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CONFIDENTIAL

The Ambassador of Israel presents his compliments to the Honorable the Secretary of State and has the honor to refer to the conference due to be opened in London on August 16, 1956 to discuss the operation of the Suez Canal as guaranteed by the Constantinople Convention of October 29, 1888, and in particular to convey the views of his Government concerning the restrictions on shipping and trade imposed by Egypt against Israel in violation of her international obligations.

2. Article I of the Constantinople Convention provides that the "Suez Maritime Canal shall always be free and open, in time of war as in time of peace, to every vessel of commerce or of war without distinction of flag." Article XI, in qualification of Article X, specifies that any measures taken to ensure the defence of the Suez Canal shall not interfere with the free use thereof. The object of this Convention, as stated by France, the United Kingdom and the United States in their joint declaration of August 2, 1956 is to ensure "the international character of the Canal and its free, open and secure use without discrimination."

3. Notwithstanding the clear terms of the 1888 Convention, the Egyptian Government has consistently barred passage through the Suez Canal of ships flying the Israel flag, has interfered arbitrarily with other shipping bound to and from Israel ports and has prevented the transit of, and on various occasions confiscated cargoes consigned to and from Israel. In particular, tankers and other vessels flying the flag of any nation are forbidden, under the threat of penalties, to carry specified freights to and from Israel. Foreign vessels, even when allowed to pass through the Canal to and

from Israel, are penalized by the Government of Egypt by devices such as "Black Listing", and the denial of fuel, water and supplies. By these practices and by the deterrent effect of the illicit regulations and penalties, Egypt has during the past eight years prevented the passage of the greater part of the commerce which would normally have flowed through the Canal to and from Israel.

4. Egypt has sought to justify this discrimination on the grounds of her current relationship with Israel. She contends, in spite of the General Armistice Agreement with Israel, which includes a firm pledge against any further acts of hostility, that a state of war exists, which entitles her to pursue belligerent action against Israel. But all the contentions advanced by Egypt to support this policy have been emphatically rejected by the Security Council of the United Nations, which has been seized of this question since July 11, 1951.

5. On September 1, 1951 the Security Council adopted a resolution (S/2322) which established that Egypt cannot

"reasonably assert that it is actively a belligerent or requires to exercise the right of visit, search and seizure for any legitimate purpose of self-defence",

that consequently the restrictions applied by Egypt against shipping to Israel are

"abuse of the exercise of the right of visit, search and seizure"

and constitute a practice which

"cannot in the prevailing circumstances be justified on the ground that it is necessary for self-defence",

and that

"these restrictions together with sanctions applied by Egypt to certain ships which have visited Israel ports represent unjustified interference with the rights

of nations to navigate the seas and trade freely with one another, including the Arab States and Israel."

Accordingly the Security Council called on Egypt

"to terminate restrictions on the passage of international commercial shipping and goods through the Suez Canal wherever bound and to cease all interference with such shipping beyond that essential to the safety of shipping in the Canal itself and to the observance of the international conventions in force."

6. By this important decision, the right of free passage for ships of all nations through the Suez Canal as enshrined in the 1888 Convention was explicitly confirmed in regard to Israel and formally embodied in the law of the United Nations.

7. Egypt defied and to this day defies the decision of the Security Council, despite its binding character under Article 25 of the Charter of the United Nations. She has not only continued to implement the blockade measures but has in recent years intensified them. A decree published in Cairo on November 30, 1953 extended the existing "Contrabands List". At the same time, acts of interference in shipping have multiplied, Italian, Norwegian, Dutch, Greek and other vessels being affected. These acts culminated in the seizure of the Israel ship "Bat Galim", which arrived off the city of Suez on September 28, 1954. The ship and the cargo were impounded by the Egyptian authorities and have been held by them to this day. The crew was arrested and confined without trial for over three months.

The Greek vessel Panagia, which reached Port Said from Haifa on May 25, 1956, with a load of cement destined for Elath, has been held up off entrance to the Suez Canal to the present day.

8. By these and similar high-handed actions, and by the

maintenance of regulations and penalties designed to block or cripple trade to Israel, Egypt has continued to violate the sanctity of treaties, specifically the Constantinople Convention of 1888 and Article 8 of the Anglo-Egyptian Agreement regarding the Suez Canal base of October 19, 1954, and to set at naught the decision of the Security Council of the United Nations. She has subordinated international law to the dictates of unilateral national policies.

If Egypt is permitted to continue discriminating illegally against Israel shipping and trade, she will feel entitled, at her own whim and fancy, to obstruct the shipping of any other State with which she may have a dispute or difference of opinion at any time. The fact that Egypt holds herself at liberty to sustain these hostile actions against Israel constitutes one of the most serious causes of the prevailing tension and of the outbreak of the present crisis. As long as Egypt maintains a claim to the existence of a state of war and to her supposed belligerent rights, in flat denial of the Security Council's findings and in curious disregard of Article XI of the 1888 Constantinople Convention, which in any case makes such a claim irrelevant, the situation will remain fraught with grave dangers. As pointed out by the representative of Brazil at the 552 meeting of the Security Council on August 16, 1951, precisely five years before the opening of the present London conference

"should we accept Egypt's thesis, we would be bound to recognize any measures of reprisal adopted by the Government of Israel. It is obvious that in the exchange of hostile acts that would follow, we could hardly expect to lay the foundations of a definite solution to the Palestine question."

9. The Government of Israel considers that the conduct of

Egypt with regard to its shipping and trade during the past eight years is compelling reason for the adoption at the present time of such steps as will ensure free navigation in the Suez Canal for all nations, unimpeded by Egyptian interference. Any new arrangements must be assured of unrestricted universal application. International right to freedom of passage through the Canal is indivisible.

10. The Government of Israel has taken note of the verbal assurance by the Secretary of State to the Ambassador of Israel on August 9, 1956 that the United States continues to uphold the right of free passage through the Suez Canal by the ships of all nations wherever bound.

The Government of Israel must assume that under any new arrangements made for operating the Suez Canal, the United States will insist on ensuring free passage for Israeli shipping, as for the shipping of all other nations. It would welcome formal assurance that this assumption is correct.

11. The Government of Israel expresses the confident hope that in the course of the Conference to be convened in London on August 16, 1956, the representative of the United States will demand the Abolition of the present restrictions against Israel shipping and will seek the inclusion in any arrangement of the future operation of the Canal of effective guarantees to avert the recurrence of any discrimination against Israel shipping and against the shipping of other nations bound to and from Israel.

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