

Minutes from Bilateral US-PAL Session
Post Annapolis
Wednesday, 16th July 2008, 11h00am to 1h00pm
State Department, Washington, DC

Attendees:

Palestinian

- Ahmed Querei (AA)
- Dr. Saeb Erekat (SE)
- Zeinah Salahi (ZS)

United States

- Secretary of State Condoleezza Rice (CR)
- David Welsh (DW)
- Jake Waller (JW)
- Jonathan Schwartz (JS)

Meeting Summary (*not verbatim*):

CR:

- I'd like to first hear where you are, then push through and try to find a way to get this done.
- We see this in two phases – first before the UNGA in September. Something that shows substantial progress to hold the international community's attention.
- Then the UNGA to the end of the year.
- At the end of the meeting we can discuss – how do you see the product that would be reached by the UNGA, and that at the end of the year?

AA:

- Will you come to the region?

CR:

- First there will be a trilateral – you and TL will come here around the 30th. I will go around the 15th of August.

AA:

- Can you postpone a week or so?

CR:

- It will be hard. [Explains travel schedule.]

AA:

- I talked to TL in Paris, she can come for one day. I thought it would be good to postpone to give us a little more time to prepare... But whatever you decide we will work out.

DW:

- First meeting will be on the 30th. Then a second meeting on the 19th or the 20th.

AA:

- If it is in August there is more time to make progress. I told her [TL] that we need to start to write. She is reluctant but...

CR:

- My view is that we can do all of those.

AA:

- I want to explain the details and where we are.
- 1. After Annapolis – where are we? We agreed on two things – the first phase of the Roadmap, and the Peace process.
- On the first phase – nothing has happened. There are daily violations. [AA notes recent announcements regarding housing. Also notes the extreme detrimental impact of the prisoner release to Hizbollah. Later in the meeting hands CR an article on factories being built in Ariel, and the last monthly report. She notes she has already gotten the monthly report.] Everyone is saying look at what they get from violence, etc. Even Yaser Abd Rabbo – who is one of us -- is saying we need to stop negotiations. Please – we need your help on settlements [i.e. freeze] and the other phase one obligations – roadblocks, outposts, etc.
- I tried at the last meeting to discuss the terms of reference. TL responded that you are taking us back to pre-Annapolis. She doesn't want to discuss. It is different for a permanent status agreement. 242, 338, Roadmap, Bush vision, Arab Peace Initiative...
- We repeat – no issues to be excluded or postponed. [i.e. Jerusalem]
- We agree on everything or nothing.
- We agreed that [we are reaching] a whole agreement – not a state with provisional borders, or another interim.
- We are talking about a comprehensive agreement. We don't want to go to arbitration a week after [like Egypt had to with Taba]. The agreement must include all of the dates and timelines for implementation. Otherwise it will be another shelf agreement.
- AM is committed – he hopes as much as possible to have an agreement by the end of the year. And we will continue under all circumstances. We are talking about an independent sovereign state – with all the sovereignty like states everywhere else in the world. What we are talking about is [with respect to] all the issues. [If we talk about full sovereignty, we mean if there is water in Jericho it is Palestinian water.]
- We start from the 1967 border. Any modifications in or out, we can talk about. Israel starts from the status quo. Jerusalem with their annexation, the settlements. I think without this understanding we will not be able to get any agreement. We consider the 1967 border is already the biggest concession we made in our history. Modifications, etc. on a swap basis we are willing to discuss. If the 1967

