

Decisions

At its 1880th meeting, on 27 January 1976, the Council decided to invite the representatives of Algeria, Egypt, Guinea, Indonesia, Jamaica, Mauritius, Nigeria and Yugoslavia to participate, without vote, in the discussion of the item entitled "The situation in Namibia: letter dated 16 December 1975 from the Secretary-General to the President of the Security Council (S/11918)".²⁶

At the same meeting, the Council also decided to extend an invitation, under rule 39 of the provisional rules of procedure, to a delegation of the United Nations Council for Namibia, composed of the President of that body and the representatives of Finland, Indonesia, Poland and Mexico.

At the same meeting, the Council further decided, at the request of the representatives of Benin, the Libyan Arab Republic and the United Republic of Tanzania,²⁷ to extend an invitation to Mr. Moses M. Garoeb under rule 39 of the provisional rules of procedure.

At its 1881st meeting, on 27 January 1976, the Council decided to invite the representatives of Liberia, Mauritania and South Africa to participate, without vote, in the discussion of the question.

At the same meeting, the Council also decided to extend an invitation, under rule 39 of the provisional rules of procedure, to the Rapporteur of the Special Committee against *Apartheid*.

At its 1882nd meeting, on 28 January 1976, the Council decided to invite the representatives of Cuba, India, Jordan, Mali, Poland and Saudi Arabia to participate, without vote, in the discussion of the question.

At its 1883rd meeting, on 29 January 1976, the Council decided to invite the representatives of Bangladesh, Burundi, Kenya, Kuwait and Tunisia to participate, without vote, in the discussion of the question.

²⁵ Resolutions or decisions on this question were also adopted by the Council in 1968, 1969, 1970, 1971, 1972, 1973, 1974 and 1975.

²⁶ Mimeographed. For the text of the resolution transmitted in the letter, see *Official Records of the General Assembly, Thirtieth Session, Supplement No. 34*, resolution 3399 (XXX).

²⁷ *Official Records of the Security Council, Thirty-first Year, Supplement for January, February and March 1976*, document S/11943.

Resolution 385 (1976)

of 30 January 1976

The Security Council,

Having heard the statement of the President of the United Nations Council for Namibia,²⁸

Having considered the statement by Mr. Moses M. Garoeb, Administrative Secretary of the South West Africa People's Organization,²⁸

Recalling General Assembly resolution 2145 (XXI) of 27 October 1966, by which the Assembly terminated South Africa's Mandate over the Territory of Namibia, and resolution 2248 (S-V) of 19 May 1967, by which it established a United Nations Council for Namibia, as well as all other subsequent resolutions on Namibia, in particular resolution 3295 (XXIX) of 13 December 1974 and resolution 3399 (XXX) of 26 November 1975,

Recalling its resolutions 245 (1968) of 25 January and 246 (1968) of 14 March 1968, 264 (1969) of 20 March and 269 (1969) of 12 August 1969, 276 (1970) of 30 January, 282 (1970) of 23 July, 283 (1970) and 284 (1970) of 29 July 1970, 300 (1971) of 12 October and 301 (1971) of 20 October 1971, 310 (1972) of 4 February 1972 and 366 (1974) of 17 December 1974,

Recalling the advisory opinion of the International Court of Justice of 21 June 1971²⁹ that South Africa is under obligation to withdraw its presence from the Territory,

Reaffirming the legal responsibility of the United Nations over Namibia,

Concerned at South Africa's continued illegal occupation of Namibia and its persistent refusal to comply with the resolutions and decisions of the General Assembly and the Security Council, as well as with the advisory opinion of the International Court of Justice,

Gravely concerned at South Africa's brutal repression of the Namibian people and its persistent violation of their human rights, as well as its efforts to destroy the national unity and territorial integrity of Namibia, and its aggressive military build-up in the area,

Strongly deploring the militarization of Namibia by the illegal occupation régime of South Africa,

1. *Condemns* the continued illegal occupation of the Territory of Namibia by South Africa;

2. *Condemns* the illegal and arbitrary application by South Africa of racially discriminatory and repressive laws and practices in Namibia;

3. *Condemns* the South African military build-up in Namibia and any utilization of the Territory as a base for attacks on neighbouring countries;

4. *Demands* that South Africa put an end forthwith to its policy of bantustans and the so-called homelands aimed at violating the national unity and the territorial integrity of Namibia;

5. *Further condemns* South Africa's failure to comply with the terms of Security Council resolution 366 (1974);

²⁸ *Ibid.*, *Thirty-first Year*, 1880th meeting.

