

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.<sup>18</sup>

<sup>18</sup>S/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 letter<sup>1</sup> 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 meetings<sup>2</sup> 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 letter<sup>3</sup> 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 agenda<sup>4</sup> 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.<sup>5</sup>

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 statement<sup>6</sup> 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

<sup>1</sup>S/17983.

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

<sup>3</sup>S/17982.

<sup>4</sup>See S/PV.2672, p. 2.

<sup>5</sup>For 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*.

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

and security in the area and beyond. He further said that his Government also considered that the situation called for immediate action by the Security Council under Articles 33 and 34 of the Charter of the United Nations and that, for that purpose, his delegation was submitting a draft resolution<sup>7</sup> for urgent consideration by the Council with the objective of putting an immediate halt to any further action that might lead to the use of force, and of entrusting the Secretary-General with full powers to take whatever action was necessary for the maintenance of peace in the Central Mediterranean. He concluded by urging, while the Council was seized of the matter, a complete cessation of all forms of action which could further aggravate the situation, and by appealing to all States Members of the United Nations, particularly the members of the Council, to act in a manner which would permit the Secretary-General to fulfil his functions under the Charter.<sup>8</sup>

At the 2673rd meeting, on 14 April 1986, at the outset of the Council's discussion the President drew the attention of the members of the Council to a draft resolution<sup>9</sup> that had been submitted by Malta. Under the draft text, the Security Council would have expressed concern at the mobilization of naval forces in the Central Mediterranean in preparation for a military attack on the Libyan Arab Jamahiriya; reaffirmed the obligation of all Member States to refrain from the threat or use of force in the Central Mediterranean; called upon all parties concerned to desist from all further action which could lead to the use of armed force; and entrusted the Secretary-General to take immediate appropriate action with the parties concerned to ensure that only the peaceful means envisaged by the Charter were utilized to reconcile any differences between them.

At the same meeting, the representative of the Libyan Arab Jamahiriya said that, two weeks ago, the United States had invoked "freedom of navigation" as a pretext for its flagrant act of armed aggression in Libyan territorial waters and on Libyan territory in violation of the Charter of the United Nations and the norms of international law and that, while the Security Council had not concluded its consideration of that complaint,<sup>10</sup> which had been brought before it by the Soviet Union, Malta and the Group of Arab States, the Council's failure to adopt a resolution had encouraged the United States to pursue its aggression. He said that statements by United States officials over the past few days and the orders that had been issued to the United States fleet to proceed towards Libya's shores constituted a blatant violation of the Charter of the United Nations and of the norms of international law. He stressed that there were no grounds or evidence for the barrage of American allegations ascribing to the Libyan Arab Jamahiriya the responsibility for the acts of terrorism which were taking place in the world, including the responsibility for the incidents at the Rome and Vienna airports, despite categorical evidence of statements by officials of the States concerned that the Libyan Arab Jamahiriya had nothing to do with the incidents. Since plans for an act of aggression had already been made, as affirmed in statements of all United

States officials, the situation was quickly approaching the point of explosion; in the event of an American attack, the Libyan Arab Jamahiriya would be bound to undertake legitimate self-defence under the provisions of Article 51 of the Charter. He stated that the Security Council must take measures within the next few hours to contain the situation and, as the organ entrusted with the task of maintaining international peace and security, the Council must stand firm in opposing and condemning all instances of the use of force.<sup>11</sup>

The representative of the United States of America supported the view that it was the primary responsibility of the Security Council to maintain peace and security; in that connection, there was no action the Council could take more useful than to cause those who were violating international law in general, and Article 2, paragraph 4, of the Charter of the United Nations in particular, to cease the violations. He clarified that he was not speaking of an isolated instance of a use of force in violation of Article 2, paragraph 4, but what the Council was faced with was a persistent course of conduct by a Member State, the Libyan Arab Jamahiriya, in flagrant disregard of the most fundamental rules of international law. He said that Libyan armed forces were then present and in action on the territory of neighbouring Chad and that Libyan armed forces had opened fire a few weeks ago on American naval forces that were operating on and over international waters on the high seas. It was a long-established and firm principle that the force prohibited by Article 2, paragraph 4, of the Charter was that used by uniformed members of the armed forces of a country, but it was just as much a violation of Article 2 when individuals in civilian clothes planted bombs in airplanes or in crowded cafes, and the fact that such actions, which were targeted on innocent civilians, also violated other rules of law and were correctly described as "terrorist acts" in no way decreased the extent to which they violated Article 2, paragraph 4. He further recalled that Article 2 also prohibited the threat of force and said that, in addition to using force, the Government of the Libyan Arab Jamahiriya had also threatened the use of force, not only against American citizens, but against anyone who was allied with the United States or shared their view, and that the conduct of the Libyan Government was the conduct of an outlaw regime which was prepared to trample on, and did trample on, the international norms that were the hallmark of a civilized international community. Specific threats had been made against European cities, despite the protestations of innocence that had been heard at the Council table. He referred to "latest reports" from the Libyan Arab Jamahiriya regarding plans to move foreign workers to military bases; if true, they indicated an intention to use civilians to shield military operations, and such a move would be another violation of the norms of civilized conduct and a truly horrible abomination. Any effort at preventive diplomacy must focus on ways and means of ending the consistent policy of violation of fundamental norms and deal with the course of illegal conduct by the Government of the Libyan Arab Jamahiriya. While the use of force in violation of Article 2, paragraph 4, gave rise to a right of self-defence, the right of self-defence, as Article 51 made expressly clear, was an inherent right restricted by nothing in the Charter of the United Nations.

