

UNITED NATIONS



# SECURITY COUNCIL OFFICIAL RECORDS

UN LIBRARY

SEP 22 1980

THIRTY-FIFTH YEAR

UN/SA COLLECTION

**2246<sup>th</sup>** MEETING: 4 SEPTEMBER 1980

NEW YORK

---

## CONTENTS

	<i>Page</i>
Provisional agenda (S/Agenda/2246) .....	1
Expression of thanks to the retiring President .....	1
Expression of welcome to the representative of China .....	1
Adoption of the agenda .....	1
Letter dated 1 September 1980 from the Permanent Representative of Malta to the United Nations addressed to the President of the Security Council (S/14140) .....	1

#### NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Documents of the Security Council (symbol S/ . . .) are normally published in quarterly *Supplements* of the *Official Records of the Security Council*. The date of the document indicates the supplement in which it appears or in which information about it is given.

The resolutions of the Security Council, numbered in accordance with a system adopted in 1964, are published in yearly volumes of *Resolutions and Decisions of the Security Council*. The new system, which has been applied retroactively to resolutions adopted before 1 January 1965, became fully operative on that date.

## 2246th MEETING

Held in New York on Thursday, 4 September 1980, at 5.45 p.m.

*President:* Mr. Taïeb SLIM (Tunisia).

*Present:* The representatives of the following States: Bangladesh, China, France, German Democratic Republic, Jamaica, Mexico, Niger, Norway, Philippines, Portugal, Tunisia, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Zambia.

### Provisional agenda (S/Agenda/2246)

1. Adoption of the agenda
2. Letter dated 1 September 1980 from the Permanent Representative of Malta to the United Nations addressed to the President of the Security Council (S/14140)

*The meeting was called to order at 5.55 p.m.*

### Expression of thanks to the retiring President

1. The PRESIDENT (*interpretation from French*): Since this is the first meeting of the Security Council this month, I should like, on behalf of the Council, to pay a well-deserved tribute to Ambassador Futscher Pereira of Portugal, who presided over the Council last month with such skill and diligence that our admiration for him even increased. Thanks to his vast experience, his outstanding talents as an accomplished diplomat and his objectivity, the work of the Council during his presidency was brought to a successful conclusion.

### Expression of welcome to the representative of China

2. The PRESIDENT (*interpretation from French*): I should like to take this opportunity to wish a very warm welcome on behalf of the Council to the new Permanent Representative of China to the United Nations, Mr. Ling Qing. I am convinced that with his wisdom and his great diplomatic talent he will make a valuable contribution to the progress of our work.

### Adoption of the agenda

*The agenda was adopted.*

Letter dated 1 September 1980 from the Permanent Representative of Malta to the United Nations ad-

dressed to the President of the Security Council (S/14140)

3. The PRESIDENT (*interpretation from French*): I should like to inform the members of the Council that I have received letters from the representatives of Malta and the Libyan Arab Jamahiriya, in which they request to be invited to participate in the discussion of the item on the agenda. In accordance with the usual practice I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in conformity with the relevant provisions of the Charter and rule 37 of the provisional rules of procedure.

*At the invitation of the President, Mr. Gauci (Malta) and Mr. Burwin (Libyan Arab Jamahiriya) took places at the Council table.*

4. The PRESIDENT (*interpretation from French*): The Council is meeting today in response to a request made in a letter dated 1 September from the representative of Malta to the President of the Council, circulated under the symbol S/14140.

5. I should also like to draw the attention of members of the Council to the following documents: document S/14145, containing the text of a letter dated 3 September from the representative of the Libyan Arab Jamahiriya to the President of the Council; and document S/14147, containing the text of a letter dated 4 September from the representative of Malta to the President of the Council.

6. The first speaker is the representative of Malta, on whom I now call.

7. Mr. GAUCI (Malta): Mr. President, as I welcome you to New York and compliment you on your assumption of the presidency of the Council for this month, I greatly regret that on the very first day on which you take up your duties I have had no option but to solicit your immediate attention to a tense and dangerous situation. I am at least consoled by the fact that the excellent relations between our two countries permit me to trespass on your patience, and to express the hope that, under your wise guidance, a serious effort by all concerned will result in a positive outcome to defuse the dangerous situation which the Libyan Government has, unfortunately and unpredictably, recently provoked.

