

UNITED NATIONS PALESTINE COMMISSION

Considerations Affecting Certain of the Provisions of the General Assembly Resolution on the "Future Government of Palestine": Termination of the Mandate, Withdrawal of British Forces

(Working Paper Prepared by the Secretariat)

The provisions of the plan on Partition with Economic Union embodied in the resolution on the future Government of Palestine are necessarily of a general character. Accordingly, it would seem advisable that they should be analyzed and elaborated with a view toward obtaining a clearer and more concrete idea of their meaning and implications. A series of working papers, of which this is the first, has been prepared with this end in view.

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I. TERMINATION OF THE MANDATE

1. Part I, A, paragraph 1 of the plan adopted by the General Assembly provides that "the Mandate for Palestine shall terminate as soon as possible but in any case not later than 1 August 1948".

2. Part I, A, sub-paragraph 2 of paragraph 2 provides that "the Mandatory Power shall advise the Commission, as far in advance as possible, of its intention to terminate the Mandate..."

3. The following statements made by spokesmen of the British Government in the House of Commons on 11 and 12 December 1947, indicate the intention of the Mandatory Power, of which the Commission will probably be officially advised at one of its early meetings.

(a) First Statement by Mr. Creech Jones, 11 December:

"The date we have in mind for this (the termination of the Mandate), subject to negotiation with the United Nations, is 15 May".

(b) Subsequent Statements by Mr. Bevin: On 11 December, answering a conservative member who "hoped that it would be made clear that 15 May would be definitely the date", Mr. Bevin answered "Certainly". On 12 December, Mr. Bevin stated that "the Government had fixed, after the most careful consideration, the date of 15 May. The date was arrived at having regard to all the negotiations to be conducted. The transfer of power to the United Nations was not simply a matter of walking out of Palestine... If it was found that the negotiations on all those matters (economic, etc.) with the United Nations moved more quickly, and they (the British Government) could fix an earlier date, they would do so... 15 May was the last date. They were definitive on that, and there could be no misunderstanding of their position."

4. The British Government accordingly intends that the transfer of power to the United Nations Commission should take place on 15 May, possibly earlier, but not much earlier, as Mr. Bevin has reminded the House of Commons that February was impossible.

5. The views of the British Government in this connection may be completed by two statements. The first was made at the last meeting of the General Assembly by the British representative, Sir Alexander Cadogan: "I have been instructed to express the hope that the United Nations Commission will get into communication with His Majesty's Government in the United Kingdom in order that arrangements may be agreed for the arrival of the Commission in Palestine and for the co-ordination of its plans with those of the Mandatory Power for the withdrawal of British Administration and British Military forces". The second statement was made by Mr. Creech Jones in the House of Commons on 11 December: "In our view undivided control is essential until the Mandate is relinquished. As His Majesty's

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Government has made it clear that they cannot take part in the implementation of the United Nations plan, it will be undesirable for the Commission to arrive in Palestine until a short period before the termination of the Mandate. For reasons of administrative efficiency, responsibility and security, this overlap period should be comparatively brief, but much preliminary work can be done by the Commission outside Palestine before then". It is the intention of the Mandatory Power to "retain control of the country" so long as the Mandate is not terminated and not to relinquish the Mandate "piecemeal" but "as a whole" on the "appointed day".

6. As regards the connection between the termination of the Mandate and the withdrawal of British troops, Mr. Creech Jones has stated that the termination of the Mandate would take place "some time in advance of the completion of the withdrawal", when the latter would be "well under way".

II. WITHDRAWAL OF BRITISH ARMED FORCES FROM PALESTINE

1. The Plan adopted by the Assembly contains the following provisions, paragraph A.2 of Part I, respecting the withdrawal of British armed forces:

"The armed forces of the Mandatory Power shall be progressively withdrawn from Palestine, the withdrawal to be completed as soon as possible but in any case not later than 1 August 1948.

"The Mandatory Power shall advise the Commission, as far in advance as possible, of its intention to terminate the Mandate and to evacuate each area.

"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."

