

The representative of the USSR stated that his delegation did not object to the extension of UNFICYP since the extension was being implemented through continuation of the existing voluntary financing of those troops.⁶¹⁴

The representative of China stated that his delegation had not participated in the vote on resolution 364 (1974) because his Government had always held different views in principle on the question of dispatching of United Nations forces.⁶¹⁵

THE SITUATION IN NAMIBIA

In the course of its meetings in Addis Ababa, the Security Council considered among other issues the situation in Namibia and adopted the resolutions 309 (1972) and 310 (1972) relating to this question.⁶¹⁶

Decision of 1 August 1972 (1657th meeting): resolution 319 (1972)

On 17 July 1972, the Secretary-General submitted a report⁶¹⁷ on the implementation of Security Council resolution 309 (1972) of 4 February 1972, whereby the Council had invited him, in consultation and close co-operation with a group of the Security Council, to initiate contacts with all the parties concerned, with a view to establishing the necessary conditions to enable the people of Namibia to exercise their right to self-determination and independence. Following an exchange of communications with the Government of South Africa, the Secretary-General had visited South Africa and Namibia between 6 and 10 March and had held discussions with the Prime Minister and the Minister for Foreign Affairs of South Africa. After his return to Headquarters, the Secretary-General had continued his contact with the Minister for Foreign Affairs of South Africa, and in the course of those discussions the following three points regarding the terms of reference of a representative of the Secretary-General emerged: (a) the task of the representative of the Secretary-General would be to assist in achieving the aim of self-determination and independence of the people of Namibia and to study all questions relevant thereto; (b) in carrying out his task, the representative might make recommendations to the Secretary-General and, in consultation with the latter, to the South African Government, and in so doing, he should assist in overcoming any points of difference; (c) the South African Government would co-operate in the discharge of the representative's task by providing him the requisite facilities to go to South Africa and to Namibia as necessary and to meet all sections of the population of Namibia. The Secretary-General had also conveyed to the Government of South Africa his concern regarding its announced plans with respect to the eastern Caprivi and Ovamboland in further application of its homelands policy and had expressed the hope that the

Government of South Africa would not proceed with any measures that would adversely affect the outcome of the contacts initiated by him pursuant to resolution 309 (1972). The Secretary-General had also contacted other parties concerned, including individuals and groups in Namibia and Namibian leaders outside the Territory. They included representatives of South West Africa People's Organization (SWAPO), South West Africa National Union (SWANU) and other political groups, delegations from a number of "homelands", the Executive Committee of South West Africa and the leaders of the Ovambo workers' committee in the recent strike. In those contacts, which had taken place without the presence of South African officials, various views had been expressed which might be classified into three broad categories: (1) groups calling for a united independent Namibia; (2) groups supporting self-government for the "homelands" and opposing unitary State, with possible federal system; and (3) views of the European Executive Committee of South West Africa, which also opposed the establishment of a unitary State. The Secretary-General reported further that, in addition to the group of three designated by the Security Council for him to consult, he had met with the presiding officers of United Nations bodies concerned with the situation in Namibia, as well as the Chairman and a number of members of the Organization of African Unity. He concluded that, on the basis of his discussions to date, and especially in view of the expressed willingness of the Government of South Africa to co-operate with the representative of the Secretary-General, he believed that it would be worthwhile to continue efforts to implement the mandate of the Security Council with the assistance of a representative. Should the Security Council decide to continue his mandate, the Secretary-General would keep the Security Council informed and in any case would report to the Council not later than 30 November 1972.

At the 1656th meeting on 31 July 1972, the Security Council included⁶¹⁸ the Secretary-General's report in its agenda, and considered the item at the 1656th and 1657th meetings on 31 July and 1 August 1972. At the 1656th meeting, following a request by the President of the United Nations Council for Namibia, two representatives of that body were invited⁶¹⁹ to participate in the discussion.

At the 1656th meeting, the representative of Belgium said that his delegation shared the Secretary-General's concern regarding the decision of the Government of South Africa to give autonomy to Ovamboland and to eastern Caprivi. No steps must be allowed to deprive the Namibian people of their rights or to prejudice the political structure of their future State.⁶²⁰

At the same meeting, the representative of Yugoslavia stated that his Government's attitude was based on the fundamental position of the United Nations with respect to Namibia, namely: South Africa must end the occupation and withdraw its administration from Namibia; the people of Namibia must exercise their inalienable right to self-determination and independence; the United Nations should act to reaffirm the national unity and territorial integrity of Namibia as it had a special responsibility and

⁶¹⁴ 1810th meeting, intervention by the USSR.

⁶¹⁵ *Ibid.* intervention by China.

⁶¹⁶ For the procedural history of the meetings in Addis Ababa see in this chapter the section under the heading "Consideration of questions relating to Africa with which the Security Council is currently seized and the implementation of the Council's relevant resolutions", especially pp. 100-101 for the Namibian question.

⁶¹⁷ S/10738, *OR*, 27th yr., *Suppl. for July-Sept. 1972*, pp. 63-72.

⁶¹⁸ 1656th meeting, following para. 1.

⁶¹⁹ *Ibid.*, para. 2.

