



Security Council

Distr.
GENERAL

S/14752
12 November 1981

ORIGINAL: ENGLISH

LETTER DATED 11 NOVEMBER 1981 FROM THE CHARGE 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

I would like to refer to the letter dated 3 November 1981 addressed to you by the representative of Malta and circulated as document S/14743, concerning the dispute over the delimitation of the continental shelf of each of the Libyan Arab Jamahiriya and the Republic of Malta.

I wish to convey to Your Excellency herewith the reply of the Libyan Arab Jamahiriya:

This issue is a purely legal and procedural matter, and there was no reason from the start to submit it to the Security Council. The Jamahiriya believes that the distinguished members of this august Council are well aware of this matter because there is no threat to Malta or to the security and peace of the entire region. Moreover, paragraph 3 of Article 36 of the Charter of the United Nations states that such legal disputes should be referred by the concerned parties to the International Court of Justice; also, paragraph 6 of General Assembly resolution 2734 XXV of 16 December 1970, Declaration on the Strengthening of International Security, states that "legal disputes should as a general rule be referred by the parties to the International Court of Justice".

In the light of the above, the Libyan Arab Jamahiriya declared in the past and declares now its firm desire to refer the dispute to the International Court of Justice, and in this respect:

1. On 30 May 1976, the Libyan Arab Jamahiriya concluded a Special Agreement with the Republic of Malta to submit the dispute to the International Court of Justice.

2. During the period between May 1976 and early 1980 the two parties to the dispute held a series of negotiations on matters concerning the Treaty and the dispute, including the drilling issue. The stance consistently advocated by the Jamahiriya was not to sanction any drilling operation in the disputed area until the Court had concluded its deliberations on the issue.

The Maltese Government understood and accepted our position; for, since the two parties have already agreed to refer the dispute to the International Court of Justice, neither of these parties should then seek to operate in the disputed areas until the Court concludes its deliberations on the issue. (Please see para. 6 of the report of the Secretary-General, document S/14256, dated 13 November 1980, regarding this issue.) Subsequently, the Libyan Arab Jamahiriya is not responsible for the delay that has occurred in the exchange of instruments of ratification of the Agreement.

3. On 4 January 1981, the Libyan Arab Jamahiriya ratified the Agreement.

4. On 21 March 1981, the Libyan instrument of ratification was prepared in conformity with the constitutional procedures in force in the Libyan Arab Jamahiriya.

5. The Libyan Arab Jamahiriya tried, with the help of the Special Representative of the Secretary-General, to conclude the procedures relating to the exchange of the instruments of ratification. Thus, on 23 March and 24 July 1981, it sent two delegations to Malta for that purpose, but the Maltese Government refused to carry out the procedures.

The Libyan Arab Jamahiriya has always promptly responded to the efforts exerted by His Excellency the Special Representative of the Secretary-General and co-operated with him in his endeavours. It has forthrightly answered all his inquiries verbally or in writing, whether through its Mission to the United Nations or through the Secretary of the People's Bureau for Foreign Liaison. However, we leave this matter to the discretion of His Excellency the Special Representative of the Secretary-General.

As for the Maltese position, to our knowledge, as of this date, the Mission of Malta has not yet fully replied to the questions addressed to it.

The Libyan Arab Jamahiriya stresses its desire to conclude the exchange of instruments of ratification either in Tripoli or in Valletta at any date and to have recourse to the International Court of Justice. It also affirms that it does not harbour any intentions of aggression against the people and Government of Malta, with whom, on the contrary, it wishes to strengthen relations of good neighbourliness.

The Maltese party should bear the responsibility for the delay in concluding the exchange of instruments of ratification, since it has laid down certain conditions which are unacceptable to the Libyan party, as they are in contradiction with the Libyan laws and do not conform either to the provisions of the Agreement concluded between the two countries or to what has been agreed upon by the two parties, particularly as far as drilling operations are concerned.

On the whole, the Maltese party is procrastinating in respect of the conclusion of these procedural issues and is seeking to harness the organs of the United Nations to serve internal political matters.

I would be grateful, Your Excellency, if this letter were circulated as a document of the Security Council.

(Signed) Awad S. BURWIN
Minister Plenipotentiary
Chargé d'Affaires a.i.
