

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.

Speaking after the vote, the President of the United Nations Council for Namibia said that South Africa's persistent defiance of the Security Council and other organs of the United Nations and its resort to deceptive manoeuvres when subjected to international pressure were a matter of public record. There were certain principles regarding Namibia on which all members of the Security Council were in agreement. It was high time that the Security Council went beyond a mere reaffirmation of agreed principles and bring to an end South Africa's illegal occupation of Namibia. He expressed the hope that, in the context of new and unfolding realities, the Council when it would meet again to consider the question of Namibia, as it had decided to do in the resolution that had just been adopted, would reach a unanimous decision on the action necessary to achieve that objective. He suggested that the Security Council might indicate that it would not hesitate to employ, if necessary, those measures provided for in Chapter VII of the Charter of the United Nations.<sup>675</sup>

The representative of Upper Volta\*, speaking as the current chairman of the African Group, stated that the African States had requested the meeting of the Security Council in the hope that it could take measures to defuse the explosive situation prevailing in Namibia. He urged the Council, and in particular those permanent members that had certain relations with South Africa, to bring its influence to bear so as to compel South Africa to withdraw from the Territory. South Africa should give a solemn commitment on withdrawal and, in order to create a propitious atmosphere for negotiations, also take immediate measures, such as the freeing of political prisoners, the abolition of the laws and practices of *apartheid* and the return of exiles to their homes. In the light of the rapidly changing situation in southern Africa, the United Nations must throw its full weight on the side of freedom and justice and thereby help to avoid further unnecessary bloodshed.<sup>676</sup>

#### COMPLAINT BY SENEGAL

Decision of 23 October 1972 (1669th meeting): resolution 321 (1972)

By letter<sup>677</sup> dated 16 October 1972 addressed to the President of the Security Council, the permanent representative of Senegal requested that a meeting of the Security Council be urgently convened to consider the incident of 12 October on the border between Senegal and Guinea (Bissau), in which a unit of the regular Portuguese army, including five armoured cars, had attacked a Senegalese post in the department of Velingara and then had withdrawn following action taken by the Senegalese army in defence of the territorial integrity of the country. Recalling that the Council had already adopted several resolutions

condemning Portugal for systematic acts of aggression and provocation against Senegal, he added that this latest incident must be considered the most serious and significant, because a deliberately planned act of war was involved.

At the 1667th meeting on 19 October 1972, the Council included the item in its agenda and invited the representatives of Senegal, Mauritania, Algeria and Mali to participate in the discussion.<sup>678</sup> The question was considered at the 1667th to 1669th meetings, held between 19 and 23 October 1972.

At the 1667th meeting the representative of Senegal\* recalled that it was in 1963 that Senegal had first requested the Security Council to find a way to stop the aggressive actions of Portugal. However, Portugal, in defiance of the right of peoples to self-determination and of the resolutions of the Security Council and of the report of the Special Mission sent by the Council to the area in July 1971, had continued its armed incursions into Senegal which were the subject of fresh complaints by Senegal to the Council in 1965, 1969 and 1971. The incident of 12 October doubtless constituted a real act of open war and Portugal had specifically confirmed the incident in a public declaration. It had even presented to Senegal its apologies and offers of compensation for the victims, and had announced that the officer responsible would be court-martialed. It was quite clear that Portugal was able to violate the tenets of international law because of the help it received from its NATO allies. What was really needed, if Portugal was sincere, was that it should create immediate conditions of peace in Guinea (Bissau) by opening negotiations with the PAIGC on the basis of the peace plan submitted by Senegal in March 1969. Meanwhile, the Council, while condemning Portugal for aggression against Senegal should also ask the Portuguese Government to commence at once negotiations in regard to Senegal's peace plan.<sup>679</sup>

At the same meeting the representative of Guinea submitted a draft resolution,<sup>680</sup> sponsored jointly by Somalia and Sudan.

