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Middle East

Meeting of Advisory Committee on UNEF

8 Dec. 56

MEETING OF ADVISORY COMMITTEE
ON UNEF8 December 1956
10:30 a.m.

The SECRETARY-GENERAL: We would like today to give you a report on the development of negotiations concerning the two agreements which we discussed last time -- two or three, perhaps.

I have felt that as the text partly goes into legal details which can be of no very great interest to you, the best procedure would be to ask Mr. Stavropoulos to give a full oral report on the substance of these agreements. It saves you time and I do not think that it in any way sacrifices accuracy or fullness of consideration.

Mr. STAVROPOULOS: Is it your wish that we start with the Agreement and then go on to the Regulations?

The SECRETARY-GENERAL: Start with the Agreement, then the Regulations, and then we can tackle the Canal story last.

Mr. STAVROPOULOS: We have finished the preliminary negotiations with Mr. Loutfi and we now have a text which has been agreed in principle. This does not mean that it is ready for signing because the intention is that I should go to Cairo and continue the detailed negotiations with a team composed of the various services which have some competence in the matter. But at any rate, the text which I am going to review with the Committee now is one in principle agreed upon; that is, neither one party nor the other party has any objection. I should hasten to say that it is a misnomer, perhaps, to call what I had with Mr. Loutfi negotiations because, in fact, it was a real collaboration, with the result which you are going to see and which you may consider very satisfactory.

The SECRETARY-GENERAL: I should like to add one word, and that is that Mr. Fawzi and I have had a kind of aftermath discussion about it, and he, for his part, endorses the line taken by Mr. Loutfi.

Mr. STAVROPOULOS: It must be borne in mind that there is no real precedent for such a paper. There have been cases where armies, more or less friendly, were accorded a special status in various countries, but there is

no such precedent as this and, in fact, the Korean arrangements were not a real precedent because they concerned a different kind of integration. It was a great Power which had assumed the duty and the obligation to carry on the operation. This is a completely international operation; therefore, the Egyptian Government finds itself in a position to grant us things that they would not have visualized for any other case. That is why, as you will see, they have taken a line of a radical character.

The Agreement might be called a kind of Headquarters Agreement, as Mr. Hammarskjold calls it, but in this case "Headquarters" is really a part of Egyptian territory, where the Force operates or may operate. It is much more vast than the Headquarters Agreement which we have here. It establishes a situation which will allow a Force like ours to work unhindered by any rule or regulation which, normally, would have to apply.

The Agreement is based on Article 105 of the Charter, which provides that the Organization shall enjoy in the territory of its Members such privileges and immunities as are necessary for the fulfilment of its purposes. It also refers to the Convention on the Privileges and Immunities of the United Nations and defines eventually certain of the conditions necessary for the effective discharge of the functions of the United Nations Emergency Force while it remains in Egypt.

I am not going to try to read the whole document because it contains some small details of very relative value, but I am going to try to refer to its most important aspects.

The first article of substance is to the effect that we have assumed that the duty of the members of the Force and of the United Nations officials serving in the Force in Egypt is to "respect the laws and regulations of Egypt and to refrain from any activity of a political character in Egypt, and from any action incompatible with the international nature of their duties or inconsistent with the spirit of the present arrangements. The authorities of the Force will take all measures within their power to ensure the observance of these obligations". This is a duty on the part of the Commander and of whoever is there, to do nothing which would offend the State of Egypt.

Then there is a regulation about entry and exit and identification of the Force. This regulation states that no passport is needed, that each soldier will have an identity card and that he will move, enter or go out of Egypt either on the basis of an identity card or on the basis of a collective order.

Then we reached the question of jurisdiction. There, we got very excellent -- I should say extraordinary -- conditions. The first refers to criminal offences by members of the Force, which shall be subject to the exclusive jurisdiction of their respective national States in respect of any criminal offences which may be committed by them in Egypt. This means that, both during service and outside the service, they are under the exclusive jurisdiction of their national States. Of course, this puts an obligation on the participating States, so that, if something happens, justice should be done at home -- but it should be done. It is not a means of establishing impunity, because that, of course, would be most unpopular and create bad relations. But, in fact, they have been very generous in accepting something beyond the normal rule of international law.

Under this same heading, "Members of the Force shall not be subject to the civil jurisdiction of Egyptian courts or to other legal process in any matter relating to their official duties". Then comes a phrase: "or arising out of acts occurring in the areas in which the Force operates". This is what I explained the last time, namely, that there might be some cases in which, in the interest of even the Egyptians, the matter should not be brought to some distant place. This, however, has not yet been decided. It is a point on which we shall have more discussion in Egypt, but it will refer only to action out of the service; action within the service involving civil jurisdiction will be, again, in our exclusive jurisdiction. You will see later on how, through arbitration, we shall try to cope with the matter, since it is not intended that we shall do damage and pay nothing. We shall pay; the question is, who will decide what the amount should be? We shall provide means later of meeting the question. But, even supposing that our people get involved with the Egyptian courts in private transactions, I, for one, would consider that we should lose nothing, because really this is a concept of international law which has always been applied, namely, that anyone who becomes involved in individual transactions must be dealt with by the courts of the country, and there is nothing we can do about it.

It is very nice that the Egyptians even discussed it with us. I am not so sure that we shall gain eventually, but if we do not, we shall lose nothing.

We say in this paragraph that "Those disputes involving a member of the Force and an Egyptian citizen which are not subject to the jurisdiction of Egyptian courts... shall be settled in accordance with the procedure provided..." later, as I told you, by arbitration.

Mr. BUNCHE: That is, civilian cases?

Mr. STAVROPOULOS: Yes; but in the penal cases there is no question whatsoever. It has not been contested, not even for a moment. The next paragraph under this heading of "Jurisdiction" states that "In those cases where civil jurisdiction is exercised by Egyptian courts...", members of the Force shall be given "sufficient opportunity to safeguard their rights". A member of the Force will be given ninety days, at least, in which to apply.

We have a whole article which attempts to devise a rule or regulation by which the proceedings of the court would be favourable, in a sense, to our people. It states that "the personal liberty of a member of the Force shall not be restricted by an Egyptian court or authority in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath of disclosure, or for any other reason". Therefore, in civil proceedings, the only thing which is involved is damages, and not imprisonment in any way. That also was accepted immediately by the Egyptians.

There is a whole article headed "Military Police", which includes "Arrest: Transfer of Custody, and Mutual Assistance". Supposing one of the members of the Force committed some crime and was arrested by the police, the Egyptians can investigate the matter, but must surrender the person immediately to us, and we have to let justice do its work in the national contingent or in the country of the person involved.

Then there is a sort of reciprocity article, which provides that "The Egyptian Government will ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to the United Nations Emergency Force or its members which, if committed in relation to the Egyptian forces, would have rendered them liable to prosecution". That is

one side; on the other there is the following provision: "The authorities of the Force will take the measures within their power with respect to crimes or offences committed against Egyptian citizens by members of the Force".

