

discontinuation. 115/ The same view was expressed by the OAU and by the United Nations General Assembly. 116/ In the light of the above, the Security Council decided in December 1973 to discontinue the contacts with South Africa. 117/

7. Recognition of SWAPO as the authentic representative of the people of Namibia

At its twenty-eighth session, the General Assembly, having decided to invite the leaders of the national liberation movements of the colonial Territories in Africa recognized by the OAU to participate as observers in the proceedings of the Committee relating to their respective countries, 118/ recognized that SWAPO, the national liberation movement of Namibia, was the authentic representative of the people of Namibia. 119/ The same resolution called on all specialized agencies and other organizations within the United Nations system to take the necessary steps to enable the United Nations Council for Namibia, as the legal authority for Namibia, to participate fully in the work of those agencies and organizations.

At the following session, the General Assembly authorized adequate budgetary provision to finance an office for SWAPO in New York in order to ensure the proper representation of the movement at the United Nations. 120/ The Assembly also requested all General Assembly committees and sub-committees to invite a representative of the United Nations Council for Namibia and of SWAPO to participate in their meetings whenever the rights and interests of Namibia were discussed, and to enlarge the membership of the United Nations Council for Namibia to 25. 121/

8. Decree No. 1 for the Protection of the Natural Resources of Namibia 122/

On 27 September 1974, the United Nations Council for Namibia enacted a Decree with the aim of protecting the natural resources of the people of Namibia and of

115/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 24 (A/9024), para. 157.

116/ Resolution 3111 (XXVIII) of 12 December 1973.

117/ Resolution 342 (1973) of 11 December 1973.

118/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 30 (A/9030), item 23, p. 111.

119/ Resolution 3111 (XXVIII).

120/ Resolution 3295 (XXIX) of 13 December 1974.

121/ The Council is now composed of the following Member States: Algeria, Australia, Bangladesh, Botswana, Burundi, Chile, China, Colombia, Egypt, Finland, Guyana, Haiti, India, Indonesia, Liberia, Mexico, Nigeria, Pakistan, Poland, Romania, Senegal, Turkey, Union of Soviet Socialist Republics, Yugoslavia and Zambia.

122/ See annex IX below for the text of the Decree.

/...

ensuring that those resources were not exploited without the Council's consent. The Decree was subsequently endorsed by the General Assembly which requested all Member States to take all appropriate action to ensure the full application of, and compliance with, the Decree's provisions. 123/ The Assembly also specifically condemned the exploitation of uranium in Namibia and called on the International Atomic Energy Agency (IAEA) to take all possible measures to discourage such exploitation.

9. Further action by the Security Council and the General Assembly

In December 1974, and again in January 1976, the Security Council adopted resolutions 124/ calling on South Africa to withdraw from Namibia, declaring that free elections should be held in the Territory under the supervision and control of the United Nations and requesting South Africa to make a solemn declaration within a six-month period that it would comply with United Nations resolutions and with the advisory opinion of the International Court of Justice of 21 June 1971, failing which the Council would meet to consider "appropriate action" under the Charter. Nevertheless, although South Africa failed to make such a declaration, the Security Council has been unable to adopt any "appropriate action" envisaged under the Charter. On two separate occasions, in May 1975 and October 1976, three permanent members of the Security Council (France, the United Kingdom and the United States) cast their vetoes to prevent the adoption of draft resolutions which would have imposed a mandatory arms embargo against South Africa under Chapter VII of the Charter. 125/

The General Assembly for its part adopted eight resolutions on Namibia at its thirty-first session. 126/ Under resolution 31/146, the Assembly, inter alia, declared its support for the armed struggle of the people of Namibia, under the leadership of SWAPO, to achieve self-determination and independence; condemned the so-called constitutional talks at Windhoek as a device to perpetuate apartheid and the colonial system in Namibia and urgently called on States Members of the United Nations to refrain from according any recognition to any authority which might be installed as a result of the so-called constitutional conference. The resolution furthermore decided that any independence talks concerning Namibia should be between the representatives of South Africa and SWAPO under the auspices of the United Nations "for the sole purpose of discussing the modalities for the transfer of power to the people of Namibia" and called for the urgent holding of free elections under United Nations supervision and control; reiterated that the illegal occupation of Namibia by South Africa constituted a threat to international peace

123/ Resolution 3295 (XXIX).

