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25-26 Feb. 58

- 2 memoranda (D.H.)
- Notes to the Israel counter proposals
- Extracts from Report of UNTSO Representative for Mount Scopus

AIDE MEMOIRE

Mr. Kidron saw me this afternoon and handed over the Israel reaction to my draft decision which I gave him last Wednesday, 19 February. He transmitted the annexed alternative proposal with comments to the following effect:

Point 1. General Rosengren's name is excluded for three reasons. Israel does not feel that they in this case can give up their stand on UNEF although it is recognized that Rosengren would have two hats. In the second place they definitely understood "visits" in the Urrutia report to mean visits by political representatives, not military men, as they insist on maintaining a clear distinction between visits and inspections. Thirdly they do not see any need for an on-the-spot man for investigation of incidents as they recognize all the rights that Flint must have to investigate incidents involving breaches of the Armistice Agreement or the cease-fire.

I noted that their first objection seemed to be irrelevant as Rosengren in this case would have an entirely different function from the one he holds in the UNEF. As to the second argument it was entirely new to me and did not at all correspond to what I had understood from Urrutia. The third argument represented also a new element which, however, I welcome as it means that there would not be any "gap" in case of incidents as I feared in the light of the experiences 16 February; I had understood "inspection" in the Urrutia report to mean inspections in the broader sense of the word, including such investigations as should follow incidents.

Point 2. No change.

Point 3. The change should be regarded as a question of presentation as obviously Mr. Urrutia could put whatever he liked by way of "observations" and "recommendations" into his report. I noted that the question of presentation might be quite significant from the point of view of Mr. Rifai who would have to explain the significance of the visits in order to be able to get things going. - Point 4 in my proposal was dropped as it was a matter of course that Mr. Urrutia could bring with him those he considered necessary for his work.

Point 4. The dropping of the word "rights" was in line with the traditional terminology and had no special significance.

In conclusion, I said that I had to think it over in the light of the conversation but that I felt that we were approaching a possible formula. I noted especially the stand taken on Flint's investigations but wanted to draw attention to his dissatisfaction with the refusal to investigate on 17 February which seemed to contradict the stand of the Israel Government as now explained. I also underlined my concern that too barren a decision would not be a sufficient basis for action by Rifai.

25 February 1958

MEMORANDUM

1. The Secretary-General appoints Ambassador Francisco Urrutia and Dr. Ralph Bunche as special representatives with the task he may assign to them in furtherance of the implementation of the various agreements regarding the status of Mount Scopus.
2. The Secretary-General requests Ambassador Urrutia to visit forthwith Mount Scopus in pursuance of paragraph 4 of his report of 18 January 1958.
3. Mr. Urrutia is requested to report to the Secretary-General on his visit.
4. The above decisions, obviously, are taken without prejudice to the duties and functions of the United Nations Truce Supervision Organisation in the area, as based on agreements between the parties concerned.

25 February 1958

Notes to the Memorandum 25 February 1958

Point 1. The Secretary-General intends to appoint a third special representative who is a military man by profession. He cannot accept the view that there is any limitation in this respect on his right to appoint special representatives. The development in the course of the Urrutia negotiations clearly indicates that this right was fully maintained.

Point 3. The instructions to Mr. Urrutia would be as indicated in the Secretary-General's own proposal, although those instructions need not form part of the decision itself. (This covers both point 3 and point 4 in the Secretary-General's proposal.)

Point 4. It is the Secretary-General's understanding that this point implies full recognition of the right of Colonel Flint (and/or his successor in the same function) to make such investigations as are necessary in order to fulfill his duty (and that of UNTSO) to safeguard the Armistice Agreement and cease-fire arrangements.

Notes to the Israel counter proposals.

1. The Secretary-General, whose right to assign special representatives as he sees fit for the purpose was in no way restricted by the text of the Urrutia Report (or, according to Dr. Urrutia, in the course of the preceding negotiations), will not now appoint a military man residing on the spot as Special Representative entitled to "visit" Mount Scopus, provided that

(a) it is recognized that the Special Representatives, when visiting the area, may use military personnel for their assistance; and that, further,

(b) it is recognized that - irrespective of the statement on "inspection" in the Report and contrary to refusals noted 17 February and 25 February - UNRWA shall have the facilities needed in order to fulfil its duty to investigate breaches of the cease fire and actions threatening to lead to such a breach.

2. As the Secretary-General, both in Amman and to the press, would have to explain that the Report of Dr. Urrutia obviously would have to cover both "observations" and "recommendations", he does not see any point in not saying so in the decision itself.

26 February 1958

Extracts from the Report of the UNTSO Representative for Mount Scopus to the Acting Chief of Staff on the 16 February 1958 incident on Mount Scopus (Report dated 19 February and transmitted by the Acting Chief of Staff on 21 February.)

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Colonel Flint then requested permission to visit the area of the incident. The inspector refused permission for Colonel Flint to visit any Israeli area.

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#### Conclusion

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It may have been possible to have found some physical evidence, such as blood stains, bullet marks, footprints etc. if I had inspected the area generally between "A" and "B", but in view of the uncertainty which now seems to exist concerning my right as UNTSO Representative to make an investigation, I did not insist on visiting that area in the face of the objection registered by ASP Harpaz, since it is quite possible I would have been interfered with and thus have been the cause of further difficulties. I must add that, to the best of my knowledge, this is the first time the UNTSO Representative for Mount Scopus has not been given full facilities to investigate an incident involving firing and wounding. Since verbal testimony is invariably suspect unless substantiated by physical evidence, an investigation is bound to be futile if access is denied to areas in which physical evidence may be found.