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REPORT BY THE SECRETARY-GENERAL ON THE MISSION
OF HIS SPECIAL REPRESENTATIVE TO MALTA AND THE
LIBYAN ARAB JAMAHIRIYA

1. In a letter dated 17 October 1980 (S/14228) addressed to the President of the Security Council, the Secretary-General recalled that the Security Council was seized of a complaint by Malta against the Libyan Arab Jamahiriya and that the Council had held a meeting on the question on 4 September 1980. Following that meeting, the Secretary-General had held consultations with the parties and had decided, with their agreement and in order further to assist in the search for a mutually acceptable solution, to send a special representative to discuss the issues at hand with the two Governments. In a letter dated 22 October 1980 (S/14229), the President of the Security Council informed the Secretary-General that his letter had been brought to the attention of the members of the Council and that they had agreed with the Secretary-General's proposal.
2. The present report has been prepared on the basis of the consultations held in Malta and the Libyan Arab Jamahiriya from 29 October to 2 November 1980, by Mr. Diego Cordovez, who was designated by the Secretary-General as his Special Representative.
3. The reason underlying the dispute between Malta and the Libyan Arab Jamahiriya is that there is no agreed delimitation of the continental shelf between the two countries. The matter has been under discussion since 1972. Having failed to reconcile their legal positions, the two Governments, on 23 May 1976, signed a Special Agreement to submit the matter to the International Court of Justice. Malta rests its case for commencing off-shore exploratory drilling operations, an action which led to the incident of 20 August 1980, upon the contention that the Libyan Arab Jamahiriya has so far failed, without justification, to ratify the 1976 Agreement. The Libyan Arab Jamahiriya does not accept unilateral responsibility for the delay in ratification.
4. A review of the events and documentary records over the last four years indicates that the Agreement signed by the parties in 1976 was followed by a series of complex negotiations. Indeed, the contents and terms of the Agreement were periodically subject to further discussion and negotiation, at times in the context of other aspects of the relations between Malta and the Libyan Arab Jamahiriya. Modifications in the text of the Agreement were discussed as recently as November 1979. The exchanges between the two Governments on the issue, and the

circumstances surrounding some of those exchanges, led to a gradual deterioration in the relations between Malta and the Libyan Arab Jamahiriya. The drilling incident of 20 August exacerbated the situation; Libyan personnel were expelled from Malta, and several lines of co-operation and assistance were substantially curtailed.

5. The Secretary-General consequently concluded that the early ratification of the 1976 Agreement would be an essential first step towards an easing of tensions between the two countries. That view was conveyed to the two Governments. The Secretary-General is now in a position to report to the Security Council that the Libyan Arab Jamahiriya has undertaken unconditionally to submit the original text of the Agreement to the Popular Congresses for ratification during their current session, which is scheduled to conclude on 22 November, with a view to exchanging the instruments of ratification and formulating the joint notification to the Registrar of the International Court of Justice, as provided for in article IV of the Agreement, during the first two weeks of December 1980. The Secretary-General is prepared to assist the parties in carrying out the relevant formalities should they so request.

6. Malta has confirmed that it had accepted an implicit understanding, when the Agreement was signed in 1976, that it would not begin drilling operations until the Court had reached a decision and an agreement on delimitation had been concluded in accordance with article III of the Agreement. Malta considered that since the Libyan Arab Jamahiriya had failed to ratify the Agreement, it was legally entitled to commence drilling operations. The efforts aimed at the production of oil were considered by Malta to be a vital economic necessity and an integral part of its evolving policy of neutrality and non-alignment. The financial losses deriving from Malta's decision to close in 1979 the military bases maintained by the United Kingdom for many years would consequently have been offset. In the circumstances, Malta wished to enter into negotiations with the Libyan Arab Jamahiriya whereby drilling operations in the disputed area, pending the decision of the Court, would be discussed. It wished such discussions to be conducted, not in the legal context of delimitation issues but within the framework of the traditional co-operation and understanding between the two countries. Malta has pledged to hand over any part of the continental shelf which the Court might decide does not belong to it.

7. The Libyan Arab Jamahiriya rejects any legal justification of Malta's decision to commence drilling operations, if only because, as indicated above, it does not accept unilateral responsibility for non-ratification of the 1976 Agreement. The Libyan Arab Jamahiriya considers that drilling operations in the disputed area would prejudice the delimitation case. It contends that interim drilling operations cannot even be considered as falling within the category of "provisional arrangements" envisaged in article 83 of the informal text on the law of the Sea (A/CONF.62/WP.10/Rev.3). Accordingly, it holds the view that a discussion on interim drilling operations could, in itself, compromise its legal position.

8. The Secretary-General has conveyed the position of the Libyan Arab Jamahiriya on the subject of interim drilling operations to the Government of Malta. In so doing, he has expressed his confidence that the submission of the delimitation case to the International Court of Justice next month will bring about an improvement of relations between the two countries. The Secretary-General notes that both parties have expressed the hope that further progress in the deliberations of the United Nations Conference on the Law of the Sea will also contribute to a greater clarification of the issues involved. The Libyan Arab Jamahiriya has reiterated that it supports Malta's policy of neutrality and non-alignment, and that it stands ready to continue and strengthen relations of friendship and co-operation with Malta as in the past. Malta has informed the Secretary-General that it would expect, in that context, to work out an arrangement with the Libyan Arab Jamahiriya which, as an expression of goodwill, would enable Malta to conclude the one drilling operation which was suspended on 20 August 1980.

9. The Secretary-General trusts that the steps taken to clarify the issues and lay the foundations of a peaceful solution outlined in the present report will enable the two parties to look towards the future in a spirit of renewed co-operation and mutual understanding.
