

25. LETTER DATED 15 APRIL 1986 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE LIBYAN ARAB JAMAHIRIYA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

LETTER DATED 15 APRIL 1986 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF BURKINA FASO TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

LETTER DATED 15 APRIL 1986 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE SYRIAN ARAB REPUBLIC TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

LETTER DATED 15 APRIL 1986 FROM THE PERMANENT REPRESENTATIVE OF OMAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

INITIAL PROCEEDINGS

By a letter¹ dated 15 April 1986 addressed to the President of the Security Council, the representative of the Libyan Arab Jamahiriya requested that the Council meet immediately to consider and adopt urgent and effective measures against the armed military aggression staged by the United States of America against it.

A number of letters (from the representatives of Burkina Faso,² the Syrian Arab Republic³ and Oman, in his capacity as Chairman of the Arab Group⁴), condemning the act of aggression by the United States against the Libyan Arab Jamahiriya and requesting an immediate Security Council meeting, had been received by the President of the Security Council.

Decision of 21 April 1986 (2682nd meeting): rejection of five-Power draft resolution

At its 2674th meeting, the Security Council included the item in its agenda⁵ and considered it at its 2674th to 2680th, and 2682nd to 2683rd meetings, on 15 to 18, 21 and 24 April 1986. In the course of the meetings, the representatives of Afghanistan, Algeria, Bangladesh, Benin, Burkina Faso, the Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Democratic Yemen, the German Democratic Republic, Hungary, India, the Islamic Republic of Iran, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Malta, Mongolia, Nicaragua, Oman, Pakistan, Poland, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic, Uganda, the Ukrainian Soviet Socialist Republic, Viet Nam and Yugoslavia were invited, at their request, to take part in the discussion without the right to vote.⁶

At its 2680th meeting, the Council decided to invite by vote, in accordance with past practice, the representative of the Palestine Liberation Organization (PLO) to participate in the discussion.⁷

At the 2674th meeting, the representative of the United Arab Emirates charged the United States with having turned its back on the use of peaceful means of settling political and ideological differences in flagrant violation of the Charter of the United Nations and the rules of international law by launching an armed aggression against the territory of an independent State, causing innocent victims indiscriminately. He further charged that his country held the United States responsible for the act of aggression against the Libyan Arab Jamahiriya and it also held the United Kingdom of Great Britain and Northern Ireland responsible for authorizing the use of bases on its territory for the purpose of launching a military act of aggression against the Libyan Arab Jamahiriya.⁸

The representative of the Libyan Arab Jamahiriya condemned the United States for violating Article 2 (4) of the Charter by launching savage air raids against Libyan civilian targets. He also charged the United States with violating Article 51 of the Charter, which refers to the right of legitimate self-defence and which asks that all measures taken by Members in the exercise of this right be reported to the Council. He charged that the United States had not informed the Council of the designs of the United States to use force. The launching of the raid against the Libyan Arab Jamahiriya by the United States had been unjustified and unprovoked. He called upon the Council to adopt a resolution that would firmly and unequivocally condemn international terrorism, as practised by the United States, since, under the terms of the Charter, it was the Council's responsibility to safeguard international peace and security. Condemning the United Kingdom for providing the logistics and giving support to the United States, he further stated that the gravity of the threat to international peace and security was compounded by the fact that the raid had taken place with the blessing and support of certain States, first and foremost, the United Kingdom.

The representative of the United States, referring to Article 51 of the Charter of the United Nations, stated in his defence that the United States, in the exercise of its inherent right of self-defence, had ordered its forces to respond to hostile Libyan military attacks in international waters in the Gulf of Sidra. The United States forces had struck targets that were the sites used to carry out the Libyan Arab

¹S/17991.

²S/17992.

³S/17993.

⁴S/17994.

⁵S/PV.2674.

⁶For details, see chapter III of the present *Supplement*.

⁷For the vote and discussion, see S/PV.2680. See also chapter III of the present *Supplement*.

⁸S/PV.2674.

Jamahiriya's harsh policy of international terrorism, including ongoing attacks against United States citizens and installations.

