

At the 2685th meeting, on 23 May 1986, the President drew the attention of the members of the Council to a draft resolution²⁸ submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates.

At the 2686th meeting, on the same date, the President of the Security Council, speaking in his capacity as the representative of Ghana, said that South Africa's attacks against the front-line States were morally indefensible; that they constituted—"by common definition"—State terrorism; that they contravened the letter and spirit of the Charter of the United Nations; and that those attacks, which were committed in the pursuit of the preservation of a system that had been universally condemned, especially by the Security Council, had followed a long chain of similar previous acts of aggression. He further said that failure on the part of the Council to act resolutely in the current instance would mean its inadvertent concurrence in State terrorism, in illegality and in racism. He then referred to the draft resolution (S/18087) before the Council and said that his delegation had accordingly joined the sponsors of the draft text, which called for selective sanctions, limiting itself to actions that legislative bodies and multilateral organizations, especially of Western States, had already instituted against South Africa. He stressed that the intention was to bring the selective measures under a United Nations umbrella and that, with some linguistic adjustments in the draft text, the sponsors were confident that a unanimous decision could be reached. He further stated that Botswana, Zambia and Zimbabwe were entitled, in addition to assistance to improve their defensive capabilities, to full and fair compensation for the damage to life and property.²⁹ When the 2686th meeting resumed following a brief suspension,³⁰ the representative of Trinidad and Tobago orally introduced, on behalf of the sponsors, a number of textual revisions to the draft resolution. In one instance, an explicit reference, in operative paragraph 6 of the draft, to "Chapter VII" (of the Charter of the United Nations) was deleted and replaced with the words "the provisions". He

then requested that the draft resolution (S/18087/Rev.1), as orally revised, be put to the vote.³¹

The representative of the United Kingdom requested a separate vote on the twelfth preambular paragraph and on operative paragraph 6³² of the draft resolution. Following the objection by the representative of Trinidad and Tobago, on behalf of the sponsors of the draft resolution, to the proposal to have a separate vote on the two paragraphs,³³ the draft resolution, as orally revised, was voted upon as a whole; it received 12 votes to 2, with 1 abstention, and was not adopted owing to the negative votes of two permanent members.³⁴ Under the operative paragraphs of the draft text,³⁵ the Council would have, *inter alia*: (a) condemned South Africa for the military raids in Botswana, Zambia and Zimbabwe; (b) demanded full and adequate compensation by South Africa to the three States; (c) commended the Governments of the three States for the support they were rendering to refugees from South Africa; (d) expressed its solidarity with the people of South Africa in their struggle for freedom and justice; (e) determined that the policies and acts of the racist regime of South Africa constituted a threat to international peace and security; and (f) decided, as an effective means of combating the apartheid system and bringing peace and stability in southern Africa, to impose against South Africa selective economic and other measures, including: (i) suspension of all new investments and guaranteed export loans; (ii) prohibition of the sale of krugerrand and all other coins, all new contracts in the nuclear field and all sales of computer equipment; and (iii) restrictions in the field of sports and cultural relations.

³¹*Ibid.*, pp. 121 and 122.

³²*Ibid.*, p. 126. The twelfth preambular paragraph related to a notation by the Council that the policy of "constructive engagement" had not succeeded; while operative paragraph 6, as orally revised, involved an affirmation that the Council was "acting in accordance with the provisions of the Charter of the United Nations".

³³*Ibid.*, pp. 126 and 127. For the procedural discussion in connection with the proposal for a separate vote and rule 32 of the provisional rules of procedure of the Security Council, see also chap. I, part V, of the present *Supplement*, under rule 32.

³⁴For the vote, see S/PV.2686, p. 128.

³⁵See note 28 above.

23. LETTER DATED 25 MARCH 1986 FROM THE PERMANENT REPRESENTATIVE OF MALTA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

LETTER DATED 25 MARCH 1986 FROM THE PERMANENT REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

LETTER DATED 26 MARCH 1986 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

INITIAL PROCEEDINGS

By a letter¹ dated 25 March 1986, the representative of Malta requested an urgent meeting of the Council to discuss the grave situation which had arisen in the Central

Mediterranean and to consider appropriate action to reduce tension and restore peace and stability in the region. On the same date, the representative of the Soviet Union requested² that the Council meet to consider "the situation

¹S/17940.

