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General comment: the Israeli proposal does not offer a satisfactory framework which could be used as a starting point for discussion, for two reasons:

- it does not respect any structure and logic;
- it offers a totally biased view for the resolution of the refugee issue, essentially based on compensation and the assumption that the place of ‘return’ for Palestinian refugees should be the future Palestinian State.

We have drafted our comments under each one of the provisions of the Israeli document and provided with an alternative phrasing each time this was possible. This document should be therefore used as Talking Points in order to demonstrate the intrinsic limits of this first proposal and the risks related if this is adopted as a starting point for discussion.

We suggest rather that the Palestinian “non-paper” prepared be handed over to the Israelis for discussion purposes only: this document reflects PLO position, but also take into account Israel’s initial wording. It is truly comprehensive and, as such, could be used to frame the discussions with the Israelis. Circulating such a paper is the best way to make sure that all the topics relating to the refugee issue are raised and discussed in order by both parties.

In preamble:

~~*[I: Recognizing, with sorrow, the suffering and loss endured by individuals, families and communities on both sides, including refugees, as a result of the conflict between them.]*~~

Comment to UB: This sentence is not needed. It does not address the specificity of the refugee issue. It does not either address Israel’s responsibility in the creation and continuation of the issue, which is crucial for refugees’ satisfaction. Israel’s recognition of responsibility/apology is indeed part of refugees’ rights for reparations. We suggest removing the proposed preamble and insert instead the following one.

[P: Israel acknowledges its moral and legal responsibility for the forced longstanding displacement and dispossession of the Palestinian civilian population stemming from its actions during and subsequent to the war of 1948.

The PLO and Israel commit to pursue a comprehensive, just and agreed upon resolution to the Palestinian refugee issue in accordance to international law, including UNGAR 194 and the principles set out in Article 6]

Note to SE: The Palestinian proposed preamble is based on international law and expose what is expected by the refugees -and what is therefore needed to secure the implementation of a settlement of the issue-

This phrasing could be however subject to a discussion with the Israelis, in order to adapt to each parties' narrative. NSU can provide with its assistance on this upon request.

Also, it may be a bit abrupt to start with Israel' recognition of responsibility. To avoid this problem, we suggest to suppress the preamble (not needed in fact), and address Israel's responsibility in a distinct provision in the scope of refugees' reparations (see Pal non-paper)

Article 6 - Refugees

6.1. The Parties recognize the urgent need, in the context of [**P: ending the conflict**] [*I: realizing the two State vision*], to address and resolve the refugee issue in accordance with the terms of the [**P:Treaty**] [*I: this Agreement*].

Comment to UB: The reference to "the end of the conflict" aims at both recognizing the centrality of the refugee issue in the conflict ("no real peace without a just resolution of the refugee issue") and the need to reach a definitive closure in this matter (and secure an end of claims for both the Israeli and Palestinian states). It is much more pertinent than the reference of "the two State vision" which is not relevant here.

Treaty rather than Agreement { Z to Leila: Why?}

Note to SE: The reference to the two State vision should be avoided here since its purpose is to facilitate Israel's claim for the resettlement (often erroneously referred to as "return") of refugees to the Palestinian State. If the Israelis firmly insist on inserting this reference, a more balanced wording could be found such as, for instance: "In the context of the vision of two States living in peace and security in the region, the Parties recognize the urgent need to address and resolve the refugee issue in a just and agreed upon manner in accordance with the Treaty.'

6.2. [~~I: The parties recognize that the resolution of the refugee issue will require an international effort. Israel, for its part, will contribute financially to his effort, in accordance with this Article.]~~]

Comment to UB: The question of Israel's & international efforts and contributions are mentioned before the presentation of all refugees' rights, and the agreed upon solutions to address them. If other words, we try to resolve the problem before defining it. This is illogical and will inevitably prejudice a comprehensive resolution of the matter. This is already illustrated at this point by the fact that compensation seems to be considered as the only way to resolve the issue. This is in complete contradiction with international law and the practice commonly adopted to resolve refugee issues (see Bosnia, Kosovo, South Africa): such a resolution considered only via money will inevitably be very badly

received by refugees (jeopardizing the chances of success of the implementation of the settlement).

