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UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

OBSERVATIONS AND COMMENTS OF THE HOST COUNTRIES ON THE WORKING
PAPER PREPARED BY THE LAND EXPERT OF THE CONCILIATION COMMISSION
(A/AC.25/W.84) AND DATED 28 APRIL 1964

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/Original: English/

LETTER DATED 11 APRIL 1966 FROM THE REPRESENTATIVES OF JORDAN, LEBANON,
THE SYRIAN ARAB REPUBLIC AND THE UNITED ARAB REPUBLIC ADDRESSED TO THE
CHAIRMAN OF THE COMMISSION

We have the honour to enclose the observations and comments of the host Governments of the Arab States on the working paper document A/AC.25/W.84 dated 28 April 1964, prepared by Mr. Frank Jarvis, Technical Representative of the Palestine Conciliation Commission.

These observations, based on the technical considerations, would draw attention to the fact that the work needs more adequate examination.

It is hardly necessary to reiterate that these observations do not in any way affect the right of the Palestine Arab Refugees to either repatriation or compensation to those who do not wish to return, as prescribed in paragraph 11 of resolution 194 (III) of 11 December 1948.

We request that the United Nations translation of this document be circulated as an official document of the United Nations.

(Signed) Muhammad EL-Farra
Permanent Representative
of the Hashemite Kingdom
of Jordan

(Signed) Souheil Chammas
Permanent Representative
of Lebanon

(Signed) George Tomeh
Permanent Representative
of Syrian Arab Republic

(Signed) Mohamed EL-Kony
Permanent Representative
of United Arab Republic

Original: Arabic

Observations and Comments of the Host Countries on
the Working Paper prepared by the Land Expert of
the Conciliation Commission (A/AC.25/W.84) dated
28 April 1964

The progress report deals with two subjects, namely, what is termed as the identification of Arab property and the valuation of this property as it stood on 29 November 1947.

I. As regards the identification of property, the report explicitly indicates that the documents relied upon to identify Arab holdings do not constitute absolute proof as to the accuracy of results.

The report stated that the sources relied upon were the records of private property kept by registration and settlement authorities, and the Tax Distribution Lists outside urban areas, and Field Valuation Sheets for lands and buildings in urban areas. The data contained in the above sources do not, however, fully and truly represent the situation with regard to Arab property for various reasons including the following:

1. A large portion of Arab holdings, falling both within urban areas and outside such areas, especially the "non-settled" holdings, were not entered in the records of land registration authorities during the Mandate.

As to those holdings outside urban areas that were entered, the records did not give an accurate and complete description of Arab holdings indicating buildings and trees thereon. This is especially true after 1937. Those records do not constitute, therefore, a valid basis for determining the amount of Arab holdings. This becomes more evident from the following:

- (a) The Rural Property Tax Ordinance of 1935 did not impose any tax on buildings, a fact which explains the absence of data on such buildings.

- (b) Under the 1937 ordinance which amended the Land Settlement Ordinance, the Palestine Government nullified the requirement that citizens register constructions on their lands.

- (c) The identification attempted in the progress report has thus completely ignored Arab property in the form of constructions and trees dating after 1937, whereas it is well known that development activities had considerably expanded after this date.

2. The progress report failed to deal with those lands that were apportioned for the common use of villagers, such as grazing lands, which were registered in the name of the High Commissioner (on behalf of the usufructuaries), or those registered in the name of a village elder or a local municipal body, or those not registered at all. No mention is made of such lands in the report, although they constituted numerous and vast areas. These lands are Arab property by virtue of use and disposition over generations.

3. The report overlooked the rights of the Arabs to uncultivable lands classified under numbers 14, 15 and 16, in the 1935 ordinance which provided tax exemptions for lands of poor yield.

4. Before the termination of the Mandate, the Palestine Government owned lands, buildings, offices, ports, agronomic and non-agronomic research stations, hospitals, schools, rail tracks and railway stations. As a result of the partition resolution and the status quo, most of the above property lies in the usurped part of Palestine which was populated by large numbers of Arabs forming the majority. It goes without saying that the holdings of a State revert to its population; the Arabs, therefore, have rights to this property in proportion to their numerical strength in 1947, a fact which the report failed to take into account.

5. The report was unfair to the Arabs in its identification of holdings in Beersheba district for it is a well-established fact that the Jews owned only 65,000 dunums in that district, i.e., less than half of 1 per cent of a total area of 13 million dunums, and that Arabs were cultivating and disposing of over 2 million dunums of the cultivable area. In addition, the report overlooked Arab rights to 10 million dunums in the Negev on the grounds that it was uncultivable although usufruct in grazing, reclamation and settlement was enjoyed exclusively by the Arabs.