²S/17941.

in the southern Mediterranean"; and by a letter³ dated 26 March 1986 the representative of Iraq, as Chairman of the Arab Group of States, requested that the Council immediately meet to consider the question of the United States aggression against the Libyan Arab Jamahiriya.

The Council included the three letters in its agenda and considered the matter at its 2668th through 2671st meetings, from 26 to 31 March 1986.

At the 2668th meeting, on 26 March 1986, the Council invited, at their requests, and in accordance with rule 37 of the provisional rules of procedure of the Security Council, the representatives of Czechoslovakia, Hungary, Kuwait, the Libyan Arab Jamahiriya, Malta, Poland, the Ukrainian Soviet Socialist Republic and Viet Nam. The Council also invited, at the 2669th meeting, the representatives of the Byelorussian Soviet Socialist Republic, Cuba, Democratic Yemen, the German Democratic Republic, India, Mongolia, the Syrian Arab Republic and Yugoslavia; at the 2670th meeting, the representatives of Algeria, Ethiopia, the Islamic Republic of Iran and the Lao People's Democratic Republic; and at the 2671st meeting, the representatives of Afghanistan, Mozambique and Nicaragua. At the 2670th meeting, the Council further invited, at the request of the representative of the United Arab Emirates,⁴ Dr. Clovis Maksoud, Permanent Observer of the League of Arab States (LAS).

The first speaker at the 2668th meeting was the representative of the Soviet Union. He stated that on 24 and 25 March the United States of America had committed premeditated acts of armed aggression against the Libyan Arab Jamahiriya, which had led to an abrupt rise in tension in the area and created a threat to international peace and security. Moreover, the United States threatened to commit further acts of aggression.

As evidence of the premeditated nature of the United States attack on the Libyan Arab Jamahiriya, he noted that the United States had directed at Libya a torrent of threats and slanders, had adopted economic sanctions to destabilize the Libyan economy and had publicly discussed ways of physically eliminating the Libyan leadership. In recent months, the United States navy had maintained a constant presence off the Libyan coast. He declared that the United States was practising a policy of State terrorism and was disregarding the Charter of the United Nations, the norms of international law and the fundamental principles of relations among States.

The Soviet representative attributed the United States' aggressions against the Libyan Arab Jamahiriya to its displeasure at Libya's independent, anti-imperialist policy in international affairs and its vigorous opposition to attempts by the United States and Israel to impose separate capitulationist deals on the Arabs. He warned that although the Libyan Arab Jamahiriya, as well as Nicaragua, had borne the brunt of the United States' offensive, all developing countries and the Movement of Non-Aligned Countries itself were targeted. The United States aimed to demonstrate that if its warnings were not heeded, its navy and aircraft were ready to restore its kind of order.

He concluded that it was the duty of the Council to condemn vigorously the aggression committed by the United

States against a Member State, to take all necessary measures to put a halt to those actions and to apply effective measures to protect the sovereignty and territorial integrity of the Libyan Arab Jamahiriya.⁵

The representative of Malta stated that his Government supported adherence to the principles expressed in Article 2, paragraphs 3 and 4, of the Charter in dealing with differences between States. It could not condone the use of force or threats to enforce claims and believed that a military solution was not acceptable, particularly when a State chose to exercise what it considered to be its rights in waters thousands of miles from its territory. The Council must act firmly and urge the United States to stop holding manoeuvres in disputed waters close to the Libyan mainland and to stop attacking Libyan ships and the Libyan mainland.

He noted that many Mediterranean States were promoting the relaxation of tension in their region. That process was being threatened by one super-Power's build-up of armaments in the region, which was provoking the other super-Power to increase its military presence as well.

He cited a statement⁶ made by the Foreign Ministers of the non-aligned Mediterranean countries, meeting at Valletta in 1984, to the effect that freedom of the seas in a closed sea like the Mediterranean should be exercised strictly for the purposes of peace, and that there should be no naval deployment, especially by States outside the region, that directly or indirectly threatened the interests of non-aligned Mediterranean Members.

