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TO IMMEDIATE FCO

TELEGRAM NUMBER 1516 OF 2 DECEMBER

INFO IMMEDIATE BEIRUT, DAMASCUS, TEL AVIV, WASHINGTON

INFO PRIORITY AMMAN, JEDDA, TUNIS, THE HAGUE, PARIS, MOSCOW

INFO SAVING SANA'A

YOUR TELNO 833 (NOT REPEATED): PLO IN LEBANON

SUMMARY

1. THE PLO REQUEST IS NOT FOR EVACUATION FROM TRIPOLI UNDER UN AUSPICES BUT FOR THE UN FLAG TO BE FLOWN ON THE SHIPS DOING THE EVACUATING. THE SECRETARY-GENERAL HAS TOLD THE COUNCIL THAT IT IS LEGALLY JUSTIFIABLE FOR THE UN FLAG TO BE FLOWN ALONGSIDE THE NATIONAL FLAG OF THE SHIPS IN QUESTION, WHICH WILL BE PROVIDED (AND PAID FOR) BY THE SAUDIS. HE HAS ALSO STRESSED THE HUMANITARIAN ASPECT. THE LEBANESE AGREE. SO DO ELEVEN MEMBERS OF THE COUNCIL. IN THE CIRCUMSTANCES I HAVE SAID WE SHALL JOIN THEM. ASSUMING THE AMERICANS DO SO TOO THERE WILL NOT BE A RESOLUTION BUT SIMPLY A COMMUNICATION TO THE SECRETARY-GENERAL SAYING THAT THE COUNCIL GOES ALONG WITH THE TWO-FLAG PROPOSAL. THE COUNCIL MEETS AGAIN AT 15.30Z TOMORROW SATURDAY 3 DECEMBER.

DETAIL

2. THE PRESIDENT OF THE SECURITY COUNCIL, VAN DER STOEL (NETHERLANDS)

CALLED FOR A MEETING OF THE COUNCIL IN INFORMAL CONSULTATIONS THIS MORNING, 2 DECEMBER, TO ALLOW THE SECRETARY GENERAL TO REPORT THAT HE HAD RECEIVED A URGENT REQUEST FROM ARAFAT, THROUGH THE PLO OBSERVER AT THE UN, TO THE EFFECT THAT THE SHIPS WHICH WOULD TAKE HIM AND HIS TROOPS FROM TRIPOLI SHOULD FLY THE UN FLAG, APPARENTLY AS A FORM OF PROTECTION OR GUARANTEE. THE SECRETARY GENERAL ADDED THAT IT APPEARED THAT THIS WAS A CONDITION ON WHICH ARAFAT AND HIS TROOPS WOULD BE PREPARED TO LEAVE TRIPOLI BUT MADE IT CLEAR THAT HE HAD NOT BEEN INFORMED OF THE SUBSTANCE OF THE RECENT NEGOTIATIONS ON TRIPOLI. THE SECRETARY GENERAL SAID THAT HE FELT OBLIGED, UNDER OPERATIVE PARAGRAPH 7 OF SCR 542 (MY TELNO 1437) TO CONSULT THE COUNCIL ABOUT THIS IN THE FULL KNOWLEDGE THAT IT HAS A SIGNIFICANT BEARING ON A PEACEFUL RESOLUTION OF THE SITUATION IN TRIPOLI AND MAY WELL BE IMPORTANT AS A FACTOR IN AVOIDING FUTURE LOSS OF HUMAN LIFE IN AND AROUND THE CITY. THE REMAINDER OF THE SECRETARY GENERAL'S STATEMENT (THE FULL TEXT OF WHICH HAS BEEN SENT BY FACSIMILE TO NENAD) COVERED THE LEGAL SITUATION: IF THE UN FLAG FLEW ALONGSIDE THE NATIONAL FLAG IT DID NOT ALTER THE ATTRIBUTION OF THE SHIP TO THE FLAG STATE BUT INDICATED BACKING AND APPROVAL BY THE UN OF THE PURPOSE FOR WHICH THE SHIP WAS BEING USED: ALTHOUGH THERE WERE NO FIRM RULES OF INTERNATIONAL LAW ON THE USE OF FLAGS OPERATED BY OR FOR INTERNATIONAL ORGANISATIONS THE ICRC HAD BEEN GIVEN THE RIGHT TO

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USE ITS FLAG EXCLUSIVELY ON SHIPS AND THERE HAD BEEN CASES IN WHICH SHIPS CHARTERED OR OWNED BY THE UN AND USED EXCLUSIVELY FOR UN PURPOSES HAD NAVIGATED UNDER THE UN FLAG WITH THE AGREEMENT OF THE STATES CONCERNED: IN THIS CASE IT WOULD NOT SEEM JUSTIFIABLE TO PERMIT THE USE OF THE UN FLAG ABOVE BUT "UNDER THE GENERAL LAW OF NAVIGATION IT WOULD SEEM JUSTIFIABLE TO PERMIT USE OF THE UN FLAG ALONGSIDE THE NATIONAL FLAG."

