

# UNITED NATIONS SECURITY COUNCIL



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## EXCHANGE OF CORRESPONDENCE BETWEEN THE SECRETARY-GENERAL AND THE MINISTER FOR FOREIGN AFFAIRS OF EGYPT (CONCERNING THE SUEZ CANAL)

### NOTE:

The Secretary-General refers to the question entitled: "Situation created by the Unilateral Action of the Egyptian Government in Bringing to an End the System of International Operation of the Suez Canal, which was confirmed and completed by the Suez Canal Convention of 1888", pending before the Security Council. At the end of the deliberations of the Council, on 13 October 1956, it was indicated that the Secretary-General might continue his good offices.

In the week following the consideration of the question in the Council and until the departure of Dr. Fawzi, Foreign Minister of Egypt, on 19 October, the Secretary-General had several discussions with him in order further to explore and clarify existing possibilities to find a solution to the Suez problem, meeting the requirements approved by the Security Council. Later, on 24 October, the Secretary-General sent a letter to the Foreign Minister of Egypt in which he tried to set out his conclusions from the observations made in the series of private talks which had taken place up to 19 October. He informed the Foreign Ministers of France and Great Britain of this move.

The Secretary-General has now received a reply from the Foreign Minister of Egypt to his letter of 24 October. As this reply, together with the letter from the Secretary-General, seem to him to represent a significant further development in the consideration of the matter as initiated by the Security Council, he has considered it his duty to circulate the two letters to the Members of the Security Council.

ANNEX I

PERSONAL AND STRICTLY CONFIDENTIAL

24 October 1956

Dear Dr. Fawzi,

You will remember that at the end of the private talks on Suez, trying to sum up what I understood as being the sense of the discussion, I covered not only the "requirements", later approved by the Security Council, but also in a summary form arrangements that had been discussed as possible means of meeting those requirements. However, time then proved insufficient for a satisfactory exploration of those arrangements.

Before you left New York I raised with you the question of time and place for a resumption of the exploratory talks, in case the three Governments directly concerned would find that such further talks should be tried. As a follow up to these observations to which, so far, I have had no reactions either from you or from Mr. Selwyn Lloyd or Mr. Pineau, I would, for my own sake, wish to put on paper how I envisage the situation that would have to be studied at resumed exploratory talks, if they were to come about.

Again, what I do is not to put out any proposals of my own, nor to try to formulate proposals made by you or any of the others. Just as I did at the end of the private talks in New York, I just wish, in my own words, to try and spell out what are my conclusions from the - entirely non-committal - observations made in the course of the private talks, intrapolating on some points in the light of my interpretation of the sense of the talks where they did not fully cover the ground. Whether you approve of my phrasing or not, I feel that it would be valuable to know if, in your view, I have correctly interpreted the conclusions from the tentative thinking which would provide the background for further explorations.

H.E. Mr. Mahmoud Fawzi  
Minister for Foreign Affairs  
Cairo, Egypt

1. From the discussions I understood that the legal reaffirmation of all the obligations under the Constantinople Convention should not present any difficulty; this is a question of form, not of substance. I further understood that it would not present any difficulties to widen the obligations under the Convention to cover the questions of maximum ~~of~~ tolls (as at present); maintenance and development; reporting to the United Nations.
2. Nor should, if I understood the sense of the discussions correctly, the questions of the Canal Code and the Regulations present any difficulties of substance, as I understood the situation to be that no revision of the Code or the Regulations was envisaged which would lead to rules less adequate than the present rules. I further understood that revisions would be subject to consultation.
3. Nor, in my understanding, should the question of tolls and charges present any difficulties, as, according to what emerged in the discussions, the manner of fixing tolls and charges would be subject to agreement, and as also the reservation of a certain part of the dues for development purposes would be subject to agreement.
4. Nor, in my understanding, should the principle of organized co-operation between an Egyptian authority and the users give rise to any differences of views, while, on the other hand, it obviously represents a field where the arrangements to be made call for careful exploration in order to make sure that they would meet the three first requirements approved by the Security Council. The following points in the summing up of my understanding of the sense of the discussions refer to this question of implementation of an organized co-operation:
  - A. The co-operation requires obviously an organ on the Egyptian side (the Authority in charge of the operation of the Canal), and a representation of the users, recognized by the Canal Authority (and the Egyptian Government) and entitled to speak for the users.
  - B. Provisions should be made for joint meetings between the Authority and the Representation to all the extent necessary to effect the agreed co-operation.
  - C. Within the framework of the co-operation, the Representation should be entitled to raise all matters affecting the users' rights or interests, for discussion and consultation or by way of complaint. The Representation

should, on the other hand, of course not, in exercising its functions, do this in such a way as to interfere with the administrative functions of the operating organ.