⁶²⁰ *Ibid.*, paras. 25-34.

obligation towards the people and the Territory of Namibia. Doubts expressed regarding South Africa's readiness to co-operate fully with the United Nations had been reinforced not only by the deficiencies shown by the South African Government in its contacts with the Secretary-General but also by its subsequent actions, such as the continued application of its homelands policy in Namibia, the intensification of its oppressive measures and certain recent statements of its leaders. However, since it was too early to reach definite decisions, and in view of the fact that some of the main interested parties, namely the representatives of the people of Namibia and of the Organization of African Unity, had not openly opposed the extension of the Secretary-General's mandate, his delegation could support its continuation until 15 or 30 November 1972 and, after the necessary consultations, the appointment of a representative of the Secretary-General. On receiving the Secretary-General's second report, the Council would be in a position to review more substantively the results of his mission. In the meantime, some of the following conditions should be fulfilled. First, there should be a specific and clear formulation of the tasks of the representative, including the conditions of his work and assignment in Namibia. His first duty should be to achieve an immediate end of the terror and oppression practiced against the people of Namibia, to establish their basic rights of freedom of expression and free movement within, to and from Namibia, to secure the release of political prisoners and the right of the political exiles to return, and to take an active part in political activities in Namibia. Second, the representative should enjoy full freedom of access to and throughout Namibia and should be able to meet anyone, anywhere. Third, the Government of South Africa must give unequivocal acknowledgement of resolution 309 (1972) as the framework within which contacts would be pursued. Fourth, the Government of South Africa should discontinue the application of so-called homelands policies and abolish its oppressive measures in Namibia. The fulfilment of those requirements by the Government of South Africa would create the conditions necessary for the continuation of the Secretary-General's mandate after November. In the meantime, action in pursuance of other resolutions of the United Nations relating to Namibia, including the arms embargo, should continue to be strictly implemented.⁶²¹

At the same meeting, the representative of Nigeria*, speaking as a representative of the United Nations Council for Namibia, stated that it was the position of the Council for Namibia that Security Council resolution 309 (1972) must not be misconstrued as a retreat from the legal status which Namibia had attained. It was merely one in a series of United Nations efforts aimed at the withdrawal of South Africa's illegal presence from Namibia. Recalling that resolution 309 (1972) had invited the Secretary-General to initiate contacts with all parties concerned, he stressed that the Council for Namibia was not just a concerned party, but the sole body established by the United Nations to prepare the people of Namibia for self-government and to administer the Territory until independence, and expressed regret at the failure to involve it actively in connexion with the implementation of resolution 309 (1972), an omission which he hoped would be avoided in any future course of

action in pursuance of that resolution. Since the visit of the Secretary-General to South Africa and Namibia, the Government of South Africa had not, by its public pronouncements and actions, given the Council for Namibia much hope that it was ready to accept the United Nations concept of self-determination for Namibia. Instead, it had proceeded to apply its policy of granting self-government to "homelands" and continued its repressive measures. He appealed to the Security Council to bear in mind those acts of breach of faith on the part of the South African Government when deciding on a future course of action, and stressed that the United Nations must resist with all its resources any attempt a Balkanization of the Territory of Namibia and preserve its unity and territorial integrity.⁶²²

At the 1657th meeting on 1 August 1972, the representative of Argentina introduced⁶²³ a draft resolution⁶²⁴ submitted by his delegation.

At the same meeting, at the suggestion of the representative of Somalia,⁶²⁵ the representative of Argentina accepted a revision⁶²⁶ of the draft resolution, whereby its third and fourth preambular paragraphs were made operative paragraphs 2 and 3, which read:

2. *Reaffirms* the inalienable and imprescriptible right of the people of Namibia to self-determination and independence;
3. *Reaffirms also* the national unity and territorial integrity of Namibia,

At the same meeting, the resolution submitted by Argentina, as revised, was voted upon and was adopted⁶²⁷ by 14 votes in favour, none against, with no abstentions as resolution 319 (1972). One member did not participate in the voting. The resolution read:

The Security Council,

Recalling its resolution 309 (1972) of 4 February 1972, and without prejudice to other resolutions adopted on the question of Namibia,

Having considered the report submitted by the Secretary-General in accordance with resolution 309 (1972),

1. *Notes with appreciation* the efforts made by the Secretary-General in the implementation of resolution 309 (1972);
2. *Reaffirms* the inalienable and imprescriptible right of the people of Namibia to self-determination and independence;
3. *Reaffirms also* the national unity and territorial integrity of Namibia;

4. *Invites* the Secretary-General, in consultation and close co-operation with the group of the Security Council established in accordance with resolution 309 (1972), to continue his contacts with all parties concerned, with a view to establishing the necessary conditions so as to enable the people of Namibia, freely and with strict regard to the principle of human equality, to exercise their right to self-determination and independence, in accordance with the Charter of the United Nations;

5. *Approves* the proposal of the Secretary-General to proceed, after necessary consultations, with the appointment of a representative to assist him in the discharge of his mandate as set out in paragraph 4 above;

⁶²² *Ibid.*, paras. 75-90.

⁶²³ 1657th meeting, paras. 36-49.

⁶²⁴ S/10750, adopted as amended at the 1657th meeting. See resolution 319 (1972).

⁶²⁵ 1657th meeting, para. 123.

⁶²⁶ *Ibid.*, paras. 137-146.

⁶²⁷ *Ibid.*, para. 150.

⁶²¹ 1656th meeting, paras. 36-50.

6. *Requests* the Secretary-General to keep the Security Council informed as appropriate and in any case to report to it on the implementation of resolution 309 (1972) and of the present resolution not later than 15 November 1972.

Decision of 6 December 1972 (1682nd meeting): resolution 323 (1972)

