

## **EU description of the outcome of permanent status talks at Taba**

### **Introduction**

This EU non-paper has been prepared by the EU Special Representative to the Middle East Process, Ambassador Moratinos, and his team after consultations with the Israeli and Palestinian sides, present at Taba in January 2001. Although the paper has no official status, it has been acknowledged by the parties as being a relatively fair description of the outcome of the negotiations on the permanent status issues at Taba. It draws attention to the extensive work which has been undertaken on all permanent status issues like territory, Jerusalem, refugees and security in order to find ways to come to joint positions. At the same time it shows that there are serious gaps and differences between the two sides, which will have to be overcome in future negotiations. From that point of view, the paper reveals the challenging task ahead in terms of policy determination and legal work, but it also shows that both sides have travelled a long way to accommodate the views of the other side and that solutions are possible.

### **Territory**

The two sides agreed that in accordance with the UN Security Council Resolution 242, the June 4 1967 lines would be the basis for the borders between Israel and the state of Palestine.

### **WestBank**

For the first time both sides presented their own maps over the West Bank. The maps served as a basis for the discussion on territory and settlements. The Israeli side presented two maps, and the Palestinian side engaged on this basis. The Palestinian side presented some illustrative maps detailing its understanding of Israeli interests in the West Bank.

The negotiations tackled the various aspects of territory, which could include some of the settlements and how the needs of each party could be accommodated. The Clinton parameters served as a loose basis for the discussion, but differences of interpretations regarding the scope and meaning of the parameters emerged. The Palestinian side stated that it had accepted the Clinton proposals but with reservations.

The Israeli side stated that the Clinton proposals provide for annexation of settlement blocs. The Palestinian side did not agree that the parameters included blocs, and did not accept proposals to annex blocs. The Palestinian side stated that blocs would cause significant harm to the Palestinian interests and rights, particularly to the Palestinians residing in areas Israel seeks to annex.

The Israeli side maintained that it is entitled to contiguity between and among their settlements. The Palestinian side stated that Palestinian needs take priority over settlements. The Israeli maps included plans for future development of Israeli settlements in the West Bank. The Palestinian side did not agree to the principle of allowing further development of settlements in the West Bank. Any growth must occur inside Israel.

The Palestinian side maintained that since Israel has needs in Palestinian territory, it is responsible for proposing the necessary border modifications. The Palestinian side reiterated that such proposals must not adversely affect the Palestinian needs and interests.

The Israeli side stated that it did not need to maintain settlements in the Jordan Valley for security purposes, and its proposed maps reflected this position.

The Israeli maps were principally based on a demographic concept of settlements blocs that would incorporate approximately 80 percent of the settlers. The Israeli side sketched a map presenting a 6 percent annexation, the outer limit of the Clinton proposal. The Palestinian illustrative map presented 3.1 percent in the context of a land swap. Both sides accepted the principle of land swap but the proportionality of the swap remained under discussion. Both sides agreed that Israeli and Palestinian sovereign areas will have respective sovereign contiguity. The Israeli side wished to count "assets" such as Israelis "safe passage/corridor" proposal as being part of the land swap, even though the proposal would not

give Palestine sovereignty over these "assets". The Israeli side adhered to a maximum 3 percent land swap as per Clinton proposal.

The Palestinian maps had a similar conceptual point of reference stressing the importance of a non-annexation of any Palestinian villages and the contiguity of the West Bank and Jerusalem. They were predicated on the principle of a land swap that would be equitable in size and value and in areas adjacent to the border with Palestine, and in the same vicinity as the annexed by Israel. The Palestinian side further maintained that land not under Palestinian sovereignty such as the Israeli proposal regarding a "safe passage/corridor" as well as economic interests are not included in the calculation of the swap.

The Palestinian side maintained that the "No-Man's-Land" (Latrun area) is part of the West Bank. The Israelis did not agree. The Israeli side requested an additional 2 percent of land under a lease arrangement to which the Palestinians responded that the subject of lease can only be discussed after the establishment of a Palestinian state and the transfer of land to Palestinian sovereignty.

