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PALESTINE

PROPOSALS FOR A PERMANENT INTERNATIONAL REGIME FOR THE JERUSALEM AREA

Communication from the United Nations Conciliation Commission for Palestine to the Secretary-General transmitting the text of a draft Instrument

Lausanne, 1 September 1949

The United Nations Conciliation Commission for Palestine has the honour to submit herewith to the Secretary-General, for transmission to the General Assembly of the United Nations, the text of a draft Instrument establishing a permanent international regime for the Jerusalem area.

By its resolution 194 (III) of 11 December 1948, the General Assembly instructed the United Nations Conciliation Commission for Palestine to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which would guarantee each distinctive group the maximum local autonomy compatible with the special international regime of the Jerusalem area.

The Conciliation Commission, at its thirteenth meeting held on 8 February 1949, established a Committee on Jerusalem. This Committee had devoted careful study to the Jerusalem question in all its aspects. On 27 August last, the Committee on Jerusalem submitted its conclusions to the Conciliation Commission. The Commission, at its 92nd meeting held on 29 August 1949, adopted the text of a proposal entitled: "Draft Instrument establishing a permanent international regime for the Jerusalem area" (A/AC.25/1 attached).

In submitting to the General Assembly this plan for a permanent international regime for the Jerusalem area, the Conciliation Commission wishes to draw the attention of the Assembly to the following points:

1. The Commission has drawn up a plan which, in its opinion, can be applied in the present circumstances. This should not, however, be interpreted as in any way prejudging the final

/settlement

settlement of the territorial question in Palestine. It is the considered opinion of the Commission that the provisions of the proposed Instrument are sufficiently flexible to make it possible for the Instrument, with certain modifications, to be applied to any territorial situation that might emerge from the final settlement of the Palestine problem, and that it can be adopted by the General Assembly at its forthcoming session if the Assembly thinks fit.

2. In view of the fact that the question of the demarcation line between the Arab and Jewish zones of the area of Jerusalem (article 2) is intimately connected with the final settlement of the Palestine problem, the Commission has not deemed it advisable for the present to make any proposal as to the actual demarcation line. The Commission believes that the Instrument can be put into effect with the present armistice line as a provisional demarcation line, without prejudice to the establishment of a definitive line at a later stage.

(Signed) Claude de BOISANGER

Paul A. PORTER

H. CAHIT ~~CAHIT~~ YALÇIN

DRAFT INSTRUMENT ESTABLISHING A PERMANENT INTERNATIONAL
REGIME FOR THE JERUSALEM AREA*

Preamble

The United Nations

Having resolved by its resolution of 11 December 1948 that the Jerusalem area, in view of its association with three world religions, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control,

Hereby establishes, in the exercise of its full and permanent authority over the Jerusalem area, a permanent international regime for the Jerusalem area in accordance with the following provisions:

I. GENERAL PROVISIONS

Article 1

The area of Jerusalem shall include the town of Jerusalem, together with the surrounding villages and towns, the most western of which is Ein Karim (including also the built-up area of Motsa); the most northern Shu'fat; the most eastern Abu Dis, and the most southern Bethlehem. The boundaries of the area of Jerusalem are shown on the attached sketch map (Annex A). The exact boundary lines shall be determined on the spot by a Mixed Boundary Commission under the chairmanship of a representative of the United Nations.

Article 2

The area of Jerusalem shall be divided into two zones, defined hereafter as the Jewish zone and the Arab zone. The demarcation line between the two zones shall be as follows ... This line is shown on the attached map (Annex B).

Any person who is domiciled in the Jewish zone or who habitually resides there shall, for the purposes of the present Instrument, be considered a resident of the Jewish zone.

Any person who is domiciled in the Arab zone or who habitually resides there shall likewise be considered a resident of the Arab zone.

Article 3

All matters not reserved by the present Instrument to the competence of the United Nations Commissioner and the organs provided for hereinafter are delegated to the respective competence of the responsible authorities of the two zones.

* A/AC.25/1.

Article 4.

The responsible authorities of the Jewish and Arab zones shall maintain in their respective zones only such agents and officials, and shall establish only such administrative organs and public services, as are normally necessary for the administration of municipal affairs.

Article 5

The responsible authorities of the Jewish and Arab zones shall take no steps in matters of immigration which might alter the present demographic equilibrium of the area of Jerusalem.

