

of a unanimous recommendation by that Committee. There was need for clarification. The Australian representative had submitted a proposal in the Committee, to which the representative of the Dominican Republic had proposed a drafting amendment. The Belgian representative had then stated that he had objections to raise and that the drafting of the paragraph concerned should be deferred until such time as the Council had taken a decision on the substantive issue, and in particular on the Belgian proposal that the observations of individual members should be included as an annex. There could therefore be no question of a unanimous recommendation of the Committee and the Council was not bound by any such recommendation. The argument put forward was groundless, and should not be allowed to hold up the Council in its attempt to find a logical and coherent solution to the problem.

The meeting rose at 1 p.m.

232nd meeting

THIRTIETH MEETING

*Held at the Palais des Nations, Geneva,
on Tuesday, 21 February 1950, at 2.30 p.m.*

President : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, Dominican Republic, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

Observers from the following countries : Egypt, Israel, Hashemite Kingdom of the Jordan, Syria.

62. Question of an international regime for the Jerusalem area and protection of the Holy Places (General Assembly resolution 303 (IV) of 9 December 1949) (T/118/Rev.2, T/423, T/467 and T/469) (resumed from the 28th meeting)

FIRST READING OF THE DRAFT STATUTE FOR JERUSALEM
(T/118/Rev.2) (continued)

Article 2 : Boundaries of the territory of the City (continued)

1. The PRESIDENT reminded the Council that the Belgian representative had made a number of observations on the subject of article 2 at the twenty-third and twenty-eighth meetings.

2. Abdel MONEM MOSTAFA Bey (Egypt) recalled the objections he had voiced at the twenty-third meeting to the words "the present municipality of Jerusalem" and suggested that they be replaced by the phrase "the municipality of Jerusalem as it existed before the end of the British mandate for Palestine".

3. Mr. RYCKMANS (Belgium) was unable to accept the suggestion, since it was incompatible with those he had submitted. If, however, the original text of the draft Statute were retained, the suggested amendment should of course be adopted.

4. Mr. BENOIST (France) supported the Egyptian representative's suggestion, but wondered whether it would not be simpler to say "the municipality of Jerusalem, as delimited on 14 May 1948".

5. Abdel MONEM MOSTAFA Bey (Egypt) agreed.

6. Mr. JAMALI (Iraq) suggested, as an amendment, the use of the words "as delimited on 29 November 1947"; that would be more accurate.

7. Abdel MONEM MOSTAFA Bey (Egypt) again agreed.

8. Mr. BENOIST (France) agreed that that would be more accurate, although he considered that, in view of the studies carried out by the Conciliation Commission, a reference to the boundaries as they had existed on 14 May 1948 would appear to be preferable from the legal standpoint, since that date was an important one in the legal history of Jerusalem.

9. Mr. JAMALI (Iraq) said he was not fully acquainted with all the events which had taken place between those two dates, but believed the situation to have been more stable on 29 November 1947.

10. The PRESIDENT stated that, since the French representative had accepted the Iraqi representative's suggestion, article 2 would begin as follows : "The territory of the City shall include the municipality of Jerusalem, as delimited on 29 November 1947".

It was so agreed, subject to the reservation tabled by the representative of Belgium.

11. Mr. LIU (China) said it was abundantly clear that the boundaries of the internationalized area must be those which had been repeatedly defined in resolutions of the General Assembly, and were again defined in the draft Statute before the Council. The definition of those boundaries represented one of the fundamental principles mentioned in General Assembly resolution 303 (IV). On that ground, the Chinese delegation was opposed to any re-definition of boundaries.

12. Mr. JAMALI (Iraq) agreed that the Belgian representative's reservations were incompatible with the repeated decisions on boundaries set forth in the General Assembly resolutions of 1947, 1948 and 1949. The Council was not competent to alter those decisions. Furthermore, he would like to remind the Council that the delegation of Iraq had not advocated the internationalization of Jerusalem, which it still regarded as an Arab city. It had merely been prepared to accept the proposed regime if the internationalization was complete. However, if the Council was going to haggle over the decision of the General Assembly instead of implementing it in full, the Government of Iraq would be obliged to support the demand of the Hashemite Kingdom of the Jordan that Jerusalem should remain an Arab city. The moral responsibility for such a change of position on the part of Iraq would lie with those States which had previously voted for internationalization, but were now modifying their views.

13. The Council's course was clear : it must either agree to complete internationalization, or decide to take

no action at all and to leave a settlement to chance. He again urged the Council to choose the first alternative, and so deliver Jerusalem into the possession of humanity as a whole.

14. Mr. EBAN (Israel) said the only possible explanation of the claims by Arab spokesmen that Jerusalem was an Arab city must lie in their exaggerated notion of Members' unfamiliarity with the City's recent history. The representative of Syria had asked where a Jewish Jerusalem existed. In terms of history he would reply that its existence had been firmly accepted by civilized man for twenty centuries. In political terms, he would reply that the urban area of modern Jerusalem and its whole hinterland to the west were Jewish in population, in political and social organization, in cultural and economic connexions and in their complete political and spiritual union with the State of Israel. The relationship of that area to Israel was that of Paris to France or of London to the United Kingdom. It was even erroneous to speak of a link between Jewish Jerusalem and Israel since, largely as a result of United Nations inaction in 1948, one had formed an integral part of the other ever since the inception of the State of Israel and the expiration of the mandate.

15. The Jewish population had been in a majority throughout the modern history of the City. Few people, hearing it constantly stated that Jerusalem was an Arab city, realized that it had had a Jewish population as far back as living memory went. As early as the middle of the nineteenth century, 8,000 of the total population of 15,000 had been Jews. In 1937, the Jewish population had been 70,000, whereas the Christian and Moslem populations together had amounted to only 40,000. Since that time, the proportion of Jews had increased, and was continuing to increase as a result of immigration, and the Jewish population had now once more attained its pre-war figure of 100,000. Those figures disposed of the Arab contention that Jerusalem was an Arab city.