### **Gaza Strip**

Neither side presented any maps over the Gaza Strip. It was implied that the Gaza Strip will be under total Palestinian sovereignty, but details have still to be worked out. All settlements will be evacuated. The Palestinian side claimed it could be arranged in 6 months, a timetable not agreed by the Israeli side.

### **Safe passage/corridor from Gaza to the West Bank**

Both sides agreed that there is going to be a safe passage from the north of Gaza (Beit Hanun) to the Hebron district, and that the West Bank and the Gaza Strip must be territorially linked. The nature of the regime governing the territorial link and sovereignty over it was not agreed.

### **Jerusalem**

#### **Sovereignty**

Both sides accepted in principle the Clinton suggestion of having a Palestinian sovereignty over Arab neighbourhoods and an Israeli sovereignty over Jewish neighbourhoods. The Palestinian side affirmed that it was ready to discuss Israeli request to have sovereignty over those Jewish settlements in East Jerusalem that were constructed after 1967, but not Jebel Abu Ghneim and Ras al-Amud. The Palestinian side rejected Israeli sovereignty over settlements in the Jerusalem Metropolitan Area, namely of Ma'ale Adumim and Givat Ze'ev. The Palestinian side understood that Israel was ready to accept Palestinian sovereignty over the Arab neighbourhoods of East Jerusalem, including part of Jerusalem's Old City. The Israeli side understood that the Palestinians were ready to accept Israeli sovereignty over the Jewish Quarter of the Old City and part of the Armenian Quarter.

The Palestinian side understood that the Israeli side accepted to discuss Palestinian property claims in West Jerusalem.

#### **Open City**

Both sides favoured the idea of an Open City. The Israeli side suggested the establishment of an open city whose geographical scope encompasses the Old City of Jerusalem plus an area defined as the Holy Basin or Historical Basin.

The Palestinian side was in favour of an open city provided that continuity and contiguity were preserved. The Palestinians rejected the Israeli proposal regarding the geographic scope of an open city and asserted that the open city is only acceptable if its geographical scope encompasses the full municipal borders of both East and West Jerusalem. The Israeli side raised the idea of establishing a mechanism of daily coordination and different models were suggested for municipal coordination and cooperation (dealing with infrastructure, roads, electricity, sewage, waste removal etc). Such arrangements could be formulated in a future detailed agreement. It proposed a "soft border regime" within

Jerusalem between Al-Quds and Yerushalaim that affords them "soft border" privileges. Furthermore the Israeli side proposed a number of special arrangements for Palestinian and Israeli residents of the Open City to guarantee that the Open City arrangement neiadversely affect their daily lives nor compromise each party sovereignty over its section of the Open City.

### **Capital for two states**

The Israeli side accepted that the City of Jerusalem would be the capital of the two states: Yerushalaim, capital of Israel and Al-Quds, capital of the state of Palestine. The Palestinian side expressed its only concern, namely that East Jerusalem is the capital of the state of Palestine.

### **Holy/HistoricalBasin and the Old City**

There was an attempt to develop an alternative concept that would relate to the Old City and its surroundings, and the Israeli side put forward several alternative models for discussion, for example, setting up a mechanism for close coordination and cooperation in the Old City. The idea of a special police force regime was discussed but not agreed upon. The Israeli side expressed its interest and raised its concern regarding the area conceptualized as the Holy Basin (which includes the Jewish Cemetery on the Mount of Olives, the City of David and Kivron Valley). The Palestinian side confirmed that it was willing to take into account Israeli interests and concerns provided that these places remain under Palestinian sovereignty. Another option for the Holy Basin, suggested informally by the Israeli side, was to create a special regime or to suggest some form of internationalization for the entire area or a joint regime with special cooperation and coordination. The Palestinian side did not agree to pursue any of these ideas, although the discussion could continue.

### **HolySites: Western Wall and the Wailing Wall**

Both parties have accepted the principle of respective control over each side's respective holy sites (religious control and management). According to this principle, Israel's sovereignty over the Western Wall would be recognized although there remained a dispute regarding the delineation of the area covered by the Western Wall and especially the link to what is referred to in Clinton's ideas as the space sacred to Judaism of which it is part.

The Palestinian side acknowledged that Israel has requested to establish an affiliation to the holy parts of the Western Wall, but maintained that the question of the Wailing Wall and/or Western Wall has not been resolved. It maintained the importance of distinguishing between the Western Wall and the Wailing Wall segment thereof, recognized in the Islamic faith as the Buraq Wall.

