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## PEACE-KEEPING AND PEACE-MAKING - THE UN IN THE MIDDLE EAST

by Robert D. Kamenshine\*

A UN official, commenting on the designation of Swedish diplomat Gunnar Jarring as the Security Council's representative to work for a Middle East peace, observed that both Ralph Bunche and Lester B. Pearson had already received Nobel Prizes for bringing peace to this region. If anything is to be learned from the most recent Middle East conflict, it is that a cessation of hostilities cannot be equated with a peace; that a true peace involves the resolution of basic conflicts of interests.

Almost from its very inception, the United Nations has been deeply involved in Middle East problems. Just over twenty years ago, at the request of Great Britain which was anxious to rid itself of the burdensome Palestine mandate, the General Assembly considered the Palestine question. That Assembly passed its historic resolution of November 29, 1947<sup>1</sup> supported by both the US and the USSR, providing for the partition of Palestine into two sovereign states, one Arab and one Jewish. Successful implementation of partition by the UN proved impossible due to lack of Arab cooperation, and at midnight on May 14, 1948, the date the British had set to terminate their mandate, Jewish leaders in Palestine proclaimed the existence of the new state of Israel.

While both the US and USSR extended recognition, the five neighboring Arab states formally announced that they would send forces "to restore order," and full scale war ensued. The UN made several attempts to bring an end to hostilities, but it was only by the summer of 1948, after a resolution was passed finding a threat to the peace and ordering cessation of hostilities,<sup>2</sup> that a "lasting" truce came about. By then, Israel had decisively defeated its Arab neighbors and was in control of more territory than allocated to it by the UN partition plan. A UN Conciliation Commission was unable to bring about a final settlement, but by the following Spring, UN mediator Ralph Bunche was able to arrange separate armistice agreements between Israel and each of the Arab states. The United Nations Truce Supervision Organization (UNTSO), created to observe and maintain the cease-fire, was to assist the Mixed Armistice Commissions established by the agreements to investigate incidents and complaints.

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Although Ralph Bunche received the Nobel Peace Prize for arranging the Armistices, the peace attained rested on very weak foundations. The Arab states refused to negotiate directly with Israel, vigorously denying its existence as a sovereign nation, (although Israel had been admitted into the UN in the Spring of 1949 with the support of the US and the USSR,) and maintaining that the Armistice Agreements had not terminated the state of war. Israel refused to repatriate the hundreds of thousands of Palestinian Arab refugees, and they remained in camps looking forward to the day when they might return to their homes, by force if necessary. In addition, Egypt blockaded the Suez Canal and the Gulf of Aqaba to Israeli ships and cargoes.

In May of 1950, Britain, France and the United States attempted to introduce greater stability into the situation by issuing a declaration guaranteeing the integrity of the Arab and Israeli borders.<sup>3</sup> Furthermore, during the Fall of 1951, the Security Council passed a resolution,<sup>4</sup> on which the USSR abstained, calling for the cessation of Canal restrictions and declaring that "neither party can reasonably assert that it is actively belligerent" and that Egypt's policy was "inconsistent with the objectives of ... the Armistice Agreement."

Three and a half years later, Egypt having ignored the UN resolution and continued its blockade, Israel again sought the Council's assistance. This time, however, a Soviet veto blocked a resolution calling once more for an end to the restrictions, the USSR having swung totally to the Arab side.

In addition to blockade, Egypt adopted a policy of engaging in Fedayeen commando raids on Israel. Resolutions condemning Israel for breach of Armistice provisions could be passed since the United States attempted to maintain an even-handed position, but the Soviet veto blocked similar condemnation of the Arab states.

On October 30, 1956, Israel, having persistently sought a UN remedy but having found none, took direct action and attacked Egypt to eliminate the Fedayeen bases in the Sinai, to stop an ominous Egyptian build-up of Soviet bloc arms, and to end the blockade of Suez and Aqaba. Israel asserted that it had acted pursuant to Article 51 of the Charter which preserves the "inherent right of...self-defense in an armed attack occurs." There are a number of legal issues raised by this defense,<sup>5</sup> but it was clear that long-festered grievances had surfaced after seven years of grace, during which the UN had not found a lasting solution.

The first step to control the crisis was taken by the United States, which immediately called for a Security Council meeting to bring about Israel's withdrawal. The American attitude was explained by Secretary of State Dulles when he said that, although the international organization may have been somewhat impotent "if...whenever a nation feels it has been subjected to injustice, it should have the right to resort to force in an attempt to correct that injustice,...we should be tearing this Charter into shreds...."<sup>6</sup> It must be noted, however, that there was a practical consideration influencing the US moralistic stand. The United States saw in the accompanying British and French intervention against Egypt an opportunity to make headway with the "emerging" nations by dispelling the idea that it was just another colonial power. Thus, the US stand created the paradox of US-USSR concerted action not only against Israel, but also against Britain and France, "our oldest and most trusted allies."

France and Britain defended their intervention as a "police action" designed to safeguard the Canal and to restore peaceful conditions, and both expressed willingness to withdraw if the UN would maintain the peace. On November 2, the General Assembly Emergency Special Session<sup>7</sup> passed a US resolution<sup>8</sup> calling for a ceasefire, withdrawal behind armistice lines, a halt to raids, and an embargo on shipments of military goods to the area. Lester Pearson of Canada, sharply criticizing the resolution's failure to "link a cease-fire to the absolute necessity of a political settlement," proposed a UN force to replace the French and British. Such a force, Pearson felt, would "keep the borders at peace" pending a political settlement, while a return to the "status quo" could lead only to another explosion. The Assembly, following Pearson's suggestion, requested the Secretary-General to submit a plan for setting up such a force "with the consent of the nations concerned."<sup>9</sup> Before the cease-fire had gone into effect or the Secretary-General had delivered his final report, the French and British followed their air attacks of a few days earlier with landings in Egypt.<sup>10</sup> The Soviet Union, seeking to exploit the awkward US position, proposed to the Security Council that it and the US be authorized to send joint military assistance to Egypt to enforce the November 2 Assembly resolution. US willingness to cooperate with the USSR did not extend this far, and the proposal never made the Council's agenda. However, there was agreement in the General Assembly as to the Secretary-General's reports concerning establishment of a United Nations Emergency Force (UNEF),<sup>11</sup> and the Assembly passed a resolution<sup>12</sup> creating an Advisory Committee (Brazil, Canada, Ceylon, Colombia, India, Norway and Pakistan) to assist the Secretary-General in connection with the Force. The Committee was empowered to request the

convening of the General Assembly in an emergency situation.

