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UNITED NATIONS CONCILIATION COMMISSION  
FOR PALESTINE

THE COMPENSATION QUESTION

(Dossier prepared by the Secretariat)

Note by the Acting Principal Secretary

In its meeting on 11 February 1955, the Conciliation Commission requested the Secretariat to prepare a broad, intensive review of the compensation question, on the basis of which the Commission could reappraise its position on this problem.

The Secretariat has prepared the attached dossier with a view to meeting this request and also in order to provide a set of basic documentation to assist the Commission in its future deliberations on the compensation question itself as well as in its relation to the refugee problem as a whole.

This dossier is composed of two basic papers, one on the more general aspects of the refugee problem, since compensation is closely bound to the over-all question of the refugees, and one dealing in detail with the compensation question itself. Also included is a set of background papers, many of which have previously been distributed. The contents of the dossier are as follows:

Basic Papers

- A. Note on the Present Status of the Palestine Refugee Question
- B. A General Review of the Question of Compensation: the attitude to date, the problems presented and the various future possibilities.

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Pages 5+7 missing  
See french

Background Papers

1. Identification and Valuation of Abandoned Arab Property (detailed aspects of the technical work being done at present).
2. The Individual Assessment of Abandoned Arab Immovable Property in Israeli-held Territory (Prepared by John Berncastle in 1952 in explanation of the discrepancy between the global evaluation of Arab property and the aggregate figure which would be reached through an individual assessment).
3. Note by the Acting Principal Secretary and two papers dealing with the various implications of concentrating all property identification work in Jerusalem.
4. Suggestions towards a Solution of the Palestine Arab Refugee Problem (Prepared in 1953 by Ambassador Ingrand, French representative on the Advisory Commission of UNRWA).
5. A Plan for the Payment of Compensation (Prepared by J. Berncastle in 1952).

BASIC PAPER A

STRICTLY CONFIDENTIAL

1 February 1955

NOTE ON THE PRESENT STATUS OF THE PALESTINE REFUGEE QUESTION

by Alexis Ladas, Liaison Representative of  
the UNCCP in Jerusalem

After a year in the Middle East I am convinced that the refugee question is still the principal outstanding issue between Israel and the Arab States and the one that, on the surface at least, engenders the greatest amount of hostility.

The principal obstacles to the practical solution of this question are Arab insistence on the right of the refugees to repatriation and compensation and Israel's refusal to accept these rights as absolute, particularly as regards repatriation. The ensuing deadlock in the political aspect of the refugee question is obstructing UNRWA's efforts to find a practical solution, and is also undermining the structure of the Armistice Agreements. Even the efforts of Mr. Eric Johnston are likely to be complicated by the lack of progress on the refugee question. The continued existence of this problem not only does not permit the improvement of Arab-Israeli relations but acts as a constant irritant and thus contributes to the deterioration of those relations. Yet, I have come to believe that this problem is now more susceptible of solution through international action than it has been at any time since the Lausanne Conference in 1949.

At that time Israel agreed to discuss the repatriation of only one hundred thousand refugees and the Arabs rejected that offer out of hand as being totally inadequate. Since then the feeling has grown and crystallized that a solution of the Palestine problem based on the 1948 resolution of the Assembly, which lays down the right of the refugees to repatriation and compensation, could never become a practical reality.

As far as the Conciliation Commission was concerned, this feeling became greatly reinforced as a result of its failure during the Paris Conference of

1951 to secure acceptance by the parties of its own proposals for partial repatriation. During the interim between the two conferences the attitudes of the parties had become even more intransigent and their positions even further removed from each other, Israel having withdrawn its offer of even limited repatriation and the Arabs being unwilling to commit themselves to direct negotiations even if the rights of the refugees were accepted by Israel as a prior step. Thus little hope was left that a solution could be found through international action.

The Israeli position was based on the hope that after a while the United Nations resolutions would be forgotten and Arab hostility would die down and that the economic and political interests of individual Arab States would induce them to resume relations with Israel. It was thought that Arab unity was not solid enough to maintain a united front of economic and diplomatic action against Israel for a long period of time. Once the common front of the Arab States had become disrupted, it was felt that Israel would have much greater freedom of political and diplomatic manoeuvre by dealing with individual Arab States directly and outside the limiting framework of the United Nations resolutions. It would also then become possible for Israel to begin assuming the original role chosen for itself: that of manufacturer, merchant and financier for the large and potentially wealthy Middle Eastern hinterland. The Israelis believed, therefore, that it would be against their interests to make any serious concessions in the course of negotiations with the Arabs collectively and on the basis of the United Nations resolutions which, besides depriving them of acquired gains which they hoped to retain without serious payment or which they could barter to greater advantage at a more propitious time, would tend to reinforce the solidity of the Arab League by giving it a diplomatic victory and appearing as a show of weakness on the part of Israel.

The policy of Israel in the diplomatic and propaganda field was directed towards casting the United Nations resolutions into oblivion while giving the impression that it was eager to arrive at a peaceful settlement with the Arabs. Meanwhile the Israelis concentrated their energies towards strengthening their economic and military position and absorbing as many

For one thing, the Arab Governments have never been faced with a situation which, by satisfying their requirements in principle, would deprive them of their political platform and force them either to acquiesce to a rapprochement with Israel or to bear the whole onus, both internally and internationally, for an unreasonable refusal.

For another, Israel is fully aware that Western interest is concentrating on the two poles of the Arab world - Iraq and Egypt - with a view to turning the interest of the former northward and that of the latter towards Africa, and that in consequence there is a danger that the problem posed by the turbulent centre of the Middle East will be bypassed, thus condemning Israel to isolation from the military, political and economic future of the Middle East. Israel is, therefore, making every effort to alter this trend and of late has given indications of greater readiness to make serious concessions to the Arab point of view as the price for securing a realization of hostility on the part of the Arab States.

This policy has been developing ever since the disastrous effects of Kibya and other similar incidents on world public opinion became apparent and particularly after the retirement of Mr. Ben Gurion had brought to power the more moderate elements in the governing coalition under Mr. Sharett. For the time being the "tough line" policy is in abeyance and moderation is the order of the day. How long this state of affairs will continue is a matter for conjecture, particularly in view of the forthcoming elections.

During the Premiership of Mr. Sharett there have been numerous signs of this change in attitude on the part of Israel. On questions other than that of the refugees there has been considerable restraint, in spite of continuing disorders along the frontiers, and in general, a tendency to use the method of diplomatic action in face of Arab provocation rather than that of retaliation in kind. It is, however, on the refugee question that the most notable changes have occurred.

As regards compensation for land abandoned by the Arab refugees, an obligation which Israel has assumed ever since 1949 but only within the framework of a general settlement, the principal condition for payment was recently reduced to the lifting of the economic blockade and boycott by the Arab States. Israel has also considered it advisable to release all refugee bank accounts blocked in the banks in Israel. These are facts of common knowledge.

As regards the former, a measure of improvement has taken place during the last year through closer liaison between UNRWA, UNCCP and UNRISD both at Headquarters and in the field.

If, however, a major effort is to be undertaken, its planning and execution would involve much greater co-ordination between the bodies concerned and particularly between the Conciliation Commission and UNRWA, for willy-nilly the initiative, at least in the opening stages, would have to be taken by the Commission and inevitably UNRWA's interests would be involved.

Although the Commission has for the last three years assumed a passive role it is still the only body charged by the Assembly to deal with political aspects of the refugee question. No other United Nations body is authorized to do so. What is more, as long as the Commission remains inactive it operates, by the mere fact of its existence, as an obstacle to the efforts which other interested parties might make in this direction.

From exchanges of views between the United Nations bodies in the field and from direct observation of the political situation in the area, I have become convinced that a continued policy of inaction is not only unprofitable but might prove dangerous and that if any action is to be taken through the instrumentality of the United Nations bodies in the area, such action must attack the problem along its entire front and would, therefore, necessitate the closest possible co-ordination between the various United Nations agencies dealing with the question. The efforts of the UNRISD to secure a reduction of tension along the borders would be of little use if the respite thus gained were not employed to attempt a more lasting settlement in the political field. UNRWA's attempts to resettle the refugees, as its Directors have so often pointed out, have failed time and again because of Arab insistence, often artificially engendered but nonetheless insurmountable, on the prior implementation of the relevant resolutions. As for the Conciliation Commission, even if it did secure the payment of compensation, this would lose much of its practical value unless it could be tied in with UNRWA's resettlement plans.

As regards the second drawback, that is, the fact that progress on one aspect of the question has been brought to a standstill by failure to secure

agreement on any other of its aspects, it must be said that the Commission, in attempting to follow its mandate under the relevant resolutions, has always presented the parties with the necessity of making extremely far-reaching decisions which they were most reluctant to make and which they could avoid by legal quibbles or by placing the blame on their opponent. For instance, in the most vital question of repatriation the strict implementation of the 1948 resolution might have imposed on Israel the intolerable burden of taking back nearly a million Arab refugees. On the other hand, any arbitrary reduction of the total figure was easy for the Arabs to reject on the ground that the principle of the right to repatriation was being trampled underfoot, as indeed it was. It is common knowledge that not a very great number of refugees would opt to return to Israel under the conditions in which their resettlement there would have to take place.

In view of this fact and Israel's possible readiness to co-operate, the problem of preserving the principle of repatriation intact without presenting Israel with an overwhelming burden is a matter of finding the proper formula.

The necessary conditions might possibly be met by a scheme under which Israel agrees to a gradual repatriation of refugees under a yearly quota system, as land becomes available, with international assistance, to receive them. From the Israeli point of view this scheme would have the advantage of being more acceptable to public opinion; of giving Israel the right to stop the operation in the early stages if no improvement in its relations with the Arabs ensued; of being tied in with economic assistance for land development; and of making it possible to settle the refugees in accordance with Government plans.

As for the Arabs, it would present them with a plan which would be difficult for them to reject and one which would deprive them of the possibility of forcing the refugees across the border, as might happen if a fixed total number were accepted in a single stage. They could not keep on forcing the refugees over in small numbers over a long period of time without its becoming known, and probably causing a general move on the part of the refugees in favour of being resettled by UNRWA elsewhere, which would be all to the good.

However, the repatriation scheme would have to be co-ordinated with a plan for the payment of compensation in order to fulfil the other requirement of the

1948 resolution as regards refugees. A clue to a possible method of proceeding has been given by the recent successful solution of the question of Arab accounts blocked in the banks in Israel. In this case the agreement of the Arab Governments was not sought. An agreement was arrived at between Israel and the banks and was implemented with the assistance of the United Nations agencies concerned. The funds which permitted the reimbursement of the refugees were made available to Israel in the form of a loan, from which Israel was debited for every payment made by the banks.

A similar system could be applied to the solution of the compensation question. A fund could be set up partly from a sum to be contributed by Israel, partly from international contributions and perhaps partly as a loan from UNRWA. This fund could constitute a potential loan to Israel and compensation paid out could be charged against it. This would obviate the need for establishing a global figure in advance or of securing the consent of the Arab States. Furthermore, the fund could be used to advance UNRWA's resettlement plans, along the lines suggested by Ambassador Ingrand of UNRWA's Advisory Commission.

In agreeing to an approach along these lines, Israel would be committing itself only to a limited degree and would, in exchange, be forcing the Arabs either to accept the solution and relax their hostility or to take on themselves the whole onus of refusal.

From the United Nations point of view, such an approach would have the advantage of securing acceptance of the principle and not something less; it would link the whole operation with UNRWA's resettlement plans; it would make possible the constructive use of compensation; and it could also be made to dovetail with water development projects in the area. Furthermore, even if it does not progress beyond the initial stage, its effect on relations between Israel and the Arab States is likely to be beneficial.



