

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

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SUMMARY RECORD OF THE TWO HUNDRED AND TENTH MEETING

held at Government House, Jerusalem, on Thursday,  
26 April 1951, at 10.30 a.m.

Present:

Mr. Palmer	(United States)	- Chairman
Mr. de Boisanger	(France)	
Mr. Aras	(Turkey)	
Mr. de Azcarate		- Principal Secretary

The CHAIRMAN opened the meeting by extending, on behalf of the members of the Commission, a welcome to Mr. Berncastle, land specialist, who had just arrived in Jerusalem, and expressed the Commission's satisfaction at having on its Committee of Experts a member as competent as Mr. Berncastle, whose previous functions ensured his high qualifications for the work entrusted to him.

Mr. BERNCASTLE thanked the Chairman for his welcome and assured the Commission of his wish to devote all his experience to the task which the Commission was undertaking in the field of compensation.

The CHAIRMAN added that he was, he thought, expressing the feeling of the members of the Commission in saying that the opinions of the experts present at the meeting might help to clarify a discussion of the type which was about to open, and he invited Mr. Erim, legal adviser, Mr. Berncastle, land specialist, and Mr. Fisher, political adviser, to speak if they had any information to give regarding the item discussed.

1. Letter dated 29 March 1951 from Mr. Eytan, Director-General of the Ministry for Foreign Affairs of Israel (IS/60)

The CHAIRMAN submitted to the Commission the letter (IS/60) which Mr. Eytan, Director-General of the Ministry for Foreign Affairs of Israel, had addressed to the Chairman of the Conciliation Commission, drawing attention to the legislation recently enacted in Iraq concerning the seizure of property belonging to Jews registered for emigration to Israel, and to the measures which the State of Israel felt obliged to take as a result of that law. He thought it necessary to indicate the considerations which should be borne in mind when examining the contents of the letter.

In his opinion, it was first necessary to find out whether there was a precedent for this case, and then to consider whether in the present instance the Commission felt that it had a special responsibility, and finally to see whether, having in mind the task entrusted to it, the Commission should take certain action in the interests both of the parties concerned and of the United Nations. It would also be appropriate to consider the consequences of any action which the Commission might take from the point of view of its relations with Israel on the one hand and with the Arab States on the other, as it was important that no decision should be taken which might provoke reactions of a nature to complicate the Commission's task.

Mr. ARAS (Turkey) stated that he personally was not aware of any precedent for the situation which had been created by the measures taken by Iraq concerning Jews registered for emigration to Israel. The present situation was a hindrance to the establishment of peace between the parties to the Palestine dispute, and the Commission, whose principal task was to remove all obstacles in the way of peace, could not therefore ignore the question. In his opinion, it would be appropriate to consider in the first instance whether the Commission was competent to deal with the situation covered in the Israel note, and if so to examine the substance of the letter which it had received. There were two main points in that letter, namely, that in view of its obligation to receive

perniless immigrants, Israel's financial resources - and therefore its capacity to pay compensation - were diminished and that the Government of Israel would therefore have to take into account, in the eventual payment of such compensation, the value of the property of Jews emigrating to Israel which had been seized by the Government of Iraq.

Mr. Aras recalled that since the Treaty of Versailles, governments had the right to represent their nationals, old or new, with the object of protecting their rights, as in the case of the Greco-Turkish exchanges of population.

It was necessary for the Commission, in order to appreciate all the aspects of the situation, to know the attitude of the Arab countries to the position taken by Israel. He therefore suggested that, in the first place, the Commission should communicate the contents of the note in question to the Governments of Iraq and of the Arab countries and invite their comments, and, in the second place, it should instruct its experts to study the substance of the Government of Israel's letter.

Mr. de BOISANGER (France) had reached the same conclusions as Mr. Aras, but by rather different means. He also felt that the note from the Government of Israel should be communicated to the Arab countries, but he wondered whether the note should be transmitted only to the Government of Iraq or also to the Governments of the other Arab countries concerned.

He further stressed that the note contained more or less a recognition by Israel of its debt to the refugees. That was a factor which should be fully taken into account, although the recognition was only a limited one, since Israel referred only to compensation for "abandoned Arab lands", while the General Assembly resolution provided for compensation for all property abandoned by Arabs in Israel.

