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UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

COMMITTEE ON JERUSALEM

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17 August 1949
ORIGINAL: ENGLISH

INSTRUMENT ESTABLISHING AN INTERNATIONAL REGIME
FOR THE JERUSALEM AREA

Preamble

WHEREAS the General Assembly of the United Nations by resolution 194 (III), adopted at its 186th Plenary meeting on 11 December 1948, resolved that the Jerusalem area, in view of its association with three world religions, should be accorded special and separate treatment from the rest of Palestine and should be placed under effective United Nations control;

WHEREAS the General Assembly instructed the Conciliation Commission to present to the fourth regular session of the General Assembly detailed proposals for a permanent international regime for the Jerusalem area which will provide for the maximum local autonomy for distinctive groups consistent with the special international status of the Jerusalem area, and

WHEREAS the Conciliation Commission was instructed, when presenting such proposals for a permanent international regime for the Jerusalem area, to include recommendations concerning the Holy Places in that area;

THE CONCILIATION COMMISSION

IN PURSUANCE of the aforesaid resolution

PRESENTS the following proposal for a permanent international regime for the area of Jerusalem.

I. GENERAL PROVISIONS

Article 1.

The area of Jerusalem shall include the town of Jerusalem, together with the surrounding villages and towns, the most western of which is Ein Karim (including also the built-up area of Motsa); the most northern Shu'fat; the most eastern Abu Dis, and the most southern Bethlehem. The boundaries of the area of Jerusalem are shown on the attached map (Annex A).

Article 2.

The area of Jerusalem shall be divided into two zones, defined hereafter as the Jewish zone and the Arab zone. The demarcation line between the two zones is shown on the attached map (Annex B).

Any person who is domiciled in the Jewish zone or who habitually resides there shall, for the purpose of the present Instrument, be considered a resident of the Jewish zone.

Any person who is domiciled in the Arab zone or who habitually resides there shall likewise be considered a resident of the Arab zone.

Article 3.

All matters not reserved by the present Instrument to the competence of the United Nations Commissioner and the organs provided for hereinafter shall fall within the competence of the responsible authorities of the two zones.

Article 4.

The responsible authorities of the Jewish and Arab zones shall maintain in their respective zones only such agents and officials, and shall establish only such administrative organs and public services, as are normally necessary for the administration of municipal affairs.

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Article 5.

The responsible authorities of the Jewish and Arab zones shall not carry out an immigration policy of a nature to change the present demographic equilibrium of the area of Jerusalem.

II. ORGANS

Article 6.

The United Nations shall be represented in the area of Jerusalem by a Commissioner appointed for five years by the General Assembly of the United Nations. He shall be responsible to the General Assembly and may be dismissed by it. He shall report annually to the General Assembly and may also make special reports to the appropriate United Nations organ or specialised agency whenever he deems it necessary.

The General Assembly of the United Nations shall also appoint for five years, on the recommendation of the Commissioner, a Deputy Commissioner who shall be responsible to the Commissioner and who may be dismissed by him. The Deputy Commissioner shall assist the Commissioner and shall replace him in the event of his absence or disability.

The Commissioner and the Deputy Commissioner shall not be residents of the Jewish zone or the Arab zone of Jerusalem or nationals of the State of Israel or of an Arab State.

Article 7.

On behalf of the United Nations, the Commissioner shall ensure the protection of and free access to the Holy Places, in accordance with the terms of Articles 14 to 19 of the present Instrument.

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Article 8.

On behalf of the United Nations, the Commissioner shall supervise and report to the appropriate organ of the United Nations on:

(a) the permanent demilitarisation and neutralisation of the area, in accordance with the terms of Article 20 of the present Instrument; and

(b) the protection of human rights and of the rights of distinctive groups, in accordance with Article 22 of the present Instrument.

Article 9.

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 simple majority vote of its members.

Article 10.

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 to town-planning;

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

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(d) to allocate the contributions of each zone towards expenditures in the 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.

There shall be established an International Tribunal for Jerusalem composed of three Judges and one Deputy Judge to be appointed by the International Court of Justice. The Deputy Judge shall replace any of the Judges in the event of absence or disability. The members of the Tribunal shall be of different nationalities and neither be residents of the Jewish zone, or the Arab zone, nor nationals of the State of Israel or of an Arab State.

The members of the International Tribunal shall hold office for a term of five years but may be re-elected. They may be removed for cause by the General Assembly of the United Nations.