## BASIC PAPER B

A general review of the question of compensation:  
The attitude to date, the problems presented and  
the various future possibilities

### A. THE TECHNICAL WORK TO DATE

The Conciliation Commission for Palestine is at present, and has been since 1952, engaged in the identification and valuation of Arab refugee property holdings in Israel for which compensation might be claimed. This work was undertaken at the suggestion of Mr. J. Berncastle, the Commission's Land Expert, after he had completed his task of arriving at a preliminary global estimate of the total value of Arab refugee immovable property in Israel to be used as a basis of discussion by the Commission in its negotiations with the parties. The global figure arrived at by Mr. Berncastle for immovable property was 100 million pounds sterling. The basis of the valuation was, roughly speaking, the value, for taxation purposes, of the property for its existing use on 29 November 1947. This basis was considered appropriate as leading to the establishment of a figure which the Government of Israel could reasonably be asked to pay, since it would represent the value to Israel of the property which it had acquired. However, it was never pretended that the global amount would satisfy the aggregate of individual refugee claims. The discrepancy bound to occur between the global evaluation already made and the aggregate of the individual assessments can, in brief, be explained by the fact that the former represents the value of the property to the acquiring State, whereas the latter represents the value to the former individual owners. (See annexed background paper No. 2.)

The Commission has always considered that an individual assessment of the value of Arab property would eventually have to be made, since it was obviously an indispensable preliminary to the payment of compensation on an individual basis. The purpose of the identification and valuation project was to provide reliable, detailed and complete information on the basis of which: (a) individual claims for compensation could be verified; (b) an accurate assessment of each property owner's holdings could be made on the basis of prices prevailing in

and (c) an aggregate figure could be obtained representative, rather than the preliminary global figure, the overall value of refugee property. This figure could be arrived at by the simple addition of all the individual assessments.

The work of identification and valuation has come to be envisaged as having two main consecutive stages, identification and valuation - after which the actual payment of compensation could be undertaken. (See annexed background paper 1).

1. Identification involves the establishment of lists of all parcels of land giving the overall area of each parcel, the description of the property, the name or names of its owners and the proportion of their shares (if there is more than one owner) and any mortgages or other encumbrances on the share of each individual. This information is extracted from the microphotographs of the Land Registers, and when necessary from the Registers themselves, where "settled" areas are involved. <sup>1/</sup> Approximately half of the territory now comprising the State of Israel had been settled before the termination of the Mandate and includes the best lands. The remaining area is non-settled and contains both rural lands and towns. The necessary information for the identification of non-settled property is exclusively extracted from the tax records.

The purpose of securing this information is twofold: to permit the verification of the validity of all potential individual claims for compensation, and to make possible the valuation of each individual's property. The information required for the verification of claims is complementary to, but not identical with, that required for the valuation of the property. In the former case the information relating to value is not required. For identification of property the information extracted from the documents must be sufficient to check the validity and accuracy of eventual claims.

<sup>1/</sup> Note: Land settlement was an operation undertaken by the Mandatory Administration for the purpose of regularizing land tenure in Palestine. It involved the subdivision of the rural areas into manageable territorial units: villages, blocks and parcels. The exact boundaries of villages (i.e. areas in which the majority of the property belonged to the inhabitants of a village) were determined and set down on plans. The area within the boundaries was subdivided into blocks and these were further subdivided into parcels. A parcel was the smallest unit of property for registration purposes and could be owned not only by one person singly but also by several persons jointly.

When the identification work has been completed the body of information obtained will constitute the only accurate unified record of property for the area which can be used not only to settle compensation claims but which will also be useful in other ways to the States and individuals concerned. It may also be of considerable interest in matters connected with the repatriation and resettlement of refugees.

It may be desirable to publish the conclusions of the identification work in order to give the owners an opportunity to comment on the entries and to provide details of buildings in rural areas which existed on the land but in respect of which there are no particulars. It is estimated that the number of legitimate objections will not exceed 5 per cent of the total number of parcels involved. The publication of the findings regarding the Gaza sub-district as soon as the enquiry is completed should be considered. Such a move would have the advantage of testing the reaction of the Arab Governments and the refugees, and of gauging the measure of co-operation to be expected of them in the more general undertaking.

2. Valuation - There are two aspects of this question: the determination of the value of each individual's holdings for the actual payment of compensation, and the aggregate figure which these findings could produce which would represent the maximum amount of compensation that may have to be paid out.

Individual valuation will be made on the basis of the identification work plus the official records of the market prices which prevailed in November 1947. The Deed Books, or "Returns of Dispositions", contain particulars of land sales as declared by the parties to the transaction and as assessed by the Land Registrar. It is intended to extract from this record particulars of the latest sales to be used as a guide in arriving at a figure or figures for a particular area. The rural lands of the country will be divided into zones of equal value, and, if necessary, each zone will in its turn be subdivided. Urban areas will be dealt with on the basis of each individual parcel depending on the location, nature and extent of each building.

All the information needed to assess the value of individual holdings may, however, not be absolutely essential to the determination of the total aggregate value of the property to be compensated. It might be technically possible to

arrive at such a figure more or less accurately by less meticulous and more rapid methods. For instance, a quicker but less accurate method might be the valuation of all blocks of property after those portions belonging to non-refugees had been subtracted.

3. Documents - The documentary materials which will have to be scrutinized for the identification and valuation of Arab abandoned property are:

(a) The Land Registers of the five million dunams of "settled" land. These records were photographed and the films are available at United Nations Headquarters;

(b) The Rural Tax Records for all non-settled lands and the sites of built-on areas of "settled" villages. These records are available mostly in Israel and partly in Jordan, Gaza and Damascus;

(c) The Urban Tax Records for all towns. Although these records are complete in descriptions, in some cases the detail is not accurate and therefore inspections on the ground will be necessary. The records are available in Israel, Jordan and Gaza;

(d) The Deed Books, which were a record of land transactions. These books are available in Israel, Jordan and Gaza;

(e) Village maps and block plans. These are available in Israel, Jordan, Damascus and Gaza;

(f) Microfilms were also made and are available at United Nations Headquarters of the records of registered land in non-settled areas and of old Turkish registrations.

4. Information extracted - The actual information that is extracted from the above records is as follows:

(a) "Settled" rural lands

(1) From the Land Registers or microfilms: Name of village  
Block and parcel numbers  
Names and shares of owners  
Area of parcel  
Mortgages and "Other rights"  
affecting parcel

(11) From Tax Distribution Lists or Parcel Classification Schedules - description of property

(b) Non-settled rural areas

(1) From the Tax Distribution Lists: Name of village  
Block and parcel numbers  
Names and shares of owners  
Area of parcel  
Description of property

(11) From Land Registers or microfilms: Details of mortgages where the property is registered. (There is a certain percentage of registered land in non-settled areas.)

(c) Urban areas

(1) From the Tax Field Valuation Sheets: Name of town  
Block and parcel numbers  
Names and shares of owners  
Area of parcel  
Description of property

(11) From Land Registers on microfilms: Details of mortgages where the property is registered. (There is a certain percentage of registered land in urban areas.)

(d) All areas for the purpose of valuation

(1) From Deed Books or "Returns of Dispositions":  
Particulars of land sales to be used as a guide in the valuation of property

(11) Maps and plans  
For the purpose of showing thereon the nature of the land in each zone and also for entering thereon the land sales as extracted from the Deed Books to permit the valuation of that area.

5. Location and availability of documents - The greater part of the above records are in the possession of the Israel Government, which has so far agreed to allow the Commission to examine its records on the spot and to permit the periodic transfer of certain limited categories to United Nations Headquarters in Jerusalem.

The Egyptian authorities in Gaza are in possession of the Land and Tax Records relating to that sub-district. Arrangements have been made with them permitting the periodic transfer of the Tax Records to United Nations Headquarters in Jerusalem and the examination of the Land Registers at their present location in Gaza. The arrangement is working smoothly and satisfactorily.

The Syrian Government is in possession of certain tax records and plans. These are at present being placed at the Commission's disposal and the arrangement is working satisfactorily.

The Jordan Government is in possession of the Land Registers of certain sub-districts wholly in Israel and also the Land and Tax Records of the great majority of the sub-districts which are divided by the Armistice Line. So far the Jordan Government has not permitted the examination of these records by the Commission. Should the Jordan Government continue to refuse access to its documents, then there is no alternative in the technical field but to assess the properties concerned in a general way, that is, on the basis of the total area of the village or locality, leaving out all detail of names and shares of owners, as well as individual and up-to-date description of the property. Since this procedure would be highly unsatisfactory, every effort should be made to secure the co-operation of the Jordan Government.

## B. IMPLICATIONS OF THE PRESENT WORK

The identification and valuation project undertaken by the Commission has definite implications regarding both the method by which and the time at which compensation can be paid. Some of these implications stem from principles or declarations clearly accepted by the Commission before the decision to undertake the identification and valuation project and some are implicit in that decision. Other and less clear implications are being created as a result of the course which the work is taking as it adjusts itself to the practical requirements of the situation.

One of the principles heretofore accepted by the Commission and implicit in the undertaking of individual identification and valuation is that compensation is to be paid to individuals and not to Governments. Another is that the actual

payment of compensation to the claimants is to be made not by Israel but by the Commission or some other international body set up for the purpose. A third is that compensation is to be paid on the value of property at the time when the property was abandoned. Yet another is that refugees are free to accept or reject compensation but that once they have accepted it they relinquish their rights to repatriation and that, therefore, compensation is linked to repatriation in principle and might have to be co-ordinated with it in practice.

As to those less clearly defined effects which the identification and valuation project has produced on the thinking of the Commission and other interested bodies, the most striking is the conclusion that no compensation can be paid until the current work has been completed. This attitude of mind arises from the strict and narrow interpretation of the often repeated statement that identification and valuation are indispensable prerequisites to the payment of compensation, which is taken to mean that compensation cannot begin being paid, and that even negotiations on this question cannot be fruitfully pursued, until the work in question has been completed.

The assumptions underlying this interpretation are that all the property must first be identified, and then individually valued, and that only after these operations have been completed will a concrete figure of the total amount of compensation emerge, on the basis of which the financing and the mechanism of the compensation operation can be negotiated. And only after these negotiations have been successfully concluded will it be possible to begin actually making payments.

In other words, the undertaking to effect the payment of compensation is seen as one involving lengthy and complex preliminary preparations in the technical, political and financial fields which, when completed, will permit the rapid liquidation of the actual claims. Not much thought has been given to the possibility of a piecemeal approach in which the processing of claims, the determination of the overall figure, the establishment of the method and the negotiation of the financing will be undertaken more or less simultaneously and will spread over a considerable period of time.

### C. ATTITUDE OF THE COMMISSION

The attitude into which the Commission's thinking has fallen has been fostered by political considerations and by the natural but somewhat unguided evolution of the work on identification and valuation.

1. Political considerations - Briefly, the political reasons for favouring a method which justified the postponement of the actual negotiations on compensation resulted from the belief that the securing of the funds would, under the present circumstances, present considerable difficulties; that it would be practically impossible to obtain agreement between Israel and the Arab States on any figure for compensation; that there were too many conditions attached to the payment of compensation which would make successful negotiations almost impossible; that the beneficial effects of compensation on the Middle Eastern situation would be negligible unless they were co-ordinated with more far-reaching projects which at the time seemed hopeless; that a failure of full-dress negotiations on compensation would have most unfortunate repercussions in the area; and that therefore it was best to put off the day of decision while preserving the impression that all necessary preparations were being made for the eventual payment of compensation.

Conversely, it was felt that a complete abandonment of the efforts to secure compensation would have an unfortunate effect on the situation in the area, on the position of the member Governments of the Commission and on the prestige of the United Nations.

2. Technical considerations - The method of work gradually adopted by the Commission's office whereby the project was divided into separate and consecutive stages - identification and valuation (first individual, then aggregate) - naturally followed from the Commission's attitude towards the question of compensation, but in turn tended to reinforce this attitude by providing what appeared to be valid technical arguments in its favour. If compensation could not be paid until the technical work had been completed and if this work was going to require a considerable number of years, where was the urgency of undertaking complex and possibly dangerous negotiations which would remain academic for a long period of time and which indeed might be altogether



impossible in the absence of a concrete figure representing the sums of money which would have to be secured?