On 15 November, the Secretary-General submitted his report to the Security Council⁶²⁸ on the implementation of resolution 319 (1972) of 1 August 1972, whereby the Security Council had invited him to continue his contacts with all parties concerned, contacts which had been initiated in pursuance of resolution 309 (1972) of 4 February 1972, with the assistance of a representative. The Secretary-General stated that, on 24 September, in accordance with paragraph 5 of resolution 319 (1972), he had appointed Mr. Martin Escher of Switzerland as his representative to assist him in the discharge of his mandate and that, following consultations in New York, Mr. Escher had visited South Africa and Namibia from 8 October to 3 November 1972. After Mr. Escher had reported orally to the Secretary-General on the results of his contacts, both had met with the following parties and had informed them of the results of the mission: the group of the Security Council established in accordance with resolution 309 (1972) the President of the Security Council; representatives and officials of the Organization of African Unity; the Chairman of the African Group for the month of November; and Chairmen of United Nations bodies concerned with the situation in Namibia. Mr. Escher's written report was annexed to the Secretary-General's report. The Secretary-General noted that his representative, while in Namibia, had had the opportunity to meet privately with, and obtain the views of, a wide cross-section of the population concerning the future of the country. The Secretary-General believed that, although many issues remained to be clarified, the results of the mission contained a number of elements which the Council might wish to pursue, and expressed the hope that the information contained in his report would provide a useful basis for the Council to consider and to decide on the future course of action. In his annexed report to the Secretary-General, Mr. Escher stated that, prior to his visit to Namibia, he had met with a number of presiding officers and members of various United Nations bodies concerned with the question of Namibia, as well as the Minister for Foreign Affairs and the permanent representative of South Africa and representatives of the South West Africa People's Organization (SWAPO). In his discussions with the South African authorities, Mr. Escher had explained the position of the United Nations, in particular with regard to the national unity and territorial integrity of Namibia, and had brought up the question of complete and unequivocal clarification of South Africa's policy of self-determination and independence for Namibia. The Prime Minister had expressed the view that that was not the appropriate stage to go into a detailed discussion of the interpretation of self-determination and independence, and that experience in self-government, particularly on a regional basis, was an essential element for eventual self-determination. The Prime Minister had agreed, however, to establish an advisory council and to assume personally over-all responsibility for the Territory as a whole. Mr. Escher further maintained

⁶²⁸ S/10832, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, pp. 32-46.

that his impressions of his visit to Namibia were that the majority of its non-white population supported the establishment of a united, independent Namibia and expected the assistance of the United Nations in bringing it about. However, certain sections of the non-whites and the majority of the white population supported the "homelands" policy and approved continued rule by South Africa. In conclusion, Mr. Escher said that, although his discussions with the Prime Minister of South Africa had left a number of issues still to be clarified, he believed, in view of the readiness of the South African Government to continue the contacts and of the positive elements that had emerged from those discussions, that the contacts between the Secretary-General and the South African Government, as well as the other parties concerned, should be continued.

At the 1678th meeting on 28 November 1972, the Security Council included⁶²⁹ the Secretary-General's report in its agenda and considered the question at its 1678th to 1682nd meetings between 28 November and 3 December. Also at the 1678th meeting, the representatives of Chad, Ethiopia, Liberia, Mauritius, Morocco and Sierra Leone⁶³⁰ were invited to participate in the discussion. Subsequently, invitations were also extended to the representatives of Burundi, Nigeria and Zambia.⁶³¹ The Council also decided to extend an invitation to the President of the United Nations Council for Namibia,⁶³² and, at the request⁶³³ of the representatives of Somalia and the Sudan, to Mr. Peter Mueshuhange.⁶³⁴

At the 1678th meeting on 28 November 1972, the representative of Morocco*, who was also Acting President of the Council of Ministers of the Organization of African Unity, stated that any further contact with the Government of South Africa must be based on two principles: namely, respect for the territorial integrity of Namibia, as defined in the Mandate granted to South Africa by the League of Nations, and for the unity of the people of the Territory. The mission of the Secretary-General must be continued with absolute clarity of purpose, and the Security Council should set a reasonable period of time in order to ascertain the intentions of South Africa as regards its acceptance of the basis on which that mission had been launched.⁶³⁵

At the same meeting, the representative of Liberia* said that it was a matter of public record that South Africa's policy on self-determination did not envisage sovereignty for Namibia and Namibians, either as a territorial entity or even in individual "homelands". South Africa merely intended to grant some vague form of home rule to Namibia, by the terms of which Namibia would remain perpetually under South Africa's control. Judging from the report of the representative of the Secretary-General, no progress had been made in eliminating repressive measures. In the light of the foregoing, he wondered if the readiness of the South African Government to continue the contacts initiated by the Secretary-General might not be simply a

⁶²⁹ 1678th meeting, preceding para. 1.

⁶³⁰ *Ibid.*, paras. 1-3.

⁶³¹ 1679th meeting, paras 2-3, 97.

⁶³² 1678th meeting, paras. 3-4.

⁶³³ S/10841, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, p. 52.

⁶³⁴ 1679th meeting, para. 5.

⁶³⁵ 1678th meeting, paras. 30-45.

means of preventing the United Nations from taking effective measures to expel South Africa from Namibia. Moreover, there was also the danger that the terms under which the contacts had commenced might have undermined the authority of the United Nations by accepting, or implying, the right of the South African Government to dictate the terms on which the Secretary-General or his representative should enter a Territory over which South Africa exercised no legal rights. He proposed that in the first instance, the mandate of the Secretary-General should be continued, but with specific guidelines and terms of reference and with specified dates for the achievement of the stated objectives of the United Nations. Alternatively, or in conjunction with the Secretary-General's mission, the Security Council should adopt direct and concrete measures in order to achieve the early realization of self-determination in Namibia, namely: (1) all specialized agencies and other organizations within the United Nations system should be urged to take steps to prevent the Government of South Africa from representing the Territory, and to accept Namibia, as represented by the United Nations Council for Namibia, to become a full or an associate member; (2) the Council for Namibia should be accepted as representing Namibia to carry out appropriate functions in the territories of Member States, including issuing travel documents, and to sign international treaties; (3) the United Nations should provide an adequate budget and staff to the Council which should be encouraged to undertake a number of functions, including undertaking studies useful for a future Namibian Government, establishing land title registry, registering and levying taxes from corporations operating in Namibia and others. Such measures would not in themselves automatically bring about an end to South Africa's illegal occupation of Namibia, but they would signal to South Africa and her trading partners the determination of the United Nations to begin a new era of effective action and would, above all, accelerate the movement towards independence for Namibia.⁶³⁶