A cease-fire was obtained shortly afterwards.<sup>13</sup> Advance elements of UNEF arrived in Egypt in mid-November, Egypt having accepted the resolution creating the UNEF command after certain clarifications provided by the Secretary-General. Although Hammerskjold considered that there had been sufficient basis for dispatch of the first UNEF units, he held subsequent talks in Cairo<sup>14</sup> concerning the good faith obligations of the UN and Egypt as to the presence and functioning of the Force. An aide-memoire<sup>15</sup> on these talks was submitted to the Assembly and approved<sup>16</sup> on November 24, 1956. British and French withdrawal was completed before the end of the year,<sup>17</sup> and Israeli withdrawal from almost all Egyptian territory was accomplished in January.<sup>18</sup> UNEF replaced the British, French and Israeli forces as they pulled out, until the Force stood at the Egyptian-Israeli Armistice Line running the length of the Sinai.

Israel refused to pull out of Gaza and Sharm-el-Sheikh,<sup>19</sup> in response to US, USSR and UN pressures, without obtaining some of what it had fought for. The US and the USSR shared the UN position that no compromise could be made with or guarantees extended to Israel in advance of its total withdrawal, since to do otherwise would be tantamount to condoning "a change in the status juris resulting from military action contrary to the Charter." It was evident, therefore, that some reconciliation between principle and reality had to be found. The answer was contained in two resolutions passed on February 2, 1957.<sup>20</sup> The first satisfied principle by requesting withdrawal "without further delay," while the second held out the promise to Israel that withdrawal would be followed by action "toward the creation of peaceful conditions." After withdrawal had been completed, the Emergency Force was to patrol the Armistice Line in order to maintain the Armistice Agreement, and was to be stationed at Sharm-el-Sheikh.<sup>21</sup> Several days later, the Secretary-General announced that he had received assurance from Egypt that it would be guided by the Assembly's resolutions.

In addition to Assembly attempts to speed final withdrawal, the United States, recognizing the depth of Israeli concern over use of Aqaba, declared that it would exercise the right of innocent passage through the Straits of Tiran and would join with other maritime powers to secure general recognition of this right.

On March 1, almost five months after its initial attack, Israel announced plans to leave Gaza and Sharm-el-Sheikh.<sup>22</sup> This step was taken in the belief that the doctrine of innocent passage had received sufficient support; and as a result of certain assumptions which Israel made concerning the role of UNEF. Israel believed the function of the Force at the Straits of Tiran and in Gaza would be to assure non-belligerency and to administer Gaza "until there is a peace settlement." Perhaps even more important, as to possible UNEF withdrawal before a peace settlement was reached, Mrs. Golda

Meir, Foreign Minister of Israel, noted Hammarskjold's assurance that a withdrawal request would be referred to the Advisory Committee. Israel assumed that this virtually assured a call for Assembly consideration, and felt there would be a lapse of time in which the UN would prevent hasty action leading to a renewal of hostilities.

With Israeli withdrawal in 1957 from occupied territory, peace of a kind was brought to the Middle East once more, and another Nobel Peace Prize awarded, this time to Lester Pearson for proposing UNEF. However, while Article 2(4) of the UN Charter relating to respect for the territorial integrity and political independence of member states had been implemented, no direct steps had been taken to fulfill Article 2(3) relating to peaceful settlement of international disputes. Nothing had really been solved.

Beginning in May 1967, Israel warned Syria of strong reprisals in response to a series of Syrian El Fatah commando raids reminiscent of the 1955-56 Fedayeen attacks. Syria reacted to these warnings by moving large forces to its border and by calling for Egyptian assistance under a 1966 mutual defense pact. President Nasser in turn quickly mobilized his forces and sent major contingents toward the Egypt-Israeli Armistice Line. The question of UNEF presence was raised by the UAR on May 16,<sup>23</sup> and by May 18, pursuant to a formal UAR request, Secretary-General U Thant ordered the Force's complete withdrawal.<sup>24</sup> By the end of that week, Israel began mobilization. U Thant flew to Cairo, and while en route learned that Egypt had reimposed the Aqaba blockade against Israeli shipping. He returned to New York with an Egyptian assurance that it would not begin the hostilities, and his report asked that there be a "breathing spell" between the parties to allow tensions to subside and to permit the Security Council to deal with the problem. The Council held five meetings between May 24 and May 31, and met again on June 3, to consider what the Secretary-General had characterized as "the extremely grave situation in the Middle East," but passed no resolution.

On June 5, full scale fighting erupted. The Security Council was convened in emergency session,<sup>26</sup> and a day later passed a resolution for an immediate cease-fire. For the third time since the formation of the state of Israel, the United Nations had been unable to avert major warfare in the area. Also for the third time, the cease-fires between Israel and its major opponents were not effectuated until Israel had decisively defeated its enemies. This time, Israel occupied Sinai, regained control of the entrance to the Gulf of Aqaba, captured the West bank of the Jordan and the Syrian Heights.

From mid-June through mid-September the General Assembly took no meaningful overall action designed to bring about a lasting solution in the Middle East. Meeting during this period, the Fifth

Emergency Special Session of the Assembly, called at the request of the USSR<sup>27</sup> passed separate resolutions dealing with measures taken by Israel to change the status of Jerusalem<sup>28</sup> and dealing with the plight of the refugees.<sup>29</sup> The session terminated its work with an expression of "utmost concern" about the Middle East, and placed the problem on the agenda of the Twenty-Second Regular General Assembly convening on September 19, 1967, which did not take any meaningful steps.

