

The representative of Italy said that during the debate the African delegations had upheld the unconditional inviolability of the sovereignty and territorial integrity of a Member State, strongly rejecting any attempt to weaken or tone down the condemnation of the Israeli raid. On the other hand, Israel and other delegations had strongly upheld the right or the duty of a Government to use appropriate means, including limited and localized use of force, to protect the lives of its endangered nationals in the territory of another State when the latter had proven unable to ensure such protection. There seemed to be little ground for agreement on this point, also because the Council was essentially a political body and not an appropriate forum to settle such a delicate question. The problem, however, could not be ignored and at least might be referred to the International Law Commission in order to lay the groundwork for the adoption of a universally accepted doctrine on the matter and avoid a repetition of the differences which had emerged in the debate.<sup>1338</sup>

The representative of Cuba questioned whether Uganda had resorted to the threat or use of force against Israel or threatened its territorial integrity or independence. The reply was negative. Uganda had been trying to find a solution to the fate of passengers who had been taken by force to its territory.<sup>1339</sup>

Speaking before the vote the representative of the United Republic of Tanzania said that, in view of the confrontation in the Council and in view of the fact that there seemed to be a determination to ignore completely, or at least to gloss over, Africa's legitimate complaint, the sponsors of the three-Power draft resolution had agreed not to press for a vote.<sup>1340</sup>

The representatives of Pakistan,<sup>1341</sup> Guyana,<sup>1342</sup> Benin<sup>1343</sup> and the USSR<sup>1344</sup> declared that the two-Power draft resolution dealt with a subject-matter—the problem of hijacking—which was not on the agenda of the Security Council. They would therefore not participate in the vote on that draft.

At the same meeting the two-Power draft resolution was put to vote and received 6 votes in favour, none against with 2 abstentions. Seven members did not participate in the vote. The draft resolution was not adopted, having failed to obtain the required majority of votes.<sup>1345</sup>

Speaking in explanation of vote, the representative of Japan said that although Japan had supported the two-Power draft resolution, it wished to state that the Israeli military action, *prima facie*, constituted a violation of the sovereignty of Uganda which Japan very much deplored. The draft would have been much better if it had taken note of that point.<sup>1346</sup>

The representative of the United Republic of Tanzania said that in taking the position of not participating in the vote his delegation had felt it would not have been proper either to abstain or to vote against the draft resolution as, by doing so, it would have been expressing its position on the merits of that draft resolution. He added that neither time nor circumstances permitted his delegation to do so.<sup>1347</sup>

#### COMPLAINT BY ZAMBIA AGAINST SOUTH AFRICA

**Decision of 30 July 1976 (1948th meeting): resolution 393 (1976)**

By letter<sup>1348</sup> dated 19 July 1976 addressed to the President of the Security Council, the representative of Zambia requested an urgent meeting of the Council to consider racist South Africa's repeated acts of aggression against Zambia, the latest of which took place on 11 July 1976 at Sialola village in the Western Province. As a result of that attack, 24 people had been killed and 45 seriously injured. The letter stated that this and thirteen other wanton acts of aggression by racist South Africa, which had taken place that year alone, constituted a flagrant violation of Zambia's territorial integrity and a threat to international peace and security in the region.

In a letter<sup>1349</sup> dated 27 July 1976 addressed to the President of the Security Council the representative of Zaire stated that the President and people of Zaire firmly supported the Zambian complaint against South Africa.

At the 1944th meeting on 27 July 1976 the Security Council adopted<sup>1350</sup> the agenda and considered the question at the 1944th to 1948th meetings between 27 and 30 July 1976.

In the course of its deliberations the Council invited the representatives of Botswana, Cuba, Egypt, Ethiopia, Guinea, Liberia, Madagascar, Mauritania, Mauritius, Mozambique, Qatar, Sierra Leone, South Africa, Uganda, Yugoslavia, Zaire and Zambia, at their request, to participate, without vote, in the discussions of the item.<sup>1351</sup>

The Council also extended invitations as requested under rule 39 of the provisional rules of procedure to the Acting President and two members of the United Nations Council for Namibia, to a representative of the Special Committee against *Apartheid* and to Mr. O. T. Emvula of the South West Africa People's Organization of Namibia (SWAPO).<sup>1351</sup>

At the 1944th meeting, on 27 July 1976, the representative of Zambia stated that it was not the first time that the acts of aggression perpetrated against Zambia by South Africa and other racist régimes of southern Africa were brought to the attention of the Security Council and that the existence of these régimes consti-

<sup>1338</sup> 1943rd mtg., paras. 55-67.

