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LETTER DATED 6 SEPTEMBER 1978 FROM THE CHARGE D'AFFAIRES A.I.
OF THE PERMANENT MISSION OF SOUTH AFRICA TO THE UNITED NATIONS
ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to enclose the text of a letter addressed to Your Excellency
by the Minister of Foreign Affairs of South Africa, the Honourable R. F. Botha.

I should be grateful if this letter and annexure could be circulated as a
document of the Security Council.

(Signed) J. Adriaan EKSTEEN
Chargé d'Affaires

Annex

LETTER DATED 6 SEPTEMBER 1978 FROM THE MINISTER OF FOREIGN
AFFAIRS OF SOUTH AFRICA ADDRESSED TO THE SECRETARY-GENERAL

When I addressed the Security Council on 27 July 1978 (S/PV.2082), I emphasized certain aspects to which Your Excellency's Special Representative would have to devote specific attention during his then envisaged visit to South West Africa. Because of their direct relevance to the crucial aspects of the report you have submitted to the Security Council (S/12827), I wish to recapitulate those points:

"First, as the legislative and administrative authority in the Territory, the Administrator-General will continue to govern during the transitional period.

"Secondly, primary responsibility for maintaining law and order in South West Africa during the transition period shall rest with the existing police forces.

"Thirdly, the Administrator-General and the Special Representative of the Secretary-General are required to work together and to consult each other with a view to full co-operation between them, to ensure an orderly and peaceful transition to independence. The proposal has deliberately been left somewhat vague in this regard but it will be appreciated that unless the relationship between them is characterized by a spirit of mutual trust and co-operation, it will be difficult, if not impossible, for them to implement their respective tasks successfully. It is in this light that my Government views this relationship. The size, composition, functions and deployment of the United Nations Transition Assistance Group (UNTAG) are precisely the sort of matters on which close consultation is required.

"Fourthly, the reduction of South African troops in South West Africa will commence only after the comprehensive cessation of all hostile acts and the establishment of a visible peace. The South African Government regards its responsibility for the security of the people of the Territory in a very serious light.

"Fifthly, the functions of the Special Representative of the Secretary-General in respect of the electoral process are spelt out in the proposal in that, as a condition to the conduct of the electoral process, the elections themselves, and the certification of their results, the United Nations Special Representative will have to satisfy himself at each stage as to the fairness and appropriateness of all such measures. In the course of the negotiations we were repeatedly assured that the Special Representative will be guided by the procedure and precedents established by the United Nations in other appropriate cases where the United Nations had played a role in the determination of the wishes of the people." (S/PV.2082, pp. 113-115)

More than a month has passed since then.

What has happened?

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In pursuance of Security Council resolution 431 (1978), Your Excellency's Special Representative arrived in South West Africa on 6 August 1978. He and his assistants spent two and a half weeks there gathering information on matters relevant to the implementation of the proposal. In this he received the fullest co-operation from the authorities in the Territory. With the active assistance of those authorities he went where he wanted to, he saw what he wanted to and he consulted with whomsoever he wished. Indeed, upon his departure, the Special Representative expressly acknowledged the co-operation and assistance extended to him as Special Representative. Yet even while these efforts to further the cause of a peaceful solution in the Territory were under way, the South West Africa People's Organization (SWAPO) not only continued but intensified its vicious, vindictive campaign of terror and violence against its political opponents and the civilian population in the Territory.

Eight letters have already been addressed to Your Excellency during the past three months concerning more than 80 incidents which have occurred on the border between Angola and South West Africa as a result of terrorist activities planned and executed by SWAPO. As recently as three days ago an organizer of an opposing political party was murdered and another was robbed. Is this the manner in which SWAPO plans to conduct its participation in free and fair elections in the Territory? Violence, murder and intimidation cannot be tolerated during a democratic process.

Moreover, at the very time of the Special Representative's departure, SWAPO's plans to bombard Katima Mulilo were well advanced and in fact it commenced barely four hours after his departure and just a few days after Your Excellency's own appeal for a cessation of violence.

Once again we see further evidence of SWAPO's bad faith and its desire to wreck the prospects of a peaceful and successful solution in the Territory - and this at the very time when the Special Representative was actively engaged in carrying out his task.

This attitude of SWAPO is in complete violation of the spirit of the proposal (S/12636) and must raise the most serious doubts that SWAPO has any intention of fulfilling its obligations thereunder.

