

Meeting Summary
Dr. Saeb Erekat – Senator George Mitchell
State Department
October 1 2009

Attendance (not all present throughout):

Palestinians: Dr Saeb Erekat (SE)
Maen Areikat (MA)
Khaled Elgindy (KE)
Rami Dajani (RD)

US: Sen. George Mitchell (GM)
David Hale (DH)
Dan Shapiro (DS)
Mara Rudman (MR)
Jonathan Schwartz (JS)
Alon Sakar ?
Moirra Connelly

GM asked questions based on discussion with the Israelis:

- If we can get an agreement on the ToRs leading to relaunching of negotiations, there needs to be some time before we actually relaunch – in order to discuss bilaterally and trilaterally and organize for a good start. We've proposed 2 to 4 weeks. The Israelis think a longer time may be needed.
- How formal would the launch be? The US position is something like a meeting in Sharm; Israel prefers a "crawling start". You begin with bilateral meetings then involve us. We will have an active role.

GM noted another issue: would you follow the "nothing is agreed until everything is agreed" principle? SE replied yes, but a lot depends on how you interpret it. GM said you would need clarity on that. SE explained the logic behind the rule (to allow parties to discuss scenarios linked to tradeoffs without being committed) and noted that the Israelis, including Molcho, understand this.

SE explained that the ToRs should specify the point of beginning, the end game, the structure, and described the Annapolis committees and structures as an example. In response GM asked about the time needed to relaunch negotiations. SE replied that it depends on the agreement you get – what kind of relaunching?

GM inquired about the Palestinian position on the points SE made (re ToRs). SE said decisions are needed: A Palestinian state on the 67 border with agreed swaps. He described the status of negotiations with Olmert (1.9% Palestinian offer / 6.5% Israeli offer).

GM asked how to reach the point of having that discussion. SE cautioned about the current Israeli government. It has not engaged with the Palestinian side because what it has to offer would be a shock: starting from areas A and B, 39 to 45% of the West Bank. If this is part of the 3rd further redeployment, we already have that obligation, including in the Wye River Memorandum, but it is not a starting point for PS negotiations.

GM emphasized the risk of spending months discussing ToRs in detail, and not getting to the point where you have actual negotiations. SE reiterated the need to establish the end game (state on the 67 border ...) and cut the story short in order to get to meaningful negotiations. He noted the risk of entering into negotiations with Netanyahu under current conditions: the Israelis will insist on Jerusalem as the eternal capital of Israel, and reject refugee rights. In this case Palestinian leadership can only respond by insisting on full exercise of right of return. This will increase the anger, in an environment where people live and breath the conflict, he warned, contrasting the situation with that of Northern Ireland. GM agreed that the situation was unique. SE said that Palestinians are making serious efforts; the worst would be to return us to point zero. Approach should be based on what is needed (despite the pain and the risks), not what is merely possible.

GM discussed the reference to 67 borders, and expressed understanding for the Palestinian position, but noted Israeli rejection of it. He said the ToRs will mention all permanent status issues. SE reminded that these ToRs (naming PS issues) can be found in the Oslo Agreements, and are not new. GM reassured that Jerusalem will be mentioned.

SE reiterated the need to restart negotiations from where they left off. GM argued that because of the “nothing agreed” rule nothing was binding on the parties. A discussion ensued on the interpretation of this rule and whether the current administration is bound by the position stated by Sec Rice during the Annapolis negotiations with respect to the 67 line. GM proposed to say that the negotiations will be “guided by” previous discussions. SE noted that is it a shame to lose all that was done in previous negotiations.

GM went on with the ToRs: timeframe for negotiations of 24 months; US role “active and sustained” ... SE asked whether there would be parallel committees or sequenced approach. GM said there can be sequence or concentration on borders, based on his talk with AM. He said the Israelis are willing to speak about borders. SE questioned which borders – areas A and B? a state with many provisional borders? He rejected a return to the Oslo approach.

SE asked about the 2 to 4 week period: what is to be discussed? He noted that the most important thing is to get an understanding at the outset as to what is being relaunched. Is it two states on the 67 border with agreed swaps? Then it’s worth it. He cautioned against the risk of creating the incentive for the “blame game”. GM replied that his concern was a delay of another 6 months, and was trying hard on the 67 border with the Israelis.

SE discussed the need for clear structures and rules for negotiations and said he would provide the US side with the structure worked out with Tal Becker in the Annapolis round as an example.

GM talked about the announcement for relaunching negotiations:

- Structured regional track – “multilateral”: won’t be immediate but parallel soon after bilateral
- Mention of Gaza: need to face the challenge in a manner to allow for needs of population and taking into account Israel’s legitimate security concerns
- Reference to 2 state solution: building on previous agreements and obligations. SE objected that it should build on previous negotiations – that agreements and obligations are binding and should be enforced.

SE said technicalities are secondary in the absence of defining the overall approach. He questioned GM’s impression that president Abbas has backed a borders first approach, noting that AM stated that many of the issues can be dealt with through the recognition of the 67 border as the baseline. He further asked whether the US has asked the Israelis about these issues – structure and parallel committees. GM said he did not.

