



UNITED NATIONS TRUSTEESHIP COUNCIL



GENERAL

T/681

1 June 1950

ENGLISH

ORIGINAL: FRENCH

Seventh session

Item 10 of the provisional agenda

QUESTION OF AN INTERNATIONAL REGIME FOR THE JERUSALEM AREA AND PROTECTION OF THE HOLY PLACES

Report by the President of the Trusteeship Council
on the mission entrusted to him in virtue of
the Council resolution of 4 April 1949.

The Trusteeship Council, in its resolution of 4 April, requested its President, 1 - to transmit the text of the Statute for Jerusalem to the Governments of the two States at present occupying the area and City of Jerusalem; 2 - to request from the two Governments their full co-operation in view of paragraph II of the General Assembly Resolution of 9 December 1949; 3 - to report on these matters to the Trusteeship Council in the course of its seventh regular session.

In accordance with these instructions of the Trusteeship Council's, I transmitted the text of the Statute for Jerusalem to the Governments of Israel and Jordan on 6 April and requested them to send a representative to Athens to consider with me the conditions for the implementation of the second paragraph of the above-mentioned Trusteeship Council resolution. The proposed meeting was to be held on 17 April.

The Government of Israel immediately acknowledged receipt of this communication and informed me through Mr. Ginossar, its diplomatic representative to the Italian Government, that it would be prepared to discuss the question referred to in paragraph II of the General Assembly Resolution with me at Athens, but that the proposed place would hardly be propitious for a discussion of this kind, which would be greatly facilitated by a direct exchange of views between the Government of Israel and the President of the Trusteeship Council. His Excellency Mr. Sharett, Minister of Foreign Affairs of Israel, proposed that I should come personally to

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Tel-Aviv to consult with him, and I immediately stated my willingness to accept this kind invitation, subject to the reply that I was expecting from the Government of Jordan.

As I had not yet received this reply at Rome on 15 April, I got into touch with the Minister of Jordan in that city, Mr. Edmond Roch, who had represented his country on the Trusteeship Council during the debates concerning the internationalization of the Holy City at our last session at Geneva, and I asked him to make representations to his Government in order to hasten a decision on the steps it wished to take as a result of my démarche. During the fortnight between my first interview with Mr. Edmond Roch and my departure from Rome, I had several more interviews with him and urged him to draw his Government's serious attention to the strangeness of a silence which would make it impossible for me to proceed with the task entrusted to me by the Trusteeship Council. I have no doubt that the representative of Jordan at Rome, to whose understanding and courtesy I wish to pay a most sincere tribute, duly informed his Government of my repeated démarches and of my suggestions. Unfortunately, these remained unavailing, and I have to state with the deepest regret that up to yesterday when my term as President of the Trusteeship Council came to an end, the Government of Jordan had not seen fit to break its silence.

In those circumstances, I considered it preferable to refrain from going to Palestine, whither I was to be accompanied by Mr. Victor Hoo, Assistant Secretary-General of the United Nations, who assisted me throughout my mission and whose experience was of great value to me. There would have been obvious disadvantages in my only being able to confer on the spot with the Israeli authorities, while the other party concerned avoided any exchanges of views.

I therefore pursued my consultations with the Government of Israel alone, first at Rome through the aforementioned Minister of Israel and with a special representative, Mr. Gideon Raphaël, member of the Israeli Permanent Delegation to the United Nations, whom his Excellency Mr. Sharett had kindly sent to me; then at Paris, through the Israeli Legation; and finally at New York, where, after my last consultations with Mr. Eban, the latter sent me, on 26 May, the memorandum which I am about to communicate to you.

