Nations had to act decisively to ensure that any agreement on the question of Namibia was implemented fully in accordance with the general objective of ensuring self-determination, freedom and independence in a United Namibia.⁸⁸⁵

The representative of South Africa called special attention to the following aspects of his Government's acceptance of the five-Power settlement proposal: the Administrator-General would continue to govern during the transition period; primary responsibility for maintaining law and order during that period would rest with the existing police forces; the Administrator-General and the Special Representative would be required to work together and to consult with each other to ensure an orderly and peaceful transition to independence. Unless the relationship between the two was characterized by mutual trust, co-operation and consultations, it would be difficult if not impossible for them to implement successfully their respective tasks and therefore the size, composition, functions and deployment of UNTAG were precisely the type of matters on which close consultation was required. The reduction of South African troops in the Territory would commence only after the comprehensive cessation of all hostile acts and the establishment of a visible peace. In satisfying himself as to the fairness and appropriateness of each stage of the election process, the Special Representative would be guided by United Nations procedures and precedents. He said that Walvis Bay was South African territory; its status had never formed part of the negotiations leading to South Africa's acceptance of the settlement proposal. South Africa categorically rejected

resolution 432 (1978) on Walvis Bay as an attempt to prejudge the whole issue, and was not prepared to negotiate with anyone, not even with the duly elected Government of South West Africa, on the basis of that resolution.⁸⁸⁶

The representative of Angola, speaking as Chairman of the African Group, said that the control of Walvis Bay by a Government other than that of an independent Namibia not only would constitute a flagrant violation of the territorial integrity of Namibia, but would pose a constant threat to the peace and security of all southern Africa.⁸⁸⁷

Decision of 29 September 1978 (2087th meeting): resolution 435 (1978)

In accordance with paragraph 2 of Security Council resolution 431 (1978) the Secretary-General submitted a report⁸⁸⁸ in which he stated that immediately following the adoption of that resolution he had appointed Mr. Martti Ahtisaari, the United Nations Commissioner for Namibia, his Special Representative for Namibia. Based on the findings of the Special Representative from a survey mission to Namibia, the Secretary-General set out his recommendations for the implementation of the proposal for a settlement in accordance with resolution 385 (1976), consisting of general guidelines for the establishment and functioning of a United Nations Transition Assistance Group (UNTAG) in the Territory, proposals for its military and civilian components, a plan of action and its potential financial implications.

At the 2087th meeting on 29 September 1978 the Council included the report of the Secretary-General in its agenda⁸⁸⁹ and considered that item during its 2087th and 2088th meetings on 29 and 30 September 1978.

In the course of its deliberations the Council invited the representatives of Burundi, Egypt, Ghana and Guinea, at their request, to participate, without vote, in the discussion of the item.⁸⁹⁰

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the President and three members of the Council for Namibia, to the Chairman of the Special Committee on the situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to Mr. Sam Nujoma, President of SWAPO, and to Mr. Edem Kodjo, Administrative Secretary-General of OAU.⁸⁹¹

At the outset of the meeting the President drew the attention of members of the Council to the draft resolution⁸⁹² sponsored by Canada, France, Gabon, the Federal Republic of Germany, Mauritius, Nigeria, the United Kingdom and the United States of America, to

⁸⁸⁴ *Ibid.*, paras. 173-191.

⁸⁸⁵ *Ibid.*, paras. 233-249.

⁸⁸⁶ *Ibid.*, paras. 252-281.

⁸⁸⁷ *Ibid.*, paras. 284-293.

⁸⁸⁸ S/12827, *OR, 33rd yr., Suppl. for July-Sept. 1978*, pp. 33-36.

⁸⁸⁹ 2087th mtg., para. 1.

⁸⁹⁰ For details, see chapter III.

⁸⁹¹ *Ibid.*

⁸⁹² S/12865, adopted without change as resolution 435 (1978).

the Secretary-General's report and several other documents before the Council.⁸⁹³

The Secretary-General in his explanatory statement regarding his report of 29 August 1978 dealt with some of the concerns expressed by the parties and the manner in which his Special Representative would carry out his mandate. He stated that in the absence of a credible United Nations presence, incidents might take place, intentionally or otherwise, which might lead to a resumption of hostilities, thereby vitiating the whole purpose of UNTAG. The military component of UNTAG would be built up gradually and by stages with the accepted principle of equitable geographical representation. Although primary responsibility for maintaining law and order in Namibia during the transition period would rest with the existing police, the Special Representative had also been given the monitoring responsibility. On the question of the timing of elections and the date for Namibia's independence, it was essential to maintain the orderly phases of the preparatory stages and to allow sufficient time for electoral campaigning; the objective was not simply to hold elections by a certain date but to hold elections which were manifestly free and fair. The Special Representative would also take steps to guarantee against the possibility of intimidation or interference with the electoral process from whatever quarter.⁸⁹⁴

