

MEETING WITH MAJOR GENERAL VAGN BENNIKE
Monday, 28 September 1953

Present: Mr. M. Sharett	Major General Vagn Bennike
Aluf Moshe Dayan	Mr. Henri Vigier
Mr. Gideon Rafael	Lt.Col. William T. McAninch
Mr. Joseph Tekoa	Mr. Axel Serup
Sgan-Aluf A. Shalev	

MR. SHARETT: I wish to thank you for your letter which I got yesterday and which made it possible for us to meet this afternoon, I hope in a friendly spirit and in mutual quest of a practicable and honourable solution of the differences which have unfortunately arisen. I am afraid I have inflicted on you a fairly lengthy letter - I am referring to my reply to your original communication - but I still have a few words to add which I did not put quite explicitly in my written document. As I said, we were considerably disturbed by the contents of your communication - and on this occasion I shall indicate more precisely why.

The crux of the whole position that you seem to have adopted is in the conception of the need for an agreement before the work can be allowed to proceed. You did not expressly say that you meant an agreement with the other party - with Syria. But you came very close to giving the impression that that was in your mind.

To us the idea that Syria's consent or approval should have to be sought for any work of development that we might want to carry out in the Demilitarised Zone is utterly unacceptable. It would give Syria a stranglehold on development work in that area. As you are aware, it is not merely a question of development in the Demilitarized Zone itself - development projects vital to the State of Israel as a whole depend on what we can do in that particular corner. That means actually placing Syria in a dictatorial position in relation to a very large part of the future irrigation and power development in Israel. For us, in these circumstances, to comply with your request, means to sign, with our own hands, a death warrant on all such development projects. We do not think that in fairness we can be expected to do anything of the sort. From the legal standpoint we must deny that we are under any obligation to do so under the Armistice Agreement. But in any case this is not to us merely a technical matter of the implementation of this or that article of the Armistice Agreement. What is at stake are fundamental problems bearing upon the economic future of our country.

I would very much appreciate it if we could achieve clarity on this fundamental point. If you would say that we are not completely and exclusively masters of the Demilitarized Zone in the sense that we can do there anything that comes to our mind - if you feel there are matters in which you should have a say - that would be a different thing. If you say that certain things must be agreed between you and ourselves, that can be discussed. I hope that we would then be able to reach a common language on this. But if you expect us to accept the position that we have to go to Syria and beg for permission to do this or that in the Demilitarized Zone, we might just as well spare ourselves the trouble. They will never consent. These people are bent on mischief - I am not moralising - it is a political fact. They are determined to make the life of this state a misery. They will use every and any pretext to put difficulties in our way and they will use every and any pretext to cover up their motives, invoking private rights, strategic considerations and what not. It would be utterly idle for us to expect them to agree, and therefore it would be idle for anyone to expect us to seek their agreement.

What aggravated the position in our mind was that when you asked for the interruption of the work, it is true you did not indicate any date or hour for stopping it, and I appreciate that, on the other hand you indicated no

duration for the stoppage, and the spirit of what you said conveyed the impression that you expected us to stop the work, if necessary, indefinitely. That again was something we could not possibly accept. In the past, as you are no doubt aware, situations have arisen when your predecessor felt impelled to call upon us to stop the work, but it was always for a definite period of short duration, to enable him to clear up certain points. We always complied with such requests, with or without a prior give and take. If you had said - and you are entitled to say it - that you would like us to stop the work because you wanted to investigate certain aspects, I would not say that you were right, but that would be an entirely different situation from that created by your first letter.

Coming to your motives in requesting us to stop the work, if I am right in thus summing up the points you have made, I think they are three in number:

First, you said you cannot take our word for it that no Arab land is involved, that you must investigate. It is perfectly reasonable for you to say: alright, you say this, but I must be satisfied, on seeing the documents, that this is really so.

Second, that you cannot accept our word for it that the rights to water established by usage will not be adversely affected by the work we are planning.

GEN. BENNIKE: It is not a question of my feelings - it is a question of Syria's feelings.

