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SUMMARY RECORD OF A MEETING BETWEEN THE COMMISSION
AND THE DELEGATION OF ISRAEL

Held at the Hôtel de Crillon, Paris,
on Friday, 26 October 1951, at 4 p.m.

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PRESENT

<u>Chairman</u>	:	Mr. PALMER	United States of America
<u>Members</u>	:	Mr. MARCHAL	France
		Mr. ARAS	Turkey
<u>Alternates</u>	:	Mr. BARCO	United States of America
		Mr. de NICOLAY	France
		Mr. TEPEDELEN	Turkey
<u>Secretariat</u>	:	Mr. de AZCARATE	Principal Secretary
<u>Also present</u>	:	Mr. FISCHER	Representative of Israel

STATEMENT BY THE DELEGATION OF ISRAEL

The CHAIRMAN welcomed the Israel delegation. He recalled that the Commission had indicated, following the receipt of Mr. Fischer's letters of 14 and 19 October, that it would be glad to hear the observations which the Israel delegation desired to make and that it was prepared, at the same meeting, to communicate to that delegation the detailed explanations of its comprehensive proposals. As the Commission had already informed the Israel delegation, those explanations had been given to the Arab delegations on 24 October.

Mr. FISCHER (Israel) made the following statement:

" I thank the Commission for having favourably considered the desire expressed in my letter of 19 October to discuss at this meeting a question which has not been fully dealt with, that of the initial attitudes of the parties.

My Government had heartily welcomed the decision taken by the Commission at the beginning of this conference to require the parties to make a preliminary statement of their intentions. As Mr. Sharett said in his reply to the invitation to participate in this conference: "In my Government's opinion any prospect of achieving tangible results will depend first and foremost on the spirit and intention with which the parties enter the conference." Indeed, the conference could not be undertaken unless it were recognized that the tendency to give to the Armistice Agreements and the United Nations Charter an interpretation incompatible with their letter and their spirit would prevent the realization of the desire shared by the United Nations and the State of Israel for the re-establishment of normal conditions in the Middle East.

At the first meeting of this conference, therefore, the Israel delegation noted with the greatest interest the Commission's determination to require from the parties a declaration in terms which would leave no room for misunderstanding.

The only positive act of pacification between the Arab States and the State of Israel up to the present time has been the conclusion of a series of Armistice Agreements; the international principle which should lead to the establishment of peaceful relations between the parties on a permanent basis is solemnly laid down in the United Nations Charter, to which both the Arab States and the State of Israel have subscribed.

What could be more necessary or more logical than to require that two parties in conflict should strictly observe agreements already concluded and existing rules of international law, before proceeding to discuss questions which cannot be settled (in the words used by the Chairman in his opening statement) unless Israel receives "reasonable assurances from her neighbours as to her national and economic security"? How is it possible to consider new guarantees if the conciliation body does not first of all insist on the observance of those which have already been given? For those which derive from the United Nations Charter have been continually ignored, and those which derive from the Armistice Agreements have been violated both in the letter and in the spirit.

By a decision of the Security Council, the United Nations have intervened in the case of a flagrant violation of existing agreements and treaties: the Suez Canal blockade. The Security Council's decision has been explicitly rejected by the Egyptian Government. In other no less flagrant cases, such as the economic blockade imposed on its members by the Arab League, or the threats and preparations for a war of retaliation, the United Nations have not yet taken any executive decision.

However, it is one thing to postpone consideration of the violation of agreements and international treaties and decisions, and it is quite another matter to tolerate such violation explicitly. Such toleration is unfortunately shown in a clear and unequivocal way: by the acceptance of the Arab States' refusal to affirm the complete validity of the principles of the Charter and of the decisions of the Security Council. It is shown even more clearly in the decision to consider this attitude as contributing to the creation of a favourable atmosphere for discussions and for the return of permanent peace in Palestine, and as a basis for carrying on those discussions. The anxiety felt by the Israel Government concerning conclusions expressed by the Conciliation Commission, which cannot but create the impression that the Arab States can ignore with impunity the decisions of the Security Council, can well be imagined. Can the State of Israel be asked to enter into discussions with the Arab States, through the Conciliation Commission, in such circumstances, thus implicitly approving those conclusions? In the present atmosphere of contempt for treaties which so seriously threatens the peace and security of the Middle East, can the State of Israel agree to a procedure which would inevitably have the effect of encouraging such contempt?

