The relevant decidable issues are as follows:

1. Reparations
   - Acknowledgment of Israel responsibility/apology
   - Recognition of refugee’s rights: the right of return, the right to restitution and compensation

- Palestinian and Israeli leaderships have a common interest in resolving the refugee issue in a just and reasonable manner because:
  
  o They agree that they will be no peace without a just resolution of the refugee issue which has been standing at the heart of conflict since 1948;

  o It is their common interest to reach a satisfactory closure of the matter: since individual rights are at stake (rather than the national rights of the future Palestinian State), the risk of future potential (thousands, perhaps millions) law suits filed by unsatisfied refugees against Israel and/or Palestine cannot be overlooked;

  o Both States have a right to peace and security and the satisfaction of refugees is crucial in this regard. This advocates for the establishment of a comprehensive resolution of the refugee issue which would facilitate their rehabilitation and empowerment after years of suffering.

- Thus, a just resolution of the refugee issue can provide Israel and the future Palestinian State with a historic opportunity to achieve a “true” peace for two reasons:

  o By recognizing the injustice caused to refugees (which constitutes today the majority of the Palestinian population), Israel would be in position to ask for refugees’ forgiveness and put an end to the corresponding Arab resentment;
- Since the refugee issue has also become over the years a regional matter involving in particular Lebanon, Syria and Jordan, it also provides Israel with the historic chance to normalize its relations with other Arab countries (i.e. Arab peace initiative).

- On the other hand, if refugees’ rights are not duly recognized, and if the adequate legal remedies are not provided to them, the refugee issue may lead to the failure of the whole process. Ultimately, it is the risk of destabilizing already fragile and hopeless refugee camps which is at stake (both in the West Bank and Gaza, and in the neighboring countries) which is here at stake. In fact, refugees will be the ultimate judges of the fairness of the agreement, since the options agreed upon by both parties will be submitted to their choice. Also, Arab host states will only accept to collaborate and regularize the situation of refugees currently present within their borders if Israel endorses its share of responsibility in the matter and show a sincere commitment and efforts to its just resolution.

- Israelis and Palestinians also have respective objectives and concerns:

  - Israel is concerned with its Jewish identity and demographics. Since 60 years, it has also been pursuing a normalization of its relations with the surrounding Arab state. Israel’s recognition and acceptance as a legitimate state by Arab surrounding countries has been a continuous objective over the years.

  - The PLO will pursue the recognition of all refugees’ rights and their satisfaction with particular care, especially since these are individual rights. The Palestinian leadership is however ready to negotiate their implementation in order to accommodate to the two-state solution. The resettlement of some refugees to the Palestinian State will greatly depend on its future resources, borders etc. Such option can therefore only be considered as one amongst others.

- Following the discussion held by the Plenary Committee on Tuesday, 24 March, and in consideration of past talks on the issue, it appears that two obstacles may have to be overcome at this early stage:

  - Practically, if Israel only accept a limited number of returns, this is very likely to cause profound dissatisfaction/resentment amongst refugee communities. It is therefore crucial that this number remain substantial in order to respect the choice of the {limited number of} refugees who may want to come back to Israel. Additionally, in order to secure the success of the process, the negotiators should ensure that all other options are appealing to refugees and that the recognition of Israel’s responsibility/right of return is strongly affirmed to convince refugees of Israel’s sincerity in the acknowledgement of their rights, history and suffering.
At first sight, Israel’s narrative of 1947-1948 seems difficult to reconcile with the Palestinian “Nakba”:
- Apparently, there is a perception among Israelis that acknowledging the truth regarding events which took place in 1947-48 and the Palestinian right of return will de-legitimize their state.
- The Palestinian leadership believes the opposite since it is convinced that recognizing its own mistakes will help Israel become a State amongst others in the international community, integrated in the region, and willing to comply with international standards. Examples of (major) countries which recognized that they committed legal wrongs in the past -without jeopardizing their own existence/identity- are numerous and should be an encouragement for Israel (US, France, Germany, Australia...).