He further referred to the persistent course of conduct by the Libyan Arab Jamahiriya in violation of Article 2 (4) of the Charter and in flagrant violation of the most fundamental rules of international law. He stated that the scourge of Libyan terrorism was not a problem for the United States alone, but one that threatened all members of the civilized world community. He challenged all members of the Council to give meaning to their commitment to uphold the principles of the Charter and to act in common defence of those principles.

At the 2675th meeting, the representative of the Union of Soviet Socialist Republics condemned the United States action against the Libyan Arab Jamahiriya as aggressive marauding, and warned that if an immediate end was not put to that action, the Soviet Union would be forced to draw far-ranging conclusions. He criticized the fact that, in spite of the standing of the United States as a great Power and a permanent member of the Security Council, who bore a special responsibility for the maintenance of world peace, it was most grossly violating the Charter of the Organization which forbids the use of force in international relations. He called upon the Security Council to condemn firmly the act of armed aggression carried out by the United States against the Libyan Arab Jamahiriya and stated that the Security Council must shoulder the responsibilities entrusted to it by the Charter of the Organization and by all peace-loving States on earth.⁹

Many speakers who participated in the debate¹⁰ maintained that the United States' act against the Libyan Arab Jamahiriya constituted a violation of Article 2 (4) of the Charter. Many stated that the act of aggression committed by the United States was a serious violation of the independence, sovereignty and territorial integrity of the Libyan Arab Jamahiriya and a flagrant violation of all norms and principles of international law and the Charter of the United Nations. Many speakers denounced the United States and the United Kingdom's implementation of Article 51, which refers to the right of legitimate self-defence, as unjustifiable. They urged the Security Council, as the organ of the United Nations with the primary responsibility for the maintenance of international peace and security, to devote its attention to the situation in the Mediterranean and to take appropriate action to prevent any further illegal use of force in the region. Many of them also stated that all international disputes should be solved by peaceful means, through negotiations, as clearly envisaged in the

Charter. A few further urged that the Security Council should take steps to ensure that full and prompt compensation be provided to the Libyan Arab Jamahiriya.

The representative of Venezuela suggested that it was neither impossible nor too late for the Council to agree to recommend appropriate procedures or methods of adjustment, as set out in Article 36 (1) of the Charter. He warned that little could come of decisions rejected by either or both parties because they failed to take into account the background or other aspects of the problem, or because they did not strike the necessary balance. He reiterated that the authority and credibility of the Council was weakened by its repeated failure to implement its resolutions. He further recalled the Secretary-General's statement that the resort to force was not an effective means of resolving disputes and would only lead to further violence. The States involved, therefore, had to desist from escalating tension, exercise restraint and seek a resolution of the critical situation through the means provided in the Charter. Declining to enter into an analysis of the legal aspects of the case before the Council, he stated that the task was better carried out by the International Court of Justice or an arbitration tribunal with access to all the evidence the parties could provide and also to the briefs and the arguments of qualified legal experts. He stressed that the United States, like the other permanent members of the Security Council, had a special responsibility in the maintenance of international peace and security.¹¹

The representative of the United Kingdom stated that the central issue faced by the Council was that of "terrorism". He said that much of terrorism was connected with political problems, whether grievance was justified or not. The Council had the primary role within the international community of dealing with political problems that got out of hand or threatened to do so. It was, of course, better if they could be resolved peacefully by negotiation between the participants without having recourse to the Council. However, the Council had to insist that it would not negotiate under pressure and that it would not allow its judgement to be swayed by terrorism. He further added that the Council had to insist that the principles that it had already laid down, that terrorism was criminal, should be adhered to in specific cases and that the terrorists had to be punished accordingly. He stated that when terrorism was carried out, whether overtly or covertly, by agents of a State or a would-be State, it was of a different and worse kind; it was a deliberate act of State policy. State-directed terrorism was, in fact, war by another name. While supporting the principles which had been invoked by many speakers, of the need to seek the peaceful settlement of disputes and to refrain from the threat or use of force in accordance with Article 2 of the Charter, he questioned whether the Libyan Arab Jamahiriya had refrained in its international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations. He further noted that the United States was justified in drawing the conclusion from past events that Libyan defiance of the norms of international behaviour would continue. The United States had made clear that it had conclusive evidence of direct Libyan involvement in terrorist acts and in planning for further such acts. Even the British Government had evi-

⁹S/PV.2675.