At the meeting of the Security Council on 16 August 1951, Mr. Austin stated: "The Government of the United States believes that the imposition of these restrictions [i.e., the blockade of the Suez Canal] is a retrogression from what both parties committed themselves to - namely, the establishment of permanent peace in the Palestine area.

No other significance of these restrictions appears possible. The result of this hostile act is the engendering of hostility in return, which places in jeopardy the peace and stability of that area. This is properly the concern of this Council and requires our action lest the situation worsen."

Mr. Austin added: "One evasion of these Agreements invites others. We cannot permit a challenge of this kind to serve as a precedent for jeopardizing the present stability of the Palestine area and progress toward peace for the area."

The apprehension expressed by the United States delegate in the Security Council is felt by us when, just as Mr. Austin's prediction has been confirmed by recent events, a United Nations body declares itself satisfied with an Arab declaration which shows the intention to continue hostile acts against Israel in violation of agreements, treaties and decisions.

At the same meeting of the Security Council, Mr. Lacoste, the representative of France, recalled that the resolution of 11 August 1949 had endorsed the conclusion of the Armistice Agreements and emphasized the obligation to abstain from acts of hostility.

Is it possible today to admit of any basis for discussion that does not place the emphasis on that particular obligation?

The representative of Turkey, Mr. Sarper, said at that same meeting: "The relations between Egypt and Israel are governed at present by the Egyptian-Israeli General Armistice Agreement of 24 February 1949. This Agreement is part of the general armistice system set up under the auspices of the United Nations in Palestine. This armistice system has put an end to hostilities in Palestine and is the basic element of stability in the Middle East. We are of the opinion, and we would urge most strongly, that this delicate armistice system should be maintained intact until the establishment of lasting peace and normal conditions in that area."

Is it conceivable, in the light of these wise statements, followed by a decision of the Security Council endorsing them, that any other United Nations body can do otherwise than carefully protect the integrity of "this delicate armistice system"?

At the beginning of this conference, it seemed to us that the Conciliation Commission fully shared the above opinions expressed in the Security Council. Furthermore, it appeared that the Commission wished to base itself, in particular, on those clauses of the Security Council's decisions of 11 August 1949 and 1 September 1951 which call for the return of permanent peace in Palestine. In that sense, a reaffirmation of the obligations assumed under the provisions of the Armistice Agreements and the United Nations Charter was indispensable as a point of departure for this conference. Members of the Commission confirmed on several occasions that this basis, as formulated in a Preamble drawn up by the

Commission, could not be abandoned, and that no concession would be made to the Arab States on this point. That decision, although it was later reconsidered, proves that the Commission recognized the primary importance of the preliminary declaration and that it held at that time a view which we continue to hold.

Many disturbing events, which do not indicate a tendency to respect treaties, have taken place since 13 September, the date of the opening of this conference. Do these events not justify an alert watchfulness on the part of those - the United Nations and Israel - who are anxious for the integrity of the armistice system to be preserved, and not an attitude of indulgence towards those - the Arab States - who are uniting to attack the letter and the spirit of that system?

Why, then, has the Commission ceased to require from the Arab States that which, at the beginning of the conference, it required from the parties? Is this a formal concession made with the object of facilitating productive negotiations? No. In the first place, this concession can only be one of substance, as shown by what is omitted in the declaration which the Arab States have substituted for that submitted to them, as well as by the use of the term "military force" in the Arab formulation. The Arab States have also clearly indicated their decision to question the actual competence of the Commission in the exercise of its conciliatory rôle, an idea which, in their view, should permit them to continue the struggle against Israel "to the end of time".

The Commission must have asked the Arab States to state formally their reasons for rejecting the non-aggression formulation put forward by the Commission and the non-aggression pact proposed by the delegation of Israel. The Arab delegations must have given such explanations. Is it possible that these explanations did not confirm their refusal to comply with the decisions of the Security Council and with the provisions of the United Nations Charter? Indeed no, and we are justifiably surprised that the Commission could, on this basis, express a favourable opinion on the Arab declaration and, with a mere reference to the disparity between the Israel and Arab formulations, express the same judgement of both.

