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**ORGANISATION DE L'UNITÉ
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أديس أبابا * Addis Ababa

CM/502/Part IV (XXI)
Annex IV

COUNCIL OF MINISTERS
Twenty-First Ordinary Session
Addis Ababa - May 1973

REPORT BY THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF
SECURITY COUNCIL RESOLUTION 323 (1972) CONCERNING
THE QUESTION OF NAMIBIA

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SECURITY COUNCIL RESOLUTION 323 (1972) CONCERNING THE
QUESTION OF NAMIBIA

1. At its 1678th to 1682nd meeting, held between 28 November and 6 December 1972, the Security Council considered my report on the implementation of Security Council resolution 319(1972) concerning the question of Namibia (S/10832). At its 1682nd meeting, the Security Council adopted resolution 323 (1972), the text of which is as follows:

"The Security Council,

"Recalling its resolution 309 (1972) of 4 February 1972 and 319 (1972) of 1 August 1972, and without prejudice to other resolutions adopted on the question of Namibia,

"Reaffirming the special responsibility and obligation of the United Nations towards the people and Territory of Namibia,

"Recalling the advisory opinion of the International Court of Justice of 21 June 1971,

"Reaffirming the inalienable and imprescriptible right of the people of Namibia to self-determination and independence,

"Affirming that the principle of the national unity and territorial integrity of Namibia cannot be subject to any conditions,

"Having considered the report submitted by the Secretary-General in accordance with resolution 319(1972) (S/10832),

"1. Observes with satisfaction that the people of Namibia have again had an opportunity of expressing their aspirations clearly and unequivocally, in their own Territory, to representatives of the United Nations;

"2. Notes with interest that the overwhelming majority of the opinions consulted by the Representative of the Secretary-General categorically stated that, inter alia, they were in favour of the immediate abolition of the 'homelands' policy, withdrawal of the South African administration from the Territory, Namibia's accession to national independence and the preservation of its territorial integrity, thus further confirming the consistently held position of the United Nations on this question;

"3. Deeply regrets that there has been no complete and unequivocal clarification of the policy of the Government of South Africa regarding self-determination and independence for Namibia;

"4. Solemnly reaffirms the inalienable and imprescriptible rights of the people of Namibia to self-determination, national independence and the preservation of their territorial integrity, on which any solution for Namibia must be based, and rejects any interpretation, measure or policy to the contrary;

"5. Invites the Secretary-General, on the basis of paragraph 4 above, to continue his valuable efforts, in consultation and close co-operation with the Group of the Security Council established in accordance with resolution 309(1972) and, as appropriate, with the assistance of representatives, to ensure that the people of Namibia, freely and with strict regard to the principles of human equality, exercise their right of the United Nations;

"6. Again calls on the Government of South Africa to co-operate fully with the Secretary-General in the implementation of this resolution in order to bring about a peaceful transfer of power in Namibia;

"7. Requests the other parties concerned to continue to extend their valuable co-operation to the Secretary-General with a view to assisting him in the implementation of this resolution;

"8. Decides that, immediately following the partial renewal of the membership of the Security Council on 1 January 1973, the Council shall appoint representatives to fill the vacancies that will occur in the Group established in accordance with resolution 309(1972);

"9. Requests the Secretary-General to report to the Security Council on the implementation of this resolution as soon as possible and no later than 30 April 1973."

2. The Council will recall that in presenting the above-mentioned report on the implementation of resolution 319 (1972), I pointed out that the contacts between my representative and the Government of South Africa had left unanswered or unresolved a number of basic questions. I further stated that, while progress could not be expected without protracted discussion, I recognised the desire of the Council for an early and more precise clarification from the Government of South Africa of its position in regard to these basic questions. My views in this regard were subsequently confirmed by the discussions in the Security Council leading to the adoption of resolution 323(1972), which left no doubt that the success of my efforts would depend largely upon the replies which I might receive from the Government of South Africa in response to requests for clarification of its position on these basic issues.

3. Consequently, following the adoption of resolution 323(1972) and in accordance with paragraph 5 thereof, I directed my efforts to obtaining from the Government of South Africa a more complete and unequivocal statement of its policy regarding self-determination and independence for Namibia as well as clarification of its position on other questions arising from the report of my representative and from the debate in the Security Council. As directed by the Security Council, I carried out this task in consultation and close co-operation with the group of the Security Council composed of the representatives of Peru, Sudan and Yugoslavia, who extended to me valuable assistance and advice at all stages of my work.