He further cited the commitments undertaken by the participants in the Conference on Security and Cooperation in Europe (CSCE). Principles II, V and X of the Declaration on principles guiding relations between participating States dealt with refraining from the threat or use of force, the peaceful settlement of disputes and the fulfilment in good faith of obligations under international law. He pointed out that the CSCE participants had also agreed to ensure that those principles would be applicable in their relations with the Mediterranean non-participating States. He stated that one of the participating States was failing to abide by those undertakings.

The representative of Malta appealed to the parties to seek a solution as envisaged under Chapter VI of the Charter through the peaceful means of their choice. He recalled that his Government had appealed to the two sides in January to hold direct talks; following an intensive effort, the Prime Minister of Malta had secured Libyan agreement, but the United States had not reacted positively. Malta reiterated its appeal to the United States to enter into direct consultations with the Libyan Arab Jamahiriya and stood ready to assist and cooperate in any action that could resolve the current difficulties and open the way for their just and lasting resolution.⁷

The final speaker at the 2668th meeting was the representative of the United States, who maintained that the cause of the conflict under consideration was the Libyan Arab Jamahiriya's unfounded claim over a vast area of the Mediterranean Sea and its attacks on those who exercised their rights to navigate in and fly over the area.

³S/17946.
⁴S/17948.

⁵S/PV.2668, pp. 7-12.

⁶S/16758.

⁷S/PV.2668, pp. 12-18.

He declared that the United States, by entering the Gulf of Sidra, had been defending freedom of navigation, which was essential to maintaining international security and the flow of commerce. All nations shared a fundamental interest in maintaining and defending the principles of freedom of navigation and overflight.

He stated that the United States regularly conducted naval and air exercises in every part of the world, including in the Gulf of Sidra. In the current instance, advance notice of the exercise had been posted in accordance with international practice, and the exercise had been publicly and widely recorded. He recalled that on 24 March 1986, the Libyan Arab Jamahiriya had notified the Secretary-General that it would disregard the role of the Council and "resort to its own strengths", and a day later, without provocation, Libyan forces had launched six surface-to-air missiles against United States vessels and aircraft in and over international waters. He claimed that his country's response to the attack had been measured, appropriate to the circumstances and in conformity with Article 51 of the Charter, and he warned that any further attacks would also be resisted with force, if required.

He concluded that, in view of the grave challenge to freedom of navigation in international waters posed by Libyan actions, the Council should reaffirm freedom of navigation and overflight and condemn those nations that resorted to force to violate those norms.⁸

At the 2669th meeting, on 27 March 1986, the representative of the United Kingdom of Great Britain and Northern Ireland declared that the principle of the right to freedom of navigation in international waters was at stake in the current discussion, and he affirmed his Government's commitment to that principle, including innocent passage through territorial seas. The United Kingdom deplored any unjustified threat to or action against navigation, whenever and wherever it occurred.

He stated that there had been no justification for the Libyan attack and that it constituted a breach of Libya's obligations under international law, in particular Article 2, paragraph 4, of the Charter of the United Nations. He further stated that the United States forces had exercised their right of self-defence under Article 51 of the Charter in a proportionate and justifiable manner. He concluded that the Council should uphold the principles concerned, urge the parties to observe restraint and call for the strict observance of international law.⁹

The representative of France stated, among other things, that his Government considered the Libyan Arab Jamahiriya's claims to sovereignty over the Gulf of Sidra to be without historical foundation and unjustified under the 1958 and 1982 Conventions on the Law of the Sea. Such claims were particularly suited to arbitration or international jurisdiction, and any threat of armed intervention to enforce such territorial claims must be ruled out. France hoped that the principles of international law, especially those relating to freedom of navigation in international spaces, would be safeguarded in a peaceful fashion in order to avoid military confrontations whose consequences would be difficult to control.¹⁰

The representative of India expressed his Government's conviction that enduring peace must be based on acceptance of the principles of political and socio-economic pluralism by States and adherence to the principles of non-use of force, non-intervention and non-interference.