The office for the identification and valuation of refugee property established its pattern of work as it did because it did not have a clear guiding principle and also because it had to adjust itself to the practical requirements of the situation. It decided to concentrate on identification first, because this was the least controversial aspect of the problem and the one least likely to create resistance which might further complicate the work. The office chose to postpone the establishment of an overall figure for the same reasons. It decided to arrive at this figure by the addition of all individual assessments, because individual assessments are an indispensable prerequisite to the payment of compensation on an individual basis and the global figure could be obtained by this method as a by-product without significant added labour and expense.

The office was given no indication as to whether the establishment of such a figure should or should not have priority. Therefore, at its present rate of work the office will be able to produce this figure in about six years. Should the staff of the office be doubled and the rate of work become twice as rapid, it would still take three years for an overall figure to emerge. It is possible that at any time during this period a negative attitude adopted by any one of the key Governments having documents in its possession will render the work of the office nugatory.

#### D. BASIS FOR REAPPRAISAL

From this brief review, it emerges quite clearly that a reappraisal of the Commission's work on compensation is necessary in order to establish what alternative methods of approach might offer a solution to the compensation question which is both politically feasible and desirable, and to decide how best to harmonize the technical work with the Commission's future intentions.

1. Political aspect - Politically a reappraisal is needed because: (a) the fiction that the work on identification encourages the refugees to hope that compensation will be paid eventually is wearing somewhat thin and is in any case a double-edged weapon, since it obstructs resettlement; (b) with the liquidation of the blocked accounts question attention will be focussed on the other immediate responsibility of the Commission; (c) Israel now appears more

willing to make a practical contribution to the solution of the refugee problem and has made certain statements to that effect as regards compensation; (d) UNRWA has unequivocally concluded that lack of progress on the political aspects of the refugee question is obstructing its own efforts at resettlement and has evinced great interest in the Commission's intentions, both as regards the overall problem and as regards the technical work being done; (e) there is a recent resolution calling on UNRWA to continue its consultations with the Commission in the best interests of their respective tasks, with particular reference to repatriation and compensation; (f) the Commission has announced in its latest report that it places great importance on the compensation question; (g) more than enough time has elapsed to permit Israel to formulate its own concrete views on the question and convey them to the Commission as was promised in 1953; (h) and last, but by no means least, a great deal of diplomatic activity is taking place in the Middle East to which the Commission may not wish to remain indifferent. With regard to the last point the Commission, in any consideration of an open abandonment of its work on compensation, must weigh most carefully the possible ill effects that such a move might have on these delicately-poised negotiations.

2. Technical aspect - As regards the technical aspect it should be noted that the work of identification has progressed far enough to permit new estimates to be made of the duration of the project in its present form. It is now possible to say that if the present tempo is maintained the work will be completed in six years' time. If the speed is doubled by increasing the staff to twice its size (a relatively inexpensive undertaking), the time can be cut down to three years. It is conceivable that under ideal circumstances this period can be halved again. A decision is also required as to whether the Office and the Sub-Office of the Commission should be merged and transfer their operations exclusively to the mission area. (See annexed background paper No. 3.)

## E. METHOD OF REAPPRAISAL

A general reappraisal of the compensation question will have to examine the problem in all its aspects and attempt to work towards a solution in which the most feasible and desirable features at each level would be co-ordinated.

The various aspects of the compensation problem are:

- (1) the acceptance of the principle laid down by the General Assembly that refugees choosing not to be repatriated should receive compensation from the Governments concerned;
- (2) negotiations to secure the implementation of this obligation and to determine the conditions under which it will be carried out. These negotiations have both a political and a financial aspect;
- (3) the technical preparation required for the negotiation on compensation and for its payment;
- (4) the method of financing;
- (5) the method of disbursement and its co-ordination with other related operations.

The arrangement of the above points is arbitrary and does not necessarily imply an order of priority.

1. The acceptance of the principle - The first point has at various times been accepted by the Government of Israel which is the Government mainly concerned. But this acceptance has been qualified in various ways and further efforts will have to be made to clarify the nature and extent of Israel's commitment.

While accepting the principle of compensation for land abandoned and previously cultivated, Israel has held that its recognition of the proprietary rights of the refugees did not bind it as far as concerns the use or restitution of the lands involved; nor would it consider paying compensation for movable property. Originally, Israel maintained that a solution of the compensation question could only be envisaged within the context of comprehensive peace negotiations. Israel subsequently modified its position (a) by its offer to contribute a lump sum to UNRWA's reintegration fund, in consideration of its compensation obligation and (b) by stating, in 1951, its readiness to enter

immediately into discussions on compensation with any appropriate United Nations body. With regard to its ability to pay compensation, Israel has repeatedly stated that this was directly affected by hostile Arab economic measures against the State of Israel.

In its latest declaration of policy on the compensation question, in November 1954, Israel reaffirmed its willingness to consider a measure of compensation for abandoned Arab lands; recalled that it had previously expressed its readiness to enter into discussions on the question with any appropriate United Nations organ in advance of any general settlement; stated that it was giving fresh consideration to ways and means whereby a measure of compensation might be made available and might be used to help in the process of reintegration; and, finally, stated that there were two main obstacles to be surmounted, namely, the availability of the necessary funds and the continued economic boycott and blockade maintained against Israel by the Arab States.

This position should be examined within the context of possible moves with regard to other aspects of the refugee problem, since compensation is closely linked with the questions of repatriation and resettlement and its solution may have to be sought in co-ordination with these.

2. Negotiations - As regards the negotiations towards the implementation of the obligation to pay compensation, two questions of the utmost importance, but clouded by uncertainty, immediately present themselves:

- (a) Is it necessary to hold negotiations with Israel and the Arab States or only with Israel?
- (b) Is it indispensable to possess an accurate overall figure of the maximum total value of compensation before being able to undertake useful negotiations?

Until the Paris Conference in 1951, the Commission operated under the assumption that compensation would be part of an overall peace settlement and therefore considered that it would have to be the subject of mutual agreement between Israel and the Arab States. Though there has been no formal decision of the Commission to the contrary since that time, a number of actions of the Commission have implied a change in attitude. Since the Paris Conference the Commission has pursued the question of compensation exclusively with Israel.

The Commission also believes that compensation is to be paid to individual refugees and not to Governments. Furthermore, in the question of blocked account which is in miniature the same as that of compensation as far as the principle is concerned, the Commission negotiated an agreement with Israel and assisted in its implementation without consulting the Arab Governments in advance. Even Israel, by indicating its readiness to make a contribution to a refugee resettlement fund against its compensation obligations, implied that compensation was not a matter which had to be negotiated directly with the Arab States. From these and other indications it would appear that the Commission has in practice concluded that negotiations on compensation, at least in their initial stages, need not automatically embrace the Arab States.

As regards the question of whether negotiations with Israel would have to wait upon the accurate establishment of a global figure, the determining factors will be the readiness of Israel to implement its obligation without delay and without requiring prior or simultaneous concessions from the Arab States; the extent to which it is prepared to commit itself financially; the method of financing the operation and the mechanism to be adopted for payment; and finally, the extent of the funds available from other sources.

If Israel wishes to draw out the preliminary negotiations before concrete figures are discussed, the total figure is not an indispensable prerequisite to the initiation of negotiations. The same is true if Israel insists on making the commencement of payments conditional upon concessions by the Arab States. This would make negotiations on principle with the Arabs necessary and would delay concrete negotiations in which the global figure might be required. If, as seems probable, the Israel Government's intention is to limit its contribution to a fixed sum considerably below the value placed on refugee property by Mr. Berncastle in his preliminary estimate, then that Government would have little interest in the final figure to which compensation would amount, and, therefore, in the negotiations with Israel a new and more accurate global figure might not be indispensable. If it were considered possible and desirable to pay compensation in instalments over a long period of time and to finance the operation by means of loans or bonds or the sale of refugee property in Israel,

the possession of the total figure in advance might become altogether unnecessary. The same, of course, would be true if funds were available in excess of the probable total cost of compensation.

Nevertheless, there can be little doubt that the concrete negotiations with Israel (and possibly with the Arab States), as well as the efforts to secure financial support from other sources, would be on firmer ground if an accurate overall figure were available, regardless of the actual mechanism of financing and disbursement which might be adopted.

3. Preparatory technical work - It is in relation to this point, at which the technical aspect of the question seems to affect so seriously the more substantive considerations, that the nature of the work being done by the Commission's Office must be thoroughly re-examined. Is it really inevitable that the global figure should only emerge after the work on identification and individual assessment has been completed? Cannot a satisfactory figure be secured by other more rapid methods? Does the negotiation of compensation and the initiation of payments have to wait upon the completion of all the work on identification and individual assessment?

Whether the acquisition of a firm figure in advance will not precipitate political complications and increase the difficulties of negotiation is a question which will have to be carefully studied.

At this stage it is possible, however, to point out that the work of valuation, if carried out in the area will be fraught with danger. Since the aggregate figure expected to emerge is bound to be considerably lower than the one which the Arabs maintain represents the value of refugee property, any leakage of information regarding the progress of the work might create a storm of protest in the Arab world which could render the completion of the identification work impossible. It is therefore essential that the work on valuation be carried out in great secrecy and preferably outside the area.

From the experience acquired it would appear technically possible, given certain prerequisite conditions, to arrive within a year or less at a reasonably accurate global figure representing the maximum amount of compensation to be paid, without materially delaying the identification work and without requiring an inordinate increase in costs. It would also appear that though identification

and individual assessment are indispensable prerequisites to the actual payment of compensation, they are not necessarily prerequisites to the negotiation of the payment of compensation or to the establishment of a global figure, if such a figure is required. It is even doubtful whether the completion of the whole work on identification and individual valuation is a necessary prior condition to the initiation of compensation payments on a piecemeal basis.

It might be possible to proceed with the identification and individual valuation on a "first come first served" basis if all the original documents are available. This would doubtless delay the completion of the compensation operation but would make the initiation of payments possible immediately after agreement on the political and financial aspects had been secured. Another method which would make the completion of all the technical work in advance unnecessary would be one by which payments are made by area as the preparatory work in each area is completed.

4. The Financing of the Operation - Financing of the operation was seen originally as a simple payment by Israel for value acquired in the form of abandoned property. In view of the size of the amount due it was thought that Israel might either have to obtain a loan or pay in instalments. Since Israel has at various times qualified that its commitment is to pay "a measure of compensation" the probable need of obtaining the remaining funds from other sources should be considered. Whether funds paid out would eventually and under certain conditions become a long-term Israeli liability would have to be discussed. Whether the total estimated amount of compensation would have to be committed in advance, or whether a proportion of the total would suffice as working capital to get the operation started, will depend on the method which is to be adopted for payment.

Purely as regards financing the compensation operation the points to be clarified with Israel are: the maximum amount that Israel is prepared to contribute and the way in which this amount is to be secured and made available, i.e., whether in a lump sum to be wholly or partly borrowed by Israel and handed over to the body charged with paying compensation, or in fixed instalments, or in a fixed proportion of the sums actually paid out. Once Israel's views on these questions have been secured, the possibility of obtaining financial

assistance from UNRWA and other sources will have to be investigated on a similar basis, except in the highly unlikely eventuality of Israel's agreeing to shoulder the entire burden.

In financial negotiations with Israel it will be advantageous for the Commission to have an idea of what the total sum of compensation is likely to amount to so as to be able to press for the highest possible commitment. A type of financial agreement which might be aimed at is one whereby part of an estimated sum, say half of Mr. Berncastle's £100 million figure, is committed by Israel in advance and the remainder of the sum is contributed by UNRWA and other sources. Furthermore, Israel agrees to pay, over the years, any sum to which compensation might finally amount over and above this arbitrary figure, provided that the total Israeli contribution did not exceed the original £100 million figure. Should compensation finally amount to more than £150 million the remainder would be paid by the other contributors.

As regards discussions with UNRWA and other potential contributors, the Commission would have to examine the possibility not only of obtaining outright contributions but also funds to be made available in the form of loans to Israel with which it could meet its obligations.

5. Methods of Disbursement - The various possible methods of payment fall within two extremes of kind and of duration. The poles of the first type are on the one hand payments to individuals of the full value of their property without any restrictions, and on the other the payment of lump sums to Governments without further concern as to how these funds are used. The poles of the second type are final payments in a single brief operation, and payments spread out over a long period of time either by the use of an instalment plan or on the basis of dealing with the earliest and easiest claims first.