<sup>1339</sup> *Ibid.*, paras. 80-90.

<sup>1340</sup> *Ibid.*, paras. 144-148.

<sup>1341</sup> *Ibid.*, paras. 151-155.

<sup>1342</sup> *Ibid.*, paras. 156-158.

<sup>1343</sup> *Ibid.*, para. 159.

<sup>1344</sup> *Ibid.*, paras. 160 and 161.

<sup>1345</sup> *Ibid.*, para. 162.

<sup>1346</sup> *Ibid.*, para. 178.

<sup>1347</sup> *Ibid.*, paras. 187-189.

<sup>1348</sup> S/12147, *OR*, 31st year, *Suppl. for July-Sept. 1976*, p. 24.

<sup>1349</sup> S/12152, *ibid.*, pp. 27-28.

<sup>1350</sup> 1944th mtg., following para. 4.

<sup>1351</sup> For details, see chapter III.

tuted therefore a grave threat to the peace and security of the independent African countries of the region and had implications for international peace and security in general. The act of aggression which took place on 11 July 1976 was committed inside Zambia and constituted a flagrant violation of its territorial integrity. He went on to say that these activities by South Africa were intended to put an end to Zambia's support for the liberation movements which were struggling for the inalienable right of their peoples to self-determination and independence and that such struggle was in accordance with the United Nations and its resolutions. He urged the Security Council to condemn South Africa's aggression against Zambia and its senseless murder of innocent people, demand that South Africa henceforth respect the sovereignty and territorial integrity of Zambia and other front-line States and declare that South Africa should relinquish its illegal hold on Namibia. It should also declare that peace and security in southern Africa were inextricably linked to the liberation of the region and express its unqualified support for SWAPO and other liberation movements in southern Africa.<sup>1352</sup>

At the same meeting, the representative of South Africa said that his Government had no knowledge of an attack on a Zambian village and would never have authorized such an attack. He noted that there had been a number of incidents on both sides of the border in the past involving Zambian nationals and hostile elements enjoying refuge in Zambia, and South Africa had had occasion to make representations to the Zambian Government with respect to some of those incidents.<sup>1353</sup>

The representative of Mauritania, speaking as Chairman of the Group of African States in the United Nations, demonstrated to the Council the concern of the Organization of African Unity (OAU) over the aggression committed by the South African régime against an African State. He said that under the pretext of the right of "hot pursuit" which some States were trying to impose on the rest of the international community, and particularly on Africa, the Pretoria régime was arrogating to itself the right to administer justice by violating the territorial integrity of neighbouring States.<sup>1354</sup>

At the same meeting the representative of the United Nations Council for Namibia declared that the item before the Security Council had particular relevance to Namibia since its territory had been used by South Africa as a springboard for a military assault against Zambia. The presence of the South African administration in Namibia and the militarization of that Territory were incompatible with the commitments of South Africa as a State Member of the United Nations and contributed to the aggravation of tensions and threats to international peace and security in that area. He said that the Council for Namibia vigorously condemned the aggression of South Africa and called upon the Security

Council to demand the withdrawal of the Pretoria régime from Namibia.<sup>1355</sup>

At the 1945th meeting on 28 July 1976, the representative of Romania expressed the view that the Zambian complaint against South Africa was well founded and that the acts of aggression committed by South Africa against Zambia were a threat to the peace and security of the peoples of southern Africa and of the whole world. He urged the Council resolutely to condemn the acts involving the use of force committed by South Africa against Zambia and to take all necessary steps to put an end to such provocations and to the South African policy of replacing law by force.<sup>1356</sup>

At the same meeting the representative of the Special Committee against *Apartheid* stressed the imperative need for mandatory action against South Africa under Chapter VII of the Charter of the United Nations, not only a condemnation of South African aggression against Zambia but the imposition of an arms embargo against South Africa, as requested by the General Assembly.<sup>1357</sup>

The representative of Liberia said that South Africa's categorical denial of any knowledge of the attack against Zambia raised serious questions. She asked the South African representative whether the Government of South Africa was willing to accept and co-operate fully with a fact-finding mission of the Security Council and whether it was willing to make available to that mission all relevant information on its troop movements during the period in question.<sup>1358</sup>

At the 1946th meeting on 29 July 1976 the President drew the attention of members of the Council to the letter<sup>1359</sup> dated 29 July 1976 from the representative of South Africa to the President of the Security Council. The letter stated, in reply to the Liberian representative, that the authorities of the areas concerned had been consulted and had indicated their willingness to co-operate fully. Accordingly, it continued, the South African Government had in principle agreed to the proposal made by the representative of Liberia, and would give its full co-operation as requested.

