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COMMITTEE ON JERUSALEM

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SUMMARY RECORD OF THE FORTY-SECOND MEETING

held in Lausanne, on Tuesday, 2 August 1949
at 3.30 p.m.

Present: Mr. Eralp (Turkey) - Chairman
Mr. Benoist (France)
Mr. Barco (U.S.A.)
Dr. Serup - Committee Secretary

The CHAIRMAN invited the Committee to begin discussion of the amendments to the preliminary draft for an international regime for the Jerusalem area (Com.Jer./W.18).

Mr. BARCO explained that his delegation had made every effort to submit its amendments to the Committee as soon as possible and that they had been made available some two weeks ago. It was regrettable that the amendments proposed by the French delegation were not at the Committee's disposal since that meant that only provisional progress could be made. His delegation felt, however, that the matter was one of some urgency since the text should be revised in its final form and presented to the Commission as soon as possible.

Mr. BENOIST apologised to the Committee for the fact that the amendments proposed by his delegation had not been distributed to the Committee before the meeting. He thought that the Committee might, however, discuss the first nine articles of the draft.

Mr. BARCO explained that the changes proposed by the United States delegation were in the nature of drafting amendments and changed in no way the fundamental character of the existing draft.

In reply to a question from the CHAIRMAN as to what extent the draft proposal before the Committee was binding and whether changes of substance could be made at that stage, Mr. BARCO said that in his view there was no actual commitment, but rather a tacit understanding with regard to the draft

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between the members of the Committee.

Mr. BENOIST pointed out that there had hitherto been no full discussion of the question whether the draft proposal and the suggested amendments were binding upon the Governments concerned. The discussions at the present meeting could not in any way commit the French Government since his delegation's amendments were not as yet being discussed. The presentation of the United States representative's amendments showed that the general principles of the existing draft had been agreed to by the State Department. The same could not as yet be said with respect to the French Government and it was therefore impossible for him to discuss the question with full authority. He wished to make it clear that there was a serious objection to the assumption that a corridor would exist between Jerusalem and Tel Aviv. If the Protocol signed on 12 May 1949 were adhered to, no such corridor would exist.

Mr. BARCO, in reply, said that he was not in a position to commit the United States Government definitely to the draft, but he could say that the State Department fully approved that both the draft and the proposed amendments should be submitted to the Commission. He knew that his Government thought such a solution to be the most practical one and one which was in keeping with the General Assembly's resolution, and would therefore be prepared to give it its support. Once the Commission had submitted the plan to the General Assembly, there would undoubtedly be further discussion of its provisions and the result of such discussions could not be foretold.

He suggested that since the Committee had unfortunately been unable to study any French proposals before the meeting, the Committee might adjourn as it seemed to him that no useful purpose would be served by discussing on a provisional basis the amendments to the existing draft if substantial changes were to be suggested at some future date.

It was his delegation's view that there could be no valid reason for the Committee not to submit to the Commission its proposals for the internationalisation of Jerusalem, and that moreover it was under an obligation to do so, whether

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or not the territorial questions was decided, and whatever conclusion was reached in connection with the corridor.

Mr. BENOIST thought that the most logical course for the Committee to follow would be to prepare several drafts which would meet the three possible ways in which the Jerusalem question could be settled: the system based on the present Armistice lines according to which Israel and the Arab State would be adjacent, the isolation of the Jerusalem area within an Arab State as under the Partition Plan, or encirclement of the Jerusalem area by Jewish-controlled territory.

Alternatively, the Committee could inform the General Assembly through the Commission that it considered itself unable to submit draft proposals for the internationalisation of Jerusalem without prejudging the future political and territorial settlement. He suggested therefore that the Committee discuss preliminary principles at the present meeting.

