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QUESTION OF NAMIBIA

SECURITY COUNCIL
Forty-fourth year

Letter dated 15 May 1989 from the Secretary-General to the
President of the Security Council

As you will recall, in my report to the Security Council concerning the implementation of Security Council resolutions 435 (1978) and 439 (1978) concerning the question of Namibia (document S/20412 of 23 January 1989), I referred in paragraph 35 to the fact that the United Nations plan for Namibia includes agreements and understandings reached by the parties since the adoption of Security Council resolution 435 (1978) and confirmed as such to me. These agreements and understandings which, as I stated in my report, remain binding on the parties include, inter alia, informal understandings reached in 1982 on the question of impartiality. These understandings, also known as the impartiality package, include undertakings by the Western Contact Group, the front-line States and Nigeria and SWAPO, with respect to activities within the United Nations system once the Security Council meets to authorise the implementation of resolution 435 (1978). The informal understandings also detail corresponding obligations on the part of the Government of South Africa in order to ensure free and fair elections in Namibia. As I stated in my report referred to above, at a meeting on 24 September 1982 the representatives of the front-line States and Nigeria, SWAPO and the Western Contact Group jointly confirmed to me the agreements they had reached in respect to the impartiality package and presented me with a check-list of their informal understandings. In separate discussions with the Western Contact Group, the Government of South Africa also confirmed its agreement to those understandings which relate to its responsibilities under the plan.

* A/44/50/Rev.1.

By resolution 632 (1989), the Security Council approved my report for the implementation of the United Nations plan for Namibia and called upon all parties concerned to honour their commitments to the United Nations plan and to co-operate fully with the Secretary-General in the implementation of that resolution. Under the circumstances I deem it appropriate to bring to your attention and through you to the members of the Security Council the contents of the impartiality package, I am also, by a separate communication, bringing the contents of this letter to the attention of the President of the General Assembly. I am, therefore, arranging for this letter to be issued as both a General Assembly and a Security Council document. The check-list of the informal understandings as presented to me on 24 September 1982 is attached herewith.

(Signed) Javier PEREZ DR CUELLAR

ANNEX

Namibia: Informal check list

1. The elections will be under the supervision and control of the United Nations (UN) and the UN Special Representative (UNSR) must be satisfied at each stage of that process as to the fairness and appropriateness of all measures affecting the political process at all levels of administration before such measures take effect.
2. Full freedom of speech, assembly, movement and press shall be guaranteed.
3. All legislation -including proclamations by the Administrator-General (AG) - that are inconsistent with the plan must be repealed. All discriminatory or restrictive laws, regulations or administrative measures which might abridge or inhibit free and fair elections must be repealed.
4. The AG must make arrangements for the release, prior to the beginning of the electors' campaign, of all Namibian political prisoners or political detainees held by the South African authorities.
5. All Namibians in exile shall have the right of peaceful return so that they can participate fully and freely in the elections without risk of arrest, detention, intimidation or imprisonment.
6. The UN has made provisions to finance the return of these detainees and those in exile (\$33 million in original UN budget estimate).
7. Council of Ministers and National Assembly: UN Security Council resolution (SCR) 439 declares that all unilateral measures taken by the illegal administration in Namibia in relation to the transfer of power are null and void. The December 1978 elections held in Namibia are null and void. No recognition has been accorded either by the UN or any Member State (other than South Africa) to any representatives or organs established by that process. Accordingly only the Administrator-General and UNSR will exercise authority during the transition period within Namibia consistent with the settlement plan and will do so impartially.
8. Impartiality provisions to be covered by final Security Council enabling resolution: the resolution should emphasize responsibility of all concerned to co-operate to ensure impartial implementation of the settlement plan. The Secretary-General and UN bodies should be directed to act impartially according to the settlement plan and the Secretary-General should be directed to:
 - (a) initiate a review of all programmes administered by organs of the UN with respect to Namibia to ensure that they are administered on an impartial basis;
 - (b) seek the co-operation of the executive heads of the specialized agencies and other organizations and bodies within the UN system to ensure that their activities with respect to Namibia are conducted impartially.

9. At the Security Council meeting to authorise implementation of SCR 435, speakers should be kept to a minimum. Specifically, none of the parties to the election or to the cease-fire would speak.

10. Consideration of the question of Namibia at the regular General Assembly should be suspended during the transition period.

11. The UN will not provide funds for SWAPO or any other party during the transition period.

12. The UN Council for Namibia should refrain from engaging in all public activities once the Security Council meets to authorise implementation,

13. The Commissioner for Namibia and his Office should suspend all political activities during the transition period,

14. SWAPO will voluntarily forego the exercise of the special privileges granted to it by the General Assembly, including participation as an official observer in the General Assembly and in other bodies and conferences within the UN system.

15. Monitoring the South West Africa Police Force the UN Plan provides that the primary responsibility for maintaining law and order in Namibia during the transition period shall rest with the existing police forces. The AG, to the satisfaction of the UNSR, shall ensure the good conduct of the police forces and shall take the necessary action to ensure their suitability for continued employment during the transition period. The UNSR shall make arrangements when appropriate for UN personnel to accompany the police forces in the discharge of their duties. The police forces would be limited to the carrying of small arms in the normal performance of their duties. The UN Plan also provides that the UNSR will take steps to guarantee against the possibility of intimidation or interference with the electoral process from whatever quarter. The Secretary-General has provided that designated personnel will be at the disposal of the UNSR to ensure that these monitoring responsibilities will be satisfactorily performed. For reasons of safety and effectiveness, these tasks will be performed by civilian personnel who are professionally qualified. The number of UN personnel to monitor the police appropriate to the tasks they are expected to perform will be kept under continuous review.

16. South West Africa Territorial Force (SWATF): The UN Plan specifies that the United Nations Transition Assistance Group (UNTAG) military component will monitor "the demobilisation of citizen forces, commandos, and ethnic forces, and the dismantling of their command structure". UNTAG will monitor the demobilization of SWATF and the dismantling of its command structure.

17. Composition of the UNTAG military component will be decided by the Security Council on the recommendation of the Secretary-General after due consultations. Final arrangements for the military component of UNTAG including monitoring of SWAPO facilities in Angola and Zambia will be decided by the Secretary-General, after due consultation.