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SUMMARY RECORD OF THE TWO HUNDRED AND SIXTY-FIFTH MEETING

Held at the Hôtel Crillon, Paris,  
on Friday, 9 November 1951, at 10.30 a.m.

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Chairman: Mr. PALMER United States of America

Members: Mr. MARCHAL France

Mr. ARAS Turkey

Alternates: Mr. BARCO United States of America

Mr. de NICOLAY France

Mr. TEPHEDJELIEN Turkey

Secretariat: Mr. de AZCARATE Principal Secretary

Mr. ANDERSEN Head of Refugee Office

## CONSIDERATION OF THE REPLY BY ISRAEL

The CHAIRMAN requested the members of the Commission to present their observations on the Israel delegation's letter (IS/77) of 7 November 1951 to the Chairman of the Conciliation Commission in reply to his letter of 31 October (IS/76).

He was of opinion that in its letter the Israel delegation did not reply to the Commission's question whether delegations were prepared to discuss its proposals in detail. It appeared from the reply that Israel was not prepared to discuss the Commission's proposals before the question which it regarded as fundamental had been settled. However, it declared its willingness to comment on the various points of the Commission's proposals.

It was thus for the Commission to decide whether, in the knowledge that the Israel delegation did not wish to discuss the proposals in detail until a certain question which it regarded as fundamental had been settled, it would none the less hear that delegation's observations.

Mr. ARAS (Turkey) noted that the Israel delegation was adhering to its original attitude and was refusing to open negotiations with the other Party either directly or through the intermediary of the Commission, unless the Arab States accepted the Security Council's interpretation of the Armistice Agreements. The Commission was therefore faced with a new situation resulting from the fact that Israel had raised a preliminary question. What Israel was requesting was that the Commission should take action to obtain acceptance by the Arab States of the Security Council's decision of 1 September 1951. But, in his view, the Commission, before which the Security Council decision had not officially been brought, had no competence to do so.

He therefore considered that the Commission should state in its report to the Secretary-General that its proposals had given rise to a preliminary question by the Israel delegation, with which it had no competence to deal and that, in consequence, it had been led to the conclusion that the conference would have to be adjourned pending settlement of the matter by the competent authority.

/Mr. MARCHAL

Mr. MARCHAL (France) believed that the Commission ought not to take a decision on the substance of the matter before receipt of the replies of all the Arab delegations.

With regard to the Israel delegation's letter, he saw no reason to interpret it as evading a reply to the Commission's questions. Although the last paragraph of the letter was admittedly couched in somewhat vague terms, it was none the less not restrictive in character and, in any case, the Israel delegation declared itself ready to present its observations on the questions raised by the Commission's proposals. It therefore appeared to him that the task of the Commission was not to attempt to ascribe to the letter an implicit sense which in actual fact did not emerge from the terms used by its authors.

He wished to point out to Mr. ARAS that, even though the Security Council resolution interpreting the Armistice Agreements had not officially come before it, the Commission could hardly fail to be aware of a resolution which concerned a matter with which it was dealing. He emphasized that the preamble to the Commission's proposals was in any case in perfect harmony with the Security Council's interpretation of the Armistice Agreements. That the Commission had felt it should accept the declaration of the Arab delegations was due not to the fact that it regarded that declaration as completely satisfactory but because it considered it to be an expression of goodwill which it had seemed wise not to discourage in order to attempt to create the necessary favourable atmosphere. However, it would be idle at present to deny that the desired objective had not been attained and that an unfavourable atmosphere had resulted from the attempt. Those were facts which had to be borne in mind and the Commission ought to terminate fruitless discussions on a matter which at present appeared difficult to solve, and take up the Israel delegation's positive offer to present its observations on all the questions raised by the Commission's proposals.

Mr. ARAS (Turkey) agreed with the French representative that, before taking a decision on the substance of the matter, the Commission might await the arrival of the replies of all the Arab delegations, the import of which could, however, be easily anticipated.

In connexion with his interpretation of the Israel delegation's letter, he pointed out that it appeared to him difficult not to take account of a statement by the Government of Israel couched in terms as precise as those of the first paragraph of the letter in question.

With regard to the Security Council's decision, the Commission could of course not fail to be aware of it, but as it had not been submitted to the Commission officially, it would be inappropriate to attempt to apply it. By adjourning the present conference as he had proposed, the Commission would be running less risk of jeopardizing the future and would thus be making possible a resumption of the negotiations, since in fact its proposals would not have been rejected by any of the Parties. It had furthermore to be remembered that when the Commission had drafted the text of the preamble, the Security Council decision had not been taken. The preamble had been inspired by the United States delegation, and the French and Turkish delegations had lent it their support, after rendering its terms somewhat less forthright, because they had believed that they would be thereby contributing to the re-establishment of peace. Whether acceptance of the declaration of the Arab States was a mistake was something which the Commission might consider.