In all probability the most practical, most constructive and most just solution lies somewhere in between all these extremes. It would, however, be most useful if an expert study of these questions were made. Nonetheless, certain conclusions can be drawn even at this stage.

The method of lump sum payments to the host Governments, though it would obviate all technical difficulties, would be incompatible with the Commission's moral and ethical obligations and in any case would encounter the well-known obstacles in the way of a formal agreement between Israel and the Arab States.



Full individual payments without any restriction would have little beneficial effect on the overall refugee problem except that they would liquidate one of the present causes of bitterness. However, agreement to such a method of payment is not likely to be secured as Israel would derive no profit from it and as UNRWA, whose co-operation is essential, would have little interest.

An operation providing for complete payments over a short period of time would have numerous drawbacks. It would have to be postponed in time until all the technical preparations had been completed. It would impose a heavy financial burden on Israel and on other contributors. It would also create inflationary pressures in the Arab countries and would thus greatly minimize the beneficial effects of compensation. Finally, an operation of this sort would be difficult to co-ordinate with UNRWA's plans and with other moves towards solving the refugee problem.

It would therefore appear at first sight that the most desirable method for the payment of compensation would be one whereby payments are made as soon as possible to individuals upon their application but with certain restrictions, and are spread out in time or given priority according to the locality in which the property is situated. For the Commission, this method has the following advantages: it maintains the principle of individual compensation; it minimizes the prospect of having to negotiate with the Arab States in the vital early stages; it makes it possible to initiate negotiations with Israel and other interested bodies without undue delay; it spreads out the financial burden and lessens the possibility of economic dislocation; it brings the prospect of actual payments much closer; it renders the completion of the technical work, except possibly for the establishment of a global figure, much less urgent and in consequence the immediate co-operation of the Governments in the area as regards the technical work much less vital; it can be made to dovetail with UNRWA's plans; it is based on the willing consent of the refugees; and finally, it fulfills the conditions for progress towards the solution of other aspects of the refugee problem.

## F. ALTERNATIVES OF ACTION

On the basis of the above remarks it is possible to examine the various avenues of action open to the Commission with regard to compensation, their respective drawbacks and advantages, and the method of proceeding both in the political-financial and the technical fields.

There are three basic possibilities open to the Commission: to abandon all further activity in the compensation field, to continue at the tempo maintained during the last two or three years, or to make vigorous efforts to secure the payment of compensation.

1. Abandonment of all further activity of the Commission could be either overt or covert. In the former case the political repercussions, both as regards the situation in the area and as regards the position of the United Nations and such Governments as have a particular interest in preserving peace in the Middle East, are likely to be extremely unfavourable. Furthermore, an overt relinquishment of its duties by the Commission would have to be reported and justified to the General Assembly, in which case a great deal of undesirable publicity would result. The Commission would also have to have a good reason for giving up its technical work and thus wasting the United Nations funds which have been expended on the identification project to date. The same considerations apply, but to a lesser extent, in the case of a slow and covert abandonment of interest in compensation, whether this be done by a progressive deceleration of the technical work or by gradually transferring the problem to other hands.

2. If the present tempo is maintained the disadvantages encountered by this method up to now will not only continue but are likely to increase. The United Nations and the interested Governments will lose even more prestige and incur even greater hostility on the part of the Arabs, who will become progressively more and more convinced that they are being misled and that there is no real intention of securing the implementation of even those parts of the United Nations resolutions which are feasible. Furthermore, UNRWA's task will continue to be obstructed by the lack of progress in other aspects of the refugee question and the Commission itself, by its presence and its attitude, will be acting as an

obstacle to such progress. If the technical work is continued at its present rate, its results will be well nigh useless for, after the six years which would be needed to complete the undertaking, the situation may well be so different that compensation will have ceased being a practical possibility.

5. A decision to undertake vigorous efforts towards securing the payment of compensation opens up two basic avenues of approach: one whereby an attempt is made to settle the question in an overall way, regardless of the time consumed in negotiations and subsequently in the implementation of the plan agreed upon, and the other, one whereby an effort is made to solve the compensation question in piecemeal form or at least to initiate its solution in that way.

(a) Overall approach - If the overall approach is adopted, separate discussions with Israel, UNRWA and other interested parties will have to be pursued more or less simultaneously. It should be possible to determine from the initial position adopted by Israel whether negotiations in the early stages will also have to embrace the Arab States.

The basic steps in an overall settlement of the question are: to negotiate an agreement with Israel (in consultation with other interested parties) defining the conditions under which compensation is to be paid; simultaneously to complete the preparatory technical work and establish accurately the amount of money required to cover the operation; to secure the necessary funds; to establish an organ which will invite the submission of claims and after checking them proceed to pay them either immediately or in instalments, either in cash, or bonds or in land elsewhere in co-ordination with repatriation and resettlement plans.

(b) Piecemeal approach - In the case of an attempt to solve the problem on a piecemeal basis, a system similar to the one followed in the case of the blocked accounts question might be considered. Under such a system certain basic principles would be established and no effort would be made to negotiate all aspects of the question until a later date. The principle agreed upon would be reinforced by the precedents established in the implementation of the operation itself during the early stages. Great care will, therefore, have to be taken to see that these precedents are favourable to the overall solution.

In the initial negotiations various solutions may be considered. Basically, these solutions are of two kinds: those that spread out the operation in time by dealing with all claims according to one or another system of priority, and those that subdivide the compensation question geographically and deal with geographical units as separate entities. It is necessary to point out that both these methods would have the effect of setting firm precedents in their initial stages which it will be difficult not to follow throughout, with the result that it will become impossible to adjust the valuation work to the practical possibilities of paying out compensation. In other words, once a pattern of payments has been set for the first claims, all remaining claims will have to be settled on the same basis. Furthermore, if the basis of the early payments is unsatisfactory to one or the other of the parties the reaction might be such as to render further progress impossible. It would, therefore, appear that the safest way of proceeding in the technical field is to secure all the necessary information as rapidly as possible and before any action is taken which might endanger the completion of this undertaking.

One of the methods proposed, in connexion with the type of solution which spreads out the operation in time, is the one outlined in a paper dated 9 April 1953, by Ambassador Ingrand, the French member of UNRWA's Advisory Commission, under which a working capital fund based on Mr. Berncastle's estimate would be secured and a body (preferably connected with the International Bank) set up to administer it. Applications for compensation would be made immediately and those approved would be paid out in the form of bonds tied in with UNRWA's resettlement plans and supported by counterpart funds made available by the Arab Governments. (See annexed background paper No. 4.)

Another example of this type of solution is the one proposed by Mr. Berncastle in which he suggests that a working capital fund be secured and administered by a special banking organ which would obtain title to each unit of Arab property in Israel as it paid out compensation for it. The property thus obtained would be administered and eventually be sold to cover compensation payments, and any amount of compensation paid over and above the sale price would be made up by the Government of Israel. Although this proposal has many inviting aspects, it is very unlikely that it would be acceptable to the Government of Israel.

An example of the geographical subdivision of the problem is one in which property in, say, the Gaza Sub-District would be compensated first. The technical work in this area is almost completed and it would be possible in the near future to know quite accurately what the cost of compensation in this area is going to be. Negotiations, therefore, would be on very firm ground. Technically there is no reason why compensation should not begin being paid for property in this area. There are, however, various political factors, both advantageous and the reverse, to be considered.

Some of the probable advantages are that the stalemate on the compensation question and even on the whole refugee question will be broken without delay; that the amounts involved will be small and therefore easily available; that the Gaza refugees are those most in need of assistance; that co-ordination with moves in connexion with repatriation would be easiest in this area; that the Government of Israel might consider it useful to co-operate in a plan which would inevitably bring it into closer contact with only one Arab State, Egypt; and that the Egyptian Government might consider it advantageous at this time to secure for itself the benefits of the implementation of the major provisions of the General Assembly resolution of 1948.

The most important disadvantage of such a move is a probable outcry in the rest of the Arab world, possibly rendering more difficult, for a time at least, the completion of the identification work. Another consequence of this move which may be unfavourable is that the precedents set will to a great extent determine the costs and the procedures of the overall operation and in that sense a commitment will have been made without full knowledge of the magnitude of the overall operation. This latter disadvantage would be considerably minimized by a rapid completion of the technical work.

There are, of course, several other possibilities which should be examined, and those mentioned above should be carefully studied. It would therefore seem advisable for the Commission to order a thorough study made of all possible methods as soon as possible, and, in any case, before the next session of the General Assembly.

## CONCLUSIONS

From the foregoing, certain preliminary conclusions can be drawn regarding the action which it seems advisable for the Commission to take in the immediate future:

(a) Above all, it appears necessary to press forward in the long-delayed negotiations with the Government of Israel so as to determine clearly that Government's intentions, and thus enable the Commission to plan its future course of action on a concrete basis. The first step towards such negotiations could be an unequivocal request for the information promised by Israel in its letter of 9 October 1953, regarding the preparatory work it has undertaken in connexion with compensation.

(b) At the same time, it would be useful for the Commission to investigate the possibilities of financial participation by UNRWA and other potential contributors, and to discuss with them in a preliminary way the various methods which might be adopted to finance and pay compensation.

(c) While these preliminary soundings are being made, it would be most desirable for the work on identification to be proceeding at a highly accelerated pace, so that when a concrete move towards compensation is made there should be less danger of its interfering seriously with this work. In this connexion, every effort must be made to secure the co-operation of the Jordan Government. It should also be determined whether it is possible and desirable to obtain a new, more accurate global figure as soon as possible and, if this question is decided in the affirmative, to give this work top priority.

(d) Finally, it would be extremely useful for the Commission to request that a thorough study of all possible methods of compensation be made in consultation with UNRWA and other interested parties and be submitted in midsummer, so that the Commission can have the necessary information early enough to prepare its stand before the forthcoming session of the General Assembly.

BACKGROUND PAPER NO. 1

IDENTIFICATION AND VALUATION OF ABANDONED ARAB PROPERTY

(Detailed aspects of the technical work being done at present)

Prepared by Land Specialist

1. The territory occupied by Israel under the Armistice Agreements comprises some twenty million dunums, about half of which constitute what is commonly known as the "Negev". Again about half of the ten million dunums of Palestine proper was "settled" under the Land (Settlement of Title) Ordinance.

2. Land Settlement was introduced in Palestine in 1928 to supersede the then existing land registration system of the country. The procedure involved:

- (a) division of the land by means of a cadastral survey into units of registration called parcels according to the category and ownership. The survey was linked to a framework of triangulation points which was related to the precise position of each parcel; the parcels were grouped in units of survey called blocks;
- (b) judicial investigation of all registerable rights in the parcel;
- (c) the recording in a new form of Land Register of the title and other registerable rights affecting the land concerned in a separate folio for each parcel; in this folio was subsequently recorded the successive incidents relating to the land comprised in the parcel.

The area of five million dunums covered by this new procedure comprised practically the whole of the fertile lands of the country, but did not include the sites of towns and village built-on areas.

3. Other Palestine laws which have a bearing on our investigation are:

- (a) The Land Law - This law was amended in 1937 whereby fixtures in the land, such as buildings and trees, ceased to be registerable rights, and therefore were ignored at the time of registration;
- (b) The Urban Property Tax Ordinance - This law, introduced in 1928, was gradually applied to all towns in Palestine. For the purpose of the tax, the land within the boundaries of the urban area was divided into

blocks sub-divided into parcels similar to the procedure adopted under Land Settlement but with little or no regard to accuracy. A full description of the property was given in respect of each parcel in the area, and the records as they stood in 1948 may be regarded as accurately describing each parcel;

(c) The Rural Property Tax Ordinance - This law was applied in 1935 to all the rural lands of the country except the Beersheba Sub-District. For the operation of this ordinance, plans were prepared showing the boundaries of all villages, the boundaries and names of the various localities, the area planted with fruit trees and the cultivable and non-cultivable land. Villages were divided into blocks (but not parcels) of land of a similar ground crop productivity value, and the category was determined in which each block should be placed. The tax was a tax per dunum at varying rates on categories arranged according to the estimated productivity of the soil and in some relation to the net annual yield. Generally, the rates approximated to ten per cent of a low estimated net annual value of the several categories of land. The tax records of 1948 therefore included an up to date description of the land, but the law did not provide for the taxation of buildings as such, except industrial buildings, and in consequence no description of buildings were recorded;

(d) The Commutation of Tithes Ordinance - This law, which is in a way similar to the system of rural land taxation inherited from the Turks, applied only to the lands of the Beersheba Sub-District. The tax was a fixed aggregate amount paid annually, distributed by village committees under official supervision on the basis of the productivity of the land in cereals or fruit trees.

