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Madagascar 1960, Nigeria
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Dag Hammarskjölds saml.

Libya

26 Jan. 55

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U.N., Geneva)

- 1 letter to D.H. (Conf. report on A.P. mission
to Libya)



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Palais des Nations
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(à rappeler dans la réponse)

26 January 1955

Dear Mr. Hammarskjöld,

The mission to Libya which you had authorised me to accept in reply to an invitation from the Libyan Prime Minister, Mr. Ben Halim, has developed in a way which makes me feel that I should rather write you personally on this matter than submit a formal report. I am attaching to this letter a few annexes which I don't expect you to read, but which eventually you might find useful to have in your private files.

On the Sunday morning, January 9, after my arrival Saturday night in Tripoli, I was asked to join in a private discussion with the Prime Minister, Mr. Power, the departing Technical Assistance Resident Representative, and Mr. Pitt-Hardacre (UK), the principal financial adviser to the Libyan Government, who enjoys the entire confidence of the Government. The Prime Minister submitted two problems for advice: firstly, the question of a revision of the Constitution for the purpose of simplifying the country's administration with corresponding economies, and, secondly, the highly delicate question of a change in the succession to the Throne.

This first conference was followed by a second one on the following Monday morning, on the same subjects with the same participants. The Prime Minister, Mr. Power, and the financial adviser passed in review the constitutional, administrative, financial and political developments over the last three years, that is since the date on which Libya became an independent country. I reserved any advice until the situation had become clear to me. At the end of the latter discussion, the Prime Minister conveyed an invitation from H.M. the King to fly the next early morning to Tobruk, 1500 km. along the coast to the East, for a consultation on the same subjects.

The conference in Tobruk started on Tuesday afternoon and lasted almost without interruption until Thursday noon. Participants were: H.M. the King, the Prime Minister, the Governor of Cyrenaica and myself. Mr. Power had accompanied us on the flight, paid his farewell to the King, and after luncheon flew back to Tripoli in view of his imminent departure from Libya.

The two problems submitted to me for advice may best be summarised as follows:

I. Revision of the Constitution for purposes of administrative simplification and economy.

The Bevin-Sforza formula of Spring 1949 had caused the Libyan people to suspect seriously the intentions of the U.K., France, U.S.A., and Italy with regard to the future of their country. As you will remember, this formula suggested a partition of the country in three

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Mr. Dag Hammarskjöld,
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trusteeship territories, each for a duration of ten years; Tripolitania under Italy, Cyrenaica under the U.K., and the Fezzan under France. Although this formula was rejected by the General Assembly in special session in May 1949, Libyan public opinion continued to be suspicious and reacted by asking for a united and independent Libya. This was finally granted by the General Assembly resolution No. 289 (IV) of 21 November 1949, leaving it, however, to a Libyan Assembly to draft a constitution and determine the form of government, with the aid and advice of the U.N. Commissioner and Council. Subsequent events proved that the suspicion of the Libyan people, in particular with regard to the policies of the U.K., France and Italy, was not entirely unwarranted, the three powers continuing to argue for what was called at the time a "loose federation" with a view to be able to protect more effectively their respective interests in each of the territories.

Soon after my arrival in Libya in January 1950 I, moreover, found that the Libyans themselves were far from being unanimous on the degree of unity they wanted. The nationalist leaders in Tripolitania insisted on a completely unitarian form of state, which would have given them the advantageous position of being able to dominate the country, Tripolitania being the most advanced of the three territories with the largest population. For that same reason Cyrenaica and the Fezzan, which have much smaller populations and are socially and economically less advanced, insisted on a federal form of government, thus, in fact, but for different reasons, following more or less the line adopted by the interested foreign powers. My reports to the General Assembly contain a detailed account of what actually took place.

In the final outcome, the Constitution of 1951 knits the three territories more closely together than the foreign powers would then have liked. At the same time, it provides for a far less unitary form of State than most of the Tripolitanian leaders had hoped for, while giving Cyrenaica and the Fezzan about the degree of protection of their provincial interests and outlook for which they had been striving. In short, it was a political compromise and the best possible at the time.

