

**Middle East - Suez story No
37-40: Middle East - Suez
story No 37-40 - 29**

HS L 179:116a



Dag Hammarskjöld's saml.

Middle East / Suez story - 30

24 Oct. 56 - 26 March 57

Fawzi, Mahmoud (Foreign Minister of
Egypt)

- 7 letters from D.H.
(encl. - message to Nasser, 1 aide-memoire)
- 4 letters/messages to D.H.
encl. draft memo

ANNEX I

PERSONAL AND STRICTLY CONFIDENTIAL

24 October 1956

Dear Dr. Fawzi,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Signed) Yours sincerely,

DAG HAMMARSKJOLD



UNITED NATIONS
SECURITY
COUNCIL



Distr.
GENERAL

S/3728
3 November 1956

ORIGINAL: ENGLISH

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

NOTE:

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

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

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

20 January 1957

My dear Dr. Fawzi,

By letter of 24 October 1956 I took up with you the question of the framework within which a set of arrangements concerning the Suez Canal might be negotiated on the basis of the discussions of the matter between you and the Foreign Ministers of France and the United Kingdom at United Nations Headquarters, and the ensuing Security Council action. I received your reply, 2 November. Our exchange of letters was circulated as a Security Council document.

After your return to New York we have repeatedly touched upon the matter and, in a non-committal way, exchanged views concerning the possible time and fora for a further study of the questions arising. It was my hope that, after the completion of the Anglo/French withdrawal and now that we have got the clearing operation in the Suez Canal well under way, we should be able to concentrate on the problem of how best to reach a settlement of the questions concerning the Suez Canal. On your side, you have assured me that your Government is ready to negotiate such a settlement having regard for progress previously made.

I am aware of Egypt's intention to follow the rules of the Constantinople Convention when traffic through the Canal is again resumed. I have also noted your willingness, in appropriate form, to re-affirm the Convention, and to make possible changes of tolls and charges from their previous level subject to agreement. However, even with this stand of the Egyptian Government many important questions are left unresolved in which the users all over the world, with which Egypt will have to co-operate, take a keen interest, and which according to previous discussions should be settled by agreement.

I recognize that Egypt does not consider that there is at present any organization of users with which the Government is in a position to take up negotiations. It is, at all events, difficult to get an authoritative expression of the wishes and viewpoints of the users on pending problems and on such other questions as in the course of the further exploration may emerge. I do not believe that a solution to this technical difficulty can be found through a decision of the General Assembly. Nor

His Excellency
Dr. Mahmoud Fawzi,
Minister for Foreign Affairs of Egypt
Permanent Mission of Egypt to the United Nations
900 Park Avenue
New York City, N.Y.

do I believe that, in the absence of an expression of the wishes of the users, things can be left as they are. Of course, I do not venture to speak for Egypt, but I have the impression that it is recognised by your Government that it is just as much in the interest of Egypt as in the interest of the world community that a basis be laid for the future operation of the Canal, which takes into account the legitimate interest of the users and provides for constructive co-operation with them. Under these circumstances it seems to me essential that the difficulties just indicated should be resolved so that the unsatisfactory state of affairs, which otherwise would prevail, can be overcome.

Having regard for resolutions of the General Assembly and in line with the action of the Security Council, I consider the Secretary-General entitled to take such initiatives as he may find necessary in order to promote the settlement of the Suez Canal question. For that purpose I am willing to take up formal discussions with representatives of your Government. I am, likewise, willing to establish similar contacts with Governments representing the main users' interests so as to help towards a considered expression of the users' viewpoints. If, so far, I have not taken such formal initiatives, it is because I have felt that more informal exchanges of views still represented the most fruitful approach.

However, the time now seems to me to be ripe for a change from informal contacts to an agreed and formal approach, which would provide you with a clear picture of what is considered necessary by the users, and which would give the users a clear picture of what is considered possible by you. This clarification being intended to serve as a basis for an agreed settlement, it is obvious that the stands taken may be subject to modifications or elaborations in the course of such direct negotiations as should be organised somewhat later.

In the light of what I have said, I would ask you to advise me regarding the attitude of the Egyptian Government and to tell me how, in your view, we best can overcome the difficulties indicated above. I would appreciate especially to get a reply to my question, whether you are willing now to take up formal discussions with me, and what are your suggestions concerning the manner in which I can most usefully bring to an expression, the views of the users.

I would appreciate an early reply as I consider the matter to be one of great and increasing urgency.

