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UNITED NATIONS PALESTINE COMMISSION

Considerations Affecting Certain of the Provisions of the General Assembly
Resolution on the "Future Government of Palestine": Control of Immigration

(Working Paper Prepared by the Secretariat)

Control of Immigration

1. The Plan adopted by the Assembly contains the following provisions in Part I dealing directly with the questions of immigration:

A.2. "The Mandatory Power shall use its best endeavours to ensure that an area situated in the territory of the Jewish State, including a seaport and hinterland adequate to provide facilities for a substantial immigration, shall be evacuated at the earliest possible date and in any event not later than 1 February 1948."

B.5. "Subject to the provisions of these recommendations, during the transitional period the Provisional Councils of Government, acting under the Commission, shall have full authority in the areas under their control, including authority over matters of immigration and land regulations."

2. These provisions were included in the text, primarily at the request of the Jewish Agency for Palestine, in the Working Group on Implementation and in Sub-Committee I of the Ad Hoc Committee on the Palestine Question. UNSCOP had originally recommended:

- (a) that 150,000 Jews be admitted to Palestine within 2 years from 1 September 1947, of which 30,000 should be admitted on humanitarian grounds.
- (b) that measures be taken by the General Assembly to facilitate the admission of Jewish refugees and displaced persons into other countries.

A proposal emanating from Sub-Committee II concerning the admission of Jewish refugees into countries other than Palestine was not adopted by the Ad Hoc Committee, and no specific recommendations in this regard were made by the Assembly. The Assembly did however adopt a resolution (No. 136 (II)) on the recommendation of the Third Committee calling on all members to accept their fair shares of displaced persons generally. With respect to the UNSCOP recommendations that 150,000 Jews be admitted to Palestine within 2 years, it was pointed out in the Working Group on Implementation and in Sub-Committee I that the wording of the above paragraphs gave broader scope for the admission of immigrants than did the UNSCOP recommendations. The Jewish Agency accordingly agreed to withdraw an amendment it had urged to paragraph B.5 referring specifically to the UNSCOP recommendations, and other proposals respecting immigration were abandoned in favour of the more flexible formula set forth in the Plan. The report of Sub-Committee I (document A/AC.14/34) contained the following remarks on the question of immigration:

"21. The Sub-Committee considered a number of proposals relating to immigration, including the recommendations of the majority of the Special Committee on Palestine, the revision of that text proposed by the Working Group on Implementation, the draft resolution of the Delegate of Uruguay, and other suggestions made in the Sub-Committee. In view of the situation created by the adoption of a shorter period of transition than was envisaged in the Report of the Special Committee, the Sub-Committee considered that the revised text of the Working Group on Implementation, as incorporated in Section A, paragraph 2, and Section B, paragraph 5, of Part 1 of the plan adopted by the Sub-Committee was acceptable, and would, moreover, satisfy the urgent requirements of the problem which the Special Committee had recognized, and which the Sub-Committee fully appreciated."

3. Under the present Mandate the United Kingdom Government fixes the maximum quota of immigrants permitted per month, and the Palestine Government is responsible for the administration of the immigration provisions. The present quota is 1,500 Jewish immigrants and 200 Arab immigrants per month. The High Commissioner for Palestine prescribes the maximum number of immigration certificates to be granted, in accordance with the principle of economic absorptive capacity, within the quotas fixed by the Mandatory Power, and also the category of immigrants and the number in each category. The Commissioner for Migration insures compliance with the immigration formalities and is the executive authority in respect of passport and travel formalities and details of administration. Illegal Jewish immigrants beyond the quota fixed by the Mandatory Power are as a rule transferred to the island of Cyprus. As of 1 October 1947 some 167,500 Jewish displaced persons were living in Germany, Austria and Italy, and as of 1 January 1948 some 30,000 in camps in Cyprus. At present the quota immigrants are taken from among Jewish DPs in Cyprus (50 per cent), from the British zone of occupation in Germany (25 per cent), the remaining 25 per cent being allocated by the Palestine Department of Migration chiefly to wives, children and parents of Palestine residents. No allocation is given to Jews in the United States zones of occupation in Germany and Austria where the bulk of the Jewish DPs are to be found.