These doubts are strongly aggravated by statements made by various leaders of SWAPO, both within and outside the Territory. As recently as 25 August 1978, a SWAPO press statement stated that SWAPO would not cease its hostilities until all South African troops in the Territory had been withdrawn. Other recent statements insisted that there be no cessation of hostile acts by SWAPO until such time as a cease-fire agreement is reached and signed by South Africa and SWAPO. Yet other statements require the unconditional withdrawal of South African forces from the Territory.

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Statements such as these are clearly not only directly inconsistent with the provisions of the proposal but if adhered to will make a complete farce of its implementation. SWAPO has indicated through its statements and violence that it is not interested in peace or in a solution in terms of the proposal. Let me refer to further statements made by SWAPO:

- The Special Representative will take over full power from the Administrator-General during the transition period.
- The police force in the Territory will be restricted to base during the transition period.
- There can be no government in the Territory unless such government is declared and established by SWAPO.

How are these statements reconcilable with the relevant provisions of the proposal? Why should SWAPO be allowed to violate the proposal and apparently expect the other parties to act in accordance with the proposal?

Indeed, even at this stage when serious consideration is being given to the implementation of the proposal, it is not clear whether SWAPO has accepted the proposal or not. We are entitled to ask where SWAPO stands. The inhabitants of the Territory have a right to know that too. Nobody can simply ignore SWAPO's statements and actions. Both are aimed at wrecking a peaceful settlement by way of murder, kidnapping, armed robbery and other forms of intimidation directed, for the most part, against civilians. It is surely no coincidence that there was a sharp increase - an increase of 50 per cent - in these terrorist activities after adoption of the proposal by the Security Council on 27 July this year.

In planning the implementation of the proposal it is essential to have clarity on SWAPO's intentions.

In the first place, we now insist on an unequivocal answer to the question of whether SWAPO has accepted the proposal or not, and in the second place, if it has accepted the proposal, we insist on knowing whether it commits itself to a cessation of all forms of violence. This commitment ought to be set out in writing and circulated as a document of the Security Council.

Decisions on major issues are dependent on this. To mention but one: the reduction of the South African military presence requires, as a prerequisite, the complete cessation of hostile acts and the establishment of a visible peace. This in turn will affect the size of the military component of the United Nations Transition Assistance Group (UNTAG).

It has all along been argued that the cessation of hostilities is a crucial requirement for the implementation of the proposal. It is the key factor. If violence continues the proposal cannot be implemented. If violence ends, the need for a large number of United Nations military observers falls away. It is as elementary as all that but I stress: violence must first cease - and its cessation must be visibly established.

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If this is not so the argument for an increase in the United Nations military personnel equally applies to an increase in South African forces.

During our discussions with the Five on this very issue of troop numbers, the South African Government intimated that it was concerned about the danger of insufficient protection of the northern border areas once a reduction of South African troops had started. The Five repeatedly disagreed with our assessment, indicating that once a comprehensive and visible peace had been established there could be no justification for a substantial number of South African troops being stationed in the area. We cautioned the Five that we were sceptical that such a completely peaceful situation would eventuate. We urged them to accept the reality of the situation and to accept that we could not reduce our troops below a figure of 4,000, even after a cessation of hostilities. We were not an occupying force but a security force. It was our duty to provide security in order that the people could freely participate in the electoral process.

The Five persisted in claiming that an atmosphere of peace would be brought into being once a cessation of hostilities took place. They said that our concerns were not justified. Once there was a firm, durable, peaceful situation backed by the front-line States and a Security Council resolution, the danger of outside attacks would be so minimal as to be discounted, the Five contended. They urged us to accept that there would be peace, visible peace. If peace were not obtained and did not prevail and last, the implementation of the proposal would be frustrated and would become impossible to achieve. No South African troop reductions would then take place. We stressed that in that event, South Africa would be entitled to increase its troop strengths to levels sufficient to meet any increase in violence.

Using the argument that under conditions of comprehensive peace there would simply be no justification for large numbers of troops, we agreed under the force of reason to an eventual reduction of our troops to 1,500. Now we find ourselves in the incredible situation where we are told that 7,500 United Nations troops would be needed to undertake tasks which under conditions of total peace we were previously assured could be administered by a few hundred. In other words, a completely peaceful situation was the basis of the argument persuading us to reduce our troops to 1,500 but in the case of the United Nations troops, the uncertainty of such a situation of comprehensive peace serves as a reason for introducing 7,500 troops. While on the one hand peace was the key factor for demanding a reduction of South African troops, the now apparently uncertain peaceful situation is used to demand an increase in United Nations troops.

Either peace is to be established or not. If it is established, there is no need for large numbers of United Nations troops. If it is not established, then it remains the responsibility of the South African security forces to ensure safety and security.