124/ Resolutions 366 (1974) of 17 December 1974 and 385 (1976) of 30 January 1976.

125/ S/11713 and S/12211.

126/ Resolutions 31/146 to 31/153, adopted on 20 December 1976.

and security; and called on the Security Council to impose a mandatory arms embargo against South Africa. 127/

In resolution 31/148, the General Assembly requested the Secretary-General to prepare updated lists of foreign corporations operating in Namibia, and authorized the United Nations Council for Namibia to hold hearings and to continue to seek information concerning the exploitation and purchase of Namibian uranium. In resolution 31/152, the Assembly also decided to accord permanent observer status to SWAPO.

In May 1977 an International Conference in Support of the Peoples of Zimbabwe and Namibia meeting in Maputo, Mozambique, adopted a Declaration and a Programme of Action for the Liberation of Zimbabwe and Namibia 128/. Concerning Namibia, the Conference "inter alia" reaffirmed the right of the people of Namibia to decide on the means of their struggle and pointed out that the development of the armed struggle and continued efforts of the international community had created positive conditions for a negotiated settlement. The Conference strongly condemned the Turnhalle tribal talks and called on Governments to refrain from according any recognition to or co-operating with any authority or régime which South Africa might install in Namibia. It emphasized the need for free elections to be held under the supervision and control of the United Nations in the whole of Namibia as one political entity; reaffirmed its recognition of the United Nations Council for Namibia as the legal administering authority of the Territory until independence and called for the strengthening of international support for the Council and for increased assistance to SWAPO. The Conference recognized Walvis Bay as an integral part of Namibia and called on States to reject all attempts by South Africa to annex the area. It also renewed the call for the Security Council to impose a mandatory arms embargo against South Africa.

The South African Government decision to separate Walvis Bay from the rest of Namibia and to administer it directly as part of the Cape Province met with the strong condemnation from the Council for Namibia 129/ which called it an illegal act

127/ The resolution was adopted by 107 votes, 6 against (Belgium, France, Federal Republic of Germany, Luxembourg, United Kingdom and United States), with 12 abstentions (Austria, Canada, Denmark, Ireland, Italy, Japan, Malawi, Netherlands, New Zealand, Spain, Sweden and Uruguay).

128/ The Conference which was sponsored by the United Nations brought together approximately 500 persons including delegations from 92 Member States, 27 inter-governmental and non-governmental organizations and representatives of the national liberation movements of southern Africa. The complete text of the Maputo Declaration and of the Programme of Action as well as some of the principal speeches at the Conference are contained in issue No. 8 of "Decolonization" (July 1977).

129/ A/32/212 and S/12397.

designed to destroy the territorial integrity and unity of Namibia. The Council declared that the status of Walvis Bay was a colonial question since it was through colonial conquest and subsequent unilateral imposition of administrative arrangements that successive colonial régimes imposed their domination over the people and resources of Namibia, including Walvis Bay. The Council also expressed its expectation that the Security Council would take appropriate measures to maintain the status of Walvis Bay as an integral part of the international Territory of Namibia.

The annexation of Walvis Bay was also categorically condemned by the General Assmely at its thirty-second session which declared the annexation to be illegal, null and void. 130/ The Assembly also called on all Member States to refrain from recognizing, or co-operating with, any régime which South Africa might impose in Namibia in disregard of the provisions of Security Council resolution 385 (1976). 131/

130/ Resolution 32/9.D.

131/ Ibid. For the full text of the resolution see Annex VIII below.