The Council then proceeded to vote on the draft resolution, which was adopted by 12 votes to none, with 2 abstentions, as resolution 435 (1978). One member did not participate in the vote.⁸⁹⁵

The resolution reads as follows:

The Security Council,

Recalling its resolutions 385 (1976) of 30 January 1976 and 431 (1978) and 432 (1978) of 27 July 1978,

⁸⁹³ S/12836, OR, 33rd yr., Suppl. for July-Sept. 1978, pp. 38-42. By this letter dated 6 September 1978 addressed to the Secretary-General, the representative of South Africa transmitted the text of a letter from the South African Minister for Foreign Affairs, in which he questioned the attitude of SWAPO towards the proposal and charged that SWAPO had intensified its campaign of terror and violence and refused to cease hostile acts until a cease-fire agreement had been signed. S/12839, *ibid.*, p. 44. By this letter dated 8 September 1978 addressed to the President of the Security Council, the representative of Botswana, as Chairman of the African Group, transmitted the text of a statement by the Administrative Secretary-General of OAU concerning the United Nations role in Namibia. S/12841, *ibid.*, pp. 45-47. By this letter dated 8 September 1978 addressed to the Secretary-General, the representatives of the United Republic of Tanzania and Zambia transmitted the text of a letter of the same date from the President of SWAPO, which dealt with various aspects of the Secretary-General's report. S/12853, *ibid.*, pp. 59-60. By this letter dated 20 September 1978 addressed to the Secretary-General, the representative of South Africa transmitted the text of a press statement issued that day by his Prime Minister, commenting on the Secretary-General's report and the Special Representative's recommendation with regard to the proposal of the five Western Powers. S/12854, *ibid.*, p. 61. By this further letter dated 20 September 1978 addressed to the Secretary-General, the representative of South Africa transmitted an excerpt from a communication of 12 September from his Government to the five Western Powers regarding the plan for the implementation of their proposal for a settlement. S/12868, *ibid.*, p. 70. By this letter dated 27 September 1978 addressed to the Secretary-General, the representative of South Africa transmitted the text of a letter of the same date from the South African Minister for Foreign Affairs, commenting on four major points in the Secretary-General's report.

⁸⁹⁴ 2087th mtg., paras. 11-22.

⁸⁹⁵ *Ibid.*, para. 24.

Having considered the report of the Secretary-General submitted pursuant to paragraph 2 of resolution 431 (1978) and his explanatory statement made in the Security Council on 29 September 1978 (S/12869).

Taking note of the relevant communications from the Government of South Africa to the Secretary-General,

Taking note also of the letter dated 8 September 1978 from the President of the South West Africa People's Organization to the Secretary-General,

Reaffirming the legal responsibility of the United Nations over Namibia,

1. *Approves* the report of the Secretary-General on the implementation of the proposal for a settlement of the Namibian situation and his explanatory statement;

2. *Reiterates* that its objective is the withdrawal of South Africa's illegal administration from Namibia and the transfer of power to the people of Namibia with the assistance of the United Nations in accordance with Security Council resolution 385 (1976).

3. *Decides* to establish under its authority a United Nations Transition Assistance Group in accordance with the above-mentioned report of the Secretary-General for a period of up to 12 months in order to assist his Special Representative to carry out the mandate conferred upon him by the Security Council in paragraph 1 of its resolution 431 (1978), namely, to ensure the early independence of Namibia through free elections under the supervision and control of the United Nations;

4. *Welcomes* the preparedness of the South West Africa People's Organization to co-operate in the implementation of the Secretary-General's report, including its expressed readiness to sign and observe the cease-fire provisions as manifested in the letter from its President of 8 September 1978,

5. *Calls upon* South Africa forthwith to co-operate with the Secretary-General in the implementation of the present resolution;

6. *Declares* that all unilateral measures taken by the illegal administration in Namibia in relation to the electoral process, including unilateral registration of voters, or transfer of power, in contravention of resolutions 385 (1976), 431 (1978) and the present resolution, are null and void;

7. *Requests* the Secretary-General to report to the Security Council not later than 23 October 1978 on the implementation of the present resolution.