Six months after the latest Middle East crisis, on November 22, 1967, the Security Council made the first attempt to deal with the overall problem with the passage of a British-sponsored resolution.<sup>30</sup> The unanimous vote called for the Secretary-General to designate a representative (Gunnar Jarring)<sup>31</sup> "to establish and maintain contacts with the states of the Middle East in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement." Emphasizing "the inadmissibility of the acquisition of territory by war," the need for a "just and lasting peace," and the commitment of UN members under Article 2 of the Charter, the resolution offered elements to satisfy all participants. These were:

1. withdrawal of Israeli armed forces;
2. termination of belligerency, and recognition of territorial integrity and political sovereignty of all states in the area;
3. guarantee of freedom of navigation through international waterways in the area;
4. settlement of the refugee problem;
5. guarantee of territorial integrity and political independence through such measures as demilitarized zones.

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Having sketched the UN's role to date, what evaluation may be made of its peace-keeping effort and its prospects as a peace-maker? UNEF has represented the UN's most ambitious peace-keeping attempt in the Middle East, and it is in this light that its withdrawal in May 1967, assumes such importance. It is therefore necessary to consider whether its stay could and should have been prolonged.

Clearly UNEF, which at its peak was 6,000 strong and which in May 1967, amounted to a total of 3,400 lightly armed men, only 1,800 of which were available to patrol the approximately 170 mile line, never was intended to deter major military action from either side by force. Rather, it was to stop raids, prevent incidents, and provide a psychological barrier to large-scale aggression.

U Thant, on June 26, 1967, gave the Assembly a detailed account of legal and practical considerations which governed his actions in ordering UNEF's withdrawal.<sup>33</sup> The basic premise of the Secretary-General's legal position is that UNEF was stationed in Egypt with the consent of the Egyptian Government. With this there can be no disagreement. The main subjects of controversy center on what limitations the Egyptian Government had agreed to place on its sovereign right to make the Force's withdraw, and on the procedures U Thant followed in ordering removal.

The UAR and the UN had been committed through the aide-memoire of November 20, 1956<sup>34</sup> to exercise good faith as to the presence and functioning of UNEF in the completion of its "task".<sup>35</sup> The "task" was that defined by General Assembly Resolution 1000 (ES-I) of November 5, 1956 setting up the UNEF command. UNEF was to

secure and supervise the cessation of hostilities in accordance with all the terms of General Assembly Resolution 997 (ES-I) of 2 November 1956.

U Thant's contention is that the emphasis of the November 5 resolution was merely on obtaining cessation of hostilities, and therefore that the November 20 good faith aide-memoire is inapplicable to the "task of serving as a buffer and deterring infiltrators," as defined in the resolution of February 2, 1957. He de-emphasizes the fact that securing and supervising the cessation of hostilities was to be accomplished in accordance with "all" the terms of the broad November 2 resolution which encompassed not only cease-fire, withdrawal of forces, halt of arms shipments and reopening of Suez, but cessation of raids and scrupulous maintenance of the Armistice Agreement. While U Thant's interpretation is a possible one, it is difficult to see why it should have been adopted in view of Dag Hammarskjold's interpretations and Egypt's acceptance of the "newer" roles for the Force.

In his first report on the plan for UNEF,<sup>36</sup> Hammarskjold had recognized that there would be two stages in the functioning of the Force. The first was to coincide with the stage contemplated by a November 4 Assembly resolution<sup>37</sup> directing the Secretary-General to arrange a cease-fire, withdrawal and a halt to arms shipments, but not mentioning the issue of raids, and the second was to "correspond to a period where the functions would be of a somewhat different nature, and should be viewed in light of efforts over a longer range." His second and final report<sup>38</sup> indicated that the Force's functions "when a cease-fire is being established (were) to help maintain quiet during and after the withdrawal of non-Egyptian troops, and to secure compliance with the other terms established in the resolution of 2 November 1956." The phrase "when a cease-fire is being established" to which U Thant gives some importance, seems to have included a longer period than that required for a technical cease-fire to be effectuated, since Hammar-



skjold refers to the Force's presence "after" withdrawal of foreign troops. At any rate, in discussing the size of the Force, Hammarskjold recalled the two-stage work of the Force mentioned in his first report, and said that although the size of the force would probably require some adjustment, the "somewhat different tasks" referred to in his first report would be "within the framework" of the November 2 resolution.

In view of the Secretary-General's 1956 reports on UNEF, it is reasonable to interpret the good faith aide-memoire as encompassing any functions agreed to which were fairly within the scope of the November 2 resolution. The resolution of February 2, 1957 dealt with the functions to be carried out by the Force over a long range period and thus required new Egyptian consent, but the tasks actually performed of preventing raids and acting as a buffer meet the test just posited.

Secretary-General Hammarskjold never made any distinction as to the application of the good-faith agreement to later functions. In his February 11 report,<sup>39</sup> in seeking to persuade Israel to withdraw from Gaza and Sharm-el-Sheikh, he stated that he understood the Assembly to consider the February 2 resolution a "formal undertaking" for the post-withdrawal stage. This was "particularly so" "since the United Nations Force is deployed in the region with an assurance from the Government of Egypt that the Government, when exercising its sovereign rights, on any matter concerning the presence and functioning of UNEF, will be guided in good faith by its acceptance of the basic General Assembly resolution of 5 November 1956 concerning the Force and its functions." Similarly, his discussion of the good-faith agreement in his report of October 1958<sup>40</sup> on the overall experience derived from the functioning of UNEF revealed no such dichotomy. Surely, such an important distinction would have been noted. Furthermore, no statement of the Egyptian Government ever evinced any indication that it did not see itself bound by the good faith declaration in regard to the presence of the Force on the Armistice Line or at Sharm-el-Sheikh. Thus, six days after the February 2 resolution had been passed, the letter<sup>41</sup> by the Egyptian Foreign Minister indicating Egyptian acceptance of the status of forces agreement governing UNEF specifically referred to the good faith declaration.

U Thant makes the further point that since Israel refused to consent to the stationing of troops on its side of the Line as called for by the February 2 resolution while Egypt did, it would be inappropriate to limit Egypt's rights to request withdrawal. Regardless of what view one takes of Israel's position, Egypt by allowing troops to be stationed on its side of the Line, did undertake certain responsibilities.