8. I wish also to thank the retiring President, Ambassador Futscher Pereira of Portugal, for his co-operation during the last few days of August, when events took an ominous course, and to pay him a well-deserved tribute for the able way in which he presided over the Council during that hot and exacting month.

9. My thanks and apologies go equally to all the members of the Council and to the Secretary-General.

10. I come before the Security Council with a heavy heart, and with great regret. This feeling is generated not only by the fact that the Security Council is already overburdened with serious international problems, but also by the fact that my country's national policy has strenuously been directed towards the lessening of tension and not towards its creation—especially where it never previously existed.

11. And yet, despite the consistent pursuit of this policy, we have been faced over the past few days, and still are today, with a serious situation. Malta had authorized an American company, Texaco, to commence peaceful and legitimate off-shore exploration activities well within our half of the dividing line between Malta and Libya. An Italian oil rig, Saipem Due by name, had under a subcontract commenced drilling activities.

12. To this day the Maltese Government has received no official word of explanation from the Libyan Government over the incidents I am about to describe. However, the concessionaires, Texaco, informed us that they had received a telex, dated 20 August, from the Libyan Secretary of Oil, Mr. Abdussalaam M. Zagar, which states, *inter alia*:

“We hereby warn you that your company should immediately refrain from performing any drilling operations, withdraw the rig and leave the area; otherwise, the Jamahiriya is obliged to prevent your company from operating by all means including force, on the ground that what is being done by your company is a hostile action against a sovereign State.”

13. That message was immediately followed by the sudden appearance on the same day of a Libyan warship of the Suva class, normally equipped with missiles, together with a submarine, which circled the oil rig and ordered the Italian master of the rig to stop drilling operations, threatening him with the use of force if he did not. Since then, Libyan warships have regularly sailed very close to the rig, in a continuing and escalating show of force to intimidate the master of the rig. Naval units of other countries were also in the area, and unidentified planes frequently overflowed the confrontation zone.

14. On the following day, 21 August, Libyan soldiers broke into the residence of Saipem's representative in Libya. He was given an ultimatum to the effect that

unless a telex was received from the captain of Saipem stating that they would stop operations and remove the rig, the Libyans would take it by force. This situation could easily have deteriorated at any given moment, thus endangering regional peace and security.

15. Two days ago, in the evening, the situation became even more tense. The Libyan warship had moored itself to buoy number 5 of the oil rig, uncovered its guns and manned them, with sailors standing by. The captain of the rig had no other option but to solicit the protection of the Italian Navy.

16. The current assessment by the concessionaires, in a letter prepared on 3 September, reads as follows:

“The events which commenced on 20 August 1980 and were caused by the Government of the Socialist People's Libyan Arab Jamahiriya, involving actual threats and continual shows of military force by that Government against Texaco and its drilling contractor, Saipem SPA, directly exposed the drilling rig, Saipem Due, and all personnel thereon, to serious and imminent danger of actual physical and bodily harm and further threats of acts of reprisal by the Libyan Government against Saipem SPA. The Saipem Due was on location and drilling an exploration well within the boundaries of and under the terms and conditions of the deed of production licence, as amended, granted to Texaco on 31 May 1974. As you have been previously notified, Saipem SPA has given us notice that they are suspending drilling operations.”

17. This attitude, this forceful action we find not only dangerous but inexplicable, when viewed against the background of our foreign policy objectives; because, for many years, ever since Malta's independence, successive Governments have tried to foster good relations with all countries, and to strive for economic self-sufficiency. Since the present Government was returned by popular mandate in 1971, we had even succeeded, at enormous economic sacrifice, in freeing ourselves completely from all military attachments, thus managing to reverse in less than a decade nearly two centuries of our previous history. It is our intention to continue this policy.

18. In fact, during this period we have greatly improved our relations with all countries, particularly our neighbours in Europe and Africa.

19. To pursue its new policy and to develop further its natural role of a bridge between the Arab nations and Europe, Malta had discussed with its immediate neighbours guarantees for Malta's new political status in order to fill the void after the complete dismantling of the military bases in 1979.

20. Foremost among the countries with which we had forged new relationships was the Libyan Arab Jamahiriya, because of our proximity, our shared

history, our common features and our economic complementarity. The Jamahiriya itself was in complete accord with Malta's proposals, and on 29 May 1977, a protocol was signed in Tripoli committing the Jamahiriya to sign a treaty guaranteeing the neutrality, independence and territorial integrity of the Republic of Malta.