ANNEX I

Resolution adopted by the General Assembly

2145 (XXI). Question of South West Africa

The General Assembly,

Reaffirming the inalienable right of the people of South West Africa to freedom and independence in accordance with the Charter of the United Nations, General Assembly resolution 1514 (XV) of 14 December 1960 and earlier Assembly resolutions concerning the Mandated Territory of South West Africa,

Recalling the advisory opinion of the International Court of Justice of 11 July 1950, accepted by the General Assembly in its resolution 449 A (V) of 13 December 1950, and the advisory opinions of 7 June 1955 and 1 June 1956 as well as the judgement of 21 December 1962, which have established the fact that South Africa continues to have obligations under the Mandate which was entrusted to it on 17 December 1920 and that the United Nations as the successor to the League of Nations has supervisory powers in respect of South West Africa,

Gravely concerned at the situation in the Mandated Territory, which has seriously deteriorated following the judgement of the International Court of Justice of 18 July 1966,

Having studied the reports of the various committees which had been established to exercise the supervisory functions of the United Nations over the administration of the Mandated Territory of South West Africa,

Convinced that the administration of the Mandated Territory by South Africa has been conducted in a manner contrary to the Mandate, the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming its resolution 2074 (XX) of 17 December 1965, in particular paragraph 4 thereof which condemned the policies of apartheid and racial discrimination practised by the Government of South Africa in South West Africa as constituting a crime against humanity,

Emphasizing that the problem of South West Africa is an issue falling within the terms of General Assembly resolution 1514 (XV),

Considering that all the efforts of the United Nations to induce the Government of South Africa to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the well-being and security of the indigenous inhabitants have been of no avail,

Mindful of the obligations of the United Nations towards the people of South West Africa,

Noting with deep concern the explosive situation which exists in the southern region of Africa,

Affirming its right to take appropriate action in the matter, including the right to revert to itself the administration of the Mandated Territory,

1. *Reaffirms* that the provisions of General Assembly resolution 1514 (XV) are fully applicable to the people of the Mandated Territory of South West Africa and that, therefore, the people of South West Africa have the inalienable right to self-determination, freedom and independence in accordance with the Charter of the United Nations;

2. *Reaffirms further* that South West Africa is a territory having international status and that it shall maintain this status until it achieves independence;

3. *Declares* that South Africa has failed to fulfil its obligations in respect of the administration of the Mandated Territory and to ensure the moral and material well-being and security of the indigenous inhabitants of South West Africa and has, in fact, disavowed the Mandate;

4. *Decides* that the Mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa is therefore terminated, that South Africa has no other right to administer the Territory and that henceforth South West Africa comes under the direct responsibility of the United Nations;

5. *Resolves* that in these circumstances the United Nations must discharge those responsibilities with respect to South West Africa;

6. *Establishes* an *Ad Hoc* Committee for South West Africa—composed of fourteen Member States to be designated by the President of the General Assembly—to recommend practical means by which South West Africa should be administered, so as to enable the people of the Territory to exercise the right of self-determination and to achieve independence, and to report to the General Assembly at a special session as soon as possible and in any event not later than April 1967.

7. *Calls upon* the Government of South Africa forthwith to refrain and desist from any action, constitutional, administrative, political or otherwise, which will in any manner whatsoever alter or tend to alter the present international status of South West Africa;

8. *Calls the attention* of the Security Council to the present resolution;

9. *Requests* all States to extend their whole-hearted co-operation and to render assistance in the implementation of the present resolution;

10. *Requests* the Secretary-General to provide all the assistance necessary to implement the present resolution and to enable the *Ad Hoc* Committee for South West Africa to perform its duties.

1454th plenary meeting,
27 October 1966.

ANNEX II

Resolution adopted by the General Assembly

2218 (S-V). Question of South West Africa

The General Assembly,

Having considered the report of the *Ad Hoc* Committee for South West Africa,

Reaffirming its resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Reaffirming its resolution 2145 (XXI) of 27 October 1966, by which it terminated the Mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa and decided that South Africa had no other right to administer the Territory of South West Africa,

Having assumed direct responsibility for the Territory of South West Africa in accordance with resolution 2145 (XXI),

Recognizing that it has thereupon become incumbent upon the United Nations to give effect to its obligations by taking practical steps to transfer power to the people of South West Africa,