Making a brief observation on that document the representative of the United Nations Council for Namibia stated that the Council was opposed to any action that would seek to confer any sort of legitimacy on the South African Government in relation to its presence or activities in Namibia. The sending of a fact-finding mission to Namibia with the co-operation of the South African Government would be such an act.<sup>1360</sup>

At the same meeting the representative of the Libyan Arab Republic called upon all nations, particularly the developed countries and the Western powers to implement the relevant resolutions of the United Nations by discontinuing all economic and military assistance to the racist minority régime in South Africa. He urged the

<sup>1352</sup> 1944th mtg., paras. 10-41.

<sup>1353</sup> *Ibid.*, paras. 48-69.

<sup>1354</sup> *Ibid.*, paras. 71-89.

<sup>1355</sup> *Ibid.*, paras. 92-100.

<sup>1356</sup> 1945th mtg., paras. 27-40.

<sup>1357</sup> *Ibid.*, paras. 44-58.

<sup>1358</sup> *Ibid.*, paras. 120-128.

<sup>1359</sup> S/12157, OR, 31st year, Suppl. for July-Sept. 1976, p. 29-30.

<sup>1360</sup> 1946th mtg., paras. 7-11.

Security Council: (1) to take appropriate measures, including action under Chapter VII of the United Nations Charter; (2) strongly to condemn the racist régime of South Africa for its aggression against the Republic of Zambia; (3) strongly to condemn the racist régime of South Africa for using the international Territory of Namibia as a base for aggression against the Republic of Zambia and other African countries.<sup>1361</sup>

The representative of the USSR declared that the Security Council had the right and the duty to apply against South African aggressors the strictest sanctions provided for in the United Nations Charter. South Africa had to be completely isolated in the international arena and an embargo binding upon all countries had to be placed on the delivery of weapons and on economic and other assistance.<sup>1362</sup>

At the 1947th meeting on 30 July 1976, the representative of Guyana introduced the draft resolution<sup>1363</sup> on behalf of the delegations of Benin, Guyana, the Libyan Arab Republic, Pakistan, Panama, Romania and the United Republic of Tanzania. He also introduced two slight editorial alterations to the draft.

At the 1948th meeting on 30 July 1976, the representative of the United Kingdom said that his Government considered that South Africa was in unlawful occupation of Namibia, and that the international Territory could not and must not be used as a base for attacks on neighbouring countries. The United Kingdom did not believe that war, or increased guerrilla activity, was either inevitable or desirable: peaceful solutions were still possible.<sup>1364</sup>

The representative of France stated that the abnormal situation of Namibia was at the root of the problem: there would have been no violation of Zambia's sovereignty if Namibia exercised true self-determination and independence.<sup>1365</sup>

At the same meeting the draft resolution was adopted by 14 votes to none with 1 abstention as resolution 393 (1976).<sup>1366</sup>

The resolution reads as follows:

*The Security Council,*

*Taking note of the letter of the representative of the Republic of Zambia contained in document S/12147,*

*Having considered the statement of the Minister for Foreign Affairs of the Republic of Zambia,*

*Gravely concerned at the numerous hostile and unprovoked acts by South Africa violating the sovereignty, air space and territorial integrity of the Republic of Zambia, resulting in death and injury of innocent people as well as in the destruction of property and culminating on 11 July 1976 in an armed attack which resulted in the regrettable loss of 24 innocent lives and the injury of 45 other persons,*

*Gravely concerned at South Africa's use of the international Territory of Namibia as a base for attacking neighbouring African countries,*

*Reaffirming the legitimacy of the struggle of the people of Namibia to liberate their country from the illegal occupation of the racist régime of South Africa,*

*Convinced that the continuance of the deteriorating situation in southern Africa could constitute a threat to international peace and security,*

*Conscious of the need to take effective steps for the prevention and removal of threats to international peace and security,*

*Recalling its resolution 300 (1971) of 12 October 1971, which, inter alia, called upon South Africa to respect fully to sovereignty and territorial integrity of Zambia,*