4. In order to ensure a full and thorough examination of South Africa's position on these fundamental issues, it was agreed that my contacts with the Government of South Africa should be carried out in successive phases. During the initial phase, questions would be transmitted to the Government through diplomatic channels and I and my representative would meet with the Permanent Representative of South Africa to the United Nations to examine the preliminary replies of his Government and, as necessary, seek further clarification. This would be followed by meetings between my representatives and representatives of the South African Department of Foreign Affairs and finally by meetings between the Minister for Foreign Affairs of South Africa and myself from which a statement of the Government's position would emerge. This procedure was adopted after consultation with the Group of Three of the Security Council.

5. Although the representative of South Africa and I were desirous of proceeding with dispatch, circumstances beyond our control made it impossible for us to examine exhaustively all the basic issues during the period available to us.

6. In accordance with the procedure outlined above, I transmitted to the Government of South Africa, on 20 December 1972, a series of questions designed to elicit further information on the following matters which had featured prominently during the debate in the Security Council: (a) South Africa's policy regarding self-determination and independence for Namibia; (b) the composition and functions of the proposed advisory council; (c) the removal of restrictions on movement and measures to ensure freedom of political activity, including freedom of speech and the holding of meetings; and (d) the discontinuance of measures in furtherance of South Africa's "homeland" policy.

7. During the ensuing three months, I and my representative held 12 meetings at Headquarters with the Permanent Representative of South Africa to the United Nations. These meetings were devoted to a detailed discussion of the preliminary replies of his Government to the above questions and also other points which emerged during our talks or which had been raised at meetings of the Security Council. I and my representatives emphasized once again the firm stand of the United Nations with regard to the international status of Namibia, its national unity and territorial integrity, and the right of the Namibian people, taken as a whole, to self-determination and independence. In view of the Security Council's concern about any measures which could be interpreted as a further application of the "homelands" policy, I sought clarification with regard to the "Development of Self-Government for Native Nations in South West Africa Amendment Bill" and the proposed advisory council. I again expressed the hope that the Government of South Africa would not proceed with any measure which could adversely affect the efforts initiated pursuant to resolution 323(1972). I and my representatives also stressed that in order to create conditions for the people of Namibia to exercise their right to self-determination and independence "freely and with strict regard to principles of human equality, in accordance with the Charter of the United Nations" it would be necessary to abolish discriminatory legislation and to remove restrictions on freedom of movement and political activity, including freedom of speech, freedom of association and the holding of political meetings.

8. In the course of our discussions, particular attention was paid to the "Development of Self-Government for Native Nations in South West Africa Amendment Bill" which was introduced in the South African Parliament on 8 February 1973. In view of the statements regarding the aims of the Bill which the Prime Minister of South Africa had made in Parliament on 19 February, my representatives endeavored to ascertain that South Africa would respect the national unity and territorial integrity of Namibia. Among the points raised was whether, in the light of the proposed legislation, the possibility could arise that one or other of the population groups might acquire separate independence before the Namibian people as a whole had exercised their right of self-determination. Subsequently, in discussing the implications of the proposed legislation, I made clear my position that the right of self-determination should be exercised simultaneously on a common and Territory-wide basis and that every Namibian who had the right to participate in the act of self-determination should be in a position to exercise that right as an inhabitant of the Territory as a whole.

9. As already stated, I also asked questions concerning the advisory council which was then being established in Namibia. In this connection, I drew the attention of the South African Government to the negative attitude of the Security Council and others 1/ towards the creation of this body. Information relating to the advisory council was subsequently conveyed to me by the Government of South Africa in a document which is reproduced in annex I of this report.

10. As a consequence of these preliminary exchanges at Headquarters with the Permanent Representative of South Africa, and in view of the comparatively short time remaining before the deadline for submission of my report, it was agreed, on 27 March, after consultation with the Group of Three of the Security Council, that further clarification of South Africa's position could best be achieved by direct contacts between the Minister for Foreign Affairs of South Africa and myself. Since my presence was required in Geneva, Switzerland, to attend a session of the Administrative Committee on Co-ordination, it was arranged that the contacts should take place in Geneva, first at the technical level

1/ The position of the United Nations Council for Namibia is set out in a consensus the text of which is reproduced in annex II of this report. Annex III contains the text of a letter from Chief Clemens Kapuuo on behalf of the National Convention of Non-Whites.

between my representatives and the representatives of the South African Government from 9 to 11 April, and thereafter between the Minister for Foreign Affairs and myself from 11 to 13 April.