The representative of Turkey*, speaking in his capacity as the President of the United Nations Council for Namibia, stated that the Council for Namibia had carefully followed the mission of the representative of the Secretary-General. It regretted that its observations to the representative before and after his visit to South Africa had not been included in his report. Moreover, the Secretary-General's report on Mr. Escher's mission was far from satisfying the concerns of the Council for Namibia. It would seem that South Africa had not only refused to recognize the wishes of the Namibian people, so clearly expressed to the representative of the Secretary-General, for a united independent Namibia, but wished to have the United Nations endorse its policy of dismembering the Territory and its practice of *apartheid*. There was nothing to indicate that South Africa accepted the resolutions of the United Nations on Namibia or that the contacts had been carried out in accordance with the mandate of the Security Council resolutions: everything led to the belief that South Africa continued to claim that the discussions had been based on its invitation addressed to the Secretary-General personally. The Council for Namibia hoped that the Security Council, in taking a decision on the Secretary-General's report,

would take into account the fact that the situation in Namibia had not altered since the adoption of resolution 309 (1972), and that it would take effective measures to compel South Africa to withdraw from the Territory. Only then, the Council would be able to proceed to discharge its responsibilities in conformity with the decision of the international community and in accordance with the wishes of the Namibian people.⁶³⁷

The representative of Ethiopia* said that he was speaking as current Chairman of the African Group in the United Nations and as representative of one of the countries that had been given a mandate by the Assembly of Heads of State and Government of the Organization of African Unity to represent them in the Security Council discussion on the question of Namibia. Following consultations among themselves, the representatives of the African States were of the opinion that continuation of the Secretary-General's contacts, in the present circumstances and in the absence of some basic clarifications by the South African Government on a number of important issues, would not be productive and might, by lending credence to South Africa's claim that it was negotiating in earnest, make it possible for it to implement a policy of Balkanization of Namibia. He urged the Security Council to request the necessary clarification from South Africa on such issues as whether it accepted United Nations responsibility in the self-determination for Namibia, whether it accepted the establishment of an effective United Nations presence in the Territory, whether it accepted the exercise of self-determination by the people of Namibia as a whole and national unity and territorial integrity of Namibia, and whether it accepted that whatever rights it might have had under the Mandate of the League had been terminated. Until such time as unequivocal clarifications were given, the contacts which the Secretary-General had initiated through his representative should be suspended. All efforts should be directed towards giving effect to the responsibility that the United Nations had assumed for Namibia, with a view to establishing an effective United Nations presence in the Territory so that the people of Namibia would be able to freely exercise their right to self-determination.⁶³⁸

At the 1682nd meeting on 6 December 1972 the representative of Argentina stated that, as a result of the contacts between the Secretary-General and the Prime Minister of South Africa under resolution 309 (1972), the South African Government had confirmed that its policy in regard to Namibia was one of 'self-determination and independence'. However, his delegation had been disappointed that South Africa had failed to clarify unequivocally the meaning it attached to the term. There were many questions that still needed to be clarified, such as the meaning of "regional self-government" and "influx control" and the functions of the proposed advisory council. Nevertheless, Mr. Escher's mission had been justified by the many meetings which he had had with various sectors of the people of Namibia which had provided the Security Council with a body of factual and impartial information concerning the wishes of the Namibian people with regard to the future of their country. The political activity caused by the visit of the representative of the

⁶³⁶ 1678th meeting, paras. 49-103.

⁶³⁷ *Ibid.*, paras. 106-122.

⁶³⁸ *Ibid.*, paras. 125-177.

Secretary-General was another event which deserved to be emphasized. Whether it was admitted or not, Mr. Escher's visit had been regarded by the people of Namibia as the beginning of a United Nations presence in Namibia and several groups had requested that such United Nations presence be made more effective and permanent.⁶³⁹ The representative of Argentina then introduced⁶⁴⁰ a draft resolution⁶⁴¹ sponsored by his delegation. He noted that, in operative paragraph 5 of the draft resolution, which invited the Secretary-General to continue his efforts to ensure the exercise by the people of Namibia of their right to self-determination and independence, the words "with a view to establishing the necessary conditions", which had appeared in resolutions 309 (1972) and 319 (1972), had been eliminated since it appeared that the Government of South Africa had taken advantage of the phrase to delay a reply with regard to its policy of self-determination and independence. He added that the other parties, in particular the President of the United Nations Council for Namibia, should be consulted more thoroughly to ascertain their views and to obtain guidance in the quest for solutions.

At the same meeting, the representative of the USSR proposed⁶⁴² that operative paragraph 8 of the Argentine draft resolution should be amended to provide that the Security Council, rather than the President of the Security Council as had been originally provided, would appoint representatives to fill the vacancies that would occur in the group established in accordance with resolution 309 (1972). The proposal was accepted⁶⁴³ by the sponsor of the draft resolution.

At the 1682nd meeting on 6 December 1972, the draft resolution sponsored by Argentina, as revised orally at the meeting, was voted upon and adopted⁶⁴⁴ by 13 votes in favour, none against, with 1 abstention as resolution 323 (1972). One delegation did not participate in the voting. The resolution read:

The Security Council,

Recalling its resolutions 309 (1972) of 4 February 1972 and 319 (1972) of 1 August 1972, and without prejudice to other resolutions adopted on the question of Namibia,

Reaffirming the special responsibility and obligation of the United Nations towards the people and Territory of Namibia,

Recalling the advisory opinion of the International Court of Justice of 21 June 1971,

Reaffirming the inalienable and imprescriptible right of the people of Namibia to self-determination and independence,

Affirming that the principle of the national unity and territorial integrity of Namibia cannot be subject to any conditions,

Having considered the report submitted by the Secretary-General in accordance with resolution 319 (1972),

1. *Observes with satisfaction* that the people of Namibia have again had an opportunity of expressing their aspirations clearly and unequivocally, in their own Territory, to representatives of the United Nations;

2. *Notes with interest* that the overwhelming majority of the opinions of those consulted by the representative of the Secretary-