6. The report overlooked the following:

(a) The movable property belonging to the State such as rolling stock, vehicles, presses, implements of public works, hospital outfits, office furniture, medical apparatus, telephone equipment, etc. The Arabs have rights to this property which was seized in toto by Israel.

(b) It is a well-established fact that many Arab villages, buildings and plantations outside urban areas, were demolished and replaced by other buildings and installations, thus obliterating their original identity. No mention was made in the report of this Arab property.

II. As regards the rules and criteria applied in the report for the valuation of Arab lands and property, the report obviously relied upon the values of lands and property mentioned in tax lists, and also had recourse to the estimates of values applied in the settlement of title operations, as well as to the amount of the consideration in transactions taking place before registration authorities and dating back to up to two years from 29 November 1947. The following comments should be made in this respect:

1. The first rule, namely, reliance upon tax lists for buildings and lands in urban areas is not valid because assessment for tax purposes was markedly low resulting in values far below the real value of lands and property. This is equally true in the case of lands and property outside urban areas, since taxes were levied by the Mandatory Government on cultivable land and constructions outside urban areas at a rate of 10 per cent of minimum annual returns after a deduction of two thirds of the assessed income to cover production costs. This proves the unreliability of such values, particularly since constructions on these lands were not indicated, as taxes were imposed on lands only to the exclusion of buildings. Moreover, lands of low yield were tax exempt. No tax was levied on such lands except after the elapse of ten years from the date of their amelioration and plantation.

2. The second rule adopted in the report for valuation, namely, the registered value of lands in the settlement of title operations or the amount of the consideration in sales transactions taking place before registration authorities is not also a true measure of value, for it is well known that the amount of the consideration declared by the parties was much lower than the true value in order to avoid payment of the full fee.

III. In the light of the above, the report of the Land Expert of the United Nations Conciliation Commission, issued as document A/AC.25/W.84 on 28 April 1964, is found to be unacceptable for its inconsonance with reality and its unfairness to Arab rights.

IV. The total area of Palestine, according to official data, is 26,320,230 dunums. The greater part of this area belongs to the Arabs who lived there for thousands of years as uncontested owners.

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Jewish ownership at the beginning of the British Mandate represented only 2 per cent of the above total area. As a result of laws imposed by the Mandatory Government without the consent of the rightful indigenous population, Jewish ownership rose by the end of the Mandate to 1,491,699 dunums, a figure still representing less than 6 per cent of the total area of the whole of Palestine.

V. The formulation of such estimates contradicts both the letter and the spirit of operative paragraph 11 of resolution 194 (III) and subsequent relevant resolutions, notably resolution 394 (V) of 14 December 1950. The Conciliation Commission is not entitled, under United Nations resolutions, to consider compensation without repatriation.

/Original: English/French/

LETTER DATED 16 MAY 1966 FROM THE CHAIRMAN OF THE COMMISSION TO THE
REPRESENTATIVES OF JORDAN, LEBANON, THE SYRIAN ARAB REPUBLIC AND THE
UNITED ARAB REPUBLIC

I have the honour to acknowledge the receipt of the joint letter dated 11 April 1966 by which the representatives of Jordan, Lebanon, Syria and the United Arab Republic transmitted observations on the Working Paper prepared by the Commission's Land Expert and published in 1964 (A/AC.25/W.84).

In response to what it feels is the spirit of this letter, the Commission would welcome joint consideration, by its Technical Representative and by the delegations or land experts of the host Governments, of the technical aspects of these observations, leaving aside the broader issues which they raise, in order to clarify any technical problems which may arise from misunderstanding or misapprehension.

The Commission has also requested me to inform you that the letter of the host Governments and the observations attached thereto, in accordance with the joint request, will be published, together with the present letter, as a general distribution document in the same series as the Working Paper to which they pertain.

In so doing, of course, the Commission reserves its right, as a matter of record, to comment fully on the observations in the light of its mandate from the General Assembly, should that prove necessary at any stage.

For the present, the Commission wishes to state that it remains fully conscious of the provisions of the General Assembly resolutions which comprise its terms of reference. It also finds it appropriate to recall the position it has stated in various places, and particularly in its seventeenth progress report (A/4225, paragraph 22) in the following form: "The Commission has taken into account the fact that the General Assembly has always been concerned with the property rights of Arab refugees within the terms of paragraph 11 of resolution 194 (III) of 11 December 1948. It is obvious that in carrying out this work the Commission is not attempting to lay down a basis for an over-all settlement of the refugee

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problem. The work of identification and valuation is technical in nature and constitutes a prerequisite for any settlement with regard to the rights of individuals to their immovable property."

Accept, etc.

(Signed)

Claude EPERVRIER
Chairman
United Nations Conciliation
Commission for Palestine