Even assuming that the good faith agreement of November 20, 1956 did not specifically encompass the functions of the Force performed as of May 1967, it seems unthinkable that the UN would have consented,

or that Egypt could have thought that the UN was agreeing, to carry on its most recent functions without an understanding that Egypt would be acting in good faith. There had to be an implicit extension of the obligation to act in good faith to cover these long range tasks. One wonders why on May 17 of this past year U Thant deemed it necessary to remind the Egyptian Government of the provisions of the good faith accord if he did not accept this position himself.

Assuming, therefore, that there was a mutual obligation of good faith extending to the most recent presence of UNEF, there remains the question of the meaning of this obligation. Since the public good faith aide-memoire of November 20, 1956 between Egypt and the UN had been intentionally vague as to definition of the obligation in order to save face for Egypt, Hammarskjold had felt it necessary to provide some clarification on the subject, by setting out the actual terms of his discussion with President Nasser in a private aide-memoire of August 5, 1957,<sup>42a</sup> a copy of which was deposited in unofficial UN files. According to Hammarskjold, Egypt had agreed to limit its sovereignty in the matter of withdrawal to the extent that both it and the General Assembly would have to agree that UNEF had completed its task before it could be removed. U Thant deemed this account irrelevant, since it was not an official UN document, and was unknown to the Assembly, the Advisory Committee or Egypt. He therefore concluded that the legal basis for the presence of UNEF in Egypt as set forth in official documents was not affected by this private memorandum. It is clear, however, that since the memorandum had been available to the Secretary-General, it had been intended as a guide for him in the handling of future disputes on the presence of the Force.

Even if one completely disregards the private aide-memoire, there remains the statement in Hammarskjold's October 1958 report<sup>43</sup> on the experience of UNEF, which hints at the contents of the unofficial memorandum:

...were either side to act unilaterally in refusing continued presence or deciding on withdrawal, and were the other side to find that such action was contrary to a good faith interpretation of the purposes of the operation, an exchange of views would be called for towards harmonizing the positions.<sup>44</sup>

U Thant's report nowhere mentions this official interpretation by Secretary-General Hammarskjold of the good faith obligation.

Perhaps the most fundamental issue concerning the Secretary-General's actions in May 1967, is whether he alone had the power to make the decision that the Forces be withdrawn. The Assembly resolution establishing the Advisory Committee provided that the

Secretary-General was authorized "to issue all regulations and instructions which may be essential to the effective functioning of the Force, following consultations with the Committee..., and to take all other necessary administrative and executive action."<sup>45</sup> While the Secretary-General was more of a free agent than in the Congo and Cyprus peace-keeping operations where he had to report periodically to the Security Council, it is questionable whether his broad mandate for executive discretion in implementing the Assembly's resolutions included terminating the Force's existence without General Assembly approval. This is particularly so since the Force was deemed to be a subsidiary organ of the Assembly.<sup>46</sup> It may be said that the Advisory Committee, which the Secretary-General consulted on May 18, could act for the Assembly and that its decision not to call the larger body represented tacit approval of the Secretary-General's withdrawal order, thus making a resolution unnecessary. It is not clear, however, that by giving the Advisory Committee the right to request its convening and to assist the Secretary-General in his duties with UNEF, the General Assembly had delegated its power to make such a fundamental decision as that relating to termination of the Force's presence.

Even assuming that technically, the Secretary-General had power to withdraw UNEF without a General Assembly resolution, U Thant justifies his decision to consult only the Advisory Committee, not only because he felt he had thereby fulfilled his obligations of consultation and because Hammarskjold had noted this would be "an indicated procedure" for consultations, but because certain procedural obstacles prevented recourse to the Assembly.

U Thant has said that it was unlikely that the Assembly could have considered the matter since:

- 1.) the next regular session was some four months off;
- 2.) the special session of the Assembly meeting at the time would have had to add the item to its agenda through an unlikely two-thirds vote;
- 3.) a special emergency session of the Assembly called under the Uniting for Peace resolution<sup>47</sup> could not be convened since the issue had not been presented to the Security Council and thus the lack of Council unanimity required to call such an emergency session did not exist.

It would seem, however, that several approaches remained for bringing the problem to world attention. As to the Assembly, while the two-thirds vote<sup>48</sup> needed to add to the existing agenda of the special session may have been unattainable, there were other possibilities. The special session of the Assembly then in progress had on its agenda "a comprehensive review of the whole question of peace-keeping operations in all their aspects" and the issue of withdrawal

might have been discussed under this item without the necessity for any procedural steps. Even if this had proved unfeasible, the item of peace-keeping operations could have been amended by a majority vote<sup>49</sup> so as to permit consideration. Finally, a majority of members could have called for a Sixth Special Session,<sup>50</sup> and since such sessions are to be held within fifteen days,<sup>51</sup> this would have provided much-needed time to allow private negotiations considerable play. As to the Security Council, which is deemed to be always in session, the Secretary-General could have called its attention to the proposed withdrawal as a "matter which in his opinion may threaten the maintenance of international peace and security"<sup>52</sup> and possibly have paved the way for an emergency session of the Assembly.

The Secretary-General, however, felt there would have been no point in bringing the issue to either the Assembly or the Security Council, since neither organ probably would have been able to reach an early decision. In support of this position, he pointed out that a report on withdrawal characterizing the situation created as "extremely menacing" had been submitted by him to the Council on May 19,<sup>53</sup> yet it had not even met until May 24 and then had taken no action. Furthermore, he believed that had a quick decision been reached, it could have been none other than withdrawal once Egypt had withdrawn consent.