4. The question of Arab immigration into Palestine is not dealt with in the present study, as there was apparently no problem in that regard and no special discussions concerning the point took place in the Assembly. It should be pointed out, however, that there have been recent press reports referring to Arab attempts to encourage mass Arab immigration into Palestine in order to oppose partition.

5. United Kingdom officials have made the following remarks in connection with the question of immigration:

(a) The United Kingdom representative at the Assembly made no objection to paragraph A.2, but stated that he had no instructions on the details of the British plan of withdrawal and hence could only take note of the provision.

(b) Mr. Creech Jones stated in the House of Commons on 11 December 1947:

"Other matters on which negotiations with the United Nations Commission will have to be made include the proposal in the partition plan that an area situated in the Jewish State, including a seaport and hinterland, shall be evacuated by 1 February, 1948. This presents a considerable difficulty, and must be studied further with the United Nations Commission in connection with the thorny problem of immigration, about which I shall have something to say in a few minutes..."

"I should now say a few words on the problem of immigration. I do not wish to inflame deep feelings, which exist among Jews and Arabs alike regarding this matter, nor do I wish to incriminate states and groups which, in this illegal traffic, have done infinite mischief, aroused fierce passions among the Arabs and made our task of administering the Mandate extremely difficult. We are faced with a most difficult period between now and the middle of May, and we hope all nations and the Jewish community will appreciate the importance of control until the Mandate is laid down. If the traffic is encouraged during the next few months, a grave situation in Palestine will arise which will make an orderly withdrawal and transfer of authority extremely difficult. The camps in Cyprus have also to be emptied.

"The Government are aware of the strong resentment already expressed by the Arab States in regard to what may appear to them as encouragement to immigration for strengthening the Jewish State. It is essential that feelings should not be fired while the British administration is trying to carry through the complicated tasks essential to maintaining orderly life in Palestine, while at the same time, preparing, in accordance with international decision, to transfer authority."

(c) Mr. Bevin stated in the House of Commons on 12 December 1947:

"There is no obligation upon us to change the immigration quota during the short remaining period in which we shall be responsible in Palestine. Here I want to make an appeal to the Jews. If this were done, or if any attempt were made to bring in numbers of immigrants, in spite of our control, and so cause trouble, in my view this would be another and most important contribution to unrest. At a critical moment of this kind I hope that common sense will prevail.

"Our hope is that the question will be considered in a statesmanlike manner, and that we may be able to hand over to the authority which succeeds us without having to deal with any further trouble on this score. My view is that if the British Navy and the British Army, in addition to trying to keep order during the transition period between now and when we go, are called upon to have rows at Haifa and Tel-Aviv with immigrant ships arriving, it will do the Jewish cause more harm throughout the world than anything else that could happen. It will be regarded as a provocative act, and I say to them advisedly that, in my view, they should leave this matter alone until the State is set up, and should deal with it then.

"Between now and the withdrawal we do expect to clear Cyprus. We must do that. We cannot have illegal immigrants on British territory after that time, and we will negotiate with the United Nations Commission in order to see that all that is arranged."

"I cannot agree to open a port until we lay down the Mandate. We cannot have two administrations at one time. Really, it is impossible. I had better be quite frank about these things. I do not want to get into conflict with the Jews, and I hope the Jews will not get into conflict with

His Majesty's Government, His Majesty's Navy or Army. It is a little patience that is required. There are but a few months to pass before we lay down the Mandate.

6. The question of immigration in so far as the Commission is concerned can be divided into two periods: (A) the period prior to the termination of the Mandate (during which the Mandatory Power retains responsibility), and (B), the period from the termination of the Mandate until the date of independence (during which the Provisional Council of Government, acting under the Commission, is responsible).

A. The Period Prior to the Termination of the Mandate (not later than 15 May).

7. The first question that arises is that respecting the evacuation of a seaport as provided for in paragraph A.2. Haifa, and to a lesser extent, Tel-Aviv, are the only seaports in the Jewish States capable of accommodating a substantial immigration. Since Haifa will probably be retained by the British until the evacuation of their troops is completed, Tel-Aviv is the only practicable alternative. It is clear from Mr. Bevin's remarks that the Mandatory Power does not intend to comply with this provision, but on the other hand Mr. Creech Jones had previously stated that the Mandatory Power would negotiate with the Commission in this respect. The Commission may therefore wish to obtain further information from the Mandatory Power in order to elucidate this point.