II. ORGANS

Article 6

The United Nations shall be represented in the area of Jerusalem by a Commissioner appointed for five years by the General Assembly of the United Nations. He shall be responsible to the General Assembly and may be dismissed by it. He shall report annually to the General Assembly and may also make special reports to the appropriate United Nations organs or specialized agencies whenever he deems it necessary.

The General Assembly of the United Nations shall also appoint for five years, on the recommendation of the Commissioner, a Deputy Commissioner who shall be responsible to the Commissioner and who may be dismissed by him. The Deputy Commissioner shall assist the Commissioner and shall replace him in the event of his absence or disability.

The Commissioner and the Deputy Commissioner shall neither be selected from among residents of the Jewish zone or the Arab zone, nor from among nationals of the State of Israel or of an Arab State.

Article 7

On behalf of the United Nations, the Commissioner shall ensure the protection of and free access to the Holy Places, in accordance with the terms of articles 15 to 20 of the present Instrument.

Article 8

On behalf of the United Nations, the Commissioner shall:

- (a) Supervise the permanent demilitarization and neutralization of the area, in accordance with the terms of article 21 of the present Instrument; and
- (b) Ensure the protection of human rights and of the rights of distinctive groups, in accordance with the terms of article 23 of the present Instrument.

/The Commissioner

The Commissioner shall report as the occasion arises to the appropriate organ of the United Nations concerning his responsibilities under paragraphs (a) and (b) above.

Article 9

The Commissioner may, whenever he deems it necessary, refer any violation of the present Instrument to the International Tribunal established under article 12 below.

Article 10

There shall be established for the area of Jerusalem a General Council which shall be composed of fourteen members appointed for three years and the United Nations Commissioner or Deputy Commissioner who shall preside. Five members shall be appointed by the responsible authorities of the Jewish zone and five by the responsible authorities of the Arab zone. Four members, of whom two shall be selected from among residents of the Jewish zone and two from among residents of the Arab zone, shall be appointed by the Commissioner, who shall endeavour to ensure by his choice equitable representation on the Council of distinctive minority groups in the Jerusalem area. The Council shall take decisions by simple majority vote of its members.

Article 11

The General Council shall have the following functions and powers:

- (a) To prescribe rules for the co-ordination and operation of the main public services of common interest to the area of Jerusalem, and to plan and supervise the execution, on an area-wide basis, of matters of municipal concern, such as the development of transport, communications and public utilities;
- (b) To prescribe rules in matters relating to the protection of sites and antiquities and to town-planning;
- (c) To co-ordinate measures for the maintenance of public order, whenever necessary;
- (d) To allocate the contributions of each zone towards expenditures in the common interest;
- (e) To study and recommend to the responsible authorities of the two zones economic and commercial arrangements or agreements with a view to promoting the economic development of the area of Jerusalem as a whole and facilitating trade both between the two zones and between the area and the world outside;
- /(f) To exercise such

(f) To exercise such further functions and powers as the responsible authorities of the two zones may agree to entrust to the Council.

Article 12

There shall be established an International Tribunal for Jerusalem composed of three judges and one deputy judge to be elected by the General Assembly and the Security Council in accordance with the procedure for election of judges to the International Court of Justice. The deputy judge shall replace any of the judges in the event of absence or disability. Each member of the Tribunal shall be of a different nationality and shall neither be selected from among residents of the Jewish zone or the Arab zone, nor from among nationals of the State of Israel or of an Arab State.

The members of the International Tribunal shall hold office for a term of five years but may be re-elected. They may be removed for cause by the General Assembly of the United Nations.

The International Tribunal shall sit in Jerusalem. It shall determine its own rules of procedure. The Tribunal shall designate one of its members to serve as President for such period as the Tribunal may determine. The members of the Tribunal shall receive salaries and allowances in amounts to be determined by the General Assembly.

The International Tribunal shall have jurisdiction:

- (a) To hear and determine cases submitted to it by the Commissioner under articles 9 and 23 of the present Instrument;
- (b) To hear and determine cases between the responsible authorities of the Jewish and Arab zones and between the United Nations Commissioner and the responsible authorities of either zone involving claims that laws, ordinances, regulations, administrative acts or court decisions applying to the area of Jerusalem are incompatible with the present Instrument;
- (c) To review, in its discretion, final decisions of the Mixed Tribunal for Jerusalem provided for in article 13 of the present Instrument;
- (d) To decide such disputes regarding Holy Places, religious buildings and sites inside the Jerusalem area as the United Nations Commissioner may submit to the Tribunal under article 19 of the present Instrument.
- (e) To decide such disputes regarding Holy Places, religious buildings and sites outside the Jerusalem area as the United Nations Commissioner or the Government concerned may submit

to the Tribunal under article 20 of the present Instrument and the provisions of the declaration to be made by the States concerned.