SE cautioned that if the US announced negotiations and there is no agreement on these issues, there will be a disaster. GM replied that the alternative was months without any progress. SE disagreed, suggesting that the discussion to reach ToRs and structures need not be open ended- the US can set a limit. He noted past lessons in this regard. GM expressed skepticism that taking two weeks to discuss these issues will result in 6 more months negotiating over every detail. SE replied that the Palestinians don’t even know the US offer on the package or the ToRs yet.

GM said half the time with the Israelis has been spent discussing the 67 border, that it was an overwhelming effort. He expressed personal reservations about the situation: the attitude being contentious and full of mistrust – the only way to get going is through relaunching negotiations.

SE replied that the risks of going into negotiations without preparation will be much more devastating than no negotiations at all.

DH summarized the US position on the ToRs as follows (reading from a paper):

1. Bilateral Track
2. Multilateral Track
3. Character of Negotiations
 - a. Lasting peace – need for involvement of all parties to re-energize efforts; enduring commitment
 - b. Mutual recognition
 - c. Freedom from violence, incitement and terror
 - d. Socialization for peace
 - e. 2 state solution
 - f. Building on previous agreements and obligations
 - g. Avoiding actions that prejudice outcome

4. Goals of Negotiations

- a. End of conflict / claims
- b. Satisfaction of territorial and security issues addressed by 242 and 338
- c. Enduring arrangements based on the above
- d. 2 states living side by side ... Israel with secure and recognized borders .. independent, territorially and economically viable Pal state
- e. Re 67: trying to find the right formula

SE noted that it was time for the US to upgrade its position and explicitly endorse the 67 border, as Sec Rice had done during Annapolis – it was agreed then, it is consistent with US policy regarding the occupied territory. GM replied that this means taking a new position. SE said this is a new administration that should state what others have tacitly agreed in the past.

GM noted that difficulties with the Israelis on this and other issues, that they would not agree to any mention of 67 whatsoever and that strongly objected to Obama's UNGA speech. He said he will continue to pursue the issue next week. SE suggested the following language: "two states along the 67 border with agreed swaps". He stressed the importance of parallel negotiations of all PS issues.

KE started a brief presentation on the Israeli partial freeze proposal. Discussion took place over various aspects of the presentation.

With respect to monitoring, GM said the US will be taking photographs and recording the exact location of every unit under construction at the beginning of the moratorium. If there is any indication of construction other than that he will personally inform Netanyahu, give him the opportunity to investigate, and if there is failure to comply, GM will go public that Israel is violating its undertaking.

KE briefed on how a Jerusalem exemption can be more harmful than not reaching any deal.

GM said he agreed about the importance of Jerusalem, but the Israelis will not go for it. He said you have to deal with the world as it is, not as you would like it – for that reason the best he can get is "restraint". SE interjected that this means they can accelerate Jerusalem construction, while you expect us to go ahead with negotiations. GM replied the same will happen in the absence of negotiations: Israel announces new construction, we criticize, over and over again. With negotiations, we will have more leverage, and there will be less settlement activity. To compensate, he added, the US will explicitly repeat its position on Jerusalem (non-recognition of Israeli annexation and related actions; demolitions, evictions etc.) In such a situation, with negotiations going on, if they make a provocative announcement, the US has the leverage to state that this undermines the process, and that Israel is acting in bad faith in the negotiations.

SE reiterated that the problem remains the exclusion of Jerusalem. This is not acceptable by Palestinian as well as Arab leaders. A discussion ensued on the position of the Arab states.

GM asked SE to explain his statement to President Obama that there will be more settlements in 2010 than 2009 under the package. SE said he counts East Jerusalem construction which is bound to accelerate.

GM explained his view on the limited duration of the moratorium, recognizing that an Israeli renewal of activity after the initial period would spell the end of negotiations. He further defended the approach taken in the package by arguing that under the moratorium no construction will be started. He said the Palestinians may be assuming the worst, which may be justified given the history, but we don't know what things will be like in 12 months.

SE explained that the concern over East Jerusalem is ultimately political. If we turn a blind eye to such an arrangement, this will have devastating consequences on the PA and Palestinian leadership. He reiterated the central position of Jerusalem in the conflict, noting that failures in the past were due to underestimating the importance of it for Palestinians. There has to be a way to address our concerns over Jerusalem, he concluded.

GM replied that with regard to construction there is no way, even if we engage with the Israelis till doomsday ...

SE asked for a paper in writing setting out proposed terms for the ToRs. GM agreed to have a part of it ready the next morning, including language on the 67 border. He also agreed to arrange a meeting with Sec. Clinton the next day.

SE reiterated that the US should not put the Palestinians in a position of rejecting negotiations, affirming that peace through negotiations is a strategic choice – our whole future depends on it, and we are counting on the US to help us. The only option at this time is to have successful negotiations – another failure will be devastating. That is why we need the 67 border with swaps. If we don't prepare we will have the same result as Camp David.

KE concluded the presentation on settlements and there was an open discussion on Jerusalem, in particular the implications of its exclusion from the package on the ability to carry out negotiations.