MR. SHARETT: I wish you had said that it was you who had to be satisfied on these points by reference to documents and other data. The moment you say it is the Syrians, you raise a very serious issue. I wish you would leave us under the impression that since you have your own technical advisers, you would like this to be established to your own satisfaction. Once you put it on that plane, I say there can be no objection on our part. The moment you raise the question of Syria, it is a different matter on which I am afraid there can be no agreement.

The third reason is more complicated. You say by digging that canal and by our ability to switch the water over - whatever may happen to the water - we fundamentally alter the situation in the Demilitarized Zone and we are liable to make it less capable of fulfilling ~~the~~ function in the Zone, namely, to serve as a means of separation between the armed forces of the two sides.

I believe it is for the first time that we are faced with an attempt to interpret that particular article of the Armistice Agreement in this manner. So far we always thought - and I think this stands confirmed by previous utterances and rulings of U.N. representatives - that it was correct for us to read the Armistice Agreement in that respect as follows. It was felt necessary to create a Demilitarized Zone to separate the armed forces of the two sides. The very existence of a Demilitarized Zone is such means of separation. The fact that it must stay demilitarized is an obstacle to a meeting, a clash, an encounter between the two sides. It is not a certain physical condition of the Zone that serves as a bulwark - it is the existence of the Zone as such. This was called a Demilitarized Zone - it was not called a no-man's-land. A no-man's-land has been created in Korea. A no-man's-land cannot be entered by anybody. A demilitarized zone is different. Normal life continues there - and normal life is not static, it is a process of constant change. The only way it differs from any other area is that no military forces can enter there. This is not a newfangled conception which evolved as the result of the differences between Syria and Israel - it is a well-established conception in international law and practice. There can be no justification for insisting that certain features of a demilitarized zone should remain intact. There is no such provision in the Armistice Agreement, while there is a very clear injunction in the Agreement *that no military forces may enter*. There was once a question put to you, M. Viquier, and you *secretly* said the same thing - more or less that the very *emptiness of this zone of military forces* is what ensures the fulfilment of its objective.

This position was at a certain stage challenged by the other side. The Syrians tried to make out a case on that score against the Huleh drainage project. Naturally they could say nothing with regard to that section of the swamp which even by their admission was Israel territory, so they raised the question of that part that lies in the Demilitarized Zone. They said that if the swamp disappears, then an obstacle disappears, and it will not serve the purpose of separating the forces. This was rejected by your predecessor, and his stand was confirmed by the Security Council. The issue figured in the proceedings of the Security Council and the upshot of the discussion was that the Security Council upheld the principle laid down by General Riley that the Syrians had no leg to stand on, within the Armistice Agreement, in putting forward that claim. To use an a fortiori argument, if the elimination of a huge swamp is right and proper, then how much more is it permissible to dry up a river bed. It stands to reason that it is more difficult for heavy armour to cross a swamp than to get over a stream on a bridge which can be improvised. Naturally it is easier to cross it if there is no water in it, but it is still more difficult to cross a swamp. I am afraid on this we must agree to differ.

On the question of the suspension of the work - the whole idea of a temporary suspension of work is not such as to make us faint, we have done it before; but we do not think that a request for even a suspension is justified in this case - that is, suspension for a fixed period and for a definite purpose. We feel convinced that there is no case for even such suspension. Suspension might be justified to clear up certain facts. We were once found to be in the wrong in certain respects - the resolution of the Security Council reprimanded us because of certain things - we learned a lesson and we have taken good care to abide by the principles then laid down. What was expressed in that resolution was the fact that while development projects are perfectly legitimate and we were entitled to proceed with development work we cannot be allowed to do so on land owned privately by people without coming to terms with them. In the initial stage of this project we did work on Arab land. We were declared to be in the wrong in that respect. We were called upon to stop and we did. We proceeded with the work without touching that land. Then General Riley said: "You say this land is yours, I want to verify it. Please stop the work while I do." In his report to the Security Council after the adoption of that famous resolution, he said, in Paragraph 13:

"When it was learned that the Palestine Land Development Company could work on certain Israel lands without infringing on Arab land, the Chief of Staff then requested the Palestine Land Development Company again to stop all work on 5 June 1951 in the demilitarized zone in accordance with S/2157 until the Chairman had the opportunity to check as to whether lands on which work was resumed on 24 May could be considered as Arab-owned. This investigation was completed and as lands were not considered to be Arab-owned, permission was granted to the Palestine Land Development Company to proceed with work on 11 June 1951. This action was based on article V as interpreted by the final paragraph of the explanatory note of 26 June 1949."

