

the English text of Security Council Resolution 242 of November 22, 1967³ should, for purposes of interpretation, enjoy some measure of precedence over the French version. Rejecting this presumed implication, Mr. de Valdés argued that "the French version of the resolution carries, in every respect, just as much weight as its English counterpart." I could not agree more with Mr. de Valdés's conclusion. This comment is meant only to refute his finding that the contrary was implied in my article.

The contention made in my article was that the problem of multilingual interpretation was, in the first place, irrelevant in the context of Resolution 242, as the English text of that resolution cannot objectively mean other than the total withdrawal of Israeli forces mentioned also in the French version. The reasons for this contention are:

(1) The English text describes the territories from which withdrawal is required as those "occupied in the recent conflict" without any exception.

(2) The English text mentioned withdrawal of "Israel armed forces," not "the" Israel forces, without meaning of course that some Israeli forces will remain in every area from which these forces withdraw.

(3) The resolution separated the withdrawal issue and the issue of secure boundaries as it required withdrawal *from* occupied territories and not *to* secure boundaries. Security of boundaries is a relative matter that can mean different things to different parties. The language of the resolution does not relate withdrawal to such a relative and personal concept. Rather, it rightly affirms that the establishment of a just and lasting peace includes the application of the right of every state in the region to live in peace within secure and recognized boundaries, with the assumption that these will eventually be accepted by all the parties concerned.

(4) Any reading which interprets the resolution to mean less than complete withdrawal from all occupied territories imparts to the resolution a meaning which runs contrary to the basic principles of the United Nations, embodied in the resolution itself, relating to the inadmissibility of the acquisition of territory by war and the territorial integrity of every state. Furthermore, such a reading would fly in the face of the consensus of the international community. It reaches the point of absurdity by insisting that the integrity of states, their history, and geography, depend on the presence, or absence, of a definite article which is not even needed grammatically to convey the required comprehensive meaning.

In the light of the above, the question of multiple interpretation seemed to me to have no bearing on the interpretation of Resolution 242. The fact that some international lawyers have raised this question in defense of the political aims of the expansionist trend in Israel, and that the media have later made it a popular issue, does not in itself make it an issue that has to be tackled in a serious treatment of the Arab-Israeli conflict. To say that the issue is irrelevant, does not imply, however, that one version carries more or less weight than the other.

IBRAHIM F. I. SHIHATA

TO THE EDITOR-IN-CHIEF

June 21, 1977

The note by Toribio de Valdés, *The Authoritativeness of the English and French Texts of Security Council Resolution 422 (1967) on the Situation in the Middle East*,¹ is a classic instance of the error of literalness

³ 22 SCOR, RES. & DEC. 8 (1967), 62 AJIL 482 (1968).

¹ 71 AJIL 311 (1977).

in the interpretation of legal documents. All United Nations resolutions appear in all the official languages of the United Nations, and they are indeed official. But not all languages have the same capacity to express "the plain meaning" of those who negotiated, drafted, debated, and finally adopted a particular resolution. Security Council Resolution 242 was drafted, discussed, debated, and adopted in English. I reviewed the legislative history of the "missing" word "the" in this *Journal* in my article *The Illegality of the Arab Attack on Israel of October 6, 1973*.² Those pages treat the problem of translating the final English text into French, and report some of the diplomatic conversations which took place on the subject. At the time, we found no way to express the meaning of the English text in French, Spanish, or Russian. I am surprised that Mr. Toribio de Valdés did not address this material in his article.

EUGENE V. ROSTOW
Yale Law School

Mr. de Valdés replies:

With regard to Professor Rostow's comments, I wish to observe, first, that my note postulates the validity of the Spanish legal aphorism according to which "whatever is not in the records is not in this world" (*lo que no está en los autos no está en el mundo*). I believe that the full applicability of the principle underlying this colorful saying to the use of *travaux préparatoires* as a subsidiary means of interpreting treaties and decisions of international organs is beyond dispute. Accordingly, of the expressions of opinion that Professor Rostow cites in the relevant part of his article the only ones that can, in my view, carry any weight in interpreting Security Council Resolution 242 are those taken from the official records. This being so, I wish to point out that, in my considered opinion, neither these nor any other elements of the *travaux préparatoires* invalidate the last (parenthesized) sentence of footnote 6 of my note to the effect that those *travaux préparatoires* do not reveal the intention of the Council as to whether withdrawal under operative paragraph 1 (i) of the resolution was meant to be total or not. I would observe further that, since the Council did not, in considering and voting on the proposal that became Resolution 242, in any way deviate from its rules of procedure concerning working languages, Professor Rostow's assertion in his rebuttal of my note that the resolution "was . . . adopted in English" is factually incorrect, the resolution having been adopted, on a footing of complete equality, in both English and French. (I might add, incidentally, that I am surprised by Professor Rostow's reference to the Spanish and Russian versions of the resolution; since these two languages were, at the time, official but *not* working languages, the texts of the resolution in Spanish and in Russian, not having been submitted to the vote, carry no weight for purposes of interpretation.) Professor Rostow's assertion that the resolution was "drafted, discussed, [and] debated . . . in English" can be correct only with respect to actions and negotiations that, having been conducted informally and in private, are not reflected in the official records, on which alone any interpretation based on *travaux préparatoires* can rest.

With respect to Dr. Shihata's remarks, I now realize that my having attributed to him the implied judgment to which he takes exception rested on a misreading, which I regret, of footnote 70 (68 AJIL 604 (1974)) of

² 69 AJIL 272, at 282-86 (1975).