2. Both in the General Assembly and in the House of Commons debates on 11 and 12 December 1947, the United Kingdom Government stated that it intended to complete the withdrawal of its forces from Palestine by 1 August 1948, or earlier if possible. After the adoption of the Assembly's resolution on 29 November 1947, Sir Alexander Cadogan expressed the hope that "the United Nations Commission will get into communication with His Majesty's Government in the United Kingdom in order that arrangements may be agreed for the arrival of the Commission in Palestine and for the co-ordination of its plans with those of the Mandatory Power for the withdrawal of British Administration and British military forces."

3. It therefore appears that there is agreement between the policy of the United Kingdom Government and the terms of the Assembly's resolution on the date of the final withdrawal. There is also agreement by the United Kingdom Government that its plans for military withdrawal are a proper subject for co-ordination with the plans of the Commission.

4. As to the time-table and details of the British plans for withdrawal, the intentions of the United Kingdom Government are not known. Mr. Creech Jones stated in the House of Commons on 11 December 1947 that "The outline plan which has been made by His Majesty's Government for withdrawal has been communicated to him (the Secretary-General of the United Nations) and put forward as a basis for negotiation with the Commission." Mr. Bevin stated in the House of Commons on 12 December 1947 that the Government had a plan of withdrawal but that the detailed arrangements were delicate and not a proper subject for public discussion. He added, "It may be varied as we go along." Up to 9 January 1948 the Secretary-General had not received any plan of the British withdrawal as suggested by Mr. Creech Jones.

This section has accordingly been prepared on such information as was made available in the discussions in the General Assembly and in the British House of Commons, and will be subject to amendment depending on the information contained in the British plan. It is noteworthy, however, that Mr. Creech Jones stated that the plan of withdrawal was "put forward as a basis for negotiation with the Commission." This would imply that the United Kingdom might be prepared to vary its plan in order to meet the requirements of the Commission. The Commission may therefore wish to undertake, as one of its first tasks, to obtain from the United Kingdom the details of its plan of withdrawal and examine them in the light of the details of the Commission's own plan for implementing the Assembly resolution.

5. So far as can be ascertained from remarks of United Kingdom officials, the following details of the British plan of withdrawal are known:

(a) Mr. Creech Jones stated in the House of Commons on 11 December 1947 that the United Kingdom intended to withdraw its forces in the most orderly manner and in such a way as "to cause the least possible disruption to the economy of the country and to interfere as little as possible with the normal trade, especially the citrus trade." Since the export of citrus fruits requires practically full use of the seaports during the months of December, January and February, it is expected that the evacuation of British troops during these months will be small and that such evacuation as occurs will take place other than by sea.

(b) Mr. Creech Jones also stated that the Mandate would be terminated when "the evacuation is well under way". Since the Mandate will be terminated not later than 15 May, it can be anticipated that the evacuation of British troops will take place in large numbers during March, April and May, 1948.

(c) As to the evacuation of a seaport by 1 February 1948 in order to facilitate Jewish immigration, Mr. Creech Jones stated: "This presents a considerable difficulty and must be studied further with the United Nations Commission in connection with the thorny problem of immigration . . ." Mr. Bevin stated, however, in the House of Commons on the following day (12 December 1947), "I cannot agree to open a port until we lay down the Mandate. We can not have two administrations at the same time". This last statement seems to imply that the United Kingdom Government may not be ready to comply with the third sentence of paragraph A.2 of the Plan. The Commission may request the British Government to elucidate this point.

(d) The British authorities have commenced a type of withdrawal or evacuation from specific areas, which may be a guide for further withdrawals of a similar nature. Mr. Creech Jones stated that, in order to strengthen British police for action in Jerusalem and Haifa, "all British personnel are being withdrawn from the purely Jewish area of Tel-Aviv, Petah Tikvah and Ramat Gan. Their place is being taken by the Jewish Police in the Force, and a guard force, called Mishmar, which will operate under the direction of the Government of Palestine and solely within that area for the protection of Jewish life and property against terror attacks. A similar Arab municipal police force is being formed for Jaffa, under arrangements now being made." In this case of withdrawal of British personnel final authority is left in the hands of the Mandatory Power, and it can, if it chooses, re-occupy the areas before 15 May. Nevertheless the Commission might find it useful to explore with the United Kingdom the possibility of extending the area of such withdrawals prior to 15 May. It is also possible that respecting the provision on evacuation of a seaport by 1 February 1948, the Commission might suggest that the Tel-Aviv area which was being policed by Jewish personnel could satisfy the requirements of paragraph A.2 of the Plan.