The suspension was decreed for that purpose. What was the logic of that suspension? It was as if to say that while I investigate you must not work, lest in the meantime you create facts which would make my investigation futile.

I maintain that such a contingency does not arise in this case. There are two complexes of private rights here involved: ownership of land and water rights. As to the first, we can satisfy you in a few minutes that there no Arab land is affected. If that is the worry there is no need of suspension. The situation may be more complicated with regard to water rights. But in order to investigate the water rights there is again no need to stop our present work, because in the course of our present work no facts are likely to be created

which might make the inquiry senseless. We are not engaged in the process of diverting the stream or altering the intensity of it. We are digging a canal into which eventually we plan to divert part of that stream for certain purposes. For the time being nothing is happening to the river itself.

The facts can be ascertained by reference to technical data. While the ascertaining goes on we shall not in the meantime be creating facts of an irrevocable nature which would prejudice the issue. We are not in a position to do anything of the sort. There is nothing involved in the nature and scope of the work as carried on/ at present which is likely to prejudice the issue in that regard, so that the work can proceed calmly, without in the least vitiating the inquiry, and the inquiry can proceed without paralysing the work. We are also ready to give you an ironclad guarantee that we will not tamper with the existing rights. The creation of that certainty should in effect be the purpose of this investigation. You should investigate the situation with a view to devising the kind of guarantee from us which would be satisfactory to you. We do not see any real justification for the stoppage of the work for that purpose.

Here is an invitation to you to join us in that inquiry. The question of the land can be settled in no time. The question of the water may take a few days and the primary operative purpose of that investigation should be to devise a satisfactory form - naturally such as we shall be able to give within the realm of practicability - of a guarantee that would satisfy you that the water rights of the owners in the Demilitarized Zone would not be adversely affected. This completes what I had to say at this stage.

GEN. BENNIKE: Can I have a copy of the record which has been taken?

MR. SHARRETT: Certainly.

GEN. BENNIKE: I would like to have your statement and then give you an answer.

MR. SHARRETT: Then we would meet again?

GEN. BENNIKE: Or I would send it in writing.

MR. SHARRETT: I should prefer that we meet again. I thought we had met to look together for a solution. Once you formulate your views in writing they become congealed in an official document of international importance. I think the quest of a solution justifies a greater measure of elasticity.

GEN. BENNIKE: (After consultation with his legal adviser): Another solution would be to give an answer to your letter and afterwards discuss your statement of to-day.

MR. SHARRETT: You can certainly send me your answer, but if it will not be influenced by what I have just said then I will have spoken in vain. I have made the effort to influence your answer.

GEN. BENNIKE: I would consider another meeting.

MR. SHARRETT: I would suggest that you delay giving me your answer to my letter - I think I was more explicit in my verbal explanation than in my letter. The main points are: first, if it is an agreement with you, it is one thing; an agreement with the Syrians is another matter. Second, if a suspension of work is involved, for how long? I think an investigation can be carried out without a suspension of the work. I am basing myself on a series of precedents and on the resolution of the Security Council. We read the Security Council resolution as considering it perfectly legitimate for us to work in the

Demilitarized Zone on the full understanding that there can be no development work which does not alter the face of the country, which does not produce changes in its physical condition. The particular project to which the Security Council referred in its resolution wrought a vast change in the face of the land in that it eliminated a swamp which was there since time immemorial. The Security Council said, in effect, that this was legitimate. It also said that we should not tamper with the rights of private owners. The Security Council never admitted that Syria had any rights in the matter and that agreement with Syria had to be sought. And that is what we are now basing ourselves upon. Syria is here completely ultra vires.

If you want to think it over, we can fix a time for another meeting.

GEN. BENNIKE: I would prefer to wait a little.

MR. SHARRETT: We can then expect to hear from you.

GEN. BENNIKE: In a very few days.

MR. SHARRETT: The General suggested that at the end of the meeting our legal adviser and his legal adviser should meet to work out a joint communique to the press on this meeting.

The meeting lasted forty-five minutes.

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