I

Reaffirms the territorial integrity of South West Africa and the inalienable right of its people to freedom and independence, in accordance with the Charter of the United Nations, General Assembly resolution 1514 (XV), and all other resolutions concerning South West Africa;

II

1. *Decides* to establish a United Nations Council for South West Africa (hereinafter referred to as the Council) comprising eleven Member States to be elected during the present session and to entrust to it the following powers and functions, to be discharged in the Territory:

(a) To administer South West Africa until independence, with the maximum possible participation of the people of the Territory;

(b) To promulgate such laws, decrees and administrative regulations as are necessary for the administration of the Territory until a legislative assembly is established following elections conducted on the basis of universal adult suffrage;

(c) To take as an immediate task all the necessary measures, in consultation with the people of the Territory, for the establishment of a constituent assembly to draw up a constitution on the basis of which elections will be held for the establishment of a legislative assembly and a responsible government;

(d) To take all the necessary measures for the maintenance of law and order in the Territory;

(e) To transfer all powers to the people of the Territory upon the declaration of independence;

2. *Decides* that in the exercise of its powers and in the discharge of its functions the Council shall be responsible to the General Assembly;

3. *Decides* that the Council shall entrust such executive and administrative tasks as it deems necessary to a United Nations Commissioner for South West Africa (hereinafter referred to as the Commissioner), who shall be appointed during the present session by the General Assembly on the nomination of the Secretary-General;

4. *Decides* that in the performance of his tasks the Commissioner shall be responsible to the Council;

III

1. *Decides* that:

(a) The administration of South West Africa under the United Nations shall be financed from the revenues collected in the Territory;

(b) Expenses directly related to the operation of the Council and the Office of the Commissioner—the travel and subsistence expenses of members of the Council, the remuneration of the Commissioner and his staff and the cost of ancillary facilities—shall be met from the regular budget of the United Nations;

2. *Requests* the specialized agencies and the appropriate organs of the United Nations to render to South West Africa technical and financial assistance through a co-ordinated emergency programme to meet the exigencies of the situation;

IV

1. *Decides* that the Council shall be based in South West Africa;

2. *Requests* the Council to enter immediately into contact with the authorities of South Africa in order to lay down procedures, in accordance with General Assembly resolution 2145 (XXI) and the present resolution, for the transfer of the administration of the Territory with the least possible upheaval;

3. *Further requests* the Council to proceed to South West Africa with a view to:

(a) Taking over the administration of the Territory;

(b) Ensuring the withdrawal of South African police and military forces;

(c) Ensuring the withdrawal of South African personnel and their replacement by personnel operating under the authority of the Council;

(d) Ensuring that in the utilization and recruitment of personnel preference be given to the indigenous people;

4. *Calls upon* the Government of South Africa to comply without delay with the terms of resolution 2145 (XXI) and the present resolution and to facilitate the transfer of the administration of the Territory of South West Africa to the Council;

5. *Requests* the Security Council to take all appropriate measures to enable the United Nations Council for South West Africa to discharge the functions and responsibilities entrusted to it by the General Assembly;

6. *Requests* all States to extend their whole-hearted co-operation and to render assistance to the Council in the implementation of its task;

V

Requests the Council to report to the General Assembly at intervals not exceeding three months on its administration of the Territory, and to submit a special report to the Assembly at its twenty-second session concerning the implementation of the present resolution;

VI

Decides that South West Africa shall become independent on a date to be fixed in accordance with the wishes of the people and that the Council shall do all in its power to enable independence to be attained by June 1968.