Throughout these delicate negotiations, the Government of Israel showed a spirit of conciliation which led it to submit to the Trusteeship Council certain new proposals which, although they are far removed from the terms of General

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Assembly resolution of 9 December 1949 and of the Statute adopted by the Trusteeship Council on 4 April last, nevertheless represent a considerable advance towards a settlement of the various aspects of the problem of Jerusalem and the Holy Places in comparison with the proposals submitted to the General Assembly by the Government of Israel last autumn. For my own part, I regret my inability to obtain more concrete results from the two States which now exercise de facto authority over the City and area of Jerusalem: the results of the mission entrusted to me by the Trusteeship Council have proved disappointing and the implementation of the Statute would seem to be seriously compromised under present conditions. But at least there is still ground for hope that the understanding and benevolent attitude of one of the two Governments concerned towards the legitimate demands of all the parties concerned for a just and therefore a lasting solution of the difficult problem that the Trusteeship Council has honestly endeavoured to solve in accordance with the General Assembly's instructions, will finally persuade the other Government, which possesses virtually all the Holy Places, to take the wishes of the United Nations into consideration and to collaborate loyally with it in ensuring justice, peace and permanent security in the City of Jerusalem, as well as the protection of and free access to the Holy Places.

ANNEX

26 May 1950

Lettre en date du 26 mai 1950, adressée à M. Roger Garreau,
Président du Conseil de tutelle, par M. A. S. Eban,
représentant permanent d'Israël auprès de
l'Organisation des Nations Unies

Excellency,

1. I have the honour to enclose herewith a memorandum of the Government of Israel on the question of Jerusalem. This memorandum is submitted in reply to your letter of 6 April 1950, enclosing the text of a Statute for Jerusalem approved by the Trusteeship Council on 4 April 1950.
2. During the Sixth Session of the Trusteeship Council my Government expressed its readiness "to explore with the Council and with other parties concerned any avenue which may lead to the effective fulfilment by the United Nations of its responsibilities for the Holy Places." It was in this spirit that the Israel Delegation participated in the work of the Trusteeship Council in Geneva. In further pursuit of its desire to seek an agreed solution within the framework of the United Nations, my Government was glad to respond to Your Excellency's invitation to consult with you in Europe. The Minister of Israel in Rome was instructed by the Government of Israel to keep Your Excellency informed of all developments in our thinking on the substance of the question and on the procedural steps which we envisaged. On 20 April an emissary from the Government of Israel, Mr. Gideon Rafael, called on you officially in Rome to convey the compliments of the Israel Foreign Minister and to acquaint you with such progress as we had made in formulating the principles for a solution.
4. Moreover, on 17 April the Government of Israel, taking note of the functions which the Trusteeship Council had allotted to its President in its Resolution of 4 April 1950, and being keenly aware of the importance of first-hand knowledge of the current situation in Jerusalem, extended to you a cordial invitation to visit Israel for the purpose of consultations with the Government and a direct view of the present Jerusalem situation. My Government regrets that this visit did not

His Excellency,
M. Roger Garreau,
President, Trusteeship Council,
United Nations,
Lake Success, N.Y.

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materialise, principally, we understand, owing to the lack of a similar readiness on the Arab side.

In this connection I would also express my Government's regret that no member of the Trusteeship Council found it possible to accept its invitation to visit Jerusalem for a first-hand study of the position during the Council's recess. The fact that the Statute cannot be implemented, while the proposal herewith outlined by my Government is capable of swift realisation, could have been tested most convincingly by such a direct survey.

5. The Government of Israel, earnestly desiring to secure adequate and effective protection of the Holy Places will continue its efforts to assist the United Nations to reach an agreed solution. For that purpose it now offers the enclosed memorandum for the study of all interested parties and authorises me to be at the Council's disposal for any clarification that may be required.

I have the honour to be,

Yours faithfully,

(Signed) A. S. Eban
Permanent Representative of
Israel to the United Nations

THE QUESTION OF JERUSALEM.

Memorandum Submitted by the Government
of Israel to the Trusteeship Council
Friday, May 26, 1950.

I.