SD
29
26 January 1957

Dear Mahmoud,

.....
Enclosed please find, in draft form, a message to President Nasser. I have been turning around in my mind the best way to bring to his attention my very strong convictions as to the unfortunate aspects of any linking of the Canal issues to the withdrawal problem.

In the quiet of a Saturday afternoon I dictated the enclosed lines for your personal and friendly consideration. If I send them and what form they will finally take will depend entirely on your wise counsel.

Would you please give me your reaction Sunday night or Monday morning.

If the text happens to be all right with you, you can regard it as clear with me and pass it on to the President without any further contact with me.

With kind regards.

Yours sincerely,

Dag Hammarskjöld

His Excellency,
Dr. Mahmoud Fawzi,
Minister for Foreign Affairs of Egypt,

DRAFT

26 January 1957

Message to President Nasser.

You will by now have received the report of my presentation of the views I hold on the present situation in the Middle East. You will note my insistence on the withdrawal of Israel troops behind the armistice demarcation lines as a prerequisite for everything else, but you will also note that I feel that there can be no return to the conditions as they were before the crisis, although the change, of course, should be in spite of and not because of Israel's military action.

I wish to address a word to you personally concerning the stage in the development which we have now reached. I do that in the interest of peace in the conviction that the views I express on that basis are in line also with Egypt's national interests.

In April last year an attempt was made to find a new direction. I think we might have succeeded with a little bit more of a will to take short term risks in order to arrive at long term advantages.

The first problem at present is how to overcome the consequences of Israel's military action. I am sure that that will be brought about if the issue is not confused by other matters being brought into the discussion in the wrong way. What I fear especially is that the highly sensitive problems related to the Suez Canal may come under consideration in a form which would shift the emphasis so as to lock doors to progress.

A feeling that Egypt might try to use its possibilities to intervene with the positive development on the Canal side might be enough. I am sure that such interference, if it were to materialize, might prove decisive. ~~Steps~~ Steps which the world would resent as against universal interest, or in other ways unjustified, regarding the Canal and the traffic through the Canal, would have no value as an element adding pressure to the efforts to get an Israel withdrawal in line with the request of the United Nations. The effect would be the opposite one in the sense that such steps would certainly delay compliance with the General Assembly resolution concerning withdrawal. Smooth progress in the interest of the world community, just as well as of Egypt, on the Canal issues, will speed up the development for which the General Assembly in other respects has engaged itself, while the same card, if played in a negative sense, would unavoidably have the opposite effect.

I mention this because of certain reactions which I have recently received.

I have already addressed you on the question of the agreement which would provide the legal basis for the UNEF. The delay in reaching a result has already been too great. We should now get the matter out of the way. It must not be permitted to give rise to any suspicion that Egypt keeps back for reasons wholly extraneous to this regularisation of our co-operation with Egypt. I hope, therefore, that we will receive your approval to the UNEF agreement one of these days, and that the signing will not be linked to extraneous considerations contrary to the major interest which I believe we ~~are~~ share.

I have also been worried by various expressions indicating a popular belief that Egypt might interfere with the Canal clearing in order to push United Nations to strengthen its efforts in favour of withdrawal. Such an interference would have only negative consequences with reference to the aim which naturally now is first in your mind.

What I have said applies very much also to the question of the timing of the talks regarding ~~the opening of~~ the Canal. When I, myself, feel as convinced as I do about the wisdom of detaching this question from the problems of withdrawal, you may well understand that my concern, although partly, of course, reflecting a very real interest in progress on this issue, is likewise inspired by my conviction that this delay does anything but serve a useful purpose in the wider context to which you may wish to link it. It is certainly true, as I have said, that the effect would be one of delay of the solution of the withdrawal issue, and not one of speeding it up.

Finally, I am disturbed by the plans concerning the manner in which tolls and charges should be paid. Although I may see the formal merits of your case, I fear the consequences of the clash which would develop, unless some bridge was built between conflicting attitudes before they come out in the open. I do not suggest that you give up any basic right that you may have, only that you establish such formulae as would make it possible for us to get around this corner without an open conflict with the users in which undoubtedly Egypt, in general international opinion, would lose more than it could possibly gain in a more narrow national context.