4. The remaining five million dunums of non-settled land of Palestine proper were mostly not registered, but all these were recorded in either the urban or rural tax records described above.

5. Ownership of land in the twenty million dunums that now comprise Israel, was, on the termination of the Mandate, as follows:



	<u>Area (in Dunums)</u>
(a) Arab-owned	7,482,000
(b) Jewish-owned	1,476,000
(c) Others	105,000
(d) Public (State Domain)	11,355,000
	<u>20,418,000</u>

The above figure includes the "Negev", and except for the town of Beersheba, no survey was made of the area, and the only record of ownership that existed were the Tithe Lists. The extent of cultivable land was estimated to be between 1,640,000 and 2,000,000 dunums, and except for 65,000 dunums owned by Jews, was mainly held by nomad Bedouin tribes. Because of lack of proper documentary records of ownership and the fact that not all the Bedouins have left the country, the Beersheba Sub-District will have to be dealt with in a different manner to the rest of the country, but the difficulties are not insurmountable.

6. The documentary material which will have to be scrutinized for the identification and valuation of Arab abandoned property are:

- (a) The Land Registers of the five million dunums of "settled" land. These records were photographed and the films are available at United Nations Headquarters;
- (b) The rural tax records for all non-settled lands and the sites of built-on areas of "settled" villages. These records are available mostly in Israel and partly in Jordan, Gaza and Damascus;
- (c) The urban tax records for all towns. Although these records are complete in descriptions, in some cases the detail is not accurate and therefore inspections on the ground will be necessary. The records are available in Israel, Jordan and Gaza;
- (d) The Deed Books which were a record of land transactions, or the "Notices of Dispositions" which are copies of the latest entries of sales made in the Deed Books. These books or returns will be required for the extraction therefrom of particulars of land sales which occurred in 1947 to be used as a guide in determining the value of each parcel. These books and returns are available in Israel, Jordan and Gaza;

(e) Village maps and block plans. Certain village maps and block plans will be required to indicate thereon land sales and also to determine the exact position of the Armistice Line. Tracings of all maps and plans of Palestine exist in the Survey Department of Israel, but copies of plans of certain areas could be found in Jordan, Gaza and Damascus.

6. Microfilms were also made of the records of registered land in non-settled areas; of old Turkish registrations. It is unlikely that these could be made use of: the former cannot be linked with the land to which they refer; the latter bear no relation to the later occupants and extent of the land. With regard to new registrations in non-settled land and in urban areas, the procedure of land taxation was to alter as far as possible the tax records so as to conform with the Land Registry entries. The tax records in this respect are therefore of greater use and easier access.

7. The detail which is required to be extracted from the records mentioned above to complete the identification of property, is as follows:

Name of village;

Block and parcel numbers;

Name of owner or owners and shares in the case of co-owned parcels;

Area of parcel;

Description of property, whether the land is cultivable, non-cultivable, contains building, and if so, nature of construction, how many rooms and floors, area of building, capital value, date of construction, etc. If the land contains trees, the kind of trees and extent of density in the parcel;

"Other Rights" affecting parcel. These are:

Mortgages. Name of mortgager, amount and date of maturity;

Compensation to be paid to certain individuals for the elimination at Land Settlement of their non-registerable shares in the parcel;

Parcels subject to payment of "Badl Misl" before the occupiers could become absolute owners ("Badl Misl" means unimproved capital value of the land.) These lands were regarded as Land Settlement as Government owned but the cultivators who had

occupied and improved the land for generations were recognized as having the right to acquire the land after payment of its unimproved capital value. Assessment of this value was usually made by a committee;

Occupiers of "Jiftlik" (a type of Government-owned land) villages. These occupiers were hereditary tenants of Sultan Abdul Hamid and later became the tenants of Government, under an implied lease. They paid Government the equivalent of the tax as rent and acquired or disposed of their holdings without the interference of Government. This type of land was subject to a case in court between the British Government and the heirs of Sultan Abdul Hamid;

Attachments, by order of court or in favour of an individual. I do not think that we need take any notice of these attachments but nevertheless, whilst we are at it, a note is being made of these to avoid any possible complications in the future.

Mortgages in favour of the Ottoman Agricultural Bank are also recorded.

If I remember correctly, the Palestine Government had instructed that these mortgages should be cancelled from the Registers.

The actual information that is extracted from the above records is as follows:

(a) "Settled" rural lands

(i) From the Land Registers or microfilms:

Name of village,

Block and parcel numbers,

Names and shares of owners,

Area of parcel,

Mortgages and "Other rights" affecting parcel.

(ii) From Tax Distribution List or Parcel Classification Schedules:

Description of property.

(b) Non-settled rural areas

(i) From the Tax Distribution List:-

Name of village,

Block and parcel numbers,

Names and shares of owners,

Area of parcel,

Description of property.

(ii) From Land Register or microfilm:

Details of mortgages where the property is registered.

(There is a certain percentage of registered land in non-settled areas.)

(c) Urban areas

(i) From the Tax Field Valuation Sheet:

Name of town,

Block and parcel numbers,

Names and shares of owners,

Area of parcel,

Description of property.

(ii) From Land Register or microfilm:

Details of mortgages where the property is registered.

(There is a certain percentage of registered land in urban areas.)

(d) Deed Books or "Returns of Dispositions"

Particulars of land sales to be used as a guide in the valuation of property.

(e) Maps and plans

For the purpose of showing thereon the nature of the land in each zone and also for entering thereon the land sales as extracted from the Deed Books to enable me to decide on the value to be fixed for that area.

As stated in paragraph 6 above, the greater part of the above records are in the possession of the Israel Government which has so far agreed to allow us to examine its records on the spot and will in all probability permit the periodic transfer of certain limited categories to Government House. At the moment we have one Israeli clerk working in Tel-Aviv extracting particulars of Arab-owned property in urban areas. The objection of the Israel Government is understandable in so far as the urban tax records and Land Registers are concerned.

The Egyptian authorities in Gaza are in possession of the Land and Tax Records relating to the Sub-District. Arrangements have been made with them permitting the periodic transfer of the tax records to Government House and the examination on the spot of the Land Registers. The arrangement is working smoothly and satisfactorily. A further co-operation is now under way whereby the Land Registry staff will assist the sub-office against the payment of fifty dollars per month. This additional co-operation is appreciated and is likely to result in better progress being made.

The Syrian Government is in possession of certain tax records and plans. These are at present being placed at our disposal and the arrangement is working satisfactorily.

The Jordan Government is in possession of the Land Registers of certain Sub-Districts wholly in Israel and also the Land and Tax Records of the great majority of the Sub-Districts which are divided by the Armistice Line. So far the Jordan Government has not permitted the examination of the records by the Commission.

It will be advisable to establish a sub-office in Israel to examine the records in that country which it is not anticipated will be loaned to the Commission.

Should the Jordan Government continue to refuse to co-operate, then we have no alternative in the technical field but to assess the properties in a general way, that is, on the basis of the total area of the village or locality leaving out all detail of names and shares of owners and an individual and up-to-date description of the property. Since this procedure would be highly unsatisfactory, every effort should be made to induce the Jordan Government to co-operate.

8. The Gaza Sub-District was selected as the starting point for our operations because practically the lands of the whole Sub-District have been "settled", and therefore microfilms and proper plans are available, and also the original records are easily accessible since they are located in one office.

Incidentally, the microfilm reading of the records of the Gaza Sub-District has just been completed, and all Query Sheets affecting blank or unreadable films have been despatched to the Jerusalem sub-office.

This Sub-District comprises fifty villages wholly in Israel and seven border villages, covering a total area of approximately 691,000 dunums. Of these, fourteen villages, covering an area of 173,039 dunums, have been finally examined and amended and are now under typing of the Schedules of Identification. It is expected that the work on the remaining forty-three villages will be completed by the end of 1955. This Sub-District will then be ready for publication and later individual valuation of property.

It became evident as the work proceeded that it will not be possible to build up an up-to-date record of abandoned property in that area solely from the microfilms because many of these films were found to be either blank or unreadable due to bad photography, and therefore the original records must of necessity be consulted to fill in the gaps. A sub-office was established in Jerusalem to assist the Head Office in supplying the missing particulars. Query Sheets are prepared in respect of every missing particular from the microfilm and these are sent to Jerusalem in one batch by village. The sub-office looks up either the Land Register for the missing name, share or area, or the tax records for the description of the parcel. When the Query Sheets are received back at Headquarters, the individual identification form is duly amended and a Schedule of Identification by block and village is prepared, typed and sent to Archives for safe-custody until the records are required again for the second phase of the work, that is, valuation.

It is, however, important that before valuation can commence, the Schedule of Identification will have to be published to give the owners an opportunity to comment on the entries and also to provide details of buildings which existed on the land and in respect of which we have no particulars.

It is estimated that the number of legitimate objections to our Schedules will not exceed 5 per cent of the total number of parcels involved. It is suggested that publication of the Gaza records should be made as soon as the enquiry is completed. This will have the advantage of testing the extent of co-operation to be expected from the Arab Governments and refugees, and also determine with what measure of success the idea of compensation is likely to be received.

9. The abandoned Arab property is estimated to be in the neighbourhood of 500,000 parcels. From the experience gained during the past five months since the sub-office commenced to function, it should be possible, with the addition of one typist to the present staff at Headquarters of one secretary and two microfilm readers and with the staff in Jerusalem of four people to complete the work of identification up to the stage of publication within six years. This estimate is based on the present average output of 100 parcels per clerk per working day, or a total aggregate output of 85,000 a year.

10. Our next operation of work would be the valuation of property. Valuation will be made on the basis of the official records of the market prices which prevailed in November, 1947. The Deed Book, or Returns of Dispositions, referred to in paragraph 5 (d) above, contain particulars of land sales as declared by the parties to the transaction and as assessed by the Land Registrar. The intention is to extract from this record particulars of the latest sales to be used as a guide in arriving at a figure or figures for a particular area. The rural lands of the country will be divided into zones of equal value, and, if necessary, each zone will in its turn be sub-divided. The guiding figures of assessment will be shown on village and block plans and the detail subsequently entered by clerical staff on the individual records. Urban areas will be dealt with on the basis of each individual parcel depending on the location, and nature and extent of each building.

11. It would obviously reduce the time limit for completion of both operations of identification and valuation if they were carried out simultaneously, but there are certain difficulties which make such a possibility inadvisable. To carry out any form of valuation in Jerusalem would, in my opinion, have an adverse effect on the project as a whole and might even prove dangerous to

those connected with it. The local staff would be under pressure from the refugees and Press to divulge the figures of assessment, and because of the number of persons to be employed, it would not be possible to ensure secrecy. Furthermore, the difference between the global figure of 100 million of Mr. John Berncastle and that of two billion repeatedly quoted by the spokesmen of the Arab Governments and refugees, make it advisable to quote no figure of the total amount before the work of identification is finally completed. Furthermore, the work of valuation will have to be carried out outside the area and by staff whose integrity is beyond doubt.



