

**Middle East - Suez story No
19-24: Middle East - Suez
story No 19-24 - 36**

HS L 179:112



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L 179:112

Middle East / Suez story - 20

24 Oct. 56

Fawzi, Mahmoud (Foreign Minister of Egypt)
- 1 letter (personal, strictly confidential) from Q.H.

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 UN.
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 cooperation 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 cooperation:
 - A. The cooperation 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 cooperation.
 - C. Within the framework of the cooperation, 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 cooperation 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 UN 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.