I am sure that you will understand why I address you in this un-diplomatic way, and I am likewise sure that your Foreign Minister has informed you about my reactions. But I do feel that the fruitful co-operation established on major and delicate issues entitles me to address you with this frankness, expressing views based on my very thorough knowledge of the general reactions prevailing. I would not have taken this step had it not been for my conviction that a positive and co-operative attitude on the Canal issues by Egypt is the best way in which Egypt can contribute to what I understand, in your view, is the major immediate objective, just as it is a guiding interest of the majority of Members of the United Nations.

I can assure you that, as my last report must have shown, you will always find in me a representative of policies which are based exclusively on right and on the common interest of Member nations in constructive developments towards peace. We may have a chance to re-open the door which was closed last year, arriving finally at a state of affairs where Egypt could devote its main interest to the crucial problems facing the nation within its own boundaries. I count on you in our efforts to assist in such a positive development. In that light I feel sure that you see the correctness of my view as to how the Canal problems come into the present picture, with negative, delaying steps having only negative and delaying effects, while positive steps, speeding up solutions, will speed up the solution also of problems created by Israel's military action and the resulting crisis.

19 February 1957

Dear Dr. Fawzi,

..... I am enclosing herewith a copy of an Aide Memoire which has been presented to me by the representatives of France, Norway, the United Kingdom and the USA, representing an "agreed position" of the four governments regarding the interim arrangements which they consider should govern the operation of the Suez Canal pending a final settlement in accordance with the six requirements set forth in the resolution of the Security Council of October 13, 1956 and in light of the letters of the Secretary-General and the Foreign Minister of Egypt of October 24 and November 2, 1956.

I understand the enclosure, which is entitled "Points to be Covered in Interim Arrangement Governing Operation of Suez Canal Pending Final Settlement" to be intended to be just what this title indicates and thus to provide a stand in general terms from which discussions looking toward the conclusion of an interim arrangement might proceed.

I would appreciate the comments of your Government on the substance of the Aide Memoire at your convenience.

Very sincerely yours,

Dag Hammarskjold

His Excellency,
Dr. Mahmoud Fawzi,
Minister for Foreign Affairs of Egypt,
New York, N.Y.

COPY

AIDE - MEMOIRE

The Governments of France, Norway, the United Kingdom of Great Britain and Northern Ireland and the United States of America have consulted together with a view to presenting to the Secretary-General of the United Nations, as requested, an agreed position regarding interim arrangements which they consider should govern the operation of the Suez Canal pending a final settlement in accordance with the six requirements set forth in the resolution of the Security Council of October 13, 1956 and in light of the letters of the Secretary-General and the Foreign Minister of Egypt of October 24 and November 2, 1956. This position is set forth in the enclosure to this aide-memoire.

The four Governments desire, in addition, to inform the Secretary-General of their view that the question of repayment of advances for clearing the Canal should not be dealt with in the agreement for an interim arrangement, but should be considered in the negotiations for a final Canal settlement.

The four Governments would appreciate it if the Secretary-General would initiate discussions with the Government of Egypt looking toward the prompt conclusion of an interim arrangement on the basis set forth in the enclosure to the aide-memoire. In the event that in the course of these discussions the Egyptian Government should advance suggestions for material changes, it is the understanding of the four Governments that the Secretary-General would communicate such suggestions to them for consideration.

Enclosure:

Points to be Covered in Interim
Arrangement Governing Operation
of Suez Canal Pending Final
Settlement

Delegation of the United States of America

to the Eleventh General Assembly of the United Nations,

New York, February 19, 1957.

COPY

POINTS TO BE COVERED IN INTERIM ARRANGEMENT
GOVERNING OPERATION OF SUEZ CANAL PENDING FINAL SETTLEMENT

1. Egypt would designate the IBRD or the UN as agent to receive, hold, and dispose of all Canal tolls under an agreement, the purpose of which is to protect the interests of Egypt and the users and to facilitate the operation of the Canal, as described below. The identity of the agent would be specified in the agreement.
2. All tolls would be received by the agent and placed in a Suez Canal account on terms providing that the agent should pay over to Egypt immediately one half of these tolls for operating costs, and that the remainder would be held by the agent in the Suez Canal account, to be disbursed at a later date in conformity with the provisions of a final Suez Canal settlement in accordance with the six principles approved by the Security Council on October 13, 1956 and in light of the exchange of letters between the SYG and Foreign Minister Fawzi dated October 24 and November 2, 1956.
3. The agreement would provide that operation of the Canal, pending a final settlement, would be in accordance with the six principles approved by the SC on October 13, 1956 and the obligations of the Constantinople Convention of 1883.

