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JE1422/4(A)

The Ambassador of Israel presents his compliments to the Secretary of State for Foreign Affairs and has the honour to refer to the conference due to open in London on 16 August 1956 to discuss the operation of the Suez Canal as guaranteed by the Constantinople Convention of 29 October 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 international obligations.

2. Article One 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 war without distinction of flag". Article Eleven, in qualification of Article Ten, specifies that any measures taken to ensure the defence of the Canal shall not interfere with its free use. The object of the Convention is to ensure the international character of the Canal and its free, open, secure use without discrimination.

3. Notwithstanding the clear terms of this Convention, the Government of Egypt has consistently barred the 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 or from Israel. In particular, tankers and other vessels flying the flag of any nation are forbidden, under threat of penalties, to carry specified freights to or from Israel. Foreign vessels even when allowed to pass through the Canal to or from Israel are penalized by the Egyptian Government by devices such as "black-listing" and the denial of fuel, water and supplies. By these practices and by the deterrent effect of illicit regulations and penalties, Egypt has during the past eight years prevented the passage of the greater part of the commerce which would normally flow through the Canal to and from Israel.

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

5. On 1 September 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 "an abuse 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 to trade freely with one another, including the Arab States and Israel".

Accordingly, the Security Council called upon Egypt "to terminate the 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".

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

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

The Greek vessel "Panagia", which reached Port Said from Haifa on 25 May 1956, with a load of cement destined for Elath, has been held up off the entrance to the Suez Canal down 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 Eight of the Anglo-Egyptian Agreement regarding the Suez Canal Base of 19 October 1954, and to set at naught the decision of the Security Council. She has subordinated international law to the dictates of unilateral national policies.

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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 prevailing tension and the outbreak of the present crisis. As long as Egypt maintains her 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 Eleven of the 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 552nd meeting of the Security Council on 16 August 1951, precisely five years before the opening of the present London Conference,

"should we accept the Egyptian thesis, we would be bound to recognize any measures of reprisal adopted by the Israel Government. 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 a 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 which are not assured of unrestricted and universal application, excluding all possibility of arbitrary actions against any nation, will have no prospect of enduring. The international right to freedom of passage through the Suez Canal is indivisible.

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10. The Government of Israel has noted with satisfaction the verbal assurance given by the Secretary of State to the Ambassador of Israel on 3 August 1956 that the United Kingdom continue to uphold the right of free passage through the Suez Canal for the ships of all nations wherever bound. The Government of Israel must assume that under any new arrangements made for the operation of the Suez Canal, the United Kingdom will insist on ensuring free passage for Israel shipping as for the shipping of all other nations. It would welcome a 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 16 August 1956, the representative of the United Kingdom will demand the abolition of present restrictions against Israel shipping and will seek the inclusion in any arrangement on the future operation of the Suez Canal of effective guarantees to avert the recurrence of discrimination against Israel shipping as against the shipping of other nations bound to or from Israel.

London, 15 August 1956.

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--- The ISRAEL AMBASSADOR called this afternoon and left the attached note urging that we should take the opportunity of the Suez Conference to assure the free passage of Israeli ships through the Canal.

2. I asked the Ambassador whether similar representations were being made in Washington and Paris. He said they were, and added that a similar note with obvious consequential changes had been addressed to the Russians and indeed, he believed, to all the participants at the Conference.

3. I told the Ambassador that we should naturally consider his note and give him a reply in due course.

*Jk.*August 15, 1956.Distribution:

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