The extreme moderation of the declaration of intentions requested by the Commission should be stressed. In my opinion, no Member of the United Nations could logically refuse to subscribe to it. It did not ask of the parties any concession regarding the problems which separate them and it was restricted to the confirmation of established legal positions. The refusal to subscribe to the declaration thus implies a refusal to negotiate, for no negotiations can take place for the purpose of finding "solutions to outstanding problems" if at the outset those problems which have already been settled are once again brought up for discussion. The delegation of Israel cannot understand how any item of an agenda relating to direct or indirect negotiations with the Arab States can be brought up at this conference so long as the fundamental question of the declaration of respect

for agreements and treaties has not been settled. Is it not paradoxical to hope that consideration of the possibilities of final peace can usefully be undertaken after a confirmation of hostile intentions?

There, Mr. Chairman, are some considerations and conclusions prompted by the attitude of the Arab States and by the exchange of correspondence between the Commission and the Israel delegation concerning that attitude, and some questions concerning which we hope the Commission will be good enough to enlighten us.

In conclusion, the Israel delegation hopes that the Conciliation Commission will continue its efforts to obtain from Egypt, Jordan, Lebanon and Syria an explicit recognition of their obligations under the Israelo-Arab Armistice Agreements of 1949 and under the United Nations Charter, which the Arab States have up to now refused to give.

The Israel delegation considers it necessary to define precisely the position it must take so long as those efforts are not successful.

Briefly, that position is based on the following considerations:

(1) The Paris conference was convened as a result of invitations issued by the Conciliation Commission to the Governments of Egypt, Jordan, Lebanon and Syria and the Government of Israel. This conference is in the nature of negotiations between the State of Israel and the Arab States.

(2) Within the framework of this conference, the Conciliation Commission submitted to the participating States an agenda conditioned by the prior acceptance by the parties of a declaration reaffirming their obligations under the Israelo-Arab Armistice Agreements of 1949 and under the United Nations Charter.

(3) The Arab delegations have refused to make that declaration and on 3 October 1951 they substituted another declaration giving an interpretation of the Israelo-Arab Armistice Agreements of 1949 which violates the letter and the spirit of those Agreements, which is contrary to the decisions of the Security Council relating to those Agreements and which ignores the provisions of the United Nations Charter.

(4) For its part, the Israel delegation, on 21 September 1951, offered to the Arab States non-aggression pacts based on the said Armistice Agreements and on the United Nations Charter. The substance and spirit of these pacts corresponded scrupulously to the Commission's wishes. There has been no response to this offer.

On the basis of the above factual considerations, the attitude of the Israel delegation can be briefly defined as follows:

(1) The delegation of Israel came to this conference with the sincere desire to contribute in a spirit of goodwill, in the negotiations under the auspices of the Conciliation Commission, to the achievement of a peaceful settlement of the differences between the parties. Such negotiations, whether direct or through the Commission, remain conditioned by the explicit recognition by the Arab States of the international obligations and treaties to which they have subscribed, that is to say that the negotiations cannot be carried on until the Arab States have replaced their declaration of 3 October 1951 by an affirmation of their intention to respect their obligations vis-à-vis the State of Israel, as signatories of the Armistice Agreements as interpreted by the Security Council, and as Members of the United Nations.

(2) The Israel delegation reaffirms its desire to collaborate with the Conciliation Commission. It is ready to examine with the Commission any question which may form the subject of discussion between the Israel delegation and the Commission in its capacity as a United Nations body, it being understood that the examination of any question implying either direct or indirect negotiation with the Arab States will have to be deferred until those States comply unequivocally with the terms of the Armistice Agreements, the decisions of the Security Council and the provisions of the United Nations Charter."

COMMISSION'S DETAILED EXPLANATIONS OF ITS COMPREHENSIVE PROPOSALS

The CHAIRMAN thanked the representative of Israel for the full explanation of his Government's attitude, which the Commission would study carefully. Whatever conclusions the Commission might arrive at after such study, he believed it was useful at the present time for the Israel delegation to hear the Commission's explanations of its comprehensive proposals, in the same way as the Arab delegations had heard them, so that it would have a clearer understanding of the nature of the proposals.