9 March 1957

Dear Dr. Fawzi,

As you will know, both my mandate and the financial resources made available to me in connection with the canal clearance operation are limited to re-establishing reasonable conditions for the resumption of traffic without reference, of course, to the continuing long-term operational problems. There are two matters, the one concerning dredging and the other concerning floating equipment needs to which I should like to draw your special attention.

General Wheeler has reported that there has been no major accumulation of siltage in the Canal since the cessation of traffic and that removal of such siltage as has occurred can be regarded as of a normal maintenance character. He recommended, however, as a measure of assistance to the Canal Authority, that I should authorize a United Nations contribution of \$500,000 toward the cost of maintenance dredging upon the re-establishment of traffic, which sum he advises will cover a very substantial part of the cost of removal of the difference between the siltage reflected in the September 1956 hydrographic survey as compared with the current hydrographic survey. However, he has now telegraphed me to the effect that Colonel Younis has advised him that normal traffic may not be resumed in the Canal until the United Nations accepts responsibility not only for first normal maintenance dredging but also for the rehabilitation or purchase of dredgers to replace the dredging capacity lost to the Authority. Younis has also advised Wheeler that the Authority will not be willing to advertise for competitive bids for the necessary maintenance dredging until the present "inadequate United Nations offer was more acceptable". It is not of course possible for me to engage in the replacement or rehabilitation of sunken dredgers nor can I, within the limits of funds made available to me, commit the United Nations to long-term dredging operations in a situation in which current conditions will permit the transit of 90 % or better of normal traffic. On the other hand, I think that you will have no disagreement with me when I point out the essential need for the placing of dredging contracts simultaneously with the resumption of traffic if the shipping channel is to be maintained in a condition safe and adequate to transit requirements. We shall obviously reach an impasse if the Canal Authority's position continues to be sustained. Perhaps you will use your good offices to remove the obvious misunder-

His Excellency
Dr. Mahmoud Fawzi
Minister for Foreign Affairs of Egypt
Permanent Mission of Egypt to the United Nations
900 Park Avenue
New York 21, New York

.../

standing which has arisen concerning the United Nations mandate so that the objectives which we both seek will not be jeopardized.

The second concern is the interim provision of some floating equipment for operating traffic in the Canal pending later rehabilitation of some of the sunken craft or their acquisition by replacement where necessary.

I have, as you know, no mandate to meet this need, nor can I finance the requirements. However, I fully appreciate the necessity of assuring that the minimum assistance required by the Canal Authority to commence its transit operations should be provided. I have accordingly given instructions that two floating tugs and two harbour tugs requested by Younis should be provided, if suitable craft can be found, by means of hire or, if this is not possible, by purchase. You will recognize that the transaction in either case cannot be regarded as a charge against United Nations funds and will be reimbursable to the United Nations in due course by the Government of Egypt. Apart from the above, I have taken the responsibility for assisting in the provision of certain replacement parts for tugs to the estimated extent of \$500,000 as a charge against United Nations loan funds and am currently ascertaining also whether the cost of replacement parts for a floating crane and floating dock used by the Port Said workshops are of a magnitude and nature which would permit of their absorption in the resources available to me for the first essential rehabilitation of the workshops.

Yours sincerely,

Dag Hammarskjöld
Secretary-General

D R A F T

Dear Mahmoud,

I appreciate your giving me the Egyptian draft of a declaration on principles that the Egyptian Government intends to apply in the operation of the Suez Canal.

I have noted that from your Government's point of view it would be useful if, in an informal way, I were to consult representatives of a few interested countries so as to get their views on the draft text in appropriate time before final steps have to be taken. This is of particular importance, since I have not been able to take any such further action as was suggested or anticipated in my letters to you of 20th January and 19th February. I regret that the exchanges of views indicated in those letters have not come about and that Egypt thus has found itself obliged now to act unilaterally.

Reading over the text of your draft declaration I have, as you will remember, noted that it enters upon the questions covered in point 4 of my letter to you of 24th October 1956 (published as Security Council document S/3728) only to a very limited extent. In the same letter I stated, as my understanding of the situation, that it would depend on the reply to the questions under point 4 whether or not a set of arrangements envisaged will meet the three first requirements approved by the Security Council 13th October 1956. This remains my view. For the rest it would not be for me, or to the purpose, to discuss here the substance of your draft, which, I note, on the points covered by the text largely follows the lines indicated in the talks in New York last October.