INTRODUCTION

1. The Government of Israel has given careful consideration to the text of the Statute for Jerusalem approved by the Trusteeship Council on 4 April 1950 (T/592) and to the Resolution of the Trusteeship Council adopted on the same day (T/564).
2. This Government will offer its full co-operation in seeking and implementing a solution of the Jerusalem question whereby the responsibility of the United Nations for the Holy Places may be reconciled with the freedom and independence of the City and its inhabitants. At the same time the Government of Israel regards the consent of the people of Jerusalem as indispensable to the effective functioning of the City's institutions. The right of a mature population to select and maintain its own government cannot be challenged by any consistent adherent of democratic principles. Moreover, the preservation in Jerusalem of a regime based on the initiative and consent of its own population is not only an unassailable political ideal; it is also a dictate of practical statesmanship, with a direct bearing on the issue of implementation. The idea that any regime for the protection of religious interests can endure amidst a discontented, aggrieved and turbulent population will be instantly rejected by any serious mind. Religious peace cannot be secured by political suppression. Thus, considerations of justice and of practicability combine to make the will of Jerusalem's population the essential basis for the City's political institutions.
3. In Jerusalem, the Holy Places of the three world religions are gathered in a unique concentration. These sanctuaries command a world-wide reverence, far transcending their purely local environment. The protection of the Holy Places and of free access thereto, and the maintenance of existing religious rights, constitute an international trust for which the responsibility of the United Nations should be universally recognized. The Government of Israel believes that the United Nations should be enabled effectively to exercise that responsibility, which should also be expressed in appropriate juridical form.

/4. Accordingly

4. Accordingly, any solution which the Government of Israel can commend or support must simultaneously fulfil two objectives: it should satisfy the principle of United Nations responsibility for all matters directly affecting the Holy Places and free access thereto; and it must leave the population of the City free to express their ineradicable national loyalty through the democratic institutions which they have helped to create in Jerusalem and in their own State.

Political Effects

5. The Government of Israel has examined the Statute for Jerusalem in the light of these two objectives. It has given special attention to the political institutions described in the Statute and to their potential effect on the life of New Jerusalem. It will be recalled that the Statute was originally drafted in 1948 in order to provide the immediate succession to an expiring Mandate, at a time when the people of Jerusalem had not yet integrated their political life into that of a sovereign State commanding their entire allegiance. At that time, Jerusalem was completely detached from the territory of the future Jewish State and was surrounded by Arab territory on all sides. Apart from the basic question of the Holy Places, the problem of affording effective protection to 100,000 Jews had to be faced by the Statute; indeed, it was this consideration which led to the proposal for internationalising a large secular area apart from the Holy Places. Today, however, these conditions no longer hold good. The Statute must now be judged, both in principle and in terms of implementability, by its effect on an area totally and willingly bound up with the life and sentiment of the State of Israel. Jerusalem now has its own institutions of government, security and law - institutions deeply rooted, effectively administered and tenaciously upheld. It is now impossible to establish a governorship or a legislature, a council or a court, without first disrupting institutions already functioning by popular consent, and severing ties and connections firmly cemented. For, in sharp contrast to its position in 1947, Jewish Jerusalem is today firmly linked to the State of Israel by a broad territorial bridge and forms an integral part of it in the physical and geographical sense, as well as in its constitutional allegiance.

6. Thus, the implementation of the Statute would involve the United Nations in the process of destroying free and stable democratic institutions in Jerusalem as a prelude to the imposition, against the popular will, of an

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authoritarian regime introduced from outside. The Trusteeship Council having been unable two years ago to provide Jerusalem with security, administration and subsistence when they were urgently needed, would now come on the scene to liquidate the security, administration and subsistence which the people of Jerusalem and of Israel have established amidst cruel suffering and sacrifice of life.

7. Implementation of the Statute would have drastic effects on the life of every man and woman in Jewish Jerusalem. On the day the Statute came into effective force, all the sources and centres of authority in the City would lose their power. All threads of administrative, fiscal and judicial connection would be severed. All existing courts would lose their jurisdiction. One hundred and ten thousand Israel citizens would awake that first morning to find themselves disfranchised and dispossessed of their fundamental political rights. In retaining their national allegiance they would become foreigners in their own City. The flag of their people would no longer be there as the focus of their loyalty or inspiration. Political barriers would arise outside their City to separate and mark them off from their own kin in Israel. A numerus clauses, reminiscent of the practices of racial discrimination, would prevent the Jews of Israel from freely taking up residence in the very City which the Jewish people immortalised in this history of mankind. From having complete control of the life of the New City which they had built and defended with their own hands, the Jewish population would be reduced to the level of having no power or authority whatever in the affairs of Jerusalem. For, under the operation of the Statute, the Jews of the New City, who form the considerable majority of the entire population of Jerusalem, would now have less than one-third of the representation in an impotent and uninfluential "Legislative Council" (Article 21). Faced by this assault on their political liberties, the Jews of Jerusalem would simultaneously find themselves cut off from the jurisdiction of the State which provides their very subsistence. To complete the story of this political and economic mutilation, they would also be stripped of their vital defense. Their lives would suddenly become subject to the arbitrary enactments of a constitution which was neither formulated by them nor evolved out of their consent and experience. For the Statute itself, with its omnipotent Governor and its artificially constituted Legislative Council, is modelled precisely on the absolutist forms of government which used to be applied in backward regions