*Bearing in mind that all Member States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,*

1. *Strongly condemns the armed attack of South Africa against the Republic of Zambia, which constitutes a flagrant violation of the sovereignty and territorial integrity of Zambia;*

2. *Demands that South Africa scrupulously respect the independence, sovereignty, air space and territorial integrity of the Republic of Zambia;*

3. *Demands that South Africa desist forthwith from the use of the international Territory of Namibia as a base for launching armed attacks against the Republic of Zambia and other African countries;*

4. *Cummins the Republic of Zambia and other "front-line" States for their steadfast support of the people of Namibia in their legitimate struggle for the liberation of their country from illegal occupation by the racist régime of South Africa;*

5. *Declares that the liberation of Namibia and Zimbabwe and the elimination of apartheid in South Africa are necessary for the attainment of justice and lasting peace in the region;*

6. *Further declares that, in the event of South Africa committing further acts of violation of the sovereignty and territorial integrity of Zambia, the Security Council will meet again to consider the adoption of effective measures, in accordance with the appropriate provisions of the Charter of the United Nations.*

Explaining his abstention, the representative of the United States said that several paragraphs of the resolution contained language which was too categorical in the light of the evidence that had been made available. He added that it would have been appropriate for the Council to welcome in its resolution current efforts towards a solution in southern Africa, which the Security Council had long advocated, and to encourage every possible assistance to them.<sup>1367</sup>

Speaking in explanation of vote, the representative of the USSR stated that although his delegation voted in favour of the draft resolution, it would have been ready to adopt a more decisive, more specific text, condemning South Africa and its actions. Such a resolution would have helped to halt the acts of aggression of the racist South African régime.<sup>1368</sup>

The representative of the United Kingdom explained that in accordance with the well-known position of principle of his country his delegation supported the reference to the "struggle", in the fifth preambular paragraph and in operative paragraph 4 of the draft resolution, on the basis that that was a struggle by peaceful means and that problems of this kind were best solved by means set out in Chapter VI of the Charter of the United Nations.<sup>1369</sup>

<sup>1361</sup> 1946th mtg., paras. 65-84.

<sup>1362</sup> *Ibid.*, paras. 88-110.

<sup>1363</sup> 1947th mtg., paras. 28-50. S/12158, was adopted as amended orally as resolution 393 (1976).

<sup>1364</sup> 1948th mtg., paras. 7-10.

<sup>1365</sup> *Ibid.*, paras. 110-115.

<sup>1366</sup> *Resolutions and Decisions of the Security Council, 1976*, p. 12.

<sup>1367</sup> 1948th mtg., paras. 132-137.

<sup>1368</sup> *Ibid.*, paras. 138-143.

<sup>1369</sup> *Ibid.*, para. 144.

**Decision of 11 April 1980 (2211th meeting): resolution 446 (1980)**

By letter dated 8 April 1980<sup>1369a</sup> the representative of Zambia requested an urgent meeting of the Security Council, with a view to the Council taking effective measures to compel the Pretoria régime to desist from committing aggression against Zambia and to respect its sovereignty and territorial integrity.

At the 2209th meeting on 10 April 1980, the Security Council included the letter in its agenda. Following the adoption of the agenda, the Council decided to invite, at the same meeting, the representatives of Angola, Cuba, Liberia, Mauritius, Nigeria and Yugoslavia, at the 2210th meeting, the representatives of Algeria, Guyana, the United Arab Emirates and Zaire, and at the 2211th meeting, the representative of India, at their request, to participate, without vote, in the discussion of the question.<sup>1369b</sup> The Council considered the issue at its 2209th to 2211th meetings on 10 and 11 April 1980.

At the 2209th meeting on 10 April 1980, the representative of Zambia pointed out that the impending independence of the people of Zimbabwe, after years of sacrifice and struggle, was the most significant event in southern Africa. But while the international community welcomed Zimbabwe, the Government of Zambia felt compelled to complain before the Security Council about the escalating South African aggression against Zambia. This complaint showed that the process of liberation in southern Africa was not yet complete, as the people of Namibia were denied their independence and the vast majority of the people of South Africa continued to languish under the oppressive system of *apartheid*.