Cairo, 26 March 1957

Dear Mahmoud,

This is in reply to your letter of 26 March 1957 with which you transmit the draft of the second memorandum relating to the Suez Canal which -- as indicated in the first one -- it is the Government of Egypt's intention to issue soon in this respect. I appreciate your wish to keep me fully informed and the spirit in which you approach me.

I note from your letter that while you are sending the draft informally and confidentially, you wish to suggest that it be, if I so desire, "added to the substance and the deductions derived from" our conversation here, so that I might use it to the best possible advantage and discuss it at my discretion with anybody with whom I choose to take it up. Should there be any views and reactions coming to my attention in which I think you would be interested, I will be happy to convey them to you.

It is of particular importance that, thus, I should be in a position to consult representatives of a few interested countries so as to get their views on the draft text in appropriate time. This is so since I have not been put in a position to take any such further action as was suggested or anticipated in my letters to you of 20th January and 19th February. I regret that the exchanges of views indicated in those letters have not come about and that Egypt, therefore, has found

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Ministry of Foreign Affairs
Cairo

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Reading over the text of your draft declaration I have, as you will remember from our talks, noted that it does not elaborate upon the questions covered in point 4 of my letter to you of 24th October 1956 (published as Security Council document S/3728). However, it was my understanding of the situation that the question whether or not a set of arrangements envisaged for the Canal would meet the three first requirements approved by the Security Council on 13th October 1956 would have to be judged on the basis of the development in respects envisaged in point 4 of the letter. This remains my view. For the rest it would not be for me, or to the purpose, to discuss here the substance of your draft, which, I note, on the points covered by the text largely follows the lines indicated by you in the talks in New York last October.

I have highly appreciated the discussions I and Dr. Bunche have had the privilege of conducting with President Nasser and yourself. I feel that in their "robustness" they have added to the clarity so necessary in order to move ahead wisely, and that they have for the same reason served to strengthen an atmosphere helpful to the future cooperation between the Government of Egypt and the United Nations, to which I am looking forward with confidence.

Yours sincerely,

Dag Hammarskjöld,
Secretary-General

Cairo, 26 March 1957

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Dear Mahmoud,

This is in reply to your letter of 26 March 1957 with which you transmit the draft of the second memorandum relating to the Suez Canal which -- as indicated in the first one -- it is the Government of Egypt's intention to issue soon in this respect. I appreciate your wish to keep me fully informed and the spirit in which you approach me.

I note from your letter that while you are sending the draft informally and confidentially, you wish to suggest that it be, if I so desire, "added to the substance and the deductions derived from" our conversation here, so that I might use it to the best possible advantage and discuss it at my discretion with anybody with whom I choose to take it up. Should there be any views and reactions coming to my attention in which I think you would be interested, I will be happy to convey them to you.

It is of particular importance that, thus, I should be in a position to consult representatives of a few interested countries so as to get their views on the draft text in appropriate time. This is so since I have not been put in a position to take any such further action as was suggested or anticipated in my letters to you of 20th January and 19th February. I regret that the exchanges of views indicated in those letters have not come about and that Egypt, therefore, has found

/itself

His Excellency
Dr. Mohamed Fawzi
Minister for Foreign Affairs
Ministry of Foreign Affairs
Cairo

itself obliged now to act in the manner proposed.

Reading over the text of your draft declaration I have, as you will remember from our talks, noted that it does not elaborate upon the questions covered in point 4 of my letter to you of 24th October 1956 (published as Security Council document S/3722). However, it was my understanding of the situation that the question whether or not a set of arrangements envisaged for the Canal would meet the three first requirements approved by the Security Council on 13th October 1956 would have to be judged on the basis of the development in respects envisaged in point 4 of the letter. This remains my view. For the rest it would not be for me, or to the purpose, to discuss here the substance of your draft, which, I note, on the points covered by the text largely follows the lines indicated by you in the talks in New York last October.

I have highly appreciated the discussions I and Dr. Danche have had the privilege of conducting with President Nasser and yourself. I feel that in their "robustness" they have added to the clarity so necessary in order to move ahead wisely, and that they have for the same reason served to strengthen an atmosphere helpful to the future cooperation between the Government of Egypt and the United Nations, to which I am looking forward with confidence.

