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The Status of the United Nations  
Resolution on the Repatriation  
of the Arab Refugees

The operative resolution is General Assembly Resolution No. 194 (III) of December 11, 1948, paragraph 11 of which states:

"11. The General Assembly Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

2. Paragraph 2 of the same Resolution established the Palestine Conciliation Commission and the General Assembly also on December 11, 1948, adopted a proposal by a Committee of the Assembly that the Conciliation Commission should be composed of France, Turkey and the United States of America.

3. General Assembly resolution No. 302 (IV) of December 8, 1949, recognizing, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III), that continued assistance to the refugees was necessary, established the United Nations Relief and Works Agency for Palestine Refugees in the Near East. (U.N.R.W.A.)

4. Paragraph 4 of resolution No. 393 (V) of December 2, 1950 considered that, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement, was essential in preparation for the time when international assistance would be no longer available and for the realization of conditions of peace and stability in the area.

5. General Assembly resolution No. 394 (V) of December 14, 1950 directed the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, should:

a) Make such arrangements as it might consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);

b) Work out such arrangements as might be practicable for the implementation of the other objectives of paragraph 11 of the said resolution;

c) Continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees.

6. General Assembly resolution No. 513 (VI) of January 26, 1952, endorsed, without prejudice to the provisions of paragraph 11 of resolution 194 (III) or of paragraph 4 of resolution 393 (V) a programme recommended by U.N.R.W.A.

for

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for the relief and reintegration of the refugees to be carried out over a period of approximately three years starting from July 1, 1951.

7. The latest General Assembly resolution on the subject is No. 1456 (XIV) dated December 9, 1959. This takes note of the Secretary-General's report (Document A/4121 - the "Hammarskjöld report") and extends the mandate of U.N.R.W.A. for a period of three years, with a review at the end of two years. The preamble of this resolution notes "with deep regret that repatriation or compensation of the refugees as provided for in paragraph 11 of General Assembly resolution 194 (III) has not been effected, and that no substantial progress has been made in the programme endorsed in paragraph 2 of resolution 513 (VI) for the reintegration of refugees either by repatriation or resettlement and that, therefore, the situation of the refugees continues to be a matter of serious concern." Operative paragraph 4 of this resolution "Requests the United Nations Conciliation Commission for Palestine to make further efforts to secure the implementation of paragraph 11 of General Assembly resolution 194 (III)." /U.N. G.A. A/RES/1456(XIV) of December 19, 1959/.

Middle East Section  
Research Department.

September 29, 1960.

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10/10  
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ARCHIVES  
10 MAY 1961

Egyptian Claims to be in a State of War  
with Israel

10/1092/1

Flag A

In 1950, the view of Law Officers of the Crown was that while a state of war might legally exist between Egypt and Israel, the longer the Armistice lasted the more did it become difficult for Egypt to justify the exercise of belligerent rights under Article X of the 1888 Suez Canal Convention (i.e. that this is "necessary ..... for securing ... the defence of Egypt and the maintenance of public order."). In 1951 the Security Council held that "neither party could reasonably assert that it was actively a belligerent or requires to exercise the right of vigil, search or seizure for any legitimate purpose of self-defence." Since then, however, there has been the Sinai campaign. We have not sought an up-to-date opinion from the Law Officers, but the Legal Adviser has taken the view that if, for instance, the question were to go to the International Court there is a possibility that the Court would uphold the view of the U.A.R.

Flag B

Flag C

2. We have advised against answering directly in Parliament the question whether a state of war exists. Mr. Profumo said in the House on February 10 that he could not pronounce on this; it was a matter which was capable only of legal interpretation and was not our affair. On the other hand, we have on a number of occasions repeated our support for the Security Council's resolution of 1951 and have consistently maintained that in the particular matter of Egypt's right to prevent the passage of Israel's ships through the Suez Canal, Israel shares the right of all nations to free passage, and that she is entitled to benefit under the 1888 Convention.

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This must imply that the U.A.R. Government is not justified in claiming that a state of affairs exists which entitles her to invoke Article X of the 1888 Convention. Indeed, the Secretary of State's predecessor went so far as to say in the Commons on February 17 that "for H.M.G. Flag D to call on the United Arab Republic to terminate that state of war would be to admit that it still exists, which we do not." And also that "we do not agree that there is a state of war now, but the Government of the U.A.R. maintain that there is. As far as I understand the position of the Israel Government, they say that there is not."