The CHAIRMAN noted that the hope of creating a favourable atmosphere had been disappointed, but it had, however, been in that hope that the Commission had accepted the Arab declaration, believing in good faith that the work of the conference could thereby be furthered in the interests of all the Parties.

He would not call the Israel reply evasive, but he thought nevertheless that it was capable of several interpretations. He pointed out that in a speech made to the Parliament, Mr. Sharett had gone further than the statement in the Israel letter regarding relations with the Arab States. He thought, in spite of everything, that the Commission should obtain a clearer reply from Israel to the first question it had asked. He did not think it necessary to address a memorandum to Israel on that point, but it might perhaps be possible in an unofficial approach to ask the Israel delegation how the statement in the letter was to be interpreted in view of Mr. Sharett's recent speech in Parliament. The Commission would be in an embarrassing position if it was

unable to reply with exactitude to the questions which the Arab delegations might ask it in that respect. In any event, the Commission would not be binding itself in any way by making an unofficial approach to the Israel delegation to ask it whether it was willing to discuss its proposals fully, and to inform it that the Commission had no objection to hearing its observations.

Mr. MARCHAL (France) supported the Chairman's suggestion since he agreed that a delicate matter always gained by being dealt with unofficially. He added that for himself he saw no difference between "discussing the proposals of the Commission" and "submitting observations on the various matters raised by the Commission."

He had so far refused to interpret the Israel letter, preferring to keep strictly to the text; but he would like to indicate his understanding of it. He felt that the letter concerned two quite separate questions which should in fact have been the subject of two communications. The first question was the transmission to the Commission of the statement of the Government of Israel, which merely required acknowledgment by the Commission. The second question was whether the Israel delegation was prepared to discuss the Commission's proposals. The reply to that was clear: Israel declared itself to be ready if not to discuss them, at least to submit observations on them. Perhaps the terms "submit observations on the various matters raised" had been employed instead of "discuss the Commission's proposals" to make it clear that according to the Israel delegation, it would be a matter of conversations with the Commission and not of negotiations, even indirect negotiations, with the Arab States.

If that interpretation was correct, he could not understand why the form of the statement should give any offence. The Egyptian delegation had declared at the opening of the current conference that its intention was to discuss matters with the Commission only and not directly or indirectly with the Israel delegation which, moreover, it refused to recognize. The Commission had not objected to that declaration of the Arab delegations and it had therefore no reason for refusing a similar statement implicit in the letter from Israel. They had reached a point, where for the first time both Parties were willing to submit their observations on the Commission's proposals, and it would perhaps be unfortunate to let the opportunity escape. The Commission should therefore hear those observations and record them in its report.

The CHAIRMAN appreciated the logical reasoning of the French representative but pointed out that, if the Israel delegation had dealt with both questions in the same letter, it was probably because it intended to link them owing to the fact that the views put forward affected its position with regard to the Commission's proposals.

In any event, since the members of the Commission had no objection, he would take the first opportunity of seeking the necessary explanations from the Israel delegation.

At the suggestion of Mr. PARCO (United States of America), the CHAIRMAN proposed that the matter should be reconsidered when the Commission was in possession of the replies of all the delegations.

It was so decided.

#### REPORT OF THE HEAD OF THE REFUGEE OFFICE OF THE COMMISSION

Mr. ANDERSEN (Head of Refugee Office) recalled that on 8 September 1951 the Commission had requested the Office to prepare studies on the refugee problem, with specific instructions that they should be historical surveys rather than studies reaching conclusions. He had therefore given his fellow-workers instructions to that effect. The report now submitted on the regulation of the rights of the riparian States did not therefore deal directly with the problems special to Palestine, but nevertheless bore them in mind, with a view to supplying any historical and legal data which might be of use for the future settlement of those problems.

He then introduced to the Commission that section of the Office's report entitled "Summary of Historical Precedents and Conventions regulating the Law of Riparian States". He analyzed it briefly and said that he had thought it advisable to dwell on the development of international legislation in that field from the Congress of Vienna and the Convention of Madrid up to the very detailed study which the Committee on Electric Power of the Economic Commission for Europe had made of the question. He emphasized that the international conventions chiefly concerned problems of navigation and that in Palestine it was problems of the utilization of water and irrigation which were the most important. Those two aspects of the matter had been surveyed in two other parts of the study.

/The CHAIRMAN

The CHAIRMAN thanked the Head of the Office for his interesting statement on the report he had just submitted to the Commission, which the Commission would study in detail. He was glad to note at once, however, that the very detailed report had been prepared with a clear appreciation of the purposes for which it was designed.

The meeting rose at 12.35 p.m.