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LETTER DATED 25 NOVEMBER 1980 FROM THE PERMANENT REPRESENTATIVE
OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour, upon instructions from my Government, to refer to document S/14249 dated 11 November 1980 containing the letter addressed to Your Excellency by the Chargé d'Affaires of the Permanent Mission of Iran to the United Nations, and its annex entitled "Note dated 26 October 1980 from the Ministry for Foreign Affairs of the Islamic Republic of Iran addressed to the Embassy of Iraq at Teheran and to the Ministry for Foreign Affairs of Iraq".

In setting the record straight, I should like to annex herewith the text of the note No. 5/1/7/14024 of 17 September 1980 addressed by the Ministry of Foreign Affairs of the Republic of Iraq to the Embassy of the Islamic Republic of Iran in Baghdad. It clearly appears from the Iraqi note, which is self-explanatory, that no so-called "unilateral abrogation" was suggested by the Government of the Republic of Iraq, and that the Iranian allegation is nothing but a legal fantasy of the making of the Iranian Government.

It is noteworthy to highlight the deception of the Iranian Government in the present case. The Iranian note appearing in the annex in document S/14249 does not quote the full text of article 4 of the Treaty on State Frontiers, and omits the most fundamental obligation of the two Parties thereunder. The part omitted reads as follows:

"Accordingly, a breach of any of the components of this over-all settlement shall clearly be incompatible with the spirit of the Algiers Agreement."

It is to be observed that in an attempt to dilute the legal situation, the Iranian Government has once again made reference to the provisions of articles 5 and 6 of the Treaty of 1975. Iraq has already had the occasion to dispel this Iranian argument in the General Assembly during the present session and in the Security Council. To put it briefly, articles 4 and 6 are mutually exclusive in the sense that the application of article 6 pre-supposes the existence of the Treaty through the non-violation of any of its indivisible elements. Article 6 in other words, could only operate when the Treaty still exists, and when the Parties disagree on the interpretation or application of the technical details thereof. When article 4 is violated, this means that the whole Treaty becomes terminated, as the said article represented the politico-juridical aspects of the package-deal on which the agreement of the Parties was based. Any argument to the contrary, makes the provisions of these two articles contradictory and impossible to apply.

The continuous Iranian violations of the elements of the Algiers Agreement and the Treaty, mentioned in paragraph 4 and article 4 thereof respectively, as was emphasized in the Iraqi note, left Iraq in fact with no Treaty to implement.

In this connexion, it is significant to note that if the Iranian Government really believes in the peaceful settlement of disputes in accordance with the defunct Treaty, then why did it not have resort to such a mode of settlement with Iraq and opted instead to commit aggression against the sovereignty and territorial integrity of Iraq despite Iraq's repeated reminders regarding the 1975 Treaty?

The outrageous charge contained in the Iranian note that Iraq committed aggression and inhuman acts against Iran is another allegation to which the Foreign Minister of the Republic of Iraq responded in detail in the General Assembly and the Security Council on 3, 15, and 17 October. A detailed reply is not called for on this occasion because the facts speak for themselves. As for the allegation that Iraq has violated the internal security of Iran and done harm to good neighbourly relations between the two States, it is pertinent to recall two concrete facts. Firstly, what the Iranian Government calls a violation of internal security is in fact an attempt to blame Iraq for the struggle of the national Iranian minorities to achieve their national rights in return for their patriotic role against the Shah. Secondly, if good neighbourly relations are so dear to the Iranian Government, then it is legitimate to wonder whether continuous shelling and bombardment of Iraqi towns and villages were in accord with that principle.

Finally, I should like to enclose also herewith the text of a note No. 7/1/4/15639 dated 16 November 1980, which was sent by the Ministry of Foreign Affairs of the Republic of Iraq to the Embassy of the Islamic Republic of Iran in Baghdad in reply to the latter's note referred to above.

I should be grateful if you would arrange for the text of this letter and the attached notes to be circulated as a document of the Security Council.

(Signed) Salah Omar AL-ALI
Permanent Representative

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Annex

Ref: 5/1/7/14024

Baghdad, 17 September 1980

The Ministry of Foreign Affairs of the Republic of Iraq presents its compliments to the Embassy of the Islamic Republic of Iran at Baghdad and has the honour to inform it that, in view of the violation by the Government of the Islamic Republic of Iran of the components of the over-all settlement contained in the Algiers Agreement concluded between Iraq and Iran on 6 March 1975 through Iran's constant interference in the internal affairs of the Republic of Iraq, its harbouring of elements hostile to Iraq since the early days of the overthrow of the régime of the Shah, its meddling with the internal security of Iraq, its abuse of good neighbourly relations, its encroachment on Iraqi territories and its failure to hand over such territories to Iraq, thereby forcing the Republic of Iraq to seek to recover those territories by force in exercise of its legitimate right to defend its sovereignty and territorial integrity, and through Iran's overt and tacit conduct expressed in the declarations and acts of its responsible officials who refuse to be bound by the said Agreement, the Government of the Republic of Iraq has decided to consider the Algiers Agreement concluded between the two countries on 6 March 1975, the Treaty on State Frontiers and Good Neighbourliness concluded between the Government of the Republic of Iraq and the Imperial Government of Iran, together with the three protocols annexed thereto and their annexes signed at Baghdad on 13 June 1975 on the basis of the said Agreement, the four supplementary agreements to the said Treaty with their annexes signed at Baghdad on 26 December 1975, the notes exchanged and the joint records, as null and void in view of their violation by the Government of the Islamic Republic of Iran by word and deed and in accordance with the provisions of paragraph 4 of the Algiers Agreement and article 4 of the aforementioned Treaty.

The Government of the Republic of Iraq invites the authorities of the Government of the Islamic Republic to accept the new situation and to adopt a reasonable and wise attitude towards the exercise by Iraq of its sovereignty and its legitimate rights throughout its land and river territory in the Shatt Al Arab exactly as the situation used to be prior to the aforementioned Algiers Agreement.

The Ministry trusts that the Embassy will communicate the above to the Government of the Islamic Republic of Iran and takes this opportunity to convey to the Embassy the assurances of its highest consideration.

Embassy of the Islamic Republic of Iran
Baghdad

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Republic of Iraq
Ministry of Foreign Affairs

Ref: 7/1/4/15639
Date: 16 November 1980

The Ministry of Foreign Affairs of the Republic of Iraq presents its compliments to the Embassy of the Islamic Republic of Iran at Baghdad and has the honour to inform it that the Government of the Republic of Iraq rejects discussion of the provisions of the 1975 Treaty on State Frontiers and Good Neighbourliness between Iraq and Iran, together with its subsequent protocols and annexes, which Iraq regards as null and void in view of the fact that Iran has, in practice, rendered them ineffectual by its persistent breaches of that Treaty not only through the declarations of Iranian officials to the effect that they do not recognize the Treaty but also through Iran's violation of its essential elements. All of this has been set forth in notes from the Iraqi Government to the Iranian Government stating the violations and calling for their discontinuation. The escalation of Iranian aggression against Iraq by the launching of an undeclared war against frontier posts, the shelling of Iraqi towns and interference in the internal affairs of Iraq is cogent proof of Iran's clear refusal to be bound by the aforementioned Treaty. Accordingly, the contents of note No. 1136 of 30 October 1980 from the Government of the Islamic Republic of Iran is rejected in whole and in part.

The Ministry takes this opportunity to convey the assurances of its highest consideration.

Embassy of the Islamic Republic of Iran
Baghdad