16. However, the purpose of such a contention was obvious: the Arab States regarded internationalization as a prelude to the "Arabization" of the City. For the earlier General Assembly resolution placing the City under an international regime, resolution 181 (II), had left Jerusalem in such a position that its Jewish area and population had been nearly overwhelmed. The truth was that, in describing Jerusalem as an Arab city, Arab representatives were referring not to the City itself but to its hinterland. Nevertheless, Jerusalem was not completely surrounded by Arab territory, as had been stated at the twenty-eighth meeting. The entire hinterland between Jerusalem and the coast now formed part of Israel, its deserted stretches having been opened up by the foundation of new villages and settlements with a fast-increasing population. The Arab States could not complain of such a development, since it had resulted from their own actions in the previous year.

17. The Government of Israel, while opposed to the draft Statute for Jerusalem, regarded the protection of the Holy Places under international responsibility as

an objective which could and should be attained. His Government was prepared to consult on the form and content of a Statute for the Holy Places. If the other Government in whose territory most of the Holy Places were situated also accepted the principle of international responsibility for them, the two Governments concerned could consult with the Trusteeship Council as to the best method of giving effect to that principle. Of course, the Council might prefer the view of its functions suggested by the Arab representatives, who had urged, on the one hand, that the Trusteeship Council was so weak that it dare not depart by one iota from the sacred text of the draft Statute, and, on the other, that it was so powerful that it could establish administrations, supersede governments and overthrow international security agreements, all without the consent of the parties concerned. Only the assumption of that simultaneous weakness and omnipotence of the Trusteeship Council could justify the adoption of the draft Statute. It was, of course, for the Council to judge its own responsibility, and it was fully entitled, if it so decided, to embark on a purely negative course. It might inform the General Assembly that it had not solved the problem of Jerusalem, but that it had at least kept to its terms of reference without heeding any nonsense about reaching an agreed solution on the protection of the Holy Places under United Nations responsibility and control. In that event, the readiness of the Government of Israel to co-operate in the work of the Council would, to say the least, be considerably impaired. Nevertheless, his Government, convinced as it was that the international community would ultimately appreciate its effort to reconcile international responsibility for the Holy Places with the political freedom of Jerusalem, would pursue its efforts to that end with the greatest perseverance and zeal.

18. The PRESIDENT recalled the official figures which had served as a basis for the Council's work at the beginning of 1948: the total population of the *corpus separatum*, at the beginning of 1948, had been 206,020. The population of the municipality of Jerusalem within the *corpus separatum* had been 164,440 or, in other words, 80 per cent of the total population of the *corpus separatum*.

19. The total population of the *corpus separatum* had consisted of 60,560 Moslems, 100,040 Jews, 45,290 Christians and 130 persons of various other faiths. The percentages were therefore: Moslems 29%, Jews 49%, Christians 22%, the percentage of persons of other faiths being infinitesimal.

20. Mr. RYCKMANS (Belgium) pointed out that General Assembly resolution 303 (IV) requested the Trusteeship Council to "complete the preparation of the Statute for Jerusalem, omitting the now inapplicable provisions". The resolution therefore gave the Council the right to take into account any changes that had occurred during the last two years.

21. He enquired of the Israeli representative whether, since the beginning of 1948, any changes had occurred in the composition of the population which would justify modification of the draft Statute, and, in parti-

cular, whether the composition of the population in the western quarters of the City was very different from what it had been at the beginning of 1948.

22. Mr. EBAN (Israel) said there had been no appreciable changes in the population of Jerusalem, either qualitatively or quantitatively, over the past two years. People who had left the City during the siege had returned in recent months as a result of the restoration of a stable regime. Any changes that had occurred were geographic rather than demographic, and did not affect the character of the population west of the armistice line.

23. The PRESIDENT said that since certain population changes had been brought about owing to the fact that part of the Arab population had fled from Jerusalem and had not returned, he would ask the representative of Iraq also to reply to the question put by the Belgian representative.

24. Mr. RYCKMANS (Belgium) said that his question should not be interpreted as implying that the flight of certain of the inhabitants of Jerusalem constituted an accomplished fact, which the Council should accept as final. If the Moslem population of Jerusalem had been reduced because a certain number of the inhabitants from the Moslem quarters of the City controlled by the State of Israel had taken refuge elsewhere, that was obviously not the sort of population change that the Council should take into account. Such refugees clearly continued to rank as inhabitants of Jerusalem, and to possess the same rights as those still in the City. What he wished to find out was whether there had been any considerable change in the Jewish population as a result, in particular, of immigration in recent months.

25. Mr. EBAN (Israel) said that immigrants were distributed over all the urban centres, but that, in general, the character, sentiment, and indeed the number, of the population was the same as it had been at the beginning of 1948.

26. The PRESIDENT drew the Council's attention to a question of method which had arisen at the beginning of the discussion relating to the Statute for Jerusalem. Having been entrusted by the Council with the task of carrying out consultations and making suggestions to facilitate its work, he had submitted an initial statement in which he had endeavoured to define the Council's role in the Jerusalem question. Although it was the Council's duty to implement General Assembly resolution 303 (IV) which had been adopted by a large majority, he had, at the same time, emphasized the fact that the Council, being a deliberative organ charged as an exceptional measure with the task of applying a particularly important General Assembly resolution, had both the right and the duty to endeavour to ascertain to what extent that resolution could be rendered acceptable to all the parties concerned, with a view to the implementation both of the Assembly's resolution and of the final Statute for Jerusalem. Such was, clearly stated, the Council's field of action.

