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Laos. 1959

23-24 Feb.

2 Memoranda on the Laos question

SD III-3-Lao I

Memorandum to India  
copy for inf. file to Poland  
and Lao. x (Lao saw it in  
draft form).

Memorandum on the Laos question

After some private discussions with Ambassador Georges-Picot, the Ambassador of Laos saw me on the 15th of January introducing the official letter dated 16 January, which was circulated. He handed me also the letter of the Foreign Minister of the 8th of January. He stated that it was not the intention of the Government to give publicity to the latter letter and, therefore, the appeal to me for my services should be regarded simply as a request for advice and active interest in the matter. I promised to think over the question and to revert to it if and when I had any advice to give them.

The Ambassador of Laos saw me again on 9 February. On that occasion I said to him that we were faced with a problem where it seemed necessary to me to combine a role for the Commission with a role for the Governments themselves and a role for the United Nations. This was so because the Government of Laos had taken a stand on the Commission which made it impossible to rely on it for any executive action of a good offices type, while on the other hand it was impossible for the United Nations to act in the absence of any contact with the Government in Hanoi. The Ambassador explained that the reason why they did not accept the continued activity of the Commission in the present situation was, in the first instance, that it did not trust the objectivity of the majority of the Commission. (This, however, might still leave open a role for the Commission were it considered necessary somehow to use it as an umbrella.)

I said to the Ambassador that I was not ready to make any proposals, but I wanted to sound out the attitude of the Government of Laos on the status of the Commission in some respects of relevance to their appeal to me. Thinking aloud, I felt that one way out of the deadlock might be that I approach the three members of the Commission asking them in their turn to approach the two parties with the suggestion that the two parties invite either the Secretary-General to appoint a representative in order to assist them, or, alternatively, a third party for the same purpose. If such a demarche

succeeded, it would mean that we had used the Commission as an umbrella without, however, having approached the Commission as such, thus giving to it a kind of UN sanction, or a status contrary to the one recognized by Laos. On the other hand, by using it as suggested, we would have found a natural way to approach Vietnam so as to get the necessary dual initiative from the Governments concerned in relation to the United Nations. Finally, the good office operation as such would be a United Nations operation in the same sense as in the case of Cambodia and Thailand. With the suggested approach, we would, on the whole, avoid the snags and make the best of our possibilities. Everything depended, however, upon what the Government of Laos would accept; acting for them at their request I wished naturally first of all to have a clarification of their views as to the extent to which, and the form in which, they would accept my formula for an approach to and through the Commission.

On the 19th of February, the Ambassador of Laos informed me that the Government could accept my formula for an approach to the good offices problem. On the 20th of February, in the morning, members of the U.S. Mission saw me saying that the State Department wished to have certain reactions on the Laos proposal transmitted to me. (A few days before I had briefed Cabot Lodge on the main aspects of my suggestions to Laos.) At the same time I received an urgent call from the Ambassador of Laos.

The U.S. State Department had two observations. They hoped that I would not go to Hanoi personally and feared very much that my formula indirectly would re-institute the Commission in a status which Laos refused to accept. On the first point, I said that I could state that I would not go to Hanoi. On the second point, it was my feeling that the fears were exaggerated but that, anyway, it was for the Government of Laos itself to decide what it would accept.

The call of the Ambassador of Laos was to the effect that he wanted me to postpone all action on his reply of the day before until the 21st, that is to say, the following day.

I had every reason to believe that what had happened was that the State Department had gone straight to Laos trying to torpedo my suggestion and that this action, about which I was in no way informed, was reflected both in the demarche to me and the change of attitude reflected in the call of the Ambassador of Laos.

When I saw the Ambassador on the 21st, he said that his first instruction was not withdrawn but that he had to add that it was the wish of the Government that I approach the two governments via India. I said that this did not cause me any worry although it implied a modification of my original idea. I understood the original instruction as being qualified so that, preferably, I should use India as a member (and chairman) of the Commission.

On the 23rd, I met, at my request, with Ambassador Lodge accompanied by Mr. Barco and Mr. Cook. I informed them about the latest development in the case of Laos but indicated that - especially in view of the somewhat surprising editorial in the Times the same morning - I felt that some advisors of Laos were a little bit too active. The editorial was dangerous for the cause and misleading as to the role or the possible responsibility of the United Nations. The U.S. representatives said that they shared my view and recognized that the United Nations for the moment had no responsibilities in the matter.

Later on the 23rd, I saw Ambassador Georges Picot and briefed him on the state of affairs. He said that he knew that the U.S. had put Laos under considerable pressure concerning the reaction to my proposal of which they were critical. They were playing high stakes and quite recently they had been on the verge of provoking a major military incident for Laos.

