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LETTER DATED 13 MAY 1969 FROM THE ACTING PERMANENT REPRESENTATIVE
OF IRAQ ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the letters addressed to Your Excellency on 1 and 9 May 1969, by the Permanent Representative of Iran.

After trying in his first letter to confuse the basic issue by invoking "diplomatic propriety", the Permanent Representative of Iran goes further in his second letter in his persistence to distort both historic and recent facts and even by a futile attempt to rewrite the rules and principles of international law in order to justify his Government's actions. The central issue at present is the unilateral attempt by the Government of Iran to abrogate the "Iraqi-Iranian Boundary Treaty of 1937", together with the show of force which accompanied that indefensible act. No amount of vilification and distortion could validate such actions which flout and undermine the basic tenets of international law and the sanctity of treaties freely concluded and ratified:

1. The unilateral attempt by Iran to abrogate the Boundary Treaty of 1937 is a clear violation of the rules of international law. It is an illegal act for which the Government of Iran is solely and exclusively responsible. One of the recognized principles of international law stipulates that treaties and agreements which have been properly and finally ratified are binding on the States which have signed and ratified them. No State, party to such treaties and agreements, may proclaim them null and void, nor could it unilaterally bring them to an end under such baseless circumstances as are now alleged by the Government of Iran.

2. The "Iraqi-Iranian Boundary Treaty of 1937" is not a time-expiring Treaty. It was concluded to determine once and for all the boundary status between the two countries. Accordingly, the theory of rebus sic stantibus cannot be invoked with regard to this Treaty, as has been done by the Government of Iran. This would basically negate in this case the principle of pacta sunt servanda which

is generally considered the corner-stone of international law and international relations.

3. Needless to say that the arguments and allegations forwarded by Iran, untenable as they are, are designed to justify this unilateral flouting of international law. The following is a matter of record:

(a) In the face of the adamant refusal of the Government of Iran to reach an agreement for the implementation of articles IV and V of the Treaty of 1937, the Government of Iraq gave one concession after another in order to induce Iran to conclude an agreement to regulate the navigation and other related matters in Shatt-al-Arab as provided for by article II of the Protocol attached to the Treaty. The response of the Iranian Government to each approach was either complete silence or outright refusal. It has now become obvious that it has been the standard policy of Iran to frustrate such attempts, inspired by good faith, in order that Iran may come now and claim the non-implementation of article II of the Protocol as a pretext to bring the Treaty to an end. It may be illuminating in this connexion to quote the following passage from a chapter on the techniques of Iranian diplomacy:

"Procrastination: this was an old technique and it took many forms. One was withholding or delaying ratification of signed agreements. A treaty on air rights had been signed with Great Britain in 1925, but its ratification was delayed until Great Britain yielded on the matter of capitulations. The 1921 treaty with Russia was not ratified immediately in order to pressure Russia to withdraw its troops from Iranian soil, to relinquish its support of the Soviet Republic of Gilan, and to expedite the resumption of badly needed trade. In these two instances the desired result was produced. Riza Shah's grave mistake in the end was to apply the technique of procrastination during the Second World War when the vital interests of great Powers were at stake. His delaying tactics at that time were partly responsible for the Allied invasion of Iran." 1/

(b) However, this behaviour on the part of the Government of Iran is not new. The technique of procrastination and the unilateral repudiation of binding treaties is not a novel practice by that Government. It resorted to it time and time again, particularly in connexion with treaties governing its boundaries with the Ottoman Empire and, after World War I, with Iraq. The Government of Iran

1/ The Foreign Policy of Iran, 1500-1941, by Rouhollah K. Ramazani; University Press of Virginia, Charlottesville, 1966, p. 309.

had previously renounced the Treaty of Erzurum of 1847, governing the same boundaries. This Treaty in itself was based on several treaties and agreements between Iran and the Ottoman Empire, the original one of which (the Treaty of Zuhab) dates as far back in history as 1639.

(c) The Government of Iran also attempted to repudiate the Constantinople Protocol of 1913 which had forced the Ottoman Empire, due to untold pressures by the British Empire and Tzarist Russia, to cede parts of the territory of Iraq and its national river of Shatt-al-Arab to Iran. Iran insisted on its unilateral renunciation of the Protocol and the Proceedings of Boundary Commission of 1913-1914, which was set up in accordance with the Protocol to effect the demarcation of the boundaries between the two States. This technique was resorted to in order to secure further concessions from Iraq which Iran managed to obtain in the conclusion of the 1937 Treaty. It should also be noted that the 1937 Treaty was concluded in circumstances extremely unfavourable to Iraq but in which, nevertheless, the Government of Iran freely agreed to consider valid those two international documents.

4. The present concentration of Iranian troops all along the Iraqi borders and particularly in the Shatt-al-Arab area, took place not as "a response to threatening military movements" by the Iraqi Government but in fact as a means of pressure and intimidation. The Iranian Government is trying to mislead world public opinion by using the "response" pretext to justify its demonstration of force. The truth of the matter is that the Government of Iran has already used parts of its amassed troops to perpetrate acts of aggressions against Iraq's sovereignty in Shatt-al-Arab, and to hinder safe navigation in the river. Such acts constitute serious interference in the Iraqi administrative affairs which is part of the exclusive internal jurisdiction of Iraq. Furthermore, these aggressive acts, apart from flouting the United Nations Charter and the canons of international law, constitute a serious threat to the security and the territorial integrity of Iraq. Serious consequences would ensue for which the Iranian Government shall bear the sole responsibility.

