



UNITED NATIONS
SECURITY
COUNCIL



Distr.
GENERAL

S/12938
24 November 1978

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL SUBMITTED PURSUANT TO
PARAGRAPH 7 OF SECURITY COUNCIL RESOLUTION 439 (1978)
CONCERNING THE SITUATION IN NAMIBIA

1. At its 2092nd, 2094th, 2095th, 2096th, 2097th and 2098th meetings, held between 31 October and 13 November 1978, the Security Council considered my report submitted pursuant to paragraph 7 of resolution 435 (1978) concerning the situation in Namibia (S/12903).

2. At its 2098th meeting on 13 November 1978, the Security Council adopted resolution 439 (1978), the text of which reads as follows:

"The Security Council,

"Recalling its resolutions 385 (1976), 431 (1978), 432 (1978) and 435 (1978),

"Having considered the report submitted by the Secretary-General pursuant to paragraph 7 of resolution 435 (1978) (S/12903),

"Taking note of the relevant communications addressed to the Secretary-General and the President of the Security Council (S/12900 and S/12902),

"Having heard and considered the statement by 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 (SWAPO) addressed to the Secretary-General (S/12913),

"Reaffirming the legal responsibility of the United Nations over Namibia and its continued commitment to the implementation of Security Council 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 of the Security Council and this 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 Security Council 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 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;

"5. Demands once again that South Africa co-operate with the Security Council and the Secretary-General in the implementation of its 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 on the Secretary-General to report on the progress of the implementation of this resolution by 25 November 1978.

3. The present report is submitted pursuant to paragraph 7 of the above resolution.

Communications with the Government of South Africa

4. Immediately following the adoption by the Security Council of its resolution 439 (1978), I communicated the text of the resolution to the Government of South Africa. At subsequent meetings with the Deputy Permanent Representative of South Africa, I emphasized the need for the Foreign Minister of South Africa to meet with me for discussions on issues concerning the submission of my report to the Security Council by 25 November. In reply, I was informed by the Deputy Permanent Representative that the Foreign Minister of South Africa would be unable to proceed to New York before 26 November and that he would be prepared to have discussions with me from 27 November. I again drew the attention of the Deputy Permanent Representative to the deadline of 25 November for the submission of my report. On that occasion, I suggested an earlier meeting with the Foreign Minister or, should that not be possible, with a high-ranking official of the Government of South Africa.

/...

5. In response to the above suggestion, I received a message from the Foreign Minister, in which he agreed to send Mr. B. G. Fourie, South African Secretary for Foreign Affairs, to New York to be available for discussions on 24 November. After further consultations I was informed that in view of the deadline for the report to the Security Council, the Secretary for Foreign Affairs would arrive in New York in the afternoon of 23 November and would be available for discussions from that very afternoon.

6. It may be relevant to observe here that in my contacts with the South African Government, Foreign Minister Botha made it clear that it would not be possible to reach finality during the talks in New York. It was emphasized however, that in my discussions with them, both the Secretary for Foreign Affairs and the Foreign Minister would make every effort to clarify the more important points of interest to the Security Council.

Meetings with the Secretary for Foreign Affairs of South Africa

7. I held meetings in New York with the Secretary for Foreign Affairs of South Africa as scheduled on 23 and 24 November.

8. At our meetings, I drew the attention of the Secretary for Foreign Affairs, in particular, to paragraphs 4 and 5 of resolution 439 (1978), in which the Security Council called for his Government immediately to cancel the elections it had planned in Namibia in December 1978, and once again demanded that South Africa co-operate with the Security Council and the Secretary-General in the implementation of Security Council resolutions 385 (1976), 431 (1978) and 435 (1978). I informed him that my intention in initiating the meeting in the first place was to know the reaction of his Government on those basic issues and to seek its co-operation in the implementation of Security Council decisions on the question of Namibia.

9. I further informed him that having regard to the concerns expressed about my report (S/12827) by the Government of South Africa, among others, I had issued an explanatory statement (S/12869) which took those concerns into account. I emphasized that my report was in conformity with the proposal for a settlement of the Namibian situation (S/12636) and that I had been assured by the five Western Governments that it was in line with their proposal. Further, I pointed out that resolution 435 (1978), in which, among other things, the Security Council approved my report, provided all concerned with an opportunity for a peaceful settlement of the Namibian situation. I expressed the hope that my explanatory statement had cleared the way for us to proceed to finalize arrangements for the implementation of my report.

10. I then proceeded to outline the basic framework of my report as adopted by the Security Council. I emphasized that the report maintained the successive stages and spacing of the various phases of the electoral process laid down in the steps outlined in the proposal for a settlement and in the annex to that document; that the time-table envisaged in the proposal was linked to the date of emplacement of UNTAG in Namibia; and that based on the same time-table, an appropriate date for the elections would be approximately seven months after the

/...

emplacement of UNTAG. For the implementation of my report on the above lines, I recognized that the establishment of a cease-fire was an essential prerequisite which would be brought about following notification to the Secretary-General of an agreed cease-fire. I reiterated that Security Council document S/12636, which was reflected in my report, called for a comprehensive cessation of all hostile acts. I also reaffirmed the annex to that document which described provisions for the implementation of the cessation of all hostile acts, military arrangements concerning UNTAG, the withdrawal of South African forces and arrangements with respect to other organized forces in Namibia and with respect to the forces of SWAPO.