Next comes the article "United Nations Flag". You will remember that I stated the last time that there was some slight controversy here. The Egyptian Government, in principle, would have liked to have only the United Nations flag flown. The matter has been left somewhat in the air until I have your reactions on the point. After that, there will be further discussion with the Egyptians in case we disagree with them.

The following paragraph deals with "Uniform: Vehicle Markings and Registration: Driving Permits". This paragraph reads in part as follows:

"Members of the Force shall normally wear the uniform prescribed by the Commander. The conditions in which the wearing of civilian dress is authorized shall be notified by the Commander to the Egyptian authorities..."

The SECRETARY-GENERAL: On that point, I suppose that the Committee is aware of the fact that we have made a curious kind of new arrangement as to the question of national uniforms being worn, but with one common detail, namely, the headgear will be common to all members of the Force, so we break the national uniform in that respect.

Mr. BUNCHE: Plus the arm band.

The SECRETARY-GENERAL: Yes, but that is a special marking. But the headgear will be identical for all, so it is a kind of mixed uniform.

Mr. STAVROPOULOS: The paragraph continues as follows:

"Service vehicles shall carry a distinctive United Nations identification and licence which shall be notified by the Commander to the Egyptian authorities. Such vehicles shall not be subject to registration or licensing under the laws and regulations of Egypt. Egyptian authorities shall accept as valid, without a driving test or fee, a driving permit or licence issued by the Commander."

We now come to the article entitled "Arms", reading as follows:

"Members of the Force may possess and carry arms, on condition that they are authorized to do so by their orders ... Officers of the Force are always authorized to retain possession of their regulation personal weapons."

This is followed by an article on "Privileges and Immunities of the Force". The Force, being a subsidiary organ of the United Nations, will have all the privileges and immunities of the Organization "in accordance with the Convention on the Privileges and Immunities of the United Nations". The article entitled "Privileges and Immunities of Officials and Members of the Force" states:

"Members of the United Nations Secretariat detailed by the Secretary-General to serve with the Force remain officials of the United Nations entitled to the privileges and immunities of Article V and VII of the Convention on the Privileges and Immunities of the United Nations."

That is, we have exactly the immunities that the Convention grants, and no more.

"... With respect to the locally recruited personnel of the Force, however, the United Nations will assert its right only to the immunity concerning official acts provided in Section 18 (a) of the Convention on the Privileges and Immunities of the United Nations."

That is, the basic privilege of anybody serving the United Nations is that he cannot be prosecuted for acts of an official character. That is recognized also for the locally recruited staff.

With respect to other members of the United Nations Force, the United Nations will claim only those rights expressly provided in the present or supplementary arrangements. That is, they are tax free, etc.

Now we reach the point concerning "Members of the Force: Taxation, Customs and Fiscal Regulations", which reads as follows:

"Members of the Force shall be exempt from taxation on the pay and emoluments received from their national Governments or from the United Nations. They shall also be exempt from all other direct taxes except municipal rates for services enjoyed, and from all registration fees, and charges.

"Special facilities for entry or exit shall be granted by the Egyptian customs and fiscal authorities to regularly constituted Units provided that the authorities concerned have been duly notified sufficiently in advance. All members of the Force shall have the right to import free of duty their personal effects in connexion with their first taking up their post in Egypt or at the time of the arrival of a dependent to join them... Members of the Force on departure from Egypt may, notwithstanding foreign exchange regulations, take with them such funds as the appropriate Pay Officer of the Force shall certify were received in pay and emoluments from their national Governments or from the United Nations."

That is to ensure that they do not carry out more money than they can possibly have.

"The authorities of the Force will co-operate with customs and fiscal authorities of Egypt and will render all assistance within their power in ensuring the observance of the customs and fiscal laws and regulations of Egypt..."

That is, we shall try to prevent smuggling or anything of that kind.

The article on "Communications and Postal Services" states the following:

"The Force enjoys the facilities in respect to communications provided in Article III of the Convention on the Privileges and Immunities of the United Nations. The Commander shall have authority to install and operate a radio sending and receiving station or stations to connect at appropriate points and exchange traffic with the United Nations radio network, subject to the provisions of Article 45 of the International Telecommunication Convention relating to harmful interference....

"The Force shall also enjoy... the right of unrestricted communication by radio, telephone, telegraph or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of the Force, including the laying of cables....

"The Government of Egypt recognizes the right of the Force to make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the Force.

"The Government of Egypt will be informed of the nature of such arrangements. No interference shall take place and no censorship shall be applied by the Government of Egypt to mail of the Force. In the event postal arrangements applying to private mail of members of the Force are extended to operations involving transfer of currency, or transport of packages or parcels from Egypt, consultations shall take place between the Government of Egypt and the Commander on the conditions under which such operations shall be conducted."

I should like to explain that what is involved is not that one of our soldiers or officers may go to an Egyptian post office and send mail without stamps. He must pay for the stamps. But we are allowed to have our own mail sent by our own means and our own postal units.

There is a long paragraph about the "Freedom of Movement" which, of course, is one of the primary conditions of having a Force there. The paragraph states the following:

"The Force shall enjoy for its members, together with vehicles, vessels, airplanes and equipment, freedom of movement between its Headquarters, camps and other premises, to, from and within all areas in which it operates, and to or from the ordinary points of access to Egyptian territory where the Force operates."

Of course, there will be some consultations regarding vehicles, railways, roads, etc.

"... The Government of Egypt recognizes the right of the Force and its members to freedom of movement across armistice demarcation lines and other military lines in the performance of the functions of the Force...".

Then, of course, we have the right to use the roads, waterways, port facilities, air fields and railways.

We have also the right to the "use of water, electricity and other public utilities at rates not less favourable to the Force than those to comparable consumers". We particularly insist on the right to operate our own electricity if there is a need-- if we are in a place where there is no electricity.

With regard to Egyptian currency, the Government of Egypt will, if requested by the Commander, make available to the Force, against reimbursement in U.S. dollars, Swiss francs or any other currency mutually acceptable,

Egyptian currency required for the use of the Force, including the pay of the members of the national contingents, at the existing rate of exchange most favourable to the Force. Of course, they will render assistance to any in distress.

Now, we reach an important point, which concerns "Settlement of Disputes". This paragraph states that "Disputes of a private law character shall be settled in accordance with the following provisions:

"(a) The United Nations shall make provisions for the appropriate modes of settlement of disputes arising out of contract or other disputes of a private law character to which the United Nations is a party other than those covered in sub-paragraphs (b) and (c) following, and in arrangement with the Participating States, of disputes between members of the Force of different nationality.

"(b) Disputes of a civil character between a member of the Force and an Egyptian citizen, claims brought by the Government of Egypt against a member of the Force, and any claims between the Force and the Government of Egypt not covered by" the following paragraphs "shall be settled by a Claims Commission established for that purpose."