The representative of the USSR, after recalling that the Security Council had censured Portugal several times before for its acts of aggression against Senegal, stated that Portugal had flagrantly violated the most fundamental provisions of the Charter by continuing its acts of aggression against Senegal. It was also violating the Declaration on the Strengthening of International Security which was adopted by the General Assembly at its twenty-fifth session. The Soviet delegation had supported previous resolutions on the question and insisted on the strictest observance of those resolutions. It was ready to accord the same support to any new measures that would deal effectively with the problem.<sup>681</sup>

The representative of Mali\* stated that the latest Portuguese attack should be viewed in the context of the systematic assaults since 1963 against Senegalese villages by Portuguese army units and no further arguments were

<sup>675</sup> 1811th meeting, intervention by the President of the United Nations Council for Namibia.

<sup>676</sup> *Ibid.*, intervention by Upper Volta.

<sup>677</sup> S/10807, SC. OR, 27th yr., Suppl. for Oct.-Dec. 1972, p. 17.

<sup>678</sup> 1667th meeting, paras. 3-6.

<sup>679</sup> *Ibid.*, paras. 9-43.

<sup>680</sup> S/10813, SC, OR, 27th yr., Suppl. for Oct.-Dec. 1972, pp. 20-21.

<sup>681</sup> 1667th meeting, paras. 123-140.

needed to make clear the need for effective action by the Security Council to put an end to that situation. The Council, therefore must base its decision on Chapter VII of the Charter and not on weak recommendations whose non-application would only erode the authority of the United Nations.<sup>682</sup>

The representative of China declared that the Council should condemn Portugal for its aggression against Senegal. In view of Portugal's violation of the relevant resolutions, the Council should consider the application of sanctions, ask Portugal to end its rule over the Territories and call upon all States to give assistance to the struggle of the people under Portuguese domination.<sup>683</sup>

At the 1668th meeting on 20 October 1972, the representative of Italy, taking note of the letter of the representative of Portugal dated 18 October, from which it emerged that the Portuguese authorities had deplored the incident of 12 October, had apologized to the Senegalese authorities, had stated appropriate procedures for punishing those guilty and had offered to pay compensation to the victims, stated that this was the first time this had happened and that any sign of a change in the Portuguese attitude should not be underestimated. The guarantees which the letter stated Portugal was ready to offer could serve to reduce the tension resulting from the incidents in the area. The three-Power draft resolution would benefit from being more in line with certain particular circumstances of the event under consideration, and hence, more balanced by taking into account the position adopted by the Portuguese Government.<sup>684</sup>

At the 1669th meeting on 23 October 1972, the Council had before it a revised draft resolution<sup>685</sup> which had resulted from consultations on the draft resolution submitted by the delegations of Guinea, Somalia and Sudan. In the revised draft resolution, the paragraph, "Taking note of the letter of the representative of Portugal contained in document S/10810", was inserted after the second pre-ambular paragraph, and the first two operative paragraphs were changed to read as follows: "1. *Condemns* the frontier violation and attack on the Senegalese post at Nianao committed by regular forces of the Portuguese army on 12 October 1972; 2. *Recalls* its resolution 294 (1971) condemning the acts of violence and destruction committed by the Portuguese forces against the people and villages of Senegal since 1963;"

Before the vote, the representative of Belgium regretted that the Council had missed an opportunity, however tenuous and fragile it might be, to lessen tensions in the area by not taking note of the assurances that Portugal was prepared to give. At the same time he requested Portugal to take appropriate measures to prevent the repetition of frontier incidents with Senegal.<sup>686</sup>

Subsequently, the representative of Japan, noting that the Portuguese authorities, virtually for the first time, had presented their apologies and offered compensation as well

as necessary guarantees, welcomed the revision of the three-Power draft resolution.<sup>687</sup>

At the same meeting the President speaking as the representative of France stated that Lisbon's goodwill in offering compensation should, preferably, have been more explicitly spelled out and that the wording of paragraph 4 of the draft resolution would have benefited from being more clearly focused on the problem actually before the Council, that of Guinea (Bissau), without having necessarily to refer to a resolution which certain delegations, including the French delegation, had been unable to vote for.<sup>688</sup>

Subsequently, the revised three-Power draft resolution was adopted by 12 votes in favour, to none against, with 3 abstentions.<sup>689</sup>