*1518th plenary meeting,
19 May 1967.*

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ANNEX III

Resolution adopted by the Security Council

Resolution 269 (1969)
of 12 August 1969

The Security Council,

Recalling its resolution 264 (1969) of 20 March 1969,

Taking note of the report of the Secretary-General contained in document S/9204,

Mindful of its responsibility to take necessary action to secure strict compliance with the obligations entered into by States Members of the United Nations under the provisions of Article 25 of the Charter of the United Nations,

Mindful also of its responsibilities under Article 6 of the Charter of the United Nations,

1. *Reaffirms its resolution 264 (1969);*

2. *Condemns the Government of South Africa for its refusal to comply with resolution 264 (1969) and for its persistent defiance of the authority of the United Nations;*

3. *Decides that the continued occupation of the Territory of Namibia by the South African authorities constitutes an aggressive encroachment on the authority of the United Nations, a violation of the territorial integrity and a denial of the political sovereignty of the people of Namibia;*

4. *Recognizes the legitimacy of the struggle of the people of Namibia against the illegal presence of the South African authorities in the Territory;*

5. *Calls upon the Government of South Africa to withdraw its administration from the Territory immediately and in any case before 4 October 1969;*

6. *Decides that in the event of failure on the part of the Government of South Africa to comply with the provisions of the preceding paragraph of the present resolution, the Security Council will meet immediately to determine upon effective measures in accordance with the appropriate provisions of the relevant Chapters of the Charter of the United Nations;*

7. *Calls upon all States to refrain from all dealings with the Government of South Africa purporting to act on behalf of the Territory of Namibia;*

8. *Requests all States to increase their moral and material assistance to the people of Namibia in their struggle against foreign occupation;*

9. *Requests the Secretary-General to follow closely the implementation of the present resolution and to report to the Security Council as soon as possible;*

10. *Decides to remain actively seized of the matter.*

Adopted at the 1497th meeting by 11 votes to none, with 4 abstentions (Finland, France, United Kingdom of Great Britain and Northern Ireland, United States of America).

ANNEX IV

Resolution adopted by the Security Council

Resolution 276 (1970)

of 30 January 1970

The Security Council,

Reaffirming the inalienable right of the people of Namibia to freedom and independence recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

Reaffirming General Assembly resolution 2145 (XXI) of 27 October 1966, by which the United Nations decided that the Mandate for South West Africa was terminated and assumed direct responsibility for the Territory until its independence,

Reaffirming Security Council resolution 264 (1969) of 20 March 1969 in which the Council recognized the termination of the Mandate and called upon the Government of South Africa to withdraw immediately its administration from the Territory,

Reaffirming that the extension and enforcement of South African laws in the Territory together with the continued detentions, trials and subsequent sentencing of Namibians by the Government of South Africa constitute illegal acts and flagrant violations of the rights of the Namibians concerned, the Universal Declaration of Human Rights and the international status of the Territory, now under direct United Nations responsibility,

Recalling Security Council resolution 269 (1969) of 12 August 1969,

1. *Strongly condemns* the refusal of the Government of South Africa to comply with the resolutions of the General Assembly and Security Council pertaining to Namibia;

2. *Declares* that the continued presence of the South African authorities in Namibia is illegal and that consequently all acts taken by the Government of South Africa on behalf of or concerning Namibia after the termination of the Mandate are illegal and invalid;

3. *Declares further* that the defiant attitude of the Government of South Africa towards the Council's decisions undermines the authority of the United Nations;

4. *Considers* that the continued occupation of Namibia by the Government of South Africa in defiance of the relevant United Nations resolutions and of the Charter of the United Nations has grave consequences for the rights and interests of the people of Namibia;

5. *Calls upon* all States, particularly those which have economic and other interests in Namibia, to refrain from any dealings with the Government of South Africa which are inconsistent with paragraph 2 of the present resolution;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, an *Ad Hoc* Sub-Committee of the Council to study, in consultation with the Secretary-General, ways and means by which the relevant resolutions of the Council, including the present resolution, can be effectively implemented in accordance with the appropriate provisions of the Charter, in the light of the flagrant refusal of South Africa to withdraw from Namibia, and to submit its recommendations by 30 April 1970;

7. *Requests* all States, as well as the specialized agencies and other relevant organs of the United Nations, to give the Sub-Committee all the information and other assistance it may require in pursuance of the present resolution;

8. *Further requests* the Secretary-General to give every assistance to the Sub-Committee in the performance of its task;

9. *Decides* to resume consideration of the question of Namibia as soon as the recommendations of the Sub-Committee have been made available.

Adopted at the 1529th meeting by 13 votes to none, with 2 abstentions (France, United Kingdom of Great Britain and Northern Ireland).