This is something which we have to do, since we exclude ourselves from the jurisdiction of the Egyptian authorities. Sub-paragraph (b) continues as follows:

"One member of the Commission shall be appointed by the Secretary-General, one member by the Government of Egypt, and a Chairman jointly by the Secretary-General and the Government of Egypt. If the parties fail to agree on the appointment of a chairman, the President of the International Court of Justice shall be asked by either party to make the appointment..."

"(c) Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by administrative procedure to be established by the Commander."

This we have to do because, otherwise, there will be an ambiguity as to whether they may have to come to the Administrative Tribunal of the United Nations, and that would be not only cumbersome, but impossible. Therefore, we have to provide some kind of appeals board on the spot to deal with such questions.

The SECRETARY-GENERAL: "Impossible" is an understatement; it would be a nightmare. It would break down the Administrative Tribunal completely.

Mr. GUNewardENE (Ceylon): Have you decided on the competence of the appeals board?

Mr. STAVROPOULOS: That would be an inside board; there would probably be three members of the staff of the United Nations, similar to the one we have now. Here we have two boards, the Appeals Board and the Administrative Tribunal. This would be only an appeals board.

Now, if there were any differences between the United Nations and Egypt arising out of the interpretation or application of these arrangements, which involved a question of principle concerning the Convention on the Privileges and Immunities of the United Nations, they would have to be dealt with in accordance with the procedure of Section 30 of the Convention. That Convention says that, in case of such a disagreement, the Advisory Opinion of the International Court has to be requested. But this is a theoretical aspect, which we have to repeat here, because it must be a very big disagreement on something very, very important in order to follow that procedure, because we have alternative procedures here which can be used without having to refer to the International Court.

Further, in connexion with the settlement of disputes, this section states:

"All other disputes between the United Nations and Egypt concerning the interpretation or application of these arrangements which are not settled by negotiation or other agreed mode of settlement shall be referred for final settlement to a Tribunal of three arbitrators, one to be named by the Secretary-General of the United Nations, one by the Government of Egypt, and an umpire to be chosen jointly by the Secretary-General and the Government of Egypt..."

Therefore, you see that we have to set up three bodies: a claims commission, an appeals board, and a special tribunal for those cases which otherwise would have gone to the International Court and for which there is no reason to follow such an elaborate procedure because, in order to request an advisory opinion, one must go first to the Assembly, put an item on the agenda and discuss it, and it would be a long procedure. That is why we have to produce an

alternative procedure which will make the whole thing more easily workable.

Mr. BUNCHE: This is done only in the event that such disputes arise -- or is it done in anticipation?

Mr. STAVROPOULOS: It is done in anticipation, but we may not set up a body before disputes arise, because the disputes might be dealt with by negotiation. There must be a difference, and a difference upon which neither party agrees to a settlement, in order to require a tribunal. Therefore, it is not immediate, but it is provided for.

The final article is entitled "Effective Date and Duration", which states:

"It is further proposed that these arrangements should become effective from the date of the reply of your Government expressing its concurrence, and should remain in force until the departure of the last element of the Force from Egypt, which departure shall be notified by the Secretary-General to the Egyptian Government."

Therefore, at that date, these arrangements cease to exist. The article continues as follows:

"The provisions... relating to the settlement of disputes, however, should remain in force until all claims arising prior to the date of termination of these arrangements, and submitted prior to or within three months following the date of termination, have been settled."

The SECRETARY-GENERAL: I believe that we can all at least agree on the general judgement that if this Agreement, as I believe, will be signed, it will be not only very satisfactory, but an extremely valuable precedent for the future as to the arrangements for United Nations organs of this nature. It represents considerable progress, beyond what we have had, for example, in the case of the Truce Supervisory Organization, and it is with some regret that I note that it is not until now that we have got something which, in this way, is so clear and clean. That, of course, does not mean that there may not be points which we should like to look at and on which we might like

to express our views, but I think that, as to the general judgement, I must congratulate ourselves for the very spirit in which the matter has been handled for the other side.

The only point, as you see, on which Mr. Stavropoulos puts in a question mark is the point which, as he said and which, to my knowledge, goes considerably beyond any established precedents in international law, and for that reason, if we were to get back to what is international law in the case, I do not think that we should regard that as a defeat in any sense.

On the other hand, I hope that Mr. Stavropoulos will get it through because, why should we not, in this case as we have in so many other cases in the last few weeks, create international law in a sound direction?

Mr. STAVROPOULOS: In so far as we have a good Claims Commission, it is a must. We received a cable the other day asking what happens. We should provide something as quickly as possible to take care of that in order not to create friction.

Mr. LALL (India): This, as you have said, seems to be a most significant document and a most interesting creation of legal arrangements in this sort of situation. I, personally, cannot express any views on the details because one has heard them read rather rapidly. I take it that, annexed to our record, will be a copy of this draft.

The SECRETARY-GENERAL: Yes. You see I suggested this meeting and I asked Mr. Stavropoulos to report because, although there will be no signature, obviously, until we have our formal procedure here, I do not want Mr. Stavropoulos to go ahead of this stage without the Committee being fully informed; so that there would be no basic observations which you wanted to make before we got deeper into it. Because, as we all know, there is a stage in negotiations where every step backward, every backing down, even if we had perfect liberty of establishing such a step down, as long as we are not legally committed, has implications which, I think, it is very desirable to avoid. That is really the character of this report. It is just to see to it that you are fully informed, that you have a chance to react. It does not involve approval, by the Governments here represented, of a definite text, since it will be circulated.

Mr. LALL (India): There is just one point on which Mr. Stavropoulos did ask for specific comment, and that was about the national flags. Perhaps I might say a word about that now. Of course, it is purely personal at this stage. I should have thought that the contingents should be permitted to have their national flags and to fly them at the discretion of the Commander.

Mr. BUNCHE: In Egypt?

Mr. LALL (India): I mean wherever the Force is. I do not see that this occasion will arise, but the Egyptian Government might want them to use their flags on certain occasions, and I think they should have them and that, if the Commander thinks it appropriate on a particular occasion, they should fly their flags -- of course, not to the exclusion of the United Nations flag by any means. They should always remain under the United Nations flag, but I think that permission to have their flags with them should be given.

Mr. MIR KHAN (Pakistan): I was going to make a comment too, but, if Mr. Lall does not mind, I was just going to put a question to General Martola. Knowing some military activities myself, having been in the army, I should like to ask General Martola -- and, later, to ask my military adviser -- what really are the occasions when the national flag is used. Does it fly only when the unit of a certain nation is encamped? Does it not fly at the camp headquarters? Does it not fly when the unit is marching from one place to another? I should like to know the occasions when a national flag is required, and then perhaps a compromise could be discussed. A unit certainly has one, but what are the occasions on which a battalion needs its national flag?