Decisions of the International Tribunal shall be binding on the parties.

The International Tribunal may issue such orders and injunctions as it deems necessary for the effective exercise of its jurisdiction.

Article 13

There shall be established a Mixed Tribunal for Jerusalem composed of three judges and three deputy judges. One judge and one deputy judge shall be appointed by the responsible authorities of the Jewish zone. One judge and one deputy judge shall be appointed by the responsible authorities of the Arab zone. One judge and one deputy judge shall be appointed by the President of the International Tribunal for Jerusalem and shall neither be selected from among residents of the Jewish zone or the Arab zone, nor from among nations of the State of Israel or of an Arab State.

The deputy judges shall replace the judges in the event of absence or disability. The judge appointed by the President of the International Tribunal, or the deputy judge appointed by him, as the case may be, shall act as President of the Mixed Tribunal.

The members of the Mixed Tribunal shall hold office for three years but may be re-elected. They may be removed for cause by the International Tribunal.

The Mixed Tribunal shall sit in Jerusalem. Its decisions shall be rendered in the name of the United Nations. It shall determine its own regulations and rules of procedure. The members of the Tribunal shall receive salaries and allowances in amounts to be determined by the General Assembly.

The Mixed Tribunal shall have jurisdiction with respect to civil cases in which:

- (a) All the parties involved are residents of the Jerusalem area but not residents of the same zone;
- (b) One or more of the parties involved is not a resident of either zone, but is a national of an Arab State temporarily staying in the Jewish zone or an Israeli national temporarily staying in the Arab zone.

In civil cases, the Mixed Tribunal shall apply the law of the locus in accordance with the general principles of private international law.

/The Mixed Tribunal

The Mixed Tribunal shall have criminal jurisdiction with respect to all offences committed in either zone when either the victim or the accused is a non-resident of that zone.

In criminal cases, the Mixed Tribunal shall apply the criminal law of the zone in which the offense has been committed. In cases of doubt, the criminal law and procedure of the zone most favourable to the accused shall be applied.

The decisions of the Mixed Tribunal may be reviewed by the International Tribunal as provided for in article 12 of the present Instrument.

The Mixed Tribunal may issue such orders and injunctions as it deems necessary for the effective exercise of its jurisdiction. The decisions and orders of the Mixed Tribunal shall be executed by the appropriate authorities of the zone in which the decision or order applies.

Article 14

The Commissioner shall be authorized to employ under temporary contracts the number of guards necessary to assure the protection of and free access to the Holy Places, religious buildings and sites, as well as to assure his own security and that of his staff. He shall further be authorized to employ under temporary contracts the auxiliary administrative personnel necessary for the carrying out of his functions.

The salaries, allowances and administrative expenses of the United Nations Commissioner, the Deputy Commissioner, the members of the International Tribunal for Jerusalem, the President of the Mixed Tribunal for Jerusalem and his deputy, and the staff of the Commissioner, including guards and administrative personnel, shall be included in the annual budget adopted by the General Assembly and shall be paid by the United Nations. These salaries and allowances shall be exempt from taxation.

III. HOLY PLACES, RELIGIOUS BUILDINGS AND SITES INSIDE THE JERUSALEM AREA

Article 15

Holy Places, religious buildings and sites shall be understood as those places, buildings and sites which were regarded on 14 May 1948 as Holy Places, religious buildings and sites.

If any question arises as to whether any place, building or site was regarded on 14 May 1948 as a Holy Place, religious

/building or site

building or site, the decision shall rest with the Commissioner.

If any question arises as to whether any place, building or site not hitherto regarded as a Holy Place, religious building or site shall be considered as such, the decision shall rest with the Commissioner.

For the purpose of deciding the questions mentioned in paragraphs 2 and 3 of this article, the Commissioner may appoint a Committee of Enquiry to assist him.