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in the days before the elementary principles of self-government began to secure a foothold even in the dependent areas of the world.

8. The Government of Israel does not know of any standard of international ethics whereby this political upheaval in Jerusalem can be justified, or of any method whereby it can be implemented. The fact that scarcely a house or a street in the Israel part of Jerusalem even existed 80 years ago makes it absurd to contend that this area is of such venerable historical significance that it must be withdrawn from the hands of the people which has created it out of a wilderness. Of the more than 30 sites marked as Holy Places in the authorized map prepared by the United Nations for the Trusteeship Council (United Nations Map No. 229, November, 1949) only two - at the very extremity of the New City - fall within the Israel zone of Jerusalem. Thus, the elimination throughout this large and heavily populated urban area of all its elected institutions and political rights and its forcible severance from the State to which it belongs, cannot be justified in terms of any universal or religious characteristics affecting the New City.

9. It is a patent fact that the population of Jerusalem is opposed - as would be the people of any other city - to a project for uprooting its institutions and separating it from the State with which it is identified in all its activity and sentiment. This fact alone destroys the moral validity and the practical relevance of the Statute. It is true that the proposed Governor is equipped with a police force of 500 men for the imposition upon the City of a regime which the entire population is unwilling to recognise. Yet this measure, far from solving any problem, serves only to emphasise the unimplementability of the Statute. For a police force can only function in civilised societies as the agent of the entire community against a few individuals who defy its recognised law. No police force can ever be effective if it stands in isolation from or in opposition to the majority will of the community. Thus, the political regime of the Statute, lacking any local support, can neither be implemented by consent nor be enforced by any available means.

Economic Effects

10. During the Sixth Session of the Trusteeship Council the Representative of Israel explained in detail the effects of the Statute upon the economic life of the City (T/SR.260). Jewish Jerusalem, as an integral part of the Israel fiscal and economic systems, depends upon the State for its food and water, its

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communications, its educational, health and social services, its development budget, its subsidies, its foreign currency assets, in short for all the sources of its subsistence and employment. The City is not even remotely self-supporting, either agriculturally or industrially, and would never in all its history have been able to maintain its population, except as part of a wider and more productive political unit in the resources of which it could proportionately share. In 1947 it was proposed to maintain the economic integration of Jerusalem with its hinterland by the operation of the Economic Union of which the State of Israel was to be the only solvent partner. The Economic Union is no longer feasible, as the Resolution of the General Assembly on 9 December 1949 admits; and the Statute is now drafted on the assumption of Jerusalem's complete separation from the jurisdiction and economic influence of Israel. Thus all the arteries which bring the life-blood to the heart of Jerusalem are now to be severed by the creation of the corpus separatum. The City is to become like a diver whose air line is cut. Yet the Statute is completely devoid of a single provision for replacing the manifold sources of livelihood which Jerusalem loses by its severance from the State of Israel. The Statute legislates for Jerusalem's economic and financial isolation without even beginning to consider how an area with a population of 160,000 can subsist for a single day in a state of land-locked economic isolation. Article 34 states frankly that the economic implications of a corpus separatum have not been faced. The Israel arguments were not met in any respect. The Statute would undoubtedly involve economic strangulation as well as political disintegration.