²⁹ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 16.

6. *Further condemns* all attempts by South Africa calculated to evade the clear demand of the United Nations for the holding of free elections under United Nations supervision and control in Namibia;

7. *Declares* that, in order that the people of Namibia may be enabled freely to determine their own future, it is imperative that free elections under the supervision and control of the United Nations be held for the whole of Namibia as one political entity;

8. *Further declares* that, in determining the date, timetable and modalities for the elections in accordance with paragraph 7 above, there shall be adequate time, to be decided upon by the Security Council, for the purpose of enabling the United Nations to establish the necessary machinery within Namibia to supervise and control such elections, as well as to enable the people of Namibia to organize politically for the purpose of such elections;

9. *Demands* that South Africa urgently make a solemn declaration accepting the foregoing provisions for the holding of free elections in Namibia under United Nations supervision and control, undertaking to comply with the resolutions and decisions of the United Nations and with the advisory opinion of the International Court of Justice of 21 June 1971 in regard to Namibia, and recognizing the territorial integrity and unity of Namibia as a nation;

10. *Reiterates its demand* that South Africa take the necessary steps to effect the withdrawal, in accordance with Security Council resolutions 264 (1969), 269 (1969) and 366 (1974), of its illegal administration maintained in Namibia and to transfer power to the people of Namibia with the assistance of the United Nations;

11. *Demands again* that South Africa, pending the transfer of power provided for in paragraph 10 above:

(a) Comply fully in spirit and in practice with the provisions of the Universal Declaration of Human Rights;

(b) Release all Namibian political prisoners, including all those imprisoned or detained in connexion with offences under so-called internal security laws, whether such Namibians have been charged or tried or are held without charge and whether held in Namibia or South Africa;

(c) Abolish the application in Namibia of all racially discriminatory and politically repressive laws and practices, particularly bantustans and homelands;

(d) Accord unconditionally to all Namibians currently in exile for political reasons full facilities for return to their country without risk of arrest, detention, intimidation or imprisonment;

12. *Decides* to remain seized of the matter and to meet on or before 31 August 1976 for the purpose of reviewing South Africa's compliance with the terms of the present resolution and, in the event of non-compliance by South Africa, for the purpose of considering the appropriate measures to be taken under the Charter of the United Nations.

Adopted unanimously at the 1885th meeting.

Decisions

At its 1954th meeting, on 31 August 1976, the Council decided to invite the representative of Madagascar to participate, without vote, in the discussion of the item entitled "The situation in Namibia".

At the same meeting, the Council also decided to extend an invitation, under rule 39 of the provisional rules of procedure, to a delegation of the United Nations Council for Namibia headed by the Acting President of that body.

At its 1956th meeting, on 28 September 1976, the Council decided to invite the representatives of Kenya, Malawi, Mauritius and Morocco to participate, without vote, in the discussion of the question.

At the same meeting, the Council also decided, at the request of the representatives of Benin, the Libyan Arab Republic and the United Republic of Tanzania,³⁰ to extend an invitation to Mr. Sam Nujoma under rule 39 of the provisional rules of procedure.

At its 1957th meeting, on 30 September 1976, the Council decided to invite the representatives of Algeria, Cuba, Democratic Kampuchea, Egypt, Ghana, Guinea, Mozambique, Nigeria, Sierra Leone, Saudi Arabia, Yemen and Yugoslavia to participate, without vote, in the discussion of the question.

At its 1958th meeting, on 1 October 1976, the Council decided to invite the representative of Zambia to participate, without vote, in the discussion of the question.

At its 1959th meeting, on 5 October 1976, the Council decided to invite the representatives of Ethiopia, Niger and Somalia to participate, without vote, in the discussion of the question.

At its 1960th meeting, on 7 October 1976, the Council decided to invite the representatives of Burundi, Poland and Sri Lanka to participate, without vote, in the discussion of the question.

At its 1961st meeting, on 13 October 1976, the Council decided to invite the representatives of Bangladesh, Botswana, the German Democratic Republic and Liberia to participate, without vote, in the discussion of the question.

At its 1963rd meeting, on 19 October 1976, the Council decided to extend an invitation, at the request of the representatives of Benin, the Libyan Arab Republic and the United Republic of Tanzania,³¹ to Mr. Theo-Ben Gurirab under rule 39 of the provisional rules of procedure.

³⁰ *Official Records of the Security Council, Thirty-first Year, Supplement for July, August and September 1976*, document S/12205.

³¹ *Ibid.*, *Supplement for October, November and December 1976*, document S/12216.