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LETTER DATED 13 OCTOBER 1956 FROM THE REPRESENTATIVE OF SYRIA ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour, in accordance with the procedural decision taken by the Security Council at the 742nd meeting held on 13 October, to submit the text of the statement which my Delegation intended to deliver before the Security Council, with the request that it be circulated to the members of the Council.

Accept, Excellency, etc.

(Signed) Rafik ASHA

Permanent Representative
of Syria

Mr. President,

We should like at the outset to express to you, Sir, and to the Members of the Security Council our gratitude for the opportunity you have accorded our Delegation to state its views on the item under consideration, namely, the Suez Canal problem.

In our letter of 4th October 1956, Document S/3664, the Representatives of Iraq, Jordan, Lebanon, Libya, Saudia Arabia, Syria and Yemen asked to participate in the present deliberations of the Security Council. This request was based in law and in fact on the special and vital interest which these countries attach, not only to the immediate aspects and effects of the problem, but, no less, to its outcome and future development.

As an indication of our deep concern and interest in this issue, my Delegation, on instructions from the Syrian Government, released a statement to the press as early as 4th September last, in which we drew the attention of Member Governments to the great tension which has arisen in the Arab world following the landing and massing of forces by Britain and France in the Eastern Mediterranean - an action which was not only an unjustified provocation to the people and Governments of the area, but a threat to the peace and security of the world, and, as such, contrary to the purposes and principles of the United Nations as laid down in Articles 1 and 2 of the Charter.

But, Mr. President, the massing and build-up of French and British forces in the Eastern Mediterranean continued unabated. On further instructions from our respective Governments, the Representative of Lebanon and I addressed a joint letter to the President of the Security Council dated 17th September 1956, Document S/3648, in which we drew the attention of the Council to the gravity of the situation.

Furthermore, our interest in this question does not lie only in the military actions taken by Britain and France, but in the fact that the Suez Canal is situated on Egyptian soil and territory. It constitutes an integral part of Egypt, and Egypt is linked to its Arab neighbours by treaties

duly registered with the United Nations, with clauses of guarantee of mutual assistance in cases of common danger. They are also members of a regional organization; they are members of the family of nations which participated in the Bandung Conference, the principles of which were identical with those of the United Nations. They are bound together by ties of language, history, ideals and common aspirations.

If the issue in this dispute were confined to the Suez Canal and Egypt alone, the interest of the Arab States referred to would have been plainly and sufficiently justified. In effect, the real issue in this dispute is the future of the states of that region, and the future of the United Nations itself.

Mr. President, the concern for freedom of navigation in the Suez Canal is nothing but a pretext with a number of ulterior motives. The Canal is merely a focus of the French and British policy of domination and influence which menaces the whole region of the Middle East - a policy enervated by the vicissitudes of the British and the French in the Middle East and North Africa, a policy poisoned by the harmful influence of international Zionism.

We shall not cite all the proofs we have to justify this assertion, since they are abundant. Allow me, however, to mention some of them.

First, if the real issue were to be freedom of navigation in the Canal, the guarantees and assurances given by Egypt, on the one hand, and the navigation assured in a normal manner since the nationalization of the Canal, on the other, would have settled the issue and eased all tempers.

Second, the attitude of the Western Powers on freedom of navigation in the Canal and its internationalization is full of past and present contradictions - contradictions based on short term political expediency, not on principles or on justice.

We might recall in this connection that in the 1919 Peace Conference Britain refused internationalization of the Canal on the ground that it would interfere with the sovereignty of Egypt.

It is hardly necessary to recall to the attention of the Members of the Security Council that during the First and Second World Wars and in the intervening periods Great Britain violated the 1888 Convention, namely, Articles 4, 5 and 7 relating to free passage in time of war and the construction of fortifications and landing and maintaining of troops.