(e) Mr. Creech Jones stated, "Once the Mandate has been terminated our troops remaining in Palestine will be responsible only for maintaining law and order in those areas in which they are still in occupation, with the limited object of ensuring that their final withdrawal is not impeded, and that it should be completed in the shortest possible time." Mr. Bevin stated, "The task of the Army and the others at the end, when the Mandate is handed over, will be to protect themselves in the withdrawal." After the termination of the Mandate problems may arise concerning the relationship between the Commission and the British forces remaining in Palestine between 15 May and 1 August. The Commission may desire to enter into negotiations with the United Kingdom with a view to minimizing these problems. The matter is discussed more fully in Section III.

(f) There is a passage in Mr. Creech Jones' speech which implies that the British forces would evacuate Jerusalem by 15 May 1948. He stated, "Up to the date of relinquishment of the Mandate, the Palestine Government remains responsible for the security of Jerusalem and its Holy Places. After the termination of the Mandate, it will be the responsibility of the United Nations to ensure the safety of the City and its Holy Places. . ." Since the Mandatory Power has stated that

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after the termination of the Mandate its troops would continue to maintain law and order in the areas in which they were still in occupation, it would seem to follow that, if they are not prepared to discharge this task in Jerusalem, they will have been evacuated therefrom by 15 May. The point should, however, be clarified.

(g) The United Kingdom representative (Mr. Martin) stated in Sub-Committee I of the Ad Hoc Committee on the Palestinian Question that he thought the Haifa area and seaport would be the last area to be evacuated by British forces.

(h) With respect to the Arab Legion, which owes allegiance to the King of Transjordan but units of which have been serving in Palestine under the orders of the British Commanding Officer, under an arrangement with King Abdullah, Mr. Bevin stated, "It has been decided that all these units will be withdrawn from Palestine at the same time as the withdrawal of the British forces. That withdrawal will be completed when the withdrawal of the British forces is completed." According to press reports, the Jewish Agency for Palestine has asked for the immediate evacuation of these Transjordan troops.

(i) With respect to the nature and the date of completion of the evacuation, Mr. Creech Jones stated, "I repeat that His Majesty's Government intend to withdraw troops from Palestine by 1 August 1948. . . . We desire to carry out an orderly withdrawal producing the minimum dislocation in the country, and evacuating the greatest possible quantity of valuable service stores now located there. This period, until 1 August, is also not too long to enable this to be done. It may be impossible to remove all our stores, but obviously we must incur no more loss than is inevitable, and make arrangements, where possible, for subsequent removal." Mr. Bevin, in speaking on the date of final withdrawal, stated, "So that August 1 . . . was the very best date to which we could absolutely pledge ourselves. But here again, if circumstances arise in which we can speed this thing up to bring it earlier, we shall do it. . . . We are giving priority to the removing of implements of war from Palestine. We shall not leave any warlike stores behind after August 1.

(j) Mr. Bevin also made it clear that unless the problem of the United Nations force was solved, "not only in Palestine but as part of the international set-up", the British Government would not agree to placing British forces under any other command, and would not take its share as one of the Members of the United Nations if the Security

Council were to decide that collective enforcement action was necessary in respect of Palestine.

6. Sir Alexander Cadogan stated in the Ad Hoc Committee on 20 November 1947,

"I can, however, assure the Committee that we shall endeavour to keep the United Nations Commission informed beforehand of our intentions regarding the stages of our withdrawal." This statement, plus the invitation to the United Nations Commission to arrange for the co-ordination of its plans with those of the United Kingdom, and the statement of Mr. Creech Jones that an outline plan of withdrawal has been communicated to the Secretary-General as a basis for negotiation with the Commission, seem to imply that the United Kingdom will agree to advance notification of its intention to evacuate each area. It may be that the Commission will desire more specific information in this regard.

7. The proposed British withdrawal affects the United Nations Commission in varying degrees during three clearly defined periods:

- (a) The period before the arrival of the United Nations Commission in Palestine.