General MARTOLA: In this case we have talked about it among the military attachés, and, generally, the feeling is that the national contingents should have permission to fly their own flags when they are in camp, and not alone for themselves. But, naturally, the United Nations flag should always be first. The number of flags which one uses in this case depends on the occasion. For example, if there is a parade, there is

always one flag, but when one goes into combat, generally one has no flag in order not to make it too easy for the enemy to know what and where the unit is. And then, naturally, inside the camps they march by their flags at headquarters, and also for the companies, and so on.

Mr. MIR KHAN (Pakistan): As I understand it, then, they just use it in their camp. They use it when they have an exercise or parade. In that case, I should say that there would be no difficulty about using the national flags along with the United Nations flag.

Mr. BUNCHE: If I may say so, this is entirely theoretical at this point because we have no information directly from Egypt as to whether any national flags are being flown. In fact, we have sent an inquiry as to what is being done in this regard, but we have not received a reply. If I may add this, I should like to point out that, after all, the consent of Egypt has been given to the entry of the United Nations Force, not to the entry of this or that national contingent with its national flag. It is the United Nations Emergency Force that has been permitted to enter Egypt on the basis of General Assembly resolutions. I must say that, to me, that does not give any national contingent the right to fly its national flag at the head of a military organization in Egypt unless there is specific consent given. In other words, it is there as a part of the United Nations Force, and I, frankly, cannot understand why there should be any need for any national contingent to fly its national flag rather than the United Nations flag in Egypt.

Mr. GUNewardene (Ceylon): I really think that we should congratulate Mr. Stavropoulos on the success which he has achieved. I certainly think that we should express our appreciation to the Egyptian Government for the most generous way in which they have treated the matter. I remember that even when we were under the control of the Secretary of State for the Colonies, we were not prepared to give these concessions to British soldiers in Ceylon. This is an advance on international law and all the existing arrangements in the world. It is a tremendous advance. Any lawyer would say that it is the most generous treatment one could get.

In that connexion I should like to say, in regard to the question of the flag, that I agree completely with Mr. Bunche. After all, the Egyptian Government allowed the United Nations Force to come in and gave it all the concessions, all the privileges that one could reasonably enjoy, and I do not think that we should engage in a wrangle over it, particularly in view of the generosity which Egypt has displayed in this matter. I also think that it may lead to a lot of complications if national flags are flown. I do not know whether any Government -- at least I am not sure -- has expressed a desire that it should be so, but it certainly would be more in the interests of harmony and effective working if we did not insist on the national flags being flown.

Mr. de FREITAS VALLEI (Brazil): I have just remembered that I asked about that. What happens now? I think that is a very important point. If the troops there now have flags, I think that it would be very difficult to take them out. So, if the troops now have flags, I suppose that the new troops must have flags too, and of course we have left that to the discretion of the Commander-in-Chief, as to whether the national flags are to be used.

Mr. MIR KHAN (Pakistan): I would just say that when I raised the point it was only in order to clarify as to what occasion there might be when a national flag, perhaps in the normal course, would be used. But I think there is really no point in our discussing it here. I fully agree with Mr. Bunche that this matter should be left to the Commander-in-Chief and the Commanders of the various units to decide in freedom. There should be an arrangement by which, if a national flag has to be used, it should be done on some insignificant or limited occasion, along with the United Nations flag for the whole Command, and that there should be no arrangement for any possible conflict. I hesitate to discuss it at all here.

The SECRETARY-GENERAL: May I point out one thing which really follows from what Mr. Bunche has said. As you know, in the earlier stage, and all through, we are those who have maintained very strictly the accent on the purely international character. We have maintained the line that, as a matter of course, the Egyptian Government is informed about what

national contingents are brought into the picture, but we have reserved our right to make decisions. We have, as you know, left that as a question which we should not elaborate upon at present because there is no need for it in practice. But, taking that stand, it is, on the other hand, very difficult for us without, so to say, building up the case against our Organization, to insist on this other side. My feeling is that the matter is, for that reason, bigger than we may be inclined to think. I think the general rule should be that it ought to be the United Nations flag. But I think that the Legal Counsel will not find any difficulty with phraseology, in relation to the Egyptian Government, which would make it give the Commander the right, on such special occasions which would warrant the use of national flags, to use them. That is to say, we would have the right in relation to Egypt, but as an exception from the recognized principle.

Mr. MACKAY (Canada): I must say first that there are no instructions on this point. I am speaking personally, but I fully agree with Mr. Bunche that we have regarded this as an international force, and I think that is the basic principle on which we should operate. As the representative of a country which has not yet quite made up its mind what its national flag would be, I do not think there is any difficulty as far as the Canadian flag is concerned. It would seem to me that if some rather flexible clause were inserted to permit the Commander-in-Chief to make arrangements with the Egyptian Government either on specific arrangements on any particular occasion or on a general rule, that would be quite adequate. It seems to me that there would be appropriate occasions for flying a national flag. There might be a unit which a Minister would come to visit, for example.

The SECRETARY-GENERAL: Certainly there would be no difficulty at all in that case.

Mr. MIR KHAN (Pakistan): I would leave it to the Commander-in-Chief, but insist that it is a United Nations Force and that the United Nations flag is the only flag for the whole Command.

Mr. STAVROPOULOS: The present phraseology used is exactly what you have in mind, but I must say that it is that phraseology with which the Egyptians disagree. I shall read the sentence: "The display of other flags or pennants shall be made only in accordance with instructions of the Commander."

The SECRETARY-GENERAL: I would go one step further. I would say "only in such exceptional cases as would warrant it, and after consultation with the Egyptian Government", because it is perfectly reasonable that the Egyptian Government should have to agree when national flags are flown.

Mr. BUNCHE: One could think of a few exceptional circumstances that would illustrate this point. If, for example, a member of one of the national contingents died, there might be a ceremony of some kind where the national flag would be flown, since the ceremony would be purely national in character.

The SECRETARY-GENERAL: Definitely -- and I do not think that the Egyptian Government would have any objection to a national flag's being flown on such an occasion. I do not, however, think that it need be written into the agreement.

Mr. MIR KHAN (Pakistan): Let us leave it to the Commander.

Mr. GUNewardene (Ceylon): It is certainly better left unwritten.

The SECRETARY-GENERAL: In these contacts, the Egyptians have really shown much more than common sense. I do not think that we shall run into any difficulty on this score.

Mr. ENGEN (Norway): In order not to be completely silent on this matter, I would say that I am absolutely sure that whatever arrangement is made as regards national flags will be acceptable.

The SECRETARY-GENERAL: The key point of the Agreement is the question of jurisdiction. It is on that question that Governments and home countries will feel strongly. I think that I can say now, very safely, that there can be no reason for concern by any home Government.

I think that we can now turn to the Regulations. The text of these Regulations, like that of the Agreement, will of course be circulated to you.