21. From the very beginning, however, the Government of Malta had recognized that there was one element of potential discord between Libya and Malta. With advancing technology, dwindling supplies and escalating prices, the resources of the sea-bed separating the two countries were bound to receive attention. In Malta's case, not having any natural resources on land, beyond sun and stone, we could not but look hopefully at the potential of off-shore exploration to help our search for economic self-sufficiency. Accordingly, with patient persistence and attention to detail, on Malta's initiative the two sides negotiated over a protracted four-year period an agreement to refer to the International Court of Justice for adjudication any competing claims for national jurisdiction over the continental shelf and to determine the proper location of the boundary line.

22. That agreement was finally signed in 1976, but it has nevertheless so far remained a dead letter as the Libyan Government, despite constant representations on our part, despite time-consuming negotiations and frequent ministerial assurances, has not yet ratified the agreement. Malta, for its part, lost no time in complying with the necessary legal and constitutional processes.

23. Moreover, even when relations were at their best, all efforts to find a solution to the dispute on the demarcation line dividing the continental shelf between the two countries failed. Nevertheless, we persisted in our efforts and were recently extremely disappointed when, even against the great hopes raised by a solemn promise given by Major Jalloud to the Maltese Prime Minister in Tripoli on 23 April 1980 to the effect that the agreement would be ratified before the end of June, that promise, the latest in a series of similar promises, also remained unfulfilled.

24. We could not understand the reasons given for that procrastination, but recognized the disastrous repercussions on our economic development. It is somewhat difficult to resist the suspicion that this procrastination, extraordinary as it is, cannot but be motivated by the desire of the Libyan authorities to deny the inherent right of the Government of Malta to exploit its resources in the interests of its own people. Consequently, having exhausted all possible means of dialogue, the Government of Malta asked the companies which had previously been given a production licence in 1974, to start drilling. The area currently under exploration was not contested by Libya when the details of the licences were first made public in 1974. Nevertheless, prudently, the Maltese Govern-

ment, in good faith and in accordance with our most recent compromise offer to the Libyan Government, instructed the concessionaires to refrain at present from drilling in a band 15 miles north of the median line between the two countries.

25. The end result of the cumulative Libyan action is simply disastrous for our fledgling national economy, which depends entirely on oil imports. To them it is perhaps a minor matter; to us it is of vital importance. We feel it is unethical that a rich and powerful country, well endowed with energy resources, should inhibit, rather than help, a small and poor country in its search for its own potential indigenous resources. It is provocative that there should be deliberate delay in submitting an outstanding question to the appropriate legal tribunal in accordance with a negotiated, agreed procedure. And it is highly dangerous, and completely unacceptable, that legitimate activities should be threatened by the use of force, with consequent danger to life and costly equipment and to the prospects of regional security.

26. We are firmly convinced that the principles and practices of international law are on our side. But, in order to resolve any lingering doubt, we state publicly here that we are still willing and ready to go to the International Court of Justice right now, in accordance with the agreement already signed between the two Governments, and that we will, as in duty bound, faithfully follow the Court's pronouncements when the dispute is finally adjudicated, not only on this particular issue but on the whole question of the dividing line between the two countries.

27. Let me repeat the gist of my last remarks in the words of an official letter by my Prime Minister issued in Valletta on 2 September. It states:

"We have to convince Libya that it is in her own interests and in the interests of the Arab nation to allow Malta to drill up to the middle line, and that, should Libya really decide to go to arbitration on the agreed terms, Malta would immediately agree to do likewise and would be prepared to hand over, during or after drilling, any area which the International Court of Justice decides does not belong to Malta."

28. Furthermore, as already explained, the area currently undergoing exploration activities, which we allowed to take place after having waited for six years, is strictly limited to a previously uncontested area. If we were meekly to accept Libya's constantly escalating and seemingly insatiable appetite in making unfounded claims to jurisdiction over what it contends is its continental shelf, we would be unfairly precluded from exercising our legitimate right to off-shore exploration. We trust that what is not permissible under international law will not be sanctioned by the threat or the use of force.

