

11. Items relating to Cuba

Initial proceedings

A. Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

By a letter dated 2 February 1990 addressed to the President of the Security Council,¹ the representative of Cuba requested the convening of a meeting of the Council to consider “the harassment of and armed attack on a Cuban merchant ship in the Gulf of Mexico by a vessel of the Coast Guard of the Government of the United States of America”. Cuba contended that that action constituted not only a violation of international law, but also an act of piracy endangering international peace and security.

By a letter dated 3 February 1990 addressed to the Secretary-General,² the representative of Cuba transmitted the texts of two notes dated 31 January and 1 February 1990 from the Ministry of Foreign Affairs of Cuba to the Interests Section of the United States in the Embassy of Switzerland in Havana. Cuba protested against the “illegal actions” of the United States Coast Guard Service, one of whose vessels had fired at and attempted to sink the merchant vessel *Hermann* in the early hours of 31 January as the latter — leased by a Cuban firm and manned by a Cuban captain and crew — was sailing in international waters from Cuba to Mexico. It observed that the Cuban Government had backed the decision of the captain and crew of the *Hermann* to resist the “illegal attempts” by the Coast Guard to board the vessel. Cuba rejected, moreover, the explanations by the United States Department of State that the attempted boarding and subsequent attack were part of an anti-drug-smuggling operation. It condemned the attack as a violation of freedom of navigation in international waters and of the human rights of its citizens whose lives had been put at risk. Cuba demanded that the United States put an end to such acts of provocation and aggression and make full reparation for the damage caused.

By a letter dated 3 February 1990 addressed to the Secretary-General,³ the representative of the United States provided his Government’s detailed account of the incident of 31 January. The Coast Guard authorities had requested permission to board and inspect the *Hermann* as there was reason to suspect that it was carrying narcotics or other contraband. When the captain denied permission, the United States had sought and received permission from the flag State, Panama, to stop and search the vessel. The Coast Guard vessel had resorted to authorized and appropriate force only after the captain’s continued refusal to stop and after having exhausted all internationally recognized means of stopping the *Hermann*. The action taken by the United States was fully consistent with international maritime law and practice. The letter stressed that the Security Council should not expend its valuable time considering this matter, which “in no way” constituted “a threat to international peace and security”.

By a letter dated 5 February 1990 addressed to the Secretary-General,⁴ the representative of Panama confirmed that the vessel concerned flew the Panamanian flag and that the Government of Panama had given express permission for United States authorities to board and inspect it. Panama accepted that, in such cases, all necessary measures could — even must — be taken, including the use of force.

At its 2907th meeting, on 9 February 1990, the Council included the letter dated 2 February 1990 from the representative of Cuba in its agenda. Following the adoption of the agenda, the President (Cuba) drew the attention of the members of the Council to the above-mentioned communications from the representatives of Cuba and the United States, dated 3 February 1990, and of Panama, dated 5 February 1990, concerning the matter.⁵ Prior to taking up the item, the President decided to exercise his discretion under rule 20 of the Council’s provisional rules of procedure and to vacate the Chair while the item was being discussed, since it concerned a matter that directly involved his country.

¹ S/21120.

² S/21121.

³ S/21122.

⁴ S/21127.

⁵ S/21121, S/21122 and S/21127.

He yielded the Chair to the representative of Democratic Yemen.

The representative of Cuba presented a detailed account of the operation against the merchant vessel *Hermann*, which, he said, had been conducted in international waters, hundreds of miles outside United States' territory. He rejected the United States contention that the Cuban Government was responsible for the incident and stated that Cuba's refusal to allow the United States Coast Guard to inspect the *Hermann* was justified. He did not accept that the United States' conduct had been authorized by the Panamanian authorities and criticized its selective resort to a convention on drugs that had not yet come into force.⁶ He contended that the United States had flagrantly violated the Charter of the United Nations, the 1958 Convention on the High Seas⁷ and the United Nations Convention on the Law of the Sea⁸ and had disregarded General Assembly declarations and resolutions relating to peaceful coexistence among States. It had committed crimes of piracy and State terrorism. In conclusion, the speaker claimed that the incident was part of the United States policy of interference and aggression in a part of the world that it intended to go on treating as if it were its own backyard. That policy constituted a clear threat to international peace and security; consequently, the Council should take the necessary decisions to put an end to it.⁹