Criticism of U Thant's failure to consult these bodies has been primarily based on the usefulness of such consultations for delay during which pressures for reversal of the withdrawal request by Egypt could have been applied privately. The principal point made by U Thant as to delay, however, is that as of May 18, Egyptian army units had moved up to the Line and into Sharm-el-Sheikh, and thus UNEF's "effectiveness as a buffer and as a presence had already vanished."<sup>54</sup>

The problem with U Thant's considerations is that they relate to the situation as it stood on May 18 rather than May 16, and thus he ignores the crucial issue of tactics.<sup>55</sup> On May 16 at 5:30 p.m., U Thant received a cable from the UNEF commander informing him of the UAR's request for withdrawal of "all UN troops which install OPs along our borders." It was only a little over an hour before the UAR's permanent representative was informed that even a request for temporary pullback would have to be considered as a request to remove all the troops, and that Egypt had merely to officially request withdrawal from the Secretary-General to obtain it.<sup>56</sup> No mention was made of the necessity for consulting the Advisory Committee or any other UN organ prior to ordering withdrawal, nor was there any appeal for restraint or reference to the good faith accord. Egypt clearly felt it had been given an open, unqualified invitation to compel withdrawal. On May 17, approximately 24 hours later, and after some Egyptian forces had moved up to the Line, the Secretary-General held his first and informal consultations with the representatives of nations supplying contingents to the Force. Their

opinion on action was divided. The Canadians, supported by Denmark and Brazil, argued that there should be an appeal to Egypt prior to receipt of a formal request and that the Assembly should be informed immediately of the situation. The Yugoslav and Indian representatives on the other hand concurred in the Secretary's view that there was no choice but to comply, and even said that, regardless of what the Assembly might decide, the decision was up to the Secretary-General since he had negotiated the agreement to station UNEF.<sup>57</sup> Approximately two hours after these consultations U Thant presented two aide-memoires to the UAR representative,<sup>58</sup> the first reiterating his May 16 statement adding that continued presence of Egyptian forces on the Line would also compel withdrawal, and the second quoting without comment the good-faith accord of November 20, 1956. The official withdrawal message from the UAR was received by U Thant at 12:00 P.M. on May 18. On receipt of this official request, the UNEF Advisory Committee was officially convened.<sup>59</sup>

By his initial reply of the 16th, the Secretary-General himself had frozen the UN course of action leaving no room for diplomatic maneuvering. While recognizing Egypt's right to make the request, he could have equivocated on his power to give a definite reply because of the need for consultations and the gravity of the situation which would result from withdrawal. U Thant's communications with Egypt, though referring on May 17 to the good-faith aide-memoire of November 20, 1956, on the whole stressed Egypt's rights rather than its duties. He emphasized the right of the Egyptian troops to move up to the Line rather than taking the position that since effective functioning of the Force necessitated the maintenance by the Egyptian troops of a certain distance from the Line, there was a good faith obligation to do so at least until the withdrawal request had been proved.

What thus remains very questionable is the course U Thant pursued on May 16 prior to the official request by the UAR on May 18. It is conceivable that, while U Thant believed Egypt had the right to request withdrawal and the UN the obligation to fulfill such a request, he perhaps also assumed that Nasser did not really wish the Force withdrawn. He, therefore, may have couched his initial communication in such final terms that Nasser would view his statement as a threat of withdrawal and would be induced to continued cooperation. After all, it was only on May 18 when the actual request was received that U Thant decided to appeal to Nasser to reconsider, and by then it was too late. Seen in this light, the arguments presented in the Secretary-General's report of June 26, 1967 can be viewed as afterthoughts, although of course, they still must be evaluated on their own merits. What U Thant may not have accounted for, was that while Egypt may have wanted to show its strength to its allies, particularly Syria, by requesting some sort of withdrawal, it did not really expect to obtain it.

Confronted with a "dare", Egypt had to follow through to save face.

U Thant, as a general defense, emphasizes that UNEF withdrawal was not a primary cause of the present crisis, since the Force merely had "immobilized and covered up" the basic Arab-Israeli conflict. While it is correct that the Force did not bring about peace-making, the report does not deal with the issue of the withdrawal's impact on ending a keeping of the peace. The removal of this psychological barrier added to an already deteriorating situation, and made any effort to reverse the trend far more difficult for all concerned. Thus, even though Egypt may have been physically able to reimpose the Aqaba blockade as of the 18th when its forces moved into Sharm-el-Sheikh, it did not do so until after the functioning of UNEF had been officially terminated, and while U Thant was taking his futile trip to Cairo.

The record of United Nations peace-keeping efforts in the Middle East is mixed. The UN has to its credit the Armistice Agreements concluded in 1949. On the other hand, the calls for cessation of hostilities in the three major wars have been effective only after the outcome of the fighting has all but been decided. However, relatively early calls for cease-fires may have accelerated the cessation of hostilities, saving face for the losing side by bringing world opinion to bear on the protagonists. In the most recent conflict, the call for a cease-fire may have prevented the deterioration of the conflagration to the point where the superpowers and other nations would have had to intervene and thus, a larger war may have averted. Though the leaders of the superpowers were in direct contact over the Hot Line, the UN provided an additional means of communication and a mechanism for cooperation. As for UNEF, it was very effective over its ten year tenure on the Line as a buffer and barrier to infiltration, but the UN, through the Secretary-General, did not take full advantage of its potential as a psychological restraining force to major conflict. It must be recognized, however, that no force such as UNEF was maintained on the Syrian or Jordanian Lines, since UNEF had come to be stationed in Egypt only because of the presence on Egyptian soil of the troops of Israel, France and Britain which Egypt was desperately anxious to expel. The UNTSO observers functioned along the Jordanian and Syrian lines to investigate incidents and were successful in arranging on-the-spot cease-fires and in providing information for possible UN action. It will be remembered, however, that it was a series of incidents on

the Syrian border that started the course of events leading to the outbreak of war in 1967. Of course, even if UNEF-type forces had been stationed on all Lines, there still would have been the potential for air incidents or full scale attacks, and it is this form of warfare which has proved decisive in the Middle East. Furthermore, the problem of withdrawal of consent would have remained, as with the UNEF forces stationed in Egypt. Today, the UN's peace-keeping efforts in the Mid-East are confined to an augmented force of truce observers to keep the Council informed of developments. As in the past, resolutions condemning and calling for a cessation of cease-fire violations, though speaking largely after the fact, may be of some value in influencing world opinion and to some extent the parties' future conduct.

