



**Security Council**

Distr.  
GENERAL

S/17152  
5 May 1985

ORIGINAL: ENGLISH

---

LETTER DATED 4 MAY 1985 FROM THE PERMANENT REPRESENTATIVE OF SOUTH  
AFRICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

At the request of the South African Minister of Foreign Affairs, the Hon. R. F. Botha, I enclose, a copy of a statement issued by him on 4 May 1985, in response to the statement of the President of the Security Council of 3 May 1985 (S/17151). I should be grateful to be informed in due course of your Excellency's response to the request contained in the final sentence of the attached statement.

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

(Signed) K. R. S. von SCHIRNDING  
Permanent Representative

Annex I

Response of the Minister of Foreign Affairs of the Republic of  
South Africa to the statement of the President of the Security  
Council of 3 May 1985 (S/17151)

On 3 May 1985 the President of the Security Council issued a statement (S/17151) on South Africa's response to the Multi-Party Conference's proposals of 25 March 1985.

The views of the South African Government in this regard are set out in the attached speech which President Botha delivered to the South African Parliament on 18 April 1985 and in the attached Aide Memoire which was presented to certain Western countries on the same date. South Africa has made it clear that for as long as there is a possibility that the present international negotiations hold any real prospect of bringing about the genuine withdrawal of Cuban forces from Angola, the South African Government will not act in a manner irreconcilable with the international settlement plan. However, the people of South West Africa/Namibia, including SWAPO, can not wait indefinitely for a break-through on the withdrawal of the Cubans from Angola. Should it eventually become evident, after all avenues have been thoroughly explored, that there is no realistic prospect of attaining this goal, all the parties most intimately affected by the present negotiations will obviously have to reconsider how internationally acceptable independence may best be attained in the light of the prevailing circumstances.

It is South Africa's position that its administration and presence in South West Africa/Namibia are legal and that it has the fullest right to take whatever steps it may consider appropriate for the good administration of the Territory pending its accession to internationally recognized independence. However, South Africa reserves the right to withdraw unilaterally its administration and its presence from the Territory at any time that it may so wish.

The South African Government considers the statement of the President of the Security Council to be ill-founded and without effect. This is particularly so because no indication is given of how the State President's speech of 18 April 1985 is irreconcilable with South Africa's international commitments. I have instructed the South African Permanent Representative to seek an elucidation from the Secretary-General in this regard and am awaiting the Secretary General's response.

Annex II

Aide Memoire

The South African Government has considered the concerns expressed by the Government of \_\_\_\_\_ in its Aide Memoire of 15 April 1985.

It rejects the contention that it should not even consider the proposals which the Multi-Party Conference submitted to it on 25 March 1985. The South African Government will, as in the past, consider any proposal of any political party which declares itself in favour of a peaceable solution to the problems of the Territory. Moreover, it will expect the \_\_\_\_\_ Government to give fair and equal consideration to the views of all such South West African political parties.

It is furthermore, presumptuous to pre-suppose what the response of the South African Government will be to the MPC's proposals. The South African Government's decision in this regard has been communicated to Parliament by the State President on 18 April 1985. A copy of the State President's statement is attached for your information. It will be noted that:

"for as long as there is a possibility that the present international negotiations hold any realistic prospects of bringing about the genuine withdrawal of Cuban forces from Angola, the South African Government will not act in a manner irreconcilable with the international settlement plan."

It will also be noted that:

"while the current negotiations hold any possibility of bringing about the genuine withdrawal of Cuban forces from Angola, South Africa will regard any draft constitution produced by the Constitutional Council as a basis for future discussion or as a proposal which could be submitted to the Constituent Assembly envisaged in the international settlement plan."

South Africa remains committed to the implementation of the international settlement plan within the framework of the understanding reached with the United States and the Western Contact Group, provided firm agreement can be reached on the fundamental requirements of Cuban withdrawal.

However, as the State President's statement makes clear:

"... the people of SWA/Namibia, including SWAPO, cannot wait indefinitely for a break-through on the withdrawal of the Cubans from Angola. Should it eventually become evident, after all avenues have been thoroughly explored, that there is no realistic prospect of attaining this goal, all the parties most intimately affected by the present negotiations will obviously have to reconsider how internationally acceptable independence may best be attained in the light of prevailing circumstances."

S/17152

English

Page 4

The South African Government is well aware of its responsibilities in South West Africa. They derive from its position that its presence and administration in the Territory are legal. There is no legally binding decision of the International Court of Justice, nor any decision of the United Nations taken in accordance with the Charter, to the contrary. Nevertheless, the South African Government reserves its unconditional right to terminate unilaterally its presence and administration in the Territory should it so wish.