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It is possible that the United Nations experts who had to estimate the numbers of United Nations troops required did so in terms of United Nations norms and standards against the background of uncertainty as to the precise task of the contingent. However, the Administrator-General was not consulted at all as to the numbers. It is also evident that the United Nations personnel were not fully informed as to the meaning and scope of certain key provisions of the proposal. No one can blame the South African Government for being unwilling to accept extended and changed provisions of a proposal which was described to us by the Five as final and definitive. The Five pledged that they would stand by their proposal. We already feel let down badly on other issues. There is apparently no end to the double standards interwoven in the fabric of commitments and understandings which formed the basis of these negotiations.

During the negotiations we were told that appropriate United Nations precedents would be followed in all respects. What happened in the past?

In 1956, a team of 23 was sufficient to monitor a plebiscite in British Togoland in which 159,080 voters participated. 575,267 voted in the 1961 plebiscite in the British Cameroons which was monitored by 34 United Nations observers, despite the difficult terrain and poor communications in the Territory. In the 1961 independence referendum in Western Samoa, 12 observers were required to monitor 37,897 voters and this on a number of islands. More recently, the United Nations sent three representatives to observe the 1975 plebiscite in the Mariana Islands where 5,005 voted. Last year, three observers went to Djibouti to observe and report on the independence election and referendum in which 79,789 voters participated.

It should be recalled that the terms of reference of most United Nations plebiscite teams were comprehensive and included responsibility for observing and reporting on polling arrangements, voting, counting of ballots and declaration of results. The plebiscites were conducted in territories where communications were often less adequate than in South West Africa.

There are also other aspects of the report which leaders in the Territory find objectionable. One of these concerns the time-table and the period of approximately seven months referred to in paragraph 17 of the report.

Two years ago, the leaders of the Territory told the South African Government that they were ready for independence and that they wanted it at the end of 1978.

It is something we cannot deny them. South Africa at the time accepted that South West Africa would become independent on 31 December 1978. It is something which cannot be delayed any longer. No one has the right to thwart the will of the people.

Throughout the negotiations with the five Western members of the Security Council, South Africa made it clear that that date must stand. This position was accepted by the Five. In fact the annexure to the proposal approved by the Security Council in resolution 431 (1978) expressly reflects the date of independence as "31 December 1978, at the latest". This is clear, imperative language.

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The time-table was computed to attain independence by this date. This date determined the computation of the time-table and not vice versa.

As Your Excellency knows from a communication addressed to you on 25 April 1978, South Africa accepted the proposal on that date. That means in sufficient time for the attainment of independence, in accordance with the time-table, on 31 December 1978. It left eight months for a process which in any event is, even in Your Excellency's report, not foreseen to last more than seven months.

The fact that the Security Council adopted resolution 431 (1978) only on 27 July 1978, was due not to any fault on the part of South Africa but to the delaying tactics employed by SWAPO. If, therefore, in order to make it possible to achieve independence by 31 December 1978, the time-table must now be telescoped, that is due entirely to the fault of SWAPO.

I would add that all parties including SWAPO have been campaigning politically in the Territory for several years - and during the last year on an ever increasing and intensified scale.

As far back as October 1974, my Prime Minister invited those who had left the Territory and wished to return, to propagate any constitutional changes they liked, provided only that they did so within the requirements of law and order. In Vienna in May 1977, my Prime Minister publicly repeated that invitation to SWAPO members. Pursuant to this, a substantial number have indeed returned and are still returning.

Furthermore, Your Excellency and members of the Security Council are aware of the substantial financial and other assistance which SWAPO has received from this Organization in particular, but also from other quarters. Thus, during the current biennium an expenditure of just on \$3 million is budgeted for South West African activities in the United Nations (A/32/6/Add.1, pp. 12, 13, 70, 76 and 93). SWAPO is the major beneficiary of this financial assistance. Direct assistance to SWAPO from the regular United Nations budget for the biennium 1978/1979 totals \$263,400. Your Excellency is also aware that none of the other political parties in South West Africa, which also look to the United Nations, and especially to the Security Council, for support in realizing their aspirations towards self-determination and independence, is receiving any assistance from this Organization whatsoever.

A crucial question, however, remains the military forces.