At the same meeting the Vice-Chancellor and Minister for Foreign Affairs of the Federal Republic of Germany,⁸⁹⁶ Minister for Foreign Affairs of France,⁸⁹⁷ Secretary of State of the United States of America,⁸⁹⁸ Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom⁸⁹⁹ and Secretary of State for External Affairs of Canada⁹⁰⁰ supported the Secretary-General's report and his explanatory statement to the Council as constituting a practical plan consistent with the settlement proposal. They declared that if the decisions adopted in Pretoria on 20 September 1978 to organize unilateral elections in Namibia in December were put into effect, the result would be to block the implementation of the settlement proposal. The result of such elections could not gain international recognition and would be challenged from all sides. The only way in which Namibia could achieve independence in a manner fully acceptable to the international community was on the basis of full and strict observance of the settlement proposal endorsed by the Security Council by resolution 431 (1978). The Secretary-General should be allowed

⁸⁹⁶ *Ibid.*, paras. 26-45.

⁸⁹⁷ *Ibid.*, paras. 48-57.

⁸⁹⁸ *Ibid.*, paras. 59-71.

⁸⁹⁹ *Ibid.*, paras. 74-81.

⁹⁰⁰ *Ibid.*, paras. 84-88.

the necessary flexibility in the implementation of his report to ensure that UNTAG, when deployed, would be able to meet the inevitable problems and challenges.

The representative of Nigeria said that his country had accepted the Western plan for Namibian independence, in spite of obvious flaws. He expressed grave concern over the insistence by the Pretoria régime that it would unilaterally continue with the registration of voters in Namibia. That was completely unacceptable as it was in flagrant contradiction of the Western plan, as well as resolution 431 (1978).⁹⁰¹

Mr. Sam Nujoma stated that in accepting the Secretary-General's report, SWAPO had pledged its full co-operation with him and his Special Representative in the decolonization process of Namibia. South Africa, on the contrary, had stepped up its repressive measures and acts of aggression against the people of Namibia and the neighbouring States of Angola and Zambia. Its refusal to co-operate with United Nations resolutions and decisions meant to bring about the early independence of Namibia through elections under United Nations supervision and control clearly constituted a serious threat to international peace and security in terms of Chapter VII of the Charter.⁹⁰²

The representative of China recalled that while voting in favour of resolution 431 (1978), he had made it clear that such support did not signify China's approval of the Western proposal, particularly with respect to the dispatch of UNTAG. In view of the fact that the resolution just adopted mainly concerned the approval of the Secretary-General's report and a decision to dispatch UNTAG to Namibia, his delegation had not participated in the vote and would not accept responsibility for the expenses involved.⁹⁰³

The representative of the USSR stated that the recommendations in the Secretary-General's report were far from being the best way of ensuring Namibia's transition to independence. Keeping the administrative machinery and some South African troops in Namibia for the transitional period ran counter to former decisions of the United Nations and was completely unjustified. However, taking into account SWAPO's position and that of other African States, the USSR had not opposed the adoption of resolution 435 (1978). He stressed that this United Nations operation involving the use of armed forces should be carried out in strict conformity with the Charter and under the Security Council's strict control. There should be no personnel in the United Nations contingents from States having close contacts with South Africa. The defiant position taken by the Pretoria régime on the Namibian settlement and the whole course of the consideration of the Namibian question in the Security Council had served only to increase doubts and fears regarding future developments

in Namibia and the possible role of the United Nations in that connection.⁹⁰⁴

At the 2088th meeting the President of the United Nations Council for Namibia said that South African intransigence might well lead to the failure of the efforts of the Security Council and of the Secretary-General to resolve the question of Namibia and thereby strengthen international peace and security in southern Africa. Such a development would constitute a grave and ominous turn of events. South Africa had to renounce its schemes of unilateral actions by recognizing the just proposals contained in the report of the Secretary-General.⁹⁰⁵

During the discussion some representatives urged that if South Africa failed to accept the settlement proposal, the Security Council should take such measures as might be necessary under Chapter VII of the Charter, in particular mandatory economic sanctions.⁹⁰⁶

Decision of 13 November 1978 (2098th meeting):
resolution 439 (1978)

By letter⁹⁰⁷ dated 24 October 1978 addressed to the President of the Security Council, the representative of Burundi on behalf of the Group of African States requested an urgent meeting of the Security Council in order to consider South Africa's defiance of Security Council resolution 435 (1978).

Prior to this, on 21 October 1978, the Secretary-General, pursuant to paragraph 7 of Security Council resolution 435 (1978) submitted a report⁹⁰⁸ on measures that had been taken in respect of administrative and other arrangements regarding UNTAG and further consultations he had initiated concerning the implementation of that resolution.