The representative of France - and on that point he differed from the representative of Turkey - was less concerned with the legal aspect of the problem, which naturally should be studied very thoroughly, than with the fact that the Commission had been confronted by Israel with a de facto situation. As a result of the measures taken by the Government of Iraq vis-à-vis the Jews in that

country, the Government of Israel felt that its financial position would no longer enable it to carry out its obligations as to compensation and that it should in any case take into account, in any payment of compensation, the value of Jewish property seized in Iraq. It was undoubtedly necessary to find out whether Israel had any legal grounds for linking the two accounts, but it was above all essential to inform the Arab States without delay of the position adopted by Israel, in order to know their reaction and that of the refugees themselves. A brief note should therefore be sent to the governments concerned, informing them of the position adopted by Israel following the recent measures taken by the Government of Iraq concerning the Jews in that country. Should the Commission transmit the Government of Israel's letter to the Government of Iraq with a covering letter which would be sent for information to the other Arab Governments, or should it address to the Government of Iraq and to the other Arab Governments a joint letter - that was the question which appeared to call for an immediate decision.

The PRINCIPAL SECRETARY thought that the letter from the Government of Israel was of interest to all the Arab States who had given shelter to refugees. However, as it was of direct concern to Iraq, it might perhaps be communicated in the first place to the Iraqi Government and then for information to the other Arab countries, and possibly also to the Arab League, as Mr. de Boisanger and Mr. Aras had suggested.

Mr. BARCO (United States)<sup>x</sup> wished to remark that, although the letter from the Government of Israel should undoubtedly be communicated to the governments of the Arab countries concerned, it also seemed that before transmitting the letter the Commission should study its contents carefully in order to clarify certain points which were of extreme importance to the Commission. It appeared, in fact, that the Government of Israel was not adhering to the principle of compensation as laid down in the General Assembly resolution. For that reason it seemed to him to be indispensable for the Commission to examine the substance of the note very thoroughly, in order to decide on its attitude, so that it would not be in a difficult position if the Arab States, after having been officially advised of the position adopted by

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<sup>x</sup> Alternate.

the Government of Israel, should ask to be informed of the Commission's attitude. If the Commission were to transmit the Government of Israel's letter to the Government of Iraq and to the governments of the other Arab countries concerned without at the same time informing them of the attitude adopted by the Commission after careful consideration, those governments might have the impression that the Commission agreed with the views expressed in the letter. For his part, Mr. Barco did not feel that the Israel point of view could be regarded as satisfactory and that a unilateral measure taken by Iraq could be linked to Israel's general obligation to pay compensation to all Arab refugees not returning to their homes.

The CHAIRMAN thought that Mr. Barco's remarks deserved consideration and recalled that since Israel had made its conditional offer to contribute to the United Nations Reintegration Fund - and he was inclined to think that the present note tended to repeat the Israel point of view that the refugee problem could be disposed of merely by the payment of a contribution to the Reintegration Fund - he personally had always maintained that compensation should be paid to refugees not returning to their homes. He had no intention of abandoning his position and would be unable to support any decision amounting to an acknowledgment that Israel's offer was satisfactory. It was obvious that the Government of Israel's letter should be communicated to the Government of Iraq, which was primarily concerned in the matter, but perhaps the Commission should proceed by stages and wait until later before transmitting the letter to the other Arab Governments.

Mr. ERIM (Legal Adviser), having been requested to give his opinion, said that the first thing to be done was to acknowledge receipt of the letter from the Government of Israel. In the acknowledgment - the terms of which would have to be agreed upon - it might, for instance, be stated that the Commission did not consider itself competent to deal with the general problem of the Iraqi Jews which only came under the Commission's jurisdiction insofar as it was linked with the question of compensation. In this connection it might be added that the Commission noted the fact that Israel had no desire to add new difficulties to the solution

of the Arab refugee problem or to retract from the obligation which it had undertaken in that respect. Mr. Erim also thought it would be preferable not to ask the Arab Governments for their comments, as such a request might provoke unfruitful controversy.

As regards Israel's attitude to compensation, he felt it advisable not to raise that question at the present time, as Israel's position would certainly be stated when the Head of the Office discussed the matter with the competent Israel authorities.

Mr. de BOISANGER (France) also felt that so long as the General Assembly had not given it specific instructions, the Commission was not competent to deal with the general question of the Iraqi Jews. On the other hand, it was undoubtedly competent to intervene in a case where measures taken by governments affected Israel's financial potential and thus her capacity to pay compensation.

He agreed with Mr. Barco that the note from the Government of Israel was unsatisfactory from several points of view, in particular when that government appeared to limit compensation to "abandoned Arab lands" and to ignore the Compensation Fund in favour of the Reintegration Fund. There was nothing to prevent the Commission from making known to Israel, either verbally or in writing, its feeling in that respect, but he did not think that it would be advisable to delay any further before communicating the letter to the Arab governments concerned.

