

# OCCUPATION REALITIES

AFSC Middle East Resource Series

Middle East Task Force | Winter 2004

## East Jerusalem and the Politics of Occupation

### History of Jerusalem in the 20<sup>th</sup> Century

**1922** After the collapse of the Ottoman Empire, Great Britain is designated by the League of Nations as the mandatory power in Palestine. Jerusalem becomes the administrative capital.

**1947** United Nations adopts UN Resolution 181 calling for the partition of Palestine and internationalization of Jerusalem.

**1948** The state of Israel is created and Jerusalem is divided between Jordan which controls East Jerusalem and Israel which controls West Jerusalem.

**1967** Israel occupies East Jerusalem during the 1967 war and effectively annexes the city to West Jerusalem.

Jerusalem is a microcosm of the Israeli-Palestinian conflict. Since the conflict began, conditions in the Holy City have always reflected wider relations between Israeli Jews and Palestinian Arabs. Jerusalem will not, for good or ill, escape this role in the future. The justice and stability of the peace now being negotiated by Palestinian and Israelis will inevitably be mirrored in Jerusalem. An agreement on Jerusalem that can command broad assent among Israelis and Palestinians is essential to a lasting peace.

*Excerpted from A Joint Statement of the Friends Committee on National Legislation and the American Friends Service Committee*

### The Politics of Land

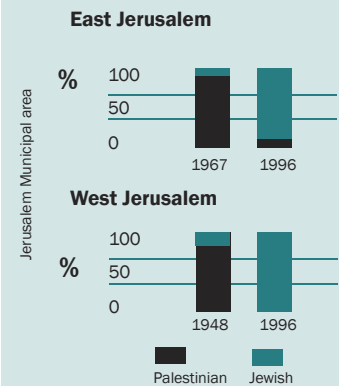
Land usage policy in Jerusalem encourages Jewish growth while inhibiting Palestinian growth in the city.

Prior to 1948 Jews owned less than 30% of the property within the municipality of Jerusalem. Today, Jewish ownership or control of property in the city accounts for over 90% of Jerusalem.

After 1948 Israel acquired control of Palestinian property in West Jerusalem by virtue of the Absentee's Property Law (1950). Palestinians who left West Jerusalem during the 1948 war were not permitted to return to their homes or land.

After 1967, Israel used a British Mandate Land Ordinance to expropriate and acquire control of some 85% of expanded East Jerusalem. Unlike Palestinians, Jews who lost property in East Jerusalem after 1948 were permitted under Israeli law after 1967 to have their property returned or receive appropriate compensation.

### Land Ownership



### The Politics of Population

For most of its history Jerusalem has been a city with a mixed population. Today both Palestinians and Israelis live in Jerusalem. Jerusalem is a holy city to Jews, Christians and Muslims. Since 1967, however, the policy of every Israeli government towards Jerusalem – through demographic and planning discrimination – has been to limit and reduce the number of Palestinians living in Jerusalem in order to maintain a Jewish demographic majority in all of Jerusalem.

<b>1922</b>	
Jews	34,100
Palestinians	28,100
<i>Source: British Mandate Census</i>	

<b>1946</b>	
Jews	99,300
Palestinians	65,000
<i>Source: British Mandate Census</i>	

<b>1967</b>	
Israelis	197,700
Palestinians	68,600
<i>Source: Israel Gov't Census</i>	

<b>1983</b>	
Israelis	306,600
Palestinians	122,400
<i>Source: Israel Gov't Census</i>	

<b>1996</b>	
Israelis	412,000
Palestinians	168,500
<i>Source: Israel Gov't Census</i>	

<b>2002</b>	
Israelis	458,600
Palestinians	221,900
<i>Source: Statistical Yearbook of Jerusalem, 2002</i>	



**American Friends Service Committee**

Peacebuilding Unit • 1501 Cherry Street • Philadelphia, PA 19102-1403 [www.afsc.org/middleeast](http://www.afsc.org/middleeast)



# Legal Aspects

## International and Israeli Law

### What is the legal status of Jerusalem?

The international community does not recognize Israel's unilateral claim to Jerusalem as the "undivided" and "eternal" capital of Israel. West Jerusalem is regarded as the *de facto*, but not the *de jure* capital. As such, most foreign Embassies remain in Tel Aviv, while some states have two Consulates in Jerusalem – one in the East and the other in the West.

