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Middle East / Suez story - 7

21 April 56

Letter from D.H. to A.W. Cordier, Exec. Assist.
to the Sec.-Gen. with encl. (from Beirut)

CONFIDENTIAL

At Beirut, 21 April 1956

Dear Andy,

Enclosed please find an aide-memoire "for personal use only", which, as you may gather from its contents, is probably my most important personal document so far on this mission - not only as regards the two stands I have taken, but also as regards the Israeli stand and the whole situation as concerns compliance.

The question of reciprocity has turned out to be the key problem around which not only the Israeli but also all Arab discussions are likely to turn. The Israelis are interested because of their wish to get rid of the Suez problem, the Northern Arabs because they hate the idea that my stand on the question of reciprocity would rob them of the excuse for "firing" in case the Israelis start work on Banat Yakoub.

However, this is not the full story. The real story starts where the paper ends. In a final private talk, I told Ben-Gurion that I believe that it is impossible now to bring up the Suez and Tiran issues without meeting

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Mr. Andrew W. Cordier
Executive Assistant to the
Secretary-General
United Nations, N.Y.

the reaction that a concession on these points would represent a move towards peace, with the added question: What contribution are the Israelis willing to make? If such a question were put to me, I pointed out, it would refer only to one thing: the refugee issue. On that question my feeling would be that the Israelis should accept the principle of option, but ask for negotiations on its implementation. If the Egyptians were to put the question I had mentioned, it would be my hope that I would be entitled to say that "the door is perhaps not locked quite so firmly in Israel as the Egyptians might believe".

As you see, all this means that the way in which I may take up the Suez issue (which is, for me, very clearly subordinated to my mandate and for that reason does not contradict my public statements on the limitations of my mission) may well be the beginning of a groping effort towards peace. In that light, you certainly understand how important I consider my stand on Suez to be, and how touchy I am on the issue.

It may seem to you that the Israelis are just trying to start horse trading Suez for El Auja. That, however - and on this point I am convinced - is not more than one

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superficial aspect of the story. While Ben-Gurion strongly feels that he should not be co-responsible for starting a war, he honestly believes that there is an Egyptian plan of attack. It is for this reason, I believe, that he does not see any possibility to drop the strategic position in the El Auja area without being able to point to at least some indication, in Egypt's policy, of intentions in the direction of peace. This attitude is not only understandable but extremely natural when you have had a few talks with the leaders in the Middle-East. I must respect it. It was when I saw the vista the Israeli stand, in its final form as defined in my aide-memoire, may open for a solution of the refugee question, and when I recognized the impact of an opening in this direction would have on Egypt's policy and Arab reactions, that I, faced with the fact that the Israeli attitude was taken after a Cabinet meeting on the subject, changed from my basic stand to the modified stand indicated in the last paragraph of the aide-memoire.

To a cool mind in New York, this may sound a little bit exalted, but it is not. The situation in which the Gaza arrangement was possible may bear more fruit. As I said to Ben-Gurion when he put his cards on the table, "You ask me to make a miracle. I shall try, because recent developments have made me believe in miracles."

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However, I send this paper to you not only in order to inform you, but in order to ask you for action. I can well see a situation where Nasser and Fawzi, once I approach the Suez subject, do not turn me off, but put me on a shelf in order to have a chance to consult the Big Powers Ambassadors or some of them. I would not like the Egyptians, in that situation, to meet a surprised face, or a request for time in order to submit the question of the scope of my mandate to the Cabinets. For that reason I ask you privately to explain to the four Ambassadors concerned what the situation is, without now showing the paper, and ask them most confidentially to see to it that their Ambassadors in Cairo are instructed to say just simply that "the Secretary-General, as agent of the Security Council, to their knowledge seemed to have remained within the limit of his mandate, but that, as to what the Secretary-General might do on the basis of his constitutional rights as Secretary-General, they neither had reasons to express opinions nor any cause now to submit the issue to their Governments which, in due time, would have to express their view on the personal policy of the Secretary-General." Thus, I would like you, in proper form and without giving away my attitude on the possible further development, to indicate that the Israeli stand on the Suez

question has put me in a position where I feel that I should go into the matter, entirely outside my mandate, and under my terms of reference as Secretary-General.