General categorically stated, *inter alia* that they were in favour of the immediate abolition of the "homelands" policy, withdrawal of the South African administration from the Territory, Namibia's accession to national independence and the preservation of its territorial integrity, thus further confirming the consistently held position of the United Nations on this question;

3. *Deeply regrets* that there has been no complete and unequivocal clarification of the policy of the Government of South Africa regarding self-determination and independence for Namibia;

4. *Solemnly reaffirms* the inalienable and imprescriptible right of the people of Namibia to self-determination, national independence and the preservation of their territorial integrity, on which any solution for Namibia must be based, and rejects any interpretation, measure or policy to the contrary;

5. *Invites* the Secretary-General on the basis of paragraph 4 above to continue his valuable efforts, in consultation and close co-operation with the group of the Security Council established in accordance with resolution 309 (1972) and, as appropriate, with the assistance of representatives, to ensure that the people of Namibia, freely and with strict regard to the principle of human equality, exercise their right to self-determination and independence, in accordance with the Charter of the United Nations;

6. *Again calls upon* the Government of South Africa to co-operate fully with the Secretary-General in the implementation of the present resolution in order to bring about a peaceful transfer of power in Namibia;

7. *Requests* the other parties concerned to continue to extend their valuable co-operation to the Secretary-General with a view to assisting him in the implementation of the present resolution;

8. *Decides* that, immediately following the partial renewal of the membership of the Security Council on 1 January 1973, the Council shall appoint representatives to fill the vacancies that will occur in the group established in accordance with resolution 309 (1972);

9. *Requests* the Secretary-General to report to the Security Council on the implementation of the present resolution as soon as possible and not later than 30 April 1973.

At the 1684th meeting on 16 January 1973, the President (Indonesia) informed the Council that, as a result of consultations held among members of the Council, a consensus had been reached to appoint the representatives of Peru and Sudan to fill the vacancies that had occurred in the group established in accordance with resolution 309 (1972) as a result of the expiration of the terms of office of the delegations of Argentina and Somalia.⁶⁴⁵

Decision of 11 December 1973 (1758th meeting): resolution 342 (1973)

On 30 April 1973, the Secretary-General submitted to the Security Council his report⁶⁴⁶ on the implementation of Council resolution 323 (1972) of 6 December 1972. The Secretary-General stated that, in close co-operation with the group of three of the Security Council, he had sought to obtain from the Government of South Africa a more complete and unequivocal statement of its policy regarding self-determination and independence for Namibia as well as clarification of its position on other questions arising from the report of his representative and from the debate in the Security Council. To this end the Secretary-General had transmitted to the Government of South Africa on 20 December 1972 a series of questions with respect to: (a) South Africa's policy regarding self-determination and independence for Namibia; (b) the composition and functions of the proposed advisory council; (c) the removal of

⁶³⁹ 1682nd meeting, paras. 75-100.

⁶⁴⁰ *Ibid.*, paras. 111-134.

⁶⁴¹ S/10846, same text as resolution 323 (1972).

⁶⁴² 1682nd meeting, para. 271.

⁶⁴³ *Ibid.*, paras. 272-276.

⁶⁴⁴ *Ibid.*, para. 277.

⁶⁴⁵ 1684th meeting, para. 10.

⁶⁴⁶ S/10921, *OR*, 28th yr., *Suppl. for April-June 1973*, pp. 30-34.

restrictions on movement and measures to ensure freedom of political activity, including freedom of speech and the holding of meetings; and (d) the discontinuance of measures in furtherance of South Africa's "homelands" policy. Subsequently, the Secretary-General and his representatives had held a detailed discussion of the preliminary replies of the South African Government with its Permanent Representative and had again emphasized the firm stand of the United Nations with regard to the international status of Namibia, its national unity and territorial integrity, and the right of the Namibian people, taken as a whole, to self-determination and independence. In the course of the discussions, particular attention had been paid to the Development of Self-Government for Native Nations in South West Africa Amendment Bill, which had been introduced in the South African Parliament on 8 February 1973, and to the advisory council which was then being established in Namibia. Following direct contacts in Geneva between the Secretary-General and the Minister for Foreign Affairs of South Africa, the Minister had submitted on 30 April a statement in clarification of his Government's position which contained the following points: the Government of South Africa would, in conformity with Article 1, paragraph 2, of the United Nations Charter, fully respect the wishes of the whole population of the Territory, with regard to its future constitutional organization, and any exercise to ascertain their wishes would not be compromised by any existing political and administrative arrangements; all political parties of the Territory would have full and free participation in the process leading to self-determination and independence; and the Government, in co-operation with the Secretary-General and in consultation with the people of the Territory, would determine such measures as would ensure the achievement of the goal of self-determination and independence. The Minister for Foreign Affairs of South Africa had also indicated that his Government did not envisage that individual population groups might suddenly become independent as separate entities, and that it recognized and accepted, subject to the requirements of public safety, the need for freedom of speech and political activity for all parties in the process leading to self-determination. The South African Government also envisaged the redelineation and enlargement of administrative districts so as to reduce restrictions on and increase freedom of movement. It reaffirmed that South West Africa had a separate international status and that it did not claim any part of the Territory. On the basis of present developments, it anticipated that it might not take longer than ten years for the people of the Territory to reach the stage where they would be ready to exercise their right to self-determination. The Secretary-General concluded that the position of the Government of South Africa was still far from coinciding with that of United Nations resolutions. While South Africa's position on some of the basic questions had been made clearer, the statement did not provide the complete and unequivocal clarification of its policy in regard to self-determination and independence for Namibia envisaged in resolution 323 (1972). In the light of the results achieved thus far, he said, the question arose whether the contacts and efforts initiated pursuant to resolutions 309 (1972), 319 (1972) and 323 (1972) should be continued. Should the Security Council decide to continue those efforts, it should bear in mind his earlier

statement to the effect that time and protracted discussion would be required if any progress was to be achieved.