The Chairman hoped that a basis could be found for discussions between the Commission and the Israel delegation concerning some aspects of the Palestine problem, as he personally would be sorry to see the conference come to an end without some progress having been made, at least on certain aspects of the problem.

Mr. FISCHER (Israel) stated that the desire expressed by the Chairman for the conference not to terminate without some concrete result having been achieved in certain directions corresponded entirely with the wishes of his Government. He would be glad to hear the Commission's explanations and to transmit them to his Government.

The CHAIRMAN made the following statement, copies of which were handed to the delegation of Israel:

1. Point One of the Commission's proposals reads as follows:

'That an agreement be reached concerning war damages arising out of the hostilities of 1948, such an agreement to include, in the Commission's opinion, mutual cancellation of such claims, by the Governments of Egypt, Jordan, Lebanon and Syria and the Government of Israel;'

The Commission has given careful consideration to the principles of international law bearing upon war damage claims. An effort to determine such claims between the parties engaged in the Palestine hostilities of 1948 on the basis of violations of rules of international law would, in the Commission's opinion, lead to no practical result. Charges by one side that the other has committed acts contrary to the law of war are generally countered by the defence that the alleged violations took place as the natural result of the hostilities. Such charges in the present instance would lead the negotiations along a path further removed from a peaceful settlement. Likewise, if either side were to present war damage claims based upon the contention that the other must accept the responsibility for the outbreak of the hostilities, and has therefore a duty to compensate the claimant State for losses borne by itself and its nationals, a political debate would ensue which would again postpone and possibly jeopardize the solution of the Palestine problem.

The Conciliation Commission believes that the best interests of peace and the United Nations would be served by a forward-looking approach whereby both parties should endeavour to solve each of the various concrete problems which are still outstanding. At this point any attempt to

go back to the origin of the conflict in order to determine the responsibility for the outbreak of the hostilities would be, in the Commission's opinion, a step backwards.

While throughout history there have been precedents for the exaction of reparations following armed conflict between States, there have been other instances where, in the interest of lasting peace, claims for war damages have been mutually waived by those States legally entitled to assert such claims for damages borne by them or their nationals. The Commission considers that in the present instance a mutual waiver of war damage claims would be consonant with the general principles and purposes of the United Nations. Therefore, in the light of the desire expressed by both sides to facilitate a pacific settlement, the Conciliation Commission urges the parties to agree to a mutual cancellation of their claims for damages arising out of the hostilities of 1948. The Commission is confident that such an agreement would facilitate a solution of the outstanding differences and would contribute to the return of peace in Palestine.

2. Point Two of the Commission's comprehensive proposals reads as follows:

'That the Government of Israel agree to the repatriation of a specified number of Arab refugees in categories which can be integrated into the economy of the State of Israel and who wish to return and live in peace with their neighbours;'

In submitting the above text, the Conciliation Commission had in mind the need for agreement upon a practical method of proceeding with the actual repatriation of refugees in accordance with the General Assembly's directives.

In working out practical procedures for actual repatriation, consideration must be given to the refugees' choice and the expressed intention of those choosing to return to live at peace with their neighbours; and to the possibilities of the integration of the returning refugees into the national life of Israel. The Commission proposes therefore to pursue with Israel the consideration of methods for the determination of the number of refugees that can be repatriated with these criteria in mind.

3. Point Three of the Commission's comprehensive proposals reads as follows:

'That the Government of Israel accept the obligation to pay, as compensation for property abandoned by those refugees not repatriated, a global sum based upon the evaluation arrived at by the Commission's Refugee Office; that a payment plan, taking into consideration the Government of Israel's ability to pay, be set up by a special committee of economic and

financial experts to be established by a United Nations trustee through whom payment of individual claims for compensation would be made;'

Before making this proposal, the Commission has undertaken to estimate the value of abandoned Arab property now in Israel. The Commission's Refugee Office has been engaged in this task in accordance with the General Assembly's resolution of 14 December 1950 and has completed its estimate of the value of abandoned Arab immovable property. This estimate is based on the present territorial situation and on the present location of the refugees.