6.2.[P: The Parties commit to pursue a comprehensive, just and agreed upon resolution of the refugee issue as envisaged in the Arab peace initiative, and in accordance with the following principles:

- Refugees' rights are individual rights. As such, every refugee is entitled to his/her rights as prescribed in international law;
- Refugees shall be provided with repatriation and resettlement options, including return to Israel, to be implemented in accordance with an agreed annual quota and within an agreed period of time (renewable on the basis of both parties' consent), and return to Palestine, as its sole discretion;
- Refugees shall be granted restitution and/or full compensation, for the material and non-material damages they have suffered, including loss of opportunities and human rights suffering as a result of their protracted displacement. These rights shall not be prejudiced by the refugee permanent place of residence.
- States that have hosted Palestinian refugees shall be entitled for remuneration.]

Note to SE: This the PLO position, which is already a position of compromise (in particular on the implementation of the right of return). All refugees' rights should be recognized (there are individual rights; as such their recognition is non-negotiable), but the implementation of these rights should be adjusted to current realities and both parties' legitimate concern.

If the Israelis are reluctant to agree to the mention of the Arab peace initiative, this may be ultimately removed (as long as the notion of "just and agreed upon resolution" remains).

(This drafting is the one that was also submitted and validated by the Jordanians)

~~6.3. [I: Recognizing that a State of Palestine shall be the homeland of the Palestinian people, all Palestinian refugees wishing to reside in Palestine shall be entitled to Palestinian citizenship.]~~

Comment to UB: This statement's purpose is clearly to establish a right of "return" to the Palestinian state. This is in complete contradiction with International law and cannot be accepted by the Palestinians (even if the Palestinians are ready to offer the resettlement to the Palestinian State as one of the destination options to be submitted to refugees' choice). The recognition of the right to self determination of the Palestinian people (collective right) should not be mixed up with the recognition of the right of the refugees to return to his homeland.

6.3. I: In order to enable a comprehensive, **[P: just and effective]** *[I: organized and conclusive]* settlement of the refugee issue, *[I: the Parties have invited the United States,*

in coordination with them, to establish and lead an international refugee mechanism] [P: an international mechanism shall be established to implement all aspects of the Treaty relating to refugees with the participation of Palestine, Israel, the host countries and other necessary and willing countries and entities] [I: which will operate in accordance with the provisions of this Article.]

Comment to UB: A comprehensive resolution (the term is used is the Israeli proposal, which is a good point) means that the international mechanism is to implement all refugees' rights in accordance with the solution agreed upon by both parties. Its scope of action should therefore extend to the return/resettlement program, the claims program and the rehabilitation of refugees.

Main stakeholders should be represented in the governing body of the international mechanism: Palestine, Israel, host states, and limited representatives of the International Community/Quartet (to be discussed: UE, US etc.)

Note to SE: The question of the countries which should be represented in the policy body of the mechanism is subject to discussion. Palestinian and Israel's presence are required since they are the two main parties involved. But all main stakeholders (host states) and donors (US, UE, Japan, World Bank) should participate. The involvement of the US is acceptable by the Palestinians but in coordination with others: US would be more inclined to back up Israeli positions in the management of the mechanism. Additionally, US' view on the mechanism essentially concentrates on compensation.

6.4. [P: In furtherance thereof, an international fund shall be established to finance the repatriation, resettlement and rehabilitation of the refugee, and the reparation program, including restitution and/or compensation. Israel commits to provide funding to the reparation program. Other countries and entities will also contribute to the fund to cover return, resettlement and rehabilitation program and supplement the non-material damages aspects of the reparation program]

Comment to UD: The contribution to the funding (Israel and International community) should be based on the respective responsibilities in the creation and continuation of the problem. Thus, Israel should commit to provide funding for the reparation program because it is mainly responsible for refugees' dispossession from their properties as well as for their protracted displacement.

The respect of this principle is crucial if we want the refugees to buy' in' the settlement. The payments will be extended over a defined time period (10 to 15 years): this will facilitate each party's capacity to pay the financial costs involved.

Note to SE: Israel will probably claim that it is not capable to afford the costs relating to the reparation program. An NSU analysis, which will soon available, demonstrates the opposite.