- is approved as the basis for the discussions, we can move forward. [If they insist on starting from] the status quo – we can't go anywhere.
- 242, 338, the Roadmap – all make it clear. If you, or the Security Council, can make it clearer that would be great.
 - Olmert offered 7.3 – where, why he needs 7.3... we don't know. 5 or 7.3 – we can't accept it. It will turn the Palestinian state into cantons. [Discusses the negative impact of Ariel on Palestine.]
 - We offered 1.9%. It is reasonable. We included the settlements inside Jerusalem – Psgat Zeev, etc. It's the first time!
 - The territory we are talking about is the West Bank, Gaza, Jerusalem, the Jordan Valley, the Dead Sea. The No Man's Land – they don't have the right to take it without negotiations. Just like the safe passage connecting the West Bank and the Gaza Strip – when we talk about a comprehensive agreement, need to take all these things into consideration. On a one to one basis. The gap is not about the difference in percentages, it is not about comparing the maps. The question is how to reach an agreement? What is the basis that we are negotiating on? This is the problem.
 - Jerusalem – the last meeting we had we talked about it. She couldn't respond. [AA notes the distinction between sovereignty arrangements, and cooperation/modalities in Jerusalem.] East Jerusalem is part of the 1967 border. Anything [discussed] there should be part of the swap.
 - Unfortunately, what we heard from Olmert is that he can't stop building because it is Jerusalem.
 - Water – it should be easier if the other issues are agreed.
 - Refugees – On responsibility – TL refused. It is important for Israel to recognize its responsibility. On the right of return – the API says a just and agreed upon solution in accordance with 194. This means that the Arab League authorized the PLO to negotiate. Therefore if we talk about the number of refugees over the number of years, that would be good.
 - There are many other issues – the host countries. I know your position regarding the precedents.
 - The Fund – the Absentee Property Fund – this is a good basis for compensation. I know that TL and Shlomo Ben Ami both say not one single dollar exists in the fund. I cannot accept it. Therefore it is important when we talk about the international fund, that this be the basis of that fund.
 - Security – the third party will be under the UN or NATO, and will help with the borders, training Palestinian security forces, etc. [The key is no Israeli presence.]
 - The problem is that Israel thinks about the situation as it is today when they think about the day after.
 - Demilitarization versus limited arms – we say limited arms. We can discuss what kinds of things might be excluded.
 - Prisoners – Olmert in Paris said to AM that 120 will be released. We said that this not enough. They need to be pre-Oslo prisoners. There are 364 pre-Oslo prisoners. If there is a release for Hamas, they need to release for AM both before and after.

CR:

- I completely agree with you on that.

AA:

- The other issues are going well. Between now and the UNGA if you can solve the issue of territory, including Jerusalem...

CR:

- As I see it, the role we can play is 1. to step back and say what we think is possible. 2. try to bridge the gaps. This is why I want to see you alone. So I can tell you what I think of your positions, without hurting my role as the “honest broker”. The same with the Israelis.
- On security and borders – they need to come to you. But on borders you need to move too.
- First on the ToRs and the Basis.
- On the ToR – just say it is based on Annapolis. I worked hard, and David worked hard, to get the ToR at Annapolis. Israel didn’t like it, but they came. [i.e. they agreed to it by coming since that is what Annapolis was based on.]
- The starting point for what is determining the borders – to create a state, a new state, starting from the occupation that began in 1967. I don’t think it matters much if you start from the status quo, or 1967. What matters is where the borders end up. They made an offer – it’s not good, but it’s not bad. 7.3 – 5 is 2.3, which leaves 97.7 percent of the West Bank and Gaza Strip, and the safe passage. AM **said he’d be prepared to count the safe passage.**
- Ariel is a problem, I told them – it protrudes down far into the Palestinian state.

AA:

- And for water too.

CR:

- We need to deal with the aquifer. Also – it would be difficult for Israel to protect Ariel without a large perimeter.
- But are you really going to stop a Palestinian state on a few percentages?
- ‘67 is the point of reference. [We all know it.]

AA:

- Just like Ariel, Maale Addumim is a problem. Jerusalem is out if they take Maale Addumim. [AA notes the impact on the surrounding villagers who get squeezed out by the settlements around Jerusalem.]

CR:

- No – Jerusalem is not out! Everyone understands that what is Jewish is Israeli and what is Arab is Palestinian.

AA:

- But we don’t want to fly to Jerusalem by helicopter!

CR:

- I don't think that any Israeli leader is going to cede Maale Addumim.

AA:

- Or any Palestinian leader.

CR:

- Then you won't have a state!

AA:

- It's like the refugees – they can live under Palestinian law.

CR:

- Both states will be ugly. They will not be easily connected. What we need to do is that instead of [arguing over base points] you are going to have to end up in a discussion.
- I asked TL – are you talking about all the land within 1967? She said yes. You won this argument! [Discussion continues.]
- I think when we write this down we'll find a way to reference 1967.
- They were created – they do have some land that belongs to Israel.
- I don't think that 7.3 is the number. But 1.9 or 2.3 is not.
- Yaser told me that one concern is Gaza – that it needs to expand because of long term growth.
- Maale Addumim can't look like LA! [i.e. sprawling]
- I'd like to see you talk about how to make the connection to Maale Addumim useful.

[SE shows the map of Israel's proposed swaps.]

SE:

- It's not LA it's California!!!
- If you get them to clarify that we are talking about all of 1967...

