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## QUESTION OF AN INTERNATIONAL REGIME FOR THE JERUSALEM AREA AND PROTECTION OF THE HOLY PLACES

### DRAFT STATUTE FOR JERUSALEM

#### Memorandum prepared by the Secretariat

In accordance with the request of the Trusteeship Council of 20 February 1950, the Secretariat has prepared this working memorandum which contains the following technical changes in the body of the Statute:

- (1) Wherever necessary reference has been made to the resolution of the General Assembly of 9 December 1949.
- (2) Articles 32 and 39 referred to in the General Assembly resolution of 9 December 1949 have been deleted.
- (3) References to Economic Union as provided for in the Plan of Partition with Economic Union have been deleted.
- (4) References to the Arab State, to the Jewish State and to Palestine, which the Trusteeship Council may wish to reconsider have been put in brackets.

The Secretariat has reproduced in this memorandum only those articles in which one of the suggested changes occur.

#### ARTICLE 1

##### Special international regime

1. The present Statute defines the special international regime for the City of Jerusalem, hereinafter referred to as "the City", and constitutes it as a corpus separatum under the administration of the United Nations.\*

\* The words "in accordance with the Plan of Partition with Economic Union, hereinafter referred to as "the Plan", which is set forth in the resolution of the General Assembly on 29 November 1947 referred to in the Preamble to this Statute." have been deleted.

2. This Statute shall prevail in the City. No judicial decision shall conflict or interfere with its provisions, and no administrative act or legislative measure which conflicts or interferes with its provisions shall be valid.

## ARTICLE 2

### Boundaries of the territory of the City

1. The territory of the City shall include the present municipality of Jerusalem together with the surrounding villages and towns, the most eastern of which is Abu Dis, the most southern Bethlehem, the most western Ein Karim [including also the built-up area of Motza] and the most northern Shu-fat.

2. The precise boundaries of the City shall be as delimited by the Commission contemplated by Part I, Section B, paragraph 1 of the General Assembly Resolution of 29 November 1947, in accordance with the directions set out therein and shall be described in due course in an annex to this Statute.

## ARTICLE 3

### Functions of the Trusteeship Council

The Trusteeship Council, by virtue of the authority conferred upon it by the resolution of the General Assembly of the United Nations of 29 November 1947 and 9 December 1949 shall discharge the responsibilities of the United Nations for the administration of the City in accordance with this Statute.

## ARTICLE 9

### Citizenship

1. Every resident of the City at the date of the coming into force of this Statute shall become ipso facto a citizen of the City: Provided that:

(a) Every Arab or Jew, who desires to become a citizen of [the Arab State or Jewish State respectively,] may give notice of such desire in such manner and within such period as the Governor shall by order prescribe after the coming into force of this Statute [or the setting up of the Arab State or the Jewish State, respectively, whichever event is the later] and thereupon he shall cease to be a citizen of the City:

(b) Every person so becoming a citizen of the City who desires to retain the citizenship of any State of which he is a citizen may give notice of such desire in such manner and within such period as the Governor shall by order prescribe, and thereupon he shall cease to be a citizen of the City with effect on and from the date of the coming into force of this Statute;

(c) Unless a wife gives notice on her own behalf within the period prescribed by order of the Governor, she shall be bound by the decision of her husband in either submitting or not submitting notice as prescribed by paragraph 1 of this article;

(d) A notice given by a parent under the terms of paragraph 1 of this article shall bind his or her children of minor age of whom he or she has custody, provided that such a minor, on attaining his majority, may opt for the citizenship of the City by giving notice in such manner as the Governor may by order prescribe.

2. Subject to the provisions of paragraph 1 of this article, the conditions for the acquisition of citizenship of the City by persons who become residents after the date of the coming into force of this Statute and for the loss of citizenship of the City shall be laid down by legislation of the City.