<sup>7</sup>For procedures concerning the submission of proposals or draft resolutions by invited representatives, see chap. III, part III, of the present Supplement.

<sup>8</sup>S/PV.2672, pp. 3-5.

<sup>9</sup>S/17984.

<sup>10</sup>See sect. 23 above.

<sup>11</sup>S/PV.2673, pp. 4-11.

There were specific procedures set forth in connection with the exercise of the right, and Article 51 specifically required that "measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council". The representative recalled that, when the United States had been forced to respond to the Libyan attacks on its aircraft and ships operating on and over international waters, his Government had immediately reported the fact to the Council; it was revealing that Libya's contempt for the law of the Charter extended even to such a procedural requirement. Although Libya's forces were present in Chad, Libya had already fired missiles at their planes and ships, and although Libya had used force against innocent civilians and civilian targets, the Security Council had received no report that had been filed by the Libyan Arab Jamahiriya pursuant to the requirements of Article 51. He said that they were faced with a regime that considered itself outside the law, that considered itself unrestricted by the Charter, unaffected by global condemnations of terrorism and, evidently, without any obligation to honour the rules of civilized conduct and human rights. He further stated that, if the Council were to face its responsibilities and seek to reduce tensions in the area which the Libyan Arab Jamahiriya felt free to threaten, it must begin with measures to bring Libya into the fold of nations for which the requirements of the Charter were imperatives, and that any action by the Council must be grounded on and explicitly address the persistent illegal conduct of the Libyan Arab Jamahiriya, which had caused much suffering and heightened tension.<sup>12</sup>

The representative of the Union of Soviet Socialist Republics referred to the series of Council meetings<sup>13</sup> that had been convened at the initiative of the Soviet Union and other States, and said that the militaristic course of the use of force by the United States against the Libyan Arab Jamahiriya had been the subject of widespread condemnation and that an unqualified demand had been addressed to Washington that it immediately halt the policy and remove its naval units from the Libyan coast. Unfortunately, a cloud of blackmail and threats was once again rising from the shores of the Potomac and calls were being issued from Washington for the Libyan leadership to be taught a lesson by military means. Highly placed officials in Washington were talking about the possible targets of a strike against Libyan territory, thereby revealing that the United States was making intensive preparations for a new act of aggression against the Libyan Arab Jamahiriya even to the point

of provoking a conflict in the region that could threaten international peace and security. Nothing could justify the use of force or the provocative disregard of the Charter of the United Nations and the basic norms of international law. The Soviet representative then reiterated his Government's warning, at the Council's prior meetings,<sup>14</sup> that the policy of force against the Libyan Arab Jamahiriya was testimony to the United States policy of "new globalism" which had been taking on an increasingly dangerous and belligerent character, posing a threat to world peace. He stressed that the Security Council, to fulfil its duty under the Charter as the supreme body responsible for the maintenance of international peace and security, must prevent the situation from getting out of control by utilizing the full potential of preventive diplomacy, as many members of the Council had repeatedly advocated. He further specified that the Security Council must make clear its fundamental view of the "militaristic actions" of the United States, wholeheartedly support Libya's sovereignty and territorial integrity and demand unequivocally that the United States cease its policy of aggression, armed provocation and threats against Libya and withdraw its armed forces from Libyan shores. He concluded with reference to a statement in which the General Secretary of the Central Committee of the Communist Party of the Soviet Union, Mr. Mikhail S. Gorbachev, had proposed that an international conference of the Mediterranean States, States adjacent to the area, the United States and other interested parties should be convened to consider measures ranging from confidence-building measures in the military field to the reduction of military forces and military activities and the withdrawal from the Mediterranean of nuclear-weapon-bearing vessels. He said that the Soviet Union had expressed its readiness to enter immediately into talks with the United States on the question of the simultaneous and mutual withdrawal of their naval units from the Mediterranean with the aim of the normalization of the situation in the area, the reduction of the level of military confrontation and the transformation of the region into a zone of stable peace and good-neighbourliness.<sup>15</sup>

At the conclusion of the 2673rd meeting, on 14 April 1986, the President stated that a number of representatives had indicated that they wished to speak, but not before the following day, and that, consequently, the next meeting of the Council to continue consideration of the agenda item would take place the following day, at 11 a.m.<sup>16</sup>

<sup>12</sup>*Ibid.*, pp. 11-16.

<sup>13</sup>See sect. 23 above.

<sup>14</sup>S/PV.2668, pp. 7-12. See also sect. 23 above.

<sup>15</sup>S/PV.2673, pp. 16-21.

<sup>16</sup>*Ibid.*, p. 22. For suspension and adjournment of meetings under rule 33 of the provisional rules of procedure of the Security Council, see chap. I, part V, of the present *Supplement*.