By letter⁶⁴⁷ dated 4 December 1973 addressed to the President of the Security Council, the representatives of Guinea, Kenya and the Sudan requested an urgent meeting of the Security Council for the consideration of the serious situation in Namibia.

At the 1756th meeting on 10 December 1973, the Security Council adopted⁶⁴⁸ the agenda, including in it the Secretary-General's report on the implementation of resolution 323 (1972), and considered the question at its 1756th to 1758th meetings on 10 and 11 December. At the 1756th meeting, the Council decided to invite the representatives of Niger and Somalia to participate in the discussion.⁶⁴⁹ Subsequently, representatives of Nigeria⁶⁵⁰ and Saudi Arabia⁶⁵¹ were also invited. The Security Council also decided, at the 1756th meeting, to extend an invitation to a delegation of the United Nations Council for Namibia, composed of the President of the Council for Namibia and the representatives of Burundi, Indonesia and Mexico.⁶⁵² At the 1758th meeting on 11 December, the Council decided, at the request of the representatives of Guinea, Kenya and the Sudan,⁶⁵³ to extend an invitation to Mr. Mishake Muyongo.⁶⁵⁴

At the 1756th meeting on 10 December 1973, the Secretary-General, in presenting his report, stated that following the submission of the report, he had the opportunity to obtain the views of several of the parties concerned, namely, the United Nations Council for Namibia, the President of the South West Africa People's Organization (SWAPO) and Chief Clemens Kapuuu, the Chairman of the National Convention of Non-Whites in Namibia. Furthermore, the position of the Organization of African Unity on Namibia as contained in its resolution adopted in May of that year had been formally transmitted to him, and he had also discussed the matter with many heads of State and Government during his visits to Zambia and the United Republic of Tanzania and while attending the OAU Conference in Addis Ababa in May and the Conference of Non-Aligned States in Algiers in September. The Secretary-General reported that the general view had been that, in the light of the position of the Government of South Africa as given in its statement of 30 April 1973, no useful purpose would be served by continuing the policy envisaged in Security Council resolution 309 (1972) and that that approach should be resumed only if the Government of South Africa were to make a substantial move towards reconciling its position with that of the United Nations.⁶⁵⁵

At the same meeting, the representative of Peru said that, far from providing a clear and unequivocal statement

⁶⁴⁷ S/11145. *OR, 28th yr., Suppl. for Oct.-Dec. 1973*, p. 257.

⁶⁴⁸ 1756th meeting, President's opening statement.

⁶⁴⁹ *Ibid.*

⁶⁵⁰ 1757th meeting, President's opening statement.

⁶⁵¹ 1758th meeting, President's opening statement.

⁶⁵² 1756th meeting, President's opening statement.

⁶⁵³ S/11153. *OR, 28th yr., Suppl. for Oct.-Dec. 1973*, p. 265.

⁶⁵⁴ 1758th meeting, following the intervention by Nigeria.

⁶⁵⁵ 1756th meeting, statement by the Secretary-General.

on its policy in regard to the exercise of the right to self-determination and independence of the people of Namibia, the Government of South Africa had affirmed its policy to divide the Territory into Bantustans by means of legislative measures adopted at the beginning of 1973. He then introduced⁶⁵⁶ a draft resolution⁶⁵⁷ sponsored by Peru which had been prepared after consultation with members of the Council, and orally proposed⁶⁵⁸ the addition of a new preambular paragraph whereby the Council would recall its resolutions 309 (1972), 319 (1972) and 323 (1972).

The President of the United Nations Council for Namibia stated that in view of the refusal of the South African Government to engage in any meaningful dialogue, and of its attempt to misrepresent the contacts as United Nations approval for its illegal presence and conduct in Namibia, continuation of those contacts would only prejudice the United Nations position and reduce the pressure on South Africa created by the advisory opinion of the International Court of Justice. At a special session held in Lusaka in June 1973, the Council for Namibia had assessed the situation in Namibia and had issued a declaration reaffirming its decision of March 1973 that the contacts with South Africa must be terminated because they were detrimental to the interests and welfare of the people of Namibia. The Council for Namibia urged that the Security Council terminate the contacts and adopt a resolution containing some of the conclusions of the Lusaka session, namely: to recognize that continued illegal occupation of Namibia by South Africa would be a serious danger to international peace and security; to call upon all States to actively support the struggle of the Namibian people for freedom and independence; to oblige those States giving direct or indirect political, military, economic and financial support to South Africa to discontinue such support immediately, to withdraw all consular offices from Namibia and to terminate the investment of foreign capital and the activities of Western transnational corporations there. He stressed the view of the Council for Namibia that the Security Council bore a special responsibility to assist the legitimate struggle of the people of Namibia and to take effective measures to compel South Africa to withdraw immediately from the Territory by adopting, if necessary, measures under Chapter VII of the Charter of the United Nations.⁶⁵⁹

The representative of Guinea expressed the view that it was incumbent upon the Security Council, especially its permanent members, to take effective measures to compel the Government of South Africa to comply with the decisions of the United Nations. She called for the termination of the contacts initiated in accordance with resolution 309 (1972) and called upon all States, particularly those which maintained economic and military ties with South Africa, to extend to it the economic embargo, which had produced some effect in Southern Rhodesia.⁶⁶⁰

At the 1757th meeting on 11 December 1973, the representative of Australia stated that, although his delegation shared the general feeling of disappointment over the equivocal nature of the South African Government's responses, it did not fully agree with the view that no useful purpose would be served by continuing the contacts between the Secretary-General and the Government of South Africa. There was a difference between deciding to terminate contacts and leaving them in abeyance. It was not simply a question of the usefulness of carrying on a dialogue with South Africa, but rather of whether or not the Security Council should retain some degree of flexibility against the possibility of future change in circumstances and attitudes. In the light of those considerations, his delegation found itself able to support the draft resolution introduced by the representative of Peru.⁶⁶¹