### **Haramal-Sharif/Temple Mount**

Both sides agreed that the question of Haram al-Sharif/Temple Mount has not been resolved. However, both sides were close to accepting Clinton's ideas regarding Palestinian sovereignty over Haram al-Sharif notwithstanding Palestinian and Israeli reservations.

Both sides noted progress on practical arrangements regarding evacuations, building and public order in the area of the compound.

An informal suggestion was raised that for an agreed period such as three years, Haram al-Sharif/Temple Mount would be under international sovereignty of the P5 plus Morocco (or other Islamic presence), whereby the Palestinians would be the "Guardian/Custodians" during this period. At the end of this period, either the parties would agree on a new solution or agree to extend the existing arrangement. In the absence of an agreement, the parties would return to implement the Clinton formulation. Neither party accepted or rejected the suggestion.

### **Refugees**

Non-papers were exchanged, which were regarded as a good basis for the talks. Both sides stated that the issue of the Palestinian refugees is central to the Israeli-Palestinian relations and that a comprehensive and just solution is essential to creating a lasting and morally



scrupulous peace. Both sides agreed to adopt the principles and references which could facilitate the adoption of an agreement.

Both sides suggested, as a basis, that the parties should agree that a just settlement of the refugee problem in accordance with the UN Security Council Resolution 242 must lead to the implementation of UN General Assembly Resolution 194.

### **Narrative**

The Israeli side put forward a suggested joint narrative for the tragedy of the Palestinian refugees. The Palestinian side discussed the proposed narrative and there was much progress, although no agreement was reached in an attempt to develop a historical narrative in the general text.

### **Return, repatriation and relocation and rehabilitation**

Both sides engaged in a discussion of the practicalities of resolving the refugee issue. The Palestinian side reiterated that the Palestinian refugees should have the right of return to their homes in accordance with the interpretation of UNGAR 194. The Israeli side expressed its understanding that the wish to return as per wording of UNGAR 194 shall be implemented within the framework of one of the following programs:

**A.** Return and repatriation to Israel, to Israel swapped territory, to the Palestine state.

**B.** Rehabilitation in host country, Relocation to third country.

Preference in all these programs shall be accorded to the Palestinian refugee population in Lebanon. The Palestinian side stressed that the above shall be subject to the individual free choice of the refugees, and shall not prejudice their right to their homes in accordance with its interpretation of UNGAR 194.

The Israeli side, informally, suggested a three-track 15-year absorption program, which was discussed but not agreed upon.

The first track referred to the absorption to Israel. No numbers were agreed upon, but with a non-paper referring to 25,000 in the first three years of this program (40,000 in the first five years of this program did not appear in the non-paper but was raised verbally). The second track referred to the absorption of Palestinian refugees into the Israeli territory, that shall be transferred to Palestinian sovereignty, and the third track referring to the absorption of refugees in the context of family reunification scheme.

The Palestinian side did not present a number, but stated that the negotiations could not start without an Israeli opening position. It maintained that Israel's acceptance of the return of refugees should not prejudice existing programs within Israel such as family reunification.

### **Compensation**

Both sides agreed to the establishment of an International Commission and an International Fund as a mechanism for dealing with compensation in all its aspects. Both sides agreed that "small-sum" compensation shall be paid to the refugees in the "fast-track" procedure, claims of compensation for property losses below certain amount shall be subject to "fast-track" procedures.

There was also progress on Israeli compensation for material losses, land and assets expropriated, including agreement on a payment from an Israeli lump sum or proper amount to be agreed upon that would feed into the International Fund. According to the Israeli side the calculation of this payment would be based on a macro-economic survey to evaluate the assets in order to reach a fair value. The Palestinian side, however, said that this sum would be calculated on the records of the UNCCP, the Custodian for Absentee Property and other relevant data with a multiplier to reach a fair value.

### **UNRWA**

Both sides agreed that UNRWA should be phased out in accordance with an agreed timetable of five years, as a targeted period. The Palestinian side added a possible adjustment of that period to make sure that this will be subject to the implementation of the other aspects of the agreement dealing with refugees, and with termination of Palestinian refugee status in the various locations.