I attach considerable importance to the backstage briefing of the four Ambassadors through their Governments. I believe that they would work against their national interest if, for professional reasons (or misunderstood reasons of principle) they were to delay, or in other ways to put a spoke in the wheels of the Cairo operation. I know that it will require much delicacy to get this across in the right way, but I am sure that you can do it. God knows where we are, but with present attitudes not only in the two leading countries, but, as it seems, among the Big Powers, we may find that we are at a juncture where things may be given a new direction. We happen to be those on the spot, and we have to play the ball with both guts and prudence. In such a situation I would be very sorry indeed if we were stopped by unnecessary diplomatic red tape.

The briefing should take place as early as possible next week, so that the right kind of warning may be sent to the Ambassadors (in unbreakable code) before Tuesday, week after next, when I hope to return to Cairo.

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Our talks in Israel were tough and tiring, but successful in the sense that we have agreement all over the line, if we manage to give them de facto satisfaction as to Egyptian compliance with the Security Council decisions on Suez, etc. What is needed is only an Egyptian declaration of intent to me, solid enough for me to be able to give the Israelis a personal assurance.

What I have talked about is, so far, the story. As to the rest, two things are achieved: we have got a cease-fire, under international law, between Israel and Egypt, which is more than the Security Council ever asked for, and we have a fair chance to get an all round return to full compliance with the Armistice Agreements. Our present effort is concerned with the acceptance by the Northern Arab States of the principle (implied in the legal structure of the General Armistice Agreement) that the assurance to observe Article II, 2 (or what corresponds to II, 2) is conditioned only by reciprocity as regards the very same paragraph (with exception, under general rules, for self-defence). The resistance stems from the fact that, if we get it our way, a stop will be put to further talk by Syria about shooting in case the Israelis start working on Banat Yakoub.

What should I tell you more about the negotiations? Perhaps that, the last two days in Jerusalem, they finally reached the height of "Peking", both as an experience and as a difficulty (which, as you know, made me most happy). Let us pray to God that some fool will not throw us back now - or that other fools will not believe that what is achieved entitles them to turn their back to the desperate problems of this part of the world.

There are two things I should add in order to bring you up to date. One is that the stopping of the Fedayeen was in accordance with a direct promise given roughly at 6.00 p.m., Wednesday afternoon, 11th April; that the Egyptians kept this promise proves that they are not without power over the refugees.

The second thing - of which you should inform Stavropoulos - is that I had a talk with Fawzi about the Egyptian law concerning officials in international organizations. I told Fawzi that I was not going to withdraw my instructions to Secretariat members not to sign the questionnaire, and that this was the basis on which he must try to find a way out. Fawzi promised me to work out a formula - probably along the lines of our practice in relation to the United States - which he hoped to present to me on my return; pending that I should "not worry about the consequences of a refusal to fill out the questionnaire. The legal procedure would be very slow and would give us plenty of time to find a way out, which would

fully recognize present U.N. principles which Fawzi not only respected but personally endorsed as one of the opponents against Lie's policy 1952-53." Of course I cannot regard this declaration as a commitment, but I have learned to trust Fawzi's integrity.

I am now firmly convinced that the Security Council meeting in Europe would be a serious mistake. Even in case of a failure for our present mission, and so much more so in case a success could be registered, the report will not provide occasion for a grand debate. Real progress in the direction which I cannot now exclude would be hampered by such a debate. The present mission may well be used as a starting point for wider considerations, but if we are to get further ahead, it will have to be in fertile darkness. For this reason, I think that the more routine-like and inconspicuous the Security Council meeting concerning my report could be made, the better. Please tell this to Alphand, when you take up the main issue raised in this letter, and warn him that I would like to have the same view, in proper form, brought to the notice of other interested parties in the Security Council.