At the 2092nd meeting on 31 October 1978 the Council included the Secretary-General's report in its agenda⁹⁰⁹ and considered the item at the 2092nd and 2094th to 2098th meetings between 31 October and 13 November 1978.

In the course of its deliberations the Council invited the representatives of Algeria, Bangladesh, Benin, Burundi, Cuba, Egypt, Ghana, Guyana, Mozambique, Saudi Arabia, Somalia, Yugoslavia and Zambia, at their request, to participate, without vote, in the discussion of the item.⁹¹⁰

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the President and three Vice-Presidents of the United Nations Council for Namibia and to Mr. Theo-Ben Gurirab, Permanent Observer of SWAPO at the United Nations.⁹¹⁰

⁹⁰⁴ *Ibid.*, paras. 194-210

⁹⁰⁵ 2088th mtg., paras. 6-22

⁹⁰⁶ 2087th mtg., paras. 89-95 (India); *ibid.*, paras. 119-124 (Kuwait); 2088th mtg., paras. 99-108 (Benin); *ibid.*, paras. 112-121 (Guinea)

⁹⁰⁷ S/12906, *OR, 33rd yr., Suppl. for Oct.-Dec. 1978*, p. 44.

⁹⁰⁸ S/12903, *Ibid.*, pp. 40, 41

⁹⁰⁹ 2092nd mtg., preceding para. 1

⁹¹⁰ For details, see chapter III

⁹⁰¹ *Ibid.*, paras. 97-116

⁹⁰² *Ibid.*, paras. 127-151

⁹⁰³ *Ibid.*, paras. 177-179

At the 2092nd meeting the President drew the attention of the members of the Council to the Secretary-General's report and to two other documents before the Council.⁹¹¹

At the same meeting the representative of Mauritius stated that by organizing internal elections in Namibia South Africa was carrying out an internal settlement there; it was declaring its intention to continue to occupy Namibia illegally. The immediate problem before the Council was that South Africa stood in defiance of Security Council resolutions on Namibia. There could be no elections in Namibia under United Nations supervision and control after such internal settlement. Its purpose was to entrench an administration which would allow the continuation of South Africa's occupation. It would create an interim administration placed there by South Africa that would inevitably oppose any new election, and particularly one under United Nations supervision and control because a free election would mean the end of South Africa's power. The so-called Western proposals on Namibia opened the possibility of conducting a fraudulent election in Namibia under United Nations auspices. That possibility, buried in the ambiguities of language, attracted South Africa to those proposals. The Western proposals on Namibia did propose a United Nations presence in that Territory, and they did call for elections. However, the elections were to be held before South Africa withdrew from the Territory altogether. The proposals failed to conform to the terms of resolution 385 (1976) in letter and spirit. The combination of continuing South African control and a weak United Nations presence opened the way for a subversion of United Nations efforts to ensure true independence for the Namibian people. The increased risk of losing control had caused the *apartheid* régime, in an apparent reversal of policy, to reject the idea of co-operation with the United Nations and to decide upon an internal settlement. The Council was back where it started from in July 1976 when its demands for

⁹¹¹ S/12900, *OR*, 33rd yr., *Suppl. for Oct.-Dec. 1978*, pp. 36-38. By this letter dated 19 October 1978 addressed to the Secretary-General the representative of South Africa transmitted the texts of the following documents that had been released by the Prime Minister of South Africa: (a) introductory statement made by the Prime Minister of South Africa at his meeting with the Foreign Ministers of the five Western members of the Council at Pretoria on 16 October; (b) joint statement of 19 October by the South African Government and the five Foreign Ministers; and (c) statement issued by the South African Government following its acceptance of the above-mentioned joint statement. S/12902, *ibid.*, pp. 39, 40. By this letter dated 21 October 1978 addressed to the President of the Security Council the representatives of Canada, France, the Federal Republic of Germany, the United Kingdom and the United States transmitted the text of the joint statement issued at the end of the talks held by their Foreign Ministers and the South African Government from 16 to 18 October 1978, together with the text of a further statement issued at the same time by the five Foreign Ministers. The joint statement expressed the belief that it would be appropriate for the Secretary-General's Special Representative to resume discussions with the South African Administrator-General of Namibia to work out the modalities of the proposed elections under United Nations supervision and to fix a date for those elections. The South African Government stated that its planned December elections should be seen as an internal process to elect leaders. The five Foreign Ministers stated that they saw no way of reconciling such elections with their proposal and that any such measure in relation to the electoral process would be regarded as null and void.