Yours sincerely,

Dag Hammarskjöld,
Secretary-General

ANNEX II

EGYPTIAN MISSION TO THE UNITED NATIONS

New York, November 2nd 1956

STRICTLY CONFIDENTIAL

Excellency,

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

"Dear Mr. Hammarskjold,

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

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

Mahmoud Fawzi"

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

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

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

MINISTÈRE
DES
AFFAIRES ÉTRANGÈRES
CABINET DU MINISTRE

No.

26th. March, 1957.

Personal and Confidential

Dear Dag,

Referring to the memorandum of the Egyptian Government to other Governments and to you on the 18th of March instant relating to the Suez Canal, and in continuance of the conversations we had the pleasure of having with you in Cairo during the last few days, I take leave to enclose herewith a draft of the second memorandum which, as indicated in the first one, the Government of Egypt intends to issue soon in this respect.

Although I am sending you this draft informally and confidentially, I wish to suggest that it be, if you so desire, added to the substance and the deductions derived from your conversations here, so that you might use it to the best possible advantage and discuss it, at your discretion, with anybody you choose to take it up with. We are, for our part, in a spirit of international cooperation, going instantly to consult with several capitals regarding this memorandum which takes into serious consideration all the valid views expressed and is inspired by Egypt's firm determination to meet the rapidly increasing needs of international trade and the requirements of modern navigation.

I am confident that you are fully aware of the keen desire of Egypt to restore the Suez Canal to its age-honoured and ever growing position of service to the nations of the world and as a valuable link of goodwill and of peace.

MINISTÈRE
DES
AFFAIRES ÉTRANGÈRES

CABINET DU MINISTRE

No.

- 2 -

It has been a source of real happiness to all of us in Cairo to welcome you once more to our shores and watch you give further expressions to your untiring and selfless devotion to the United Nations; and if, at times, we seemed to differ with you in our respective approach to one problem or the other, or if our frankness occasionally seemed rather blunt, all of this but added to the robustness and usefulness of our talks .

Wishing you well and a pleasant voyage .

Cordially

Mahmoud



EGYPTIAN MISSION
TO THE UNITED NATIONS

NEW YORK, March 18, 1957

Memorandum

Since the day Egypt took over the operation of the Suez Canal she re-affirmed her determination to abide by her policy of respecting the 1888 Constantinople Convention, and has proved herself thoroughly able to manage the navigation in the Canal in spite of the great obstacles which were put before her until the aggression against her caused the closing of the Canal. On the occasion of the resumption of the navigation in the Suez Canal the Government of Egypt declares the following:

1. That Egypt is still determined to respect in letter and in spirit the Constantinople Convention concluded in 1888.
2. The system of levying of Canal tolls will remain as it used to be according to the last agreement concluded between the Egyptian Government and the Nationalized Suez Canal Company.
3. The question of compensation and claims resulting from nationalization would be settled by either direct agreement or by arbitration.



EGYPTIAN MISSION
TO THE UNITED NATIONS

NEW YORK, March 18, 1957

4. Canal tolls are to be paid in advance to the Suez Canal Authority either in Egypt or to its nominees.

5. The Authority of the Suez Canal shall create a special fund for the improvement programmes or any other programmes destined to meet the increase of traffic in the Canal, the said fund to be fed by allotting to it a certain proportion of the tolls, which shall not be less than the average proportion allotted by the former Suez Canal Company to such programmes.

6. The Government of Egypt will issue another detailed statement covering the above-mentioned principle.

This determination of the Government of Egypt proves that notwithstanding the great sacrifices which Egypt sustained as a result of the aggression against her, she is still loyal to the purpose of cooperation with the world community of nations so as to make her contribution to the realization of humanity's hopes for peace and prosperity. The Government of Egypt wishes the Canal to be once again a link of prosperity and peace between all the peoples of the world.

Personal and Confidential.

DRAFT MEMORANDUM

- 1 . The Government of Egypt are pleased to announce that the Suez Canal will be open for normal traffic by mid-April, and will thus once again serve as a link between the nations of the world in the cause of peace and prosperity.

- 2 . The Government of Egypt acknowledge with appreciation and gratitude the efforts of the states and peoples of the world who contributed to the restoration of the Canal for normal traffic and of the United Nations whose exertions enabled the clearance of the Canal to be accomplished peacefully and in a short time.

- 3 . In elaboration of the principles set out in their memorandum dated the 18th of March 1957, the Government of Egypt, hereby, make the following declaration on the problems connected with the Suez Canal and the arrangements for its operation.