The representative of the Sudan stated that the problem of Namibia was a challenge to the authority of the Security Council and of the other organs of the United Nations. His delegation was of the view that the Security Council should take a very serious view of the situation and should, first, determine that the continued presence of South Africa in Namibia constituted an act of aggression and therefore a threat to international peace and security, and, secondly, adopt appropriate measures under Chapter VII of the United Nations Charter to secure the compliance of the South African Government.⁶⁶²

At the 1758th meeting on 11 December 1973, the representative of the United States stated that his delegation believed that, on balance, the Secretary-General's efforts had been beneficial to the United Nations involvement in the Namibian question. His Government noted with concern, however, that some of South Africa's recent actions in continuing to implement its so-called homelands policy and to take repressive measures conflicted sharply with the tenor of that Government's statements to the Secretary-General. Nevertheless, his Government was reluctant to eliminate the possibility of future talks and continued to believe that such discussions were the most realistic way of gaining self-determination for the people of Namibia. A number of questions concerning South Africa's plans for Namibia required more specific replies and the Secretary-General should be free to seek them. In his Government's view, responses already given to the Secretary-General by the South African Government represented important departures from previous South African policy and signalled openings which were admittedly narrow but worth further exploration.⁶⁶³

At the 1758th meeting on 11 December 1973, the Security Council proceeded to vote on the draft resolution submitted by Peru, as orally revised, and adopted⁶⁶⁴ it unanimously as resolution 342 (1973). The resolution read:

The Security Council,

Recalling its resolutions 309 (1972) of 4 February 1972, 319 (1972) of 1 August 1972 and 323 (1972) of 6 December 1972,

Having considered the report of the Secretary-General (S/10921 and Corr.1),

⁶⁵⁶ 1756th meeting, intervention by Peru.

⁶⁵⁷ S/11152, *OR*, 28th yr., *Suppl. for Oct.-Dec. 1973*, p. 264.

⁶⁵⁸ 1756th meeting, intervention by Peru.

⁶⁵⁹ *Ibid.*, Intervention by the President of the United Nations Council for Namibia.

⁶⁶⁰ *Ibid.*, intervention by Guinea.

⁶⁶¹ 1757th meeting, intervention by Australia.

⁶⁶² *Ibid.*, intervention by Sudan.

⁶⁶³ 1758th meeting, intervention by the United States.

⁶⁶⁴ *Ibid.*, preceding the intervention by France.

1. *Takes note with appreciation* of the report of the Secretary-General;
2. *Decides*, in the light of the report and the documents attached thereto, to discontinue further efforts on the basis of resolution 309 (1972);
3. *Requests* the Secretary-General to keep the Security Council fully informed of any new important developments concerning the question of Namibia.

Decision of 17 December 1974 (1811th meeting): resolution 366 (1974)

By letter⁶⁶⁵ dated 13 December 1974 addressed to the President of the Security Council, the representative of Upper Volta referred to General Assembly resolution 3295 (XXIX) of 13 December 1974 and requested, in his capacity as current Chairman of the African Group, that a meeting of the Security Council be convened at the earliest possible date to consider the question of Namibia.

At the 1811th meeting on 17 December 1974, the Security Council adopted⁶⁶⁶ the agenda and considered the question at its 1811th and 1812th meetings, both held on 17 December. At the 1811th meeting, the Council decided to invite the representatives of Morocco, Nigeria, Somalia and Upper Volta to participate in its discussion.⁶⁶⁷ At the same meeting, the Council also decided, at the request of the President of the United Nations Council for Namibia, to extend an invitation to a delegation of the Council for Namibia, composed of the President of that Council and the representatives of India, Romania and Zambia.⁶⁶⁸ The Council further decided, at the request of the representatives of Kenya, Mauritania and the United Republic of Cameroon,⁶⁶⁹ to extend an invitation to Mr. Peter Muesihange.⁶⁷⁰

At the 1811th meeting, the President (Australia) stated that, in addition to the letter from the representative of Upper Volta requesting a Council meeting, the Security Council had also received a letter⁶⁷¹ from the Secretary-General, drawing attention to General Assembly resolution 3295 (XXIX) concerning the question of Namibia, section II of which read:

The General Assembly,

Urges the Security Council to convene urgently in order to take without delay effective measures, in accordance with the relevant Chapters of the Charter of the United Nations and with resolutions of the Security Council and of the General Assembly regarding Namibia, to put an end to South Africa's illegal occupation of Namibia;

The President then drew the attention of the Security Council to a draft resolution⁶⁷² jointly sponsored by Kenya, Mauritania and the United Republic of Cameroon,

⁶⁶⁵ S/11575, *OR, 29th yr., Suppl. for Oct.-Dec. 1974*, p. 67.

⁶⁶⁶ 1811th meeting, President's opening statement.

⁶⁶⁷ *Ibid.*, President's opening statement: preceding the intervention by Upper Volta; and preceding the intervention by Somalia.

⁶⁶⁸ *Ibid.*, President's opening statement.

⁶⁶⁹ S/11580, *OR, 29th yr., Suppl. for Oct.-Dec. 1974*, p. 69.

⁶⁷⁰ 1811th meeting, President's opening statement.

⁶⁷¹ S/11576, mimeographed. For the text of the resolution, see *GAOR, 29th sess., Suppl. No. 31*.