In the light of the confirmation of my suspicions received from Ambassador Georges-Picot, I called up Mr. Barco on the telephone and said that I had strong reason to believe that the U.S. had been active regarding my proposals. It must be obvious that this created an embarrassing and dangerous situation; Laos having appealed to me for help, I kept

the Americans fully briefed on what I did while they, on their side, took action in the light of this in relation to the Laos Government without informing me. I asked Mr. Barco to look out so that something similar would not be repeated.

23 February 1959

COPY

Memorandum

On 16 January 1959 the Permanent Representative of the Kingdom of Laos to the United Nations addressed a letter to the Secretary-General in which attention was drawn to the border situation between Laos and the Democratic Republic of Vietnam. At the same time the Foreign Minister of Laos took, informally, contact with the Secretary-General, soliciting his interest in efforts towards a solution.

On 19 January 1959 the Premier and Foreign Minister of the Democratic Republic of Vietnam addressed a letter to the Chairman of the International Supervisory and Control Commission in Laos expressing the hope that the Commission, in the light of recent developments, would resume its activities and conduct investigations and examinations of certain alleged violations of the General Agreement with Laos.

The Secretary-General is informed that the co-Chairmen of the Geneva Conference on Indo-China have addressed a message to the Government of India in which they note that they have been informed by the Chairman of the International Supervisory and Control Commission in Laos that on 19 July 1958 the Commission, by a majority vote, adopted a resolution to the effect "that the Commission in Laos be adjourned sine die and may be reconvened in accordance with the normal procedure." In the message the two co-Chairmen state that they have taken note of the clarification of the Government of India that the resolution referred to does not affect the legal status

of the Commission and does not reduce the competence of the Commission in implementing tasks and functions assigned to it by the Geneva Agreement. The co-Chairmen agreed that the decision was of a procedural nature, having no connexion with the question of dissolution of the Commission. They were agreed, further, that no question of abrogating any of the articles of the Agreement on cessation of hostilities in Laos, relating to the International Commission, was involved.

Later the Secretary-General has been informed by the Permanent Representative of Laos about a statement by the Prime Minister, on 11 February 1959, to the effect that the Government consider that the Agreement on the cessation of hostilities in Laos has been completely fulfilled. In the same statement the Prime Minister declared that the Government could not accept an interpretation of the agreements which says that they are applicable to Laos as long as the reunification of Vietnam has not taken place. In conclusion the Prime Minister stated that Laos only recognizes arbitration originating from the United Nations.

It thus follows that, while the International Commission, according to its own decision, is adjourned sine die without an abrogation of the legal basis on which the Commission has been set up, the Government of Laos regards the Agreement as completely fulfilled and recognizes only the United Nations as competent in case of an arbitration.

It seems desirable that steps be taken, urgently, in order to deal with the present difficulties between the Democratic Republic of Vietnam and the Kingdom of Laos and that this be done in such a way as to avoid any procedural deadlock resulting from the circumstances to which reference has just been made. Thus, in the Secretary-General's view, a procedure for reconciliation should be established which would raise neither the question of the legal status of the Commission nor questions concerning the status of the United Nations when only one of the parties concerned is a Member. This could be achieved if the two parties would resort to a procedure which has no implications with respect to the competence of the Commission or the United Nations but which takes into account that while one of the parties regards the Commission as being competent, the other sees the United Nations as the appropriate framework for conciliatory efforts. Obviously, whatever view is held concerning the status and competence of the Commission, Article 33 of the Charter and other provisions of Chapter VI entitle the United Nations to interest itself in the matter.

The Secretary-General would wish to suggest, for the consideration of the Government of India, that the Government approaches the Government of Laos and the Government of the Democratic Republic of Vietnam with a view to exploring whether the two parties would be agreeable to a procedure for reconciliation which, as explained above, would be without implications as regards their basic attitudes on the question of the Commission. In submitting this suggestion to the Government of India, the Secretary-General notes that India is Chairman of the Commission.

As to the procedure which might be chosen, decisive importance will, of course, be attached to what is acceptable to the parties. One possibility would be that India itself would be invited by the two governments to lend its good offices. Another possibility is that the parties would agree to invite a third state, other than India, or some person to assist them. A third possibility would be that they might prefer the good offices of the United Nations, perhaps in the form which was adopted by Cambodia and Thailand, with the assistance of the Secretary-General, to deal with their recent difficulties.

The Secretary-General will inform the two other members of the Commission of this initiative. He would appreciate it if he could be informed about the views of the Government of India before his forthcoming visit to Laos in the beginning of March.

24 February 1959