South Africa's withdrawal had been formulated. It was no longer possible to delay action against South Africa. The appeasement of South Africa had done nothing but encourage it to build up its military power and become more aggressive. There was a prospect of general war in much of Africa. It could be avoided only by taking action against the State that presented an imminent threat to the peace and security of southern Africa.⁹¹²

The representative of Burundi, speaking as Chairman of the African Group of States, said that the South African Government intended to exploit to the utmost the presence of the Special Representative for Namibia at the crucial stage of organizing the so-called internal elections. That was why the African Group believed that in those conditions the presence of the Special Representative and even United Nations officials there would be inappropriate and harmful to the Organization. The insistence of South Africa on the presence of the Special Representative was intended solely to give sanctions to the internal elections. The South African Government had again defied the Council by its deliberate refusal to implement resolutions 435 (1978), 431 (1978) and 385 (1976). In those circumstances, the African Group considered that the time had come for the Security Council to take appropriate measures under Chapter VII of the Charter. Addressing the authors of the proposal for the settlement of the Namibian situation, he stressed that they had a special responsibility to the international community. The Council had to accept the consequences which were clearly before it by deciding on sanctions against South Africa, which had abused the confidence of those countries. Recourse to the veto could only indicate complicity with the Government of South Africa, which had been condemned by the entire international community.⁹¹³

The President of the United Nations Council for Namibia noted that to accept elections under the control of the illegal South African administration was to legitimize the creation of false leaders who would be used, under the protection of the South African racist régime, to entrench the neo-colonial control of Namibia and to create even greater danger to international peace and security in southern Africa.⁹¹⁴

At the 2094th meeting on 1 November 1978 the representative of Egypt said that paragraph 4 of the joint statement revealed the true intentions of Pretoria. The South African Government openly declared its determination to hold elections in Namibia in December in clear defiance of resolution 431 (1978). He asked the five Western countries whether they could allow themselves to be parties to that statement, which clearly violated the very plan they had proposed. Such a confusing statement could only provoke indignation and further complicate the situation rather than help to achieve any progress towards a just settlement of the problem.⁹¹⁵

⁹¹² 2092nd mtg., paras. 8-47.

⁹¹³ *Ibid.*, paras. 51-99.

⁹¹⁴ *Ibid.*, paras. 102-114.

⁹¹⁵ 2094th mtg., paras. 8-22.

The representative of Saudi Arabia questioned the feasibility of applying sanctions to effect South African withdrawal from Namibia. He suggested that, in view of certain well-known geopolitical, economic and other considerations, including South Africa's fears of external influence over a contiguous territory, consideration be given to Namibia's accession to independence as a neutral or neutralized State, following a very brief period of being administered under the Trusteeship Council.⁹¹⁶

At the 2095th meeting on 2 November 1978 the representative of India stated that there could be no question at this time of having consultations with South Africa or its Administrator-General in Namibia about the modalities of elections to be held under United Nations supervision and control. There was no point in sending the Secretary-General's Special Representative to Namibia as long as South Africa was determined to proceed with its own elections, the purpose of which was fake independence. The real issue was whether there could be free elections under United Nations supervision and control in the new illegal situation in Namibia that would be created by the December elections. The answer to that could not be affirmative unless South Africa cancelled its unilateral elections and offered to co-operate in the implementation of resolutions 385 (1976) and 435 (1978).⁹¹⁷

At the 2097th meeting on 10 November 1978 the representative of the USSR said that apparently the Pretoria authorities in their talks with the Western Powers had never considered seriously the question of granting independence to Namibia. Clearly they had been counting on the understanding and sympathy of their partners in the dialogue. One and a half years of talks and manoeuvring around a Western plan for a Namibian settlement had allowed the South African authorities to gain time to prepare their neo-colonialist solution to the Namibian problem—the holding of rigged elections for the purpose of establishing a puppet Government. If the Pretoria régime now refused to hand over power in Namibia to the true representatives of the Namibian people, after carrying out the internal settlement plan it would be in a much better position to disregard the decisions of the United Nations. The time for persuasion had passed, an end had to be put to the economic and other kinds of co-operation with South Africa and there had to be established political and diplomatic isolation for the racist régime of Pretoria. A decisive moment had come for the adoption of measures under Chapter VII of the Charter.⁹¹⁸

At the same meeting the representative of India introduced a draft resolution⁹¹⁹ sponsored by Gabon, India, Kuwait and Nigeria