If I were to continue in my own words, as an Arab I might be considered biassed or carried away by emotion. Therefore, I will give you the words of an American, Mr. Richard D. Robinson, who in a Letter to the Times on 13th September 1956 wrote:

"In 1946 the U.S.S.R. demanded a revision of the Montreux Convention under which Turkey was authorized by international agreement to administer and defend the Black Sea Stratis, a waterway lying wholly within the confines of Turkey. The Soviet view was that Turkey, a hostile power, was not to be trusted to keep the Straits open to Soviet shipping even in times of peace." I may add in parentheses: "(Under the convention, Turkey may close the Stratis in time of war to enemy vessels.)

"We" - that is, the United States - "resisted the Soviet effort to bring a greater share of direct international control to the Straits by saying that any change in that direction would be an infringement of Turkish sovereignty. We even risked a show of naval strength in Istanbul to back up our resistance to any Soviet-sponsored change in the status of the Straits."

We may therefore be permitted to say that the Western Powers now championing internationalization of the Canal were not then and are not now insulating the matter of the operation of the Canal from politics, though insulation from politics is a justification adduced by them for the system they have proposed.

Now, Mr. President, let us examine the Western thesis which has been most ably presented by France, Great Britain and the United States - by France and Great Britain in their dual rôle of judges and interested parties.

France and Great Britain have played the part of accusers, in a sanctified and idealised version of the rôle. They have presented themselves as nations patient, tolerant and peace-loving, as nations which have refrained from resorting to armed force, and which have conformed, by virtue of this, to the letter and the spirit of the Charter.

France and Britain maintained that they have done everything in an endeavor to negotiate. Here it is appropriate to cite the peace movement of Mr. Dulles, executed by France and Great Britain and orchestrated by the United States of America. According to this thesis, the peace moves were manifest in the Conferences in London, in the Western proposals, in the Negotiating Committee, in the formation of the Canal Users' Association, and, finally, in the submission of the question to the United Nations.

As for Egypt . . . Egypt has been placed on the bench for the accused, vilified, and, as the Soviet Minister observed, all but crucified. What were the accusations levelled at Egypt?

First, the action taken by Egypt to nationalize the Universal Suez Canal Company has been labelled a unilateral and arbitrary act against an international agency.

Second, Egypt has been accused of violation of her international obligations, and Israel has been invited to provide the clinching evidence.

Third, Egypt has not wished to negotiate, and has opposed any attempt of this nature.

Fourth, the Egyptian action has threatened international peace and security.

Mr. President, let us now examine the facts, and see how the Arabs view the French and British attitude.

The French and British have not, obviously, as yet resorted to armed force. This is praiseworthy. But they are resorting to armed force at other points in this region. They have resorted to threatening to use armed force in this connection and have, on their own responsibility, initiated economic action against Egypt, in violation of the provisions of

the Charter, and, particularly, of Articles 1, 2 and 4. As late as October 11th, 1956 Britain's threat to use force is echoed in the New York Times, which published a cable from Llandudno, Wales stating:

"'Britain demands a solution of the Suez problem that is just and not "merely" peaceful,' Anthony Nutting told the Conservative Party Conference today.

"'If the United Nations can not do its "duty" in this respect, then the nation will have to find other means of obtaining justice,' the British Minister of State for Foreign Affairs said. This was interpreted here as an allusion to a possible use of force in the future."

The cable went on to say:

"Julian Amery, an outspoken advocate of a vigorous policy toward Egypt, was applauded when he declared: 'We must go forward with the help of the Americans if we can get it, without it if they withhold it, and against their wishes if need be.'"

Further, France and Great Britain have characterized the Egyptian President with distorting and offensive phrases.

As to the negotiations which were undertaken - the place chosen for the Conference, London, the countries invited, and the proposals taken as a basis for negotiation were all arbitrary and open to criticism. The ensuing atmosphere which prevailed was equally reprehensible. In bringing the dispute to the point of a trial of strength, France and England have vitiated those elements of the difference which, taken alone, could have been rationally analyzed and formulated in terms of law. The two Powers have surrounded the issue with a distorting haze, impermeable to reason. They have communicated to it an impassioned and inordinate mien, incapable of tranquil solution.