¹⁰S/PV.2675: the Syrian Arab Republic, p.18; Oman, pp. 27 and 28; Bulgaria, pp. 33-36; Cuba, pp. 38-40; Democratic Yemen, pp. 42-45; India, pp. 48-51; China, p. 53; S/PV.2676: Algeria, pp. 4-7; Yugoslavia, p. 8; Ukrainian SSR, pp. 14-17; the German Democratic Republic, pp. 23-26; Qatar, pp. 5-10; Madagascar, pp. 12-16; Mongolia, pp. 23-26; Poland, pp. 28-31; Hungary, pp. 32 and 33; Viet Nam, p. 36; Burkina Faso, p. 41; Saudi Arabia, pp. 46 and 47; S/PV.2677: Afghanistan, pp. 6 and 7; the Lao People's Democratic Republic, pp. 9-11; Czechoslovakia, pp. 12 and 13; Benin, p. 18; the Islamic Republic of Iran, pp. 21 and 22; the Sudan, pp. 27-31; S/PV.2679: Bangladesh, pp. 9-12; S/PV.2680: the Byelorussian SSR, p. 6; the Congo, pp. 26 and 27; Nicaragua, pp. 47 and 48; S/PV.2682: Pakistan, p. 7; Organization of the Islamic Conference, p. 12; Uganda, pp. 15 and 16; Malta, pp. 19 and 20; Thailand, pp. 39 and 40.

¹¹S/PV.2679.

dence beyond dispute. The United States had, like others, the inherent right of self-defence, as reaffirmed in Article 51 of the Charter. He maintained that the right of self-defence was not an entirely passive right. It plainly included the right to destroy or weaken the capacity of one's assailant, to reduce his resources and to weaken his will, so as to discourage and prevent further violence. He further stated that the British Government's answer to the American request for the use of American aircraft based in the United Kingdom was in support of action directed against specific Libyan targets demonstrably involved in the conduct and support of terrorist activities. Finally, he urged the Security Council to show the courage and wisdom expected of it, and address itself to the task of ensuring proper respect for international law by the Libyan Arab Jamahiriya and by any other States involved in supporting terrorism.

The representative of Ghana argued that the concept of self-defence in the context of relations between big Powers and small countries was a troublesome one, because of the practical possibility of its one-sided application. That is why the Charter of the United Nations had imposed certain clearly defined limitations on that concept. He stated that a specific precondition for the exercise of the right of self-defence was "if an armed attack occurred against a member of the United Nations". In this context, he doubted that an armed attack within the meaning of Article 51 had occurred that justified resort to the use of force in self-defence. The incidents described were not in the nature of armed invasions perpetrated against the territorial integrity or sovereign independence of the United States. Indeed, they had not occurred on United States territory. Referring to Article 33 of the Charter he said that it provided adequate guidance for the peaceful settlement of disputes. The objective was to encourage the peaceful settlement of conflicts in such a manner that international peace and justice was not endangered. He also pointed out that the good offices of the Secretary-General were also available to any Member State in dealing with inter-State disputes. Furthermore, he reiterated that Articles 33, 34, 35 and 36 were useful procedures for the peaceful settlement of disputes. Additionally, General Assembly resolution 2625 (XXV) of 24 October 1970¹² and resolution 40/61 of 9 December 1985¹³ on measures against terrorism provided a sufficient legal framework and principles for dealing with inter-State disputes.¹⁴