Security Effects

11. The security of Jerusalem is at present governed in practice and in international law by the Israel-Jordan General Armistice Agreement concluded at the behest of the United Nations, under which Israel exercises responsibility for the maintenance of order in Jewish Jerusalem and for the defense of that area against external attack. Thus, provisions of the Statute, such as Article 7 imposing the demilitarisation of the area, are in conflict with this agreement, which may not be altered in any respect except by negotiations between the parties. It is no contribution to Jerusalem's security to undermine the authority of hard-won agreements which have enabled the City to regain a large measure of normality and which have made possible substantial withdrawals

and reductions of troops. Apart from formal considerations, the withdrawal of Israel's troops from the New City of Jerusalem, even if accompanied by a simultaneous withdrawal of the Arab Legion from the Old City - itself a highly improbable contingency - would not result in an equal security for both parts of the City. New Jerusalem would be left surrounded on three sides by Arab forces; and thus the exact situation which nearly brought about the extinction of the City and its Jewish inhabitants in the Spring of 1948 would be reproduced.

Juridical Aspects

12. The Statute presumes that the General Assembly has power, in pursuance of its own Resolution, to impose its administrative and executive control over the Jerusalem area, irrespective of the wishes of its population or the consent of a Government now responsible for its administration. The Charter of the United Nations offers not the slightest support for any such legal theory. The conditions in which the General Assembly, through the Trusteeship Council, may assume the administration of any area are exhaustively laid down in Chapter XII of the Charter. Whatever its position in 1947, when it was a "territory under mandate", Jerusalem no longer falls into any of the categories defined in Article 77, to which any form of international trusteeship may legally be applied. Moreover, the procedures of agreement required by Articles 79 and 81 have not been applied and are not feasible in this case. Apart from being legally ineligible for the operation of a trusteeship regime in the sense of Article 77, Jerusalem is, by its very nature, the exact antithesis of any territory to which any system of tutelage may properly apply. For the object of the trusteeship system is to promote the advancement of backward territories towards self-government, and not to effect the transformation of mature and independent democracies into subject areas. Thus, the letter of the Charter, as well as its fundamental spirit, is subjected to comprehensive violation by this unconstitutional proposal.

Resolution of the Trusteeship Council

13. The Government of Israel has pointed out on every suitable occasion these objective difficulties which render the Statute incapable of implementation, and is therefore not in any degree responsible for the insoluble deadlock which is inherent in the Statute. Indeed, there is a clear disparity between the Statute itself and the Resolution adopted by the Trusteeship Council on 4 April 1950.

The Statute allocates no functions or responsibilities to Israel at all. Indeed it declines even to mention Israel's existence and requires in effect that the Government of Israel be disengaged from anything affecting the life of Jerusalem. The suggestion that Israel is nothing to Jerusalem and Jerusalem is nothing to Israel may appear fantastic; yet this bewildering thesis is explicitly upheld by the Statute. In these circumstances, it is difficult to understand what is meant by inviting Israel's "full cooperation", in the Trusteeship Council's Resolution of 4 April 1950. On the one hand, the Statute requires the complete dissociation of Israel from the life of Jerusalem and implies that it is the duty of the inhabitants of Jerusalem to ignore Israel's will or authority. On the other hand, the Trusteeship Council invites Israel's "full cooperation" in its task. Surely the consequences of the Statute must be faced and one cannot have it both ways. If Israel is to be dispossessed of legal and political power in the City, it obviously cannot be asked to exercise its influence or authority with the population of Jerusalem, should the latter be indisposed to accept the Statute. It is an axiom that Israel cannot be regarded as a factor in the implementation of a regime based on the disappearance of its own authority. The Trusteeship Council must alone confront the sentiment of the population of Jerusalem and estimate its chances of imposing upon tens of thousands of people a regime to which they are plainly opposed.

14. Since the Statute would plunge Jerusalem into political suppression and economic decline, while causing grave disturbance of its religious and secular peace and involving a manifest breach of the Charter, the Government of Israel is amongst those who share the view that it is inherently unimplementable.

II.

An Alternative Proposal

15. Faced with this situation in which the Statute is doomed to fail through its own defects of principle and practice, the Government of Israel has been concerned to examine whether the basic objectives of the United Nations in Jerusalem may yet be rescued from their association with an extremist and illusory scheme. This Government has reached an affirmative conclusion. Everything that is truly universal and international in Jerusalem can be brought within the purview of direct United Nations responsibility without any disturbance of the City's political freedoms or of its established institutional life.

