

Summary of the 10th Meeting of the Joint Legal Committee
November 5, 2008 [10:00 AM-12:00 PM], King David Hotel, West Jerusalem

1 **Attendees:**

2 ***Palestinian***

- 3 • Hiba Husseni, Attorney-at-Law, Head of Palestinian team (HH)
- 4 • Azem Bishara, NSU legal advisor (AB)

5 ***Israeli***

- 6 • Mike Blass, Deputy to the Legal Advisor of the Israeli Government (MB)
- 7 • Lee Arad, Israeli NSU legal advisor (LA)

8 **Summary:**

- 9 • The first half of 10th meeting of the Legal Committee focused on agreeing the
10 attached Israeli-Palestinian (I-P) document reflecting the positions of each party
11 concerning the agenda for the Legal Committee. While there are 4 main agreed issues
12 on the agenda, there remains a dispute on whether and where other 8 issues should be
13 discussed. It was agreed between the teams to raise the dispute over the agenda in the
14 next meeting of the Legal Committee with Dr. Erekat and Udi Dekel.
- 15 • During the remainder of the meeting the Palestinian team outlined the vision for an
16 agreement on end of claims and presented an in-exhaustive list of issues in relation to
17 end of claims in general and to compensation for occupation in particular.
- 18 • On end of claims the Palestinian team argued that prior to concluding an agreement
19 on end of claims, all claims and issues have to be addressed and resolved. These
20 include all issues being currently raised and/or discussed at the various levels and
21 committees, including refugees, Jerusalem, borders, water, economics, state-to-state
22 issues and compensation for occupation.
- 23 • On compensation for occupation, the Palestinian team outlined the view that this is a
24 category in and of itself with many sub issues included and that addressing and

1 resolving those in a satisfactory manner is required prior to concluding an agreement
2 on end of claims.

3 • The Palestinian team outlined its views on compensation for occupation stressing the
4 general framework of international law; that reparations are due to Israeli
5 international wrongful acts during its occupation of Palestinian territory; and that
6 generally compensation is due to two types of claims: public and private claims. The
7 former include, *inter alia*, claims pertaining to illegal construction of settlements, use
8 and depletion of natural resources, damage to the environment etc..., while the latter
9 include claims of private persons, including damage to private property, torture, and
10 other human rights violations.

11 • The Palestinian team also raised the need to discuss valuation standards and methods
12 and how claims should be dealt with i.e. what is the required mechanism.

13 • The Israeli team responded by questioning the standing of any future Palestinian state
14 to raise public claims since such claims would have occurred prior to its
15 establishment. The Palestinian team responded by reiterating the standing of the
16 PLO as the representative of the Palestinian people to raise and bring such public
17 claims.

18 • On the merits, the Israeli side stated that they are willing to discuss how to address
19 private claims. However, public claims should all be put aside and should not be dealt
20 with. Otherwise they will raise and insist on addressing Israeli public claims resulting
21 from the illegal actions of PLO and all of its factions, the PA as well as Hamas against
22 Israel. These include, per the Israeli view, claims for damages resulting from attacks
23 against and inside Israel and the costs of measures that Israel had to take to thwart
24 and protect from PLO/PA actions. The Israeli team further argued that raising public

1 claims is not conducive to the efforts to reach a peace agreement and that the best
2 way to deal with these public claims is to mutually agree to put them aside.

3 4 **I-P draft agenda for the Legal Committee**

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7 I. Mutual legal assistance and cooperation
8
9 II. State immunity and claims against one state in the courts of the other state
10
11 III. End of claims [P: *including those pertaining to occupation*]
12
13 IV. Transitional arrangements related to the above listed issues and other legal issues
14
15 V. [P: *Diplomatic and consular immunities*] [I: *possibly in the State-to-State Committee*]
16
17 VI. [P: *Private property rights in the “swapped areas”*] [I: *–in the Territorial Committee*]
18
19 VII. [P: *Truth and reconciliation*] [I: *possibly in the Culture of Peace Committee*]
20
21 VIII. [P: *Legal issues related to Jerusalem*] [I: *Currently Jerusalem is not being discussed. When it will*
22 *be discussed all issues pertaining to Jerusalem will be addressed in one committee.*]
23
24 IX. [P: *Dispute resolution mechanism (DRM) for the legal cooperation sphere as well as general*
25 *DRM for the whole agreement, while committee specific DRM by the relevant committee*] [I:
26 *Dispute resolution mechanism in the legal cooperation sphere will be discussed by the Legal*
27 *Committee while committee specific DRM by the relevant committee and the general DRM for the*
28 *whole agreement by Drs. Erekat- Becker*]
29
30 X. [P: *Legal issues related to Safe Passage, and Territorial Link as may be relevant*] [I: *by the*
31 *political level and another committee(s)*]
32
33 XI. [P: *Family unification between Palestinian and Israeli citizens*] [I: *Unwilling to discuss as it is*
34 *an internal Israeli immigration policy issue*]
35
36 XII. [P: *End of conflict*] [I: *by Drs. Erekat- Becker*]