⁶⁷² S/11579, same text as resolution 366 (1974).

and said that, following consultations on the matter, members of the Council had agreed to proceed immediately to vote on the draft resolution.⁶⁷³

At the 1811th meeting on 17 December 1974, the Security Council voted on the three-Power draft resolution and adopted⁶⁷⁴ it unanimously as resolution 366 (1974). The resolution read:

The Security Council,

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 subsequent General Assembly resolutions on Namibia, in particular resolution 3295 (XXIX) of 13 December 1974,

Recalling Security Council 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 and 310 (1972) of 4 February 1972, which confirmed the General Assembly decisions,

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,

Concerned about 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 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,

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. *Demands* that South Africa make a solemn declaration that it will comply with the resolutions and decisions of the United Nations and the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia and that it recognizes the territorial integrity and unity of Namibia as a nation, such declaration to be addressed to the Security Council;

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

5. *Further demands* that South Africa, pending the transfer of power provided for in paragraph 4 above:

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

(b) Release all Namibian political prisoners, including those imprisoned or detained in connexion 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;

6. *Decides* to remain seized of the matter and to meet on or before 30 May 1975 for the purpose of reviewing South Africa's

⁶⁷³ 1811th meeting, President's opening statement.

⁶⁷⁴ *Ibid.*, following President's opening statement.

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 after the vote, the President of the United Nations Council for Namibia said that South Africa's persistent defiance of the Security Council and other organs of the United Nations and its resort to deceptive manoeuvres when subjected to international pressure were a matter of public record. There were certain principles regarding Namibia on which all members of the Security Council were in agreement. It was high time that the Security Council went beyond a mere reaffirmation of agreed principles and bring to an end South Africa's illegal occupation of Namibia. He expressed the hope that, in the context of new and unfolding realities, the Council when it would meet again to consider the question of Namibia, as it had decided to do in the resolution that had just been adopted, would reach a unanimous decision on the action necessary to achieve that objective. He suggested that the Security Council might indicate that it would not hesitate to employ, if necessary, those measures provided for in Chapter VII of the Charter of the United Nations.⁶⁷⁵

The representative of Upper Volta*, speaking as the current chairman of the African Group, stated that the African States had requested the meeting of the Security Council in the hope that it could take measures to defuse the explosive situation prevailing in Namibia. He urged the Council, and in particular those permanent members that had certain relations with South Africa, to bring its influence to bear so as to compel South Africa to withdraw from the Territory. South Africa should give a solemn commitment on withdrawal and, in order to create a propitious atmosphere for negotiations, also take immediate measures, such as the freeing of political prisoners, the abolition of the laws and practices of *apartheid* and the return of exiles to their homes. In the light of the rapidly changing situation in southern Africa, the United Nations must throw its full weight on the side of freedom and justice and thereby help to avoid further unnecessary bloodshed.⁶⁷⁶

COMPLAINT BY SENEGAL

Decision of 23 October 1972 (1669th meeting): resolution 321 (1972)

By letter⁶⁷⁷ dated 16 October 1972 addressed to the President of the Security Council, the permanent representative of Senegal requested that a meeting of the Security Council be urgently convened to consider the incident of 12 October on the border between Senegal and Guinea (Bissau), in which a unit of the regular Portuguese army, including five armoured cars, had attacked a Senegalese post in the department of Velingara and then had withdrawn following action taken by the Senegalese army in defence of the territorial integrity of the country. Recalling that the Council had already adopted several resolutions

condemning Portugal for systematic acts of aggression and provocation against Senegal, he added that this latest incident must be considered the most serious and significant, because a deliberately planned act of war was involved.

At the 1667th meeting on 19 October 1972, the Council included the item in its agenda and invited the representatives of Senegal, Mauritania, Algeria and Mali to participate in the discussion.⁶⁷⁸ The question was considered at the 1667th to 1669th meetings, held between 19 and 23 October 1972.

At the 1667th meeting the representative of Senegal* recalled that it was in 1963 that Senegal had first requested the Security Council to find a way to stop the aggressive actions of Portugal. However, Portugal, in defiance of the right of peoples to self-determination and of the resolutions of the Security Council and of the report of the Special Mission sent by the Council to the area in July 1971, had continued its armed incursions into Senegal which were the subject of fresh complaints by Senegal to the Council in 1965, 1969 and 1971. The incident of 12 October doubtless constituted a real act of open war and Portugal had specifically confirmed the incident in a public declaration. It had even presented to Senegal its apologies and offers of compensation for the victims, and had announced that the officer responsible would be court-martialed. It was quite clear that Portugal was able to violate the tenets of international law because of the help it received from its NATO allies. What was really needed, if Portugal was sincere, was that it should create immediate conditions of peace in Guinea (Bissau) by opening negotiations with the PAIGC on the basis of the peace plan submitted by Senegal in March 1969. Meanwhile, the Council, while condemning Portugal for aggression against Senegal should also ask the Portuguese Government to commence at once negotiations in regard to Senegal's peace plan.⁶⁷⁹

At the same meeting the representative of Guinea submitted a draft resolution,⁶⁸⁰ sponsored jointly by Somalia and Sudan.

The representative of the USSR, after recalling that the Security Council had censured Portugal several times before for its acts of aggression against Senegal, stated that Portugal had flagrantly violated the most fundamental provisions of the Charter by continuing its acts of aggression against Senegal. It was also violating the Declaration on the Strengthening of International Security which was adopted by the General Assembly at its twenty-fifth session. The Soviet delegation had supported previous resolutions on the question and insisted on the strictest observance of those resolutions. It was ready to accord the same support to any new measures that would deal effectively with the problem.⁶⁸¹

The representative of Mali* stated that the latest Portuguese attack should be viewed in the context of the systematic assaults since 1963 against Senegalese villages by Portuguese army units and no further arguments were

⁶⁷⁵ 1811th meeting, intervention by the President of the United Nations Council for Namibia.

⁶⁷⁶ *Ibid.*, intervention by Upper Volta.

⁶⁷⁷ S/10807, SC. OR, 27th yr., Suppl. for Oct.-Dec. 1972, p. 17.

⁶⁷⁸ 1667th meeting, paras. 3-6.

⁶⁷⁹ *Ibid.*, paras. 9-43.

⁶⁸⁰ S/10813, SC, OR, 27th yr., Suppl. for Oct.-Dec. 1972, pp. 20-21.

⁶⁸¹ 1667th meeting, paras. 123-140.