ANNEX V

Resolution adopted by the Security Council

Resolution 283 (1970)

of 29 July 1970

The Security Council,

Reaffirming once more the inalienable right of the people of Namibia to freedom and independence recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

Reaffirming Security Council resolutions 264 (1969) of 20 March 1969 and 276 (1970) of 30 January 1970 in which the Council recognized the decision of the General Assembly to terminate the Mandate for South West Africa and assume direct responsibility for the Territory until its independence and in which the continued presence of the South African authorities in Namibia, as well as all acts taken by that Government on behalf of or concerning Namibia after the termination of the Mandate, were declared illegal and invalid,

Recalling its resolution 269 (1969) of 12 August 1969,

Noting with great concern the continued flagrant refusal of the Government of South Africa to comply with the decisions of the Security Council demanding the immediate withdrawal of South Africa from the Territory,

Deeply concerned that the enforcement of South African laws and juridical procedures in the Territory have continued in violation of the international status of the Territory,

Reaffirming its resolution 282 (1970) of 23 July 1970 on the arms embargo against the Government of South Africa and the significance of that resolution with regard to the Territory and people of Namibia,

Recalling the decision taken by the Security Council on 30 January 1970 to establish, in accordance with rule 28 of its provisional rules of procedure, an *Ad Hoc* Sub-Committee of the Council to study, in consultation with the Secretary-General, ways and means by which the relevant resolutions of the Council, including resolution 276 (1970), could be effectively implemented in accordance with the appropriate provisions of the Charter of the United Nations, in the light of the flagrant refusal of South Africa to withdraw from Namibia, and to submit its recommendations to the Council,

Having examined the report submitted by the *Ad Hoc* Sub-Committee and the recommendations contained in that report,

Bearing in mind the special responsibility of the United Nations with regard to the Territory of Namibia and its people,

1. *Requests* all States to refrain from any relations—diplomatic, consular or otherwise—with South Africa implying recognition of the authority of the Government of South Africa over the Territory of Namibia;

2. *Calls upon* all States maintaining diplomatic or consular relations with South Africa to issue a formal declaration to the Government of South Africa to

the effect that they do not recognize any authority of South Africa with regard to Namibia and that they consider South Africa's continued presence in Namibia illegal;

3. *Calls upon* all States maintaining such relations to terminate existing diplomatic and consular representation as far as they extend to Namibia, and to withdraw any diplomatic or consular mission or representative residing in the Territory;

4. *Calls upon* all States to ensure that companies and other commercial and industrial enterprises owned by, or under direct control of, the State cease all dealings with respect to commercial or industrial enterprises or concessions in Namibia;

5. *Calls upon* all States to withhold from their nationals or companies of their nationality not under direct governmental control, government loans, credit guarantees and other forms of financial support that would be used to facilitate trade or commerce with Namibia;

6. *Calls upon* all States to ensure that companies and other commercial enterprises owned by, or under direct control of, the State cease all further investment activities, including concessions in Namibia;

7. *Calls upon* all States to discourage their nationals or companies of their nationality not under direct governmental control from investing or obtaining concessions in Namibia, and to this end to withhold protection of such investment against claims of a future lawful government of Namibia;

8. *Requests* all States to undertake without delay a detailed study and review of all bilateral treaties between themselves and South Africa in so far as these treaties contain provisions by which they apply to the Territory of Namibia;

9. *Requests* the Secretary-General to undertake without delay a detailed study and review of all multi-lateral treaties to which South Africa is a party and which, either by direct reference or on the basis of relevant provisions of international law, might be considered to apply to the Territory of Namibia;

10. *Requests* the United Nations Council for Namibia to make available to the Security Council the results of its study and proposals with regard to the issuance of passports and visas for Namibians, and to undertake a study and make proposals with regard to special passport and visa regulations to be adopted by States concerning travel of their citizens to Namibia;

11. *Calls upon* all States to discourage the promotion of tourism and emigration to Namibia;