Mr. STAVROPOULOS: The Committee will remember that General Assembly resolution 1001 -- that is, the second resolution on the Force -- laid down that the Secretary-General should issue regulations for the Force. We now have a third draft of the Regulations; they have been reformulated many times.

The purpose of the Regulations can be summarized as follows: to define the rules which apply to the Force and its members. In the first place, the Regulations must provide for the integration of the Force. The Force is composed of national contingents, which must be integrated in order that everyone may know who orders whom. The Regulations must also provide for financial and administrative arrangements and the rights and duties of the Commander and the members of the Force.

The Regulations consist of six chapters. Chapter I is entitled "General Provisions"; Chapter II, "International Character, Uniform, Insignia, and Privileges and Immunities"; Chapter III, "Authority of the Commander of the United Nations Emergency Force"; Chapter IV, "General Administrative, Executive and Financial Arrangements"; Chapter V, "Rights and Duties of Members of the Force"; and Chapter VI, "International Humanitarian Conventions".

The first paragraph says that:

"The Regulations for the United Nations Emergency Force... are issued by the Secretary-General, following consultation with the Advisory Committee established under General Assembly resolution 1001... pursuant to paragraph 7 of that resolution. The Regulations, and supplemental instructions and rules referred to in [subsequent] Regulations, shall be made available to all members of the Force."

There is a difficulty in this respect. Of course, all the members of the Force should become acquainted with the Regulations. Therefore, the question arises: In what language should they be issued? We have not decided that question as yet. That is why we simply use the phrase: "shall be made available".

The SECRETARY-GENERAL: I think we shall have to have the Regulations printed in all the necessary languages.

Mr. STAVROPOULOS: That should be done eventually, but it cannot be done immediately. At any rate, they should be made available, and some officer should explain them to the members of the Force.

While, as the first paragraph of the Regulations states, the Regulations are issued by the Secretary-General -- following, of course, consultation with the Advisory Committee -- the Commander:

"subject to the consent of the Secretary-General, is authorized to provide and enforce such rules consistent with the present Regulations as he considers necessary for the good order, discipline, administration, operation and functioning of the Force".

In other words, the Secretary-General issues the Regulations and the Commander, with the consent of the Secretary-General, may issue certain rules to make the Regulations applicable.

Regulation 6 defines the international character of the Force, as follows:

"The United Nations Emergency Force is a subsidiary organ of the United Nations consisting of the United Nations Command established by General Assembly resolution 1001... and all military personnel placed under the United Nations Command by Member States. The members of the Force, although remaining in their national service, are, during the period of their assignment to the Force, international personnel under the authority of the United Nations and subject to the instructions of the Commander through the chain of command. The functions of the Force are exclusively international and members of the Force shall discharge these functions and regulate their conduct with the interest of the United Nations only in view".

This is the first Regulation which specifically provides for international integration.

The Regulation concerning the flag is a repetition of what is contained on this subject in the Agreement. It will be drafted in the same way as the relevant provision of the Agreement.

Regulation 8 is entitled "Uniform and Insignia". It states:

"Members of the Force shall wear such uniform and distinctive insignia as the Commander, in consultation with the Secretary-General, shall prescribe".

The Committee is already familiar with the arrangements concerning privileges and immunities.

In Chapter III of the Regulations, we define the authority of the Commander of the United Nations Emergency Force. We state:

"The Commander has full command authority over the Force. He is operationally responsible for the performance of all functions assigned to the Force by the United Nations, and for the deployment and assignment of troops placed at the disposal of the Force."

This establishes the pyramid: you have the Commander, and you must have the rest. How does the Commander give his orders? This is what the Regulations state:

"The Commander shall designate the chain of command for the Force, making use of the officers of the United Nations Command and the commanders of the national contingents made available by Participating Governments. He may delegate his authority through the chain of command. Changes in commanders of national contingents made available by Participating Governments shall be made in consultation between the Commander of the UNEF and the appropriate authorities of the Participating Government. The Commander of the UNEF may make such provisional emergency assignments as may be required. The Commander of the UNEF has full authority with respect to all assignments of members of the United Nations Command and, through the chain of command, of all members of the Force. Instructions from principal organs of the United Nations shall be channelled by the Secretary-General through the Commander and the chain of command designated by him."

This was rather a legal text, and I was really amazed to find that the military advisers, after having studied it, said that it was good. As I have already said, we have to establish a pyramid to indicate how the orders from the Commander are to go down and how they are to be followed -- for they will be international orders.

Regulation 13 is entitled "Good Order and Discipline". It states:

"The Commander of the UNEF shall have general responsibility for the good order of the Force" --
we say "good order", not "discipline".

"Responsibility for disciplinary action in national contingents provided for the Force rests with the commanders of the national contingents".
In other words, while the Commander is in principle responsible for the good order of the Force, he is not responsible for individual disciplinary action. He is, however, responsible for the general good order of the Force, and must therefore have certain rights in this respect. Now, what are those rights?
The Regulation goes on:

"Reports concerning disciplinary action shall be communicated to the Commander of the UNEF who may consult with the commander of the national contingent and if necessary the authorities of the Participating State concerned".

If some laxity is shown in one of the contingents or if different standards are applied with regard to the same matter, the Commander should have the right to speak to the commanders of the national contingents concerned. If they do not agree, the Commander may even approach, through the Secretary-General, the Participating State concerned.

Regulation 14 deals with military police. It states:

"The Commander shall provide for military police for any camps, establishments or other premises ... Outside these premises military police of the Force may be employed, in so far as such employment is necessary to maintain discipline and order among members of the Force, subject to arrangements with the authorities of the Host State concerned, and in liaison with those authorities. For this purpose the military police of the Force shall have the power of arrest over members of the Force".

Chapter IV of the Regulations deals with general administrative, executive and financial arrangements. I shall read only two provisions of this Chapter because all the others are in accordance with Assembly decisions.

Regulation 15 of Chapter IV is entitled "Authority of the Secretary-General". It reads:

"The Secretary-General of the United Nations shall have authority for all administrative, executive and financial matters affecting the Force and shall be responsible for the negotiation and conclusion of agreements with Governments concerning the Force. He shall make provisions for the settlement of claims arising with respect to the Force."

Regulation 16 is entitled "Authority of the Commander". It reads:

"The Commander shall have direct authority for the operation of the Force and for arrangements for the provision of auxiliary supplies and services. In the exercise of this authority he shall act in consultation with the Secretary-General and in accordance with the administrative and financial principles contained in the following Regulations".

Chapter V deals with the rights and duties of members of the Force.

Regulation 29, the first Regulation under this Chapter, is entitled "Respect for Local Law and Conduct Befitting International Status". It is exactly the same provision as that contained in the first article of the Agreement with Egypt; in other words, it states that the members of the Force "shall conduct themselves at all times in a manner befitting their status as members of the United Nations Emergency Force" and shall follow the laws and regulations of the Host State.