27. The Council had, of course, to carry out the task entrusted to it by the General Assembly; it had to

implement the General Assembly resolution with the means at its disposal. Those were the limits of the Council's field of action. If within those limits the Council concluded that it was not for it to elaborate a Statute which would prove inapplicable in practice, through lack of the means of implementing it, there would be no alternative but to refer the whole question back to the General Assembly.

28. He had also pointed out to the Council that while the General Assembly resolution had set very clear limits to the Council's action, within those limits the Council enjoyed a wide freedom of interpretation which allowed it to adapt the provisions of the resolution to the actual situation. That seemed to him an indisputable fact, since the Council was a deliberative body and no text existed which was not capable of interpretation. He believed it was the question of adaptation of the resolution that had led the representative of Belgium to make reservations with regard to article 2 of the 1948 draft Statute.

29. He had, however, to remind the Council of the text of that part of General Assembly resolution 303 (IV) which related to the boundaries of the *corpus separatum*. That part of the resolution dealt solely with the boundaries of the *corpus separatum* and not with the question of reconciling the aspirations of the population of the *corpus separatum* with the much disputed boundaries laid down in General Assembly resolution 181 (II). The relevant words of resolution 303 (IV) were: "(3) The City of Jerusalem shall include the present municipality of Jerusalem plus the surrounding villages and towns, the most eastern of which shall be Abu Dis; the most southern, Bethlehem; the most western Ein Karim (including also the built-up area of Motsa); and the most northern, Shu'fat".

30. The Council could fix the boundaries of the *corpus separatum* but had, of necessity, to include the points laid down in the resolution. Apart from those four boundary-points, the zone had never been precisely delimited. A rough outline had been drawn up by the Secretariat, but it had always been understood that it would be the task of a commission to fix the precise boundaries of the *corpus separatum* on the spot. The map appended to the resolution gave the approximate boundaries, which had been discussed at great length in the Committee of the Trusteeship Council entrusted with the task of drawing up the draft Statute for Jerusalem and which included the four boundary-points laid down in the 1947 and 1949 resolutions.

31. It might, perhaps, have been preferable to decide on the method to be followed before beginning discussion of the draft Statute article by article. The Council had not done so and would, therefore, constantly come up against difficulties.

32. Mr. BENOIST (France) expressed surprise at the suggestion that a delimitation of the international zone might prove a delicate task for the Council. As a matter of fact, to the east and to the west of that zone lay deserts, in which the fixing of boundaries could present no difficulty. The Committee which had pre-

pared the sketch map appended to the resolution had thought of including Solomon's Pools, to the south of Bethlehem, so as to provide the City with a supply of drinking water. As, however, the water supply had since been restored, the Pools were only of archaeological interest. To the north, there might be some grounds for discussion, since an extension of the boundaries in that direction would enable the *corpus separatum* to have its own aerodrome.

33. He did not feel there was any room for doubt with regard to the delimitation of the boundaries of the *corpus separatum*, which were laid down by the General Assembly in resolution 181 (II) and repeated in resolution 303 (IV). That being so, he wondered whether the Council might not begin to consider the membership of the commission for the delimitation of the international zone, since a new commission would have to be set up for that purpose.

34. Mr. RYCKMANS (Belgium) said he merely wanted to know whether, in the opinion of the Council, compliance with the wishes of the General Assembly necessarily involved the inclusion in the *corpus separatum* of the whole Jewish and Arab population of Jerusalem. On the assumption that the *corpus separatum* was to include the whole area envisaged by the General Assembly, it would not be difficult to delimit its boundaries; all that would be needed was the planting of stakes in the desert. The implications of his question were as follows: Seeing that a large Jewish population had settled in the western suburbs, was it proposed that the whole of that Jewish population, the majority of whom were probably against internationalization, should be included in the international territory? The aim of the Assembly had been to ensure the safety of and freedom of access to the Holy Places by including them in an international city. The Assembly had given the Council discretion to amend the Statute where existing conditions made it inapplicable. Should not the presence of a numerous Jewish population be considered one of the factors which did so? If so, could not a commission be instructed to mark out, within the perimeter envisaged by the Assembly, a city of lesser extent but within which at least the passive acceptance of the settlement by the majority of the population might be relied upon.

35. The Council's silence on that point led him to believe that it was not one in which it was interested. If that were so, he had done his best, and there was nothing further he could do.

36. The PRESIDENT remarked that the representative of Belgium had raised a preliminary question which the Council would have to resolve. He asked members of the Council to express their views on that representative's very clear statement.

37. Mr. INGLÉS (Philippines) said his delegation considered that, in the present case, the Trusteeship Council was merely an executive organ, directed as such by the General Assembly to carry out a specific task. Although the Council was also a deliberative body, its discussion was limited by the terms of the General

Assembly resolution within the framework of which the Council had to act, the extent to which it was so limited, however, had become obscured by the discussion. It was clearly stated in section I, paragraph 1, of General Assembly resolution 303 (IV) of 9 December, 1949, that :

" (1) The City of Jerusalem shall be established as a *corpus separatum* under a special international regime and shall be administered by the United Nations ;

" (2) The Trusteeship Council shall be designated to discharge the responsibilities of the Administering Authority . . . and

" (3) The City of Jerusalem shall include the present municipality of Jerusalem, plus the surrounding villages and towns, the most eastern of which shall be Abu Dis ; the most southern Bethlehem ; the most western, Ein Karim (including also the built-up area of Motsa) ; and the most northern Shu'fat, as indicated on the attached sketch map. "

38. There would be no end to discussion, and pointless discussion at that, if it were once suggested that the *corpus separatum* should be reduced. The delegation of the Philippines agreed with the French representative that the question of boundaries was open neither to discussion nor to interpretation. All that remained to be done was to demarcate those boundaries. There could be no question of interpreting paragraph 2 of section I of General Assembly resolution 303 (IV) in such a way as to justify tampering with the boundaries as defined therein. That paragraph certainly empowered the Council to omit " the now inapplicable provisions ", but " without prejudice to the fundamental principles of the international regime for Jerusalem set forth in General Assembly resolution 181 (II) ".