The resolution reads as follows:

*The Security Council,*

*Considering* the complaint of the Republic of Senegal against Portugal contained in document S/10807,

*Having heard* the Minister for Foreign Affairs of Senegal,

*Taking note* of the letter of the representative of Portugal contained in document S/10810,

*Considering* its resolutions 178 (1963) of 24 April 1963, 204 (1965) of 19 May 1965, 273 (1969) of 9 December 1969, 302 (1971) of 24 November 1971 and the report of 2 February 1971 (E/CN.4/1050) of the Working Group of Experts of the Commission on Human Rights concerning Portuguese acts of violence in Senegalese territory,

*Deeply disturbed* by the attitude of Portugal, which persistently refuses to comply with the relevant Security resolutions,

*Deeply concerned* about the multiplication of incidents which entail the risk of a threat to international peace and security,

*Reaffirming* that only complete respect for the sovereignty and territorial integrity of Senegal and all the African States bordering the territories of Guinea (Bissau), Angola and Mozambique, and for the principle of self-determination and independence defined in particular in General Assembly resolution 1514 (XV), will make it possible to eliminate the causes of tension in those regions of the African continent and create a climate of confidence, peace and security,

1. *Condemns* the frontier violation and attack on the Senegalese post at Nianao committed by regular forces of the Portuguese army on 12 October 1972;

2. *Recalls* its resolution 294 (1971) condemning the acts of violence and destruction committed by the Portuguese forces against the people and villages of Senegal since 1963;

3. *Demands* that the Government of Portugal should stop immediately and definitively any acts of violence and destruction directed against Senegalese territory and scrupulously respect the sovereignty, territorial integrity and security of that State and all other independent African States;

4. *Calls upon* the Government of Portugal to respect the principle of self-determination and independence defined in particular in General Assembly resolution 1514 (XV) and to take immediately all necessary steps to apply that principle;

5. *Declares* that if Portugal does not comply with the provisions of the present resolution the Security Council will meet to consider other steps;

6. *Decides* to remain seized of the question.

After the vote, the representative of the United Kingdom stated that the special circumstances regarding the

<sup>682</sup> 1668th meeting, paras. 18-22.

<sup>683</sup> *Ibid.*, paras. 23-28.

<sup>684</sup> *Ibid.*, paras. 39-50.

<sup>685</sup> S/10813/Rev.1, adopted without change as resolution 321 (1972) of 23 October 1972.

<sup>686</sup> 1669th meeting, para. 4.

<sup>687</sup> *Ibid.*, paras. 19-20.

<sup>688</sup> *Ibid.*, paras. 30-34.

<sup>689</sup> *Ibid.*, para. 35. Adopted as resolution 321 (1972).

incident of 12 October, having been admitted and denounced by the responsible Government, which had also apologized and offered compensation and guarantees, did not call for outright condemnation, but might rather have provided the opportunity to explore means by which the danger of such acts of violence breaking out might be averted.<sup>690</sup>

At the same meeting, the representative of the United States of America stated that the revised draft did not reflect adequately the contents of the communication submitted by Portugal to the Security Council, which explained the Portuguese Government's response, and followed the standard acceptable procedure in international law for rectification of international incidents. The revised draft did not refer to the need to get at the more basic causes of tension in the region, nor to the need to search for some form of peaceful settlement on the part of the parties concerned in the conflict. As to the direction in which the Council should head in dealing with this problem, the United States delegation would continue to press its suggestion of November 1971 to establish a commission to investigate border incidents and to report periodically to the Security Council on progress toward a satisfactory settlement in the region.<sup>691</sup>

#### QUESTION CONCERNING THE SITUATION IN TERRITORIES UNDER PORTUGUESE ADMINISTRATION

In the course of its meetings in Addis Ababa, the Security Council considered among other issues the question concerning the situation in Territories under Portuguese administration and adopted resolution 312 (1972) relating to this question.<sup>692</sup>