- 4 . Re-affirmation of convention.

It remains the unaltered policy and firm purpose of the Government of Egypt to respect the terms and the spirit of the Constantinople Convention of 1888 and the rights and obligations arising therefrom.

- 5 . Observance of the Convention and of the Charter of the United Nations.

While re-affirming their determination to respect the terms and the spirit of the Constantinople Convention of 1888, and to abide by the Charter and the principles and purposes of the United Nations, the Government of Egypt are confident that the other signatories of the said convention and all others concerned will be guided by the same resolve.

.../...

6 . Disputes, disagreements or differences arising out of the Convention.

(a) Disputes or disagreements arising between the parties to the Constantinople Convention of 1888 and in respect of it shall be settled in accordance with the Charter of the United Nations.

(b) Differences arising between the parties to the said Convention in respect of the interpretation of its provisions, if not otherwise resolved, will be referred to the International Court of Justice under Article 36 of its Statute or, by agreement, to an appropriate organ of the United Nations.

7 . Freedom of navigation, tolls and development of the Canal.

The Government of Egypt are more particularly determined

(a) To afford and maintain free and uninterrupted navigation for all nations in accordance with the Constantinople Convention of 1888.

(b) That tolls shall continue to be levied in accordance with the last agreement concluded on the 28th of April 1936, between the Government of Egypt and the Suez Canal Maritime Company; and that any increase in the current rate of tolls within any 12 months, if they take place, shall be limited to 1 per cent, and any increase beyond that level to be the result of negotiations, and

(c) That the Canal is maintained and developed in accordance with the progressive requirements of modern navigation and that such maintenance and development shall include the 8th and 9th programs of the Suez Canal Maritime Company, with such improvements to them as are considered necessary.

.../...

8 . Operation and management .

The Canal will be operated and managed by the autonomous Suez Canal Authority established by the Government of Egypt on the 26th of July, 1956. The Government of Egypt is looking forward with confidence to continued cooperation with the Nations of the world in advancing the usefulness of the Canal.

9 . Financial Arrangements.

(a) Tolls shall be payable in advance to the account of the Suez Canal Authority at any bank as may be authorised by it. In pursuance of this, the Suez Canal Authority has authorised the National Bank of Egypt and the Bank of International Settlement to accept on its behalf payment of the Canal tolls.

(b) The Suez Canal Authority shall pay to the Government of Egypt 5 per cent of all the gross receipts as royalty.

(c) The Government of Egypt have decided to establish a Suez Canal Capital and Development Fund into which shall be paid 25 per cent of all gross receipts. This Fund will assure that there shall be available to the Government of Egypt adequate resources to meet the needs of development and capital expenditure for the fulfilment of the responsibilities they have assumed and are fully determined to discharge.

10 . Canal Code.

The regulations governing the Canal, including the details of its operation, are embodied in the Canal Code which is the law of the Canal.

11 . Discrimination and complaints arising out of the Canal Code.

(a) In pursuance of the principles laid down in the

.../...

Constantinople Convention of 1888, the Suez Canal Authority, by the terms of its Statute, can in no case grant any vessel, company or other party any advantage or favour not accorded to other vessels, companies or parties on the same conditions.

(b) Complaints of discrimination or violation of the Canal Code shall be sought to be resolved by the complaining party by reference to the Suez Canal Authority. In the event of such a reference, the matter may be referred to an arbitration Tribunal composed of one nominee of the complaining party, one of the Authority and a third to be chosen by both. In case of disagreement such third member will be chosen by the President of the International Court of Justice.

(c) The decisions of the Arbitration Tribunal shall be binding upon the parties when they are rendered and these must be carried out in good faith.

(d) The Government of Egypt will study the appropriate further arrangements that could be made for fact-finding consultation and arbitration on matters not otherwise covered in the present paragraph.

12 . Compensation and Claims.

The question of compensation and claims in connection with the nationalisation of the Suez Canal Maritime Company shall, unless agreed between the parties concerned, be referred to arbitration in accordance with the established international practice.

The Government of Egypt make this declaration as an expression of their desire and determination to enable the Suez Canal to be an efficient and adequate waterway linking the nations of the world and serving the causes of peace and prosperity. They do so in full confidence that it will meet with the goodwill

.../...

and cooperation of the nations of the world.

This declaration, with the obligations therein, constitutes an international instrument and will be deposited and registered with the Secretariat of the United Nations.