Throughout the negotiations between South Africa and the five Western members of the Security Council, the responsibility of South Africa for security in South West Africa was accepted. Indeed, during discussions in Cape Town in June 1977, the attitude of the Five was expressed in the following terms by one of their spokesmen:

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"As you know, a lot of people say they the South African armed forces should be withdrawn before elections are accepted - that is out of the question. What we have got to do is somehow to ensure that there can be no accusations that the South African forces behaved improperly during the election campaign ... all that we have in mind would be an observer with, I do not know how many units you have, but anyway sufficient observers that someone could publicly declare on record that during the election campaign we were with the South African armed forces and at no stage did they in any way improperly interfere in the elections. It would make it unnecessary for them to be withdrawn for fair elections ... We are prepared to accept that South African troops must remain during this period but in order to meet the charge that they will improperly interfere, we will say that the South African forces have agreed that with each major unit there should be an observer who at the end of the period will be able to certify that there had been no intimidation or interference by the South African military personnel."

However, on 14 July 1977, after discussion with SWAPO and other interested parties, the Five informed the South African Government that the presence of South African troops was "a major area of dispute". For the first time South Africa was requested to submit a schedule for the phased withdrawal of its forces from the Territory. This sudden change of attitude on the part of the Five caused my Government serious misgivings whether the Five would stand by their statements and commitments in good faith. Indeed, this changed attitude resulted in a number of acrimonious exchanges between my Government and the Five which all but brought to an end our negotiations.

At this juncture, the South African Government pointed out, as it had consistently done, that its troops were in the Territory at the request of the inhabitants and that their sole function was to provide protection against armed acts of aggression emanating from beyond the Territory's borders. South Africa had a continuing responsibility in regard to the security of the people of South West Africa and would leave only at their request.

Nevertheless, as an expression of its serious desire to meet the concerns of the Five and with a view to the importance of international recognition for a future independent South West Africa, the South African Government indicated its willingness initially, as from a date to be agreed upon, to reduce its troops to 20,000 and after a period of three months, to 8,000. These troops would finally be confined to eight bases. The Five indicated, however, that these reductions would still not enable them to overcome the difficulties they envisaged. In a further effort to accommodate the Five, the South African Government was, as an alternative, prepared to reduce its troops to 12,000 by a specified commencement date, to 8,000 after three weeks and to 4,000 after another three weeks.

On the political side the Five argued that other parties would find it difficult to accept more South African troops than United Nations personnel. They would insist at least on parity. And in this connexion the Five were thinking of a United Nations military presence of 2,000 men. On the practical side, the Five reminded South Africa that the whole plan pre-supposed the existence of a situation

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of visible peace, arguing that in those circumstances it was not clear why South Africa wanted so many troops in South West Africa.

In the light of these arguments, particularly that large numbers of troops would not be required once peace was established, the South African Government indicated during a subsequent round of discussions with the Five, on 3 December 1977, that it would consider a further reduction from 4,000 to 3,000. The Five maintained, however, that the larger the South African force in South West Africa, the larger the United Nations contingent would have to be. In addition, they asked whether logistic services could not be rendered by civilian elements rather than by military personnel. The South African Government considers its responsibilities for physical security in South West Africa in a serious light and therefore indicated that it could not reduce its troop levels beyond the minimum considered necessary to be on hand immediately should hostile actions be resumed unexpectedly.

In spite of this and of South Africa's strenuous objections, the Five included in their proposal of 31 January 1978 a figure of 1,500 South African troops to be confined to Grootfontein or Oshivello or both.

The question of United Nations military observer teams was discussed at various stages of the negotiations. During the discussions with the Five on 3 December 1977 it was suggested that the proposed United Nations military presence should be somewhat larger than the South African contingent. In fact, it was stated that the Five were thinking in terms of 2,000 men "tailored to the task which they would be called upon to perform".

The Five, however, did not see their way clear, in the light of practical difficulties, to support a South African suggestion that if there were to be 2,000 United Nations military observers, 1,000 should be stationed south of the South West Africa/Angola border and 1,000 north of it.

As it was not possible to reach agreement on the size of the United Nations military observer group, it was suggested that the figure should be determined by the Special Representative in consultation with the Administrator-General. The underlying idea was that the two officials should, in line with the requirements of close co-operation and mutual trust, determine the figure according to the need of the situation on the ground.

While the Five argued that the Administrator-General could not be given a veto in this matter, South Africa pointed out that if no agreement were reached it would become impossible to implement the proposal anyway.

