

**Middle East - Suez story No  
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story No 15-18 - 33**

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Dag Hammarskjöld's samtl.

Middle East / Suez story - 16

25 Sept. - 15 Oct. 56

- Draft Report on Palestine Question.
  - Possible entry of Iraqi Troops into Jordan
- (2 interoffice memoranda to D.H. from Legal Counsel)

UNITED NATIONS  NATIONS UNIES  
INTEROFFICE MEMORANDUM

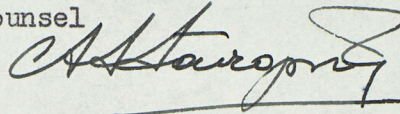
TO: The Secretary-General

Date: 15 October 1956

THROUGH:

FILE NO.: \_\_\_\_\_

FROM: C. A. Stavropoulos, Legal Counsel



SUBJECT: Possible entry of Iraqi  
Troops into Jordan

1. I saw your cable to General Burns this afternoon and I agree very much with the view expressed. However, there is one point which I would like to draw your attention to although you may already have it in mind.

2. It is possible to imagine that Israel will follow the procedures of the Charter but will do so in accordance with their own interpretation of these procedures. For example, on the first sign of Iraqi troops entering Jordan Israel might seize the Hebron area and other strategic parts of western Jordan and at the same time might address a letter to the Security Council stating that they have taken measures in the exercise of the right of self-defense in accordance with article 51 of the Charter and hasten to report as required by the Charter.

3. Of course under Article 51 such measures do not in any way affect the authority and responsibility of the Security Council under the Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security. But from a practical point of view when troops are once established in an area methods of dislodging them are problematic. You might therefore think that any injunction of the Security Council should come rather before than after the event.



NOTE CONCERNING THE EXCEPTION OF THE PREAMBLES  
AND ARTICLES I AND II FROM AUTHORITATIVE INTER-  
PRETATION BY THE RESPECTIVE MIXED ARMISTICE  
COMMISSIONS UNDER THE ISRAELI-JORDANIAN, ISRAELI-  
LEBANESE AND ISRAELI-SYRIAN GENERAL ARMISTICE  
AGREEMENTS.

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1. Paragraph 8 of Article XI of the Israeli-Jordanian General Armistice Agreement and paragraph 8 of Article VII of the Israeli-Lebanese and Israeli-Syrian Armistice Agreements provide in identical terms as follows:

"8. Where interpretation of the meaning of a particular provision of this Agreement, other than the preamble and articles I and II, is at issue, the Commission's interpretation shall prevail. The Commission, in its discretion and as the need arises, may from time to time recommend to the Parties modifications in the provisions of this Agreement."

2. It may first be noted that the comparable paragraph (para. 8) of Article X of the Egyptian-Israeli General Armistice Agreement does not contain the exception of the preamble and Articles I and II which appears in the other Agreements. On the contrary, in the Egyptian-Israeli Agreement the Mixed Armistice Commission's interpretation shall prevail with respect to all provisions subject only to the right of appeal to the Special Committee. Under paragraph 4 of the same article, when an appeal is taken on a question of principle, the decision of the Special Committee is final. Therefore, with respect to the Agreement between Egypt and Israel there are, by its terms, armistice organs competent to give authoritative interpretations of all provisions.

3. The meaning of the exception of the preambles and the first two articles in the three other agreements may next be examined. It has not been possible to study the travaux préparatoires, but the rationale of the exception appears obvious from the texts themselves. The preambles and Articles I and II deal specifically with decisions of the Security Council. Logically these provisions are therefore subject to authoritative interpretation by the Security Council itself rather than by special organs established by the parties. It is only after setting forth the general principles and referring to the resolutions of the Security Council that Article III establishes the General Armistice between the armed forces of the parties.<sup>1/</sup>

4. Particularly with reference to Article I, the absolute character of the injunction against the resort to military force should also be noted. Articles I and III which provide the principal cease-fire provisions, by the terms of paragraph 3 of Article XII of the Israeli-Jordanian Agreement and paragraph 3 of Article VIII of the Israeli-Lebanese and Israeli-Syrian Agreements, may not be revised or suspended even with the mutual consent of the parties. Since these articles cannot be changed by the parties acting together, a fortiori, they cannot be revised or suspended by one of the parties acting unilaterally. This fact also strongly supports

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<sup>1/</sup> "In pursuance of the foregoing principles and of the resolution of the Security Council of 16 November 1948, a general armistice between the armed forces of the two Parties - land, sea and air - is hereby established."

the conclusion that by removing Article I from authoritative interpretation by the Commission it could not have been intended to leave it to interpretation by the parties. Instead it was recognition of the fact that only the Security Council could interpret this article with finality.

5. The fact, as noted in paragraph 2 above, that the Egyptian-Israeli Agreement does not provide for the same exceptions is probably explained by the fact that it was the first agreement concluded and that this point had not occurred to the drafters at the time. In any event, while the Armistice organs under the Egyptian-Israeli Agreement may give interpretations of these provisions which are binding upon the parties, such interpretations would be subject to review by the Security Council since agreements of the parties could not diminish the powers of the Security Council under the Charter (see Article 103).