

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

COMMITTEE ON JERUSALEM

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13 August 1949  
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SUMMARY RECORD OF THE FORTY-EIGHTH MEETING

held in Lausanne, on Saturday, 13 August 1949  
at 11:15 a.m.

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

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Consideration of the draft prepared by the Secretariat  
of the Instrument establishing an International Regime  
for the Jerusalem Area (Com.Jer./W.31) (continued)

Article 7:

The Committee approved Article 7 with amendments  
increasing from eight to fourteen the number of members  
of the General Council, and substituting "simple majority"  
for "absolute majority". Article 7, as amended, therefore  
read as follows:

"There shall be established for the area of  
Jerusalem a General Council, which shall be composed  
of fourteen members and the United Nations Commissioner  
who shall preside. Five members shall be appointed by  
the responsible authorities of the Jewish zone and five  
by the responsible authorities of the Arab zone. Four  
members being neither Arab nor Jewish, of whom two are  
residents of the Jewish zone and two of the Arab zone,  
shall be appointed by the Commissioner. The Council  
shall take decisions by a simple majority".

Article 8:

The Committee approved Article 8.

Article 9:

The Committee approved Article 9, as amended by the  
Chairman who proposed the deletion of "similarly":

Article 10:

The Committee approved Article 10 with the amendments suggested by the Chairman, including the insertion of a new sub-paragraph (e). Article 10, as amended, therefore read as follows:

"The General Council shall have the following functions and powers:

(a) to prescribe rules for the coordination and operation of the main public services of common interest to the area of Jerusalem, and to plan and execute, on an area-wide basis, matters of municipal concern, such as the development of transport, communications and public utilities;

(b) to prescribe rules in matters relating to the protection of sites and antiquities and town-planning;

(c) to coordinate measures for the maintenance of public order;

(d) to allocate contributions of each zone towards expenditure in common interest;

(e) to study and recommend to the responsible authorities of the two zones economic and commercial arrangements or agreements with a view to promoting the economic development of the area of Jerusalem as a whole and facilitating trade both between the two zones and between the area and the world outside;

(f) to exercise such further functions and powers as the responsible authorities of the two zones may agree to entrust to the Council."

Article 11:

The Committee approved Article 11 as it stood and decided to request the Secretary to add further provisions defining the duties of the Deputy Judge and giving the International Tribunal jurisdiction over the Holy Places outside Jerusalem.

Article 12:

Mr. BENOIST drew attention to the amendments submitted by the French delegation whereby certain cases in which ministers of religion were involved should be dealt with by the Mixed Tribunal.

The COMMITTEE SECRETARY however considered that it

would be difficult to set up some system of capitulations of ministers of religion, as it had to be remembered that there were certain other bodies, such as the Quakers, who were likely to establish themselves in Jerusalem for humanitarian and similar purposes and who might also claim a special position in this regard.

The CHAIRMAN pointed out that, in the event of Catholic priests being concerned, the Vatican would always be able to intervene on their behalf.

The Committee approved therefore Article 12, as amended by the United States representative who proposed the following changes: That (a) be amended as follows: "all the parties involved are residents of one or the other zone but not residents of the same zone"; that sub-paragraph 5 be amended to read: "In civil cases, the Mixed Tribunal shall apply the law of the locus in accordance with the general principles of private international law"; and that sub-paragraph 7 be amended to read: "in criminal cases, the Mixed Tribunal shall apply the criminal law of the zone in which the offense has been committed. In cases of doubt, the criminal law and procedure most favourable to the accused shall be applied".

It was decided to request the Secretary to add provisions defining the duties of the Deputy Judge and stating, at the end of the Article, that appeal could be made to the International Tribunal.

Article 13:

The Committee approved Article 13, as amended by the United States representative, who substituted the words "of the United Nations Commissioner" for the words "for the United Nations Commissioner" in paragraph 2.

Article 14:

Before discussing the remaining Articles of the draft proposals, Mr. BENOIST wished to emphasize the importance his Government placed on the section of the draft dealing with Holy Places, religious buildings and sites. Although he was willing to revise that section at the present meeting, he wished it to be clear that he reserved the right to make any further statement on the matter following instructions from his Government.

The Committee approved Article 14 in an amended form as follows:

"Holy Places, religious buildings and sites shall be understood as those places, buildings and sites which, on 14 May 1948, were regarded as Holy Places, religious buildings and sites.

If any question arises as to whether any place, building or site was regarded on 14 May 1948 as a Holy Place, religious building or site, the Commissioner shall decide. For the purpose of deciding any such question, he may appoint a Committee of Enquiry to assist him".

It was further decided to request the Secretary to add a third paragraph, making provision for Holy Places regarded as such after 14 May 1948.

Article 15:

The Committee approved Article 15, with the addition of the following provision, to be inserted between the two sentences of the Article: "Such regulations will be binding upon the local authorities of both zones who, whenever necessary, will implement them by issuing further rules".

Articles 16, 17 and 18:

The Committee approved Articles 16, 17 and 18.

Article 19:

In connection with Article 19, Mr. BENOIST pointed out that his Government felt most strongly that the Commissioner should not have authority to intervene in disputes within a religious community, and that, in disputes concerning two or more communities he should be assisted by a body representing the various religious denominations. Provision should be made moreover for right of appeal to the International Tribunal.

The Committee approved Article 19, deleting paragraph 2 and duly amending paragraph 1 as follows:

"The rights in force on 14 May 1948 as regards Holy Places, religious buildings and sites shall remain in force, in particular those rights and practices known as the status quo applying to the principal Holy Places of the Jerusalem area. If any dispute arises in connection with such Holy Places, religious buildings and sites between two or more religious communities, the Commissioner shall,

if he deems it necessary, appoint a Committee of Enquiry to assist him in settling the dispute in accordance with the practice and rights in force on 14 May 1948. If the suggestions are not accepted by the parties, the Commissioner shall submit the matter to the International Tribunal whose decision shall be final".

Article 20:

The Committee approved Article 20, as amended by the United States representative, who proposed that the words "to the Secretary-General, who shall bring the matter to the attention of the Security Council" in sub-paragraph 3 be replaced by the words "to the Secretary-General of the United Nations, who shall bring the matter to the attention of the appropriate organ of the United Nations". He suggested further that the number of police in each zone be reduced to 500 instead of 750.