The representative of the United States stated that his Government strongly disagreed that a routine drug-interdiction case merited Security Council consideration. That type of operation was standard, frequent and an essential component of the battle against international drug traffickers. In his Government's opinion, it was Cuba that had violated international law by interfering with the rights and obligations of the flag State and ordering a Cuban crew to resist lawful inspection. The United States' actions, on the other hand, had been taken with the authorization of the flag State¹⁰ and in accordance with

customary international law and practice, as codified in various treaties.¹¹ His Government saw no reason whatsoever for the Council to consider this routine law-enforcement issue, which in no way threatened international peace and security.¹²

The representative of Cuba made a further statement, reiterating a number of his previous points. The President then stated that the next meeting of the Council to continue its consideration of this item would be fixed in consultation with the members of the Council.¹³

B. Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

By a letter dated 27 April 1992 addressed to the President of the Security Council,¹⁴ the representative of Cuba requested the convening of a meeting of the Council as soon as possible to consider the "terrorist activities being carried out against the Republic of Cuba, which are promoted, encouraged or tolerated by the United States authorities". He stated that these activities, which had been conducted for more than three decades, included the in-flight destruction of a Cuban civilian aircraft near Barbados on 6 October 1976, causing the death of 73 persons on board. Certain individuals who had plotted that atrocity had still not been punished and were currently under the protection of the United States Government. The representative of Cuba recalled that during 1992 the Council had stated its determination to eliminate international terrorism. In the presidential statement issued on 31 January 1992, on the occasion of the meeting of the Council at the level of Heads of State and Government, the members of the Council had expressed their deep concern over acts of international terrorism, and emphasized the need for the international community to deal effectively with all such acts. In resolution 748 (1992), moreover, the

⁶ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Although the Convention was not yet in force, it had been signed by Cuba, Panama and the United States.

⁷ Art. 22, para. 1.

⁸ Arts. 88 and 89.

⁹ S/PV.2907, pp. 8-25.

¹⁰ S/21127.

¹¹ 1958 Convention on the High Seas, art. 6; United Nations Convention on the Law of the Sea, art. 92; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (not yet in force), arts. 17(1), (3) and (4).

¹² S/PV. 2907, pp. 26-37.

¹³ *Ibid.*, p. 46.

¹⁴ S/23850.

Council had reaffirmed that every State had the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involved a threat or use of force. That duty appertained to “every State”, including members of the Council and particularly its permanent members. The Council was accordingly obliged to condemn the terrorist actions for which the United States Government was responsible, and to demand that the latter hand over two named individuals to the Cuban courts and take immediate steps to eliminate completely the terrorist activities carried out from United States territory against Cuba. Just as Cuba condemned the attacks on Pan Am flight 101 and Union de Transports Aériens flight 772,¹⁵ so it demanded that the Council condemn the sabotage of the Cubana de Aviación aircraft. And, just as Cuba rejected international terrorism, so it demanded that an immediate end be put to the terrorism promoted, fostered or tolerated by the United States Government against Cuba.

By a letter dated 8 May 1992 addressed to the President of the Security Council,¹⁶ the representative of Cuba reiterated his request for a meeting. He drew attention to the fact that it was a formal request, made by a State Member of the United Nations exercising its right under Article 35 of the Charter of the United Nations, bearing in mind the obligation of the Council under Article 24 of the Charter. He noted that, on the basis of that right and that obligation, there had been a well-established and generally respected practice since the inception of the United Nations that no member of the Council could ignore or seek to debase. Since the meeting still had not been convened, he submitted further information to illustrate why the Council had a duty to examine the matter and take prompt and effective action.

By a letter dated 13 May 1992 addressed to the President of the Security Council,¹⁷ the representative of Cuba reiterated his country’s request for a meeting. He also expressed the view that, despite suggestions to the contrary, no decision had yet been adopted by the

Council with regard to his letter of 27 April as the Council had not held any meeting since that date.

At its 3080th meeting, on 21 May 1992, the Council included the letter dated 27 April from the representative of Cuba in its agenda and considered the matter at that meeting. The representative of Cuba was invited, at his request, to take part in the discussion without the right to vote.