He recalled that in 1985 the Ministerial Conference of Non-Aligned Countries had called for the transformation of the Mediterranean region into a region of peace, security and cooperation and had urged States not to use their military forces and facilities against Mediterranean members of the Movement of Non-Aligned Countries. On 26 March 1986, the Movement's Coordinating Bureau had affirmed its full support for and solidarity with the Libyan Arab Jamahiriya in safeguarding its independence, stability, sovereignty and territorial integrity and had demanded a stop to military operations endangering the security and territorial integrity of the Libyan Arab Jamahiriya, as well as regional and international peace and stability. The Coordinating Bureau had found the United States' action especially condemnable in view of its responsibilities as a permanent member of the Security Council.¹¹

At the 2670th meeting, on 27 March 1986, the representative of the Syrian Arab Republic asserted that the question before the Council had no relation to freedom of navigation or to a dispute regarding sovereignty over the Gulf of Sidra. He stated that there were scores of disputes over gulfs, borders and sovereignty between States, and they were usually settled by internationally recognized peaceful means.

He claimed that the United States wanted to eliminate the Libyan regime because of Libya's commitments to the purposes and principles of the Charter of the United Nations, the objectives of the Movement of Non-Aligned Countries, support for decolonization in all forms, the liberation of Arab territories from Zionist occupation and resistance against conspiracies aimed at liquidating the question of Palestine and entrenching the Israeli occupation of Arab territories. He declared that any United States action against any Arab State was aimed at serving Israel, with which, since 1981, the United States had had a strategic alliance designed to impose hegemony and control over the Arabs. The United States was trying to prepare public opinion to accept military action in the Arab region by convincing it that there was terrorism that must be fought, while the recent aggression had been intended to distort the struggle in the region and to divert attention from Israel's crimes against the Arab people in Palestine, southern Lebanon and the occupied Golan Heights.

The representative of the Syrian Arab Republic asserted that the future of international peace and security depended upon the Council's effectiveness in standing up to this aggression. The Council should strongly condemn the American act of aggression, take measures to effect the withdrawal of United States forces from the Gulf of Sidra and call upon the United States to withdraw its bases from the Mediterranean.¹²

The representative of China expressed his Government's concern over recent United States actions. China opposed and condemned all actions violating the norms guiding international relations and encroaching upon the territorial

⁸Ibid., pp. 18-22.

⁹S/PV.2669, pp. 32-37.

¹⁰Ibid., pp. 37-38.

¹¹Ibid., pp. 52-56.

¹²S/PV.2670, pp. 11-17.

sovereignty of other countries. China called upon the United States to cease its military threat against the Libyan Arab Jamahiriya, and called upon both sides to resolve their differences peacefully, in accordance with the means and procedures provided in the Charter.¹³

The representative of the Libyan Arab Jamahiriya told the Council that on 24 and 25 March 1986 the United States had engaged in manoeuvres that violated Libya's sovereignty, had entered Libyan territorial waters and had bombed Libyan territory. He reported that, already, three months into 1986, the United States had carried out four sets of manoeuvres adjacent to the Libyan coast; and since 1981, it had carried out more than 18. The United States had established fleets of warships alongside the Libyan Arab Jamahiriya and other Mediterranean States, which in itself was a continuous source of threat and aggression and constituted interference in their sovereign decision-making powers. The Libyan Arab Jamahiriya advocated the transformation of the Mediterranean into a zone of peace and cooperation from which all military fleets should be withdrawn.

The representative of the Libyan Arab Jamahiriya denied that the United States had been acting in self-defence when it bombed Libya, pointing out that the two countries were thousands of kilometres away from each other. The United States had arrogated to itself the right to reject the national legislation of certain States, claiming that it was dangerous to the United States and proclaiming the right to oppose it and to exercise self-defence.

For that reason, he argued, the conflict involved the whole world and threatened all States that adopted political stands and national legislation not to the liking of the United States. Moreover, the aggression against the Libyan Arab Jamahiriya represented a grave precedent which other States might use in the future.