### What is the legal status of East Jerusalem?

The international community, including the United States, considers East Jerusalem to be occupied territory

### UN Resolutions

#### UN General Assembly Resolution 181

(The "Partition Resolution")

Prior to 1948 the UN called for Jerusalem to be placed under a separate international regime. The governor would be neither Arab nor Jew.

#### UN Security Council Resolutions 242 & 338

("Land for Peace")

Following the 1967 war and occupation of East Jerusalem, the UN, no longer advocating the internationalization of the city, called for the withdrawal of Israeli forces from the territories occupied during the 1967 war, including East Jerusalem. Subsequent UN Resolutions have called upon Israel to rescind all measures taken and desist from further actions which alter the status of Jerusalem. Actions already taken, such as settlement construction, are considered invalid and a violation of international law.

– i.e. the same status as the West Bank and Gaza. More recently, the United States has begun to refer to East Jerusalem as "disputed" territory even though it still regards the city to be occupied territory. Israel, on the other hand, considers itself as the legal successor to sovereignty in East Jerusalem, arguing that it filled a legitimate vacuum of sovereignty in a defensive war in 1967.

### Did Israel "annex" East Jerusalem?

In 1967 Israel extended the municipal borders, dissolved the Arab municipality, and extended Israeli law, jurisdiction and administration to East Jerusalem. The confiscation of land and construction of settlements has created a *de facto* annexation. However, Israel has never used the terms *annexation* or *sovereignty* with regard to East Jerusalem. In addition, Israeli law has not been applied to East Jerusalem in several key areas, including personal and religious status as well as education.

### Israeli Law

The Basic Law: Jerusalem, Capital of Israel (1980). This law defines Jerusalem as the "complete and united" capital of Israel. However, it does not contain reference to the borders of Jerusalem nor does it contain the words *annexation* or *sovereignty*. In addition, the Basic Law as passed in 1980 does not require a qualified Knesset majority to alter the Law.

### Basic Law: Jerusalem (1980)

1. Jerusalem, complete and united, is the capital of Israel.
2. Jerusalem is the seat of the President of the State, the Knesset, the Government and the Supreme Court.

## Bilateral Agreements

### Camp David (1978)

Jerusalem is only mentioned in letters appended to the document. Egyptian President Sadat called East Jerusalem an integral part of the West Bank and advocated power-sharing in Jerusalem. Israeli PM Begin referred to Jerusalem as the indivisible capital of Israel under a single Jewish sovereignty.

### Israeli-Palestinian Declaration of Principles (1993)

Defines Jerusalem as one of the several final status issues to be negotiated between Israel and the PLO. Jerusalem thus, under the agreement, is accorded a status different from that of the West Bank and Gaza.

### Jordan-Israel Agreement (1994)

Outlines a special role for Jordan in the administration of the Muslim Holy Places in Jerusalem. However, Jordan may hand over control of Muslim Holy Places to the Palestinians in the event that they gain control of East Jerusalem once negotiations have been completed.

## International Law

### Fourth Geneva Convention (1949)

Article 49(6) prohibits an occupying power from transferring parts of its own civilian population into the territory it occupies.

### Hague Regulations (1907)

Regulation 43 requires an occupying power to continue to apply the legal principles that were in force when the occupation began.

# Planning and Development of Jerusalem

## The Politics of Planning

Israeli planning in Jerusalem is guided by the objective of maintaining a Jewish majority in the city. While the construction of Jewish settlements in East Jerusalem expands the Jewish population, restrictions on Palestinian development limit and reduce the Palestinian population.

## Construction Restrictions

In 1999 the average Jewish population density was 1 person per room, the average Palestinian population density 1.8. To meet only existing needs many experts believe that an additional 21,000 units must be built. The Municipality grants an average of 150 - 200 permits a year for Arab housing and demolishes 25-50 units a year. Between 1967-2001, 80,800 units were built in Jerusalem for Jews, most of them with government subsidies and 44,000 of them on land expropriated in East Jerusalem. Some 19,900 homes were built for Palestinians. Only 500 were subsidized. Some 7,000 are deemed illegal by the Municipality. Individual Palestinian families are forced to go through the permit bureaucracy on their own while in the Jewish sector experienced contractors apply for permits for large blocs of houses at one time.