However, it can not be said that this compromise gave Libya a Constitution compatible, in terms of administrative cost and simplicity, with its particular circumstances. Since it was easy to foresee that a revision of the Constitution might well be required in a not too distant future, I recommended to the National Assembly the insertion in the Constitution of a relatively simple revision clause. However, Cyrenaica and the Fezzan were at the time to such an extent preoccupied by the desire to protect their provincial rights that the Assembly followed my advice only in part, and as a result the Constitution now provides for a rather complicated and rigid method of revision.

Three years have passed, and in this relatively short time the Libyan leaders themselves have come to the conclusion that the Constitution should be revised in a more unitary sense. Rather surprising is that the initiative should be taken by two Cyrenaican ministers,

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the Prime Minister and the federal Minister of Finance, Dr. Aneizi. Both assured me, and there is evidence to support their point of view, that in the federal Chamber of Deputies the same ideas have widely penetrated and will probably command a majority. How such proposals for revision will be received in the federal Senate and in the provincial Legislative Councils remains to be seen.

The main reasons for which this change in outlook has come about are apparently the following:

- a) constant difficulties over the budget, with competition between provincial claims on the Federal Treasury resulting in a constant rise in expenditure;
- b) repeated conflicts between federal and provincial administrations;
- c) insufficient federal control over provincial legislation and expenditure;
- d) the replacement in part of the older generation of political leaders, who took charge at the moment of independence, by younger people; in particular, the sons of families who had left the country during the Italian occupation, received a good education abroad, are less steeped in local tradition, and are now one after the other beginning to return.*

There is, moreover, one very strong argument that convinces people that public expenditures must be reduced to a lower level. Now that the treaties between the U.K. and Libya (providing for cover of the administrative deficit and £1,000,000 for development), and the U.S.A. and Libya (providing for large scale financial aid for development) have been signed and ratified, Libyans have become aware of the fact that foreign financial support is in both cases limited to a period of twenty years. Within that period Libya will have to wipe out its budget deficit and put its economy on an even keel. Our Technical Assistance experts have never ceased to explain that this can only be done by two means: an increase of production and a corresponding increase of fiscal revenue on the one hand, and maintenance of public expenditures on the lowest possible level compatible with good administration, on the other hand.

The increase in productivity is governed and at the same time limited by a host of considerations which need not be mentioned here; the pace cannot be forced. It is in itself amazing to learn from the British financial adviser that according to his estimates national annual revenue has increased by 15% in the last three years. I have lacked sufficient time to submit this figure to close scrutiny; it appears almost certain that it has been boosted by foreign military spending. Considering, on the other hand, that the combined budgets (federal and provincial) represent some 70% of the total national income as estimated by the United Nations experts in 1951, and 65% of 1954 estimates, the Government has been obliged to turn its full attention to the expenditures of both the federal Government and the provincial Governments. The conclusion of their studies was that considerable economies are possible but not without revision of the Constitution. Hence, their request to consult the former U.N. Commissioner.

* The Prime Minister himself belongs to this category. He is 34 years of age, was born and educated (civil engineer) in Egypt and Europe; his family is of old Cyrenaican stock.

In the course of our discussions the following documents played a large part:

- a) the federal Constitution - see the second annual report of the U.N. Commissioner in Libya, General Assembly Sixth Session, supplement No. 17, Annex I - (A/1949);
- b) a confidential report, in Arabic, prepared by the Prime Minister for the King - see extract in English attached;
- c) a confidential memorandum, attached, prepared by the principal financial adviser to the Libyan Government, Mr. C. Pitt-Hardacre, on the financial aspects of the revision under consideration;
- d) a draft report, attached, of an administrative survey of departments of the federal Government and provincial administrations of the United Kingdom of Libya, by Messrs. Elvins and Hynes, experts in public administration - U.N. Technical Assistance Mission in Libya.

As will be seen from the extract mentioned under b) the proposals submitted by the Prime Minister were extremely far-reaching. After I had had time to study them and discuss the consequences in detail I advised setting a somewhat slower pace, while nevertheless introducing reforms permitting a considerable economy. What the Prime Minister had originally proposed, virtually amounted to swinging from a marked federal system to an almost complete unitary system of government. Although I am prepared to believe that after three years of experience leaders in executive and legislative branches on both federal and provincial levels have learned a great deal of the art of government and administration, I find it equally difficult to believe that the strong feelings, which in 1950-'51 had prompted Cyrenaica and the Fezzan to favour a federal system, have altogether disappeared. I was strengthened in this belief while listening to the provincial Governor of Cyrenaica in the course of our lengthy discussions with the King in Tobruk.