#### ARTICLE 10

##### Selection of and responsibility of the Governor

1. The Governor of the City shall be appointed by the Trusteeship Council and shall be responsible to that Council.

2. The Governor shall make regular and, whenever necessary, special reports to the Trusteeship Council.

3. The Governor shall be selected on the basis of special qualifications and without regard to nationality: Provided that he shall not be a citizen of the City, [the Arab State or the Jewish State.]

#### ARTICLE 14

##### Preservation of order

1. The Governor shall be responsible for the organization and direction of the police forces necessary for the maintenance of internal law and order.

2. The Governor shall organize and direct a special police force, of such numbers as he shall deem necessary, to assist in the maintenance of internal law and order, and especially for the protection throughout the City of the Holy Places, religious buildings and sites. Members of the special police force shall be selected without distinction as to nationality: Provided that they shall not be recruited from among citizens or residents of the City, the Arab State or the Jewish State.<sup>7</sup>

## ARTICLE 16

### Organization of the Administration

1. The Governor shall be assisted by a Chief Secretary who shall be appointed by the Trusteeship Council on the recommendation of the Governor. He shall be neither a citizen nor a resident of the City, the Arab State or the Jewish State.<sup>7</sup>

2. The Governor shall appoint an administrative staff, including an Attorney General, the members of which shall be selected on a non-discriminatory basis for their competence and integrity and, whenever practicable, from the residents of the City, the Arab State and the Jewish State.<sup>7</sup> Subject to any Instructions of the Trusteeship Council and to any legislation of the City, the appointments of members of the administrative staff may be terminated by the Governor at any time.

3. There shall be a Council of Administration consisting of the Chief Secretary and such other principal officers as the Governor may appoint. The Governor may also, if he considers it desirable, and to the Council other persons of his choice. The Council of Administration shall advise and assist the Governor in the administration of the City.

4. In the performance of their duties, the Governor, the members of the Council of Administration and administrative staff, including members of the police forces, shall not seek or receive any instructions from any Government or any authority other than the Government of the City and the Trusteeship Council.

## ARTICLE 29

### Access to the City

1. Subject only to the requirements of public order and security, and of public morals and public health, freedom of entry into and of temporary residence in the City shall be ensured to all foreign pilgrims and visitors without distinction as to nationality or faith.

2. Subject only to the requirements of public order and security, and of public morals and public health, and to the requirements of economic welfare as may be determined from time to time by the Governor under Instructions of the Trusteeship Council, citizens and residents of [the Arab State and the Jewish State] shall at all times be free to enter, visit, reside in and leave the City.

3. Immigration into the City by persons who are not citizens or residents of [the Arab State or the Jewish State,] and their residence within its borders, shall be controlled by order of the Governor under Instructions of the Trusteeship Council.

## ARTICLE 32

### Economic matters

According to paragraph I (2) of the Resolution of the General Assembly of 21 November 1949 (A/1245) the Trusteeship Council was requested to complete the preparation of the Statute of Jerusalem (T/118/Rev.2) "omitting the now inapplicable provisions, such as Articles 32 and 39".

## ARTICLE 35

### External affairs

1. Subject to the provisions of this Statute, and to any Instructions of the Trusteeship Council, the Governor shall conduct the external affairs of the City.

2. The Trusteeship Council, and the Governor to the extent that he is given general or special authority so to do by the Trusteeship Council, shall make arrangements by means of special international agreements or otherwise for the protection abroad of the interests of the City and of its citizens.

3. The Governor shall accredit representatives to [the Arab State and to the Jewish State] for the protection of the interests of the City and its

citizens in those States.

4. Representatives of [the Arab State and of the Jewish State] charged with the protection of the interests of the respective States and of their citizens in connexion with the international administration of the City, may be accredited to the Governor. Representatives may be accredited to the Governor by any other State if he so permits. All such representatives shall enjoy privileges and immunities no less than those accorded on 29 November 1947 to the representatives [in Palestine] of foreign Powers.

5. The Governor, on behalf of the City, may sign treaties which are consistent with this Statute [and with the regime of Economic Union provided for in the Plan.]