Then there is a Regulation arising out of the Advisory Opinion of the Court given, as the Committee will remember, some time after the assassination of Count Bernadotte. This Regulation is entitled "United Nations Legal Protection" and reads as follows:

"Members of the Force are entitled to the legal protection of the United Nations and shall be regarded as agents of the United Nations for the purpose of such protection".

The next Regulation is entitled "Instructions". It states:

"In the performance of their duties for the Force the members of the Force shall receive their instructions only from the Commander and the chain of command designated by him".

In this case, of course, "the chain of command" means the commanders of the national contingents.

Regulation 32 is entitled "Discretion and Non-Communication of Information". It reads:

"Members of the Force shall exercise the utmost discretion in regard to all matters relating to their duties and functions. They shall not communicate to any person any information known to them by reason of their position with the Force which has not been made public, except in the course of their duties or by authorization of the Commander. The obligations of this Regulation do not cease upon the termination of their assignment with the Force."

The next Regulation concerns honours and remuneration from external sources. It states:

"No member of the Force may accept any honour, decoration, favour, gift or remuneration incompatible with the individual's status and functions as a member of the Force."

Regulation 34 concerns jurisdiction. This is dealt with in the Agreement, and the Regulation may be reworded in accordance with the final draft of the relevant provision of the Agreement.

Then, there are some Regulations concerning customs duties and foreign exchange regulations, identity cards, and driving. Regulation 38, entitled "Pay", reads:

"Responsibility for pay of members of the Force shall rest with their respective national State. They shall be paid in the field in accordance with arrangements to be made between the appropriate pay officer of their respective national State and the Commander".

Regulation 39 states that:

"The Secretary-General shall fix a scale for a daily overseas service allowance not to exceed one U.S. dollar (\$1.00) a day, to be paid by the United Nations in the appropriate currency to those members of the Force determined to be eligible for such allowance. Eligibility and entitlement shall be decided by the Commander in accordance with conditions prescribed in rules provided by him in accordance with article 4 of these Regulations".

Regulation 40 reads:

"In the event of death, injury or illness of a member of the Force attributable to service with the Force, the respective national State will be responsible for such benefits or compensation awards as may be payable under the laws and regulations applicable to service in the armed forces of that State".

Regulation 41 is entitled "Dependents" and states:

"Members of the Force may not be accompanied to their duty station by members of their family except where expressly authorized and in accordance with conditions prescribed by the Commander."

Regulation 42, entitled "Leave", states that:

"The Commander shall provide conditions for the granting of passes and leave".

Regulation 43, entitled "Promotions", reads:

"Promotions in rank remain the responsibility of the Participating Government".

The final Chapter of the Regulations deals with international humanitarian conventions. While we were typing up this Regulation, we received a letter addressed to the Secretary-General by the International Red Cross. In that letter, the Red Cross draws the Secretary-General's attention to the fact that he must make some kind of declaration to the effect that, if the occasion arises, our troops will observe the general conventions. Our regulation is drafted as follows:

"The Force shall observe the spirit of the general international conventions applicable to the conduct of military personnel". We had to say the "spirit" of these conventions, because the "letter" has to do with armies which have conquered a territory or are in possession of a territory. I therefore did not think that we could ask the Force to observe the letter of these conventions.

The **SECRETARY-GENERAL**: I do not think that that will present any difficulty.

These Regulations have been discussed in detail with the military group.

Mr. **STAVROPOULOS**: They will be discussed further, too, because the military advisers have asked us for two copies each on Monday to send to their respective Governments.

The **SECRETARY-GENERAL**: We have here a document which embodies the main clauses of the Agreement. Furthermore, although it is mainly of a military and administrative nature, it is subject to screening not only by the military representatives here, but also by them with the Governments concerned.

In the case of these Regulations, as in the case of the Agreement, I felt that the Advisory Committee should be informed, but that it was not likely that the Committee would feel that it should go into details. Of course, I put to one side those clauses which really reflect agreement, where the final position taken by the Advisory Committee would be decisive.

Mr. **STAVROPOULOS**: I believe that it is your wish, Mr. Secretary-General, that while I am in Egypt I should also have discussions with General Burns on this matter.

The **SECRETARY-GENERAL**: This is, of course, entirely outside the framework of discussions with the Egyptian Government; this is a United Nations matter.

Does any member of the Committee wish to make any observations on the Regulations?

Mr. MIR KHAN (Pakistan): I should like to congratulate the Secretary-General, Mr. Stavropoulos, and certainly the Government of Egypt for the wonderful progress which has been made on this very ticklish question. As a student of law, I would say that you are really developing not only public and private international law, but also perhaps some military law.

Mr. GUNewardENE (Ceylon): I should like some clarification on one point. As regards disciplinary action, is this entirely a matter for the national commanders?

Mr. STAVROPOULOS: This will be in the hands of the national contingents, the Commander having only a right of remonstrance, as it were.

Mr. GUNewardENE (Ceylon): There is no right of appeal to the Commander of the United Nations Force against a decision of the military tribunal or the commanders?

Mr. STAVROPOULOS: No. Such a procedure would be fraught with great difficulties. If disciplinary action is to be made international, then there would have to be a court and other machinery which we could not provide at this stage, even if we wished to. If such machinery is desired, that is a matter for the future.

Mr. BUNCHE: That would involve machinery for courts-martial, and so forth.

Mr. GUNewardENE (Ceylon): Is there any provision for an oath of secrecy? There will be secrets involved here.

Mr. STAVROPOULOS: There is a provision that all members of the Force should not divulge secrets.

Mr. BERNARDES (Brazil): Should there not be some provision concerning a possible withdrawal of forces? I refer to a case in which a nation might decide to withdraw its forces from the United Nations Force.

Mr. STAVROPOULOS: Not in this context. At some stage, these Regulations will be submitted to you officially by the Secretary-General. At that stage, there will be an exchange of letters between your Governments and the Secretary-General, defining various other conditions which we cannot include either in the Agreement with Egypt or in the Regulations, but which have to do with your Governments.

The SECRETARY-GENERAL: Of course, we have not as yet any formal agreement between the United Nations and the Participating Governments. We have merely a de facto agreement which has to be formalized. As the Legal Counsel has said, this must cover the point which has been raised. I think, however, that we can leave it aside for a moment; it is not a burning legal question -- and, certainly, not a burning political question either.

Before turning to the question of the exchange of letters concerning the clearance of the Canal, I should like to give the Committee one fact by way of information.

There have been certain withdrawals east of the Canal by Israel forces. It has, however, proved very difficult for the UNEF to advance, for two reasons. In the first place, there exist extensive mine fields; and, in the second place, there is considerable destruction on roads and railways. This destruction has to a considerable extent taken place since the cease-fire. There are indications that it is continuing. As regards the mining, that, of course, goes back in part to the war period, but it cannot be excluded that it has in part taken place at a later stage. This makes it, of course, exceedingly difficult for the Force to advance, both for practical reasons and because of undue risks involved.