During this period the United Nations Commission cannot affect or observe the situation created by the withdrawal of British troops in any area. If British forces evacuate any area and leave that area to the supervision of Arab or Jewish security forces (as has been intimated in the case of the Tel-Aviv area and Jaffa), those forces will remain subject to the command of the Military Commander and Inspector General of Police and will be responsible solely to the Mandatory Government. It would, however, be very useful for the Commission to receive advance notification of such local evacuation.

- (b) The period between the arrival of the United Nations Commission and the termination of the Mandate (not later than 15 May 1948).

- (i) According to statements made on behalf of the Mandatory Power, during this period it will still be responsible for law and order, even in areas of Palestine from which British troops have been evacuated. There would appear to be an implied responsibility on the part of the Mandatory Power to establish bodies and processes for maintaining law and order in these evacuated areas. Such Arab and Jewish bodies would still be responsible to British Commanders. In view of the Commission's tasks it would appear to be appropriate for it to request further information from the Mandatory Power in this connection.

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- (ii) If the Commission's consultations with the Mandatory Power regarding the evacuation of a seaport by 1 February 1948 (or shortly thereafter) are successful, the Commission presumably would need to be in a position to carry out some of its functions on the spot and to create some local authority to deal with immigration.
- (iii) According to the last statements made in the House of Commons by Mr. Creech Jones and Mr. Bevin (11 and 12 December 1947), the termination of the Mandate will be a one-time act. Thus in one day the Mandatory Government will pass from a state of full responsibility for security in evacuated areas to a state of non-responsibility for security in those areas. Conversely, the United Nations Commission will pass overnight from a state of non-responsibility to a state of full responsibility for security in certain areas of the country. It will be necessary for the Commission to be notified as early as possible of the Mandatory Government's intention to evacuate a certain area. The Commission will require due time to consult with Arab and Jewish authorities about the preparations for maintaining security in areas evacuated by 15 May, since after that date, in the absence of an international force, the Commission could only rely on Arab and Jewish authorities for the maintenance of security in evacuated areas. It may happen, for example, that on 30 April the Commission would see a possibility of a Provisional Council of Government being capable of maintaining order in area 'X' but not yet in area 'Y'. It would be appropriate for the Commission to draw the attention of the Mandatory Power to such circumstances and to request it to influence its sequence of evacuation accordingly.
- (iv) Since the Commission and the Provisional Councils of Government will, on 15 May, suddenly inherit heavy security responsibilities, they must be in a position to survey in advance the technical and political problems involved. It follows that the Commission must be in Palestine and the local militias established and equipped well in advance of 15 May. The earlier that consultations begin between the Commission and the Mandatory Power in respect of each area evacuated, the greater will be the chances of successful

security in those areas from 15 May onwards. The converse is also true. It appears, therefore, on grounds of practical necessity as well as from the terms of paragraphs B.2 and B.12 of the Plan, that the principle of the Mandatory Power's undivided responsibility should not be interpreted as precluding the co-ordination of the plans of the Commission with those of the Mandatory Power. In this connection the invitation made by Sir Alexander Cadogan at the last meeting of the General Assembly should be kept in mind.

(c) The period between the termination of the Mandate and the completion of evacuation (15 May - 1 August).

(i) During this period there will be no British civil administration in the country and political responsibility will be vested in the United Nations Commission and the Provisional Councils of Government acting under the Commission. British troops remaining in the country will be responsible "only for maintaining order in those areas in which they are still in occupation, with the limited object of ensuring that their final withdrawal is not impeded and that it should be completed in the shortest possible time." The Commission and the Provisional Councils of Government, acting under the Commission, will have responsibility for law and order in all other parts of the country.

(ii) As soon as British troops evacuate their remaining areas of occupation the Commission and the local militias will extend their security responsibilities to those areas. It follows that the date and manner of evacuation in each of such areas should be communicated in advance to the Commission by the British Military Commanders, or preferably not finally decided by them until after consultation with the Commission.

(iii) A special problem arises in Arab areas in which there may be no Provisional Council of Government ready or willing to take over responsibility. The matter will, however, have already been referred, under paragraph B.4 of the Plan, to the Security Council which will be responsible for dealing with the problem.