

UNITED NATIONS PALESTINE COMMISSION

SUMMARY RECORD OF THE SEVENTY-SIXTH MEETING

Lake Success, New York
Monday, 17 May 1948, at 3 p.m.

<u>Chairman:</u>	Mr. LISICKY	Czechoslovakia
<u>Members:</u>	Mr. MEDINA	Bolivia
	Mr. FEDERSPIEL	Denmark
	Mr. MORGAN	Panama
	Mr. FRANCISCO	Philippines
<u>Secretariat:</u>	Mr. PUNCHIE	Secretary

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STATUS OF THE COMMISSION

The CHAIRMAN stated that the chief outstanding matter before the Commission was the consideration of the status of the Commission as a consequence of the resolution passed by the General Assembly on 14 May, which had relieved it from the further exercise of its responsibilities. He called on the Secretary to make a statement regarding the view of the Secretariat on this matter.

The SECRETARY, before making this statement, observed that the Commission would probably be interested to know that the United States delegation would be proposing later in the day a resolution in the Security Council requesting the latter to consider that a breach of the peace existed in Palestine: this was of particular interest to the Commission in that it corroborated the view which the Commission had taken of the security situation in its first Special Report on the Problem of Security (S/676).

Regarding the question of the status of the Commission, he stated that, after having discussed the matter with the Secretary-General, Mr. Sobolev (Assistant Secretary-General, Department of Security Council Affairs) and Mr. Feller (Principal Director, Legal Department), his view was that Part III of the General Assembly's resolution of 14 May created a situation in which, after that date, no authority to take any action under the Resolution of 29 November remained vested in the Commission.

He observed that prior to the last plenary meeting of the General Assembly he had pointed out to Dr. Jessup (United States Delegation) that the resolution, as it was worded, would have such an effect, and that, moreover, it would create the difficult situation of leaving the Commission in the awkward position of being unable

to wind up its affairs, to reply to outstanding communications, etc. Dr. Jessup recognized that this was true and suggested that the Greek representative, through whose amendment to the resolution the date of 1 June had apparently been inadvertently dropped, might be approached with a view to having the matter raised during the plenary meeting. Accordingly, the Secretary stated, he had taken up the matter with the Greek representative who had indicated a willingness to raise the question. However, in the turmoil of that last meeting, this had not been done and the resolution was passed in its original form without any amendment.

Thus, the present legal situation resulting from the adoption of the resolution was that the Commission probably could not take any further action, including the submission of any further reports to the General Assembly or to the Security Council, since these were among the responsibilities which had been vested in the Commission under Resolution 181 (II) of 29 November 1947, from the further discharge of which the resolution of 14 May seemed to have relieved the Commission.

However, he observed, it would be very unfortunate if the outstanding matters of the Commission, especially those not directly related with the implementation of partition, such as food allocations, postal arrangements and Palestinian assets, were not, in some way, drawn to the attention of the Security Council.

He would not advise the preparation by the Commission of a report on these subjects inasmuch as the submission of such a report might invite a rebuff from States which look unfavourably upon the Commission because it had been set up to implement partition. Instead, he might suggest that the Chairman address a communication outlining all the outstanding matters to the Secretary-General, thus

/not involving

not involving the Commission formally in the matter. The Secretary-General could then present the Chairman's communication to the Security Council.

He emphasized that he was expressing his personal views, after consultation with the Secretary-General, Mr. Sobolev and Mr. Feller.

The view was expressed by a member of the Commission that the resolution of 14 May really had a retroactive effect as far as the Commission was concerned, in that in relieving the Commission from further responsibilities it also affirmed the impossibility, due to the action of the Mandatory Power, for the Commission to have implemented the plan in accordance with the time-table which it had envisaged.

To this, the SECRETARY added the observation that it could be contended that the resolution of 14 May had not actually dissolved the Commission, since the resolution of 29 November 1947, by virtue of which the Commission had been created, had not been rescinded. The whole mechanism was simply in abeyance. Conceivably, the situation could develop at some future date wherein it might be considered advisable to reconvoke the same Commission.

The view was also expressed that the two resolutions passed by the General Assembly on 14 May reaffirmed partition. The resolution calling for the appointment of a Mediator implied two parties, and two parties implied partition. Likewise, the other resolution, expressing appreciation of the General Assembly for the work performed by the Commission in pursuance of the mandate given to it last November, also could be interpreted as reaffirming partition.

/The CHAIRMAN

The CHAIRMAN stated that the Commission should take the view that it had not ceased to exist, but that until and unless it received further instructions from the General Assembly to the contrary, it would adjourn sine die.

It was agreed that a communication from the Chairman to the Secretary-General should be transmitted dealing with the outstanding matters which had been left before the Commission.

The SECRETARY stated that he would prepare a complete documentary record for the Secretary-General of the Commission's activities for such disposition as the Secretary-General might wish to make of it.

A suggestion was made that a separate memorandum should be prepared dealing with all matters concerning which either the Commission or the Mandatory Power had made decisions of a legal character, and that this memorandum should make clear where these matters stood as of 14 May.

It was agreed that a separate memorandum dealing with all matters on which the Commission or the Mandatory Power had taken decisions of a legal character, and making it clear where these matters stood as of 14 May, should be submitted by the Chairman to the Secretary-General.

Mr. MORGAN (Panama) expressed on his own behalf and in the name of the other members his warm appreciation of the very good work which the Secretariat of the Commission had performed.

The CHAIRMAN said that he had been about to make a similar expression. He wished to thank the Members of the Commission and the Secretariat for the way in which they had assisted him in his difficult task. He recalled that in his opening speech, when

/the Commission

the Commission first commenced its work, he had said that he realized that he could not discharge his task without the full concurrence of his colleagues. He could now say that he had never lacked that concurrence.

The SECRETARY stated that he could earnestly say that it had been a real pleasure for him and his staff to work with the Commission. The Secretariat had worked as a team, and, he thought, as a very good team. He thanked the Secretariat for the sincere way in which they had served the Commission.

The CHAIRMAN stated that the Commission could disperse with a clear conscience regarding the work it had performed, and feel confident that history would judge it favourably.

The CHAIRMAN formally declared that the United Nations Palestine Commission was adjourned sine die.

The meeting rose at 4:05 p.m.