Amir Cheshin et al, from *Separate and Unequal: the Inside Story of Israeli Rule in East Jerusalem, 1999* (Cheshin was Teddy Kollek's advisor on Arab affairs and also served Ehud Olmert) available at: [http://www.rhr.israel.net/pdf/jerusalem\\_home\\_demolitions\\_fact\\_sheet.pdf](http://www.rhr.israel.net/pdf/jerusalem_home_demolitions_fact_sheet.pdf)

Palestinians are also restricted in the number and size of homes they can build. Between 1980-1990, 3000 housing units were built in the Israeli sector per year.\* Approximately 7000 units were built in the Palestinian sector since 1967 or about 350 per year.\*\* In 1995, 60,000 units were

planned for Jews while only 500 for Palestinians.+ Palestinian builders are often limited to 2 story housing units while Jewish housing units have up to 8 stories.+ +

\* Greater Jerusalem: Alternative Municipal Frameworks, 1990.

\*\* Y. Kimhi, *Outline of the Development of Jerusalem 1988- 1990*.

+ S. Kaminker, "Facts and Figures."

+ + S. Kaminker, "East Jerusalem: A Case Study in Political Planning," 1995

## Planning Procedures

Not one new neighborhood for Palestinians has been constructed in East Jerusalem since 1967. There are no comprehensive planning schemes for Palestinian neighborhoods while Spot Zoning reduces the amount of land available for development in Palestinian neighborhoods.\* Palestinians pay 26% of municipal services cost but receive 5% of those services. Only 2-12% of total municipal budget

## Since the occupation of East Jerusalem in 1967, the policy of Israeli mayors has been consistent.

### Mayor Kollek's Jerusalem (1967- 1993)

"We said things without meaning them, and we didn't carry them out. We said over and over that we would equalize the rights of the Arabs to the rights of the Jews in the city—empty talk .... Never have we given them the feeling of being equal before the law. They were and remain second – and third-class citizens.

"The mayor nurtured nothing and built nothing. For Jewish Jerusalem I did something in the past 25 years. For East Jerusalem? Nothing! What did I do? Nothing. Sidewalks? Nothing. Cultural institutions? Not one. Yes, we installed a sewerage system for them and improved the water supply. Do you know why? Do you think it was for their good, for their welfare? Forget it! There were some cases of cholera there, and the Jews were afraid that they would catch it..."

Ma'ariv, October 1990

### Mayor Olmert's Jerusalem (1993-2003)

"Every area in the city that is not settled by Jews is in danger of being detached from Israel and transferred to Arab control. Therefore, the administrative principle regarding the area of the city's municipal jurisdiction must be translated into practice by building in all parts of that area, and, to begin with, in its remotest parts."

Ha'aretz May 1994

### Mayor Lupolianski's Jerusalem (2003- )

Jerusalem Mayor Uri Lupolianski has continued the policies of his predecessors. Lupolianski is currently working to rezone the East Jerusalem neighborhood of Wadi Joz, in order to build Jewish settlements in the area. The neighborhood in question was zoned and planned a number of years ago by the Housing Ministry for Arab residents.

Despite a massive settlement building program, and Jewish immigration to Jerusalem, the percentage of Jews in the city has fallen from 74.2% to 67%. According to data compiled by Israeli planning officials, Jerusalem's Jewish population is expected to shrink by up to 60 percent by 2020.

Ha'aretz September 2004



is invested in East Jerusalem infrastructure in Palestinian areas.\*\*

\*Kaminker, "East Jerusalem."

\*\*N. Krystall, *Urgent Issues of Palestinian Residency in Jerusalem*, 1993.

### "Green Areas"

Undeveloped areas are often designated "green" for public or open space— i.e. they are not to be used for construction. However, these areas are only "green" for Palestinians. In other words, the zone is "green" until the Israeli municipality decides to use the land to build a new Jewish settlement or expand an existing settlement.