The Office has estimated that the extent of abandoned Arab lands is 16,324 square kilometres, of which 4,574 square kilometres are cultivable. The demilitarized areas and the Jerusalem no man's land were not included in this estimate. The term "land" denotes immovable property; buildings and trees have been regarded as an integral part of the soil on which they stand and valued together with it.

The valuation made by the Office was based on a study of the assessments made for the Rural Property Tax and Urban Property Tax of the Mandatory Government and on the opinions of experts in the matter with experience of conditions in Palestine during the last years of the Mandate.

The valuation was based on the value of the land for its existing use, as measured by the revenue which it would produce. Any development value, other than the normal development value which attaches to vacant sites within the boundaries of towns, was not included. The valuation was made by reference to the level of values prevailing on 29 November 1947 and to the condition of the property on that date. No value was placed on uncultivable land outside urban areas. The Refugee Office is at present preparing an estimate of abandoned Arab movable property.

Under Point Three the Commission proposes, as a first step, that in agreement with the Commission and on the basis of the estimated value of abandoned Arab property as established by the Commission's Refugee Office, the Government of Israel obligate itself to pay a global sum of money for compensation for property abandoned by Arab refugees who are not repatriated.

The Commission further proposes that after agreement as to the global sum which Israel obligates itself to pay, procedures be agreed upon for the providing of funds in the sum agreed upon and for their disbursement. In working out the procedures for providing these funds, Israel's ability to raise those funds would have to be taken into consideration, as well as in establishing the method and rate of disbursement on the basis of individual claims.

4. Point Four of the Commission's comprehensive proposals reads as follows:

'That the Governments of Egypt, Jordan, Lebanon and Syria and the Government of Israel agree upon the mutual release of all blocked accounts and to make them payable in pounds sterling.'

This question has been the subject of negotiations between the Commission and the parties since June 1949. In August 1949 a special Mixed Committee of two experts, one appointed by the Arab Governments and the other appointed by the Government of Israel, was established under the chairmanship of a representative of the Commission. These negotiations were not productive. Efforts to arrive at a formula for partial release of Arab bank accounts blocked in Israel were unsuccessful.

In the case of blocked accounts, the ownership, the identity of the owners and the amount of each account are established. In this regard there are no questions for negotiation and under these conditions payment to the individual owners of the accounts can be readily effected. The Commission therefore has proposed the mutual release of blocked accounts in their total amounts in a currency equivalent to that of the original accounts and readily convertible. An agreement in this sense would contribute to the well-being of needy refugees and be a step in the development of peaceful relations.

5. Point Five of the Commission's comprehensive proposals reads as follows:

'That the Government of Israel and the Governments of Egypt, Jordan, Lebanon and Syria agree to consider, under United Nations auspices, and in the light of the experience gained during the past three years, the revision or amendment of the Armistice Agreements between them, especially with regard to the following questions:

- (a) territorial adjustments, including demilitarized zones;
- (b) the creation of an international water authority to deal with the problems of the use of the Jordan and Yarmuk Rivers and their tributaries, as well as the waters of Lake Tiberias;
- (c) the disposition of the Gaza strip;
- (d) the creation of a free port at Haifa;

- (e) border regulations between Israel and her neighbours with special attention to the need for free access to the Holy Places in the Jerusalem area, including Bethlehem;
- (f) health, narcotics and contraband control along the demarcation lines;
- (g) arrangements which will facilitate the economic development of the area: resumption of communications and economic relations between Israel and her neighbours.'

The Commission's intention in submitting this proposal was to obtain the agreement of Israel and Egypt, Jordan, Lebanon and Syria to negotiate, at a time and place to be determined, the revision or amendment of their respective Armistice Agreements or the conclusion of additional agreements. The Commission has listed certain questions in this proposal which in its opinion might be usefully included in the respective agenda for these negotiations.

Nothing in this explanation of the Commission's proposal should be taken to mean that, if agreement to enter into such discussions were promptly reached by the parties, the actual negotiations could not take place immediately."

The meeting rose at 5.30 p.m.