Some twenty years of UN involvement in the Arab-Israeli conflict has brought it no closer to a peaceful solution. While peace-keeping efforts have enjoyed some measure of success, the mere keeping of the peace has not served to make it. The intensity of feelings and the vital interests at stake have made it extremely unlikely that, as some may have supposed, the status quo which the UN attempted to preserve would harden into a permanent settlement. It may well be that peace-keeping impedes rather than assists final settlement by the parties to the conflict by removing the urgency and necessity for direct negotiations which normally would be operative.<sup>60</sup> This effect is created by lulling the parties and the rest of the world into a false sense of security.

However, the pattern of United Nations action in the 1967 crisis has differed dramatically from that of 1956. Contrary to the 1956 precedent, the cease-fire resolutions of this past June did not couple a call for a halt to hostilities with one for withdrawal to the 1949 Armistice Lines. Withdrawal now has been viewed as one of the elements of an overall settlement rather than as a precondition to be fulfilled before other problems can be approached. The UN, though still engaging in peace-keeping through truce observers, has now shifted its focus through the November 22, 1967 Council resolution to solving the basic Arab-Israeli conflict, as originally suggested eleven years earlier by Lester Pearson. This approach is clearly more constructive.

While no one can forecast the outcome of the Jarring mission with complete certainty, an attitude of skepticism as to its potential for success surely is justified. The resolution serving as his mandate is a catalogue of longstanding and deeply troublesome problems serving to make clear, as U Thant observed on May 19, that "UNEF allowed us for ten years to ignore some of the hard realities of the present conflict." The substantive issues in the dispute - refugees, Suez, Aqaba, Sinai, etc. - are indeed difficult, but the root of the Middle East problem lies in overriding emotional factors. There is Arab resentment of the Jews as European intruders with their Western culture and advanced technology, and hurt pride over Arab inferiority after a history rich in achievement. The Arab inability to accept Israel as a fact of life and to enter into a mutually satisfactory adjustment of interests is central to the area's problem.

Unlike 1956, there has been at least some indication on the part of the Arab states of willingness to make constructive proposals.<sup>61</sup> To date, however, these have fallen far short of anything Israel might accept principally because they do not include a directly negotiated peace settlement involving recognition. Public opinion, with which any government must cope, has not been prepared to accept a settlement. Furthermore, President Nasser for one is compelled to take a militant stand because of his rivalry with other, perhaps more militant, Arab heads of state for leadership of the Arab world. Thus, the Cairo newspaper, Al Ahram, considered to be an unofficial spokesman for President Nasser, stated only recently that the Jarring mission was "almost foredoomed to failure" but that it served to create a "breathing space" in which to prepare for "an Arab action to correct, at the least, the consequences of the six day war."<sup>62</sup> The Arab Summit Conference, scheduled to meet January 19 in Rabat, seems no more likely to resolve differences between the moderate and extreme factions than has any prior conference. At the same time, there are, of course, differences of opinion within the Israeli war coalition government, but the Israeli people are strongly against territorial or other concessions absent a complete settlement.<sup>63</sup> Thus, a final settlement can result only from overwhelming necessity created by a number of internal and external factors operating on both sides. Among the most critical of these is the policy pursued by the US and the USSR.

One of the realities of the current international scene is the supreme importance attached by each superpower to avoiding direct confrontations, such as occurred during the Cuban Missile Crisis, with their attendant risk of all-out nuclear war. The balance of terror between these two powers has compelled the development of a system of informal relationships, understanding, and quick communication independent of traditional international law and superimposed on the functioning of the UN and the relationships of all other powers. It appears that though the Soviet Union had inflated Arab confidence with its vigorous statements of support and had approved the massing of UAR troops, it did not seek war in June, 1967. Thus, it has been reported that it had no knowledge of the UAR's plans to seek the UNEF pullback or to reimpose the Aqaba blockade, and that immediately after UNEF's withdrawal, the US and USSR agreed over the Hot Line to attempt to persuade Israel and the Arab states, respectively, to exercise restraint. While the superpowers were not successful, the day the Middle East war began the Soviet Union communicated over the Hot Line its desire for a cease-fire and for avoidance of a conflict with the US. The US likewise assured the USSR of its intention not to become involved, although it rejected the withdrawal aspect of the cease-fire proposal.<sup>64</sup> Once the Arab defeat became obvious, the USSR abandoned its efforts to couple a cease-fire with a request for withdrawal and, to the dismay of its Arab friends, joined the US on June 6 in voting for a simple cease-fire resolution. During the course of the war, the Arabs began to contend that US and British aircraft had assisted Israel. The US took great



pains to assure the USSR that it was in no way involved to the extent of offering at the June 6 Council meeting to allow UN observers on Sixth Fleet carriers who could inspect their logs and interview their pilots. When US aircraft took off to assist the USS Liberty which had accidentally come under Israeli attack, a message was sent to the Soviet Union, so that it would be alerted to the purpose of the flights.<sup>65</sup> The Soviet Union in turn never joined in the Arab charges at the UN or reported these charges in its news media. There were altogether approximately a dozen Hot Line communications during the crisis in addition to other forms of consultation, showing, as the Algerian daily El Moudjahed stated, that the balance of terror had caused the USSR "to put the preservation of peace above every other consideration."

Given this mutual desire on the part of the US and the USSR to cooperate in avoiding embroilment in conflicts, there remains the question of whether this can have any direct bearing on the potential for a peace settlement in the Middle East. Though the Soviet Union has consistently sided with the Arab states to obtain UN condemnations of Israel's Armistice violations, it cannot be overlooked that it recognized Israel at its inception, voted for its entry into the UN and, unlike the Arabs, recognizes Israel's continued right to exist as a sovereign state. Just before the recess of the General Assembly's Emergency Session on July 21, the US and the USSR worked out a compromise resolution which, though calling for withdrawal by Israel, stated that "all member states in the area" are expected to acknowledge "that each of them enjoys the right to maintain an independent national existence of its own and to live in peace and security." Strong Arab opposition, principally from Algeria, prevented this compromise resolution from being offered to the Assembly. Recently, a meeting of foreign ministers of the USSR and of the Eastern European nations, other than Albania, issued a communique which, although stating that Israeli withdrawal "is the main and basic condition for the restoration and preservation of the peace in the Middle East," went on to note "the necessity of all member states in the Middle East to recognize the right of each of them to an existence as an independent national state in conditions of peace and security." The USSR therefore recognizes that it would be politically impossible for the US to permit Israel's destruction.