Annex III

Statement to Parliament on 18 April 1985 by the Honourable  
P. W. Botha, State President of South Africa

As regards South West Africa, Honourable Members will have taken note of the statement issued by the Minister of Foreign Affairs on 15 April 1985 concerning the disengagement of the South African forces in the area-in-question from southern Angola. South Africa has taken this action despite SWAPO's continuing terrorist activities, but in the hope that its decision will enhance the prospects for peace in the region and will in particular, be conducive to the withdrawal of the Cubans from Angola. However, this action will not materially diminish the ability of the Security Forces to protect the people of South West Africa/Namibia. On the contrary, it places the burden for ensuring that cross-border violence does not escalate, squarely on the shoulders of the Angolan Government. It is for them to determine what course events along the border will take. South Africa is willing to hold ministerial discussions with the Angolans on the maintenance of peace and stability in the region and on other questions of regional importance. The Angolans must accordingly decide whether they wish to proceed along the road of peace and dialogue or whether they wish to return to the cycle of escalating violence which characterised the situation before the Lusaka Agreement.

Another aspect which might interest Honourable Members, is that the command structure of certain police units in South West Africa/Namibia will soon be transferred from the South African Police to the Administrator-General of South West Africa/Namibia. When this occurs all police functions in South West Africa/Namibia will be exercised by the South West African Police Force. This is in keeping with the Government's view that wherever possible, administrative functions affecting the Territory should be in South West African hands.

Multi-Party Conference

I now wish to address the proposals which the Multi-Party Conference (MPC) of South West Africa/Namibia presented to me on 25 March 1985.

The MPC requests the establishment of an internal government, which would promote national reconciliation, national welfare and a nationally acceptable and internationally-recognised independence. The proposals include a constitutional council which would be responsible for constitutional questions, and in particular for the drafting of a constitution, which would ultimately be submitted to the electorate for approval.

In considering the MPC's proposals the South African Government has borne in mind the long period which has elapsed since South Africa accepted in April 1978 the Western proposal for the independence of South West Africa. In terms of that proposal the Territory should have become independent by the end of 1978. However, independence was repeatedly delayed because of deviations by the United Nations and SWAPO from the original contact group proposal, because of the bias of the United Nations in favour of SWAPO, and because of the continuing threat posed by the presence of Cuban forces in Angola.

In the meantime, the people of South West Africa have had to wait for seven years and are still unable to exercise their right to self-determination. The last countrywide election took place in December 1978 and led to an overwhelming victory for the DTA as it was then composed. Major responsibilities for the internal administration of the Territory were subsequently entrusted to a National Assembly and a Council of Ministers. This governmental structure was not recognised by the international community.

However, by the end of 1982 the original term of office of the National Assembly had already expired and had been extended by decree. After the passage of four years during which time defections from the ruling party took place and dissent amongst the leaders was mounting, the Chairman of the Council of Ministers resigned in January 1983. The Council of Ministers was accordingly disbanded and on 19 January the National Assembly was dissolved. All the powers which it and the Council had previously exercised reverted to the Administrator-General. It was stressed at the time that this was purely an interim arrangement.

With a view to ensuring the continuation of internal institutions in South West Africa, I announced on 20 November 1982, that the South African Government would decide, in the light of the situation prevailing at the end of February 1983, whether another general election should be held in the Territory, and if so, on what basis.

At the end of February 1983, it was decided not to proceed with an election. Instead, the Administrator-General held consultations with the South West African parties and in April 1983 he proposed the establishment of a State Council which would advise him on political matters. The parties of the Territory preferred, however, to organise their own forum for discussion, which took the form of the Multi-Party Conference.

During my speech in Parliament on 31 January 1984 I said that it was up to the leaders of South West Africa to decide what they were going to do and to do so urgently. The MPC responded positively to this appeal.

On 24 February 1984 it issued a Declaration of Basic Principles. On 18 April 1984 it reached agreement on a Charter of Fundamental Rights and Objectives. It decided, inter alia, that the people of South West Africa/Namibia desired independence, free from external domination and prescription. It further agreed that the basic rights of all South West Africans should be guaranteed.

The MPC has never claimed to be the sole representative of the people of South West Africa/Namibia. It has proved that it was willing to discuss the future of South West Africa/Namibia with other political parties, including SWAPO. From 11-13 May 1984 it held discussions with SWAPO in Lusaka under the co-chairmanship of President Kaunda and the Administrator-General, Dr. W. van Niekerk. At this meeting the parties managed to reach consensus on a number of important points. The hosts of the conference were hopeful that all parties present would sign a compromise joint communique. However, immediately before the final session, the leader of SWAPO met with a foreign diplomat in Lusaka who evidently persuaded him to change his attitude. Instead of signing the communique, SWAPO launched a vitriolic attack against certain members of the MPC.