6. The Governor shall adhere on behalf of the City to the provisions of any international conventions and recommendations drawn up by the United Nations or by the specialized agencies referred to in Article 57 of the Charter of the United Nations which may be appropriate to the particular circumstances of the City, or would conduce to the achievement of the special objectives recited in the Preamble to this Statute.

7. Such international undertakings entered into by the Governor shall be subject to ratification by the Trusteeship Council, unless the Trusteeship Council should decide otherwise in any particular case or class of cases. The Governor shall inform the Legislative Council when it is in session concerning such international undertakings.

8. To the extent that they may be applicable to it, the City shall be bound by all international undertakings, both general and particular to which [Palestine] was a party on the date of the entry into force of this Statute. Subject to any right of denunciation provided for therein, such international undertakings shall be respected by the City throughout the period for which they were concluded.

9. Any dispute about the applicability and continued validity of any such international undertakings shall be referred to the Trusteeship Council, which may refer to the International Court of Justice for an advisory opinion in accordance with the provisions of the Statute of the Court.

10. Foreign Powers shall enjoy immunities no less than those in force in Palestine on 29 November 1947, in respect of their property within the City.



## ARTICLE 37

Responsibilities of the Governor for Holy Places, religious buildings and sites in the Arab State and the Jewish State

1. In accordance with the Plan, the Governor shall determine whether the provisions of the constitutions of the Arab State and Jewish State in relation to the Holy Places, religious buildings and sites, within the borders of those States, and the religious rights appertaining thereto, are being properly applied and respected.

2. The Governor shall seek full co-operation and such privileges and immunities as are necessary for the performance of his duties in the Arab State and the Jewish State.

3. The Governor shall negotiate with the two States in order to establish a permanent body, of which his representatives should be members, to supervise the Holy Places, religious buildings and sites.

4. If the Governor considers that the aforesaid constitutional provisions are not being correctly applied and observed, he may make recommendations to the States, in virtue of the responsibilities entrusted to him by the Trusteeship Council in accordance with the recommendations of the General Assembly.

5. The Governor shall inform the Trusteeship Council if his competence to decide disputes arising between any religious communities or within any religious community in connexion with any Holy Places, religious building or site is contested, or if his decisions or recommendations are not carried out, or if he does not receive full co-operation from the State or States concerned, or if he is not granted the necessary privileges and immunities for the performance of his duties.

## ARTICLE 39

## Entry into force of the Statute

According to paragraph I (2) of the Resolution of the General Assembly of 21 November 1949 (A/1245) the Trusteeship Council was requested to complete the preparation of the Statute of Jerusalem (T/118/Rev.2) "omitting the now inapplicable provisions, such as Articles 32 and 39".

## ARTICLE 40

### Continuity of existing legislation

All legislation in force [in Palestine on the day preceding the entry into force of this Statute,] in so far as it is applicable to the City on that day and is not inconsistent with the provisions of this Statute, shall continue to apply to the City, with such modifications as may be required by reason of the establishment of the Special International Regime, until such time as it may be amended or revoked by other legislation of the City.

## ARTICLE 43

### Definitions and interpretation

In this Statute unless the contrary is stated or the context otherwise requires:

(a) ["Arab State" and "Jewish State" mean the Arab State and Jewish State respectively for which provision is made in the Plan]; "Governor" means the Governor of the City, and includes, to the extent of his authority, any officer authorized by or in pursuance of this Statute to perform the functions of the Governor; "Instructions of the Trusteeship Council" means any instructions, whether of a general or special character which are given by the Trusteeship Council in relation to the application of this Statute;

(b) Words importing the plural or the singular may be construed as referring to one person or matter or to more than one person or matter;

(c) When a duty is imposed or a power is conferred, the duty shall be performed and the power may be exercised from time to time as occasion requires;

(d) When a power is conferred to make any order, to enact any legislation or to give any instruction or direction, the power shall be construed as including a power to rescind, repeal, amend or vary the order, legislation, instruction or direction;

(e) When a duty is imposed or a power is conferred on the holder of an office, the duty shall be performed and the power may be exercised by the holder of the office or by a person duly appointed to act for him.