He recalled earlier instances of systematic South African aggression and referred in particular to Zambia's letter dated 14 September 1979<sup>1369c</sup> bringing to the attention of the international community a list of South African acts of aggression against Zambia from January to September 1979. He stressed the damage incurred by Zambia in this situation and provided a long list of new aggressive acts launched by South Africa and causing loss of life and massive material damage. He noted that Zambia did not share a common border with South Africa, but only with Namibia whose freedom fight under SWAPO his Government fully supported. He added that his Government had once again come to the United Nations Security Council to urge the following course of action against the racist régime in South Africa: The Council should condemn the intensified and unprovoked acts of aggression against Zambia, demand that South Africa withdraw forthwith all its military forces from Zambian territory and respect the sovereignty and territorial integrity of Zambia, and warn South Africa that if new attacks occurred the Council would meet to take measures against it under Chapter VII of the Charter. These pronouncements by the Council constituted the minimum action required in view

of the threat posed to international peace and security by the *apartheid* régime.<sup>1369d</sup>

The subsequent statements during the 2209th, 2210th and 2211th meetings showed unanimous condemnation of the South African acts of aggression against Zambia and general support for a strong warning by the Security Council that it would adopt further measures under the Charter if the South African régime did not heed the demands of the international community.<sup>1369e</sup>

At the beginning of the 2211th meeting on 11 April 1980, the president drew attention to the text of a draft resolution which had been prepared in the course of consultations.<sup>1369f</sup> At the same meeting, the draft resolution was put to the vote, received fifteen votes in favour and was unanimously adopted as resolution 466 (1980).<sup>1369g</sup> It reads as follows:

*The Security Council,*

*Taking note of the letter dated 8 April 1980 from the Permanent Representative of the Republic of Zambia contained in document S/13878,*

*Having considered the statement of the representative of the Republic of Zambia,*

*Gravely concerned at the escalation of hostile and unprovoked acts by the racist régime of South Africa, violating the sovereignty, air space and territorial integrity of the Republic of Zambia,*

*Recalling its resolution 455 (1979), in which, *inter alia*, it strongly condemned the collusion by racist South Africa with the then illegal régime in Southern Rhodesia in acts of aggression against the Republic of Zambia,*

*Grieved at the tragic loss in human life and concerned about the damage and destruction of property resulting from the escalated acts and armed incursions by the racist régime of South Africa against the Republic of Zambia,*

*Deeply concerned that the wanton acts by the racist régime of South Africa are aimed at the destabilization of the Republic of Zambia,*

*Conscious of the need to take effective measures to maintain international peace and security,*

1. *Strongly condemns* the racist régime of South Africa for its continued, intensified and unprovoked acts against the Republic of Zambia, which constitute a flagrant violation of the sovereignty and territorial integrity of Zambia;
2. *Demands* that South Africa withdraw forthwith all its military forces from the territory of the Republic of Zambia, cease all violations of Zambia's air space and, henceforth, scrupulously respect the sovereignty and territorial integrity of the Republic of Zambia;
3. *Solemnly warns* South Africa that, in the event of any further armed incursions against the Republic of Zambia, the Security Council will meet to consider further appropriate action under the provisions of the Charter of the United Nations, including Chapter VII thereof;
4. *Commends* the Republic of Zambia for exercising maximum restraint in the face of serious provocations repeatedly committed against it by the racist régime of South Africa;
5. *Decides* to remain seized of the matter.

<sup>1369d</sup> 2209th meeting (PV), pp. 3-16.

<sup>1369e</sup> See the following statements: at the 2209th meeting: Angola, Cuba (speaking for the Non-Aligned Movement), Liberia (representing the current Chairman of the Organization of African Unity), and Mauritius (speaking on behalf of the African Group), at the 2210th meeting: Algeria, China, the German Democratic Republic, Jamaica, the United Arab Emirates, Yugoslavia and Zaire, and at the 2211th meeting: Bangladesh, France, Guyana, India, Niger, Nigeria, Norway, the Philippines, Portugal, the President (Mexico), Tunisia, USSR, United Kingdom and the United States.

<sup>1369f</sup> S/13887, subsequently adopted without change as resolution 466 (1980).

<sup>1369g</sup> For the vote see 2211th meeting (PV), p. 58-60. See also chapter IV in this Supplement.

<sup>1369a</sup> S/13878, OR, 35th yr., Suppl. for April-June 1980.

<sup>1369b</sup> For details see chapter III in this Supplement.

<sup>1369c</sup> S/13539, OR, 34th yr., Suppl. for July-September 1979.