I enclose also a personal note on the stand I will take in Syria on Banat Yakoub. It protects Burns' position but introduces a new and protective element by the way in

which we play "II, 2". We have stressed that our approach is based not only (indeed fully) on the logic of the Armistice Agreements, but is supported by the fact that the paragraph takes up the Security Council cease-fire reaffirmation of 11 August 1949 (which, as you well know, exists independently of the Armistice Agreements) and by the specific rule which excludes this paragraph from revision by agreement.

I thank you most warmly for frequent and valuable information and for what you and your colleagues do to keep the house running. If ever, this is an occasion where it is worthwhile for the Secretary-General to run his office outside Headquarters and with a monopoly for one single problem. Even if we were not to get any further, we can be grateful for the results achieved so far, which fully warrant the existence of the United Nations. Perhaps you have to have been a participant in the development during the last fortnight fully to appreciate how the United Nations has functioned as a screen between us and - maybe - catastrophe. These are strong words, but I believe that they are justified. That should give us all satisfaction and encouragement to new efforts : once you go head first into it, even the most impossible task may show unexpected opportunities.

I - III handed in-
formally, as Staff papers,
to Pyramus.

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To what extent can an infringement of one or several of the other clauses of an Armistice Agreement by one Party be considered as entitling the other Party to act against the rule which is to be found in all the Armistice Agreements and which, in the Egypt-Israel Armistice Agreement, reads as follows:

"No element of the land, sea or air military or para-military forces of either Party, including non-regular forces, shall commit any warlike or hostile act against the military or para-military forces of the other Party, or against civilians in territory under the control of that Party; or shall advance beyond or pass over for any purpose whatsoever the Armistice Demarcation Line set forth in Article VI of this Agreement except as provided in Article III of this Agreement; and elsewhere shall not violate the international frontier; or enter into or pass through the air space of the other Party or through the waters within three miles of the coastline of the other Party."

The very logic of the Armistice Agreements shows that infringements of other Articles cannot serve as a justification for an infringement of the quoted Article. If that were not recognized, it would mean that any one of such infringements would not only nullify the armistice regime, but in fact, put in jeopardy the ceasefire itself. For that reason alone, it is clear that compliance with the said Article can be conditioned only by similar compliance of the other Party, without limitation, however, of the right to self-defence, "if an armed attack occurs", recognized in Article 51 of the Charter.

The stand that the said Article can be conditioned only by reciprocity so far as it concerns the implementation of the same Article and that, thus, the Article is a stipulation in the Agreement independent of the other Articles, is supported by the fact that it re-states an obligation on all Members of the United Nations, whose position in this respect can in no way have been changed by the Armistice Agreement; that, further, the Article only repeats, though in more clear terms, the re-affirmation by the Security Council, in its resolution of 11 August 1949, of the order contained in its resolution of 15 July 1948 to the Governments and authorities concerned to observe an unconditional cease-fire; and, finally, that in the various agreements the said stipulation is eliminated from the field where the Agreements can be changed by mutual consent.

It should be stressed that the Security Council's reaffirmation of the cease-fire order in the resolution of 11 August 1949, followed the "noting" by the Security Council, in the same resolution, of the conclusion of the several Armistice Agreements and thus co-exists with the Armistice Agreements; from this it follows that even if it were not to be recognized that the said clause has an independent status in the Armistice Agreements and cannot be conditioned by compliance with other clauses, the Parties to the Agreements, in accordance with the Security Council decision of 11 August 1949, would nevertheless be under the substantive obligation contained in that clause.

In his previous contacts with Governments concerned, the Secretary-General has asked them for their assurance that they will observe the obligations under the said clause unconditionally, provided the other Party complies with that same clause, reserving only their right to self-defence under Article 51 of the Charter. Such assurances, reaffirming the independent status of the clause within the Agreements which safeguards the cease-fire, have been given by the Governments of Egypt and Israel. The Secretary-General should in his report register the reaction also of the other three Governments, and hopes to be able to note that they too have given unconditional assurances to observe the clause.

