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LETTER DATED 12 JULY 1982 FROM THE REPRESENTATIVES
OF CANADA, FRANCE, GERMANY, FEDERAL REPUBLIC OF,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND THE UNITED STATES OF AMERICA ADDRESSED
TO THE SECRETARY-GENERAL

On instructions from our Governments we have the honour to transmit to you the text of Principles concerning the Constituent Assembly and the Constitution for an independent Namibia put forward by our Governments to the parties concerned in the negotiations for the implementation of the proposal for a settlement of the Namibian situation (S/12636) in accordance with Security Council resolution 435 (1978) adopted on 29 September 1978.

We have pleasure in informing you that all parties to the negotiation now accept these Principles. Our Governments believe that a decision on the method to be employed to elect the Constituent Assembly should be made in accordance with the provision of Security Council resolution 435 (1978). All parties are agreed that this issue must be settled in accordance with the terms of Security Council resolution 435 (1978) and that the issue must not cause delay in the implementation of 435 (1978). In this regard, our Governments are in consultation with all parties.

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We have the honour to request that this letter and the Principles be circulated as a document of the Security Council.

(Signed) Gérard PELLETIER
Permanent Representative of Canada
to the United Nations

(Signed) Luc de La BARRE de NANTEUIL
Permanent Representative of France
to the United Nations

(Signed) Ernst-Joerg von STUDNITZ
Chargé d'Affaires, a.i.
of the Federal Republic of Germany
to the United Nations

(Signed) Hamilton Whyte
Deputy Permanent Representative of the
United Kingdom of Great Britain and
Northern Ireland to the United Nations
Chargé d'Affaires, a.i.

(Signed) William C. Sherman
Acting Permanent Representative
of the United States of America
to the United Nations

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Annex

Principles concerning the Constituent Assembly and
the Constitution for an independent Namibia

A. Constituent Assembly

1. In accordance with United Nations Security Council Resolution 435 (1978), elections will be held to select a Constituent Assembly which will adopt a Constitution for an independent Namibia. The Constitution will determine the organization and powers of all levels of government.

- Every adult Namibian will be eligible, without discrimination or fear of intimidation from any source, to vote, campaign and stand for election to the Constituent Assembly.
- Voting will be by secret ballot, with provisions made for those who cannot read or write.
- The date for the beginning of the electoral campaign, the date of elections, the electoral system, the preparation of voters rolls and other aspects of electoral procedures will be promptly decided upon so as to give all political parties and interested persons, without regard to their political views, a full and fair opportunity to organize and participate in the electoral process.
- Full freedom of speech, assembly, movement and press shall be guaranteed.
- The electoral system will seek to ensure fair representation in the Constituent Assembly to different political parties which gain substantial support in the election.

2. The Constituent Assembly will formulate the Constitution for an independent Namibia in accordance with the principles in Part B below and will adopt the Constitution as a whole by a two-thirds majority of its total membership.

B. Principles for a Constitution for an Independent Namibia

1. Namibia will be a unitary, sovereign and democratic state.
2. The Constitution will be the supreme law of the state. It may be amended only by a designated process involving the legislature and/or votes cast in a popular referendum.

3. The Constitution will determine the organization and powers of all levels of government. It will provide for a system of government with three branches: an elected executive branch which will be responsible to the legislative branch; a legislative branch to be elected by universal and equal suffrage which will be responsible for the passage of all laws; and an independent judicial branch which will be responsible for the interpretation of the Constitution and for ensuring its supremacy and the authority of the law. The executive and legislative branches will be constituted by periodic and genuine elections which will be held by secret vote.

4. The electoral system will be consistent with the principles in A. 1. above.

5. There will be a declaration of fundamental rights, which will include the rights to life, personal liberty and freedom of movement; to freedom of conscience; to freedom of expression, including freedom of speech and a free press; to freedom of assembly and association, including political parties and trade unions; to due process and equality before the law; to protection from arbitrary deprivation of private property or deprivation of private property without just compensation; and to freedom from racial, ethnic, religious or sexual discrimination. The declaration of rights will be consistent with the provisions of the Universal Declaration of Human Rights. Aggrieved individuals will be entitled to have the courts adjudicate and enforce these rights.

6. It will be forbidden to create criminal offences with retrospective effect or to provide for increased penalties with retrospective effect.

7. Provision will be made for the balanced structuring of the public service, the police service and the defense services and for equal access by all to recruitment of these services. The fair administration of personnel policy in relation to these services will be assured by appropriate independent bodies.

8. Provision will be made for the establishment of elected councils for local and/or regional administration.