Mr. President, what should one, in all objectivity, think of an association of users of the Canal whose first mission assigned to it was that of forcing a passage through the Canal? Did not the very concept of this association rest upon the idea of force and coercion?

Was it not possible from the very beginning of the crisis to have had recourse to the United Nations? If all the merit for having taken this step is today accorded to the Governments of the two Powers, may it not be considered permissible and just to let this merit be shared by world public opinion and by the counsels of moderation and wisdom prodigally issuing from so many friendly or neutral states, as well as considerable segments of the population of France and Great Britain?

Mr. President, what shall we, now, think about the Egyptian action?

It has been claimed, first of all, that the nationalized agency was an international agency. Article 16 of the Concession drawn up between the Egyptian Government and the Universal Suez Canal Company in 1866 clearly stipulates: "The Suez Canal Company is an Egyptian Company subject to Egyptian laws and customs." The legal principal of the Company is in Egypt. The fact that the Company was given the name "Universal" has no legal significance and no legal effect.

The nationalization by Egypt of an Egyptian company could not have been other than unilateral. One can not conceive of bilateral or multilateral nationalization. The principle and raison d'être of the nationalization can not be validly contested.

The Egyptian act was not arbitrary. It was provided for by a legislative enactment in due and good form. Just and equitable compensation was envisaged.

In this connection, we should not overlook the fact that the nationalization of the Suez Canal was not an ordinary one. The Suez Canal has always been regarded by Egypt and the Egyptians as their symbol of freedom from foreign domination. The people of Egypt are solidly behind their beloved and respected President and leader in this endeavor.

The awakening of the national consciousness in Egypt has made the act of the Concession to the Suez Maritime Canal Company to be viewed as an intolerable mortgage on Egyptian public life, snatched from a regime which did not represent public opinion, nor did it safeguard the true and legitimate interests of Egypt.

Egypt has not violated her international obligations contracted under the treaty of 1888. Notwithstanding that the circumstances under which this treaty was concluded can not be sheltered from all criticism, Egypt has affirmed and declared on a number of occasions, including the very day of the nationalization, that she would respect her international obligations under the treaty of 1888 and would guarantee free transit of ships of all flags through the Suez Canal.

As a matter of fact, free passage of ships through the Canal has not been affected since the nationalization law, in spite of the varied obstructions imposed to impede or thwart the realization of this guarantee.

There has been an attempt to read into the provisions of the treaty of 1888, by a unilateral and unfounded interpretation, that an international regime of which the Concession was an integral part had been envisaged at the start. This would be simply to say that the Concession should be an eternal international entity together with the regime which instituted it. And obviously this is inexact. Article 14 of the 1888 Convention states, "The obligations resulting from the present Convention are not limited by the duration of the Concession granted to the Suez Canal Company."

It follows that the Concession, which governed the method of operation of the Canal, could expire without the obligations under the international regime (consisting in the assuring of free navigation) being thereby affected.

Actually, the Suez Canal Company was at no time responsible for freedom of navigation in the Canal. It is the 1888 Convention which governs that freedom, and it is the Egyptian Government which supervises that freedom, in its capacity as the country in whose territory the Canal lies and to whose territory it belongs.

The attempt to lend to the operation of the Canal an international character by attributing to the provisions of the 1888 Convention implications they could never have held is by its nature an attempt to limit the

sovereignty of Egypt with regard to a public asset situated within its own territory. The sovereign rights of Egypt could not, in pursuance of Article 13 of the 1888 Convention, have been affected and prejudiced in this arbitrary fashion.

Such an interpretation, in the absence of clear statements in the treaty to this effect, and in the light of the legal presumption of minimum restriction of sovereignty and of restrictive principles of interpretation, can not be accepted and legally established.

