

Palestinian Response to the Clinton Parameters

January 1, 2001

Dear Madam/Sir,

Please find attached a memorandum elaborating some of the remarks and questions of the Palestinian Negotiating Teams' regarding the proposal made by the United States in the most recent round of negotiations in Washington, D.C.

I would like to assure you that we remain committed to reaching a permanent status agreement with Israel, so as to reach a lasting and comprehensive peace. We also are grateful for all the suggestions and proposals made by the international community aimed at facilitating the conclusion of such an agreement. However, we believe that for such an agreement to be able to achieve its goal of a just and lasting peace, it must be truly comprehensive and clear, avoiding any future misunderstandings that may, in themselves, jeopardize peace and stability in the region. In short, we want to avoid a repetition of the flaws contained in the previous agreement between the Palestinians and Israel. We believe that such flaws would have a far more devastating effect in the context of a permanent status agreement.

It is with this spirit that the following remarks and requests for clarification regarding the United States' proposal are made. We need to be sure that both sides agree to the same contents from the outset so as to preclude future stalemates and deadlocks in a process that will determine permanent relations between the Palestinian people and Israel.

I hope that the following remarks will be useful in clarifying the Palestinian position regarding the United States proposal, and that they will contribute to reaching a stable, comprehensive, and permanent peace in the region.

Yours truly,

Yasser Abed Rabbo
Head of the Palestinian Negotiating Team

Palestinian and Israeli negotiators met last week in Washington, D.C. as part of our continuing effort to achieve a comprehensive peace agreement. At the conclusion of the week, President Clinton offered a number of proposals intended to define the parameters for an immediate settlement. We remain grateful for the United States' considerable contributions to peace efforts and welcome its continuing involvement in future negotiations.

We are particularly indebted to President Clinton for the tremendous effort he has expended in promoting a just and lasting peace between Palestinians and Israelis. It is to his credit that both sides have come so far over the last seven years. As President Clinton has stated on so many occasions, however, the only successful and permanent peace will be one that takes into account the concerns of all parties and that is acceptable to Palestinians, Arabs, and Muslims, as well as to

Israel, within the agreed upon bases for the Palestinian-Israeli negotiations, namely UN Security Council Resolutions 242 and 338.

We wish to explain why the latest United States proposals, taken together and as presented without clarification, fail to satisfy the conditions required for a permanent peace. As it stands now, the United States proposal would:

1. divide a Palestinian state into three separate cantons connected and divided by Jewish-only and Arab-only roads and jeopardize the a Palestinian state's viability;
2. divide Palestinian Jerusalem into a number of unconnected islands separate from each other and from the rest of Palestine;
3. force Palestinians to surrender the right of return of Palestinian refugees. It also fails to provide workable security arrangements between Palestine and Israel, and to address a number of other issues of importance to the Palestinian people. The United States proposal seems to respond to Israeli demands while neglecting the basic Palestinian need: a viable state.

The United States proposals were couched in general terms that in some instances lack clarity and detail. A permanent status agreement, in our view, is not merely a document that declares general political principles. It is, rather, a comprehensive instrument that spells out the details, modalities, and timetables of ending the Palestinian-Israeli conflict. For such an agreement to be effective, it must be backed by clear, effective international implementation guarantees. We believe that a general, vague agreement at this advanced stage of the peace process will be counter-productive. This conviction has resulted from our past experiences with vague agreements and from Israel's history of non-compliance with signed agreements. The permanent status agreement must be a truly final agreement rather than an agreement to negotiate.

The United States side presented proposals regarding four primary issues: territory, Jerusalem, refugees, and security.

Territory of the Palestinian State

On the issue of territory, the United States proposed that Israel annex 4 to 6 percent of the West Bank; that the annexation be compensated through a "land swap" of 1 to 3 percent; and that the Parties also consider a swap of leased land. The United States recommended that the final map be drawn in a manner that would place 80 percent of Israeli settlers in annexed settlement blocs, but that would nevertheless promote territorial contiguity, minimize annexed areas and minimize the number of Palestinians affected.

This proposal poses a number of serious problems. As the proposal is not accompanied by a map, and because the total area from which the percentages are calculated is not defined, it is difficult to imagine how the percentages presented can be reconciled with the goal of Palestinian contiguity. This is especially worrisome in light of the fact that the Israeli side continues to insist, and the United States has never questioned, that Jerusalem, as defined by Israel, the "no-man's land", and the Dead Sea are not part of the total area from which the percentages are calculated. Moreover, the United States proposal calls for the "swap of leased land". It is not entirely clear if Palestinian interests are served by such a swap since the Palestinian side has no territorial needs in Israel,

except for a corridor linking the West Bank and the Gaza Strip, which will be covered in a land swap. This proposal, taken together with the map presented by the Israeli side in the most recent round of negotiations in Washington (see attached map), provides Israel with control over large swaths of land, rendering the Palestinian state unviable and lacking direct access to international borders.