39. The delegation of the Philippines would have been more hopeful had the representatives of the States now occupying the Jerusalem area, when invited to the Council table, shown more readiness to be guided by the terms of the resolution, as they were urged to do in section II thereof. Instead, their statements had shown that their views were unchanged ; but they had also served the useful purpose of clarifying the situation for the Trusteeship Council, which should now proceed to carry out the directive set forth in the resolution—namely, that it must not be diverted from adopting and implementing the Statute of Jerusalem by any actions taken by any interested Government or Governments.

40. In conclusion, the delegation of the Philippines considered that the Council should adhere strictly to the boundaries defined in General Assembly resolution 303 (IV).

41. The PRESIDENT said he thought there had been a misunderstanding. He had reminded the Council that it was bound by the Assembly's resolution, and that that resolution contained provisions which it was not empowered to alter. He entirely agreed with the representative of the Philippines in that respect.

42. With regard to the particular question before the Council, he had shown that, in so far as article 2 of the

draft Statute was concerned, the resolution contained some very definite provisions from which the Council could not depart. That did not prevent any member from stating his views, even though they might not conform to the resolution. If it were found that the majority of the Council was opposed to the Assembly's resolution, nothing could be done other than to refer the matter back to the Assembly. A constitutional issue would have been raised which the Council was not competent to decide.

43. Mr. HOOD (Australia) thought the Council's attitude to article 2 of the draft Statute would determine its attitude to the whole draft. When the Council had recently decided (20th meeting) to proceed with the revision of the draft Statute, it had been understood that other suggestions, providing they were in accordance with General Assembly resolution 303 (IV), might also be discussed. But the situation which had arisen was somewhat different. There was a divergence between the views of the Governments mainly concerned and the terms of the General Assembly resolution. The Council might take account of the views expressed by the representatives of those Governments, provided that the fundamental principle of the *corpus separatum* remained unaffected. There might still be room for what had been called "interpretation", in respect of the system of administration, etc. But he agreed with the representative of the Philippines that the Trusteeship Council could not propose, far less adopt, modifications to the *corpus separatum*.

44. The boundaries of the *corpus separatum* were those which the United Nations Special Committee on Palestine had originally proposed,¹ on—as some members of the Council would recall—economic, as well as demographic and political, grounds. Those grounds remained valid, and had been sanctioned by various General Assembly resolutions. Therefore, the Council had no alternative but to adopt article 2 of the draft Statute, if only provisionally. Thereafter, it could apply whatever procedure it thought fit to the rest of the draft.

45. Had there seemed any hope that the interested Governments would have accepted an arrangement covering a given geographical area and paying due regard to the wishes of the United Nations, he was convinced that a majority of the Council would have favoured such an arrangement, especially if it had been based on the working-paper prepared by the President (T/457). In the absence of that hope, the Council would have to take the best decision it could in the circumstances, and on the broadest possible interpretation. Its decision would of necessity be a political one; but before embarking on a political discussion the Council must carefully consider the procedure to be adopted.

46. Mr. HENRÍQUEZ UREÑA (Dominican Republic) explained that his delegation maintained the position it had taken up in the *Ad Hoc* Political Committee and in the General Assembly. His delegation had voted

in favour of internationalization in principle, but had abstained from voting when it came to the practical application of the principle, as it had not been in agreement with the solution adopted and had not wished to share the responsibility of the majority for the adoption of an imperfect resolution.²

47. That resolution still stood. Three possible forms of internationalization had been discussed at length at Lake Success. There had been first of all the concept of a maximum area under internationalization, which would take in, besides the City of Jerusalem itself, a number of neighbouring villages; secondly, there had been a more restricted plan for the internationalization of a zone within Jerusalem itself, which would include the Holy Places; and, finally, there had been a proposal for a merely functional internationalization, under which the Holy Places, although not joined up territorially, would be given a legal unity under the protection of the principle of extra-territoriality, and under the supreme authority of the United Nations.

48. The further question had then arisen as to whether the required result was to be obtained by means of a treaty with the Powers in possession of the City, or whether it should be established by statute. The legal experts and the ideologists had pronounced in favour of internationalization by statute, and the majority had adopted that solution. He himself had suggested a compromise to one of the most convinced supporters of a statute—namely, that if the Assembly proposed to adopt the statutory principle it should first negotiate. It should remember that there were armed forces in Jerusalem and that the armistice might be broken at any moment. The Council's aim was to ensure peace within the Holy City and to demilitarize it. Furthermore, the population had to be consulted. Unless that were done, what disputes might not result, what legal problems might not arise, from the imposition of an authoritarian solution?

49. There was talk of making the draft Statute more democratic, and it was believed that it would be enough to have a governor appointed by the United Nations to realize that aim. But democracy meant government by the people. If the proposed organization were not based on elections, what part was to be allotted to the people? The only answer given to those arguments was that that remained to be seen, or, alternatively, that a solution would be found after approval of the statute; thus the solution of a very important question, that of the protection of the Holy Places, would be deferred to a later date. The matter should have excited the interest of the ecclesiastical authorities. The Council had heard the opinion of the Orthodox Greek and Armenian Churches, but it had not heard any representative of the Catholic Church. The part to be played by the various religious congregations should be taken into consideration when a decision was reached on the protection of the Holy Places.