Regarding the United States' claim to have sent its fleet to the region to impose respect for international law and peaceful navigation, he stated that it was tantamount to claiming that it had received a mandate from the international community, without consultations. He called upon the Council to condemn the United States action and activities, which were contrary to the rule of law and peaceful cooperation.¹⁴

The representative of the Islamic Republic of Iran stated that the military manoeuvre of the United States had been aimed at covering up the defeat of its campaign for global economic sanctions against the Libyan Arab Jamahiriya by redirecting public attention from its foreign policy failures to its military might. The United States claimed it was defending freedom of navigation, but what international conventions recognized was the right of innocent passage. He cited article 17 of the United Nations Convention on the Law of the Sea, entitled "Right of innocent passage", and article 19, paragraphs 2 (a) and (b), of that Convention, which stated that exemptions from innocent passage included, *inter alia*, any threat or use of force or any exercise or practice with weapons. Moreover, article 300 of that Convention referred to good faith as an important principal concept in the overall argument of freedom of navigation and innocent passage.

The Islamic Republic of Iran considered that to label so many ships, surveillance devices and aircraft carriers "innocent passage" and to have recourse to the right of freedom of navigation in this instance was an insult to the intelligence of the international public.¹⁵

Dr. Clovis Maksoud, Permanent Observer of the League of Arab States, noted that the League had strongly condemned the deployment of American warships in the Gulf of Sidra. He stated that the complaint by the Libyan Arab Jamahiriya was shared by the entire Arab world, not only because a threat to the security of one Arab State constituted a threat to all, but also because members of the League did not want to see such a precedent set.

He argued that if each time a State wanted to test another State's claims regarding the scope of its territorial waters in which it deployed warships and staged military exercises, the way would be opened to international anarchy and brinkmanship, which could escalate, the next time, into something that the world would come to regret deeply. The United States claimed that its reason for going into the Gulf of Sidra was to challenge the legal position taken by the Libyan Arab Jamahiriya. Dr. Maksoud suggested that the Libyan claim was not without logic, and if it was to be challenged on either legal or economic grounds, the many peaceful avenues for doing so should have been exhausted before the exercise of any military option.

The League of Arab States did not challenge the right to challenge, but it condemned the instruments to which the United States had resorted. Given the background of adversarial relations between the two countries, including the recent imposition by the United States of economic sanctions against the Libyan Arab Jamahiriya, deploying the American navy in the Gulf could be interpreted as a deliberate provocation. Dr. Maksoud concluded that it was the responsibility of the Council to help close the option of military deployment and set in motion incentives for States that wanted to test the legality of the Libyan Arab Jamahiriya's claim or a similar claim to resort to legal, political and diplomatic avenues, institutions and recourses.¹⁶

The United States, the Soviet Union and the United Kingdom each exercised its right of reply at the 2670th meeting.

At the 2671st meeting, on 31 March 1986, the President drew the attention of members to a draft resolution¹⁷ submitted by Bulgaria and the Soviet Union, by which the Council would have expressed deep concern about the threat to peace and security in the Mediterranean as a result of the United States attack against the Libyan Arab Jamahiriya, and reaffirmed the obligation of all Members to refrain from the threat or use of force, in accordance with the Charter of the United Nations; firmly condemned the act of armed aggression against Libya; demanded an immediate halt to any hostile action against Libya and requested that the United States immediately withdraw its forces from the area; considered Libya entitled to compensation for the loss of lives and property resulting from the attack; and decided to remain seized of the matter.

There were several additional speakers at the 2671st meeting, including the representatives of the Libyan Arab

¹³Ibid., pp. 24-27.

¹⁴Ibid., pp. 27-32.

¹⁵Ibid., pp. 36-42.

¹⁶Ibid., pp. 48-57.

¹⁷S/17954.

Jamahiriya and the United States of America, who again exercised their right of reply. The draft resolution was not put to a vote. At the close of the meeting, the President stated that the date of the next meeting of the Council to consider the matter would be fixed by the President for the

month of April following consultations with the members of the Council.¹⁸

¹⁸S/PV.2671, p. 39.