Apart from the legal inconsistencies of the Western thesis, Israel, whose proper place would have been on the bench of the accused for her bloody and repeated aggressions, has been invited to take a place among the accusers of Egypt, in order to demonstrate that the latter has violated her international obligations arising from the treaty of 1888.

One can not validly adduce the measures of inspection and control taken by Egypt with regard to the ships bringing Israel arms and strategic materials to prove that Egypt was violating an international obligation contracted by her, by virtue whereof she should have accorded free passage to all vessels, without distinction of flag.

We are not going to reiterate the weighty arguments presented by Egypt to the Security Council in 1951 and 1954. There are some who would object that these arguments did not convince the Council, which adopted its Resolution of 1st September 1951. Actually, this Resolution nowhere alludes to any violation by Egypt of her international obligations under the treaty of 1888. On the contrary, the terms of this Resolution give Egypt latitude to impose upon vessels of Israeli destination the requisite and indispensable restrictions to assure security of navigation in the Canal itself, and observance of the international Conventions in effect, including the 1888 treaty of Constantinople.

Furthermore, the Security Council stated that it would be impossible in the circumstances prevailing in 1951 to justify blocking the passage of merchandise destined for Israel by alleging that reasons of legitimate defense made this obstruction indispensable.

But do not the events since 1951 justify at the present hour such restrictions? Has not Israel meanwhile, on four different occasions before the Council, been cited and censured for the serious aggressions committed at Qibya, Nahalin, El-Auja, and Tiberias? Has not Israel, in the wake of these four aggressions, been guilty of two other major aggressions, which the Council has not yet had opportunity to act upon?

Is it not equitable that Egypt should at this hour, in view of the six major aggressions just mentioned, avail herself of her right of legitimate defense, guaranteed by the Charter of the United Nations and by the treaty of 1888, to exercise her rights of visit, search and seizure on the vessels trafficking in arms and strategic products for Israel?

It is necessary to emphasize at this point, Mr. President, that, to Egypt's credit, she has not - even under the circumstances just reviewed - abused these rights.

In fact, goods with no military or strategic value have continued to flow through this Canal into Israel with no hindrance whatsoever.

We do not want to go back over the arguments presented by Egypt as to the international restrictions which are being imposed at this very hour on trade in arms and strategic materials with a number of countries.

We should like to be permitted, however, to add the following:

Israel was not a party to the treaty of 1888. She was not in existence then, and her existence as a state is not recognized today by the countries directly involved in the crisis under consideration.

Her relations with those countries and with Egypt are not normal relations; they are governed by armistice agreements providing for measures of military aspect, whereas the settlement of political questions has been deferred.

Let us, in token of good will, however, with the aid of a little imagination, consider Israel as a third party in relation to the 1888 treaty on the Suez Canal. What, precisely, will her rights be in such case?

To answer this question, we have recourse to a very recent work, Theories and Realities of Public International Law, published in Paris in 1955. The author of this work, the eminent Professor Charles de Visscher, writes, under the heading "Political Implications and Effects of Treaties with Respect to Third States" (I translate from the original French text):

"The effects on international law of what one terms stipulation concerning other parties remain rather badly defined. These occur particularly in the case of a bilateral treaty conceived in terms which tend to benefit either certain specific States or an indeterminate number of States. In the absence of a clause of adhesion, the import of such a stipulation will depend largely on the character of the diplomatic relations which the contracting parties have with the beneficiary." I underline, "It is, in effect, well established that the advantages stipulated in favor of a third State do not accrue to it as full right: they remain subject to a subsequent accord, which alone gives rise to contractual rights.

"The Hay-Pauncefote Treaty concluded between the United States and Great Britain relative to the Panama Canal (18 November 1901) stipulated that the Canal 'would be free and open to vessels of trade and war of all nations conforming to its rules, on a footing of complete equality and without any discrimination whatsoever.' This disposition did not prevent Elihu Root", - the American lawyer and political leader - "in 1914, and Secretary of State Hughes, in 1921, from contesting that third States had by virtue thereof acquired actual rights."