**Decision of 22 November 1972 (1677th meeting): resolution 322 (1972)**

By letter<sup>693</sup> dated 7 November 1972 addressed to the President of the Security Council the representatives of Algeria, Botswana, Burundi, Cameroon, Central African Republic, Chad, Congo, Dahomey, Egypt, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Republic of Tanzania, Upper Volta, Zaire and Zambia requested a meeting of the Security Council to examine the situation in the Territories under Portuguese domination. In the letter, it was pointed out that the situation in those Territories came under discussion while the Security Council was examining several complaints made by African States relating to the acts of aggression by Portugal against their sovereignty and territorial integrity. The letter also stated that the situation in the Territories had evolved since 1963 in favour of national liberation movements. As a

result of that progressive trend, the Security Council was asked to take the necessary measures to bring the Government of Portugal to recognize the right of self-determination and independence of the African peoples under its domination and draw up a time-table for the transfer of power to the authentic representatives of the African peoples of Guinea (Bissau), Angola and Mozambique.

By letter<sup>694</sup> dated 15 November 1972 addressed to the President of the Security Council the representative of Portugal expressed regret that the Security Council should have been convened on a request that was misconceived. He stated that the question at issue was beyond the competence of the Security Council, there being no dispute prevailing between Portugal and any of the States whose representatives had requested a Council meeting. The situation in the Portuguese Territories was a matter within the domestic jurisdiction of a Member State and as such, under Article 2, paragraph 7, of the Charter, expressly excluded from consideration by the United Nations.

In a letter<sup>695</sup> dated 15 November 1972 to the President of the Security Council the Secretary-General conveyed the text of resolution 2918 (XXVII) relating to the question of Territories under Portuguese administration adopted by the General Assembly and drew attention to paragraph 7 of the resolution in which the General Assembly recommended that the Security Council should urgently consider taking all effective steps with a view to securing the full and speedy implementation of General Assembly resolution 1514 (XV) and of the related decisions of the Council.

The Secretary-General also conveyed the report<sup>696</sup> dated 11 July 1972 on the implementation of Security Council resolution 312 (1972), containing the replies of Governments to his inquiry concerning action, taken or envisaged by them in implementation of paragraph 6 of that resolution.

At the 1672nd meeting on 15 November 1972 the Security Council adopted<sup>697</sup> the agenda and considered the question at the 1672nd to 1677th meetings between 15 and 22 November 1972. At the 1672nd meeting on 15 November the representatives of Burundi, Ethiopia, Liberia, Madagascar, Nigeria, Sierra Leone, United Republic of Tanzania, Saudi Arabia and Tunisia were invited<sup>698</sup> to take part in the discussion without the right to vote. At the same meeting the Security Council agreed to a request made by the representatives of Somalia and the Sudan, and invited<sup>699</sup> under rule 39 of the provisional rules of procedure, Mr. Marcelino dos Santos, Vice-President of the Frente de Libertação de Moçambique (FRELIMO), Mr. Gil Fernandes, member of the Superior Council of PAIGC and Mr. Manuel Jorge of the Movimento Popular de Libertação de Angola (MPLA). Subsequently, at the 1673rd meeting on 16 November the representatives of Uganda<sup>700</sup> and

<sup>690</sup> 1669th meeting, paras. 38-40.

<sup>691</sup> *Ibid.*, paras. 41-46.

<sup>692</sup> For relevant proceedings see in this chapter the procedural history of the meetings in Addis Ababa under the heading "Consideration of questions relating to Africa with which the Security Council is currently seized and the implementation of the Council's resolutions", pp. 99, 101-102.

<sup>693</sup> S/10828, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972*, p. 30.

<sup>694</sup> S/10833, *OR*, 27th yr., *Suppl. for Oct.-Dec. 1972* p. 47.

<sup>695</sup> S/10836, *GAOR*, 27th session, *Suppl. No. 30*.

<sup>696</sup> S/10734, *OR*, 27th yr., *Suppl. for July-Sept. 1972*, pp. 59-62.

<sup>697</sup> 1672nd meeting, following para. 1.

<sup>698</sup> *Ibid.*, paras. 2-3, 216.

<sup>699</sup> *Ibid.*, para. 4.

<sup>700</sup> 1673rd meeting, paras. 2-3.