BACKGROUND PAPER NO. 2

THE INDIVIDUAL ASSESSMENT OF ABANDONED ARAB IMMOVABLE  
PROPERTY IN ISRAELI HELD TERRITORY

(Memorandum dated 7 August 1952 submitted to the Conciliation Commission  
for Palestine by the Land Specialist, Mr. John Berncastle)

1. In its report submitted to the Commission on 7 September 1951, the Refugee Office included a global evaluation of the abandoned Arab immovable property in Israel. The figure arrived at was 100 million pounds sterling. The basis of the valuation was the value of the property for its existing use on 29 November 1947, excluding development value other than normal development value of building sites within urban areas. The reasons for the adoption of this basis were set out in the report. It may be said here, however, that the basis was considered appropriate as leading to the establishment of a figure which the State of Israel could reasonably be asked to pay, since it would represent the value to the State of the property which it had acquired. It was never pretended that the global amount would suffice to satisfy in full the aggregate of individual refugee claims since each refugee would naturally value his property on the basis of what it was worth to him. Nothing which has transpired since the submission of the report has led the writer to believe that the global evaluation is other than a reasonably accurate assessment on the basis set out therein.
2. The Refugee Office has always maintained that an individual assessment of the value of the Arab property would eventually have to be made. The purpose of such valuation is "the establishment of the amount due to each individual refugee", i.e. the establishment of "the value and ownership of each parcel of land and of the various interests therein". Obviously, such a valuation is an indispensable preliminary to the payment of the compensation on an individual basis. The aggregate figure which would emerge from this assessment would be to a certain extent only incidental. It need never be made public and, in fact, the work could even be organized so that only a few of those who were engaged in it would know the total figure.

3. The aggregate of the individual assessment would most probably exceed the global figure already arrived at because a different basis would have to be adopted. Otherwise inequities of distribution of compensation would result. For example, on the outskirts of towns there is usually a fringe of land which commands a certain price as potential building land although its agricultural or "existing use" value may be practically nothing. The aggregate area of such fringes is far greater than the area which would be required for building purposes in order to accommodate any foreseeable increase in population. It follows therefore that most of the land will never actually realize the prices which small lots currently fetch in the market. Nevertheless, each owner of a portion of such fringe land considers that he could sell his portion for the current price and that such is its market value, as in fact it is. What he does not realize is that if he and a few of his neighbours sell their land for building purposes, the demand is exhausted, and the rest of the land reverts to its agricultural value. This is the theory of "floating value".

4. In making an individual assessment, it would be necessary, on grounds of equity, to adopt the basis of the market value of each individual holding. The assessments arrived at would be "absolute" figures but they would be used for "relative" purposes. The total amount of compensation available would be distributed in proportion to these figures subject to any system of priority which might be adopted. The aggregate would be used only for purposes of calculation. For example if

- (c) be compensation for a particular parcel, and
- (C) be the total amount of compensation available, and
- (a) be the individual assessment of the parcel, and
- (A) be the aggregate of all individual assessments

then:

$$(c) \text{ equals } \frac{(C) \text{ multiplied by } (a)}{(A)}$$

5. The discrepancy which is bound to occur between the global evaluation already made and the aggregate of the individual assessments to be made in future should not undermine the validity of the former if the reasons for it

are understood. In brief, the former is the value of the property to the acquiring State, whereas the latter is the value to the former individual owners.

6. At this stage it is possible only to guess at the amount of the discrepancy. When all the development rights, i.e. all values over and above "existing use" values were expropriated in Great Britain in pursuance of the Town and Country Planning Act, 1947, Parliament allocated a sum of 300 million pounds sterling to compensate the owners. At the same time there was a great outcry that the amount would not be anything like sufficient but in point of fact it is now being found more than adequate. Taking into consideration the differences between Palestine and Great Britain in regard to area, population, natural resources, development potentialities, etc., and also having regard to the fact that the 300 million pounds had to cover extensive mineral development rights, it seems inconceivable that the value of development rights in Arab lands in the part of Palestine which is now held by Israel could exceed 50 million pounds sterling at the very outside.

7. Of course, the discrepancy would be very much greater if the individual assessment were to be carried out by Arabs without international supervision. According to them, all tax assessments, all declarations of the monetary consideration in land transactions, in fact all official records relating to value, were too low, and therefore any assessments based on them will represent but a fraction of the real value. Unfortunately for the persons concerned, they are unable to produce any concrete evidence of what they allege. The position is made more difficult by reason of the fact that there is an element of truth in what they say and allowance for this was made in the global valuation by means of the various "weighting" factors which were employed. As an example of the discrepancy between the Arabs' current statements of their former wealth and of their declarations to the Mandatory Government for fiscal purposes it may be mentioned that only twenty Arabs in the whole country were assessed for income tax on incomes of LP. 5,000 and over; and only 220 on incomes of LP. 2,000 and over (1944). Nevertheless, many Arabs have written to the Refugee Office declaring the value of their

immovable property in terms of millions of pounds sterling. It is felt that any evaluation, whether it be a global or an individual one, must be capable of substantiation by reference to reliable data.

8. The Commission may wish to have some more detailed information on the magnitude of the operation which would be involved in making an individual assessment, but it is difficult at this stage to give any firm estimate. It is quite obvious that the operation could not be carried out by one man or even by two or three. The mere mechanical examination of the microphotographs and entering particulars on the necessary forms would employ many persons for a long period. According to a memorandum prepared by the Acting Director of Land Registration in the Mandatory Government, there are between one million and a quarter and one million and a half photographs. Each folio in the registers relates to a particular parcel of land and each folio had to be photographed twice, on the obverse and the reverse. At a rough estimate, there are therefore 625,000 separate parcels. If it is assumed that extracting the necessary particulars for each parcel would take five minutes, then one man in an eight hour day could deal with 96 parcels, or say 100 for ease of calculation. Therefore, 6,250 man-days would be required for the mere mechanical part of the work. Reckoning 240 working days to a year, this would mean 26 persons working for a year. This would not complete even the mechanical part of the work because the Tax Distribution Lists would also have to be examined. It is only incidentally that the photographed records contain any information on value. When a transaction took place in regard to a particular parcel, the declared consideration and the assessed value were recorded as at the date of the transaction. Only therefore in a minority of parcels is there any information on value at all and even then it is in most cases out of date. The Tax Distribution Lists would supply the deficiency. In his report dated 24 July 1952 to the Chairman of the Commission, the writer stated that he envisaged commencing with a staff of 5 to 6 persons which would ultimately increase to 20 to 25 persons, and that the preliminary assessment might be made in a period of from six months to a year. In the light of the

foregoing calculation, it seems that this was very much of an underestimate and that the writer's earlier suggestion of a staff of 50 persons working for two years is more nearly correct.

9. The expense of carrying out such an operation would be considerable anywhere, and in New York it would be much more expensive than in Jerusalem. Furthermore, the whole subject of land tenure in Palestine bristles with technicalities and obscure expressions having their origin in Islamic law. In Palestine a ready trained team of workers could be recruited from among Arab ex-employees of the Lands Department of the Mandatory Government, whereas in New York the workers would require special training. The wages bill for a team of employees recruited and working in Palestine would be but a fraction of the bill for a team working in New York. Lastly, the recruiting of such a team from among refugees would make a small, but not inconsiderable, contribution towards the solution of the refugee problem.

BACKGROUND PAPER No. 3

10 February 1955

Note by the Acting Principal Secretary regarding possible transfer of identification project to the Mission area

In accordance with the decision of the Commission of 5 January 1955 in regard to the possibility of the transfer to Jerusalem of the work of identification, I have asked Mr. Ladas and Mr. Hadawi to give their views on the matter. Attached herewith are two papers setting forth their views.

I have studied the two papers with great care. It appears that the difficulties which might arise from the transfer of the work of identification to Jerusalem are of no great significance.

The most important question raised by Mr. Hadawi is whether it is the intention of the Commission that the microfilms should be transferred for use in Jerusalem. If so, he wonders whether such a step would be advisable, since the stability in the area is still tenuous. If border incidents should occur in Jerusalem and get out of hand, it could cause the destruction of this work. It seems to me that this eventuality could be safeguarded by sending out the microfilms in batches and returning them to Headquarters as soon as work on them is finished.

Mr. Ladas' concluding analysis is that there are numerous factors to be considered and that the disadvantages tend to counterbalance the advantages. If the identification operation were to be considerably accelerated, however, these disadvantages would be altogether overshadowed. In that case, the transfer of the operation would permit the expansion and acceleration of the work, which almost of necessity would have to be done in greater part within the area itself.

I am of the opinion that the work of compensation could be accelerated even without the financial assistance of UNRWA. I have been informed by the land specialist two days ago that, at its present rate, the work of identification could be completed within six years. If the output is to be doubled, it can be completed within three years without adding such expense to the budget.

BACKGROUND PAPER No. 3

Attachment (a)

TO: Dr. F. Y. Chai  
Acting Principal Secretary, UNCCP

FROM: Alexis Ladas  
Representative in Jerusalem, UNCCP

SUBJECT: Identification of Arab refugee property

8 February 1955

My views have been requested with regard to the relative advantages and disadvantages of either maintaining the present arrangement of an office in New York and a sub-office in Jerusalem or of fusing these two offices and transferring the entire operation to Jerusalem. I would like to point out, first of all, that the relative merits of the two procedures will depend to a great extent on the future which is envisaged for the whole undertaking by the Commission; that entirely different criteria would have to be applied if the operation continues at its present rate, than if it were to be considerably enlarged and speeded up or if the actual payment of compensation began to appear more probable. Secondly, I would like to underline that considerations which might not apply to the early stages of the project involving simply the identification of Arab property might well become important when the valuation stage is undertaken and even more so when and if compensation begins being paid, e.g. valuation would have to be undertaken outside the area.

As regards the identification stage of the work, if the operation is to continue at its present rate of speed, the transfer of the entire staff to Jerusalem would have - in so far as these things can be predicted - the following advantages and disadvantages:

1. From the political point of view:

(a) It would increase the impression that the Commission was actively concerned with the refugee question. It should be noted in this connexion that one of the reasons why the identification project was undertaken was to avoid the impression that the rights of the refugees had been set aside. In view of the slow rate at which the operation is being carried out, doubts as to its ultimate usefulness are increasing among the refugees.

(b) It would comply partially with the views expressed by the Director of UNRWA in his cable of 7 February 1955 on the subject.

(c) It might strengthen the position of the Commission's representative in the area in dealing with the various governments, since he would be in charge of the whole operation and not merely of the sub-office.

(d) It might precipitate adverse reaction on the part of the Jordan Government and possibly of other Arab Governments. In this connexion it should be remembered that the Jordan Government's attitude to the question of making available its documents to the sub-office has been negative. Since the transfer of the operation to Jerusalem would involve the increase in the locally recruited staff the opportunities of interference by the Jordanian authorities would be multiplied. It is particularly to be feared that the grounds on which interference would be based would be the increased contact between Arab and Israeli members of the staff to which Jordan might take exception. As things are at present the existence of a head office in New York renders it somewhat pointless for the governments concerned to obstruct seriously the secondary work of the sub-office.

(e) It might provoke a less co-operative attitude on the part of Israel. The Israel Government might be alarmed by a move which could be interpreted as an acceleration of the operation and make efforts to delay the progress of the work.

2. From the technical point of view:

(a) It might result in greater efficiency, owing to closer co-ordination and supervision and to the fact that a greater number of local personnel could be recruited than is at present employed in New York, at the same cost. However, if internationally recruited personnel were transferred to Jerusalem their subsistence allowance would constitute an added expenditure.

(b) The interruption caused by the transfer of the equipment and the need to train new personnel in microfilm reading would reduce this year's output of work.

(c) It will be more difficult to maintain security and to prevent leakages of information or even simple gossip.



(d) If the documents were to be retained in Jerusalem, there would be an increased danger of loss by fire or theft or other causes.

(e) Accommodation would have to be found in Government House for the new staff and room for the files which are very bulky.

(As regards the technical points a far more expert opinion can be obtained from the Commission's land specialist).

From the above it will be seen that there are numerous factors to be considered and that the disadvantages tend to counterbalance the advantages. It is difficult to say whether any very valuable advantage would result from the transfer, if the end in view is to maintain the present tempo of the operation. The impression of greater interest by the Commission in the refugee question would not last very long and the increase in technical efficiency would be unimportant in comparison to the expected duration of the work.