Article 16

The Holy Places, religious buildings and sites in the area of Jerusalem and the routes giving immediate access to them shall be placed under the exclusive control of the Commissioner, who shall be authorized to promulgate regulations with a view to assuring their protection and free access to them, and to station guards charged with the maintenance of order outside and inside them. Such regulations shall be binding on the responsible authorities of both zones, who whenever necessary shall implement them by issuing further rules. The Commissioner shall also be authorized to station guards along certain urban routes normally used by ministers and members of the Christian, Jewish and Moslem religious communities proceeding to the above-mentioned Holy Places, buildings and sites.

Article 17

No form of taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from such taxation on 14 May 1948.

No change in the incidence of any form of taxation shall be made which would either discriminate between the owners and occupiers of Holy Places, religious buildings and sites or would place such owners and occupiers in a position less favourable in relation to the general incidence of that form of taxation than existed on 14 May 1948.

Article 18

The Commissioner shall undertake to secure for ministers of religion, pilgrims and visitors free circulation throughout the area of Jerusalem without distinction as to nationality or faith. He shall have power to negotiate and conclude with the States concerned arrangements whereby the unhindered travel of ministers of religion, pilgrims and visitors to and from the area of Jerusalem shall be guaranteed.

/Article 19

Article 19

The rights in force on 14 May 1948 with regard to Holy Places, religious buildings and sites shall remain in force, in particular those rights and practices known as the "status quo" established in 1757 applying to the principal Holy Places of the Jerusalem area. If any dispute arises in connexion with such Holy Places, religious buildings and sites between two or more religious communities, the Commissioner shall, if he deems it necessary, appoint a Committee of Enquiry to assist him in settling the dispute in accordance with the practices and rights in force on 14 May 1948. If the suggestions of the Commissioner are not accepted by the parties, the Commissioner shall submit the matter to the International Tribunal whose decision shall be final.

Neither the Commissioner nor the International Tribunal shall have any authority to intervene in a dispute within a single religious community.

If at any time it appears to the Commissioner that any Holy Place, religious building or site is in need of urgent repair, he may call upon the community or denomination or section of the communities concerned to carry out such repair. If the repair is not carried out or is not completed within a reasonable time, the Commissioner may himself make arrangements to carry out or complete the repair. In cases where the communities concerned are unable or unwilling to pay for these works, the Commissioner shall charge them to the account of expenditure in the common interest.

IV. HOLY PLACES, RELIGIOUS BUILDINGS AND SITES OUTSIDE THE JERUSALEM AREA

Article 20

The Commissioner shall be authorized to supervise the implementation of undertakings made by the States concerned regarding Holy Places, religious buildings and sites of Palestine situated outside the area of Jerusalem. He may submit to the International Tribunal for decision disputes regarding the implementation of these undertakings.

V. DEMILITARIZATION AND NEUTRALIZATION

Article 21

The area of Jerusalem shall be permanently demilitarized and neutralized. There shall be no military or para-military forces or stocks of war material within the area.

/The responsible

The responsible authorities of the two zones shall make declarations to the General Assembly guaranteeing the demilitarized character of their respective zones.

Any violation of the provisions contained in these declarations or any attempt to alter the international regime by force shall, unless settled by negotiations or pursuant to a decision of the International Tribunal for Jerusalem, be reported by the Commissioner to the Secretary-General of the United Nations, who shall bring the matter to the attention of the appropriate organ of the United Nations.

Nothing in this article shall affect the right of the responsible authorities to maintain within their respective zones police forces armed with normal police weapons, for the purpose of maintaining order and security. The number of police in each zone shall not exceed 500 unless an increase is temporarily authorized by the United Nations Commissioner.

VI. ECONOMIC AND FINANCIAL PROVISIONS

Article 22

The responsible authorities of the Jewish and Arab zones shall negotiate such arrangements of an economic and financial nature as may be appropriate in the circumstances, taking into consideration the necessity of facilitating commercial relations between the two zones.

VII. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 23

The responsible authorities of the two zones of Jerusalem shall ensure, in their respective zones, the observance of human rights and fundamental freedoms, in particular freedom of worship and freedom of education, as set forth in the Universal Declaration of Human Rights approved by the General Assembly on 10 December 1948 "as a common standard of achievement for all peoples and all nations". Should the United Nations Commissioner consider that the responsible authorities of either of the two zones are failing to comply with these obligations, he shall refer the matter to the International Tribunal for decision or, if necessary, bring the matter before an appropriate organ of the United Nations.