As a matter of fact, there must have been some doubt even in the mind of the Prime Minister himself, since it was on his desire that the Governor attended the discussions in Tobruk. Most of the time these consisted of a discussion between the Prime Minister and the Governor, one defending the federal point of view and the other the provincial, with the King and myself intervening only when the two gentlemen reached a deadlock.

For the purpose of this letter, it seems unnecessary to enter into too many details. It may be sufficient to summarize the reform plans which finally received the royal assent, subject to the relevant constitutional amendments to be submitted to the King in the course of the months to come, and which then will be submitted to the federal Cabinet as well as to the Governors of the three territories before introduction in parliament and in the provincial Legislative Councils:

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- a) Art. 38 of the federal Constitution is to be revised so that the list of powers mentioned in this article and which are now being exercised by the federal Government from a legislative point of view only and entrusted to the provincial Governments for execution, will come fully within the scope of the federal Government. The result will be a considerable simplification of and saving in the provincial administrations.
- b) Art. 176 - 185 are to be revised so as to establish a direct line of authority from a Federal Minister of the Interior, to be newly created, to the Heads of the provincial administrations. Presently, each province has its own organic law or constitution (elaborated and promulgated after the declaration of independence). Under these laws each province has its own legislative and executive Council. Moreover, there is a Governor (Wali) in each province appointed by the King and representing Him. The duties of the Wali consist in supervising the implementation of the Federal Constitution and of all federal laws and, furthermore, of those functions which may have been assigned to him by the organic law of the province. The principal drawbacks of this system are:
1. lack of a clearly defined federal authority over the provinces;
 2. lack of a clear distinction between the duties of the Wali and those of the President of the Executive Council.

The plan for revision of the Constitution now under consideration will provide for Wali's to be appointed by the King under counter-signature of the Prime Minister and the Minister of the Interior, and to be responsible to the latter. The Wali will ex-officio act as President of the Executive Council. He will be in charge of the provincial administration and responsible for the implementation as well of provincial legislation as of that part of federal legislation which will be left to the provinces after revision of Art. 38.

- c) The organic laws of the provinces will have to be revised so as to bring them in line with the reforms to be introduced in the federal Constitution (see Art. 177 of this Constitution).
- d) Art. 109, second sentence, prohibiting a member of Parliament to be at the same time a member of a provincial legislative Council, will be abolished. Indeed, experience has proven that Libya does not yet dispose of a sufficient number of capable and experienced people to man separately the federal Parliament and the provincial legislative Councils (a total of 150 persons).

It goes without saying that a constitutional reform of the type described above will have to be followed by a far-reaching administrative reform if the necessary savings are to be achieved. In this connection, U.N. Technical Assistance will have to play a considerable part. As a matter of fact, Messrs. Elvins and Hynes have already exercised, behind the scene, a considerable influence on members of the Government, and their report has effectively contributed to the present desire for reforms. The Prime Minister, the Minister of Finance, and the Financial Adviser are even contemplating the possibility of inviting Mr. Elvins to enter the service of the Government as chairman of a Civil Service Board with considerable authority over all administrations.

The points in the original proposal of the Prime Minister with which I have expressed disagreement, are the complete suppression of all provincial budgets and the abolition of the three provincial legislative Councils. This, in my opinion, would go too far, at least for the time being. In a vast country like Libya with considerable distances between the seat of the federal Government and those of the provincial administrations and with difficult communications, a complete centralization of government would rapidly become unworkable. It would, moreover, unavoidably create discontent in the Provinces, which should be allowed to deal with their own truly local affairs. These provincial Councils are, moreover, useful as training centres for parliamentary life and administration. It would therefore be a pity to abolish them, but there is no doubt that their powers must be considerably curtailed, as will happen as a result of the revision of Art. 38. The total economy to be achieved from this reform will amount to a minimum of £ (Libyan) 650.000 to 700.000 per year, that is to say at least 10% of the total actual budget.