Without a map clarifying the above ambiguities, the United States proposal does nothing to foreclose a return by Israel to its proposals at Camp David which leaves 10% of the West Bank under Israeli sovereignty and an additional 10% under Israeli control pursuant to ill-defined security arrangements. It is important to bear in mind that all of the settlements in the West Bank currently occupy approximately 2 percent of the West Bank.

In this context, the Palestinian side rejects the use of “settlement blocs” as a guiding principle as recommended by the United States proposal. The use of this criterion subordinates Palestinian interests in the contiguity of their state and control over their natural resources to Israeli interests regarding the contiguity of settlements, recognized as illegal by the international community. It also contradicts the United States proposal’s criteria concerning minimizing annexed areas and the number of Palestinians affected. In addition, the Palestinian side needs to know exactly which settlements Israel intends to annex.

Ultimately, it is impossible to agree to a proposal that punishes Palestinians while rewarding Israel’s illegal settlement policies. A proposal involving annexation of 4 to 6 percent (not to mention 10 percent) of the land would inevitably damage vital Palestinian interests. Under such a proposal, a number of Palestinian villages will be annexed to Israel, adding to the already great number of displaced Palestinians.

Moreover, as the attached map demonstrates, a large quantity of unsettled land in key development areas such as Jerusalem and Bethlehem will also be annexed by Israel, destroying the territorial contiguity of the State of Palestine. In addition to compromising Palestinians’ freedom of movement within their own state, this would also have serious ramifications for the state’s development potential. In addition, any such large-scale annexation will inevitably prejudice Palestinian water rights.

As for the “land swap”, the United States proposal does not identify which areas within Israel are to compensate for the annexed land. The Palestinian side continues to insist that any annexed land must be compensated with land of equal size and value. No argument has been presented as to why this should not be the case. However, the United States proposal explicitly rejects the principle that compensation of land must be of equal size and remains silent on the issue of the location and quality of the compensated land. All previous Israeli and United States proposals concerning compensated land have referred to land near the Gaza Strip in exchange for valuable real estate in the West Bank. In addition to being desert areas, the lands being offered near the Gaza Strip are currently being used by Israel to dump toxic waste. Obviously, we cannot accept trading prime agricultural and development land for toxic waste dumps.

Jerusalem

On the issue of Jerusalem, President Clinton articulated a general principle that “Arab areas are Palestinian and Jewish areas are Israeli,” but urged the two sides to work on maps to create maximum contiguity for both. Two alternative formulations were presented addressing each State’s

sovereignty over and rights to the Haram al-Sharif (“Haram”) and the “Western Wall” (“Wall”). Both formulations provide for Palestinian sovereignty over the Haram and Israeli sovereignty over the Wall, restricting the Parties from excavating beneath the Haram or behind the Wall.

The United States formulations on the Haram are problematic. First, the proposal appears to recognize Israeli sovereignty under the Haram by implying that it has a right, which it voluntarily relinquishes, to excavate behind the Western Wall (i.e., the area under the Haram.) Moreover, the “Western Wall” extends to areas beyond the Wailing Wall, including the tunnel opened in 1996 by Israel’s former Prime Minister Benjamin Netanyahu which caused widespread confrontations.

The territorial aspects of the United States proposals concerning Jerusalem also raise very serious concerns and call for further clarification. As the attached map shows, as a result of Israel’s internationally-condemned settlement policy in occupied East Jerusalem, the United States formulation “that Arab areas are Palestinian and Jewish ones are Israeli” will be impossible to reconcile with the concept of “maximum contiguity for both”, presented in the proposal. Rather, the formulation will inevitably result in Palestinian islands within the city separated from one another. Israel, however, will be able to maintain contiguity. Therefore, the proposal is actually calling for “maximum contiguity for both” translates in practice into “maximum contiguity for Israel”.

Israel’s continued demand for sovereignty over a number of geographically undefined “religious sites” in Jerusalem, and its refusal to present maps clearly showing its territorial demands in Jerusalem only compounds the Palestinian concerns. Any formulation that will be acceptable by the Palestinian side must guarantee the contiguity of Palestinian areas within the city as well as the contiguity of Jerusalem with the rest of Palestine.

A key element of the Palestinian position on Jerusalem is its status as an Open City with free access for all. This status is imperative not only to ensure access to and worship in all holy sites for all those who hold the city sacred, but also to guarantee free movement through the State of Palestine. Unfortunately, the United States proposal makes no reference to this essential concept.

Palestinian Refugees

On the issue of Palestinian refugees, driven from their homes as a result of the establishment of the state of Israel, the United States proposed that both sides recognize the right of Palestinian refugees to return either to “historic Palestine” or to “their homeland,” but added that the agreement should make clear that there is no specific right of return to what is now Israel. Instead, it proposed five possible final homes for the refugees:

1. the State of Palestine
2. areas in Israel transferred to Palestine in the “land swap”
3. rehabilitation in the host countries
4. resettlement in third countries
5. admission to Israel. All refugees would have the right to “return” to the State of Palestine; however, rehabilitation in host countries, resettlement in third countries, and admission to Israel all would depend on the policies of those individual countries.