The matter has been brought up with the Israel authorities in two ways. In the first place, a request has been made, obviously through the Commander, for full and speedy information on all mine fields. In the second place, there has been a démarche from my side -- and this, at least for the moment, should remain secret; undue noises about it would not, I think, be helpful for anybody. That démarche from my side requests that destruction, if it is continuing, should be stopped forthwith and that instructions should be issued to the Israel forces to remove the mines and repair the roads, so as to make it possible for the UNEF to fulfil its functions.

Of course, I hope that on both points we shall have a favourable and affirmative reaction. If we do not have such a reaction, the task of the Force will be very considerably hampered and the whole operation will in some respects take on another character from that which we had expected. I do think that it would be a little bit on the extraordinary side if we were to have to send work companies in for the purposes of re-establishing roads in order to be able to make the necessary advance moves. We are not, however, at that stage yet. As I have said, I am mentioning this only by way of information because I do feel that this Committee should be aware of the fact that, quite apart from the legal questions of when and how withdrawals should take place, we have these practical problems which have so far not been resolved in a satisfactory way. All the necessary steps, however, have been taken to get them resolved and, pending the receipt of replies from the Israel Government, I do not think that there is any reason for us to go into details.

I may perhaps turn now to the exchange of letters on the clearance of the Canal. In this case, I think it would be practical if I were to read out the entire text of the letter, which is a short one, and if the Legal Counsel were then to make his comments. I have made one editing change in one sentence of the letter, so you should not be surprised, Mr. Stavropoulos, to hear this read out in a somewhat revised form.

Mr. LALL (India): You are now going on to the question of clearing the Canal, Mr. Secretary-General, and I do feel that I should make a remark on the information you have given us regarding mine fields and the destruction of roads and bridges in the Sinai Peninsula.

I think that the information you have given us is extremely serious. It means that the Israelis are undertaking activities which are totally opposed to the spirit of the United Nations resolutions. I entirely accept your judgement that at this time there is nothing more that we can do. I understood from your statement that replies are being awaited from Israel to the démarches which have been made.

I, myself, certainly think that this covert activity of Israel should be strongly frowned upon by the United Nations. If the replies which are received are not satisfactory and show any evidence of continuing destructive activity, I take it that you, Mr. Secretary-General, will wish to report to the General Assembly so that the Assembly may take some steps. I do feel that what is happening is so very much opposed to the spirit of the General Assembly's decisions that to let it continue would be most unfortunate and would have grave repercussions at some stage.

The SECRETARY-GENERAL: It will not be left to continue.

Mr. LALL (India): I know that it will not, but the point is this: I am sure that when the replies are available you will let us know the position.

The SECRETARY-GENERAL: Certainly. I should like to give you the time-table. It was only yesterday morning that we had reliable and confirmed information on what had happened. The *démarche* was made at once -- before lunch yesterday. For that reason, it would not be possible for me to have a reply before tomorrow or Monday. I would in the first instance wish to inform this Committee because I think that it will be a question of judgement whether or not the reply is satisfactory; I would not wish to reserve to myself the right to pass judgement on that. The first step, the *démarche*, was an obvious step to take. I think that the powers of implementation given to the Secretary-General in the resolution are such as to permit me to make a *démarche*, as I have done, on behalf of the General Assembly.

Mr. LALL (India): Of course, I entirely agree with that.

Mr. MACKAY (Canada): I would not wish to enter into the question of procedure here, except to comment on what has been said by Mr. Lall.

It would seem to me that we should be very careful not to let this information out, or indeed raise it in the General Assembly if that can be at all avoided. The same question might arise with respect to blockages of the Canal. It is conceivable -- at least there are rumours -- that some of the blocking was done after the cease-fire. It would seem to me that things are going along so well now that it would be undesirable to raise either of those

questions, if it can be avoided. It may come to a point where they will have to be raised, but personally I would hope not.

The ~~SECRETARY-GENERAL~~: That is, of course, part of the reason why I would first bring the question up here in this Committee.

I should, however, like to point out that there is a slight distinction between the matter that I have raised and the question of the blockage of the Canal. I do not know when this blockage of the Canal took place; indeed, I do not think anybody knows. Part of it may have taken place after the cease-fire; frankly, I just do not know. We do not know when the mine fields were laid -- that may have been done on the right side of the time-limit; it may have been done on the wrong side of the time-limit. What brings in a new factor, however, is of course the question whether there is to be continued activity which will frustrate the purposes of the ~~UNEF~~. That is another problem. It is, of course, my hope that with a very firm *démarche* -- which could very well be based on the resolutions, which explicitly warn against any activity which might delay or impede the implementation of those resolutions -- we have a fair chance that these activities will be stopped. If that is the case, this will be a historical matter and, as a purely historical matter, I should not like to have the whole question aired, so to speak, because then there are very many things which could be aired. We are, at present, in a state of mind which I think is good, a state of mind in which we are more keen on healing wounds than on opening new ones.

I did want to make that distinction concerning the question raised by Mr. Mackay, because it is decisive for just those things for which this Committee is mainly responsible.

As regards the Canal agreement, I do not foresee any complications. Of course, this is another case where the text will have to be checked in Cairo; that will be part of the functions of the Legal Counsel when he is in Cairo. It has, however, been discussed here on two levels: with Ambassador Loutfi and with the Foreign Minister himself. The text as it stands has met with preliminary approval, in the same way as the other texts.

As I have already mentioned, I made one amendment to the letter after having received the final draft from the Legal Counsel. This amendment has not been shown to the other party as yet, and for that reason I present it with a reservation. I think, however, that the other party -- the Egyptian Government -- will, if anything, regard it as a more adequate formula than the original one.

The letter is addressed to the Government of Egypt and reads as follows:

"I have the honour to refer to the request of the Government of Egypt for the assistance of the United Nations in arrangements for clearing of the Suez Canal.

"In accordance with the authority which has been granted to the Secretary-General by the General Assembly, and on the basis of preliminary exploration and negotiation, I am in a position to advise you that the United Nations would be prepared to assist the Government of Egypt by undertaking the operations necessary for the speedy clearance of the Canal. The general plan for this assistance would be elaborated in consultation with the Government of Egypt and, when approved by the Government of Egypt, implemented under the instructions of the Secretary-General. The Secretary-General would be authorized by the Government of Egypt to carry out the task as a matter of priority as effectively and expeditiously as practicable, with freedom for him to use the equipment available which he finds necessary for the operation.

"It is envisaged that the United Nations would conduct the clearance operation through contractual arrangements with private firms which will have the primary responsibility for the work under the direction and control of the Secretary-General and his special representative. Such sub-contractual arrangements as may have to be entered into by the prime contractors in order to expedite the work would be subject to the approval of the Secretary-General.