II. Revision of the Constitution with regard to the Succession to the Throne.

The reigning Senussi family has never been known for easy relations amongst its members. In origin the family constituted a religious leadership; in opposition to Italian intervention it became political. The present King is in this generation the only really outstanding member of the family. He has no children, and according to the best medical advice obtainable there virtually is no hope that he will ever have any. He refuses to take another wife. Anyway, if in the near future a son were born, a council of regency would be required, and considering that the King is now 65 years of age and of rather fragile health, this might easily result in a difficult situation lasting for several years. His Majesty has reached the conviction that amongst his relations there is nobody commanding sufficient intellectual, political, and moral authority to succeed to the Throne. The present crown prince, a younger brother of the King, but already over 60 years of age, is a worthy and respectable gentleman, but generally considered to be of a somewhat childish and immature mind. The only other possible candidate within the family is a landowner in Cyrenaica, whose sole interest lies in agriculture and who has never shown any interest in the affairs of the country. Other members of the family are wealthy merchants or contractors, several of a rather rapacious inclination. A large number of the King's relations have only one ambition, and that is to live on the royal purse without doing any work. To a certain extent this is oriental custom, but in Libya this is not very well regarded.

In the autumn of 1954 a group of tribal leaders in Cyrenaica frankly told the King of the misdeeds of his family. He reacted strongly depriving all members of the family of their rank as royal princes together with their privileges and immunities. The Royal Family is now limited to the King himself, the Queen and the present Crown Prince. However, in the opinion of the Prime Minister, and of the King himself, the present situation is still unsatisfactory as both consider the Crown Prince not suitable for succession.

Altogether, family relations have been strained for several years. In October last the favorite nephew of the Queen (the King and Queen are first cousins) murdered the Minister for Court Affairs, El-Shalli, the King's closest friend. The murderer's motives are not absolutely clear. There is a suspicion that the young man (he is only 22 years of age) was put up to his act by older members of the family, in connection with the succession to the Throne. According to another version he has simply acted as a result of a quarrel with his victim over the sale of a piece of land. He has been condemned to death by the criminal court at Benghazi, but has appealed to a higher court. Under the Constitution the King must approve all death sentences. There is little doubt that the death sentence will be confirmed and that he will be executed, with the result that relations within the Senussi family will become even more strained than they are to-day. Under the circumstances, it is almost impossible for the King to show clemency, although public opinion is not altogether unhappy over El-Shalli's disappearance. He was somewhat of an "Eminence grise", and his influence on the King was generally not considered to be a very happy one.

When the Prime Minister first mentioned the succession matter to me he went so far as to propose that the Monarchy should be abolished altogether and replaced by a Western styled Republic. I confess that I was rather surprised and even somewhat shocked. The republican form of government is one of the most difficult to administer even in advanced countries, let alone in an inexperienced country like Libya. It, moreover, does not correspond to any Arabic tradition. The few countries of the Middle East where the system has been tried have so far not made much of a success of it. Particularly a country like Libya has not yet had time to develop recognised leaders with sufficient experience to be entrusted with the responsibilities of Chief of State. However, the Prime Minister insisted vigorously that something had to be done to change the present constitutional rules on the succession to the Throne, (see Art. 44, 45, 46 and 197 of the Constitution), with a view of assuring continuity in the leadership of the State before the present King dies and so as to avoid an almost certain crisis after his death.

After reflection I suggested an elected King, a procedure which is in conformity with the early history of Islam and which is analogous to certain tribal customs regarding the election and succession of tribal chiefs. The Prime Minister rather liked this suggestion, and on our departure for Tobruk he had agreed to submit a plan of this kind to the King.

During our initial discussions His Majesty also seemed to be attracted by this plan, but on the second day of our discussions he began to raise objections. It soon became clear that what he really feared was the maintenance of the Crown and the ensuing danger that after his death some member of his family might claim the right of succession to the Throne on the ground that he was a member of the Senussi family. (It is provided in the Constitution that the Crown will descend in the family). Rather surprisingly, therefore, the King himself appeared to favour a Republic. However, by this time both the Prime Minister and the Wali of Cyrenaica began to show uneasiness at the King's suggestion. Finally, after a long discussion, which was almost entirely dominated by a debate on the pro's and con's of a republican system in a country like Libya, the following solution was devised:

In a not too distant future, but after the constitutional reforms mentioned under I) would have been carried through, the King would address a royal proclamation to his people, frankly explaining why a change has to be made in the line of succession and announcing his intention to adopt the title of President of a United Republic of Libya, renouncing the title of King. He would then appoint six elder statesmen, who together with the President of the Senate and the President of the Chamber of Deputies, the Prime Minister and the Mufti of Libya, would form a kind of electoral body, whose task it would be to designate a Vice-President during the life time of the present King, so that the Vice-President would have time to familiarise himself with the affairs of State. The present King, having become President, would serve until his death, upon which the Vice-President would automatically succeed to the presidency and serve for ten years. In his turn, he would appoint during his term of office an electoral body composed as mentioned above and with the same functions, and in this way continuity would be assured. Under an alternative plan the electoral body would submit a panel of three candidates for the Vice-Presidency to the two Houses of Parliament, sitting in joint session, and leave the election to them.

I must frankly admit that I don't like the idea, and I made express reservations in giving my advice. For a country like Libya I prefer the monarchical form of state, but if leading Libyans including the King hold the view that this is impossible under the circumstances, then the afore-mentioned method of presidential election is the best I can think of.

We left it at that, but since the matter is not of immediate urgency, it may be that the people directly concerned will change their mind. For the time being, the matter is to be considered as highly confidential, known only to the above mentioned participants and Mr. Power. This is one of the reasons why I thought I had better write you about this matter in the form of a confidential and personal letter.

In the course of my stay in Tripoli I saw several of the Heads of foreign diplomatic missions. Some of them were fairly well informed about the plan to increase the powers of the Federal Government, but only the British chargé d'affaires knew something about the planned change in the succession to the Throne. In agreement with the Prime Minister, I gave them a broad outline of his intentions regarding the first point; at his request I did not discuss the second point.

It was interesting to note that the British have apparently changed their attitude with regard to the form of the Libyan State; instead of favoring a "loose federation" as they still did three years ago, experience has now taught them that more centralisation is desirable.

The American Ambassador assured me that if in the years 1950-'51 the representative of his country on the Council for Libya had shown preference for a "loose federation", it was more out of a desire to support the British and French points of view than because of any principle or specific American interest. He gave an assurance that the present policy of the U.S. with regard to Libya is to help the country along, economically and socially, and to abstain carefully from intervening in its internal political problems. If the Libyans want to change the Constitution, the U.S. Government does not see any reason why they should not, as long as the revision is conducted in accordance with the procedures laid down by the Constitution. This policy is mainly inspired by the obvious U.S. interest to see peace and order as well as increased prosperity in a country where the U.S. have one of their largest air-bases in the Mediterranean area. He added that if his Government ever noticed any attempt or even intention on behalf of a foreign power to intervene in an improper way in Libya's internal affairs, they would undoubtedly consider it their duty to inform and warn the Libyan Government. From the context in which these words were pronounced, it was fairly clear that the Ambassador had in mind France and Egypt.

The French Minister was the only one who showed some feeling of uneasiness with regard to the plans for centralisation. He argued that there might very well be something more than mere co-incidence between the present French-Libyan difficulties over the presence of French troops in the Fezzan and the Government's plans to strengthen federal authority over the Provinces. It would appear to me that this kind of suspicion is rather far fetched.

The trouble over the French troops in the Fezzan is a much older one, and really dates back from the autumn of 1950, when the French Government in negotiating with the then provisional Libyan Government a provisional agreement similar, in principle, to that concluded with the U.K., insisted on the insertion of a clause according to which the French grant to the Libyan Treasury could only be used for purposes of economic and social development in the Fezzan. Libyan public opinion immediately suspected that this was another French attempt at partition in disguise, and in that they were not entirely wrong. Since then Libyan sympathy has, moreover, gone to the cause of the Tunisian nationalists in their difficulties with Paris. It is also more than likely that the Arab League is encouraging Libyan policy for ousting the French troops from the Fezzan.