The International Tribunal shall sit in Jerusalem. It shall determine its own rules of procedure. The Tribunal shall designate one of its members to serve as President for such period as the Tribunal may determine. The members of the Tribunal shall receive salaries and allowances in amounts to be determined by the General Assembly.

The International Tribunal shall have jurisdiction

(a) to hear and determine cases between the responsible authorities of the Jewish and Arab zones and between the United Nations Commissioner and the

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responsible authorities of either zone involving claims that laws, ordinances, regulations, administrative acts or court decisions applying to the area of Jerusalem are incompatible with the present Instrument;

(b) to review, in its discretion, final decisions of the Mixed Tribunal for Jerusalem provided for in Article 12 of the present Instrument;

(c) to decide such disputes regarding Holy Places, religious buildings and sites inside the Jerusalem area as the United Nations Commissioner may submit to the Tribunal under Article 18 of the present Instrument;

(d) to decide such disputes regarding Holy Places, religious buildings and sites outside the Jerusalem area which the United Nations Commissioner may submit to the Tribunal under Article 19 of the present Instrument and the provisions of the declaration to be made by the States concerned.

Decisions of the International Tribunal shall be binding on the parties.

The International Tribunal may issue such orders within its competence as it deems necessary for the effective exercise of its jurisdiction.

Article 12.

There shall be established a Mixed Tribunal for Jerusalem composed of three Judges and three Deputy Judges. One Judge and one Deputy Judge shall be appointed by the responsible authorities of the Jewish zone. The second Judge and Deputy Judge shall be appointed by the responsible authorities of the Arab zone. The third Judge and Deputy Judge shall be appointed by the President of the International Tribunal for Jerusalem and shall neither be residents of the Jewish zone or the Arab zone, nor nationals of the State of Israel or of an Arab State. The Deputy Judges shall replace the Judges in the event of absence or disability. The Judge appointed by

the President of the International Tribunal, or the Deputy Judge appointed by him, as the case may be, shall act as President of the Mixed Tribunal.

The members of the Mixed Tribunal shall hold office for three years but may be re-elected. They may be removed for cause by the International Tribunal.

The Mixed Tribunal shall sit in Jerusalem. It shall determine its own regulations and rules of procedure. The members of the Tribunal shall receive salaries and allowances in amounts to be determined by the General Assembly.

The Mixed Tribunal shall have jurisdiction with respect to civil cases in which:

(a) all the parties involved are residents of one or the other zone but not residents of the same zone;

(b) one or more of the parties involved is not resident of either zone, but is a national of an Arab State temporarily staying in the Jewish zone or an Israeli national temporarily staying in the Arab zone.

In civil cases, the Mixed Tribunal shall apply the law of the locus in accordance with the general principles of private international law.

The Mixed Tribunal shall have criminal jurisdiction with respect to all offenses committed in either zone when either the victim or the accused is a non-resident of that zone.

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 of the zone most favourable to the accused shall be applied.

The decisions of the Mixed Tribunal may be reviewed by the International Tribunal as provided for in Article 11 of the present Instrument.

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The Mixed Tribunal may issue such orders in Jerusalem as it deems necessary for the effective exercise of its jurisdiction. The decisions and orders of the Mixed Tribunal shall be executed by the appropriate authorities of the zone in which the decision or order applies.

Article 13.

The Commissioner shall be authorised to employ under temporary contracts the number of guards necessary to assure the protection of and free access to the Holy Places, religious buildings and sites, as well as to assure his own security and that of his staff. He shall further be authorised to employ under temporary contracts the auxiliary administrative personnel necessary for the carrying out of his functions.

The salaries, allowances and administrative expenses of the United Nations Commissioner, the Deputy Commissioner, the members of the International Tribunal for Jerusalem, the President of the Mixed Tribunal for Jerusalem and his Deputy, and the staff of the Commissioner, including guards and administrative personnel, shall be included in the annual budget adopted by the General Assembly and shall be paid by the United Nations. These salaries and allowances shall be exempt from taxation.

III. HOLY PLACES, RELIGIOUS
BUILDINGS AND SITES
INSIDE THE JERUSALEM AREA

Article 14.

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

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shall rest with the Commissioner.

If any question arises as to whether any place, building or site not hitherto regarded as a Holy Place, religious building or site shall be considered as such, the decision shall rest with the Commissioner.

For the purpose of deciding the questions mentioned in paragraph 2 and 3 of this Article, the Commissioner may appoint a Committee of Enquiry to assist him.