29. What we cannot accept is that our efforts towards the attainment of economic viability should be severely impeded through such illegal action by a foreign Power. All members are aware of the tremendous burden that oil prices have inflicted on developing countries. We are at present 100 per cent dependent on imported oil, and all our industrial enterprises, including electricity generation, are oil-dependent. Hence the concentrated attention that my Government gives to energy questions, including the use of alternative sources of energy. It is for us an enormously costly process, and we can neither afford nor allow any disruption of our ongoing legitimate activities.

30. Naturally, we do not expect the Council to adjudicate the legal merits of our case. That is for the Court to do, if and when the Libyan Government will condescend to honour its obligations. But I believe that the members of the Council might wish to have some elucidation on the legal merits of our position.

31. For that purpose we have sought the advice of legal experts of world renown, including, among others, Professor Lauterpacht, Dr. Jan Evensen and Attorney Richard Young. All are in agreement that since Libya, unlike Malta, is not a party to the 1958 Convention on the Continental Shelf,<sup>1</sup> the merits of the case rest on the relevant principles of customary law. Primarily these derive from the decisions of international tribunals and from the practice of States. Apart from State practice, at least 16 decisions have already been taken on similar disputes between other States in various regions of the world.

32. From those decisions and from constant State practice, there is convergent legal opinion that enough case evidence exists to support a presumption in favour of the median line as *prima facie* the proper boundary between opposite States fronting on the same continental shelf.

33. The conclusion inevitably follows that in the Malta-Libya situation a boundary based on the median line would afford the most equitable solution and would best accord with the applicable principles of customary law. For our part, in our lengthy negotiations we have not even contested—so far, at any rate—the questionable way in which Libya drew straight baselines across the Gulf of Sirte, a method which clearly is to Libya's advantage. The considered opinion of all the experts we have contacted is that Libya is claiming much more than it is entitled to, while Malta is seeking no more than the minimum which it can reasonably claim.

34. In the days since 20 August, when the threat was actually made, my Government has not been idle. We have exerted maximum efforts and have asked several friendly countries to use their good offices to persuade the Libyans to allow the peaceful activities we are currently conducting to continue. We have been advised informally that those countries have been told

that the Libyan warships have every right to be there and do not constitute a threat. Unfortunately, that does not exactly tally with the message conveyed to the captain of the rig and the arrest of the Italian national, which I have already mentioned. In fact, the Libyan Government has not even deigned to offer any explanation of its action, nor has it made any positive contribution towards an amicable settlement. On the contrary, despite all our efforts, the threat has so far not been withdrawn. My Government has also sought explanations from the Libyan Government for its action, but none has been forthcoming beyond the bland assurance that Malta and Libya still have excellent relations. Yet it continues to threaten the safety of our drilling operations and is insisting that we abandon them.

35. The time-limit imposed by Libya for the rig to cease its operations and to leave the area under duress has almost expired. We cannot order the rig to leave, since it is acting in conformity with a valid licence granted under our national legislation and in compliance with accepted international law and practice.

36. The Libyan Government will have to assume responsibility before the whole world for any dangerous consequences of its threatened action.

37. I repeat that the threat remains. Not only has it not been withdrawn but it is constantly reasserted, despite intensive efforts on our part and on the part of friendly countries. That is the only reason for our urgent presence before the Council today—in fact we had requested a meeting three days ago. If unarmed exploration activities are considered acts of hostility by the Libyan Government, we may be permitted to take an even more serious view of the intrusion of armed warships threatening our citizens and the citizens of other countries engaged in legitimate peaceful activities in Malta's area of sole jurisdiction.

38. We are not seeking any reprimands nor are we asking for any censure. All we ask is that we be allowed, without harassment, to carry out our legitimate activities in accordance with international law. Our present efforts can brook no disruption or delay. Hence our request is urgent, because the exploration activities that we finally authorized are being impeded to this very day, and have been since 20 August, under the pressure of a time-limit that will shortly expire.

39. As befits the policy of a small, peaceful country dedicated to the cause of peace, except for the taking of measures to protect our internal security, we have not answered threat by counter-threat. We have asked for a Council meeting and we have given a brief but honest account of the events that climaxed with Libya's illegal action. We are prepared to answer any additional questions.