The CHAIRMAN pointed out that any proposals agreed upon within the Committee would be submitted to the Commission and not directly to the General Assembly. Since it had already been stated in the Committee's Second Progress Report what direction the Committee's work would take, it was clear that it was the Committee's duty to prepare the draft proposals on general lines to be submitted to the Commission. Should the Commission thereupon decide that, since changes had occurred in territorial arrangements, it would be necessary to submit another draft, then the Committee would begin work on a second draft. At present, however, the Committee should continue with its present plan of work, as indeed it was committed to do.

Mr. BARCO agreed that the question of drawing up a draft had always been envisaged on that basis. It was the view of his delegation and his Government that the text at present under consideration could be adjusted to meet any eventuality. Points concerning such matters as rights of citizenship and military service could be added as special provisions, should the Jerusalem area be encircled by the Arab State. He therefore reiterated that his delegation could not agree to

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the procedure suggested by Mr. Benoist and that the Committee should complete the existing draft.

Mr. BENOIST pointed out to the Committee that the Protocol of 12 May had been signed when work on the preliminary draft, which had been completed in its present form on 15 May, had practically ended. It seemed to him impossible therefore to submit to the Assembly a plan which prejudged the territorial settlement in a direction opposed to that laid down in the map attached to the Protocol. He suggested therefore that the Committee could propose to the Assembly that the present state of affairs be maintained until the territorial situation was decided, or that a United Nations Administrator or Commissioner could be appointed in the meantime in order to maintain the Status Quo and to facilitate the passage of pilgrims across the frontiers. If there was acceptance of the suggestion put forward in the French delegation's amendments under "Presentation" and referring to the possibility of the State of Israel being territorially contiguous with the area of Jerusalem, he would be prepared to discuss drafting changes and to study suggestions put by the other members of the Committee.

The CHAIRMAN said that the very fact that the French delegation had collaborated on the draft indicated that they considered that draft to be workable, even if only under certain given conditions. He thought that the flexibility with which the preliminary proposals had been drafted, precisely in order to facilitate its adjustment to varying circumstances, made it a workable scheme. He considered that undue stress should not be laid on the reservations made by the French representative and that the Committee should complete the text as it stood.

Mr. BENOIST thought that it was essential that some specific provisions be made regarding "citizenship" and "domicile", as in Article 3A of the French delegation's amendments. That would notably protect the interests of the Jews who might, under the map laid down in the Protocol, be isolated in the Jerusalem area.

It was precisely because the Committee's Second Progress Report had referred to a workable and realistic solution that he thought it imperative to take all those considerations into

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account. He had no objection to the stipulation contained under "Presentation" in his delegation's amendments being included in some different form if that were more agreeable to the Committee.

Mr. BARCO said that he would of course obtain further instructions from the American representative on the Commission and from the State Department, but that he was not at that stage able to agree with the views expressed. He considered that the present draft was acceptable, subject to possible modifications, whatever the general territorial or political settlement might be. He further pointed out that the idea of a corpus separatum had in any case been abandoned for several reasons, one of which was that it would place too great a responsibility on the United Nations to charge it with guaranteeing the maintenance of a separate international zone. He felt moreover that it would be contrary to the basic principles of the plan to include a condition in the preamble.

The CHAIRMAN drew the Committee's attention to the fact that, whilst the territorial problem could not be solved immediately since it was subject to negotiations, it was imperative for the Commission to prepare draft proposals for the internationalisation of Jerusalem which could be put into immediate application or which, with the addition of a few special provisions, could be adapted to any situation which might arise.

In order to avoid committing the Commission to any given view on the territorial settlement, it was preferable not to include any condition in the preamble, but some statement could be made in the explanations which would accompany the draft proposals to the effect that the draft had been prepared with that possibility in mind but that it could be adjusted to whatever settlement was decided upon.

The COMMITTEE SECRETARY, on being asked for his opinion, supported the suggestion made by the Chairman as to the procedure to be followed.

The Committee approved the proposal to revise the preliminary draft in its final form and to include some mention in the report that it had been prepared in a flexible form in order to ensure its adaptability to whatever territorial settlement were decided upon. The Committee decided that in the meantime the members might consult their delegations further on the subject.