Paragraph 8 e of the proposal attempted to find a solution to the problem. It provided, inter alia, that:

"In establishing the military section of UNTAG, the Secretary-General will keep in mind functional and logistic requirements. The five Governments, as members of the Security Council, will support the Secretary-General's judgement

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in his discharge of this responsibility. The Secretary-General will, in the normal manner, include in his consultation all those concerned with the implementation of the agreement. The Special Representative will be required to satisfy himself as to the implementation of all these arrangements and will keep the Secretary-General informed of developments in this regard."
(S/12636, p. 4)

When the South African Government considered the proposal as a whole it sought further assurances that the Administrator-General would be consulted also in regard to the size of the military group. To this end the Five defined their interpretation of the situation, in writing, as follows:

"We believe we have taken full account of your political difficulties, in leaving the Secretary-General to determine the size, composition and deployment of the contingent. We have explicitly provided for him to consult all those concerned with the implementation of the agreement. And we have told you that these will of necessity include the Administrator-General and your Government."

In the light of these facts, it cannot be argued that a military peace-keeping force of the nature envisaged in the report was ever contemplated during the negotiations which led to the submission of the proposal of the Five. It is also clear that in deciding on the composition and size as well as the deployment of the military observers required for monitoring purposes, there had to be consultations and it is implicit in the concept of consultation that reasonableness should be shown.

But lest there should be any argument on the functions envisaged for United Nations military observers in South West Africa, may I draw Your Excellency's attention to Security Council resolution 385 (1976) adopted on 30 January 1976.

While addressing certain demands to my Government it spells out the task envisaged for the United Nations in operative paragraph 7. This task is related to the supervision of free elections for the whole of South West Africa to enable the people freely to determine their own future - i.e. a monitoring and not a peace-keeping role.

Throughout the negotiations leading up to the submission of the proposal in its final and definitive form it was stressed that any agreement should satisfy the main requirements of resolution 385 (1976). This was no easy task but finally agreement was reached on how these essential requirements could be resolved.

But, Your Excellency, nowhere in this resolution is there the slightest hint of a type of peace-keeping force such as the one now proposed in the report. In fact, if there had been such a suggestion the negotiations would never have got off the ground.

I submit, Your Excellency, that if there ever had been a plan to introduce such a far-reaching element into the framework of resolution 385 (1976) it should

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and would have been addressed specifically in the negotiations and in the proposal itself. Such a major new element cannot be slipped in casually. In this connexion, I might well ask what the meaning is of the second sentence in paragraph 20 of the report which states:

"Self-defence will include resistance to attempts to prevent it from discharging its duties under the mandate of the Security Council."
(S/12827, p. 5)

Also, without any consultation, South Africa has now been confronted with what amounts to 7,500 United Nations military personnel plus 360 policemen.

Where in the proposal itself is there any provision for a United Nations police contingent?

On the contrary, the proposal is very specific in defining the responsibility for the maintenance of law and order during the transitional period. It rests primarily with the existing police forces. Furthermore, the Administrator-General, to the satisfaction of the Special Representative, shall ensure the good conduct of the police forces.

Your Excellency, the language of the proposal is clear. There is no provision for a United Nations police contingent. There is no room for the recommendation in paragraphs 28, 29 and 30 of the report for the creation of a civil police element of UNTAG for the purpose of, inter alia, taking measures against any intimidation or interference with the electoral process from whatever quarter. It does not form part of the proposal and is completely unacceptable to the South African Government.

As far as the activities of the existing police forces are concerned, provision is made in the proposal for the Special Representative to make arrangements, when appropriate, for United Nations personnel to accompany them in the performance of their duties.

In conclusion, I wish to emphasize that the present difficulties have arisen in spite of the fact that all the elements which formed the basis of so many years of dispute and acrimony between South Africa and the United Nations have been eliminated.

Over the years it has been demanded of South Africa that we grant immediate independence to South West Africa on the basis of:

A unitary State;

One man, one vote;

The removal of discrimination on the basis of colour;

The holding of free and fair elections to the satisfaction of the United Nations;

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The right of all South West Africans to return to participate peacefully in the political process;

The release of detainees wherever held.

South Africa has committed itself to doing all this and has already gone a long way towards making possible the realization of these goals.

It is a cause of great concern and disappointment to the South African Government that, in spite of what has been achieved and the clear wishes of the people of South West Africa, we are caught up in arguments far removed from the main questions of principle.

My Government for its part accepted the proposal on 25 April 1978 in its final and definitive form - nothing more, nothing less. We are prepared to adhere to that decision but not to go along with interpretations inconsistent with the proposal. The proposal cannot, however, be implemented unless accepted and honoured by all concerned.

SWAPO cannot continue to engage in violence while at the same time paying lip-service to the proposal and claiming the benefits therefrom. The people of South West Africa demand to be told where they stand and are ready to assume their independence as envisaged and as promised.

(Signed) R. F. BOTHA
Minister of Foreign Affairs