I would affirm in this connexion that, in honouring their international obligations, the Government and people of Iraq shall remain steadfast in upholding and defending their national sovereign rights. The Government and people are

unshakably resolute and shall refuse to cede, under any circumstances, any part of their national territory or their national and territorial waters.

5. In his desperate attempt to justify his Government's action, the Permanent Representative of Iran goes to the extent of levelling baseless allegations regarding the treatment of Iranians in Iraq, and even to invoke the Declaration of Human Rights in this connexion. The introduction of extraneous elements into the question of a boundary treaty cannot alter the facts. If the Arab community and Iraqi nationals in Iran received even half of the generous treatment the Iranians enjoy in Iraq, they would be very well off indeed.

6. Another distortion of the facts by the Government of Iran is the claim that half of the waters of Shatt-al-Arab originates from Iran. One look at the map of Iraq is sufficient to show the absurdity of this claim. It is well known that Shatt-al-Arab is formed by the confluence of the Tigris and the Euphrates rivers, both of which, with the exception of a few tributaries to the Tigris, originate mainly in Turkey. This reference by the Permanent Representative of Iran is the more unfortunate as it will compel us to expose all the breaches by the Government of Iran of the rules of international law, in connexion with the few tributaries of the Tigris which originate in Iran. It will also make it imperative to give a detailed account of Iran's numerous violations of Iraq's riparian rights. However, for the time being I shall restrict myself to the question of Shatt-al-Arab only.

7. Both letters by the Permanent Representative of Iran deliberately confuse Iran's rights in the navigation in Shatt-al-Arab with the claim to sovereign rights in the river. To begin with, "common interests in the navigation of Shatt-al-Arab" acknowledged in article V of the Treaty, is one thing; joint sovereignty over the river now claimed by Iran is another. No one who does not intend to flout the principles of international law can claim that these two are one and the same. However, never did Iraq at any time deny Iran the right to navigation in Shatt-al-Arab, nor did Iraq deny its obligations under the provisions of article 5 of the Treaty. But to claim that common interests in the navigation constitute sovereignty rights for Iran in the river is totally and categorically rejected.

8. Equally unfortunate is the reference to colonialism made by the Iranian Deputy Minister for Foreign Affairs in his statement in the Iranian Senate on 19 April 1969, and by the Permanent Representative of Iran in his two letters. When the two countries concluded and ratified the Boundary Treaty of 1937, Iraq and Iran were fully sovereign States, members of the League of Nations. However, the facts of the situation obtaining in 1937 helped to a great extent to pressure Iraq to give further concessions to Iran in Shatt-al-Arab as was clearly stated in article II of the Treaty itself. It is actually a historical fact that the Treaty was concluded in the face of massive popular resistance in Iraq against ceding part of a national river to Iran. The Permanent Representative of Iran, however, can never explain how Iraq could force Iran in 1937 to accept a treaty which was less advantageous to Iraq than previous international documents. In their perverse logic, the reference by the two letters of the Permanent Representative of Iran to the question of colonialism in this context is actually a travesty of logic and fact that should be resented by all. To attempt to disguise what is essentially an expansionist policy by the Government of Iran in the garb of putting an end to "the injustices inherited from a situation imposed by colonialism", makes a mockery of the cause of decolonization. This approach should subject the position of the Government of Iran towards decolonization to serious questioning if not misgivings.

9. Finally, the pronouncements of good faith are hardly compatible with the unilateral attempt to abrogate a treaty; nor can they be demonstrated by the offer to conclude a new treaty, when all that is required is the recognition and respect of an already valid and binding one. This offer, coming now in the wake of the Iranian actions, should be viewed with a great deal of suspicion particularly in view of the following facts:

(i) On several occasions the Government of Iraq had already proposed to the Government of Iran to conduct negotiations to resolve the outstanding issues between them. In fact, as recently as February 1969, the Government of Iraq submitted during the official visit by an Iranian delegation to Iraq, eight draft agreements concerning various fields of co-operation between the two countries. Regrettably, the Iranian delegation, after two meetings, suddenly interrupted the negotiations and inexplicably returned to Iran.

(ii) In a formal note dated 23 February 1961, handed by the Iraqi Minister for Foreign Affairs to the Ambassador of Iran in Baghdad, the Government of Iraq proposed holding negotiations between the two countries to resolve the outstanding issues on the bases of the provisions of the international law and the provisions of the Treaties and Agreements between the two countries. The note further suggested that the two States should agree to refer to the compulsory jurisdiction of the International Court of Justice any question that could not be resolved through bilateral negotiations. In the usual manner of procrastination and dilatory tactics the Government of Iran declined the offer.

Notwithstanding all this, the Government of Iraq motivated by the best of intentions towards Iran, declared its willingness to abide by the rules of international law, the principles of the United Nations Charter and the provisions of its Boundary Treaty with Iran. The Government of Iraq believes that a similar attitude by Iran, and the preparedness by the Government of Iran to restore the status quo ante all along the border line between the two countries would certainly assist in the elimination of tension in the area.

I have the honour to request the circulation of this letter as an official document of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

(Signed) Adnan RAOUF
Acting Permanent Representative of Iraq
to the United Nations