3. I ASKED FOR SPECIFIC PRECEDENTS. THE LEGAL COUNSEL QUOTED CASES IN WHICH THE UN FLAG HAD FLOWN ALONGSIDE THE NATIONAL FLAG (THE SS NORWAY IN MARCH 1980, THE EXPERIMENTAL REED SHIP TIGRIS IN APRIL 1977 AND A SCIENTIFIC OCEAN EXPEDITION). FOR THE 1956 UNEF THE UN FLAG SOMETIMES FLEW SOMETIMES ALONE AND SOMETIMES TOGETHER WITH THE NATIONAL FLAGS ON VESSELS CHARTERED TO TRANSPORT THE TROOPS AND MATERIALS. THE UN FLAG HAD FLOWN ALONE IN 1955 ON BEHALF OF THE UN/KOREAN RECONSTRUCTION AGENCY AND IN 1956/57 DURING THE UN SUEZ CANAL CLEARANCE OPERATION. I ALSO ASKED WHO OWNED THE SHIPS REFERRED TO BY TERZI: THE SECRETARY GENERAL REPLIED THAT HE HAD NOT BEEN VERY SPECIFIC BUT AGREED WITH ME WHEN I SAID THAT THIS COULD NOT BE DESCRIBED AS A UN OPERATION.

4. TROYANOVSKY (USSR) ASKED ABOUT THE TIMEFRAME AND THE FINANCIAL IMPLICATIONS. THE SECRETARY GENERAL REPLIED THAT TERZI HAD EXPRESSED A TREMENDOUS SENSE OF URGENCY, AS HAD THE ARAB LEAGUE REPRESENTATIVE WHO FOLLOWED HIM, AND THAT MAKSUD HAD SAID THE ARAB LEAGUE WOULD COVER THE EXPENSES.

5. MRS KIRKPATRICK (US) SHARED TROYANOVSKY'S CONCERN ABOUT THE FINANCIAL IMPLICATIONS AND ASKED WHO WOULD HAVE TO AGREE TO THE USE OF THE UN FLAG. THE LEGAL COUNSEL REPLIED THAT IN THE PRESENT CASE THERE WOULD BE FOUR CONCERNED PARTIES:

- (A) THE COUNTRY OF REGISTRATION OF THE SHIP(S):
- (B) LEBANON:
- (C) THE COUNTRY OF DESTINATION:
- (D) THE STATES THROUGH WHOSE TERRITORIAL WATERS THE SHIPS MIGHT PASS.

THE SECRETARY GENERAL COMMENTED THAT TERZI HAD NOT SPECIFIED A DESTINATION BUT TUNISIA AND ALGERIA SEEMED POSSIBLE.

6. THE PRESIDENT THEN SUSPENDED THE MEETING IN ORDER TO ALLOW BILATERAL DISCUSSIONS. WHEN I SAW HIM I SAID (ON THE BASIS OF TELECONS GORE-BOOTH/LONG) THAT:

(A) IF THIS WAS AN URGENT HUMANITARIAN MATTER (FOR WHICH WE HAD ONLY TERZI'S WORD) IT MIGHT BE APPROPRIATE FOR THE ICRC TO DEAL WITH IT: IN WHICH CASE THERE MIGHT NOT BE ANY NEED FOR THE COUNCIL TO DO ANYTHING BEYOND INVITING THE SECRETARY GENERAL TO BE IN TOUCH WITH THE RED CROSS.

(B) THE IDEA (WHICH A MEMBER OF THE DUTCH DELEGATION HAD TOLD US WAS ALREADY IN VAN DER STOEL'S MIND) OF SENDING A REPRESENTATIVE

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OF THE SECRETARY GENERAL TO TRIPOLI TO GUARANTEE AS MANDATE UNDER SCR 542 WAS A GOOD ONE: HE HAD NOT YET REPORTED UNDER THAT RESOLUTION AND THE COUNCIL COULD INVITE HIM TO TAKE THE NECESSARY STEPS TO OBTAIN THE INFORMATION:

(C) IF THIS WAS TO BE TREATED AS A POLITICAL MATTER WE SHOULD NEED TO CONSIDER IT MORE CAREFULLY NEXT WEEK ON THE BASIS OF A PROPER REPORT WHICH FOR A START MADE IT CLEAR WHAT WE WERE PUTTING A UN FLAG ON: WE DID NOT WANT A POLITICAL PIG IN A POKE.