Article 15.

The Holy Places, religious buildings and sites in the area of Jerusalem and the routes giving immediate access to them shall be placed under the exclusive control of the Commissioner, who shall be authorised to promulgate regulations with a view to assuring their protection and free access to them, and to station guards charged with the maintenance of order outside and inside them. Such regulations shall be binding on the responsible authorities of both zones, who whenever necessary shall implement them by issuing further rules. The Commissioner shall also be authorised to station guards along certain urban routes normally used by ministers and members of the Christian, Jewish and Moslem religious communities proceeding to the above-mentioned Holy Places, buildings and sites.

Article 16.

No form of taxation shall be levied in respect of any Holy Place, religious building or site which was exempt from such taxation on 14 May 1948.

No change in the incidence of any form of taxation shall be made which would either discriminate between the owners and occupiers of Holy Places, religious buildings and sites or would place such owners and occupiers in a position less favourable in relation to the general incidence of that form of taxation than existed on 14 May 1948.

Article 17.

The Commissioner shall undertake to secure for ministers of religion, pilgrims and visitors free circulation throughout the area of Jerusalem without distinction as to nationality or faith. He shall have power to negotiate and conclude with the States concerned arrangements whereby the unhindered travel of ministers of religion, pilgrims and visitors to and from the area of Jerusalem shall be guaranteed.

Article 18.

The rights in force on 14 May 1948 with regard to Holy Places, religious buildings and sites shall remain in force, in particular those rights and practices known as the "Status Quo" established in 1757 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 of the Commissioner are not accepted by the parties, the Commissioner shall submit the matter to the International Tribunal whose decision shall be final.

If at any time it appears to the Commissioner that any Holy Place, religious building or site is in need of urgent repair, he may call upon the community or denomination or section of the communities concerned to carry out such repair. If the repair is not carried out or is not completed within a reasonable time, the Commissioner may himself make arrangements to carry out or complete the repair. In cases where the communities concerned are unable or unwilling to pay for these works, the Commissioner shall charge them to the account of the expenditures in the common interest.

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IV. HOLY PLACES, RELIGIOUS
BUILDINGS AND SITES
OUTSIDE THE JERUSALEM AREA

Article 19.

The Commissioner shall be authorised to supervise the implementation of undertakings made by the States concerned regarding Holy Places, religious buildings and sites of Palestine situated outside the area of Jerusalem. He may submit to the International Tribunal for decision disputes regarding the implementation of these undertakings.

V. DEMILITARISATION AND NEUTRALISATION

Article 20.

The area of Jerusalem shall be permanently demilitarised and neutralised. There shall be no military or para-military forces or stocks of war material within the area.

The responsible authorities of the two zones shall make declarations to the General Assembly guaranteeing the demilitarised character of their respective zones.

Any violation of the provisions contained in these assurances or any attempt to alter the international regime by force shall, unless settled by negotiations or pursuant to a decision of the Tribunal, be reported by the Commissioner to the Secretary-General of the United Nations, who shall bring the matter to the attention of the appropriate organ of the United Nations.

Nothing in this Article shall affect the right of the responsible authorities to maintain within their respective zones police forces armed with normal police weapons, for the purpose of maintaining order and security. The number of police in each zone shall not exceed 500 unless an increase is temporarily authorised by the United Nations Commissioner.

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VI. ECONOMIC AND FINANCIAL
PROVISIONS

Article 21.

The responsible authorities of the Jewish and Arab zones shall negotiate such arrangements of an economic and financial nature as may be appropriate in the circumstances, taking into consideration the necessity of facilitating commercial relations between the two zones.

VII. HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 22.

The responsible authorities of the two zones of Jerusalem shall, in administering their respective zones, in particular as regards freedom of worship and freedom of education, be guided by the principles and standards set forth in the Universal Declaration of Human Rights approved by the General Assembly on 10 December 1948 "as a common standard of achievement for all peoples and all nations". Should the United Nations Commissioner consider that the responsible authorities of the two zones in Jerusalem are failing to comply with these obligations, he shall bring the matter to the attention of the International Tribunal in an appropriate proceeding or, if necessary, bring the matter before an appropriate organ of the United Nations.

VIII. SPECIAL PROVISIONS

Article 23.

The official languages used in the area of Jerusalem in application of the provisions of the present Instrument shall be English, French, Hebrew and Arabic.

Article 24.

The present Instrument shall enter into force on It can be revised or amended by the General Assembly of the United Nations.