CR:

- I will make it clear that the US is working on the assumption that it is all the territory occupied in 1967. That their 7.3 is based on that. 7.3 and 5.

AA:

- On the swap – it needs to be one to one. Equal and equitable. Not Jerusalem for Gaza.

CR:

- There are different ways to discuss value. There is no place to build around Jerusalem. You can't even move in Jerusalem!

AA:

- We have areas outlined. [Noting that Palestinians have looked at areas they'd like to see swapped back.]

[SE hands CR the map with the 1.9% and the swaps. CR hands to Jonathan who keeps it.]

CR:

- I believe that the assumptions should be, the US will [secure this]. Any swaps will be in reference to the area occupied in 1967. When they talk about 7.3 they are talking about this. You say one to one in quality and quantity. I would say you need to think more about what quality means. [She alludes to their proposal to build up the agricultural value of areas to be swapped, but doesn't reference it explicitly.]

DW:

- We don't want to get into theology. But there needs to be a common reference. We have good computer mapping on this. We can use this as the basis. [I.e. US would present a map depicting the positions on a common base map.]

CR:

- I think that you will have to find an answer to Maale Addumim. And we will need to find an answer to Ariel.

SE:

- Your approach on the maps is good. We are using some of your satellite imagery already.
- The agreement is that we are going to reach an agreement but not a treaty by UNGA. [CR notes that she has received our timeline diagram.]
- The Treaty is the agreement plus all the annexes. The trilateral needs to be guided by this assumption. So we need dates, timelines, etc.

CR:

- I agree.

SE:

- Second, for example on security. We said anything short of an Israeli presence. Olmert implied that he appreciated [our flexibility on this]. For example, in the Jordan Valley – if there are any stations there can the Germans staff them?

CR:

- They need to come to you on security. I think Jones – we need the help. There are some good ideas in the security paper you gave us. The US will have to play a role. Security is more than just strategic depth. It is borders, [capacities], etc.

To talk about airspace is amazing to me. In the time it takes me to walk to the conference room, your airspace would be covered.

SE:

- [Notes that if there is a presence of Israelis, it will be the basis of hostility from the Palestinian population. If it is foreigners, Palestinians will look for jobs there.]

CR:

- I need affirmation of – you are defining a demilitarized state or non-militarized – where principally you are looking at internal security, and you are defining the responsibilities? [And then we can talk about what they need for those responsibilities?]

DW:

- You had a good presentation on roles and responsibilities – but you didn't answer one question – is the third party on the Palestinian-Israeli border?

SE:

- The third party will help with compliance, passages, the operations room with Israel, Palestinian, Jordan, Egypt and third party, and regional issues and counter terrorism.

AA:

- [Could be, could not, we can discuss.]

CR:

- They are afraid that the third party and Israel will clash. But we hear you saying that the relations between you and Israel will be non-military and peaceful. There will be common threats against you both, and some of them will be in Palestinian. You will need a common response.

SE:

- Anything short of Palestinian forces going into Israel, and Israeli forces going into Palestine.

AA:

- [Notes recent Nablus example of Israel coming in and taking matters into their own hands, including stealing a computer.] This cannot be for the future.

CR:

- No one thinks that that will be the future.

AA:

- [Notes prisoner issue again.]

CR:

- You see your forces – with limited arms, primarily internal? The roles and missions and arms are to be agreed? The third party is not an interpositional force – you can write the agreement in such a way as to make clear that the incursions are not welcome. No country will agree to be an interpositional force.

AA:

- [Notes importance of regional cooperation.]

CR:

- [Notes that there will necessarily be a transitional period, for withdrawal and capacity building. The total withdrawal to no Israeli presence will not be the day after the agreement.]

SE:

- [Returns to the issue of refugees. Notes that Jonathan needs to be briefed by NSU.]

CR:

- On refugees: I read your side by side matrix. It seems that the closest is on refugees – although it requires some decisions.

AA:

- What if we postpone until after the UNGA?

CR:

- No – we need to discuss it.
- I will come to the trilateral with some initial ideas on the mechanism.
- [SE: we will be able to review and comment before you present anything right? We don't want to be surprised! CR/US team: yes of course.]
- By the way I did talk to the Jordanians at a very high level. They didn't press the issue. I told them that international law will not help you because all the compensation is to the individual refugees. There are no precedents where states get compensation.
- 1. You need to decide soon that you will offer all Palestinians citizenship wherever they are.

AA:

- This I think will be done.