40. We have, of course, other options open to us but we do not wish to resort to them unless we have to

since our interest and our consistent policy is to preserve peace rather than to provoke international incidents. But we simply cannot accept that peaceful, vital activities of our nation should be disrupted in such a provocative, heavy-handed and illegal manner. We will not submit to economic strangulation, abetted by the use of force and cloaked in the guise of a "special relationship".

41. The members of the Security Council may wish to keep in mind that this case may not be an isolated one. Since the off-shore activities of States are bound to increase in the years ahead, a code of responsible conduct should be encouraged and any illegal approach should not pass unchallenged. Countries of roughly equivalent strength can resort to their own methods, but small, unarmed countries pursuing legitimate peaceful activities look to the United Nations for protection as a first resort.

42. We therefore earnestly and urgently request the Council to ask Libya to desist from making further provocative threats and from taking any menacing action and so allow us to pursue our legitimate rights in peace. It is the least that a small nation can ask from the Council, as the guardian of international peace. We rely on the collective wisdom of the Council and we appreciate the efforts that have already been taken under the direction of its President.

43. The PRESIDENT (*interpretation from French*): The next speaker is the representative of the Libyan Arab Jamahiriya, on whom I now call.

44. Mr. BURWIN (Libyan Arab Jamahiriya): Allow me first of all, Mr. President, to welcome you to New York and to congratulate you on your assumption of the presidency of the Council for this month. We are confident that with your wisdom and ability you will guide the deliberations towards progress. I should also like, through you, to extend my thanks to the Secretary-General, and to the members of the

Council for allowing me to participate in the deliberations of the Security Council.

45. I should also like, on behalf of my delegation, to avail myself of this opportunity to thank your predecessor, Ambassador Futscher Pereira of Portugal, for the excellent manner in which he conducted the proceedings of the Council during the month of August.

46. The Libyan Arab Jamahiriya anxiously desires to maintain a good, friendly relationship with Malta and with its Government and people and it expresses best wishes to the Maltese people for their prosperity. Indeed, the Libyan Arab Jamahiriya is extremely concerned with the maintenance of peace and security in the region and in the world.

47. I have heard the statement of my friend the representative of Malta. However, I should like at this time to request the postponement of consideration of this matter so that my delegation will have a chance to study the Maltese statement carefully and to consult our Government.

48. The PRESIDENT (*interpretation from French*): The request of the representative of the Libyan Arab Jamahiriya to have some time to study the statement of the representative of Malta is entirely acceptable. I would therefore suggest that, if there is no objection, the date and time of the next meeting of the Council should be set after consultation with all the members.

*It was so decided.*

*The meeting rose at 6.30 p.m.*

---

NOTE

<sup>1</sup> United Nations, *Treaty Series*, vol. 499, p. 311.

---

### كيفية الحصول على منشورات الأمم المتحدة

يمكن الحصول على منشورات الأمم المتحدة من المكتبات ودور التوزيع في جميع أنحاء العالم. استعلم عنها من المكتبة التي تتعامل معها أو اكتب إلى : الأمم المتحدة، قسم البيع في نيويورك أو في جنيف.

#### 如何购取联合国出版物

联合国出版物在全世界各地的书店和经售处均有发售。请向书店询问或写信到纽约或日内瓦的联合国销售组。

#### HOW TO OBTAIN UNITED NATIONS PUBLICATIONS

United Nations publications may be obtained from bookstores and distributors throughout the world. Consult your bookstore or write to: United Nations, Sales Section, New York or Geneva.

#### COMMENT SE PROCURER LES PUBLICATIONS DES NATIONS UNIES

Les publications des Nations Unies sont en vente dans les librairies et les agences dépositaires du monde entier. Informez-vous auprès de votre libraire ou adressez-vous à : Nations Unies, Section des ventes, New York ou Genève.

#### КАК ПОЛУЧИТЬ ИЗДАНИЯ ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ

Издания Организации Объединенных Наций можно купить в книжных магазинах и агентствах во всех районах мира. Наводите справки об изданиях в вашем книжном магазине или пишите по адресу: Организация Объединенных Наций, Секция по продаже изданий, Нью-Йорк или Женева.

#### COMO CONSEGUIR PUBLICACIONES DE LAS NACIONES UNIDAS

Las publicaciones de las Naciones Unidas están en venta en librerías y casas distribuidoras en todas partes del mundo. Consulte a su librero o diríjase a: Naciones Unidas, Sección de Ventas, Nueva York o Ginebra.

---