At the 2098th meeting on 13 November 1978 the representative of China maintained that the Council

should not only condemn sternly the reactionary deeds of the South African racist authorities, but also take practical and effective measures, including sanctions against the South African régime, in accordance with the just demand of African countries and the relevant provisions of the Charter. He noted that the Chinese delegation would vote in favour of the draft resolution. He also recalled that, in view of the establishment of a United Nations Force in resolution 435 (1978), the Chinese delegation had not participated in the vote on that resolution. Consequently he recorded China's reservation on the references to resolution 435 (1978) in the draft resolution before the Council.⁹²⁰

During the discussion a number of speakers expressed support for the application of sanctions against South Africa under Chapter VII of the Charter.⁹²¹

The Council proceeded then to vote on the draft resolution, which was adopted by 10 votes to none, with 5 abstentions, as resolution 439 (1978).⁹²²

The resolution reads as follows:

The Security Council,

Recalling its resolutions 385 (1976) of 30 January 1976, 431 (1978) and 432 (1978) of 27 July and 435 (1978) of 29 September 1978,

Having considered the report of the Secretary-General submitted pursuant to paragraph 7 of resolution 435 (1978),

Taking note of the relevant communications addressed to the Secretary-General and the President of the Security Council,

Having heard and considered the statement of the President of the United Nations Council for Namibia,

Taking note also of the communication dated 23 October 1978 from the President of the South West Africa People's Organization to the Secretary-General,

Reaffirming the legal responsibility of the United Nations over Namibia and its continued commitment to the implementation of resolution 385 (1976), in particular the holding of free elections in Namibia under United Nations supervision and control,

Reiterating the view that any unilateral measure taken by the illegal administration in Namibia in relation to the electoral process, including unilateral registration of voters, or transfer of power, in contravention of the above-mentioned resolutions and the present resolution, is null and void,

Gravely concerned at the decision of the Government of South Africa to proceed with unilateral elections in Namibia in clear contravention of resolutions 385 (1976) and 435 (1978),

1. *Condemns the decision of the South African Government to proceed unilaterally with the holding of elections in the Territory from 4 to 8 December 1978 in contravention of Security Council resolutions 385 (1976) and 435 (1978);*

2. *Considers that this decision constitutes a clear defiance of the United Nations and, in particular, the authority of the Security Council;*

3. *Declares those elections and their results null and void and states that no recognition will be accorded either by the United Nations or any Member States to any representatives or organ established by that process;*

4. *Calls upon South Africa immediately to cancel the elections it has planned in Namibia in December 1978.*

⁹¹⁶ 2098th mtg., paras 5-11

⁹¹⁷ 2092nd mtg., paras 151 and 153 (Mr. Gurirab), 2094th mtg., para 20 (Egypt), *ibid.*, para 41 (Ghana), *ibid.*, para 79 (Somalia), 2095th mtg., paras 12 and 13, 2097th mtg., para 49 (India), 2095th mtg., para 29 (Yugoslavia), *ibid.*, para 71 (Cuba), 2096th mtg., paras 17 and 21 (Kuwait), *ibid.*, para 27 (Czechoslovakia), *ibid.*, para 42 (Bolivia), *ibid.*, paras 69, 70, 73 and 74 (Nigeria), *ibid.*, para 85 (Guyana), *ibid.*, para 97 (Algeria)

⁹²² 2098th mtg., para 12

⁹¹⁶ *Ibid.*, paras 83-115

⁹¹⁷ 2095th mtg., paras 6-14

⁹¹⁸ 2097th mtg., paras 6-22

⁹¹⁹ *Ibid.*, paras 48-52, S/12922, was adopted without change as resolution 439 (1978)

5. *Demands once again* that South Africa co-operate with the Security Council and the Secretary-General in the implementation of resolutions 385 (1976), 431 (1978) and 435 (1978).

6. *Warns* South Africa that its failure to do so would compel the Security Council to meet forthwith to initiate appropriate actions under the Charter of the United Nations, including Chapter VII thereof, so as to ensure South Africa's compliance with the aforementioned resolutions.

7. *Calls upon* the Secretary-General to report on the progress of the implementation of the present resolution by 25 November 1978.