October 4, 1960.

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NOTHING TO BE WRITTEN IN THIS MARGIN.

*Minutes.*

I agree with paragraph 2 of Sir Roger Stevens' minute of October 3. We have always reckoned that the Egyptians would claim that it would be necessary to prevent Israel ships passing through the Canal in order to stop public disturbances i.e. demonstrations on the banks, and because the Israelis would pack the ships with infiltrators and saboteurs, or troops.

2. The line of argument suggested in paragraph 3 of Sir Roger Stevens' minute seems valid, and could have some force as a debating point. In practice it would only apply to any refugees who were to be resettled in Israel, and would not apply if compensation were to be offered instead. Moreover, it might be argued that the refugees have their own peculiar status as Palestinians (except those who have acquired Jordanian nationality) and that they are not at war with Israel even if e.g. the Government of the U.A.R. is.

*Arculus*  
(R. Arculus)  
October 4, 1960.

Mr. Vaylat

Paragraph 2 of Sir Roger Stevens' minute is substantially correct. The essential question is really not whether a "state of war" exists technically between the U.A.R. and Israel (indeed it is pretty well established that the mere conclusion of an armistice does not bring a

Minutes.

technical state of war to an end) The more important question is whether having regard to the terms of the Armistice and the situation resulting from it and to Egypt's special obligations as regards the Suez Canal, she can legitimately exercise belligerent rights in the Canal. Even given that the exercise of belligerent rights is otherwise justifiable, she must still show that they are necessary for the defence of Egypt & the maintenance of public order.

2. I certainly agree that from the Israeli point of view the line of argument suggested in para. 3 of Sir R. Stevens minute has some force, especially as the refugees are presumably Arabs.

W.V.D. Evans

5/10.

Plurley 61x

MS

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Minutes.

Mr Evans has put  
the Canal issue very  
succinctly

Sw A Stevens

John Bain  
at 7

Mr O'Regan  
Mr Blaker  
Mr Smart  
to note existence  
of these pp. 10

PHB.  
1/5

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Minutes.

Sir Roger Stevens has asked for a brief on Egyptian claims to be in a state of war with Israel. The position on this is conveniently summarised in the minutes on VR 1072/11. The attached draft brief does little more than quote from the Law Officer's opinion and that minute. We should nevertheless be grateful for clearance by the Legal Advisers and for any comments which they may wish to make.

(R. Arculus)  
September 28, 1960.

Mr. Vallat

I have added two references to the Security Council's resolution of 1951 which I think is still basic to our position.

W.D. Evans  
27/9.

M. Jenkins  
30/9

I agree that these amendments improve the draft. Though Sir R. Stevens is not now going to Cairo he may like to see this (and FOR.D.'s contribution at VR 1051/102). Mr. Khalil may revert to these subjects.

Richard P. O'Regan  
30/9. P.T.O.

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JE 1425/403  
of 1950 - Flag A

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Minutes.

You may like to see these two briefs straight away, in view of tomorrow's meeting, though the first is only in draft

John Bates  
out 3

Many thanks. I should like a copy of the brief now in draft before tomorrow, Tuesday afternoon. I have taken a copy of the F.O.R.D. paper on the Status of the United Nations Resolution on Refugees off VG 1051/102.

Top copy sent to  
Sir R. Stevens.  
R.Ho.

2. As far as I can see the position briefly put in lay language is that the question of whether a state of war with Israel exists or not is a matter for interpretation by international lawyers. Even, however, if the Egyptian thesis is accepted, they still have to prove that the stopping of ships or cargoes passing through the Canal is necessary for securing the defence of Egypt and the maintenance of public order if they are not to expose themselves to charges of violating the 1888 Suez Canal Convention.

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*Minutes.*

3. As for refugees, I notice that the original General Assembly Resolution contains a reference to the earliest practicable date, and it seems to me a possible line of argument that it could hardly be practicable for the Israelis to allow refugees to return to their homes when the countries in which they are living regard themselves as in a state of war with Israel.

4. I should be grateful if you and the Legal Advisers would comment on this minute.

*il*  
ROGER STEVENS  
October 3, 1960

Mr. Beith

NOTHING TO BE WRITTEN IN THIS MARGIN.