

At the same meeting, the Council further decided, at the request of the representatives of Gabon, Mauritius and Nigeria,⁶⁷ to extend an invitation to Mr. Theobald Gurirab under rule 39 of the provisional rules of procedure.

At its 2094th meeting, on 1 November 1978, the Council decided to invite the representatives of Bangladesh, Benin, Guyana, Saudi Arabia, Somalia and Zambia to participate, without vote, in the discussion of the question.

At its 2095th meeting, on 2 November 1978, the Council decided to invite the representatives of Cuba, Mozambique and Yugoslavia to participate, without vote, in the discussion of the question.

At its 2096th meeting, on 6 November 1978, the Council decided to invite the representative of Algeria to participate, without vote, in the discussion of the question.

Resolution 439 (1978)

of 13 November 1978

The Security Council,

Recalling its resolutions 385 (1976) of 30 January 1976, 431 (1978) and 432 (1978) of 27 July and 435 (1978) of 29 September 1978,

Having considered the report of the Secretary-General submitted pursuant to paragraph 7 of resolution 435 (1978),⁶⁸

Taking note of the relevant communications addressed to the Secretary-General and the President of the Security Council,⁶⁹

Having heard and considered the statement of the President of the United Nations Council for Namibia,⁷⁰

Taking note also of the communication dated 23 October 1978 from the President of the South West Africa People's Organization to the Secretary-General,⁷¹

Reaffirming the legal responsibility of the United Nations over Namibia and its continued commitment to the implementation of resolution 385 (1976), in particular the holding of free elections in Namibia under United Nations supervision and control,

⁶⁷ *Ibid.*, document S/12909.

⁶⁸ *Ibid.*, document S/12903.

⁶⁹ *Ibid.*, documents S/12900 and S/12902.

⁷⁰ *Ibid.*, *Thirty-third Year*, 2092nd meeting.

⁷¹ *Ibid.*, *Supplement for October, November and December 1978*, document S/12913.

Reiterating the view that any unilateral measure taken by the illegal administration in Namibia in relation to the electoral process, including unilateral registration of voters, or transfer of power, in contravention of the above-mentioned resolutions and the present resolution, is null and void,

Gravely concerned at the decision of the Government of South Africa to proceed with unilateral elections in Namibia in clear contravention of resolutions 385 (1976) and 435 (1978),

1. *Condemns* the decision of the South African Government to proceed unilaterally with the holding of elections in the Territory from 4 to 8 December 1978 in contravention of Security Council resolutions 385 (1976) and 435 (1978);

2. *Considers* that this decision constitutes a clear defiance of the United Nations and, in particular, the authority of the Security Council;

3. *Declares* those elections and their results null and void and states that no recognition will be accorded either by the United Nations or any Member States to any representatives or organ established by that process;

4. *Calls upon* South Africa immediately to cancel the elections it has planned in Namibia in December 1978;

5. *Demands once again* that South Africa cooperate with the Security Council and the Secretary-General in the implementation of resolutions 385 (1976), 431 (1978) and 435 (1978);

6. *Warns* South Africa that its failure to do so would compel the Security Council to meet forthwith to initiate appropriate actions under the Charter of the United Nations, including Chapter VII thereof, so as to ensure South Africa's compliance with the aforementioned resolutions;

7. *Calls upon* the Secretary-General to report on the progress of the implementation of the present resolution by 25 November 1978.

Adopted at the 2098th meeting by 10 votes to none, with 5 abstentions (Canada, France, Germany, Federal Republic of, United Kingdom of Great Britain and Northern Ireland, United States of America).

Decisions

At its 2103rd meeting, on 4 December 1978, the Council decided to invite the representatives of the Congo and Angola to participate, without vote, in the discussion of the item entitled "The situation in Namibia: letter dated 1 December 1978 from the Chargé d'Affaires a.i. of the Permanent Mission of the Congo to the United Nations addressed to the President of the Security Council (S/12945)".⁷²

⁷² *Ibid.*, *Supplement for October, November and December 1978*.