11. During the second phase of the contacts a total of six meetings took place between my representatives and the Secretary-General of the Department of Foreign Affairs of South Africa, accompanied by the Permanent representative of South Africa to the United Nations. These meetings prepared the ground for my discussions with the Minister for Foreign Affairs, Dr. Hilgard Muller, the first of which took place on 11 April.

12. At the outset of my discussions with the Minister for Foreign Affairs, I referred to the views expressed during the debate in the Security Council when it considered my report on the implementation of resolution 319(1972). I made it clear that the Council expected to receive from the Government of South Africa a complete and unequivocal clarification of its policy regarding self-determination and independence for Namibia which would be in line with the principles set out in resolution 323(1972).

13. As a result of the contacts with the Government of South Africa which are described above and which continued until 30 April 1973, I received from the Minister for Foreign Affairs on the last-mentioned date the following statement in clarification of South Africa's position:

"Desiring to enable and assist the population of South West Africa to exercise their right to self-determination and independence, the Government of South Africa will fully respect the wishes of the whole population of the Territory with regard to the future constitutional organization of the Territory. It has no intention of imposing any constitutional system.

"Any exercise to ascertain the wishes of the population in this regard will not be compromised by any existing political and administrative arrangements. South Africa will not impose upon the population of South West Africa any given system contrary to the wishes of the latter or contrary to the Charter of the United Nations which, in Article I (2), calls on Member States 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.

"All political parties of South West Africa will have full and free participation in the process leading to self-determination and independence. The Government of South Africa has no intention of delaying the act of self-determination and will in co-operation with the Secretary-General and in consultation with the inhabitants, determine such measures which will ensure the achievement of the goal of self-determination and independence."

14. During the meetings in Geneva, the Minister for Foreign Affairs of South Africa also made known the position of his Government on some of the other points which were raised during our contacts. This information is contained in the following text:

"with regard to the question whether individual population groups may suddenly become independent as separate entities, 2/ the South African Government states that it does not envisage such an entuality.

"The South African Government recognizes and accepts, subject to the requirements of public safety, the need for freedom of speech and freedom of political activity including the holding of public meetings, in the process leading to self-determination. The principle applies equally to all political parties of the Territory.

"So far as freedom of movement is concerned, the South African Government has in mind the redelineation of administrative districts aimed at considerably enlarging these districts so as to reduce restrictions on and bring about greater freedom of movement.

"As regards the Territory's status, 3/ the South African Government reiterates, as stated in 1964 in the pleadings in the South West Africa case, that South West Africa has a separate international status. Walvis Bay is of course South African Territory.

"During the discussions the South African Government reaffirmed that its position that it does not claim any part of South West Africa remains unchanged.

2/ See paragraph 8.

3/ See paragraph 7.

"On the basis of present developments, the Government of South Africa anticipated that it might not take longer than 10 years for the population of South West Africa to reach the stage where it will be ready to exercise its right to self-determination."

15. After receiving the South African statement and the additional information contained in paragraph 13 and 14 above and annex I, I informed the Group of Three of the Security Council.

16. Because of the deadline for submission of my report to the Security Council, I was not able to contact all the other parties concerned after receiving the statement of South Africa's position. It should be noted, however, that on 30 March 1973 the President of the United Nations Council for Namibia conveyed to me the views of the Council concerning my contacts with the Government of South Africa and handed to me a consensus adopted by the United Nations Council for Namibia on 27 March, the text of which is reproduced in annex II. Additional contacts with the President of the Council for Namibia took place on 24th and 30th April 1973.

17. In connection with the creation by South Africa of the advisory council, which came into being on 23 March 1973, I received a letter signed by Chief Clemens Kapuuo, the paramount chief of the Hereros, on behalf of the National Convention of Non-Whites, whose leaders I met during my visit to Namibia in March 1972. The text of this letter is reproduced in annex III.

Conclusion

18. A study of the statement reproduced above shows that the position of the Government of South Africa is still far from coinciding with that established in the resolutions of the United Nations concerning Namibia. While it has made more clear South Africa's position on some of the basic questions which arose during the discussions in the Security Council, the statement does not provide the complete and unequivocal clarification of South Africa's policy in regard to self-determination and independence for Namibia envisaged in resolution 323 (1972).