8. If the negotiations of the Mandatory Power are successful and a seaport is evacuated by 1 February, or shortly thereafter, it will be necessary for the Commission to constitute in advance of the evacuation date some authority capable of dealing with the immigration, and to be present on the spot to carry out his functions.

9. Although Mr. Bevin did not categorically refuse to alter the immigration quota but merely stated that there was no obligation to change it, it appears from the general tenor of his remarks that no change is intended. It may be, however, that in stating that Cyprus would be cleared of Jewish DPs "between now and the withdrawal", he envisaged a special quota for the Cyprus detainees in addition to the present quota of 1,500 per month. Recent press reports have suggested the latter possibility. The Commission may wish to ascertain the intentions of the United Kingdom on this matter.

10. In the event that the Mandatory Power should agree either to the evacuation of a seaport or to an increased quota for immigration, or to a partial transfer of its functions (while retaining its responsibility) respecting immigration prior to the termination of the Mandate, it seems preferable that policy-making decisions respecting immigration should lie with the Commission. It is not known when the Jewish Provisional Council will be created, and uncontrolled immigration in excess of reception facilities or absorptive capacity might result in epidemics, hunger, disturbances and bloodshed. Accordingly the Commission might wish to issue general regulations for the control of immigration, while leaving it to the Jewish Agency for Palestine (or to the Jewish Provisional Council when it is created) to carry out the practical administration under the Commission's supervision.

B. The Period from the Termination of the Mandate until the Date of Independence (not later than 1 October).

11. It will be noted that paragraph B.5 provides that, from the date of the adoption of the Assembly's resolution, the Provisional Councils of Government shall have full authority over matters of immigration in the areas under their control. There may be some significance attached to the use of the words "full authority" instead of the words "full responsibility" as used in paragraph B.6, but in any event the authority of the Council is subject to two limitations: (a) that it must act under the Commission, and (b) that its authority is subject to the other provisions of the Assembly's recommendations, notably paragraph B.12 which preserves the responsibility of the Mandatory Power prior to the termination of the Mandate. The Commission may, therefore, if it wishes, take over the functions presently vested in the Mandatory Power and the High Commissioner to determine the maximum quota of immigrants, until such time as it decides to hand over full administrative responsibilities to the Provisional Council of Government. The Commission will be faced with a difficult problem in balancing the strong pressure for large-scale immigration with the dangers involved in excessive immigration. As was suggested in paragraph 10 above, the Commission may wish to leave to the discretion of the Jewish Provisional Council the administrative details, including the determination of the categories of immigrants and numerical distribution. The Commission may, however, wish to ensure that some priority is given to the Jews in DP camps.

12. Some administrative machinery and control will have to be established to take the place of the Department of Migration of the Palestine Government. The Commission may wish to begin the preparation of a detailed plan to be ready for implementation by the Jewish Provisional Council of Government.

13. The Commission might also consider entering into discussions with the International Refugee Organization in order to make arrangements whereby emigration of Jews from camps under the Organization's control can take place in an orderly manner in conformity with the regulations issued by the Commission or the Provisional Council.

14. The Commission might be called upon by the Jewish Agency or the Jewish Provisional Council for advice and assistance in connection with the question of financing the substantial immigration envisaged. During the hearings of UNSCOP in Palestine, the Jewish Agency referred to the findings of the Anglo-American experts (who prepared the Morrison-Grady plan), which provided for the immigration and integration of 100,000 Jewish refugees in one year, at a cost of 70 million or 700 per head, and the

possibilities of international participation in obtaining the necessary finances. The Commission may wish to discuss the question of defraying the cost of transportation of DPs with the International Refugee Organization, which at present assumes the cost of transportation for DPs under organized schemes for their resettlement.

15. Another question that will arise is that relating to passports and entry visas during the period between the termination of the Mandate and the independence of the two States. The Commission may wish to enter into negotiations with the Mandatory Power (prior to the termination of the Mandate) or instruct the Provisional Council of Government, with a view to the issue of provisional identity cards. The Commission may also wish to make temporary arrangements for the diplomatic and consular protection of Palestine citizens travelling or resident abroad in the period between the termination of the Mandate and the date of independence.

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