Mr. ARAS (Turkey) thought that the simplest procedure would be to acknowledge receipt of the letter from the Government of Israel, stating that the Commission was studying the question of its competence and that once that was clearly defined it would examine the substance of the letter. The document might then be communicated for information to the Government of Iraq, accompanied by the letter of acknowledgment sent by the Commission to the Government of Israel.

Mr. Aras felt that by proceeding in that manner the Commission would show the Arab States and Israel that it could not ignore the question.

Mr. de BOISANGER (France) agreed to the procedure proposed by the representative of Turkey. He stressed, in reply to Mr. Barco, that the important point in

the letter from the Government of Israel was the indication that the measures taken by the Government of Iraq vis-à-vis the Jews of that country diminished Israel's financial capacity, thus jeopardizing the payment of compensation and hindering the main task of the Commission. It would, moreover, seem normal that all the States concerned in some way or other with the question of refugees, and perhaps also the refugees themselves, should be informed of the contents of the letter setting forth Israel's position.

Mr. FISHER (Political Adviser) remarked that it was difficult for the Commission to take a stand regarding the substance of the letter from the Government of Israel before having studied in detail the numerous aspects of the problem, the complexity of which was evident to all.

As regards the question of whether the note from the Government of Israel should be communicated to one or to several Arab States, he was afraid that if the Commission transmitted the letter only to the Government of Iraq it might be thought that the Commission was prepared to play the part of an intermediary between Iraq and Israel, which, as Mr. Erim had observed, would be beyond its competence. It would therefore, in his opinion, be necessary to communicate the note to all the Arab countries concerned in the refugee question, for information, and to state clearly that the Commission reserved its position as to the substance of the letter.

In connection with the proposal made by Mr. de Boisanger that the refugees themselves might be informed of the contents of the note from the Government of Israel, he suggested that after Israel's letter had been communicated to the governments of the Arab States concerned, a press release should be made to the effect that the Commission had received a note from the Government of Israel in which the latter indicated its attitude as a result of the measures taken by the Government of Iraq vis-a-vis the Iraqi Jews, and that the Commission had transmitted the note to the Arab governments concerned, while reserving its position on the substance of the note.

The CHAIRMAN felt that the Commission should take into consideration the very

pertinent remarks made by the legal and political advisers and should transmit the note from the Government of Israel to all the Arab countries concerned, purely for information.

Mr. BARCO (United States)<sup>x</sup> remarked that if the Commission were to take an official decision merely to acknowledge receipt of the letter dated 29 March 1951 from the Government of Israel and to transmit that letter to the governments of the Arab countries concerned, it would be difficult for him personally to associate himself with that decision.

He felt that the Commission should call attention to the points in the letter from the Government of Israel which it thought were inconsistent with the General Assembly resolution. It should also study the note more thoroughly and attempt to find out to what extent the position taken by the Government of Israel was a final one, in order to use its influence to persuade that Government to change it. That seemed to be the essential task of the Commission, and this step, which appeared to be indispensable if it were to carry out its mission of conciliation, should be taken before replying to the Government of Israel or sending the note to the governments of the Arab countries concerned.

The CHAIRMAN felt that Mr. Barco's concern that the Commission should not remain silent concerning the parts of the Government of Israel's letter which it could not accept was quite justified, as was his desire to persuade that Government to change its attitude. It seemed to him, however, that the Commission could not state its position or intervene with the Israel Government before having examined in detail all the aspects of the situation. For that reason it seemed to him to be advisable to send that very day to Israel a simple acknowledgment which would not prejudice the Commission's position or any future action which it might take.

Mr. ARAS (Turkey) was in full agreement with the Chairman's views.

Mr. de BOISANGER (France) also felt that the Commission could not state its position or intervene with the Government of Israel without having thoroughly considered the possible consequences of its decision. For the present, the contents of the Government of Israel's note were more important than the position

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of the Commission. He still felt that the Commission should immediately, as a matter of urgency, inform the Government of Iraq of the position adopted by Israel as a result of the recent measures taken against the Jews of Iraq, in an attempt to have those measures rescinded. Such a procedure appeared to him to be even more sensible in view of the fact that those measures did not appear to have the approval of certain Arab Governments or of the Arab League. Such action would not prevent the Commission from studying the substance of the note from the Government of Israel and deciding to what extent it could support the views set forth therein.

The CHAIRMAN thought, after the exchange of views, that the Secretariat might be requested to submit for approval by the Commission a draft letter acknowledging receipt of the note dated 29 March 1951 from the Government of Israel and a further draft letter transmitting that note to the Government of Iraq and, for information, to the governments of the other Arab countries concerned.

This was agreed.

The meeting rose at 1.15 p.m.

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