12. *Requests* the General Assembly, at its twenty-fifth session, to set up a United Nations fund for Namibia to provide assistance to Namibians who have suffered from persecution and to finance a comprehensive educational and training programme for Namibians, with particular regard to their future administrative responsibilities in the Territory;

13. *Requests* all States to report to the Secretary-General on measures they have taken in order to give effect to the provisions set forth in the present resolution;

14. *Decides* to re-establish, in accordance with rule 28 of its provisional rules of procedure, the *Ad Hoc* Sub-Committee on Namibia and to request the Sub-Committee to study further effective recommendations on ways and means by which the relevant resolutions of the Council can be effectively implemented in accordance with the appropriate provisions of the Charter of the United Nations, in the light of the flagrant refusal of South Africa to withdraw from Namibia;

15. *Requests* the Sub-Committee to study the replies submitted by Governments to the Secretary-General in pursuance of paragraph 13 of the present resolution and to report to the Council as appropriate;

16. *Requests* the Secretary-General to give every assistance to the Sub-Committee in the performance of its tasks;

17. *Decides* to remain actively seized of this matter.

Adopted at the 1550th meeting by 13 votes to none, with 2 abstentions (France, United Kingdom of Great Britain and Northern Ireland).

ANNEX VI

Resolution adopted by the Security Council

Resolution 301 (1971)
of 20 October 1971

The Security Council,

Reaffirming the inalienable right of the people of Namibia to freedom and independence, as recognized in General Assembly resolution 1514 (XV) of 14 December 1960,

Recognizing that the United Nations has direct responsibility for Namibia, following the adoption of General Assembly resolution 2145 (XXI) of 27 October 1966, and that States should conduct any relations with or involving Namibia in a manner consistent with that responsibility,

Reaffirming its resolutions 264 (1969) of 20 March 1969, 276 (1970) of 30 January 1970 and 283 (1970) of 29 July 1970,

Recalling its resolution 284 (1970) of 29 July 1970, in which it requested the International Court of Justice for an advisory opinion on the question:

"What are the legal consequences for States of the continued presence of South Africa in Namibia, notwithstanding Security Council resolution 276 (1970)?"

Gravely concerned at the refusal of the Government of South Africa to comply with the resolutions of the Security Council pertaining to Namibia,

Recalling its resolution 282 (1970) of 23 July 1970 on the arms embargo against the Government of South Africa and stressing the significance of that resolution with regard to the Territory of Namibia,

Recognizing the legitimacy of the movement of the people of Namibia against the illegal occupation of their Territory by the South African authorities and their right to self-determination and independence,

Taking note of the statements of the delegation of the Organization of African Unity, led by the President of Mauritania in his capacity as current Chairman of the Assembly of Heads of State and Government of that organization,

Noting further the statement of the President of the United Nations Council for Namibia,

Having heard the statements of the delegation of the Government of South Africa,

Having considered the report of the *Ad Hoc* Subcommittee on Namibia,

1. *Reaffirms* that the Territory of Namibia is the direct responsibility of the United Nations and that this responsibility includes the obligation to support and promote the rights of the people of Namibia in accordance with General Assembly resolution 1514 (XV);

2. *Reaffirms* the national unity and territorial integrity of Namibia;

3. *Condemns* all moves by the Government of South Africa designed to destroy that unity and territorial integrity, such as the establishment of Bantustans;

4. *Declares* that South Africa's continued illegal presence in Namibia constitutes an internationally wrongful act and a breach of international obligations and that South Africa remains accountable to the international community for any violations of its international obligations or the rights of the people of the Territory of Namibia;

5. *Takes note with appreciation* of the advisory opinion of the International Court of Justice of 21 June 1971;

6. *Agrees* with the Court's opinion, as expressed in paragraph 133 of its advisory opinion:

"(1) that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from Namibia immediately and thus put an end to its occupation of the Territory;

"(2) that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration;

"(3) that it is incumbent upon States which are not Members of the United Nations to give assistance, within the scope of subparagraph (2) above, in the action which has been taken by the United Nations with regard to Namibia.";