In addition to mutual agreement on the reality of Israel's existence, there is the mutual fear of a possible regional nuclear conflict which could ultimately engulf the superpowers. Unless a basis for a lasting peace is found, there exists a distinct possibility that future Arab-Israeli conflicts might involve the use of nuclear weapons. Israel is believed to be working on them and undoubtedly has the technical capacity to bring about their successful development. The UAR, with the help of foreign scientists, might be similarly successful.

Also, with the recent development of nuclear capability by Communist China, that nation might seek to increase its influence in the Middle East by supplying such weapons to the Arabs. While the possession of formidable nuclear weapons by the US and the USSR has tended to give rise to the degree of stability in their relations previously discussed, there is no reason to assume that the Middle Eastern nations would demonstrate a similar sense of responsibility. The potential of a nuclear war in the Middle East in which the superpowers might become involved may provide an impetus for them to pressure both sides to reach a settlement. It has been argued, however, that the USSR's rearming of Egypt and Syria with ultra-modern weapons as well as the offer to assist Jordan reflects an unwillingness to cooperate. This does not take into account the Soviet desire to retain and expand its recently acquired influence in the Eastern Mediterranean, a traditional focus of Russian ambition since the czarist era. Furthermore, the Soviets must save face with their Arab friends after having failed to intervene in the conflict and having let them down to some extent in the diplomatic arena. It must be noted that there is a certain usefulness in restoring the military balance of power in the area and thus soothing the Arab states' pride sufficiently to enable them to make meaningful concessions. Of course, there is a most delicate balance to be struck between rearming the Arabs and being able to restrain them from using these arms.

Perhaps there is hope for future arms control. It was reported this October that Secretary of State Rusk and Foreign Minister Gromyko had discussed the value of limiting the Middle East arms race, and had agreed that each country would keep the other privately informed of all arms shipments made to the area. The Soviet draft resolution for a peace-making framework presented to the Security Council in November did list the limiting of that arms race as an item to be negotiated,<sup>65</sup> while support by both the US and the USSR of the November 22 British-sponsored Council resolution creating the Jarring mission has been a rather positive sign of cooperation, although the resolution did not specifically refer to arms control. Perhaps most encouraging has been the fact that President Johnson is said to have received a letter from Premier Kosygin endorsing a proposal for agreement by the superpowers limiting arms shipments to their Middle East allies.

Regardless of the policies pursued by the USSR and the US, the role of other powers with interests in the Middle East cannot be overlooked. President Nasser, who has always sought to follow an independent course, has recently become concerned over Egypt's increased dependence on the Soviet Union, and is seeking some sort of rapprochement with the West. Not only is he seeking a resumption of diplomatic relations with the US, but ties have already been restored with Britain and France. As has become clear, France has virtually switched sides since 1956, and is strengthening her relations with the Arab nations.

France has agreed in principle to widen economic and cultural ties with Syria, the most bellicose of the Arab states, and has been granted by Iraq an oil concession. France may sell to Iraq the fifty Mirage fighters which were due to be delivered to Israel under a pre-war contract. China, of course, stands ready to supplant Soviet influence in whatever way possible, and has already offered \$10 million in loan and grain aid to the Arabs. It is therefore apparent that, while the US and the USSR can work out arrangements satisfactory to themselves, they alone cannot determine the course of events in the area, although their agreement to limit arms shipments and to engage in joint, parallel or UN-sponsored development plans for the Middle East conditioned upon a settlement with Israel might provide an important incentive for peace.

As for UN intervention, Article 2(3) of the Charter obligates all members to "settle their disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered." Thus, although the Charter permits the Assembly<sup>66</sup> and the Council<sup>67</sup> to recommend settlements, the focus is placed on the adversaries themselves making the peace, not the UN making it for them. Ambassador Jarring is performing a significant function by acting as a line of private communication while attempting to reconcile the positions of the adversaries within the broad framework of the Council's resolution. However, a "peace" that is not the result of direct negotiations will likely tend to be makeshift in character and of doubtful permanence.

Just as peace-keeping can have a negative effect on peace-making, so may makeshift peace-making be detrimental to the prospects of a final settlement. Makeshift peace-making would involve solving the problems of the Middle East on an issue-by-issue approach, such as dealing with the rehabilitation of the refugees, allowing Israel to use Aqaba and to send cargoes though not ships through Suez, and even establishing demilitarized zones between Egypt and Israel, and Israel and Jordan. This approach, would tend to relieve pressures without solving the underlying problem of the failure of the Arab states (including Syria, Iraq and the other Arab League nations) to accept Israel's basic right to exist. Given the Arab intransigence on this point, it may be that a makeshift peace is all that will emerge. Although it is conceivable that such a peace might provide a basis for limited cooperation, such as in the construction of atomic desalting plants, and might lead to eventual Arab-Israeli total reconciliation, this cannot be more than a gamble. After three wars, the odds are against lasting success for this type of solution.

Since a stable peace, a permanent peace, can only be achieved by a total settlement, it is hoped that concerted international efforts will be made in at least attempting to bring the parties together in direct talks. There are, in addition, pressures operating at present within the area which may bring about such talks. Israel

is applying some pressure by taking the position that the longer the Arabs wait to talk the less they will get. At the same time, Egypt and especially Jordan are undergoing grave economic problems, and they do not want to maintain an endless dependence on their wealthy Arab neighbors which have thus far given the financial assistance to prevent a more serious collapse. Israel must be willing to make attractive concessions on the substantive issues. Thus, an ambitious five-year development program which it recently proposed to solve the refugee problem in the context of a general peace settlement, might be one of many steps to be taken.

As long as the armaments picture is held in balance between the Arabs and the Israelis, Israel's gains in the June war might just provide the necessary leverage to make this the most auspicious time to reach for a real peace.

