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Laos - 1959

15 Sept.

D.H.'s Memorandum conc. talks with
Sobolev and Kuznetsov (U.S.S.R) about Laos.

SECRET

15 September 1959

From talks with Mr. Sobolev and Mr. Kuznetsov it has emerged that the present Soviet stand on the Security Council proceedings regarding Laos is in brief as follows:

Politically one raises the following objections:

- a) The S.G. showed "suspicious zeal" and "exaggerated efficiency" in bringing the matter as he did before the Council.
- b) The convocation of the Council was in contravention of the Charter, as it did not refer to any substantive item.
- c) The decision was taken with complete disregard for the Geneva Agreements which it is bound to undermine.
- d) The attempt to construe the sub-committee as a procedural measure was wrong, both in substance and in form; regarding the formal and legal aspect I refer to the following.
- e) The San Fransisco Declaration was openly flouted when it was not considered to apply, after the vote, on the character of the draft resolution.

The most serious matters the Russians regard as being c) and e), perhaps with some slight emphasis on e), because of its completely unpredictable consequences for the future.

I understand them now to construe the legal situation as follows: It is perfectly permissible for the S.G. to ask for a meeting without invoking Art. 99, but it is highly dubious if the Security Council should or can take up such a demand without knowledge of its substantive nature, as the Security Council must act within the terms of its functions as set down in Chapter 6 and 7 and as this also must apply to a demand like mine.

If the Security Council accepts to hear the S.G., after listening to his report, they would have to choose between two different ways. They could either say that with the report the item was exhausted, or they could say that the report causes them to inscribe on the agenda a new substantive item which would permit them to discuss the situation. What the Council could not do - but what they did - is to start a discussion without inscribing a substantive item and, thus, without defining within which Chapter framework they function.

As my item caused them to engage in a discussion which was not procedural, they must be considered as having acted within the framework of either Chapter 6 or 7, interpreting my item accordingly. My refusal to base my initiative on Art. 99 practically excluded Chapter 7, and the assumption is thus that the Council acted within the framework of its functions as set out in Chapter 6. If so, the committee they created was, of course, automatically to be considered as a committee under Art. 34. It was impossible to fall back on Art. 29, which is to be found in an entirely different context dealing with the constitution of the Council and related matters.

With this background, it is natural that Sobolev sharply disagreed with my position paper of 9 September.