D. The co-operation which would develop on the basis of points A-C, would not give satisfaction to the three first requirements approved by the Security Council unless completed with arrangements for fact-finding, reconciliation, recourse to appropriate juridical settlement of possible disputes and guarantees for execution of the results of reconciliation or juridical settlements of disputes.

E. (a) Fact-finding can be provided for by direct access for the party concerned to a checking of relevant facts, or by a standing (joint) organ, with appropriate representation for both parties;

(b) A standing (joint) organ might also be considered for reconciliation;

(c) In case of unresolved differences, as to facts or other relevant questions, not resolved by the arrangements so far mentioned, recourse should be possible - as the case may be - to a standing local organ for arbitration, set up in accordance with common practices, or to whatever other arbitration organ found necessary in the light of a further study of the character of the conflicts that may arise, or to the International Court of Justice (whose jurisdiction in this case of course should be mandatory), or to the Security Council (or whatever other organ of the United Nations that may be established under the rules of the Charter);

(d) Concerning the implementation of findings by a United Nations organ, normal rules should apply. In respect of the implementation of awards made by a standing organ for arbitration, or by whatever other organ may be established for similar purposes, the parties should undertake to recognize the awards as binding, when rendered, and undertake to carry them out in good faith. In case of a complaint because of alleged non-compliance with an award, the same arbitration organ which gave the award, should register the fact of non-compliance. Such a "constatation" would give the complaining party access to all normal forms of redress, but also the right to certain steps in self-protection, the possible scope of which should be subject to an agreement in principle; both sides, thus, in case of a "constatation", should be entitled to certain limited "police action", even without recourse to further juridical procedures.

5. It was, finally, my understanding that the question covered by the requirement in point 6 of the Security Council resolution, would not give rise to special difficulties, as the subject seems fairly well covered by the formulation of the principle itself.

Whether or not a set of arrangements will meet the three first requirements approved by the Security Council, will, according to my understanding of the situation, depend on the reply to the questions under point 4 above. That is true not only with an arrangement starting from the assumption of operation of the Canal by an Egyptian authority, but also on the assumption that the operation of the Canal (in the narrow sense of the word) is organized in another way. If I have rightly interpreted the sense of the discussions as concerns specifically the questions of verification, recourse and enforcement (point 4,E), and if, thus, no objection in principle is made a priori against arrangements as set down above, I would, from a legal and technical point of view - without raising here the political considerations which come into play - consider the framework sufficiently wide to make a further exploration of a possible basis for negotiations along the lines indicated worth trying.

I am sure you appreciate that whatever clarification you may give of your reaction to this interpretation of mine of the possibilities, would be helpful for me in contacts with the other parties - of the reactions of which I likewise need a more complete picture - and might smooth the way to progress beyond the point reached in the private talks.

(Signed) Yours sincerely,

DAG HAMMARSKJOLD

ANNEX II

EGYPTIAN MISSION TO THE UNITED NATIONS

New York, November 2nd 1956

STRICTLY CONFIDENTIAL

Excellency,

I have the honour to transmit to you the following communication which I have just received from Dr. Mahmoud Fawzi:

"Dear Mr. Hammarskjold,

I have the honour to refer to your letter of the 25th October 1956. You will recall that on the 29th of October, I informed you through the Permanent Representative of Egypt Ambassador Omar Loutfi, that it was under careful consideration and that I shall convey to you the result as soon as possible.

I am now doing this; and am pleased to be able to tell you that, with the exception of the latter part of "d" of sub-paragraph "E" of paragraph 4, we share with you the view that the framework you have outlined in your letter is sufficiently wide to make a further exploration for a possible basis for negotiations along the lines indicated in it is worth trying.

Mahmoud Fawzi"

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

(Signed) Omar Loutfi  
Permanent Representative of Egypt to the  
United Nations

H. E. Mr. Dag Hammarskjold,  
Secretary General of the United Nations