At the 2682nd meeting, on 21 April 1986, the President drew attention to a draft resolution submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates.¹⁵ According to the preamble of the draft resolution,¹⁶ the Security Council would recall General Assembly resolution 40/61 of 9 December 1985 and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States, the Declaration on the Strengthening of International Security; and the Definition of Aggression. The Council would condemn the armed attack by the United States in violation of the Charter of the United Nations and the

norms of international conduct. In addition, it would call upon the United States to refrain forthwith from attacks or threats thereof. The Council would further condemn all terrorist activities, whether perpetrated by individuals, groups or States, and call upon all parties to refrain from resorting to force, to exercise restraint in this critical situation and to resolve their differences by peaceful means in keeping with the Charter. The Council would finally request the Secretary-General to take all appropriate steps to restore and ensure peace in the central Mediterranean and to keep the Security Council regularly informed of the implementation of the present resolution.

Prior to the vote, statements were made by the representatives of the United States, Denmark, Australia and Thailand. The representative of the United States deplored the failure of the said draft resolution to come to grips with the Libyan Arab Jamahiriya's blatant, unrepentant and continuing use of force in violation of Article 2, paragraph 4, of the Charter and maintained that for the Council to endorse an erroneous and deficient draft would be to mock the oft-stated commitment of the Council and the General Assembly to oppose terrorism in all its forms as criminal conduct that had to be resisted and punished. The delegation of Denmark said that the draft did not reflect appropriately the complex issues with which the Council had been confronted and that no attempt had been made to address the interrelationship between action and reaction which had been at play. In the opinion of the delegation of Australia, the draft did not approach the issue with the same sense of balance. It focused its criticism on one party, the United States, and did not directly address the actions of the Libyan Arab Jamahiriya, which had played a large part in contributing to the existing tensions. Finally, the delegation of France said that the draft was excessive and unbalanced, and that the Libyan responsibility was not mentioned therein; hence they could not accept it.¹⁷

The draft resolution was put to the vote. It received 9 votes to 5 (Australia, Denmark, France, United Kingdom, United States) with 1 abstention, and was not adopted owing to the negative vote of a permanent member of the Council.

Following the vote, the representative of Venezuela said that the adoption of the draft would not have encouraged a solution of the dispute by peaceful means. He reiterated that, in accordance with Article 36 of the Charter, the Council should have been called upon to recommend the appropriate procedures or methods of adjustment. He also believed that the draft did not duly take into account the whole background of the problem and all its aspects.

The representative of the Union of Soviet Socialist Republics commented that in the draft resolution, the United States should have been subjected to even more vigorous condemnation and that the draft should have reflected that, in accordance with the norms of international law, the Libyan Arab Jamahiriya had a legitimate right to compensation for damage suffered as a result of the attack. He stressed that the Council's failure to adopt the draft resolution as a result of the three vetoes of the United States and its allies did not mean that the consideration of the issue was not giving results. On the contrary, it emphasized that the isolation of the Western Powers was forcing

¹²GAOR, 25th sess., Suppl. No. 28 (A/8028), p. 121.

¹³GAOR, 40th sess., Suppl. No. 53 (A/40/53), pp. 301 and 302.

¹⁴S/PV.2680.

¹⁵S/PV.2682.

¹⁶S/18016/Rev.1.

¹⁷S/PV.2682.

them to utilize extreme means to prevent the Council from condemning them.

The representatives of the Libyan Arab Jamahiriya and the Syrian Arab Republic both denounced the use of vetoes by the Western Powers and expressed their appreciation for the support of the "overwhelming majority of the world's States" represented in the Council.