"The undertaking would be regarded as a United Nations enterprise and its personnel would be under obligation to discharge their functions and regulate their conduct solely in the interests of the United Nations. In keeping with the United Nations responsibilities, the vessels would fly the flag of the United Nations in place of their national flags.

"As the Government of Egypt has requested that the clearance of the Canal be completed with the utmost speed and effectiveness, the United Nations will give the highest priority to this objective, with the understanding that it would not incur responsibility for possible damage that may result from such activities as it considers necessary to speed the clearance of the Canal. It would also be understood that the United Nations would retain the rights of **salvor** in respect of vessels or property salvaged in the course of the clearance operation.

"The United Nations will, of course, keep the Government of Egypt fully informed of the progress of the clearance operations, and the Government will, I am sure, render all such assistance as may be required by the United Nations for this task.

"If the points set forth in this letter are acceptable to the Government of Egypt, this letter and the reply of the Government will be considered as constituting an agreement between Egypt and the United Nations."

My comments on the various points of the letter are as follows:

First, the commitment is that we are prepared "to assist the Government of Egypt by undertaking the operations necessary for the speedy clearance of the Canal." That still leaves open, of course, the relationship between the Government and us. We are, in fact, a kind of contractor for the Government of Egypt, which retains its sovereign rights.

This statement in the letter is, however, qualified in various respects.

"The general plan" -- and it is in a very general sense a general plan -- "would be elaborated in consultation with the Government of Egypt". No snag in that consultation is to be foreseen; that is to say, the approval of the Government of Egypt is something which I, for my part, take for granted.

Once we have passed the stage of consultation and obtained the approval of the general plan, however, all implementation is the responsibility of the United Nations, formally represented by the Secretary-General. There are no restrictions on his freedom of movement as regards the use of equipment available which he considers necessary for the operation.

It also follows from this general construction that, as is stated in the letter, the private firms with which we make contracts would have "the primary responsibility for the work under the direction and control of the Secretary-General". It also follows that "the undertaking would be regarded as a United Nations enterprise", with all that follows in regard to the status of the people taking part in the enterprise, the flying of the United Nations flag, and so forth.

The balance that we have attempted to strike between the rights of Egypt and the rights of the United Nations is a recognition of the fact that we shall all work, so to speak, for the Government of Egypt -- in other words, the consent element in this case is taken care of by the request. It is translated in legal form only in the formal approval of the general plan. For all the rest, the matter is left in the hands of the United Nations, and the enterprise -- although undertaken with the consent of the Government of Egypt -- is solely a United Nations enterprise, flying the United Nations flag.

To my mind, that represents a very reasonable balance between the two elements which we have to wed to each other in this case.

I should like to know whether Mr. Stavropoulos has any further observations to make as regards the points I have raised and the other points concerning damages, and so forth.

Mr. STAVROPOULOS: In addition to the points to which the Secretary-General has drawn attention, we tried to provide for two contingencies. The first related to what would happen if, incidentally to clearing the Canal, we destroyed a ship. In other words, we had to provide for the contingency of pushing a ship away -- not really destroying it -- where the question of payment might arise. We do not want to have to pay in such a case, and we have tried to provide for that contingency. The second related to what should happen to the money which the law affords to the salvor. The salvor has a right either to be paid for his expenses or to own the ship that he took out of the sea. We have also tried to provide for that case. So far as we know, there has been no objection on the part of the Egyptian Government to the provisions we have made for the two contingencies.

The SECRETARY-GENERAL: I shall turn later to the question of the character of this letter and our role in this context. I should, however, first like to ask members of the Committee whether they have any observations on our attempt to strike this general balance. It represents a direct translation of the three basic points, and I think that this translation also shows something which I have tried to get across to this Committee but which some people outside the Committee did not believe in too much -- namely, that the three points had a lot of meat in them.

There is one other matter on which I should like to consult the Committee. The text of the report is not quite clear as to the extent of the Secretary-General's authority in this context. It was said that "At the present stage the Secretary-General is not prepared to indicate how the costs should be shared. He intends to revert to this question when the approximate costs have been estimated. He will at a proper stage of the negotiations request the necessary authority to conclude agreements concerning the operation". I consider that the agreements in question are agreements involving financial responsibilities which, for that reason, should of course be subject to approval in the regular way. On the other hand, I did not in that context include an agreement of the type reflected in this exchange of letters, because this exchange only translates into agreement form what really was the General Assembly's decision. It does not go beyond that decision; it does not detract from it; it is just a translation of it. For that reason, unless this were to meet with objections from the Advisory Committee for constitutional reasons, I shall consider myself entitled to go ahead with this exchange of letters as the basis for the necessary detailed negotiations which we are bound to have.

I am in somewhat of a hurry in this respect, because I think that the sooner we have this exchange of letters, the clearer will be -- I shall not say the "atmosphere", because there is nothing wrong with that -- the setting in which we shall have to operate. For that reason, my own preference would be -- after this report, as it were, on how we translate the resolution in a basic text -- to assume the responsibility of making the exchange of letters, certainly without going to the General Assembly.

Of course, as soon as the final text is established with the Government of Egypt, I shall be perfectly happy to have it circulated to the Advisory Committee before signature.

Two questions arise. Is it necessary to go to the General Assembly? My reply would be "No". As to the second question, I suggest that as soon as a text is definitely cleared with the Egyptian Government, but before signature, it should be circulated to members of the Advisory Committee, who may, of course, make any observations they may wish to make at that stage.

My report now is in the same nature as the report on the first agreement -- that is, I wanted the Committee to be fully informed before we proceeded any further on the matter with the Egyptian Government.

Mr. IALL (India): I agree with your interpretation, Mr. Secretary-General. I think that what we desired was that, before you negotiated financial commitments, that matter should be brought to the General Assembly.

I may, however, add a third stage to the two stages which you, Mr. Secretary-General, have mentioned in connexion with the exchange of letters. You have brought us to the stage where, before signature, you will bring the letters to the Advisory Committee. Then the letters will be signed. After you have signed them and after they have been signed by the Foreign Minister or another representative of Egypt, do you not think that you could circulate them for purposes of information to the General Assembly?

The SECRETARY-GENERAL: I should definitely do that.

Mr. IALL (India): I think that once the letters have been signed, they are within the terms of the resolutions on the basis of which you are operating; and therefore they can be completed and laid before the Assembly, for purposes of information, as an Assembly document.

The SECRETARY-GENERAL: Definitely. My own intention is to see to it that, as soon as we get started, there will be current reports to the General Assembly, as appropriate, on this clearing operation. I cannot say exactly when and how that will be done, but the General Assembly should be able to follow this operation in which it has not only a financial interest but a very keen economic interest as well.

I should like to mention in this context that the discussions between General Wheeler and his people, on the one hand, and their opposite numbers in Cairo, on the other, should have started in Cairo very early this morning, New York time.