S. Kaminker, "East Jerusalem."

### The Wall

As is the case throughout the West Bank, the Wall is having dire effects in Jerusalem's Palestinian community. Once the Wall is completed, it will place severe restrictions on Palestinian travel and economic life as it will make permanent the restrictions enforced through the closure policy. In addition, a network of bypass roads will further cut off Palestinian areas from each other. According to B'Tselem, 210,000 Palestinian residents of East Jerusalem

### The "Closure" – Politics & Economics

In March 1993, the Israeli government imposed a military "closure" on the West Bank and Gaza in response to several attacks by Palestinians on Israelis in West Jerusalem. All Palestinians who were not Jerusalem residents were barred from entering the city unless they obtained a

## Facts and Figures

**In 1967 Israel expanded the municipal borders of East Jerusalem into the West Bank to include a total of 70,000 dunums of land. To date 23,500 dunums of land – mostly privately owned by Palestinians – has been privately expropriated for exclusive Jewish use.**

Kaminker, "Facts and Figures on Jerusalem," 1995.

**Approximately 33,000 housing units for Jews have been constructed on land expropriated from Palestinians.**

Report on Israeli Settlement, July 1995

**Not a single housing unit for Palestinians has been constructed on this land.**

B'Tselem, "A Policy of Discrimination," May 1995

**In 1993, the size of the Jewish population in East Jerusalem surpassed the Palestinian population. As of 1995, approximately 170,000 Jewish settlers lived in East Jerusalem. The Palestinian population of East Jerusalem is 168,000.**

Israel Central Bureau of Statistics

**East Jerusalem settlements account for more than 70% of the growth of the Jewish population in Jerusalem**

permit. The closure severed East Jerusalem from its economic hinterland in the West Bank. Palestinians consider E. Jerusalem to be their social, cultural, economic, religious, and political capital. The severe damage to the Palestinian economy has resulted in higher unemployment; some Palestinian retailers in East Jerusalem have closed while others have moved outside the municipal borders of Jerusalem. As East Jerusalem becomes further isolated by the construction of the separation Wall, the economic effects of Israeli policies on the Palestinians are expected to increase.



**The Wall cutting through the Abu Dis area of Jerusalem.** Photo: PENGON/Anti-Apartheid Wall Campaign

# The Politics of Settlement Construction

The construction of Israeli settlements is altering the geography and demographics of Jerusalem.

It is acknowledged by some Israeli officials and deduced from government policies that settlements serve three purposes:\*

1. to preserve a Jewish demographic majority in Jerusalem at a ratio of approximately 7:3.
2. to solidify Israeli sovereignty over East Jerusalem by creating rings of Jewish population around the city, isolating Palestinian East Jerusalem from its natural hinterland in the West Bank.
3. to create a “fortress” around the city to protect Jewish Jerusalem from an eastern invasion.

\*See, for example: M. Benvenisti, Jerusalem: The Torn City; Jerusalem, Extending the Area of Jurisdiction (April 1991) Municipal Planning Report.



**Greater Jerusalem showing West and East Jerusalem, including the Israeli settlements (black type in white boxes) built in East Jerusalem since 1967.** Adapted from Foundation for Middle East Peace



**An Israeli Settlement in East Jerusalem's Old City.**  
Photo: Rachael Kamel

## Greater Jerusalem

“Greater Jerusalem” refers to a radius of about 10-15 km around Jerusalem. The majority of “Greater Jerusalem” is in the West Bank. Approximately 40% of Jewish settlement housing has been built in this area with a population of 135,000 settlers. In the “Greater Jerusalem” area the Jewish-Palestinian population balance is virtually 1:1.

Y. Kimh, “Outline of the Development of Jerusalem 1988-1993.”

## U.S. Policy on Settlements

The United States considers Israeli settlements illegal under international law. Even though this policy remains unchanged, the US now refers to settlements as a “complicating factor” or “an obstacle to peace.” The US no longer includes East Jerusalem settlements in the count of Israeli settlements overall.

Report on Israeli Settlement, Feb. 1994

# The Old City of Jerusalem

## Settlement in the Old City

**1948** All 2000 Jews living in the Old City are evicted by Jordan. Jews owned approximately 20% of the property in the Old City. Israelis are denied access to their Holy Sites in East Jerusalem including the Old City until 1967.

**1967** Magharib quarter is demolished by Israel to create a large plaza in front of the Western Wall. 135 Palestinian houses are demolished; 650 Palestinians are evicted.

**1968** Jewish quarter is expanded by Israel. 5500 Palestinians are evicted and 116 dunums are expropriated. Out of 700 stone buildings only 105 were owned by Jews before 1948. Palestinian property seized included 1048 apartments and 437 workshops.