The United States proposal reflects a wholesale adoption of the Israeli position that the implementation of the right of return be subject entirely to Israel's discretion. It is important to recall that Resolution 194, long regarded as the basis for a just settlement of the refugee problem, calls for the return of Palestinian refugees to "their homes," wherever located – not to their "homeland" or to "historic Palestine."

The essence of the right of return is choice: Palestinians should be given the option to choose where they wish to settle, including return to the homes from which they were driven. There is no historical precedent for a people abandoning their fundamental right to return to their homes whether they were forced to leave or fled in fear. We will not be the first people to do so. Recognition of the right of return and the provision of choice to refugees is a pre-requisite for the closure of the conflict.

The Palestinians are prepared to think flexibly and creatively about the mechanisms for implementing the right of return. In many discussions with Israel, mechanisms for implementing this right in such a way so as to end the refugee status and refugee problem, as well as to otherwise accommodate Israeli concerns, have been identified and elaborated in some detail. The United States proposal fails to make reference to any of these advances and refers back to earlier Israeli negotiating positions.

In addition, the United States proposal fails to provide any assurance that refugee' rights to restitution and compensation will be fulfilled.

Security

On the issue of security, the United States proposed that there be an international presence to guarantee the implementation of the agreement. The United States proposal suggests that the Israeli withdrawal should be carried out over a 3 year period, with international forces phased in on a gradual basis. Then, at the end of this period, an Israeli military presence would be allowed to remain in the Jordan Valley for another three years under the authority of the international force.

The United States also proposed that Israel be permitted to maintain three early warning stations for at least ten years and that it be given the right to deploy its forces in Palestinian territory during "a national state of emergency." In addition, the United States has suggested that Palestine be defined as a "non-militarized State," and, while acknowledging Palestinian sovereignty over its own airspace, it has proposed that the two sides develop special arrangements for Israeli training and operational needs.

Although the United States proposals place less burdens on Palestinian sovereignty than earlier Israeli proposals, they nevertheless raise a number of concerns. There is no reason why Israel would require three years to withdraw from the West Bank and Gaza Strip. In view of the fact that Israel resettled more than one million immigrants from the former Soviet Union in a few years, one year is more than enough time to resettle less than 60,000 Israeli settlers. It is moreover unclear from the United States proposal that the withdrawal period relates to both soldiers and settlers, both of whom are considered part of the occupation forces in the Palestinian Territories. A protracted withdrawal process could jeopardize the peaceful implementation of the agreement and would create a continued source of friction.

There are other Palestinian concerns. Israel has yet to make a persuasive case regarding why it would require either a standing force in the Jordan Valley or emergency deployment rights – much less both. This is especially the case given that international forces will be present in these areas. Furthermore, Israel requires no more than one early warning station in the West Bank to satisfy its strategic needs. The maintenance of stations at current locations near Ramallah and Nablus and in East Jerusalem will seriously inhibit Palestinian development. Moreover, the United States proposal would give Israel sole discretion for determining how long these stations will be operational.

The United States proposal's suggestion that special arrangements be made for Israeli training and operational needs in Palestinian airspace is also extremely problematic. Without specific clarification, this might be used to defend a right for Israel to use Palestinian airspace for military training exercises with all the accompanying dangers to the Palestinian civilian population and the environment while sparing Israeli citizens from any similar infringement. Palestinians remain committed to working out regional agreements concerning aviation in line with commonly accepted international regulations. Any arrangement to the contrary would infringe on Palestinian sovereignty and harm relations with neighboring countries.

Other Issues

The United States proposal remains silent on a number of issues that are essential for the establishment of a lasting and comprehensive peace. By focusing solely on the four issues above, the United States proposal not only neglects matters relating to ending the conflict, but also disregards ways to ensure that the future relations between the two peoples will be mutually beneficial. Specifically, the proposal does not address water, compensation for damages resulting from over thirty years of occupation, the environment, future economic relations, and other state-to-state issues.

End of Conflict

While we are totally committed to ending the Palestinian-Israeli conflict, we believe that this can only be achieved once the issues that have caused and perpetrated the conflict are resolved in full. This in turn can only be achieved by a comprehensive agreement that provides detailed modalities for the resolution of the issues at the core of the conflict. It must be remembered that in reaching a settlement between Israel and, respectively, Egypt and Jordan, the end of conflict came only after the final, detailed peace treaty.

Even putting aside the requirements of international law and justice, the United States proposals - unless clarified to take into account the above concerns - do not even allow for a pragmatic resolution of the conflict. If no such solutions are reached in practice, we believe that any formalistic pronouncement of the end of conflict would be meaningless.

Conclusion

We would like, once again, to emphasize that we remain committed to a peaceful resolution of the Palestinian-Israeli conflict in accordance with UN Security Council Resolutions 242 and 338 and international law. In view of the tremendous human cost caused by each delay in negotiations, we recognize the need to resolve this conflict as soon as possible. We cannot, however, accept a proposal that secures neither the establishment of a viable Palestinian state nor the right of Palestinian refugees to return to their homes.

- Palestinian Negotiating Team