Speaking after the vote on behalf of his Government and in the name of the representatives of France, the Federal Republic of Germany, the United Kingdom and the United States, the representative of Canada said that the five Western countries abstained in the vote because they believed that their efforts should be directed to obtaining and supporting the efforts of the Secretary-General to secure South Africa's co-operation rather than to prejudging the possible outcome as the resolution appeared to do. It would be a mistake to interpret the abstentions as a lack of sympathy for the resolution or the direction in which it pointed in the event that South Africa failed to co-operate in the implementation of resolution 435 (1978). The five would make their judgements on the facts at the appropriate time and act accordingly.⁹²³

Decision of 5 December 1978 (2104th meeting): adjournment

By letter⁹²⁴ dated 1 December 1978 addressed to the President of the Security Council, the representative of the Congo, as Chairman of the African Group, requested that an urgent meeting of the Security Council should be convened not later than 4 December 1978 to consider the situation in Namibia.

By letter⁹²⁵ dated 1 December 1978 addressed to the President of the Security Council, the President of the United Nations Council for Namibia expressed support for the request of the African Group and declared that the gravity of the situation resulting from South Africa's decision to carry out the bogus arrangements under the pretence of electing representatives of the Namibian people made it imperative that the Security Council meet on 4 December 1978.

At the 2103rd meeting on 4 December 1978 the Council adopted the agenda⁹²⁶ and considered the item during its 2103rd and 2104th meetings on 4 and 5 December 1978.

In the course of its deliberations the Council invited the representatives of Angola and the Congo, at their request, to participate in the discussions without the right to vote.⁹²⁷

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the President and three Vice-Presidents of the United Nations Council for Namibia and to Mr. Theo-Ben

Gurirab, Permanent Observer of SWAPO at the United Nations.⁹²⁷

At the 2103rd meeting the President drew the attention of the members of the Council to two documents before the Council.⁹²⁸

At the same meeting the representative of the Congo said that it was clear from the Secretary-General's report that South Africa intended to follow a course totally opposite to that set by the United Nations. South Africa was making every effort to aggravate an already tense situation and thereby to maintain hegemony in the region. Thus, Pretoria intended to stick to its odious policy of *apartheid* and ensure that it would last forever. It was therefore clear that there could be no solution to the Namibian problem unless a start was made on the solution of the South African problem as such. The Security Council should see the situation from a global standpoint, and resort to the relevant provisions of Chapter VII of the Charter.⁹²⁹

The President of the United Nations Council for Namibia held that South Africa's manoeuvres were aimed at putting the United Nations in the position of legitimizing the power base which South Africa was at that very moment creating in Namibia for its puppets. While pretending to accept genuinely free and fair elections under United Nations supervision and control, South Africa, through statements by its leading Government officials, had systematically rejected any possibility of SWAPO's becoming the formal political authority in Namibia through the electoral process. The entire process of the talks aiming at an internationally acceptable settlement had thus been vitiated from the very beginning through the duplicity inherent in South Africa's policy objectives. The preservation of the heinous system of *apartheid* in South Africa depended on many factors including the presence of a security belt on its borders to prevent the flow of ideas and resources to the oppressed majority of the people of South Africa. In order to keep Namibia weak, South Africa intended to promote the preservation of the homelands with all its consequences of disintegration for Namibia. To bring about South African compliance with the decisions of the General Assembly and the Security Council, sanctions envisaged in Chapter VII of the Charter had to be fully applied.⁹³⁰

The representative of Angola stated that the decolonization process for Namibia was far from complete. Neither the United Nations nor those Governments which had been involved in the process could consider their work done. It was more important than ever that

⁹²³ 2098th mtg., paras. 15-23

⁹²⁴ S/12945, OR, 33rd yr., Suppl. for Oct-Dec. 1978, p. 78.

⁹²⁵ S/12951, *ibid.*, p. 87

⁹²⁶ 2103rd mtg., preceding para. 2

⁹²⁷ For details, see chapter III

⁹²⁸ S/12938, OR, 33rd yr., Suppl. for Oct-Dec. 1978, pp. 68-71 (in this report of 24 November 1978 to the Security Council submitted in accordance with its resolution 439 (1978), the Secretary-General described his meeting with the Secretary of State for Foreign Affairs of South Africa on 23 and 24 November 1978) and S/12950, *ibid.*, pp. 86, 87 (in this supplementary report of 2 December 1978 the Secretary-General reviewed the substance of the meetings he had with the Minister for Foreign Affairs of South Africa from 27 to 29 November 1978 in a further effort to clarify the position of the South African Government regarding his report of 24 November 1978)

⁹²⁹ 2103rd mtg., paras. 12-34

⁹³⁰ *Ibid.*, paras. 37-49

the Western Five should continue with their task, not only of seeking further clarification from South Africa but also of ensuring that this country would honour the outcome of those negotiations. He also appealed to the Secretary-General to continue negotiations and consultations.⁹¹¹