However, the Palestinian leadership wishes to offer a solution that would also accommodate to this Israeli concern, recognizing that discussions on 1947-48 events may be counter-productive (see Camp David). Therefore, the main guidelines of the Palestinian proposal are the following:

- Israel’s acknowledgement of responsibility/apology

We can submit to the Israelis the following:

- Option 1: re-initiate the discussions on the basis of the document presented by the Israeli delegation at Taba on 23rd January 2001 (see Israeli-Palestinian joint statement of 27 January 2001). While this document is not, as such, acceptable by the Palestinians, it has the merit to insist on the centrality of the refugee issue and specify that “a comprehensive and just solution is essential to creating a durable and morally scrupulous peace”. It incorporates only limited historical references, in order to be acceptable by both parties. It also distinguishes between the principles and the implementation of the solution, and addresses in a subtle way the question of the responsibilities for the creation of the issue. If we want real peace to be achieved, this document can be used as a framework for discussion.

- Option 2 (only if the Israeli counterpart refuses option 1): if Israel is not ready to recognize its moral responsibility in the creation of the issue and its inability to resolve it (with the international community), we can rather suggest to have their legal responsibility recognized as a result of the various statutes passed by the Knesset since the late 1940s-early 1950s by which the Palestinians were legally disposed from their lands and prevented from returning to their homes. This option will enable to avoid any discussion over the 1947-1948 period. Legally, it should be
emphasized that the original cause of the Palestinians’ displacement is irrelevant. It should therefore not blur the discussion between both parties. Anyone who leaves his home/country is entitled by law to return to it, irrespective of the purpose of his absence (forced displacement, holiday etc.).

- In addition to the recognition of the moral/legal responsibility, Israel should officially apologize directly to the refugees since:
  o refugees have endured extraordinary suffering because of their losses, longstanding displacement and miserable conditions of living.
  o for Israel, the resolution of the issue aims at getting refugees’ forgiveness which is a central condition for the establishment of a durable peace in the region:
  o Israel refuses to enable the implementation of their right of return, in violation of international law and most recent practice (Bosnia, Kosovo, South Africa).
  o the right for an apology is an element of refugees’ rights for reparation (satisfaction) according to international standards.

[NSU can provide with different proposals of formulation for both Israel’s recognition of responsibility and apology, upon instructions.]
  o Recognition of refugees’ rights: the right of return, the right to restitution and compensation

- A clear distinction has to be set here:
  o the recognition of refugees’ rights which are in fact non-negotiable since they are individual rights of each refugees.
  o the implementation of these rights (essentially the right of return, and to some extent, the right to restitution) which has to be adapted to the parameters of the two-state solution; Israel, homeland of the Jewish people, Palestine, homeland of the Palestinian people.

- This distinction is the main guarantee for the success of the process. Thus, Israel must first acknowledge the existence and validity of each of refugees’ individual rights.

The right of return

- Option 1: we recommend an explicit reference to the principle of the recognition of the right of return to ensure that the refugees “buy into” the agreement.
However, the provision referring to this right would also stress that the desire for return will have to be adapted to current realities and the objective of the two-state solution. In practice, returns would be limited to Israel’s absorption capacity.

- Option 2: if Israelis oppose an explicit reference to the right of return in the peace agreement, reference to UN GA Resolution 194 could be used as an indirect mention of the right of return. This resolution is in fact an affirmation of Palestinian refugees’ right of return, and reparation as found in international law.

[NSU can provide with different proposals of for the drafting of such a provision.]

The right to restitution

- According to international law, all Palestinians who lost properties have a right to their restitution, unless such restitution is practically impossible. This right should also be recognized.

- Its implementation should be discussed in the scope of these negotiations with the view notably to define when restitution is indeed impossible (in which case, full compensation for the loss will have to be allocated to the individual)

The right for compensation

- Refugees have a right to full compensation for their losses. This means that each refugee has an individual right to obtain the indemnification corresponding to:
  
  o his lost properties, including immovable and movable assets (if restitution is impossible), but also
  o non-material damages relating to the extended displacement, moral suffering etc.

[NSU has accomplished a comprehensive work on this to assess the value of refugees’ different categories of losses.]