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D.H. aide memoire

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A I D E M E M O I R E

As the decision on the UNEF was taken under Chapter VI, it was obvious from the beginning that the resolution did in no way limit the sovereignty of the host state. This was clear both from the resolution of the General Assembly and from the Second and Final Report on the Emergency Force. Thus, neither the General Assembly nor the Secretary-General, acting for the General Assembly, created any right for Egypt, or gave any right to Egypt, in accepting consent as a condition for the presence and functioning of the UNEF on Egyptian territory. Egypt had the right, and the only problem was whether that right in this context should and could in some way be limited.

My starting point in the consideration of this last mentioned problem - the limitation of Egypt's sovereign right in the interest of political balance and stability in the UNEF operation - was the fact that Egypt had spontaneously endorsed the General Assembly resolution of 5 November and by endorsing that resolution had consented to the presence of the UNEF for certain tasks. They could thus not ask the UNEF to withdraw before the completion of the tasks without running up against their own acceptance of the resolution on the Force and its tasks.

The question arose in relation to Egypt first in a cable received 9 November from Burns, covering an interview the same day with Fawzi. In that interview Egypt had requested clarification of the question how long it was contemplated that the Force would stay in the Demarcation Line

area. To this I replied the same day: "A definite reply is at present impossible, but the emergency character of the Force links it to the immediate crisis envisaged in the resolution of 2 November and its liquidation. In case of different views as to when the crisis does not any longer warrant the presence of the troops, the matter will have to be negotiated with the parties." In a further cable to Burns the same day I said, however, also that "as the United Nations Force would come with Egypt's consent, they cannot stay nor operate unless Egypt continues to consent".

On 10 November Ambassador Loutfi, under instruction, asked me "whether it was recognized that an agreement is necessary for their (UNEP's) remaining in the Canal area" "once their task in the area had been completed. I replied that it was my view that such an agreement would then be necessary.

On 11 November Ambassador Loutfi saw me again. He then said that it must be agreed that when the Egyptian consent is no more valid, the UN Force should withdraw. To this I replied that I did not find that a withdrawal of consent could be made before the tasks which had justified the entry, had been completed; if, as might happen, different views on the degree of completion of the tasks prescribed proved to exist, the matter should be negotiated.

The view expressed by Loutfi was later embodied in an Aide Mémoire, dated the same day, where it was said: "The Egyptian Government takes note of the following: A. It being agreed that consent of Egypt is indispensable for entry and presence of the UN Forces in any part of its territory. If such consent no longer persists, these forces shall withdraw."

I replied to this in a memo dated 12 November in which I said: "I have received your Aide Mémoire setting out the understanding on the basis of which the Egyptian Government accepts my announcing today that agreement on the arrival in Egypt of the United Nations Force has been reached. I wish to put on record my interpretation of two of these points.* Regarding the point quoted above in the Egyptian Aide Mémoire, I then continued: "I want to put on record that the conditions which motivate the consent to entry and presence, are the very conditions to which the tasks established for the Force in the General Assembly Resolution, 4 November, are directed. Therefore, I assume it to be recognized that as long as the task, thus prescribed, is not completed, the reasons for the consent of the Government remain valid, and that a withdrawal of this consent before completion of the task would run counter to the acceptance by Egypt of the decision of the General Assembly. I read the statement quoted in the light of these considerations. If a difference should develop, whether or not the reasons for the arrangements are still valid, the matter should be brought up for negotiation with the United Nations".

This explanation of mine was sent to the Egyptian Mission after my telephone conversation in the morning of the 12th with Dr. Fawzi where we agreed on publication of our agreement on the entry of the UNEF into Egypt. In view of the previous exchanges, I had no reason to believe that my statement would introduce any new difficulty. I also counted on the fact that Egypt probably by then was so committed as to be rather

anxious not to reopen the discussion. However, I recognized to myself that there was an element of gambling involved which I felt I simply had to take in view of the danger that further delays might cause Egypt to change its mind, accept volunteers and throw our approaches overboard.

However, the next morning, 13 November, I received a message from Dr. Fawzi to the effect that the Government of Egypt could not subscribe to my interpretation of the question of consent and withdrawal, as set out on 12 November, and therefore, in the light of my communication of that date, "felt impelled to consider that the announced agreements should remain inoperative until all misunderstandings were cleared up." The Government reiterated in this context its view that if its consent no longer persisted, the UNEF should withdraw.

I replied to this communication - which caused a further delay of the transportation of troops to Egypt by at least 24 hours - in a cable sent immediately on receipt of the communication. In drafting my reply I had a feeling that it now was a must to get the troops in and that I would be in a position to find a formula, saving the face of Egypt while protecting the UN stand, once I could discuss the matter personally with President Nasser.

