



GENERAL ASSEMBLY

Fourth session

Item 18 (a) and (b) of the agenda

PALESTINE

Netherlands and Sweden: draft resolution

UNITED NATIONS PROTECTION OF THE HOLY PLACES, IN PALESTINE

The General Assembly,

Having regard to its resolutions 181 (II) of 29 November 1947 and 194 (III) of 11 December 1948,

Considering the obligation of the United Nations to ensure the protection of, and free access to, the Holy Places in Palestine, and to preserve the peace in Jerusalem,

Recognizing the profound interests of the world community in this matter,

Determining that for the purpose of the present resolution:

"Holy Places" shall be understood as those places, buildings and sites which were regarded on 14 May 1948 as holy places, religious buildings and sites or which subsequently may be acknowledged as such,

"Jerusalem area" means the city of Jerusalem as defined in part III, section B, of the Plan set out in resolution 181 (II) of the General Assembly dated 29 November 1947,

"Commissioner" means the United Nations Commissioner appointed under article VII of the present resolution,

Resolves

1. To invite the Governments of the States in Palestine to pledge themselves before the United Nations to:

(a) Observe human rights and fundamental freedoms and, in particular, freedom of worship and freedom of education;

(b) Refrain from any act that would endanger the safeguarding of Holy Places in their territories;

(c) Guarantee to nationals of their States and non-nationals free access to Holy Places in their territories;

(d) Observe and maintain all the existing rights and privileges of churches and religious communities, especially those regarding Holy Places in their territories;

/(e) Levy no

- (e) Levy no tax in respect of any Holy Places which was exempt from such taxation on 14 May 1948 and to make no change in the incidence of any form of taxation which would either discriminate between the owners and occupiers of different Holy Places 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;
- (f) Demilitarize the Jerusalem area in progressive stages in consultation with the mixed Armistice Commission, as provided for in article XI of the Armistice Agreement of 3 April 1949, and to bring about complete demilitarization of that area not later than three months after the coming into effect of a peace settlement between the States in Palestine;
- (g) Carry out in good faith the obligations and provisions laid down in section 2 of the present resolution, and to co-operate fully with the Commissioner in the tasks imposed on him by the present resolution.

2. To establish, in order to ensure the protection of and free access to the Holy Places in Palestine, an international regime for the Jerusalem area as set forth in the following articles:

Article I

The supervision of the protection of and free access to the Holy Places in Palestine shall remain the concern of the United Nations. The Commissioner appointed pursuant to Article VII shall exercise this supervision on behalf of the United Nations.

Article II

The Holy Places shall be preserved, and no act shall be permitted which may in any way impair their sacred character.

Article III

1. If any question arises as to whether any place, building or site is to be regarded as a Holy Place, the Commissioner shall decide.

2. If any question arises between any religious communities in connexion with any Holy Places, the Commissioner shall decide on the basis of existing rights.

3. Any party affected by a decision of the Commissioner under paragraph 1 or 2 above may appeal to the Special Court mentioned under Article XIII.

Article IV

Should a visitor or pilgrim be denied access, visit and transit to Holy Places, the Government concerned shall inform the Commissioner of the reasons thereof.

Article V

Rights and privileges of religious communities as well as of educational and cultural establishments, charitable institutions and hospitals which were in force on 14 May 1948, shall be maintained.

Article VI

1. Without prejudice to the provisions of the Armistice Agreement the Jerusalem area shall be demilitarized in progressive stages in consultation with the mixed Armistice Commission. Complete demilitarization will be put into effect not later than three months after the coming into effect of a peace settlement between the States in Palestine.

2. The jurisdiction and control of each part of the Jerusalem area will be exercised by the state concerned, subject to the powers of the Commissioner with regard to this area.

3. The States concerned shall not establish or maintain any central political or administrative organs in the Jerusalem area.

Article VII

1. There shall be a United Nations Commissioner to be appointed by the Secretary-General of the United Nations, on the nomination of a Committee of the General Assembly consisting of the eleven members of the Security Council. 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 whenever he deems necessary. His term of office shall be five years. His Headquarters shall be Government House. There shall also be a Deputy Commissioner, appointed by a similar process, who shall be responsible to the Commissioner and may be dismissed by him, subject to the approval of the Secretary-General of the United Nations. His term of office shall be five years. The Deputy Commissioner shall assist the Commissioner and shall replace him in the event of his absence or disability.

2. The Commissioner and the Deputy Commissioner shall not be selected from among nationals of the State of Israel or of an Arab State nor from among residents of the Jerusalem area.

3. The Commissioner shall be authorized to appoint and employ under temporary contracts the auxiliary administrative personnel necessary for the carrying out of his functions.

Article VIII

The functions of the Commissioner shall be:

(a) Those given to him by articles I, III, and XII;

/(b) To supervise

- (b) To supervise the implementation of articles II, V and VI, 1 and 3;
- (c) To ensure the protection of and the free access to Holy Places in the Jerusalem area.

Article IX

The Commissioner shall be empowered to employ under temporary contracts such guards as he thinks necessary for the performance of his functions in the Jerusalem area as well as to assure his own security and that of his staff. The salaries, allowances and administrative expenses of the Commissioner, Deputy Commissioner 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.

Article X

The Commissioner shall be empowered:

- (a) To defer or suspend the application of laws, ordinances, regulations and administrative acts pertaining to the Jerusalem area which in his opinion impair the rights and immunities and privileges to be protected, or prejudice the interests of the international community;
- (b) To issue in cases in which, notwithstanding his request, the appropriate authorities fail to do so, orders or regulations for the maintenance of public order and safety, necessary for the protection of and free access to the Holy Places in the Jerusalem area.

Article XI

The police forces of the local authorities concerned shall assist the guards of the Commissioner in the performance of their duties upon the request of the latter.

Article XII

If at any time it appears to the Commissioner that any Holy Place is in need of urgent repair, he may call upon the community or denomination or section of the community 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 carry out or complete the repair. The expenses incurred shall be charged to the Government concerned. Such expenses may be recovered from the community or denomination or section of the community concerned, subject to existing rights.

/Article XIII

Article XIII

1. For the settlement of any dispute arising from the implementation of this resolution between the Commissioner and either or both of the Governments concerned there shall be established a special Court. This Court will consist of the Consuls General or Consuls of Belgium, France, Greece, Italy, Netherlands, Poland, Union of Soviet Socialist Republics, United Kingdom and United States of America accredited to the Jerusalem area.

2. Decisions of the special Court shall be binding upon the parties.

3. The Court shall establish its own rules of procedure.

Article XIV

Within the terms of this resolution concerning the functions of the Commissioner the General Assembly may from time to time supplement the powers conferred upon him for the performance of these functions.

Article XV

The terms of section 2 of the present resolution shall be reviewed by the General Assembly after a period of three years from the date of its adoption.