19. The question arises whether, in the light of the results achieved so far, the contacts and efforts initiated pursuant to resolution 309(1972), 319 (1972) and 323(1972) should be continued. Should the Security Council decide to continue these efforts, it should bear in mind my earlier statement to the effect that time and protracted discussion would be required if any progress is to be achieved.

Information concerning the Advisory Council transmitted to
to the Secretary-General by the Minister for Foreign Affairs
of South Africa

1. There is provision for two representatives from each region to serve on the Advisory Council except for the Bushmen and the Tswanas who at the first meeting had one representative each.
2. Where there are regional governments or authorities, the latter were asked to nominate representatives of their own choice. In regions where there is no such authority, i.e. Hereroland, Bushmanland, Kaakoland, Tswanaland and Namaland, the people themselves were invited to make nominations in the manner of their own choice.
3. In view of the importance attached to having an elected element in the Council, it should be emphasized that in those regions with Legislative Councils, elections will be held in the course of this year and next year and a substantial number of the members of the Legislative Council will then have been chosen by way of democratic electoral processes. The newly elected Councils will thereafter be able to submit fresh nominations for membership of the Advisory Council. (For that matter any region or people has the right at any time to change its representatives.) As at present these authorities will retain the right to choose their representatives to serve on the Advisory Council.
4. The first meeting of the Advisory Council was held in Windhoek on 23 March 1973. The following regions were represented. The names of their representatives are given in parenthesis:

Damaraland (Mr. Justus Garoeb; Councillor Andreas Tja-tjamai);
Ovambo (Chief Councillor Filemon Elifas; Councillor Cornelius Njoba);
Kavango (Councillor Alex Kudomo; Mr. Leevi Hakusembe);
Eastern Caprivi (Chief Councillor M. Moraliswand, Councillor M. Mamili)
Bushmanland (Mr. Geelbooi);
Hereroland (Mr. Dawid Tjatjitua, Mr. Munjuku Nguvauva);

Tswanaland (Mr. Dominikus Mokalobatho);
Coloured Population Group (Mr. D. Bezuidenhout; Mr. A.J.F. Kloppers);
White Population Group (Mr. D.F. Mudge; M.E.C.; Adv. E. van Zijl, MEC)

The Rehoboth Council nominated Messrs. Livier and H. Diergaardt to represent Rehoboth on the Council on 21 March. However, it withdrew these nominations until clarity could be obtained on certain questions. Subsequently, on 22 March, the Rehoboth Baster Vervening, which reflects the views of a section of the people of Rehoboth, indicated that it wishes to nominate Dr. B.J. Africa and Mr. P.J. Mouton as candidates. The Prime Minister ruled that Dr. B.J. Africa could attend the meeting as an observer.

In the case of Namaland, senior representatives of the Nama people declined the invitation to nominate representatives to the Advisory Council. The Bondelswartz Group of the Nama people subsequently nominated Mr. Frank Basson, their Acting Headman, to represent them on the Advisory Council. The Prime Minister accorded Mr. Basson observer status.

In the case of regions for which there is no authority (i.e. Bushmanland, Kaokoland, Tswanaland, Hereroland, Namaland) all shades of opinion were consulted at meetings in the various areas. With reference to Hereroland, the invitation to nominate representatives was accepted by certain sections of this population group and rejected by others.

5. The Council will meet periodically under the chairmanship of the Prime Minister. Any representative is free to place any matter on the agenda for future meetings which is of common concern or interest to the Territory as a whole, i.e. any matter which is not of purely regional interest. The number of items proposed for the agenda will determine the frequency of meetings.

6. The Council will be serviced by a secretariat headed by Mr. G.H. Marais whom the Prime Minister appointed, with effect from 1 April 1973, to represent his department in the Territory. Mr. Marais' headquarters will be in Windhoek. He will co-ordinate matters relating to the Advisory Council on a continuous basis. Questions of common interest which it is desired to bring to the Prime Ministers attention will be addressed to Mr. Marais who will refer them to the Prime Minister and furnish the latter's answers. His jurisdiction will extend only to matters of

territory-wide interest and will not include the functions of the Commissioners-General or existing departments. The Prime Minister has instructed Mr. Marais to undertake an extensive journey through South West Africa to advise the various peoples on the work of the Council.

