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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": Elections to the Constituent Assemblies to
be held by the Provisional Councils of Government on the
Basis of Election Regulations Approved by the Commission

(Working Paper Prepared by the Secretariat)

I. ELECTIONS TO THE CONSTITUENT ASSEMBLIES TO BE HELD BY THE
PROVISIONAL COUNCILS OF GOVERNMENT ON THE BASIS OF ELECTION
REGULATIONS APPROVED BY THE COMMISSION

1. Paragraph 9, sub-paragraph 1, of Part I, B, provides that "the Provisional Council of Government of each State shall, not later than two months after the withdrawal of the armed forces of the Mandatory Power, hold elections to the Constituent Assembly which shall be conducted on democratic lines. The election regulations in each State shall be drawn up by the Provisional Council of Government and approved by the Commission"

2. Paragraph 9, sub-paragraphs 2, 3 and 4 of Part I, B, completed by sub-paragraph 2 of Part I, C, Chapter 3, paragraph 1, indicate which will be the qualified voters for each State.

3. The last sub-paragraph of paragraph 9 of Part I, B, provides that "during the transitional period no Jew shall be permitted to establish residence in the area of the proposed Arab State, and no Arab shall be permitted to establish residence in the area of the

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proposed Arab State, except by special leave of the Commission".

By inserting this sub-paragraph in the paragraph dealing with elections to the Constituent Assembly, the General Assembly intended that the results of such elections should not be altered by a migration of potential Jewish voters to the Arab State and vice versa. If the Mandatory Power intends to retain "undivided control" until the termination of the Mandate, the United Nations Commission may not be in a position itself to apply this provision before it takes over from the Mandatory Power. In its negotiations with the latter, the Commission may accordingly wish to raise this question and ask the Mandatory Power whether it is ready to refer to the Commission any request for a change of residence which would be in contradiction with this provision of the plan. The Commission might study each request and make its decision known after it takes over from the Mandatory Power. After the termination of the Mandate, it will be the duty of the Commission to enforce or cause the Provisional Councils of Government to enforce the prohibition edicted by the General Assembly, subject to the right conferred on the Commission to grant derogations.

4. As regards preparations for the elections, it will be the duty of the Commission to ascertain not only that the provisions regarding the qualified voters are respected, but also that the regulations drawn up by the Provisional Councils of Government ensure that the elections "shall be conducted on democratic lines". The phrase "on democratic lines" will have to be interpreted by the Commission. In this connection attention may be drawn to the provisions which should later be incorporated in the constitutions of the two States for the election of their respective legislative bodies, viz: election "by universal suffrage and by secret ballot on the basis of proportional representation". The Commission will have to appreciate how far the election regulations which must be submitted to it by the Provisional

Councils of Government conform - to the extent possible in actual circumstances - to such democratic standards as: unhampered registration for voting purposes of all persons fulfilling the requirements provided in the plan approved by the General Assembly; freedom of speech, assembly, press and effective use of mass media by all registered political parties prior to election day; free elections by secret ballot. A strict observation of some of these democratic standards may in the circumstances be impossible in practice as the weeks preceding the elections will be a very difficult period.

5. According to the time-table adopted by the General Assembly, the elections shall take place not later than 2 months after the withdrawal of the armed forces of the Mandatory Power, and the establishment of the independence of the Arab and Jewish States shall take place two months after such withdrawal. The Commission will accordingly be in Palestine during the weeks preceding election day. Election day itself may not coincide in the two States, but it ought in both States to precede independence day if the provision of Part I, C, paragraph 1, is to be duly fulfilled (according to this paragraph, Declarations should be made to the United Nations before independence not by the Provisional Councils of Government, but by the Provisional Governments chosen by the Constituent Assemblies). As the duties of the Commission will not cease prior to independence day, it will have to watch over developments during the elections and report on them.

6. The Commission and the Provisional Councils of Government, in order to adhere to the time-table fixed by the General Assembly, will have to fulfill a complicated task in a very short time. Registration of voters alone in a country in which during the Mandate no general elections have been held and the last census took place in 1931 may be a long and difficult process. To expedite matters, the Commission might consider the advisability of starting preparations for the

registration of voters before the termination of the Mandate. The Mandatory had planned to have a new census and prepared for it. Such preparatory work as has been made might be utilised and further progress realised for the registration, not of the whole population, but of qualified voters. If such registration was completed before or shortly after the withdrawal of British troops, it might be possible to hold elections a few weeks later. Much will depend on the will and ability of the Mandatory to co-operate with the Commission in this question.

II. DRAFTING BY THE PROVISIONAL GOVERNMENTS OF DECLARATIONS TO THE UNITED NATIONS

1. Paragraph 1 of Part I, C, provides that: "A Declaration shall be made to the United Nations by the Provisional Government of each proposed State before independence. It shall contain inter alia the following clauses:"
2. Part I, F, provides that the Declaration shall be "signed" by each State, before admission to membership in the United Nations.
3. According to paragraph 3 of Part I, A, "independent Arab and Jewish States shall come into existence two months after the evacuation of the armed forces of the Mandatory Power has been completed but in any case not later than 1 October 1948". The plan accordingly allows each proposed State only two months for:
 - (a) holding elections to the Constituent Assembly;
 - (b) convening the Constituent Assembly;
 - (c) choosing of a Provisional Government by the Constituent Assembly;
 - (d) drafting and approving the Declaration to the United Nations.(Such drafting may take time as the Constituent Assembly may wish to discuss the Declaration especially in view of the phrase

/"inter alia"

"inter alia" in paragraph 1 of Part I, C).

4. During those two months, the Commission will continue to exercise its powers of "direction", as such powers will only lapse when the two independent States are established in conformity with the provisions of the plan. Such powers of direction may imply the participation of the Commission in the procedure followed by either State for the drafting of its Declaration to the United Nations.