¹ See *Official Records of the second session of the General Assembly*, Supplement No. 11, vol. I, chapter VI.

² See *Official Records of the fourth session of the General Assembly*, 275th plenary meeting, pages 606-607.

50. The principles laid down in the draft Statute and maximum internationalization had gained the day, with the result that the Council was entrusted with the most arduous and difficult task it had so far been called upon to undertake. Yet the General Assembly had allowed the Council a certain amount of latitude. It had requested the Council to revise the original draft Statute either in whole or in part.

51. The representative of Belgium had stated that it would be as well not to be in too much of a hurry to solve the boundary problem and that the revision of article 2 should be deferred so as to leave the way open for a solution acceptable to the parties concerned. In the light of the discouraging statements he had heard, he did not, at the moment, see even a glimmer of hope. The problem would continue to be to some extent insoluble so long as an attempt was made to satisfy everybody. It was not so much a case of unwillingness to arrive at a solution, as that the conflict of opinions and interests prevented such a solution being found. In so far as the details of the implementation of the principle of internationalization were concerned, the Dominican Republic would maintain the attitude it had taken up in the Assembly.

52. The PRESIDENT reminded the Council that, at the beginning of the discussion on article 2 (23rd meeting), the representative of Belgium had made reservations as to the wisdom of voting on article 2 before considering the other articles, while, on the other hand, the representative of Iraq had asked for the adoption of article 2 or, at any rate, that the Council should not proceed further with the consideration of the draft Statute before it had taken a decision on that article.

53. The Council must decide whether it wished to defer the article for later consideration or not. In any case, it was only engaged on a first reading of the draft and any vote taken would not be final. In the absence of a vote it should be assumed that the first paragraph of article 2, as amended, had been adopted. If the Council did not approve of that procedure, it would have to make its position clear by a formal vote.

54. Mr. RYCKMANS (Belgium) repeated his proposal that the Council defer consideration of article 2, and first examine the other articles of the draft Statute.

55. Mr. JAMALI (Iraq) opposed the Belgian proposal on the grounds that to defer the discussion on paragraph 1 of article 2 would serve no purpose. The Council would be unable to continue its examination of the draft Statute unless it first expressed its intention to abide by the decisions of the General Assembly.

56. The PRESIDENT observed that in that case there was no alternative but to put the question to the vote. He asked the Belgian representative whether he maintained his proposal.

57. Mr. RYCKMANS (Belgium), explaining his proposal, said that the Council had invited the representatives of Israel and Jordan to come and assist it in its work. The Council was required to elaborate a statute for

Jerusalem, providing for the organization of the legislature of the City, etc.; and it had requested those primarily concerned to give it the benefit of their knowledge, which did not necessarily imply their consent. So long as the boundaries of the International City remained vague, the Council could ask the representatives of Jordan and Israel to assist it; but according to their statements, the Council would no longer be able to count on their co-operation once the boundaries of the International City had been delimited. It was for that reason that he had requested the Council to defer its examination of article 2 and to pass on to the other articles. If the Council preferred to resolve the question forthwith, all it had to do was to vote against his motion for deferment.

58. Mr. HOOD (Australia) pointed out that the decision to amend article 2 and the decision to refrain from voting upon it were entirely different in substance. In his opinion, the Council should at the present stage refrain from voting on any article or amendment thereto, since its work would be facilitated if the members were not bound by formal votes or abstentions.

59. The PRESIDENT asked the Iraqi representative whether, after hearing the explanations of the Belgian and Australian representatives, he agreed that the examination of article 2 should be deferred.

60. Mr. JAMALI (Iraq) emphasized that article 2 was the key to the whole draft Statute, and that the Council's attitude towards it must of necessity influence the course of its subsequent work. He would have no objection if the Belgian representative wished to defer discussion for a couple of days to consider that particular point, but he had to reiterate that the Council was bound to abide by General Assembly resolution 303 (IV).

61. Mr. RYCKMANS (Belgium) formally moved the deferment of the examination of article 2 for the very reasons advanced by the Iraqi representative. It was because the article was conclusive that he urged that it be left in abeyance for the time being, for that was not the moment to close the last door.

62. The PRESIDENT said that the only course left to him under rule 56, paragraph (g), of the Council's rules of procedure was to put to the vote the Belgian proposal to defer consideration of article 2 until a date to be fixed later by the Council, and to pass on to the succeeding articles of the draft Statute.

The proposal was adopted by 5 votes to 1 with 5 abstentions.

63. The PRESIDENT, referring to paragraph 2 of article 2—which, he submitted, was independent of paragraph 1—, recalled the French representative's suggestion that consideration be given to the establishment of the commission entrusted with the task of delimiting the precise boundaries of the international zone. Examination of paragraph 1 having been deferred, however, the Council might perhaps defer its examination of paragraph 2. The question was not an urgent one.

64. Mr. BENOIST (France) drew the Council's attention to the vital importance which would attach to paragraph 2. It was essential to know whether the Council, in constituting the commission, would appoint specific representatives of the States of Israel and of Jordan. It would seem difficult to avoid doing so, but in adopting a decision to that effect the Council would be taking a step towards the legal recognition of Israeli's sovereignty over the area between Jerusalem and Lydda, and Jordan's sovereignty over Cis-Jordan.

65. He urged that the examination of paragraph 2 which, he contended, was just as important as paragraph 1, be deferred.

It was so agreed.

The meeting was suspended at 4.25 p.m. and was resumed at 5 p.m.

Article 3 : Functions of the Trusteeship Council

66. The PRESIDENT observed that the date "9 December 1949" should be substituted for "29 November 1947" in article 3.

67. Mr. JAMALI (Iraq) announced that, although the Council had decided to defer consideration of article 2, he could not vote on article 3 or any of the succeeding articles until he knew what the boundaries of the City were to be. As he had pointed out, article 2 was a key article. The Council could not vote on the other articles as it were *in vacuo*, before deciding whether or not it was going to implement the resolution of the General Assembly.