**1980's** Militant Jewish settler groups establish presence in heart of the Muslim and Christian quarters and near the Haram al-Sharif. Israeli Housing Minister Ariel Sharon establishes residence in the heart of the Muslim quarters.

**1990** Jewish settlers occupy St. John's Hospice in the Christian quarter. It is later discovered that settler groups received Israeli government support. Jewish groups continue to settle in the heart of the Muslim and Christian quarters.

Sources: M Benvenisti, Jerusalem: The Torn City; Dumper, "Israeli Settlement"; G. McNeill, "An Unsettling Affair"

## History in Brief

Foundations of the Old City stretch back to the Early Bronze Age (c. 3000BCE) when the city was a Canaanite center. The city later became the capital of the Hebrew kingdom. After subsequent occupations, the city fell under



Map of East Jerusalem's Old City. Map: PASSIA

the control of the Roman Empire (132 BCE – 324 CE). The layout of the city still bears the imprint of Roman planning. The city later entered a period of Arab and Islamic rule in 638, interrupted for less than a hundred years by Christian Crusaders. It was during this period (1099-1187CE) that the Old City began to be more clearly divided into ethnic and religious quarters. The return of Arab/Islamic rule after 1187 saw the construction of the current walls of the Old City by Suleiman the Magnificent in 1540. It was not until the second half of the 19<sup>th</sup> century that Jerusalem began to expand beyond the Old City walls. Under the British Mandate, the Old City was regarded as a religious, cultural and architectural monument. Following the division of Jerusalem in 1948, the Old City fell under Jordanian control.

In 1967, Israel occupied East Jerusalem including the Old City.

## Politics of Planning

A walk through the Old City easily reveals the discrimination in planning between the Jewish and Palestinian quarters. While the Jewish quarter is modern and fully serviced, the Palestinian quarters have few services and amenities, building permits are difficult to acquire and so many areas are overcrowded (41 persons/1000 sq. m), dilapidated and unsafe, forcing families to move outside of the Old City in order to find adequate living space. Jewish settlers often offer large sums of money to purchase such property.

G. McNeill, "An Unsettling Affair: Housing Conditions, Tenancy Regulations and Coming of the Messiah in the Old City of Jerusalem."

## Population of the Old City

1944*	1967*	1989+	2002 ++
Jews 3,000	Israelis 0	Israelis 2,300	Israelis 3,804
Palestinians 31,000	Palestinians 23,251	Palestinians 25,200	Palestinians 30,757

\*O. Schmelz, "The Evolution of Jerusalem's Population."

+ Statistical Yearbook of Jerusalem (1989)

++ Statistical Yearbook of Jerusalem (2002)



# Jerusalem: Barrier or Gateway to Peace

*A Joint Statement of the Friends Committee on National Legislation and  
the American Friends Service Committee*

## Principles of a Settlement

February 23, 1995

**A settlement on Jerusalem must be reached by negotiation between the Israeli and Palestinian leaderships and approved democratically by the Israeli and Palestinian peoples.**

By agreeing to include Jerusalem in final status talks, Israel and the PLO have already committed themselves to decide the city's future by negotiation. Israel's parliamentary process will provide a means for Israelis to approve an eventual agreement. Palestinians also need a democratic forum to express their will. Creation of an elected, broadly representative, Palestinian Self Governing Authority that includes East Jerusalem Palestinians is thus a prerequisite for resolution of the Jerusalem question.

**A settlement must leave Jerusalem physically undivided and open to the entry and free movement of peoples throughout.**

Few Palestinians or Israelis desire a return to the status quo in Jerusalem of 1948-1967, when a no-man's land of barbed wire and land mines ran through the middle of the city and residents on one side were barred from travel to the other. Regardless of whether a final agreement provides for shared or divided sovereignty or one or two municipalities, Jerusalem, as the symbol and centerpiece of Israeli-Palestinian relations, should be an open and physically united city.

**A settlement must accord equal political and national status to Israelis and Palestinians in Jerusalem.**

Any settlement that accords either national group an inferior status will sooner or later be repudiated by that group, fatally undermining Israeli-Palestinian peace. Equality of status for Israelis and Palestinians in Jerusalem would most likely take the form of recognizing Jerusalem as the capital of both Israel and an independent Palestinian state. Other solutions, such as internationalization of the city, are possible, but less likely to gain support.