At the 2683rd meeting, the representative of India, speaking in his capacity as the Chairman of the Movement of Non-Aligned Countries, reiterated on behalf of the Movement, their grave concern over the serious developments in the central Mediterranean that had grave consequences for peace and security, not only in the region but in the world at large. He stated that the bombing of Libyan cities by United States aircraft, which was in contravention of the purposes and principles of the United Nations Charter and norms of international law, had been undertaken, with the attendant risk of a wider conflagration, against the sovereignty, territorial integrity and independence of a sovereign State. Referring to the text of the communiqué adopted at the emergency session of the Coordinating Bureau of the Movement of Non-Aligned Countries, held on 15 April 1986 in New Delhi, he reiterated that the ministers and heads of delegation of non-aligned countries strongly condemned the act of aggression by the United States against the Libyan Arab Jamahiriya and that this act was all the more condemnable since, by virtue of its position as a permanent member of the Council, it had the primary responsibility for the maintenance of international peace and security and to abide by the principles of the Charter of the United Nations. While demanding that the United States put an immediate halt to its military operations, which violated the sovereignty and territorial integrity of the Libyan Arab Jamahiriya, endangered peace and security in the Mediterranean region and posed a grave threat to international peace and security; and further demanding that full and prompt compensation be provided to the Libyan Arab Jamahiriya for the human and material losses that it had suffered, the Ministers and heads of delegation called upon the Security Council to take urgent action to condemn the United States act and to prevent the repetition of such acts. He further said that, in view of the events that had occurred, the non-aligned members of the Council had jointly sponsored a balanced draft resolution. However, owing to the five negative votes, including the triple veto, the Council had lost an opportunity to place on record its commitment to the important concepts included in the draft resolution. Noting that nothing could justify the use of massive force or an armed attack against a sovereign State, in contravention of the purposes and principles of the Charter of the United Nations, he continued that the Movement of Non-Aligned Countries, while sharing worldwide abhorrence of terrorism still believed that the responsibility of the Security Council did not end there, in spite of its paralysis resulting from the triple veto. It was imperative that the Security Council, as the primary organ responsible for the maintenance of international peace and security, discharge its responsibilities in that direction. Finally, he urged the Secretary-General to use to the utmost

his political and moral authority in the cause of peace to persuade the parties concerned to exercise restraint in that critical situation and to resolve differences by peaceful means in keeping with the Charter.¹⁸

Statements were further made by the delegations of Yugoslavia, Cuba, Ghana and the Congo, all of whom had been mandated by the ministerial meeting of the Coordinating Bureau of the Movement of Non-Aligned Countries to visit Tripoli. Those delegations communicated to the Council their assessments, views and the demands of the Movement of Non-Aligned Countries, following their visit to Tripoli.¹⁹

Speaking in the exercise of the right of reply, the representative of the United States said that more relevant than the size were the rights of nations large and small, the rights recognized in international law and the Charter of the United Nations. Article 51 of the Charter specifically recognized the right of self-defence by Member States—both for themselves and their citizens. The United States representative emphasized that it did not take advanced technology or the resources of a large country to spread destruction in civilized society, but that terrorism could be attempted by any small group of determined, fanatical and demented individuals. It was an even greater danger if it was backed by a State, such as the Libyan Arab Jamahiriya, in flagrant violation of Article 2 (4) of the Charter.

The representative of the Libyan Arab Jamahiriya, in the exercise of his right of reply, while reiterating his delegation's position, further pointed out that, notwithstanding the decision of the Council, the United States Administration had reiterated that it might commit a further act of aggression. On behalf of his delegation, he warned the Council of the dangers of such an operation. While praising the position adopted by the international community which had condemned the United States, he further warned that no one should underestimate the Libyan Arab Jamahiriya's strength. Libyans were not weak and, if and when necessary, they were determined to fight. However, he concluded, they understood the cost of war and they wanted peace.

- The representative of the United Kingdom, in his reply, reflected his delegation's position on the statements made by some of the members of the Movement of Non-Aligned Countries directed towards the failure of the Security Council in addressing the issue. Referring to the draft resolution voted on in the Council earlier, he stated that it had not mentioned the Libyan Arab Jamahiriya and that, in refusing to accept such a resolution, the Security Council, which had followed its constitutional procedures, had acted foolishly or unfairly. The omission, among other considerations, of any reference to the long history of State-directed provocations and State-directed terrorism, was enough to justify the Council in deciding not to adopt the draft resolution.

¹⁸S/PV.2683.

¹⁹*Ibid.*, Yugoslavia, pp. 14-17; Cuba, pp. 17-27; Ghana, pp. 27-37; Congo, pp. 37-41.