68. Mr. MUÑOZ (Argentina) suggested that, in the light of the discussion on the draft Statute that had so far taken place, and of the Council's decision to defer a vote on article 2, it would be desirable at the present stage for the Council to refrain from voting on any of the succeeding articles. It should confine itself to a preparatory reading of those articles, during which representatives could make any observations they wished.

69. Mr. JAMALI (Iraq) pointed out that sooner or later the Council would have to vote on all the articles. He saw no purpose in reading the draft Statute through, until the Council had decided whether it was going to implement the General Assembly's resolution. A decision had to be taken on article 2; that decision was obviously crucial, and the Council would have to consider very thoroughly any proposals that were submitted to it.

70. Mr. RYCKMANS (Belgium) said he was ready to vote immediately on article 3, to which there could be no objection, whatever boundaries were adopted. It would be wise, in the case of other articles, to ascertain whether they gave rise to any objections. Provisional approval of any article would not bind delegations, which could revise their attitude at a later stage.

71. Mr. INGLÉS (Philippines) agreed with the Iraqi representative that the Council could not vote on subsequent articles until it had voted on article 2. It

had not been the Belgian representative's purpose, in proposing that the vote on article 2 be deferred, that the door should be closed on any hope of compromise. The Council had heard the representative of one of the parties at present in occupation of Jerusalem state that the adoption of the draft Statute would result in the breakdown of the administration in that part of Jerusalem at present administered by his Government. The Council could not, however, wait indefinitely on the pleasure of the occupying parties, and should set a reasonable time-limit for the submission of alternative proposals, on the expiry of which the vote on article 2 should be taken. The Council had taken up the most co-operative attitude it could towards the occupying parties, but had so far met with no response, not even with an indication of their attitude towards the suggestions made by the President (T/457). He therefore formally proposed that consideration of the draft Statute be deferred until a given date, after which article 2 would be voted on, and the Council would then proceed to discuss the succeeding articles. That proposal, he submitted, was a logical sequel to those of the Belgian representative (that the vote on paragraph 1 of article 2 be deferred) and of the French representative (that discussion of paragraph 2 of that article likewise be deferred). It also accorded with the spirit of the suggestion made by the Argentine representative.

72. Mr. RYCKMANS (Belgium) pointed out that the Council had just decided by 5 votes to 1 with 5 abstentions to hold over article 2 and proceed with its examination of the remainder of the draft Statute. Was the Council being asked to go back on that vote?

73. The PRESIDENT thought not. The Council was now seized of a new proposal seeking to fix a time-limit for the deferment of the discussion on article 2.

74. Mr. RYCKMANS (Belgium) said he had understood that the Philippines representative had requested the Council to defer its examination of the remainder of the draft Statute. That directly conflicted with the decision just taken.

75. Mr. INGLÉS (Philippines) explained that his proposal was not that the Council should abandon its consideration of the articles succeeding article 2, but that it should abstain from voting on them.

76. Mr. RYCKMANS (Belgium) explained that his own proposal, which had been adopted by the Council, had been in precisely the opposite sense—namely, that examination of article 2 should be deferred until the Council had taken a vote on all the succeeding articles. He therefore supported the suggestion of the representative of Argentina.

77. Mr. JAMALI (Iraq) reiterated that his general attitude on all the succeeding articles would depend upon the decision of the Council as to whether, in article 2, it would abide by the General Assembly's decision as to the extent of the International City.

78. Surely the adoption of the Belgian representative's proposal that consideration of article 2 be deferred could not prevent the Council from deferring considera-

tion of other articles, or from complementing that proposal by fixing a date beyond which consideration of article 2 should no longer be postponed.

79. Mr. MUÑOZ (Argentina) thought that no difficulty would arise if the Council adopted his suggestion which, he understood, had been supported by the Philippines representative and accepted by the representative of Belgium.

80. Mr. HENRÍQUEZ UREÑA (Dominican Republic) said that it was of little importance whether or not a vote was taken on articles during the first reading. Any representatives who did not wish to vote could abstain. The Argentina representative's suggestion that no vote be taken would, however, serve a useful purpose, since passages in the draft Statute which required alteration could be shown up without representatives being bound by the attitude they adopted towards them.

81. Mr. INGLÉS (Philippines) thought that any consideration of the draft Statute at the present stage which did not involve voting could not be considered as a first reading. There seemed therefore to be no incompatibility between his proposal and the Argentine representative's suggestion. The difference was that he had also proposed a time-limit for the deferment of the discussion on article 2.

82. The PRESIDENT noted that the interpretation placed on the recent vote by the Belgian representative and the Philippines representative's explanations were contradictory.

83. The Belgian representative had shared his (the President's) understanding that article 2 would be held over until the Council had examined and voted on the succeeding articles. The Philippines representative suggested a preliminary reading without votes; but once that examination had been concluded, the Council would find itself in its original position. If it thereupon proceeded to the second reading, it would have to abstain from voting until such time as it had voted on article 2. The difficulty would persist.

84. He suggested that the Council continue the first reading, and resume its consideration of article 3.

85. Mr. BENOIST (France) pointed out that article 3 should open as follows: "The Trusteeship Council, by virtue of the authority conferred upon it by the resolutions of the General Assembly of the United Nations of 29 November 1947 and 9 December 1949 . . ."

86. In his view, the fact that the Council had decided (23rd meeting) to ask the Secretariat to undertake a technical revision of the draft Statute made the procedure just suggested by the President all the more advisable. A first reading would have the advantage of enabling representatives to offer comments by which the Secretariat might be guided in its work of revision.