These considerations, however, would be altogether overshadowed if, in accordance with the views expressed by UNRWA, the identification operation were to be accelerated. In that case the transfer of the operation to Jerusalem would lay the foundations for expansion and acceleration of the work which almost of necessity would have to be done in greater part within the area itself. If a high level decision were to be taken to that effect most of the internal technical objections would pale to insignificance. As for the political obstacles and the possible interference of certain Governments, these will have to be met at some time if the identification project is to be completed, and the best time would be when the full authority of an important decision taken by the Commission can be brought to bear on the question.

If the Commission were to decide to accelerate the work of identification and to that end to transfer the main office to Jerusalem, I would venture to make certain recommendations as regards the procedure which might be followed.

From the political point of view it might be advantageous if the transfer were made in stages, during which period further efforts might be made by the Commission to ensure the co-operation of the Governments concerned, in particular that of Jordan and to a lesser extent that of Israel. Should the Commission continue to meet with an unequivocally negative attitude on the part of Jordan

or any other Government after it has exhausted all the means at its disposal, it might well have to reconsider the whole question of identification but would be on much firmer ground in arriving at a decision. In case it proved impossible to bring the identification project to a successful conclusion, it would be possible to discontinue the operation before the United Nations became more deeply involved.

The staging of the operation would have the added advantage that it would reduce the loss of output to a minimum and provide time for the recruitment and training of new local employees. It would also act in its initial phases as a trial balloon for the reactions of the Governments concerned, on which the Commission could base its own stand.

As regards the question of the safekeeping of the microfilms and the completed forms the possibility of having the former kept in New York and sent out to Jerusalem in batches and of the latter being sent to New York as they are completed, might be considered.

BACKGROUND PAPER No. 3

Attachment (b)

TO: Dr. F. Y. Ghai,  
Principal Secretary, UNCCP

FROM: Sami Hadawi,  
Land Specialist, UNCCP

14 January 1955

SUBJECT: Identification of Arab refugee property

I refer to our conversation of a few days ago when you informed me that the Palestine Conciliation Commission was considering the advisability of continuing the work of identification of Arab property in Jerusalem, and to your request that I should submit to you a memorandum setting out what in my opinion are the advantages or disadvantages of such a step from a technical point of view, to assist the Commission in arriving at a satisfactory decision.

I understand the Commission is considering the amalgamation of both offices with headquarters in Jerusalem in the belief that greater efficiency and acceleration could be achieved and at a reduced cost to the United Nations. A number of problems, however, present themselves, which I venture to place before the Commission for consideration when arriving at their decision:

- (a) Does the Commission desire that the identification of property should be completed within a specified period, and, if so, in how many years?
- (b) If the Commission is not yet in a position to specify the period, is it the intention to increase the local staff, and, if so, to what extent?
- (c) Is it the intention of the Commission that the micro-films and the two projectors should be transferred for use in Jerusalem? If so, would such a step be advisable since stability is still doubtful and part of the refugee population hostile to the very idea of compensation? Border incidents are not yet ruled out, and if they should occur in Jerusalem and get out of hand may envelop Government House for enough time to cause the destruction of our work. With the micro-films gone as well, what would be our position? Although highly improbable, no assurance can be

given that such a possibility is not likely. The same may be said of a possible attack by an angry group of refugees who refuse the idea of compensation and decide to obstruct our work;

(d) Should the Commission decide to retain the films in New York as a safety measure, then the office will have to rely on the original records in the possession of the Israeli and Jordan Governments. I am aware it will not be possible to convince the Israeli Government to change its attitude in regard to the Land Registers and urban tax records, but it may give way on the loan of the rural tax records for non-settled areas;

As regards the Jordan Government, they still refuse to co-operate, but the situation may alter with whoever is Foreign Minister. Here again the Government will be averse to the transfer of its records to Government House.

It remains therefore that staff will have to be engaged in both Israel and Jordan to visit the various offices where these records exist and spend long periods on extracting the information desired. Inspections will be necessary to ensure efficiency and accuracy. Is the United Nations prepared to meet the per diem bills?

(e) The Jordan Government has not agreed officially to the setting up of the sub-office. Mr. Ladas and myself elected to presume that release of the two Jordan clerks for service with the United Nations was an implied agreement on their part to the opening of the sub-office. It is unlikely that the Government could now object to the existence of the sub-office, but there is the possibility that they might oppose any expansion in the present staff.

Any staff recruitment will in all probability have to be from the present Government officers. Unless the Jordan Government is willing to co-operate, it will be extremely difficult to obtain the services of suitable men.

(f) Since Arabs will not be permitted to cross into Israel to extract from the records the desired information, it will be necessary to open a sub-office in that area.

The Commission no doubt appreciates the necessity for keeping the valuation strictly confidential until the final figure is known. In that case, unlike the work of identification, it will not be possible to carry out the second stage of our operation in Jerusalem. The local staff would be under constant pressure from the refugees to divulge the value figures and it would not be possible to avoid leakage. Such an eventuality would not only interfere with the progress of our work but might prove disastrous to whoever is working on the assessment. When in Jerusalem, I was obliged to receive certain refugee representatives and pressmen who tried to obtain from me information as to what I was doing and the methods of valuation that I intended to employ. My replies were evasive as I replied that I was now engaged only on the identification of property. They invariably all said that they intended to have a say in the matter of valuation when the time came. It is therefore of the utmost importance that the valuation should be carried out away and by staff not connected with the area.

I believe it is possible for the first stage of our operation up to the publication of the Schedule of Identification to be undertaken in Jerusalem, but the expenditure and time involved depend on whether the micro-films or only the original records are to be used. Should the decision be that the office should be moved, then I venture to suggest that such move should not be effective until 1 January 1956. Immediate removal will disrupt the work and some time must elapse before the office in Jerusalem can commence to function efficiently. On the other hand, if the New York office continues in 1955 with the object of transfer in view, I shall be able to complete the Gaza Sub-District, the records of which are now under all stages of action, and in the meantime arrange for the proper indexing and packing of the film spools; the adjustment of the film projectors, calculating and adding machines to local electricity current; and the printing and despatch of the necessary forms and other items which are necessary to our work and not available locally. In this manner it will be possible to keep a continuity in our work and make proper arrangements for the transfer.

BACKGROUND PAPER No. 4

SUGGESTIONS TOWARDS A SOLUTION OF THE  
PALESTINE ARAB REFUGEE PROBLEM

9 April 1953

by Ambassador H. Ingrand, Delegate of France  
on the Advisory Commission of UNRWA

[Original text: FRENCH]

This report aims at furthering the solution of the Palestine refugee problem by presenting a few concrete suggestions.

The refugee question is clearly the crux of all the main problems which affect the relations between the Near East and the United Nations in general and the Western Powers in particular. The present deadlock in this connexion results from the same set of circumstances which paralyzes all the efforts undertaken in other fields.

It is important however to examine whether the interconnexion of all the problems would necessarily prevent individual solution of any one of them; or whether on the contrary, by appropriately tackling a given problem at the opportune moment partial progress might not be achieved which might eventually facilitate the settlement of the other difficulties.

The importance of what is at stake for the free world need not be stressed, since success could mean the closing of a wide gap in the defence system, the defeat of communist propaganda in a near and increasingly favourable field and continued control of decisive oil resources.

Once a negative attitude is abandoned in favour of a more concrete outlook, careful examination of the facts shows that it is precisely at the crucial point, that is the Palestine refugee question, that a new effort is both urgent and opportune.

It is urgent because the present programme, owing to its very nature, apart from its size or the way it is being applied, can but foster innumerable difficulties and disputes of all kinds; and because it is, in all events, interpreted by the Arab world as a proof of guilty conscience on the part of the Western Powers. A policy of laissez-faire benefits only those for whom time works: this is not the case for the United Nations in this instance.

The urgency is still greater because the next United Nations General Assembly will be called upon to reaffirm its responsibilities, entailing inevitable repercussions first on the United States, then on the United Kingdom and France.

It is opportune, in spite of apparently unfavourable political developments because there are unmistakable signs that the most interested parties, including the Arab States, would welcome an opportunity to put an end to a situation which may be dangerous for all concerned.

#### General background for a solution

When trying to determine from these premises the main lines for future action to certain general factors having a direct bearing on the question should not be overlooked.

The Arab countries are at present in full political evolution. The surge of nationalism is the expression of a deeper feeling than mere passing dissatisfaction. Public opinion is now a force which must be taken into account by everyone, including the governments who are making use of it but who also have to reckon with it. Although such evolution may perhaps not be a continuous process, it is nevertheless real and commands corresponding changes in the policy of the Western Powers.

By assuming heavy responsibilities towards the Arab countries and providing an international platform for their political leaders the United Nations have awakened their hopes and ambitions which have been subsequently frustrated. The resulting loss of interest, even if more apparent than real, has nevertheless encouraged them to revert to their traditional policy of bargaining, backed by threats of neutralism or closer relations with the USSR.

The Western Powers have remained rivals in the Near East and their direct relations with the Arab countries have continued to be very different from the attitude adopted by their representatives to the United Nations. This has given the Arab countries an opportunity for protest and a chance to play the Western Powers against each other.

It is for these reasons that any solution must necessarily be sought within the framework of the United Nations, and at the same time, be assured of Arab participation. It must be broad enough to arouse the interest of the Arab leaders and public opinion and at the same time produce substantial and speedy results in order to avoid any further disappointment and bitterness.

Finally, it is clear that no real solution can be arrived at without tackling the problem from the wider angle of the general economic development of the countries concerned. All efforts to date have been unco-ordinated and the resulting inefficiency is only too clearly demonstrated by the lack of proportion between the achievements and the amounts spent.

#### Attitudes of the various parties

The general background of the problem being thus defined there remain other specific factors resulting from the particular interests of the parties concerned. As regards the refugee problem the most outstanding points of contention are repatriation and compensation.

Although the Arab Governments have stressed time and again their position of principle, it may be considered that repatriation is no longer an absolute claim on their part. It is an official stand the object of which is mainly to appease the refugees and public opinion.

The refugees' attitude, as voiced by their leaders, is indeed uncompromising. But this is due to the fact that very few concrete prospects have been offered them and above all to the fact that their leaders encourage an atmosphere of political unrest. It must be added that these leaders are usually capitalists and more often than not the wealthier, who see in this policy a means of pressure for recovering their estates.

Public opinion in Arab countries is more uncompromising than the Governments, but not to the point of automatically rejecting any suggestion, if such a suggestion is wide and constructive enough to catch their imagination and appeal to their national pride.



### The principle of Compensation

Therefore the bone of Arab contention remains compensation; the principle of which is accepted by the Israeli Government. It therefore must necessarily be the basis of any proposal. It means that under the present circumstances it could be dealt with separately, apart from the other points at issue.

But no reaffirmation of principle will have any constructive value if it is not followed by a global and speedy settlement. The sums involved are relatively important and it is quite clear that the Israeli Government could not possibly pay these immediately in cash.

Even if such payments were possible, the Arab Governments of the host countries might well fear that the amounts paid might not be re-invested on their territories or that, if spent on consumption goods they would bring about an inflationary pressure together with a sharp increase in the cost of living.

Finally the difficulties and delays which would be involved in the determination of the final individual value of each claim must not be underestimated.

The problem is therefore to allow a global and immediate settlement of compensation without imposing an impossible burden upon Israel and to ensure that the compensation is used for the development of the Arab countries, priority being given to the host countries.

### Proposed solution

It seems that it would be possible to find a solution by the creation of "Compensation Bonds" together with the establishment of an "International Banking Organisation for the Economic Development of the Near East" (which would be its exclusive function.)

This organization would function either under the authority or with the participation of the International Bank, the second formula being probably the more flexible.

The following paragraphs contain the most significant features of the proposed solution.

### Temporary measures

In order to get the compensation operation started quickly a provisional global amount should first be determined. An estimated basis of 100 million sterling pounds could be taken, corresponding roughly to the 280 million dollars arrived at by the experts of the Conciliation Commission (see Annex III). Such a figure would have no bearing on the final assessment of the global amount of compensation, which could be fixed later by a meeting of International Experts with the agreement of the interested parties.