## **Former Jewish refugees**

The Israeli side requested that the issue of compensation to former Jewish refugees from Arab countries be recognized, while accepting that it was not a Palestinian responsibility or a bilateral issue. The Palestinian side maintained that this is not a subject for a bilateral Palestinian-Israeli agreement.

## **Restitution**

The Palestinian side raised the issue of restitution of refugee property. The Israeli side rejected this.

## **End of claims**

issue of the end of claims was discussed, and it was suggested that the implementation of the agreement shall constitute a complete and final implementation of UNGAR 194 and therefore ends all claims.

## **Security**

### **Early warning stations**

The Israeli side requested to have 3 early warning stations on Palestinian territory. The Palestinian side was prepared to accept the continued operations of early warning stations but subject to certain conditions. The exact mechanism has therefore to be detailed in further negotiations.

### **Military capability of the state of Palestine**

The Israeli side maintained that the state of Palestine would be non-militarized as per the Clinton proposals. The Palestinian side was prepared to accept limitation on its acquisition of arms, and be defined as a state with limited arms.

The two sides have not yet agreed on the scope of arms limitations, but have begun exploring different options. Both sides agree that this issue has not been concluded.

### **Airspace control**

The two sides recognized that the state of Palestine would have sovereignty over its airspace. The Israeli side agreed to accept and honour all of Palestine civil aviation rights according to international regulations, but sought a unified air control system under overriding Israel control. In addition, Israel requested access to Palestinian airspace for military operations and training.

The Palestinian side was interested in exploring models for broad cooperation and coordination in the civil aviation sphere, but unwilling to cede overriding control to Israel. As for Israeli military operations and training in Palestinian airspace, the Palestinian side rejected this request as inconsistent with the neutrality of the state of Palestine, saying that it cannot grant Israel these privileges while denying them to its Arab neighbours.

### **Timetable for withdrawal from the West Bank and Jordan Valley**

Based on the Clinton proposal, the Israeli side agreed to a withdrawal from the West Bank over a 36-month period with an additional 36 months for the Jordan Valley in conjunction with an international force, maintaining that a distinction should be made between withdrawal in the Jordan Valley and elsewhere.

The Palestinian side rejected a 36-month withdrawal process from the West Bank expressing concern that a lengthy process would exacerbate Palestinian-Israeli tensions. The Palestinian

side proposed an 18 months withdrawal under the supervision of international forces. As to the Jordan Valley the Palestinian side was prepared to consider the withdrawal of Israeli armed forces for an additional 10-month period. Although the Palestinian side was ready to consider the presence of international forces in the West Bank for a longer period, it refused to accept the ongoing presence of Israeli forces.

### **Emergency, deployment (or emergency locations)**

The Israeli side requested to maintain and operate five emergency locations on Palestinian territory (in the Jordan Valley) with the Palestinian response allowing for maximum of two emergency locations conditional on a time limit for the dismantling. In addition, the Palestinian side considered that these two emergency locations be run by international presence and not by the Israelis.

Informally, the Israeli side expressed willingness to explore ways that a multinational presence could provide a vehicle for addressing the parties' respective concerns.

The Palestinian side declined to agree to the deployment of Israeli armed forces on Palestinian territory during emergency situations, but was prepared to consider ways in which international forces might be used in that capacity, particularly within the context of regional security cooperation efforts.

### **Security. cooperation and fighting terror**

Both sides were prepared to commit themselves to promoting security cooperation and fighting terror.

### **Borders and international crossings**

The Palestinian side was confident that Palestinian sovereignty over borders and international crossing points would be recognized in the agreement. The two sides had, however, not yet resolved this issue including the question of monitoring and verification at Palestine's international borders (Israeli or international presence).

### **Electromagnetic sphere**

The Israeli side recognized that the state of Palestine would have sovereignty over the electromagnetic sphere, and acknowledged that it would not seek to constrain Palestinian commercial use of the sphere, but sought control over it for security purposes. The Palestinian side sought full sovereign rights over the electromagnetic sphere, but was prepared to accommodate reasonable Israeli needs within a cooperative framework in accordance with international rules and regulations.