24. LETTER DATED 12 APRIL 1986 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF MALTA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Decision of 14 April 1986 (2673rd meeting): adjournment of the meeting to the following day

By a letter¹ dated 12 April 1986 addressed to the Secretary-General, the representative of the Libyan Arab Jamahiriya transmitted the text of a message addressed to the Secretary-General from the Secretary of the People's Committee of the People's Bureau for Foreign Liaison of the Libyan Arab Jamahiriya, concerning the deteriorating security situation in the Mediterranean as a result of the decision of the United States of America to stage new military aggression against the Socialist People's Libyan Arab Jamahiriya. In the message, the Secretary of the People's Committee of the People's Bureau for Foreign Liaison of the Libyan Arab Jamahiriya had stated that aircraft carriers and other naval units of the United States of America were proceeding towards the Libyan coast for the purpose of staging military aggression against his country, on the pretext of taking revenge on Libya for acts with which Libya had denied any links. He had also recalled that, less than two weeks earlier, the United States had dispatched units of its fleet which had staged aggression against the Libyan Arab Jamahiriya, thereby violating the integrity of its internal waters and its sovereignty over its coast and its territory. It was stated that, while the Security Council meeting which had convened to consider the previous United States military aggression against the Libyan Arab Jamahiriya at the request of Malta and the Soviet Union had not yet concluded its consideration, all the speakers at the Council's meetings² had condemned and censured the aggression, and that the failure of the Council to adopt deterrent measures had caused the United States to persist in aggression and enabled it to obtain political and military assistance from permanent members of the Council and States Members of the Organization in order to consecrate the law of aggression and make it the law of nations. It was further stressed that, faced with United States preparation for aggression against the Libyan Arab Jamahiriya with the collaboration of the Atlantic Alliance in flagrant violation of the Charter of the United Nations and the norms of international law, the Socialist People's Libyan Arab Jamahiriya had considered itself in a state of legitimate self-defence under Article 51 of the Charter of the United Nations to protect its sovereignty and safeguard its independence, including requesting the implementation of the mutual defence agreements and treaties concluded by it at any level.

By a letter³ dated 12 April 1986 addressed to the President of the Security Council, the representative of Malta requested that the Council be convened immediately to consider and take appropriate and urgent action to stop the repeated threat of use of force, as well as the imminent resort to armed attack in the Central Mediterranean.

At its 2672nd meeting, on 12 April 1986, the Security Council included in its agenda⁴ the item entitled "Letter dated 12 April 1986 from the Chargé d'affaires a.i. of the Permanent Mission of Malta to the United Nations addressed to the President of the Security Council" and considered the item at the 2672nd and 2673rd meetings, on 12 and 14 April 1986. In the course of its deliberations, the Council invited, at their request, the representatives of the Libyan Arab Jamahiriya, Malta, the Syrian Arab Republic and the Ukrainian Soviet Socialist Republic to participate, without vote, in the Council's discussion of the item. The Council also extended an invitation, as requested, under rule 39 of the provisional rules of procedure of the Security Council, to Mr. Clovis Maksoud, Permanent Observer of the League of Arab States.⁵

At the same meeting, the representative of Malta said that, for the second time in less than two weeks, his Government had considered it necessary to request the convening of the Security Council to give urgent consideration to the grave and dangerous situation which had arisen in the Central Mediterranean. He recalled his delegation's statement⁶ before the Council on 26 March 1986 conveying the appeal for reason and prudence and underlining the belief of the Government of Malta that all disputes between States should be settled by the peaceful means envisaged in Chapter VI of the Charter of the United Nations—namely, negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice—and not by resort to the threat or use of force. He stated that reports over the last 24 hours gave his delegation reason to believe that a real risk of imminent resort to the use of force in the Central Mediterranean had again arisen, and that his Government once again appealed to all parties concerned to exercise the utmost restraint and to act in full conformity with the principles and purposes of the Charter of the United Nations and to ensure that they undertook no measure which would create a threat to peace

¹S/17983.

²For the Council's consideration of the question at its 2668th to 2671st meetings, held between 26 and 31 March 1986, see sect. 23 above.

³S/17982.

⁴See S/PV.2672, p. 2.

⁵For details on the invitations under rules 37 and 39 of the provisional rules of procedure of the Security Council, see chap. III of the present *Supplement*.

⁶S/PV.2668, pp. 12-18. See also sect. 23 above.