VAN DER STOEL AGREED THAT A STRONG CASE COULD BE MADE OUT FOR USING THE ICRC, THOUGH HE THOUGHT THERE MIGHT BE A PROBLEM ABOUT HAVING ARMS ON BOARD. HE AGREED THAT THERE WAS NO NEED FOR A UN FLAG BEYOND A 'POLITICAL FACE-LIFT' FOR ARAFAT. IF THE SECRETARY GENERAL WERE TO SEND SOMEONE TO TRIPOLI HE MIGHT APPRECIATE GUIDANCE. THIS SUGGESTED A TWO STAGE OPERATION, FIRST A FACT FINDING MISSION AND SECONDLY A DEBATE.

7. LATE THIS EVENING VAN DER STOEL ASKED ME TO CALL TO HEAR THE RESULTS OF HIS CONSULTATIONS. THESE WERE THAT ELEVEN MEMBERS OF THE COUNCIL FELT THAT THE IDEA OF A UN FLAG WAS A GOOD ONE. A TWELFTH MEMBER (ZAIRE) HAD ONLY SLIGHT RESERVATIONS. WHICH LEFT OURSELVES, THE AMERICANS AND (THOUGH HE DID NOT SAY SO) THE DUTCH (THE FRENCH AND RUSSIANS HAVING TOLD US EARLIER THAT THEY HAD NO OBJECTION). HE HAD BEEN IN TOUCH WITH THE LEBANESE WHO HAD MADE IT CLEAR THAT THEY WANTED THE PLO EVACUATED AS SOON AS POSSIBLE AND THAT THEY COULD AGREE TO THE UN FLAG PROVIDED THAT IT WAS ACCOMPANIED BY THE LEBANESE FLAG IN LEBANON'S TERRITORIAL WATERS. HE HAD ALSO SEEN TERZI WHO HAD QUOTED TO HIM ARTICLE 4 OF THE SYRIAN/SAUDI AGREEMENT COVERING THE EVACUATION AND ALSO QUOTED AN AGREEMENT WITH THE LEBANESE GOVERNMENT FOR LEBANESE POLICEMEN TO CONDUCT IDENTIFICATION OF THE PLO MEMBERS AND ESCORT THEM TO THE PORT: TERZI ADDED THAT SAUDI ARABIA WOULD PROVIDE THE SHIPS (OF WHICH 6-8 WILL BE REQUIRED) AND THE MONEY: THE PLO WILL BE TRANSPORTED TO TUNISIA AND NORTH YEMEN. HE HAD ALSO SPOKEN AGAIN TO THE SECRETARY-GENERAL WHO HAD SAID THAT, IF COUNCIL AGREEMENT WAS FORTHCOMING, HE WOULD STRESS THE HUMANITARIAN ASPECT. VAN DER STOEL POINTED OUT THAT, IN THESE CIRCUMSTANCES, IF WE MAINTAINED OUR POSITION WE SHOULD BE ACCUSED OF NOT BEING WILLING TO PREVENT FURTHER BLOODSHED.

8. I SAID THAT IN THE LIGHT OF THIS NEW INFORMATION THE SENSIBLE THING WAS FOR US TO GO ALONG WITH THE REST OF THE COUNCIL. WE HAD NEVER HAD A FUNDAMENTAL OBJECTION BUT HAD NOT WANTED TO BE BOUNCED. THERE WAS AN OVER-RIDING NEED TO GET THE PLO OUT AND ON THE BASIS OF A TWO FLAG SOLUTION WE WOULD NOT OPPOSE. THERE MIGHT EVEN BE ADVANTAGE TO BE GAINED IN HAVING IT PUBLICLY ESTABLISHED THAT THERE WAS A SYRIAN/SAUDI AGREEMENT WITH WHICH THE LEBANESE GOVERNMENT WAS ASSOCIATED.

- 3 -
CONFIDENTIAL

19.

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9. VAN DER STOEL WILL NOW BRIEF MRS KIRKPATRICK SIMILARLY IN THE HOPE OF PERSUADING HER NOT TO RAISE OBJECTION WHEN THE COUNCIL RESUMES INFORMAL CONSULTATIONS TOMORROW MORNING. HE WILL LOOK INTO THE MODALITIES OF COMMUNICATING THE COUNCIL'S AGREEMENT TO THE SECRETARY-GENERAL. THERE WILL BE NO FORMAL MEETING OF THE COUNCIL (AND THEREFORE NO RESOLUTION). THE SECRETARY-GENERAL WILL MAKE A FURTHER STATEMENT TO THE COUNCIL TO WHICH THE COUNCIL WILL BE ASKED TO SIGNIFY THAT IT HAS NO OBJECTION. ASSUMING IT DOES SO THE PRESIDENT WILL EITHER MAKE A STATEMENT TO THIS EFFECT OR WRITE A CONFIRMATORY LETTER TO THE SECRETARY GENERAL.

10. RESIDENT CLERK PLEASE ALERT LONG (NENAD) TO THIS TELEGRAM.

FCO PSE PASS SAVING TO SANA'A

THOMSON

(REPEATED AS REQUESTED)

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- 4 -

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