7. *Declares* that all matters affecting the rights of the people of Namibia are of immediate concern to all Members of the United Nations and, as a result, the latter should take this into account in their dealings with the Government of South Africa, in particular in any dealings implying recognition of the legality of, or lending support or assistance to, such illegal presence and administration;

8. *Calls once again* upon South Africa to withdraw from the Territory of Namibia;

9. *Declares* that any further refusal of the South African Government to withdraw from Namibia could create conditions detrimental to the maintenance of peace and security in the region;

10. *Reaffirms* the provisions of resolution 283 (1970), in particular paragraphs 1 to 8 and 11;

11. *Calls upon* all States, in the discharge of their responsibilities towards the people of Namibia and

subject to the exceptions set forth in paragraphs 122 and 125 of the advisory opinion of 21 June 1971:

(a) To abstain from entering into treaty relations with South Africa in all cases in which the Government of South Africa purports to act on behalf of or concerning Namibia;

(b) To abstain from invoking or applying those treaties or provisions of treaties concluded by South Africa on behalf of or concerning Namibia which involve active intergovernmental co-operation.

(c) To review their bilateral treaties with South Africa in order to ensure that they are not inconsistent with paragraphs 5 and 6 above;

(d) To abstain from sending diplomatic or special missions to South Africa that include the Territory of Namibia in their jurisdiction;

(e) To abstain from sending consular agents to Namibia and to withdraw any such agents already there;

(f) To abstain from entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory;

12. *Declares* that franchises, rights, titles or contracts relating to Namibia granted to individuals or companies by South Africa after the adoption of General Assembly resolution 2145 (XXI) are not subject to protection or espousal by their States against claims of a future lawful Government of Namibia;

13. *Requests* the *Ad Hoc* Sub-Committee on Namibia to continue to carry out the tasks entrusted to it under paragraphs 14 and 15 of Security Council resolution 283 (1970) and, in particular, taking into account the need to provide for the effective protection of Namibian interests at the international level, to study appropriate measures for the fulfilment of the responsibility of the United Nations towards Namibia;

14. *Requests* the *Ad Hoc* Sub-Committee on Namibia to review all treaties and agreements which are contrary to the provisions of the present resolution in order to ascertain whether States have entered into agreements which recognize South Africa's authority over Namibia, and to report periodically thereon;

15. *Calls upon* all States to support and promote the rights of the people of Namibia and to this end to implement fully the provisions of the present resolution;

16. *Requests* the Secretary-General to report periodically on the implementation of the provisions of the present resolution.

Adopted at the 1598th meeting by 13 votes to none, with 2 abstentions (France, United Kingdom of Great Britain and Northern Ireland).

ANNEX VII

Resolution adopted by the Security Council

Resolution 385 (1976)
of 30 January 1976

The Security Council,

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

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

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 1971 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);

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.

ANNEX VIII

Resolution adopted by the General Assembly

32/9/D. Situation in Namibia resulting from the illegal occupation of the Territory by South Africa.

The General Assembly,

Having examined the report of the United Nations Council for Namibia and the relevant chapters of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Having heard the statement of the President of the South West Africa People's Organization,

Recalling its resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling, in particular, its resolutions 2145 (XXI) of 27 October 1966 and 2248 (S-V) of 19 May 1967 and subsequent resolutions of the General Assembly and the Security Council relating to the question of Namibia, as well as the advisory opinion of the International Court of Justice of 21 June 1971, delivered in response to the request addressed to it by the Council in its resolution 284 (1970) of 29 July 1970,

Taking into consideration the relevant resolutions adopted by the Council of Ministers of the Organization of African Unity at its twenty-ninth ordinary session, and subsequently endorsed by the Assembly of Heads of State and Government of the Organization of African Unity at its fourteenth ordinary session, held at Libreville from 2 to 5 July 1977,

Reaffirming that the Territory and people of Namibia are the direct responsibility of the United Nations and that the Namibian people must be enabled to attain self-determination and independence within a united Namibia,

Strongly condemning South Africa's continued refusal to comply with the resolutions and decisions of the United Nations, its continued illegal occupation of Namibia, its 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,