16. The real objective of the international community in Jerusalem is the protection of the Holy Places by the direct exercise of international responsibility, not the imposition of international rule on a city, a territory, or a population. It is needless to emphasise that the problem of the Holy Places is not only a problem of preservation but also one of access. Closely linked with the issues of preservation and access, there is the question of "existing rights" hallowed by the traditions and compacts of succeeding generations.

High central institutions of many faiths, including four Patriarchates, have their abode in Jerusalem in close proximity and relation to the Holy Places themselves. Thus the preservation of the Holy Places; the assurance of facilities for access and pilgrimage; the peaceful settlement of religious disputes; the maintenance of existing rights under international sanction; and the unhampered pursuit of the religious life revolving around the Holy Places, are all matters of recognised international concern. If the United Nations brings these vital matters under its active and direct control, it will thereby achieve the fullest expression of universal responsibility for Jerusalem's religious associations ever recorded.

17. The Government of Israel believes that the responsibility of the United Nations should operate in this universal religious domain leaving the political and secular life of the City to the free determination of its people, as democratic principle requires. The experience of three years has proved that extreme doctrines of internationalisation, excluding populations and areas

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from their natural allegiance, defeat their own purpose because they cannot be fulfilled, with the result that the United Nations remains absent even from its own recognised sphere of responsibility.

18. Since nearly all the Holy Places in Jerusalem are located within a small area of 1-1/2 square miles within the Walled City and its immediate environs, the Government of Israel, and also many leading Christian authorities, have from time to time considered the question of an international regime confined to that limited area, in the administration of which the three monotheistic faiths should have an acknowledged status. This project has, however, encountered insurmountable obstacles in view of the opposition of the Kingdom of Jordan which occupies the entire area of the Old City. The Government of Israel is ready even now to cooperate in the creation of an international regime of such limited territorial scope, but it must point out that the practicability of such a solution depends entirely on the Hashemite Kingdom of Jordan.

19. Moreover, the Government of Israel recalls that the Western Wall (Wailing Wall), which is the main Jewish shrine hallowed by religious associations for thousands of years, as well as two other places holy to Jews and held in deep reverence by them over countless generations - Rachel's Tomb near Jerusalem and the Cave of Machpela in Hebron - are also in territory controlled by Jordan. Under any international arrangement, Jewish rights regarding these places and access thereto must be fully and effectively safeguarded.

20. In view of all these difficulties, the Government of Israel has consistently upheld the only practicable alternative principle, namely, the direct application of international responsibility, not to any continuous area, but to the Holy Places themselves. At the Fourth Session of the General Assembly in 1949 this Government offered to conclude an agreement whereby the United Nations would be represented in Jerusalem by a representative accredited to the Governments concerned for the purpose of ensuring the protection of the Holy Places and of free access thereto. During the Sixth Session of the Trusteeship Council the Representative of Israel affirmed his Government's readiness "to explore with the Council and with other parties concerned any avenue which may lead to the effective fulfilment by the United Nations of its responsibility for the Holy Places". The Israel Delegation took an active part

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in that stage of the Council's deliberations which culminated in the drafting of Article 38 of the Statute, dealing with "Holy Places, religious buildings and sites". The Government of Israel has also given consideration to the proposals submitted to the General Assembly by other delegations which sought various means of establishing United Nations control in the Holy Places. Draft resolutions or suggestions in this sense were submitted to the Fourth Session by the Delegations of Bolivia, Cuba, the Netherlands, Sweden and Uruguay.