### Compensation bonds

After this provisional global amount is agreed upon, every property owner would submit a claim, and upon presentation of his title deeds<sup>1/</sup> would receive a personal Compensation Bond for the estimated amount of his loss. In the event of disagreement on the amount, appeal could be lodged with an Ad Hoc International Commission. This Commission would function independently and would not therefore interfere with the progress of the operation.

The Compensation Bonds would be issued by the International Banking Organisation for Economic Development thus avoiding any direct contact between Israel and the Arabs.

The Bonds should bear interest, preferably payable quarterly; this is of primary importance because it would build up the confidence of the refugees in the concrete value of the operation. They should be personal, and negotiable only through the Banking Organisation, which under certain specific conditions (illness, death, etc.) could discount them or purchase them at a greatly reduced price from holders not interested in new investments.

They should, however, be immediately negotiable at their face value for purchases or investments within the framework of the economic programmes outlined by the banking organization in consultation with the Arab Governments.

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1/ A certain amount could be set aside for compensation for movable assets.

### The International Banking Organisation and refugee resettlement

This procedure would enable the IBO (International Banking Organisation) to guarantee the host countries the full benefit of the sums paid under the compensation scheme and at the same time to direct the investments to the most productive projects within the general economic development programme.

While leaving the Bond holders free to choose the country in which to invest their money, the IBO would also be able to maintain a balance between the amount of capital invested and the number of refugees, capitalists or not, settling in each country, taking also into consideration the resettlement possibilities available to refugee workers.

Similarly, while financing large works, which are no doubt necessary, but which will take too long to have any direct effect on refugee resettlement, the Banking Organisation could accelerate the planned integration of small and medium property owners into the economic life of the country (artisans, farmers, tradesmen) and in particular that of the many small landowners by encouraging the development of co-operatives for production, sales and purchases.

### The International Banking Organisation and the development of the Arab countries

As well as organising refugee reintegration the IBO would co-ordinate all the financial resources available for the economic development of the Arab countries of the Near East.

The refugee problem, negative in itself, would thus be absorbed into the much larger problem of economic development, which, on the contrary, could be solved on constructive lines.

The IBO would, from the start, have the following resources at its disposal:

- The amount of compensation which would be made available in instalments. Israel's guarantee would be matched if necessary by that of the contributing countries to UNRWA. Compensation may be estimated at some 300 million dollars, and, to start with, Israel would only pay the interest on this sum. Repayment would be scaled over a fixed period and the instalments determined from time to time.

- All the unexpended funds from UNRWA's programme, which are still almost equal to the sum allocated for the three-year Plan, i.e. about 200 million dollars.

- The participation of the IRDS which, on the contrary to what is usually the case in the under-developed countries, would find that it had not this time to start off alone bearing the whole financial burden.

It might also be possible to envisage pooling the various funds now being spent on technical assistance, and reorganizing co-operation with the United Nations specialized agencies to help provide the necessary liquid assets.

There is no need to stress the increased efficiency which would result from such co-ordination which has not been attempted up to now.

The IBO would also be in a position to mobilize other important potential financial resources thus making them available for the development of the Arab countries.

Those are specifically funds contributed by the direct beneficiaries of the economic development i.e. the Arab countries and in particular the oil-producing countries (Kuwait, Saudi Arabia, Iraq).

The large oil companies and possibly other private concerns would also no doubt be interested in an undertaking created for the benefit of the countries from which they draw their main profits.

These resources would make possible far greater achievements than anything done or envisaged in this field to date.

#### The Banking Organisation and Arab Public opinion

When the proposed organization starts operating it will probably help to ease the political situation in general, and, in particular, the relations between the United Nations and the Western Powers on the one hand and the Arab countries on the other, since settlement of compensation would be effected without any direct contact between Israel and the Arab countries.

An arrangement especially designed for the Near East and adapted to its needs would in fact satisfy the national pride of the beneficiary country. Further, representatives of these countries would be invited to participate in the activities of the banking organisation and would thus share in its responsibilities vis-a-vis Arab public opinion.

The international character of the IBO would forbid any complaint of imperialism, or would at least attenuate it. Non-Arab participating members, in particular the United States, Great Britain and France would be in a much stronger position by taking a common stand.

It seems that Arab public opinion would react favourably, not only because the refugee problem would have lost its edge by being absorbed into the greater problem of economic development, but also because it would realize that Arab assets (compensation) were returning to the Arab community and, finally, because the resources available would lead to greater and more tangible achievements.

#### Interim measures

Throughout the whole period of refugee reintegration it would obviously be necessary to continue relief, which as the programme was implemented, could be decreased progressively. But this interim period would in all events be shorter than that required for settlement of the problem by the existing methods.

It might even be advisable, at the time when the new plan is decided upon, to suggest an increase in the amount of relief per head. Provided the new system were to be applied soon any increase might be usefully withheld until then, since an announcement at that time would create a favourable climate in the camps and among refugee workers and would facilitate the taking over of relief by the host countries.

UNRWA would therefore have to continue its operations for the time being. But a very great saving could be effected rapidly, since the Agency could operate with a reduced staff. It would thus to a large extent escape from the criticism which is wrongly or rightly being levied against it at present, the burden of which falls on the United Nations, and, more especially, on the contributing countries.

## CONCLUSION

It is obvious that the longer an operation conceived on the above lines is delayed the more it will increase in difficulty and decrease in efficiency.

If the contributing countries all agree to take action along these lines, the logical implementation of the proposed plan would demand that all the studies and preparatory steps be taken in good time for the project to be submitted to the next General Assembly of the United Nations.

It is to be feared that any greater delay would condemn and render useless any efforts which may be made to escape from the present deadlock, no matter what form these may take.

BACKGROUND PAPER No. 5

A PLAN FOR THE PAYMENT OF COMPENSATION FOR  
ABANDONED ARAB IMMOVABLE PROPERTY.

Paper submitted to the Palestine Conciliation Commission  
by Mr. John Berncastle, 10 September 1952.

The following plan is put forward not as a complete solution to the compensation problem but as a suggestion for consideration and further study.

In all discussions on the question of compensation for abandoned Arab immovable property in territory held by Israel the question has been asked at some time or other "How is the money going to be found?" or "Who is going to find the money?". The amount of compensation was globally assessed by the Refugee Office at one hundred million pounds sterling, or two hundred and eighty million dollars, and it has hitherto been obvious that in the existing state of Israel's economy she could not pay any such sum, even on an instalment basis if the instalments were to be sufficiently large to be of any practical benefit to the refugees. Thoughts then turned in the direction of an international loan to Israel to enable her to pay the compensation, but loans have to be repaid, and therefore it is obviously to Israel's interest that the amount of compensation should be as little as possible. Discussions on the amount of compensation between the Palestine Conciliation Commission and the Israel Government might therefore be expected to drag on for a considerable time, with consequent detriment to the interests of the refugees. Furthermore, there has been no indication up to now that any international organization or any Government would be prepared to lend the money. It cannot be pretended that Arab property owners would be satisfied with 280 million dollars, but it is felt that this amount would represent just and reasonable compensation for the loss of their immovable property. Since the evaluation has been made public, it is quite certain that they would be highly discontented with any lesser amount, and any agreement between the Commission and the Government of Israel on a lesser amount would be regarded by them as a betrayal. What is perhaps more important is that compensation in any lower amount

would actually be unjust. If, therefore, a plan of payment could be devised which would obviate the necessity for any organization or State to commit itself to any fixed amount, a useful purpose would be served.

The basis of the plan is the establishment of a kind of international bank which would be provided by the United Nations with a working capital of, say, fifty million dollars. The bank would set up its office somewhere readily accessible to the refugees, say in Beirut or Jerusalem, and would publicly invite all refugees who have abandoned property in Israel to which they can produce evidence of title and for which they desire compensation, to apply to it. After investigating each claim, the bank would offer the refugee concerned compensation based on the market value of his property in 1947. It would be up to the refugee to accept or decline the offer and there would be no suggestion whatever of compulsion about the matter. In the event of a refugee accepting the compensation offered, the bank would pay to him the amount involved, and the Israel Custodian of Absentee Property (in whom the title to all Arab property was vested) would immediately transfer the title to the parcel or parcels concerned to the bank which would thenceforth become the owner and would exercise all the functions of ownership including management and collection of income and rents. The bank would then offer the property for sale to Jews throughout the world at the amount of the compensation plus a small percentage to cover the expenses of administration. The Government of Israel and the Keren Kayemeth LeIsrael would have a right of pre-emption. Upon the sale of a property the proceeds would go to swell the working capital of the bank and be available to finance the payment of compensation for some other property.

The scheme is very simple in essence, but naturally there are certain complications. The most serious of these results from the rent restrictions legislation in force in Israel; the low rents at which the Custodian has been letting property in his charge; and the depreciation of the Israel pound. The effect of these circumstances can be best illustrated by means of an example. A residential building in Jerusalem was completed about 1940 and was purchased by an Arab in 1942 for 17,500 Palestine pounds. The Arab owner is now an "absentee". The building contains twenty-one apartments which were let shortly after the



building was completed at an average yearly rent of sixty Palestine pounds each. The gross yearly rent of 1,260 Palestine pounds represented a yield of about 7.2 per cent on the investment in 1942. In 1940 the Rent Restrictions Ordinance was promulgated, since when any increase in rent had been prohibited. In consequence, the tenants are still paying sixty pounds a year, but sixty Israel pounds. In 1947 the property was certainly worth 17,500 Palestine pounds and the compensation would be not less than this. The dollar equivalent of 17,500 Palestine pounds at 2.80 dollars to the pound is 49,000 dollars. To get a yield of 5 per cent on his money a person buying the property from the bank for 49,000 dollars would need a rental income of 2,450 dollars per annum. Since the Israel pound is now worth about 40 cents in free exchange, the buyer would need a yearly income of about 6,100 Israel pounds, which is about 4.85 times the amount of the actual rent. This is a gloomy picture but there is a brighter side to it. In the first place the tenants of the building mentioned are well able to pay higher rents. Their average income is probably not less than 1,200 Israel pounds per annum and it is not unreasonable to expect a tenant to pay one sixth of his income in rent. In other words, the tenants of this particular building could well afford a twofold or even threefold increase in rent. In the second place Jews throughout the world probably have sufficient faith in the eventual recovery of the Israel pound to be prepared to invest in property in Israel which for the time being would show only a nominal return, or at any rate a return much lower than 5 per cent. In any case, it appears that to enable the scheme to work the Israel Government would have to enact legislation which would permit the bank to raise the rents of its holdings sufficiently to ensure a reasonable return on the amount of compensation paid. An alternative, or perhaps additional, method of making properties attractive to buyers would be to give them the right of vacant possession of such parts as they required for their own bona-fide occupation.

Another complication arises out of the fact that the Custodian has already sold a considerable amount of the Arab property. It is reported for example that two million dunums of agricultural land have been sold to the Jewish National Fund. In such cases it would appear that the best course would be for the land sold to be valued parcel by parcel on the basis of the 1947 market value. As the bank paid

compensation for any parcel it would recover from the Custodian the amount he had received for it and the balance (if any) from the Israel Government.

Doubtless there are many other minor complications, but no good purpose would be served by searching and trying to provide solutions for them at this stage. The whole scheme would have to be worked out in collaboration with the Israel Government, whose willing co-operation would be essential.

The great advantages of the scheme to the mind of the writer are:

- (a) That it would remove the compensation operation from the high plane of international politics to that of business.
- (b) That it would effectively divorce the question of compensation for abandoned property from that of war reparations.
- (c) That it would avoid any suggestion of compulsion or of a fait accompli as regards the refugee property owners.
- (d) That it would obviate the necessity for any organization or State to commit itself to any particular sum as being the amount of compensation.
- (e) That it would do away with the necessity for finding a large sum of money. The only sum to be found would be the working capital of the bank, which would be comparatively small.
- (f) That it would obviate the necessity for Israel to find a large amount of foreign currency.
- (g) That whilst contributing to reintegration it would not have the appearance of being connected with it, and
- (h) That the operation would be a gradual one, taking place over a number of years, with the result that, as compared with a rapid operation:
  - (i) It would be much easier administratively;
  - (ii) The impact on the economies of the countries concerned would be softened.