Just before my arrival in Tripoli the Prime Minister had come back from Paris, where he had had talks with the Quai d'Orsay presided over by M. Mendès-France in person. Both the Prime Minister and the French Minister in Tripoli gave me an account of what had happened in the course of these talks, which at certain moments appear to have been rather stormy. The outcome has been that M. Mendès-France gave a pledge to M. Ben Halim that the French troops (there are only 400 left) will be withdrawn within a year from the date on which a new treaty replacing the provisional one of December 24, 1951, will have been signed and ratified. The French have in principle agreed to continue their grant

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to Libya, part in cash and part in the form of school teachers, medical aid, etc. This seems a wise arrangement by which both countries will benefit. The French troops, who anyway are of little importance in the strategic pattern now prevailing in North Africa and whose presence are the main bone of contention, will be removed with a resulting improvement in French-Libyan relations while French economic and social assistance to the Fezzan, which always has been of a high order and to the advantage of the population of this poor and backward desert province, will continue and probably even be strengthened.

There is, however, a snag in the situation in the form of an old dispute concerning Libyan-French borders. As you may know, the General Assembly in its Fifth session adopted a resolution, 392(V), concerning the procedures to be followed for the delimitation of the frontiers of the former Italian colonies. With regard to Libya this resolution contains the following paragraph:

"..That the portion of its boundary with French territory not already delimited by international agreement be delimited, upon Libya's achievement of independence, by negotiation between the Libyan and French Governments, assisted on the request of either party by a third person to be selected by them or, failing their agreement, to be appointed by the Secretary-General;"

In the early days of my mission in Libya, the French occasionally used to raise this problem with me, although it was entirely outside my competence as U.N. Commissioner. In those days French claims were limited to the Ghadamès-area on the Tunisian border and the area of Ghat-Serdeles in the South-West corner of the Fezzan, where it borders on S. Algeria. However, formal negotiations were never opened until during the recent talks between Messrs. Mendès-France and Ben Halim. Towards the end of these talks the French negotiators suddenly produced a map, which they asked the Libyans to study and which, they said, showed the frontier revisions on which the French Government would insist in the course of the forthcoming negotiations about the permanent treaty. From this map it appeared that the French do no longer insist on a revision of the frontier near Ghadamès; on the other hand, they now had added a claim that Libya should abandon a considerable tract of territory on the Tibesti border.

According to Mr. Ben Halim, after having had a first look at this map, he became very angry, and handed it back with a firm statement that while he might be prepared to talk about a frontier revision at Ghat-Serdeles, he could not possibly enter into any negotiations about a revision of the Tibesti border. Always according to Mr. Ben Halim, the French then apologised saying that by mistake they had shown him a wrong map, and would send him through diplomatic channels another map correctly showing their claims. A more likely explanation of this rather curious incident would appear to be that the French negotiators wanted to test the Libyan Prime Minister's reaction to a maximum claim, and then decided it was better to withdraw it.

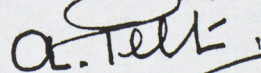
According to the French Minister in Tripoli, the matter is really a very simple one. The borders between Libyan and French territories were fixed by a French-Italian treaty of 1919, replacing an older French-Turkish treaty. In 1934-35 negotiations took place between Messrs. Mussolini and Laval, as a result of which the borderline was to undergo some considerable changes. If I understood the Minister correctly, he said that the resulting agreement was ratified by France but not by Italy; anyway, the French consider today this agreement as non-valid. The problem now apparently is that at certain points the border does not entirely correspond to the one fixed by the 1919 agreement. The difference is not a large one, but, according to the French, important enough to justify their demand for a revision of the agreement.

I have not studied this matter in sufficient detail to be able to express an opinion on the issue. If I mention it here it is because in accordance with the General Assembly resolution 392(V) it does not seem altogether excluded that in the course of months to come you may be called upon to designate a person to assist the parties in reaching agreement.

At the moment I left Tobruk, and again upon my departure from Tripoli a few days later, first the King and then the Prime Minister asked whether by the time they would have drafted the necessary amendments for revision of the Constitution, but before these were to be laid before Parliament, I could be made available for another consultation. I made it clear that I could give no promise of this kind, and that if they wished to consult me again they should follow the same procedure as in December last, i.e. that as a non-member State of U.N. without an observer accredited to the Secretary-General, they should transmit their request to you through the Technical Assistance Resident Representative in Tripoli, Mr. Spence. I added that I was going to have a very busy year in Geneva, and that you might not find it easy to allow me to spend another week or so in Libya.

With kindest regards,

Most sincerely yours,



A. Pelt
Director