We leave to the Members of this august body the task of drawing the conclusions which impose themselves. We do not wish to dwell too heavily on this aspect of the problem. However, we would like to recall that the Security Council's Resolution of 1st September 1951 was not the sole Resolution concerning the Palestine Question. The Secretary General of the United Nations, in his press conference of 23rd August 1956, emphasized that the Resolutions of the Security Council concerning the Suez Canal "have never been shelved; they are part of the United Nations legal history, and, for that reason, they are part of the background of whatever I am doing."

We could wish that these observations and the other Resolutions of the United Nations on the question of Palestine might also make part of this "background" and that they should not be "shelved".

The Egyptian and Arab position with respect to Israeli claims which are legally unfounded having been outlined, allow me now Mr. President, to emphasize that Egypt has never refused, in principle, to negotiate an equitable and just solution of the Suez Canal problem.

This was clear in the declaration made by the Egyptian Chief of State on the very day of the nationalization, and in subsequent statements made on various occasions.

Concrete Egyptian proposals have even been presented, envisaging the regulation of tolls on an international basis, revision of the treaty of 1888, and even convocation of an international conference on a wider and more impartial basis.

One could not, in all logic and reason, have expected the Egyptian Government to participate in a Conference held in the capital of that very country which kept Egypt under her yoke for such long years; the invitation extended to Egypt amounted to a summons. And for what purpose? Merely in order to give her blanket signature to some unrealistic, illegal and exorbitant proposals.

No government on earth would have accepted to negotiate under the conditions prevailing then and in an atmosphere of intimidation and dictation.

We have no doubt that Egypt would have voluntarily participated in negotiations held under the aegis of the United Nations and on the basis of certain fundamental principles, established on law and justice.

It is, consequently, erroneous and contrary to the facts to maintain that Egypt has not wished to negotiate. The Egyptian Government has never denied the principle of negotiations freely entered into and impartially conducted, on the basis of proposals which, though taking account of the legitimate interests of the users of the Canal, would safeguard the incontestable rights and interests of Egypt and her national dignity as a sovereign member of the international community.

As to the Western allegations that the Egyptian action has threatened international peace and security, this argument has not been substantiated.

Egypt has massed no troops in the vicinity of France or Great Britain. She has not initiated economic sanctions against the Western Powers, and has never threatened to use armed force against any country or group of countries.

But one could serve no cause by simply contenting himself with formulas of grievance or resifting continually errors committed in the past. It is by drawing from these errors guidance for settling future international relations that one may contribute to reduce the tension and to end this crisis.

Whatever the merits of the two theses may be in the opinion of their authors, whatever the conflicting interests are, whatever attempts to inject foreign elements into the issue may have been made, the ultimate solution must be a peaceful one - a solution so based that it will be in conformity with the spirit and the letter of the Charter. This means a solution based on peace that will save our generation from the scourge of war. It means a solution based equally on justice, a justice which will safeguard the interests of the users of the Canal by ensuring reasonable tolls and free passage - a justice which will at the same time preserve the sovereignty, dignity and territorial integrity of Egypt.

The most able and distinguished Secretary of State Mr. John Foster Dulles spoke last Tuesday of the contributions of Egypt to the concept of interdependence of peace and justice. He said, "The nation which most ardently, most effectively and most eloquently championed this interconnexion of peace and justice was Egypt." If such were the contributions of Egypt to the Charter of the United Nations, the United Nations will not, we are certain, Mr. President, sacrifice that great country on the alter of justice.

Mr. President, we are fully confident of the human being, of the wisdom of the United Nations and Members of this august body.

The preliminary results of negotiations under the auspices of the United Nations which have taken place during the past few days are encouraging and, we hope, fruitful. We trust further progress will be achieved. Thank you.
