

3. *Equipment, materials and personnel*

With regard to the perplexities raised by you in the course of the meeting, I wish to point out the following:

- (a) All the personnel connected with the program (executives, engineers, technicians, skilled workers) have returned to work and agreed to operate under the new administration. I am enclosing (encl. 2)¹ a notarized statement indicating the work force presently at the disposal of the seizing authority.
- (b) The procurement of material needed to carry out the work planned does not present, for the time being, any difficulty as a result of the change in administration. All the materials required for the normal production cycle are in the company stores. Should any shortages occur in the future, no particular procurement problems are envisaged since the necessary materials are freely available on the market.
- (c) All the material and equipment property of the O.P.L.O.H. as well as the classified documentation are in perfect order and condition under the surveillance of both the S.G.S. and the company security service, which have never ceased to operate.

I hope I have given you, dear General Mancini, all the necessary information to dispel your uneasiness concerning the continuity in the work and supply of the materials required by your organization.

Looking forward to hearing from you at your earliest convenience concerning the procedures to be followed to formalize the new relationships, I thank you for your kind attention and assistance.

(Signed) BEVILACQUA.

86. THE AGENT OF ITALY TO THE REGISTRAR

13 March 1989.

Pursuant to the invitation of the President of the Chamber of the International Court of Justice in the ELSI case, addressed to the Parties at the public sitting of 2 March last², I have the honour to transmit hereafter the comments of the Italian Government to the replies³ given, on 27 February, by the American Government to the questions put by the Judges.

Our comments are as follows:

“The answers given by the Applicant to questions from the Bench merely contain a statement of the Applicant’s case as developed in the second round of pleadings. These answers, as well as the pleadings, present a series of assertions which either distort facts or are unsupported by evidence.

As the essential aspects of the Applicant’s case were considered by the Respondent in its rebuttal, a detailed consideration of each answer does not appear to be necessary at this stage of the proceedings.

However, the Respondent would like to point out in particular two inaccuracies in the Applicant’s replies.

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¹ Not provided.

² See pp. 371 and 383, *supra*.

³ See pp. 449-456, *supra*.

I. In its response to the question from Judge Schwebel, the Applicant states that

'with the requisition in place, there was no opportunity to show the plant to prospective buyers after 1 April and no ability to negotiate any deals for the immediate disposition of the plant and assets'.

As exemplified by much of the material contained in the letter from the Mayor of Palermo to General Mancini of 9 May 1968 that was filed with the Court by Respondent in response to a question from Judge Schwebel, it was obviously quite possible for Raytheon to have explored various alternatives with him and there is no evidence to the contrary.

The requisition was issued to avoid the closure of the plant. The plant was kept open, operations were maintained to a certain extent and the premises could have been viewed by anyone showing an interest in doing so.

Moreover, it must be remembered that the Mayor had originally appointed ELSI's own director, Mr. Profumo, as manager of the requisitioned plant (Annex 34 to the Counter-Memorial).

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II. In its responses to questions from President Ruda, Applicant states that 'Raytheon and Machlett were committed to supplying necessary funds to accomplish the orderly liquidation', and that 'Raytheon would have increased its funding of the liquidation program to take care of any shortfall' in required severance pay.

Respondent's reply is once again that Applicant here appears itself to be stating a question of fact that is, unhappily, unsupported by any contemporaneous record or any document."

87. THE REGISTRAR TO THE AGENT OF ITALY

13 March 1989.

I have the honour to acknowledge receipt of Your Excellency's letter of 13 March 1989, setting out the comments of Italy on the replies given by the United States to questions put by Members of the Chamber during the oral proceedings in the case concerning *Elettronica Sicula S.p.A. (ELSI)*.

88. THE DEPUTY-AGENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR

13 March 1989.

During the last day of the oral proceedings¹ in the case concerning *Elettronica Sicula S.p.A. (ELSI)*, the Court offered each party the opportunity to comment on the answers given by the other party to questions of the Judges during the final week. The United States does not agree with the conclusions of the Respondent in any of its answers, and accordingly submits the following comments. To

¹ See pp. 371 and 383, *supra*.