7. From the above, it can be seen that the Advisory Council is still in a formative phase. It is the intention of the Government of South Africa to make the Council, under the chairmanship of the Prime Minister, a meaningful consultative instrument for the Territory. To this end, it is the hope of the Government that it will include members truly representative of all the different groups and that it will study and advise the Prime Minister on all matters of territory-wide concern, including matters relating to the future of the Territory referred to in the third paragraph of the main document. 1/

Thus it is hoped that the council will be of assistance to the Government in facilitating self-determination and independence.

8. It is the intention of the Government of South Africa that, as the Council becomes more experienced and effective, it should progressively become an instrument for the development of co-operation and understanding amongst the inhabitants of the Territory as a whole. It will depend on the contribution of, and interest displayed by, its members as to how the Council will in practice develop.

1/ For the text of this document, see paragraph 13 of the report.

Resolution 323

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Annex II

Text of consensus adopted by the United Nations Council
for Namibia, handed to the Secretary-General by the
President of the Council on 30 March 1973

- A. The Secretary-General should call upon South Africa to forthwith disband the so-called Advisory Council recently established in Namibia.
- B. To main contacts with the South African regime would mean an acceptance of its policy on the part of the United Nations; therefore the Council opposes continuation of the dialogue.
- C. The United Nations and the Council for Namibia should initiate a programme of action with the purpose of making effective the mandate that the Council received in 1967.

Undated letter addressed to the Secretary-General
from Chief Clemens Kapuuo on behalf of the National
Convention of Non-Whites

The National Convention
P.O.Box 7079
WINDHOEK

Dear Sir,

In 1966 South Africa's mandate over Namibia was terminated by a Security Council resolution.

In 1971 this termination was strengthened by the World Court.

Dr. Waldhelm as well as Dr. Escher made it clear to the National Convention that they were for the purpose to try and find a peaceful way in implementing the above mentioned decision and for the withdrawal of the S.A. Government's withdrawal out of Namibia. On what grounds and rights then is the South African Government constituting an advisory council for Namibia.

We reject any council nominated by the South African regime.

Thus we implore the U.N.O. to immediately stop the S.A. Government from its activities in Namibia which can only lead to serious repercussion for all involved.

The National Convention consists of the following political parties: S.W.A.P.O., N.U.D.O., VOLKSPARTY OF REHOBOTH, The Executive Council for the Damaras, S.W.A.N.U. and N.A.P.D.U. (NAMIB AFRICAN PEOPLE'S DEMOCRATIC ORGANIZATION).

We hope for a speedy reply.

(Signed) C. KAPUUN



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CM/502/Part IV/Annex IV
Corr.1

ORIGINAL: ENGLISH

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QUESTION OF NAMIBIA

Corrigendum

Replace the present text of annex II by the attached text.

Annex IIConsensus of the United Nations Council for Namibia regarding developments in Namibia, arrived at during the Council's 167th meeting on Tuesday, 27 March 1973

- 1
1. At its 167th meeting on Tuesday, 27 March 1973, the United Nations Council for Namibia considered, inter alia, recent developments in Namibia which includes the recent reading of the so-called Development of Self-Government for the Nations of South West Africa Amendment Bill in the South African House of Assembly, and the establishment of a so-called Advisory Council in Namibia.
 2. The Council for Namibia expressed grave concern over the situation prevailing in the Territory, especially the establishment of the so-called Advisory Council which is a further threat to national unity and the territorial integrity of Namibia.
 3. Following a statement on the situation in the Territory by the representative of the South West Africa People's Organization and in pursuance of its mandate, the Council for Namibia expressed solidarity with the people in Namibia who had protested against the establishment of the so-called Advisory Council and authorized the President of the Council to inform the people of Namibia by cable of the Council's support for their protest.
 4. Once more the Council considered the occupation of Namibia by South Africa and its application of the policy of "Bantustans or Homelands" to Namibia as illegal. The Council reaffirmed its support of the principle of national unity as well as territorial integrity of Namibia and the right of self-determination and independence for the Namibian people.
 5. The Council decided that a delegation comprising three members and its President should convey to the Secretary-General, to be included in his report to the Security Council in April and to the President of the Security Council, the following consensus:
 - A. The Secretary-General should call upon South Africa to forthwith disband the so-called Advisory Council recently established in Namibia.
 - B. To maintain contacts with the South African regime would mean an acceptance of its policy on the part of the United Nations therefore the Council opposes continuation of the dialogue.
 - C. The United Nations and the Council for Namibia should initiate a programme of action with the purpose of making effective the mandate that the Council received in 1967.

1973-05

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