The representative of the United States, speaking also on behalf of Canada, France, the Federal Republic of Germany and the United Kingdom, said that the five Governments wished to reiterate the statement made by their Foreign Ministers on 19 October 1978 in Pretoria that they saw no way of reconciling unilateral elections with the proposal they had put forward and which the Security Council had endorsed, and that any such unilateral measure in relation to the electoral process would be regarded as null and void. He reaffirmed that the five Governments considered the so-called internal elections of no significance and would accord no recognition to their outcome, and that such elections could not be considered free and fair and were irrelevant to the progress of Namibia toward an internationally acceptable independence. He noted the statement contained in the Secretary-General's report that South Africa reaffirmed that it would retain authority in Namibia pending implementation of the settlement proposal, and declared that the five Governments attached importance to such explicit recognition by South Africa of its responsibility for the unfolding of events in Namibia.⁹¹²

At the 2104th meeting the President, with the consent of the Council, proposed to adjourn the meeting and fix the date of next meeting on the item in consultations.⁹¹³

At the same meeting the representative of Gabon said that the African Group had decided that discussions of the question of Namibia should be transferred to the current session of the General Assembly.⁹¹⁴

THE SITUATION CONCERNING WESTERN SAHARA

Decision of 22 October 1975 (1850th meeting): resolution 377 (1975)

By letter⁹¹⁵ dated 18 October 1975 addressed to the President of the Security Council, the representative of Spain drew attention to statements which had been made by King Hassan II of Morocco in which he threatened to conduct a march of 350,000 people to invade Western Sahara. The representative noted that he was bringing the situation to the attention of the Council in accordance with Article 35 of the Charter because the situation was one which threatened international peace and security. He urged the President to convene an emergency meeting of the Council so that appropriate measures could be adopted and the Moroccan Government dissuaded from carrying out its announced intention to invade.

Following the adoption of the agenda, the representatives of Spain and Morocco, and at the 1850th meeting the representative of Algeria⁹¹⁶ were invited, at their request, to participate without vote in the discussion of the item on the agenda. The Council considered the question at its 1849th, 1850th, 1852nd to 1854th meetings held between 22 October and 6 November 1975.

At the 1849th meeting, the President drew the attention of the Council to a letter dated 18 October from the representative of Morocco.⁹¹⁷ The letter protested the use of the term "invasion" by the representative of Spain for what the King of Morocco had described as a peaceful march.⁹¹⁸

The representative of Spain contended that a march, such as announced by the King of Morocco, constituted an act of force which would jeopardize the territorial integrity of the Sahara. Such an act would run counter to the principles and purposes of the Charter and would be in contradiction with the General Assembly resolutions on the decolonization of the Sahara. He reviewed the efforts made by Spain and the General Assembly to bring about the self-determination of Western Sahara and drew attention to the role Morocco had played in threatening the development of such a situation. The representative contended that although his Government had decided to terminate its presence in the Territory, it intended to ensure an orderly transfer of power and had thus invited the representatives of Algeria, Morocco and Mauritania to attend a conference with a view to involving them in the process of decolonization. The meeting was not held, however, because of opposition from Morocco. A proposal for a conference, to be held under the auspices of the Secretary-General and suggested by the Government of Spain, also met with no success. He observed that an advisory opinion, issued by the President of the International Court of Justice on October 16, had noted that:

... the Court has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.

In spite of this view, the Government of Morocco interpreted the opinion to mean that Western Sahara was part of Moroccan territory. The Court had, however, stated that there were no historical or legal ties which would justify the non-application of the principle of self-determination to the people of the Sahara. The representative of Spain claimed that this denial led to the present crisis, urged the Council to send a mission to inquire as to the intentions of the Government of Morocco and requested that it take appropriate measures to prevent the march. He hoped the Council would send an urgent appeal to the King of Morocco to refrain from carrying out the invasion and stressed that his Government would not accept responsibility for what might occur.⁹¹⁹

⁹¹¹ 2103rd mtg., paras. 53-65.

⁹¹² *Ibid.*, paras. 67-71.

⁹¹³ 2104th mtg., para. 6.

⁹¹⁴ *Ibid.*, para. 7.

⁹¹⁵ S. 11851, OR, 30th yr., *Suppl. for Oct.-Dec. 1975*, p. 17.

⁹¹⁶ For details, see chapter III of this *Supplement*.

⁹¹⁷ 1849th mtg., para. 3.

⁹¹⁸ S/11852, OR, 30th yr., *Suppl. for Oct.-Dec. 1975*, p. 17.

⁹¹⁹ *Ibid.*, pp. 3-18.