In the official reply 13 November I said that my previous statement had put forward my personal opinion that "the reasons" for consent remained valid as long as the task was not completed. I also said that for that reason a withdrawal of consent leading to the withdrawal of the Force before the task was completed (as previously stated) in my view, "although within the rights of the Egyptian Government would go against its acceptance of the basic resolution of the General Assembly". I continued by saying that my

reference to negotiation was intended to indicate only that the question of withdrawal should be a matter of discussion to the extent that different views were held as to whether the task of the General Assembly was fulfilled or not. I referred in this respect to my stand as explained already in my message of 9 November, as quoted above.

I commented upon the official reply in a special personal message to Fawzi, sent at the same time, where I said that we "both had to reserve our freedom of action, but that, all the same, we could go ahead, hoping that a controversial situation would not arise". "If arrangements would break down on this issue" (withdrawal only on completion of the tasks), "I could not avoid going to the General Assembly" (with the conflict which had developed between us on this question of principle) "putting it to their judgment to decide what could or could not be accepted as an understanding. This situation would be a most embarrassing one for all but I would fear the political repercussions, as obviously very few would find it reasonable that recognition of your freedom of action should mean that you, after having permitted the Force to come, might ask it to withdraw at a time when the very reasons which had previously prompted you to accept were still obviously valid". I ended by saying that I trusted that Fawzi on the basis of this personal message could help me by "putting the stand I had to take on my own rights, in the right perspective". The letter to Fawzi thus made it clear that if the Government did not accept my stand on withdrawal as a precondition for further steps, the matter would be raised in the Assembly.

On the basis of these two final communications from me, Egypt gave green lights for the arrival of the troops, thus, in fact, accepting my stand and letting it supersede their own communication 13 November.

In my effort to follow up the situation, which prevailed after the exchange in which different stands had been maintained by Egypt and by me, I was guided by the consideration that Egypt constitutionally had an undisputed right to request the withdrawal of the troops, even if initial consent had been given, but that, on the other hand, it should be possible on the basis of my own stand as finally tacitly accepted, to force them into an agreement in which they limited their freedom of action as to withdrawal by making a request for withdrawal dependent upon the completion of the task - a question which, in the UN, obviously would have to be submitted to interpretation by the General Assembly.

The most desirable thing, of course, would have been to tie Egypt by an agreement in which they declared, that withdrawal should take place only if so decided by the General Assembly. Put in this naked form, however, the problem could never have been settled. I felt that the same was true of an agreement to the effect that withdrawal should take place upon "agreement on withdrawal" between the UN and the Egyptian Government. However, I found it worthwhile to try a line, very close to the second one, according to which Egypt would declare to the United Nations that it would exert all its sovereign rights with regard to the troops on the basis of a good faith interpretation of the tasks of the Force. The United Nations should make a reciprocal commitment to maintain the Force as long as the task was not completed. If such a dual statement was introduced

in an agreement between the parties, it would be obvious that the procedure in case of a request from Egypt for the withdrawal of UNEF would be as follows. The matter would at once be brought before the General Assembly. If the General Assembly found that the task was completed, everything would be all right. If they found that the task was not completed and Egypt, all the same, maintained its stand and enforced the withdrawal, Egypt would break the agreement with the United Nations. Of course Egypt's freedom of action could under no circumstances be limited but by some kind of agreement. The device I used meant only that instead of limiting their rights by a basic understanding requesting an agreement directly concerning withdrawal, we created an obligation to reach agreement on the fact that the tasks were completed and, thus, the conditions for a withdrawal established.

I elaborated a draft text for an agreement along the lines I had in mind during the night between 15 and 16 November in Capodachino. I showed the text to Fawzi at our first talk on 16 November and I discussed practically only this issue with Nasser for 7 hours in the evening and night of 17 November. Nasser, in this final discussion, where the text I had proposed was approved with some amendments, showed that he very fully understood that, by limiting their freedom of action in the way I proposed, they would take a very serious step, as it would mean that the question of the extent of the task would become decisive for the relations between Egypt and the United Nations and would determine Egypt's political freedom of action. He felt, not without justification, that the definition given of the task in the UN texts was very loose and that,

tying the freedom of action of Egypt to the concept of the task - which had to be interpreted also by the General Assembly - and doing so in a written agreement, meant that he accepted a far-reaching and unpredictable restriction. To shoot the text through in spite of Nasser's strong wish to avoid this, and his strong suspicion of the legal construction - especially of the possible consequences of differences of views regarding the task - I felt obliged, in the course of the discussion, to threaten three times, that unless an agreement of this type was made, I would have to propose the immediate withdrawal of the troops. If any proof would be necessary for how the text of the agreement was judged by President Nasser, this last mentioned fact tells the story.

It is obvious that, with a text of the content mentioned approved by Egypt, the whole previous exchange of views was superseded by a formal and explicit recognition by Egypt of the stand I had taken all through, in particular on 9 and 12 November. The previous exchange of cables cannot any longer have any interpretative value as only the text of the agreement was put before the General Assembly and approved by it with the concurrence of Egypt and as its text was self-contained and conclusive. All further discussion, therefore, has to start from the text of the agreement, which is to be found in Document A/3375. The interpretation of the text must be the one set out above.