### Footnotes

1. Res. 181 (ii).
2. S/902 (15 July 1948).
3. This guarantee has no practical significance at present.
4. S/2322 (1 Sept. 1951).
5. Eg., the definition of "armed attack", the permissibility of retaliatory and preventive warfare, the degree of defensive force which may be applied.
6. U.N. Gen. Ass. Off. Rec. ES-I, (1956).
7. This session was called by the Security Council acting pursuant to the Uniting for Peace Resolution, 377 A (V) (3 Nov. 1950).
8. Res. 997 (ES-I).
9. Res. 998 (ES-I) (4 Nov. 1956). The resolution asked that the plan be submitted within forty-eight hours.
10. These occurred on November 5.
11. The Secretary-General submitted two reports on the formation of UNEF. The first (A/3289) was received by the Assembly on November 4, the day it had passed its resolution calling for a plan. On November 5, a resolution was passed creating a UNEF command (1000 (ES-I)). The second report (A/3302) was submitted the next day.
12. Res. 1001 (ES-I) (7 Nov. 1956).
13. Nov. 7, 1956.
14. Nov. 16-18, 1956.
15. A/3375.
16. Res. 1121 (XI).
17. Dec. 22, 1956.

18. Jan. 22, 1957.
19. Gaza was crucial to Israel because it had been the area where the greatest number of incidents, infiltrations and raids had occurred since the Armistice. Egypt maintained that Gaza was still a part of Palestine, temporarily under Egyptian control.  
  
Sharm-el-Sheikh refers to the Egyptian fortress guarding the entrance to the Gulf of Aqaba at the Straits of Tiran.
20. Res. 1124 (XI); Res. 1125 (XI).
21. In addition to calling for the stationing of the force on the Armistice Line, the resolution provided for implementation of "other measures as proposed in the Secretary-General's report (Jan. 24, 1957, A/3512)". This report dealt in part with the stationing of the force at Sharm-el-Sheikh.
22. U.N. Gen. Ass. Off. Rec. XI Sess. Plen. pp. 1275-76 (1957).
23. Report of the Secretary-General on the Withdrawal of UNEF, A/6730/Add.3, Par.5.
24. Id. at pars. 22,23.
25. S/7906 (May 26, 1967).
26. S/233. Further cease-fire resolutions were passed before hostilities between Israel and the Arab states were terminated.
27. Unlike 1956, it was the vote of a majority of the Assembly rather than of the Security Council that brought about the Emergency Special Session. Both procedures are authorized by the Uniting for Peace Resolution assuming the requisite lack of unanimity of the Council's permanent members.
28. Res. 2253 (ES-V) (4 July 1967). A similar resolution was passed on July 14, Israel having failed to comply with the first. Res. 2254 (ES-V).
29. Res. 2252 (ES-V) (4 July 1967).
30. Text, N.Y. Times, November 23, 1967, 5:2.
31. Gunnar Jarring is the Swedish Ambassador to the USSR.

32. Article 2 sets forth the principles upon which the Organization and its members shall act. These include sovereign equality among all Members, fulfilling the obligations of the Charter in good faith, settling international disputes by peaceful means, refraining from the threat or use of force, refraining from giving assistance to a state against which United Nations action has been taken, insuring that non-members adhere to these principles to the extent necessary to maintain peace, non-intervention by the Organization in the domestic jurisdiction of any state, except under Chapter VII relating to enforcement measures.
33. Supra, note 23.
34. A/3375.
35. "1. The Government of Egypt declares that, when exercising its sovereign rights on any matter concerning the presence and functioning of UNEF, it will be guided, in good faith, by its acceptance of General Assembly resolution 1000 (ES-I) of 5 November 1956.
- "2. The United Nations takes note of this declaration of the Government of Egypt and declares that the activities of UNEF will be guided, in good faith, by the task established for the Force in the aforementioned resolutions; in particular, the United Nations, understanding this to correspond to the wishes of the Government of Egypt, reaffirms its willingness to maintain UNEF until its task is completed.\*\*\*"
36. Supra, note 11.
37. Res. 999 (ES-I).
38. Supra, note 11.
39. A/3527, Par. 14.
40. UNEF Experience Derived From The Establishment and Operation of The Force, U.N. Doc. A/3943.
41. U.N. Doc. A/3526, Par ii (8 Feb. 1957).
42. Text, N.Y. Times, June 19, 1967, 12:3.
43. Supra, note 40.

44. Supra, note 40 at Par. 158.
45. Supra, note 12, Par. 7.
46. Article 22 of the Charter provides that: "The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions."
47. Supra, note 7.
48. Rules of Procedure of the General Assembly 19.
49. Id., 22.
50. Id., 8(a).
51. Ibid.
52. U.N. Charter, Art. 99.
53. U.N. Doc. S/7896.
54. The Secretary-General also was guided by the following practical considerations: The Force's disintegration was certain since two contributors had announced they would remove their units in response to the Egyptian request regardless of any UN decision to the contrary; the physical safety of the Force was at stake; the cooperation of the Egyptian Government was essential to the effective functioning of the Force; and the failure to comply with Egypt's request would impair future peace-keeping efforts by discouraging other nations from agreeing to station UNEF-type forces on their soil. The inflexible Egyptian attitude prevented an appeal to President Nasser to reconsider this decision.
55. For details of the chronology between May 16 and May 19 see the Secretary-General's Report of June 26, 1967, supra, note 23, Par. 5-28.
56. U.N. Doc. A/6730, Par. 6, subpar. 3(c).
57. N.Y. Times, June 20, 1967, 19:1.
58. Supra, note 56, Pars. 6, 7.
59. Three contributors to UNEF who were not members of the Committee also were present (Yugoslavia, Denmark and Sweden).



60. See excerpts from the Annual Report of the Secretary-General on the work of the Organization, U.N. Monthly Chronicle, 101-03 (October, 1966).
61. Thus, for example, demilitarization of the West bank of the Jordan, demilitarization of part of the Sinai in return for equal Israeli demilitarization of the Negev, and passage of Israeli goods but not ships through the Suez Canal have received mention.
62. N.Y. Times, December 16, 1967, 3:1.
63. Israeli public opinion may well be approaching the point of believing that even a peace treaty is not worth the sacrifice of gains made in the June war, since guarantees can always be broken at a later date.
64. N.Y. Times, June 14, 1967, 18.
65. Ibid.
66. U.N. Charter, Art. 14.
67. Id., Art. 37, Par. 2.