**A settlement must permit the equitable growth and development of Jerusalem to meet the needs of both Israelis and Palestinians and must allow the political, economic, and cultural institutions of both peoples to flourish in Jerusalem.**

This might be accomplished in part by expanding Jerusalem's municipal boundaries to create balanced Jewish and Arab constituent boroughs, or by contracting municipal boundaries to create separate Israeli and Palestinian municipalities. Most importantly, agreed borders or subdivisions and administrative arrangements must facilitate equitable land use. Palestinians must have the opportunity to build in Jerusalem denied them by twenty-eight years of occupation. Redress must be offered for land seized in occupied East Jerusalem in violation of international law, perhaps by providing Palestinians with comparable land in West Jerusalem and Israel's Jerusalem corridor further west. Jerusalem property lost by Palestinians and Israelis in 1948 must also be taken into account in devising equitable arrangements for the future. Also, competing needs of secular and religious residents of Jerusalem must be accommodated.

**A settlement should give formal expression to the special significance of Jerusalem in Judaism, Christianity and Islam.**

Jerusalem is first the domain of its inhabitants. But portions of Jerusalem are also sacred to Jews, Christians and Muslims around the world. An agreement between Israelis and Palestinians should include a joint grant of formal status to international representatives of Judaism, Christianity and Islam. A grant of status, rather than a simple guarantee of access, would appropriately reflect world religious attachment to Jerusalem and perhaps promote a reconciling inter-religious cooperation of international consequence.

# More Information

## References

Armstrong, Karen. **Jerusalem : One City, Three Faiths**. New York, NY: Ballantine Books, 1997.

Benvenisti, Meron. **Jerusalem: The Torn City**. Minneapolis: Israel Typeset Ltd. and The University of Minneapolis, 1976.

Dumper, Michael. "Israeli Settlement in the Old City," *Journal of Palestine Studies*, vol. xxi, no. 84: 22-53.

**Jerusalem, Extending the Area of Jurisdiction**. Jerusalem: Municipality of Jerusalem, City Planning Department and Jerusalem Development Authority, April 1991.

Kaminker, Sarah. "East Jerusalem: a Case Study in Political Planning," *Palestinian-Israel Journal of Politics, Economics, and Culture*, vol. II, no. 2, 1995: 59-66.

Lustick, Ian S. "Reinventing Jerusalem," *Foreign Policy*, No. 93 (Winter 1993-94): 41-59.



## Organizations

**B'TSELEM** - The Israeli Center for Human Rights in the Occupied Territories was established in 1989 to document and educate the Israeli public and policymakers about human rights violations in the Occupied Territories and help create a human rights culture in Israel.

<http://www.btselem.org/english/Jerusalem/index.asp>

**The Institute of Jerusalem Studies** was established in 1995, and it commissions and publishes research on final status issues, with a particular focus on Jerusalem and refugees.

<http://www.jqf-jerusalem.org/aboutins.html>

**The Israel/Palestine Center for Research and Information (IP-CRI)**, founded in Jerusalem in 1988, is a joint Palestinian-Israeli public policy think-tank that is devoted to developing practical solutions for the Israeli-Palestinian conflict.

<http://www.ipcri.org/index1.html>

**The Palestine-Israel Journal of Politics, Economics and Culture** is an independent, non-profit quarterly publication co-published and produced by Israelis and Palestinians, as an explicitly joint venture promoting dialogue, in the search for peaceful relations. The Journal has dedicated several issues to the topic of Jerusalem.

<http://www.pij.org/>

**The Palestinian Academic Society for the Study of International Affairs (PASSIA)** was founded in March 1987 in Jerusalem and disseminates information on the city as part of all its activities. PASSIA also participates in international and local conferences, in addition to hosting meetings with guest speakers and collaborating with other institutions to raise awareness of the issue of Jerusalem.

<http://www.passia.org/jerusalem/Jerusalem.htm>

### AFSC principles and positions

The AFSC's position on the Palestinian-Israeli conflict is based on the Quaker belief that there is that of God in each person and a commitment to nonviolent action for social change. Based on these beliefs and within the framework of international law and the UN Declaration of Human Rights, the AFSC strives for a lasting peace between Israelis and Palestinians that provides justice and security for all peoples living in the region.

