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LETTER DATED 8 DECEMBER 1981 FROM THE PERMANENT REPRESENTATIVE OF
MALTA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE
SECURITY COUNCIL

I am directed by my Government to refer to the report by the Special Representative of the Secretary-General on the Malta/Libya dispute, submitted by the Secretary-General to the Security Council on 1 December 1981.

That report ignores completely the fact that the matter was referred to the Council in September 1980, not because Libya had failed to ratify an international agreement signed in 1976, but because Libya had used force to prevent Malta from exercising her legitimate rights.

Instead of trying to resist force by force, Malta turned to the Security Council in the expectation that the Council would protect a small and unarmed country against a much larger and stronger neighbour.

In spite of Malta's warnings, the Council chose to try mediation through a Special Representative of the Secretary-General. From the very beginning, Malta told the Council that Libya would turn these efforts into a further means for procrastination, because Libya's real objective was that of preventing Malta - if necessary by the use of force - from drilling for oil, even in areas which, by no stretching of any known international claim, could not but be considered part of the Maltese continental shelf.

The latest report by Mr. Cordovez is a complete vindication of Malta's warning throughout his mediation efforts.

The question of "interim drilling", in fact, is an issue which Libya first raised when, in the early months of 1981, it came to honour - belatedly - the undertaking Libya had given several months earlier to the Secretary-General and to the Council that the dispute with Malta would be before the International Court of Justice by mid-December 1980.

Libya made this new issue a condition for ratification in the full knowledge that such a condition could not be accepted by Malta.

By insisting on further mediation before it accedes to Malta's request for protection - at least by condemning Libya for using force in violation of her obligations as a Member of the United Nations - the Council has played into Libya's hands and has already delayed ratification by another year.

To add insult to injury, the report by the Special Representative is now suggesting that Malta should agree to a procedure which would delay even further - and relegate to secondary importance - the settlement by the International Court of Justice of the real issue between the parties to the dispute viz., the delimitation of the continental shelf.

I am to add that the Article of the Statute quoted by Mr. Cordovez is intended to protect rights which could be jeopardized and not to solve the legal issue raised by Libya whether or not drilling can lawfully take place in a disputed area while the dispute is before the Court. In any case, if Libya were to regard Article 41 of the Court's Statute as applicable, it could, once the case is before the Court, seek its invocation without the need of Malta agreeing to that procedure; and Libya does not need to be told that by anyone.

If there is one thing which results clearly from the report of the Special Representative it is that all his attempts at mediation have failed. In Malta's view, they have failed because the Council's insistence on an agreed settlement has been interpreted by Libya as a weakness and an unwillingness of the Council to take any action unpleasant to Libya.

The Security Council is showing a weakness detrimental to the peace and security of the Mediterranean region. In fact, notwithstanding this lapse of time, the Council has yet to condemn Libya for the use of force against Malta. Without the protection of the Security Council, the only option open to young and small countries, victims of aggression, is to enforce their rights, at the opportune moment, by all means available or offered to them, including military facilities to the big Powers. So far Malta has resisted this temptation. It is Malta's earnest hope that the Security Council will, without delay, take the action which would make it unnecessary for Malta to resort to such extreme measures.

I would be grateful, Mr. President, for this letter to be circulated as a document of the Security Council.

(Signed) V. G. GAUCI
Permanent Representative of Malta
to the United Nations