VIII. SPECIAL PROVISIONS

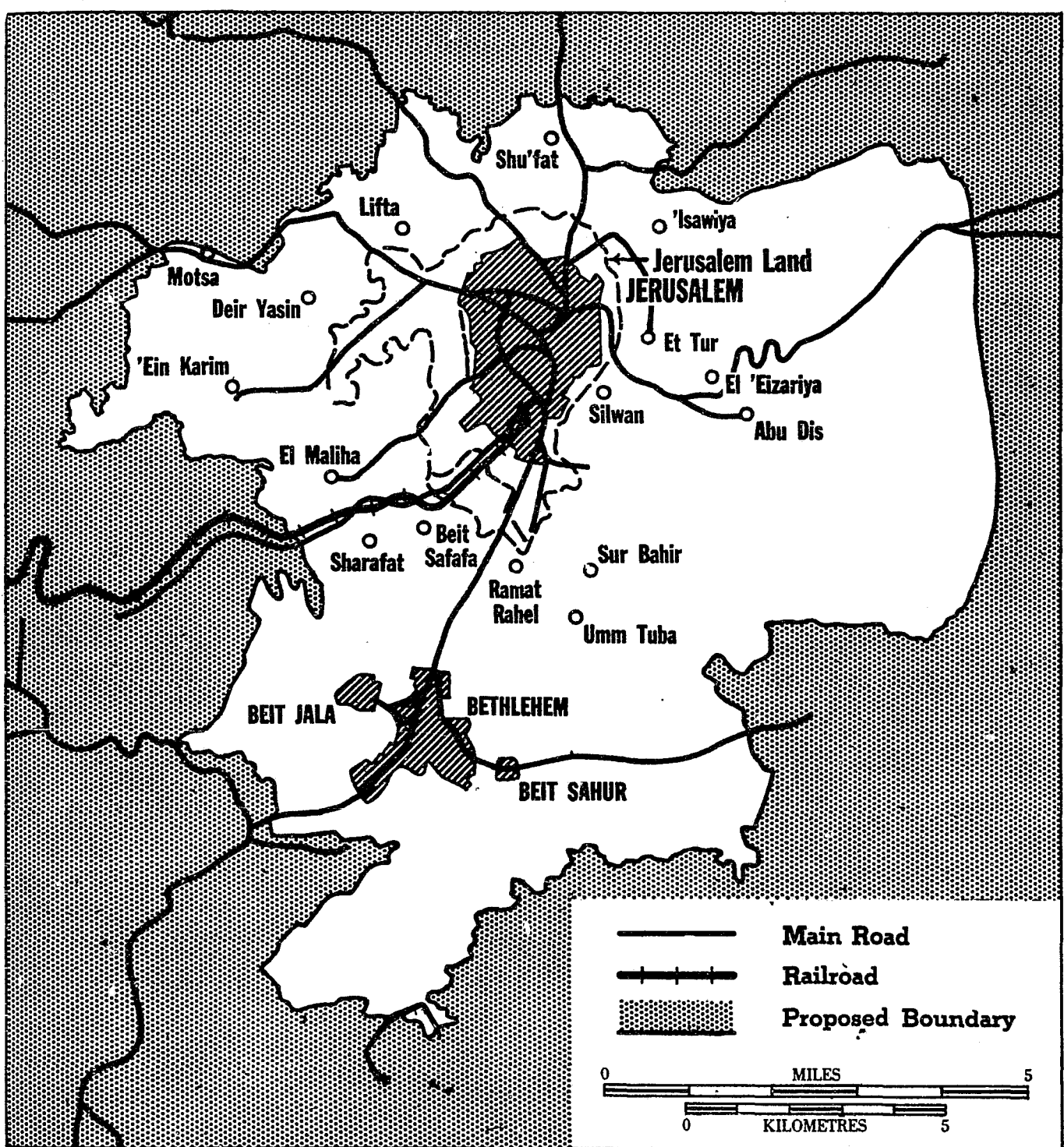
Article 24

The official languages used in the area of Jerusalem in application of the provisions of the present Instrument shall be English, French, Hebrew and Arabic.

Article 25

The present Instrument shall enter into force on
It can be revised or amended by the General Assembly of the United Nations.

ANNEX A
INTERNATIONAL AREA OF JERUSALEM BOUNDARIES
SKETCH MAP



ANNEX B*

* Not reproduced (see paragraph 2 of the covering letter from the United Nations Conciliation Commission for Palestine).