In its statement of 31 October 1984 the MPC once again invited SWAPO and the other parties of the Territory to join it in discussions on the future of South West Africa/Namibia. SWAPO ignored its invitation and the MPC accordingly decided to proceed on its own. That SWAPO's views and the views of other South West African political parties are not included in the MPC's proposals is due solely to their own decision. Eventually, on 25 March 1985 the MPC presented its proposals to me.

It would have been preferable if the MPC had a clear mandate from the people of South West Africa/Namibia. And I want to make it clear here today that the MPC has committed itself to have any future constitution plan tested by the country as a whole. However, a national election at this time would complicate current efforts to achieve an internationally acceptable independence for South West Africa/Namibia. The MPC has, beyond dispute, done everything in its power to involve all the parties of South West Africa/Namibia in its deliberations and will continue to do so.

In considering the MPC's proposals the South African Government has taken the following points into account:

- direct rule by the Administrator-General was intended to be an interim arrangement;
- the leaders of the Territory must themselves work out their own constitutional future;
- the leaders of the Territory must accept greater responsibility for the administration of South West Africa/Namibia;
- The South African Government cannot consult the leaders of the Territory on an ad hoc basis, it needs to consult them in some institutionalised form.

Legislative and executive authorities for South West Africa will accordingly be reinstated which will be empowered to promulgate a Bill of Rights and establish a Constitutional Court and a Constitutional Council.

At the same time the South African Government wishes to emphasise that for as long as there is a possibility that the present international negotiations hold any realistic prospects of bringing about the genuine withdrawal of Cuban forces from Angola, the South African Government will not act in a manner irreconcilable with the international settlement plan.

Consequently:

- the South African Government will retain all those powers in respect of South West Africa/Namibia which are vested in it at this stage, including foreign relations and defence;
- all laws of the legislature will require the signature of the Administrator-General;

- South Africa will continue to negotiate with the United Nations and the international community on achieving internationally recognised independence for South West Africa. It will continue to consult with and be guided by the leaders of South West Africa and will try to involve them in discussions with the international community;
- while the current negotiations hold any possibility of bringing about the genuine withdrawal of Cuban forces from Angola, South Africa will regard any draft constitution produced by the constitutional council as a basis for future discussion or as a proposal which could be submitted to the Constituent Assembly envisaged in the international settlement plan.

The proposed arrangements in South West Africa/Namibia should accordingly be seen as an interim mechanism for the internal administration of the Territory pending agreement on an internationally acceptable independence for South West Africa. The granting of more representative administration to South West Africa, as was the case in 1979, does not violate the South African Government's international commitments. However, as I told Parliament on 27 April 1984, the people of South West Africa/Namibia, including SWAPO, cannot wait indefinitely for a breakthrough on the withdrawal of the Cubans from Angola. Should it eventually become evident, after all avenues have been thoroughly explored, that there is no realistic prospect of attaining this goal, all the parties most intimately affected by the present negotiations will obviously have to reconsider how internationally acceptable independence may best be attained in the light of prevailing circumstances.

In the meantime, South Africa will continue to work for an internationally acceptable independence for South West Africa:

- it will continue to search for a reasonable formula for genuine Cuban withdrawal from Angola;
- it will continue to strive for stability and peace in the region by encouraging all the parties, including SWAPO and Angola, to resolve their differences around a conference table instead of by violence;
- as has already been announced, South Africa has completed the withdrawal of its forces from southern Angola. The MPLA Government will have to ensure that SWAPO does not step up its violence against the people of South West Africa/Namibia or face the possibility of a reversion to the situation which prevailed before the Lusaka Agreement;
- South Africa will continue to encourage dialogue between all the South West African parties in the hope that they will find a basis for a still broader consensus in respect of the future of the Territory. If the parties of South West Africa/Namibia cannot achieve a modus vivendi at this stage then the prospects for the success of independence, however it comes about, are limited. The parties must understand that no single group will be able to dictate what the future of the country will be;



- South Africa will continue to insist that all the South West African parties be treated equally and impartially. If the United Nations wishes to play a role in the future of South West Africa/Namibia it will consequently have to demonstrate that it will be able to carry out its functions impartially.

On these understandings we consider that the implementation of the proposals of the MPC can make a significant contribution to the goals of national reconciliation, national welfare and eventually the peaceable attainment of a nationally acceptable and internationally recognised independence.

-----