87. The PRESIDENT announced that the text to be prepared by the Secretariat would be circulated the following day.

Article 4 : Territorial integrity

88. Mr. HENRÍQUEZ UREÑA (Dominican Republic) observed that paragraph 2 referred to the "Governor", although the draft Statute had made no previous mention of him. The existence of a Governor should be mentioned before reference was made to one of his functions.

89. The PRESIDENT explained that that point had been raised in the committee entrusted with the task of elaborating the draft Statute in 1948. It did seem that re-arrangement of the various articles was necessary.

90. Mr. RYCKMANS (Belgium) drew attention to the fact that the definitions were contained in article 43. It would have been better to start with the definitions, as did the laws and regulations of many countries. The definition of "Governor" was to be found in article 43, paragraph (a).

Article 5 : Demilitarization and neutrality

91. There was no comment on article 5.

Article 6 : Flag, seal and coat of arms

92. Mr. BENOIST (France) wondered whether the Trusteeship Council could not invite its members to submit suggestions regarding the flag.

93. Mr. RYCKMANS (Belgium) recalled that the committee set up in 1948 to draft the Statute had been anxious not to impose a flag, seal or coat of arms on the City. It had considered it preferable to leave it to the Governor to consult the inhabitants and prepare proposals for subsequent approval by the Council. It would be better not to impose on the inhabitants a flag which might meet with their disapproval.

94. Sir Alan BURNS (United Kingdom) thought that there had been general agreement at the time when the Statute had been drafted that the choice of a flag, seal and coat of arms for the City of Jerusalem, and similar matters, should be left to the Legislative Council.

95. Mr. INGLÉS (Philippines) thought that article 6 should go further, and state specifically that the choice of a flag, seal and coat of arms should be the concern of the Legislative Council.

96. In that connexion, the Council should make up its mind finally whether the City of Jerusalem would be considered as a Trust Territory, since the General Assembly had decided that the United Nations flag was the flag to be flown in all Trust Territories.

97. The PRESIDENT observed that General Assembly resolution 303 (IV) appeared to contain no indication that the proposed territory would be a Trust Territory.

98. Mr. RYCKMANS (Belgium) thought it had been generally agreed that the Jerusalem area was not a Trust Territory in the meaning of Chapters XII and XIII of the Charter. It was an area placed under international jurisdiction by reason of the special circumstances of the case, and not because its inhabitants were incapable of self-government.

99. It was possible that the inhabitants of Jerusalem might prefer to adopt the United Nations flag. The Council should not impose its will in that particular field.

100. The PRESIDENT gathered that the majority of the Council felt that the choice of the flag should be left to the inhabitants of Jerusalem themselves.

Article 7 : Human Rights and Fundamental Freedoms

101. Mr. INGLÉS (Philippines), recalling the proposal made by the Philippines representative at the twenty-third meeting, that articles 18 and 19 of the Universal Declaration of Human Rights³ be incorporated in article 7 of the draft Statute, emphasized that it would be advisable to formulate more precisely the rights to freedom of religion and worship. Since the internationalization of Jerusalem was motivated by the presence therein of institutions of the three great monotheistic religions, the definition in the Statute of freedom of conscience and worship should conform to the concepts which had been enunciated in the Universal Declaration of Human Rights, adopted by the General Assembly subsequent to the drafting of the draft Statute by the Council.

102. Further, in view of possible difficulties which might arise through proselytism, his delegation believed that an explicit safeguard should be included in the Statute allowing parents to decide what religious instruction should be given to their children until the latter reached the age of discretion. It would not be advisable to make it incumbent on governmental authority to safeguard that right, which must be freely exercised by parents. The Council should ensure that the government of the City would at no time be drawn into disputes relating to religious instruction.

103. Mr. RYCKMANS (Belgium) asked whether the text of the amendments in question had been circulated.

104. The PRESIDENT said that the representative of the Philippines had referred to articles 18 and 19 of the Universal Declaration of Human Rights.

105. Mr. RYCKMANS (Belgium) was afraid that if the Council went into undue detail, it might provoke unexpected difficulties, particularly of a legal nature. Allowance should also be made for the fact that a large proportion of the population of Jerusalem strictly obeyed the Koranic law. It would therefore be inadvisable to make provision for the right of the individual to change his religion, which the Koran forbade. He thought it better to leave it to the City itself to define the rights and freedoms in greater detail.

106. Mr. HENRÍQUEZ UREÑA (Dominican Republic) asked whether the sole purpose of the amendment proposed by the representative of the Philippines was to insert the text of articles 18 and 19 of the Universal Declaration of Human Rights in article 7 of the Statute.

107. Mr. INGLÉS (Philippines) pointed out that reference was made to freedom of language in paragraph 1,

³ See *Official Records of the third session of the General Assembly, part I, resolutions, No. 217 (III), A.*

and also in paragraph 7, of article 7. Even if the Council decided in due course not to amend paragraph 1, he still considered that the insertion in article 7 of articles 18 and 19 of the Universal Declaration of Human Rights would be expedient in that those articles provided a more precise definition of freedom of religion and worship.

108. He recalled that the Council was engaged in a preliminary discussion during which no voting would take place.

109. The PRESIDENT suggested that the representative of the Philippines should prepare the text of the amendment which he wished to see incorporated in article 7. The Secretariat would then be able to prepare a text embodying that amendment for the second reading.

It was so agreed.

110. Mr. HENRÍQUEZ UREÑA (Dominican Republic) considered that in paragraph 4 it would be advisable to refer solely to the traditions underlying law.

111. The PRESIDENT drew the Council's attention to article 40 of the draft Statute.

112. Mr. RYCKMANS (Belgium) considered that the remark of the representative of the Dominican Republic was a cogent one despite article 40, as he wished to prevent any penal law from being made retroactive. The principle that penal laws should be non-retroactive was an essential element of freedom of the person.