21. As a result of this mature consideration and out of a desire to satisfy universal religious sentiment, the Government of Israel is ready to give its earnest attention to any plan which would, in suitable form, make possible effective United Nations control of the Holy Places in Jerusalem. For its own part, the Government of Israel would now propose a plan which takes into account Article 38 of the Statute and the spirit of the draft resolutions sponsored by certain other Delegations in the General Assembly. The main features of this plan would be as follows:

- (a) A Statute should be adopted whereby the rights of the United Nations in respect of the Holy Places in Jerusalem would be derived directly from the General Assembly and accepted by all parties concerned. The authority of the United Nations in the Holy Places would thus take statutory form and not depend upon a contractual agreement, as in the Israel plan submitted to the Fourth Session.
- (b) There should be appointed a United Nations Representative, or other such organ as may be found appropriate, for the discharge on behalf of the United Nations of the functions proscribed regarding the Holy Places in Jerusalem. This representative or organ should constitute an independent authority deriving its powers solely and exclusively from the General Assembly itself and exercising those functions in the international right without dependence on any individual government or accreditation thereto.
- (c) The United Nations Representative thus appointed (or the United Nations organ thus set up) should carry out the following main functions in respect of the Holy Places in Jerusalem: viz., supervision of their protection; adjudication of disputes between communities as to their rights in the Holy Places; the maintenance of existing rights in connection with the Holy Places; the initiation of their repairs; assurance of their exemption from taxation; questions relating to the maintenance of free access subject to the requirements of public order; facilitation of pilgrimage movements; issuing of reports to the appropriate United Nations organs on all the above matters. This list of matters covers practically all the functions enumerated with respect to the Holy Places and religious matters in the Statute (Article 38).

- (d) The definition of Holy Places as laid down and applied up to the termination of the Mandate shall continue to prevail (Cf. UN Map No. 229, November 1949). All governments and parties concerned should negotiate on the definition and demarcation of these places in order to achieve agreement on the exact sites within which the above mentioned functions of the United Nations representative shall operate.
- (e) Apart from their statutory sphere of authority concerning the Holy Places in Jerusalem, the United Nations representative or organ could negotiate agreements with both governments concerned, in conformity with the Resolutions of the General Assembly, for the protection of Holy Places located outside the City of Jerusalem. This would follow the principle laid down in Article 13(4) of the Statute, for Holy Places outside Jerusalem. The United Nations representative or organ could also negotiate, if required, on behalf of any Church organisation submitting views or claims with respect to religious buildings, institutions or property.

22. Apart from the specific functions allotted by the Statute to the United Nations representative or organ, it would be appropriate for the governments concerned to signify their recognition of universal religious interests in Jerusalem and elsewhere in their territories by voluntarily giving certain undertakings. Thus they might pledge themselves to:

- (a) Observe human rights and fundamental freedoms in particular "freedom of worship and freedom of education".
- (b) Respect the immunity and sanctity of the Holy Places.
- (c) Guarantee free access to Holy Places in their territories and facilitate movements of pilgrimages.
- (d) Observe and maintain all the existing rights of Churches and religious foundations, especially those concerned with Holy Places in their territories.
- (e) Levy no tax in respect of any Holy Place which was exempt from such taxation on 14 May 1948.
- (f) Cooperate fully and in good faith with the United Nations representative or other organ in the exercise of all the functions allotted to them (as enumerated in paragraph 21 above).

These undertakings would be complementary to the functions exercised statutorily by the United Nations representative with respect to the Holy Places in Jerusalem, as laid down in paragraph 21.

23. In outlining these broad principles for a solution, the Government of Israel reserves the right to make more detailed proposals in appropriate form at any future meetings of the General Assembly at which these matters may be

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discussed. The two chief merits of this proposal are on the levels of principle and implementability. Under a plan elaborated on those lines, the United Nations would exercise full jurisdiction in respect of matters which are the object of international and religious concern; and all this would be achieved without the drastic process of political and economic disintegration envisaged by the Statute, and without any violence to democratic principle or to the provisions of the Charter. At the same time, the simplicity of these arrangements and the degree of consent which would be confidently anticipated for them would secure their swift and certain implementation. Instead of sterile resolutions, fraught with political bitterness and resulting in no effective action in its own sphere of responsibility, the United Nations could achieve by the end of this year an adequate fulfilment of its recognised responsibilities.

24. The implementation of this proposal would also be a significant landmark in the institutional development of the United Nations and in the application of international authority. Jerusalem would become the first place in the world where the United Nations would be permanently and directly represented for the purpose of carrying out functions on behalf of the international community.

25. The Government of Israel hopes that these proposals, which reconcile all legitimate interests, may assist the United Nations to reach a solution which could be carried into immediate effect in a spirit of harmony and consent.