CR:

- 2. Rehabilitation, relocation, help for families going forward. I saw hints of this in both your positions. [ZS notes that this is not a controversial issue.]
- I think that when you say that all Palestinians are citizens, the Lebanese will relax that it will not impact their confessional balance.

SE:

- For the Lebanese, but for the Jordanians – they will need to decide not to allow dual citizenship.

CR:

- I think that they may.
- For individuals who have lost property, they have a right to claim. [With Germany, all they had to do was show up with a picture of the house and we allowed them to claim.]
- Two things that are hard are:
- 4. non- material damages. There is no precedents anywhere else for this. It will be a hard sell. [ZS argued that no other place has 50 years of dispossession supported by consistent and extensive state actions. CR responded Albania, and US with respect to the Native Americans.]
- 5. responsibility.

AA:

- I accept what Yossi Belin said in his book. [US: what's that?] That it is Israel's responsibility.

CR:

- If you want to talk about responsibility it is the responsibility of the international community, not Israel. They created Israel. [ZS argues that Israeli actions post-statehood are clearly their responsibility. This is dismissed by CR.]

SE:

- It is a nation interrupted!

CR:

- That is true – a nation's development is interrupted. You should [look to a solution that describes the conditions and tries to work from there.] Responsibility is a loaded term.
- [Notes the example of reparations for slavery in the US.] I've always objected to it. It's not forward looking. Would I personally be better off? I don't know. But I do support affirmative action. [ZS argues that this is the same point – it's as if we are trying to restore Palestinians to a status, similar to the post-civil rights movement. Except unlike in the US, Palestinians options are far more limited as we are not talking about unlimited return to Israel, and there is 50 years of suffering. In other words many of the elements of "moving forward" (such as affirmative actions programs) are missing in the solution here. Key, in order for Palestinians to be able to compromise on implementation points, is that there be a recognition of responsibility. This also is part and parcel of the non-material damages point.]
- [Bad things happen to people all around the world all the time. You need to look forward.]
- The first compensation is a state [describes state].

- Second is that the world and Israel accept that the Palestinians need help to get back on their feet. [i.e. as evidenced by participation in the mechanism]
- Israel had to put away some of their aspirations – like taking all of “Judea and Samaria”.

AA:

- Do you think that the Israelis can implement an agreement?

CR:

- Yes. No one will run right of Ariel Sharon. But it needs to be sellable to the Israeli people, just like to the Palestinians.

DW:

- You said you don't want to be blamed, like post-Camp David. That will not happen. Failure is also not an option. **But we need to have some irreversibility to this process.**

CR:

- Israel needs to move on security. You need to move on borders.
- On the reference point – it will be easier if you nail that down.
- On the refugee mechanism, we will come with ideas.
- On the narrative – you need to move to try to imply responsibility without using that word/saying it directly.

SE:

- Five points I need to go through fast.
- 1. What AA said now – we keep talking, but when we start writing is when we see movement. On the refugees, to help with this, we need Jonathan to come our way for two days to discuss.
- 2. Irreversibility – [we don't want to create a situation where we keep climbing and are so close and then crash down the mountain like at Camp David.]
- 3. Prisoners – [reiterates through an analogy that prisoner releases support Hanieh, and stresses the importance of releasing pre-1993 prisoners to AM].

CR:

- Pre-Annapolis Israel said that they couldn't release prisoners with blood on their hands. This guy they released today has more blood than anyone! I am very sympathetic to you on the prisoner issue.

SE:

- Jerusalem – the East Jerusalem consulate should remain open.

CR:

- I wouldn't worry about what people say in their campaigns. Bush said he would immediately start the process of moving the embassy to Jerusalem. He is still "starting the process..."

SE:

- 5. We have a major problem of visas to Palestinian officials. [Discussion of Mahmoud Darwish case.]

[Side discussion of Syria and Iran.]

CR:

- I would like you [before the 30th] to keep – not to present to the Israelis – language on responsibility without using the word "responsibility". Forward looking.
- I will work on the basis for the map.
- They need to work on Ariel.
- You need to work on Maale Addumim.
- On security – I think we'll be ok.
- July 30th a trilateral (DC). I will try to make clear the basis. I would hope that you would start to discuss the refugee issue. And Ariel and Maale Addumim.
- August 20th another trilateral (Jerusalem). [DW notes that all these will follow the same format. Separate bilaterals with each side, and then the trilateral.]
- September, pre-UNGA trilateral (Jerusalem).