113. Mr. INGLÉS (Philippines), agreeing with the President, drew attention to the ban on retroactive penal legislation contained in paragraph 2 of article 11 of the Universal Declaration of Human Rights. In his view, that paragraph covered the point raised by the representative of the Dominican Republic.

114. Abdel MONEM MOSTAFA Bey (Egypt) proposed, in the first place, the insertion of an additional paragraph (10) providing for the protection of property rights and condemning any confiscation of property belonging to the inhabitants of Jerusalem whatever their race. The purpose of that provision would be to ensure that the property of Arab refugees was returned to its rightful owners. To fulfil that purpose, the provision would have to be made retroactive to 29 November 1947.

115. Secondly, he proposed the insertion of a further paragraph embodying a reference to the Universal Declaration of Human Rights adopted in December 1948. The draft Statute had in fact been adopted before the final adoption of the Universal Declaration of Human Rights, but most of the paragraphs of article 7 were merely a transposition of the provisions of the Declaration.

116. The PRESIDENT asked the Egyptian representative to draft a text for the paragraph 10 he wished to have inserted in article 7.

117. Mr. RYCKMANS (Belgium) considered that the Egyptian representative's first proposal could be more appropriately placed in the transitory provisions. With

regard to the second proposal, he wondered whether the Council would not do better to replace the present text of article 7 by the simple statement that the Universal Declaration of Human Rights was in force in the City of Jerusalem. A general reference to the Declaration followed by specific mention of certain freedoms and not of others would give the impression that those not mentioned were of secondary importance. It was preferable that the City of Jerusalem should be the first *corpus politicum* to have purely and simply adopted the Declaration.

118. Mr. JAMALI (Iraq) said that since the representative of Egypt was not a member of the Council, he (Mr. Jamali) would make his own the latter's proposals and submit them to the Council at the appropriate time.

119. The PRESIDENT asked the Egyptian and Iraqi representatives to submit a draft text; the Council would then see where it could most appropriately be inserted.

120. He asked the Council whether it approved the Belgian representative's suggestion that article 7 be replaced by the following text: "The Universal Declaration of Human Rights is in force in the City of Jerusalem".

121. Mr. INGLÉS (Philippines) explained that his proposal that only the fundamental human rights and freedoms should be enumerated in article 7 was based on the argument that the Universal Declaration of Human Rights enunciated certain principles which, for economic or financial reasons, could not immediately be applied by all States Members of the United Nations. The right to protection against unemployment (Article 23) was a case in point.

122. The PRESIDENT said that in that case the Secretariat might be asked to prepare a text of article 7 including the provisions which the Philippines representative proposed for insertion. The Secretariat would thus submit a comprehensive text for consideration by the Council.

123. Mr. MUÑOZ (Argentina) pointed out that paragraph 2 of article 7 omitted any reference to discrimination on the grounds of political opinion. That principle was included in article 2 of the Universal Declaration of Human Rights, and a proviso safeguarding freedom of political opinion had been included in the draft Trusteeship Agreement for the Territory of Somaliland under Italian administration.⁴ It would surely be appropriate also to include such a proviso in paragraph 2 of article 7 of the draft Statute.

124. Mr. INGLÉS (Philippines) supported the proposal of the Argentine representative.

125. The PRESIDENT said that the Secretariat could also insert that provision in the text which would be examined by the Council during the second reading of the Statute.

The meeting rose at 6 p.m.

233rd meeting

THIRTY-FIRST MEETING

*Held at the Palais des Nations, Geneva,
on Wednesday, 22 February 1950, at 11 a.m.*

President : Mr. Roger GARREAU.

Present : The representatives of the following countries : Argentina, Australia, Belgium, China, Dominican Republic, France, Iraq, New Zealand, Philippines, United Kingdom, United States of America.

63. Examination of annual reports on the administration of Trust Territories (resumed from the 29th meeting)

TANGANYIKA, 1948 : REPORT OF THE DRAFTING COMMITTEE ON ANNUAL REPORTS (T/L.21, T/L.21/Add.1, T/L.22 and T/L.23)
(continued)

1. The PRESIDENT recalled that the Council had before it the draft resolution (T/L.22) submitted by the representatives of the Dominican Republic and the United States of America and the Argentine representative's proposal (T/L.23) both relating to the form of the sections on annual reports in the Council's report to the General Assembly.

2. Mr. MUÑOZ (Argentina) pointed out that in United Nations usual practice a report included as paragraphs or sections the individual views of members of a United Nations organ, which were thereby transmitted to other organs. In his view, a report should set forth not only the conclusions and decisions reached by a specific United Nations organ, but all the discussions which had taken place within that organ, together with the views of the organ and those of its individual members.

3. Mr. SAYRE (United States of America) stated that he had discussed the joint draft resolution informally with the representative of the Dominican Republic in the light of the discussions which had taken place during the twenty-ninth meeting. They had come to the conclusion that opposition to it centred in the main on paragraph 1. They had therefore agreed to submit certain amendments to the joint draft resolution in order to meet the objections raised by certain representatives. Those amendments were as follows: the deletion of paragraph 1; the substitution of the following words taken from the Argentine proposal, "Part III contains the observations of individual members of the Trusteeship Council representing their individual opinions only", for the words "The observations contained in this statement represent the individual opinions of Council representatives, but have not been adopted by the Council" from paragraph 2 of the joint draft resolution: the substitution of the words "As long as the discussion of the Council's report is not closed" for the words "Provided the individual representative does not himself make such corrections of fact as may be pointed out to him" from paragraph 4.

⁴ See document T/456, article 8.