11. Within the context of relevant Security Council decisions, which I outlined to the Secretary for Foreign Affairs of South Africa, I asked him for a clarification of the position of his Government on the following additional matters:

(a) Paragraph 5 of Security Council resolution 435 (1978) and paragraph 5 of Security Council resolution 439 (1978);

(b) Commencement of UNTAG activities in Namibia, effective from 1 January 1979, which I had proposed to the Secretary for Foreign Affairs during our discussions;

(c) Subject to paragraph (b) above, the agreement of the Government of South Africa and the United Nations to establish provisional dates for the various stages and steps projected in the time-table annexed to document S/12636;

(d) Related to the above, establishment of a provisional date for the elections to be fixed approximately seven months from the date of commencement of UNTAG in Namibia;

(e) Having regard to my explanatory statement to the Security Council, confirmation that South Africa's concern over the United Nations civil police component has now been removed;

(f) Finalization prior to commencement of UNTAG in Namibia of agreement between the United Nations and the Government of South Africa on the status of UNTAG in Namibia;

(g) Practical arrangements for a cease-fire to be effected by South Africa and SWAPO, each addressing to me a written undertaking to discontinue all hostile acts. That would be in accordance with the proposal for a settlement and would come into force with the commencement of UNTAG on a specified date. These procedures would be finalized after acceptance of resolution 435 (1978) by South Africa.

12. I informed the Secretary for Foreign Affairs that those specific issues were of particular importance to the Security Council at the current stage in the light of Security Council resolution 439 (1978).

/...

Reactions of the Secretary for Foreign Affairs

13. The Secretary for Foreign Affairs stated in reply that the Government of South Africa had extended its co-operation to the Security Council by agreeing to and negotiating the proposal for a settlement (S/12636) on the basis of resolution 385 (1976); it had further co-operated in the implementation of Security Council resolution 431 (1978) during the visit of my Special Representative to Namibia in August to conduct the survey for the implementation of the proposal for a settlement. As regards co-operation for the implementation of resolution 435 (1978), he said the gap between the Security Council and his Government had been narrowed through subsequent talks; the remaining outstanding issues could be resolved through consultations as envisaged in the joint statement after the talks in Pretoria (S/12902, Annex I). He added that sincerity of South Africa in this regard was illustrated by the willingness of the Foreign Minister of South Africa to arrive in New York on 27 November for discussions. In this connexion the Secretary for Foreign Affairs also referred to his own arrival in New York at an earlier date for discussions with the Secretary-General. He stated that the South African Government was willing to co-operate in the implementation of resolution 435 (1978) but that there were a few points on which agreement must be reached, namely, a fixed date, as stipulated by South Africa, for elections, and further consultations on the composition and strength of the military component of UNTAG. The date for the emplacement of UNTAG would depend on reaching conclusions on those points.

14. On the question of a target date for elections under the supervision and control of the United Nations, the Secretary for Foreign Affairs referred to paragraphs 3 and 4 of the Joint Statement in Pretoria which called for further consultations in Windhoek between the Administrator-General and the Special Representative of the Secretary-General. He further reaffirmed the position of his Government that a firm date be set for the election rather than a provisional one (S/12900, Annex III). He emphasized that after establishing such a date it should not be possible for any party to delay the election. The date should then be adhered to irrespective of whether there was a cessation of hostilities and a subsequent reduction of South African troops.

15. The Secretary for Foreign Affairs confirmed that, while the South African Government considered the number of civilian personnel envisaged for police monitoring to be excessive, the explanatory statement of the Secretary-General had removed its concern about the character and role of the United Nations police. The exact number could be determined by the Special Representative of the Secretary-General and the Administrator-General on the ground.

16. He also stated that substantial progress had been made on the proposed draft agreement on the status of UNTAG. However, finality had still to be reached between the Government of South Africa and the United Nations on a limited number of issues concerning the agreement, but given understanding on both sides, this did not seem to be insurmountable.

17. The Secretary for Foreign Affairs reaffirmed the position of his Government on a cease-fire (S/12854) and added that the reduction of South African troops in Namibia would only commence if and when a comprehensive cessation of hostilities had been brought about.

/...

18. In reply to earlier questions raised by the Secretary-General concerning the December election, including the call for its immediate cancellation, the Secretary for Foreign Affairs reaffirmed that the election would take place as scheduled by his Government and announced by the then Prime Minister of South Africa (S/12853, Annex). The election would give an indication whether the elected representatives would represent the people of South West Africa. It was left to the Secretary-General and the five Western Governments to decide whether after the elections in December they would wish to continue to negotiate with the Government of South Africa. South Africa had never suggested that they should not do so. In response to my question, the Secretary for Foreign Affairs confirmed that the elections to be held under United Nations supervision and control would, as provided in the proposal for a settlement, be for a constituent assembly.

19. I emphasized to the Secretary for Foreign Affairs that there were a number of important points relating to the questions in paragraph 11 above on which the Security Council would certainly require more specific answers.

20. I wish to inform the Council that I shall be holding talks with the Foreign Minister of South Africa on Monday, 27 November. I shall not fail so to inform the Council immediately of the outcome of these talks.