The President (Austria) drew the attention of the members of the Council to several documents,¹⁸ including a draft resolution submitted by Cuba.¹⁹ By the draft resolution, in its preambular paragraphs, the Council would have, *inter alia*, reaffirmed its conviction that the suppression of acts of international terrorism, including those in which States were directly or indirectly involved, was essential for the maintenance of international peace and security; and that, in accordance with Article 2 (4) of the Charter, every State had the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involved the threat or use of force. In the operative part of the draft resolution, the Council, acting under Chapter VII of the Charter, would have, *inter alia*, condemned the act of sabotage against the Cuban Airlines aircraft; urged the United States Government to provide to the Council, through the Secretary-General, all the information and evidence in its possession on that act of sabotage and on the persons who had planned, directed and carried it out; and requested the Secretary-General to seek the cooperation of the United States Government in providing that information and evidence and facilitating the investigation of that act of sabotage and the punishment of the guilty parties so as to contribute to the eradication of international terrorism.

At the same meeting, the representative of Cuba reiterated his Government’s claim that two of the persons who had masterminded the bombing of the Cuban civilian aircraft had not been punished and were in the United States. He also contended that the United States Government possessed information and evidence concerning the incident which had never been made public despite the country’s legal and ethical obligations and the fact that the International Civil

¹⁵ See also “Items relating to the Libyan Arab Jamahiriya” in the present chapter (sect. 3).

¹⁶ S/23890.

¹⁷ S/23913.

¹⁸ S/23846, S/23890, S/23912 and S/23913.

¹⁹ S/23990. The draft resolution was not put to the vote.

Aviation Organization had called on all States to act with vigour and resolve in the matter so that the guilty might be duly punished. He detailed a number of other terrorist activities and threats against his country promoted and organized by Cuban expatriates living in Miami, Florida, United States. He concluded by stating that he hoped that the Council could support the draft resolution, the main elements of which he summarized.²⁰

The representative of the United States acknowledged that one of the fundamental principles of the United Nations was that all countries, members or non-members of the Council, had the right to be heard. However, he regretted Cuba's misuse of the Council's valuable time to make baseless allegations against his country, attempting to portray it as a

²⁰ S/PV.3080, pp. 6-36.

supporter of international terrorism and a harbourer of terrorists. He stated that the United States supported peaceful democratic change in Cuba and had no aggressive intentions towards that country. His Government neither supported nor condoned preparations in the United States for the violent overthrow of the Government of Cuba, or efforts from the United States to foment violence in Cuba. He refuted the specific allegations made by the representative of Cuba and referred to a statement circulated to the Council that dealt with them in greater detail.²¹

The representative of Cuba made a further statement in which he stated that although the complaint before the Council had happened 15 years ago, the events continued to occur even just before the Council started its meeting.²²

²¹ *Ibid.*, pp. 36-38, referring to document S/23989.

²² *Ibid.*, pp. 39-41.

12. Items relating to Haiti

Initial proceedings

A. Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council

By a letter dated 30 September 1991 addressed to the President of the Security Council,¹ the representative of Haiti requested an immediate meeting of the Council to consider the situation in Haiti and its consequences for regional stability.

At its 3011th meeting, on 3 October 1991, the Council included the letter from the representative of Haiti in its agenda and considered the item at the same meeting. It invited the representatives of Canada, Haiti and Honduras, at their request, to participate in the discussion without the right to vote.

The President (India) drew the attention of the Council to two additional documents addressed to the Secretary-General: a note verbale dated 2 October

1991 from the representative of Panama;² and a letter dated 3 October 1991 from the representatives of Ecuador and the United States of America,³ transmitting the text of resolution MRE/RES.1/91, adopted on 2 October 1991 at a meeting of Ministers for Foreign Affairs of the Organization of American States (OAS). In its resolution, OAS, *inter alia*, vigorously condemned the grave events taking place in Haiti and demanded the full restoration of the rule of law and of constitutional order and the immediate reinstatement of President Aristide; called on the Secretary-General of OAS, together with a group of OAS Ministers for Foreign Affairs, to travel to Haiti immediately to inform those who held power illegally that the American States rejected the disruption of constitutional order and to advise them of the decisions adopted by the OAS meeting; recommended that States isolate diplomatically those who held power illegally in Haiti; recommended that all States suspend their economic, financial and commercial ties with Haiti and any aid and technical cooperation except that provided

¹ S/23098.

² S/23105.

³ S/23109.