In the Security Council resolution of 11 August 1949 the Security Council requested the Secretary-General to arrange for the continued service of such of the personnel of the then already established Truce Supervision Organization, as might be required in observing and maintaining the cease-fire, and as might be necessary in assisting the Parties to the Armistice Agreements in the supervision of the application and observance of the terms of those Agreements.

This decision of the Security Council, in the same resolution in which the Council took note of the Armistice Agreements, establishes the Truce Supervision Organization as having a position independent in relation to the Armistice Agreements, with the positive task of helping in continued observation and maintenance of the cease-fire. At the same time, however, the Observers of the Truce Supervision Organization are requested to serve the Mixed Armistice Commissions as provided in the armistice agreement.

In the later development, some confusion has arisen concerning both the status of the Truce Supervision

...Organization

Organization and its functions. A tendency has emerged to regard the United Nations Observers, serving in that Organization, merely as impartial investigators charged with the task of presenting the Mixed Armistice Commissions with reports on facts, in cases in which complaints had been made to the Commissions. This tendency obviously represents a departure from the legal stand taken by the Security Council in two respects. It subordinates the Truce Supervision Organization exclusively to the Mixed Armistice Commissions, and it limits, or eliminates, the function which the Observers should fulfil in protecting, together with the authorities concerned, compliance with the cease-fire clauses of the Armistice Agreements by the prevention of incidents.

The Governments of Egypt and Israel have now stated that, on the basis of the General Armistice Agreements and the Security Council resolution of 11 August 1949, it is their intention to consider favourably proposals by the Chief of Staff of the UNTSO concerning the activities of the Observers aiming at facilitating compliance with the General Armistice Agreements. The Secretary-General hopes to be able to register the attitude on this point by the other three Governments concerned.

The statements referred to in II, which recognize the Observer Organization as in some essential functions based on the resolution of the Security Council of 11 August 1949 and which promises full cooperation with the Organization in its positive and preventive task of facilitating compliance, establishes such "freedom of action" and movement for the Observers as lies, in my view, within the terms of the General Armistice Agreements and Security Council decisions. In specific cases and for specific regions, concrete and detailed arrangements must supplement the general statements just referred to.

The Security Council, in its resolution of 4 April 1956, referring to special arrangements for easing the tension along the Demarcation Lines, mentioned not only "freedom of movement" for Observers along the Demarcation Lines, in the Demilitarized Zones and in the Defensive Areas, but also "local arrangements" and "withdrawal of troops" from the Armistice Demarcation Lines.

A withdrawal of troops, to the extent that it would not follow from compliance with explicit stipulations in some of the Armistice Agreements, may serve a useful purpose along special sectors of the Demarcation Lines, and from that viewpoint represents a special type of local arrangement. It is desirable to have an assurance from the Governments concerned that they will favourably consider proposals by the Chief of Staff of the UNTSO for local arrangements, including withdrawal

....of troops

of troops - or in other words separation of forces - where and when he considers such arrangements to be called for. *

The framework for various kinds of local arrangements has been set already by previous proposals from the Chief of Staff and decisions in the Security Council. Apart from a local separation of the Parties' forces in the field, it covers the following possible measures:-

- (a) Erection of physical obstacles
- (b) Marking of Demarcation Lines and International Frontiers
- (c) Local Commanders' Agreements
- (d) Joint Patrols. **

It is desirable to have a statement from the Governments concerned that they have no objection in principle against any of these measures, reserving their right for a final decision if and when concrete proposals in case of need are made by the Chief of Staff.

* Ripai: Cannot forget special position of Jerusalem and Galqulpa (?) sectors.

" Unless we have every assurance in action that the other side etc.

" Why should in these sensitive areas -- which is not recognized -- "

** Jointly with UN (Jordan)