

Meeting Minutes
Dr. Saeb Erekat – Sen. George Mitchell
State Department
October 2 2009

Attendance:

Palestinian: Dr. Saeb Erekat (SE)
Amb. Maen Areikat (MA)
Khaled Elgindy (RD)
Rami Dajani (RD)

US: Sen. George Mitchell (GM)
David Hale (DH)
Mara Rudman (MR)
Jonathan Schwartz (JS)

SE: The president is seeing Mubarak regarding the Egyptian text on reconciliation – AM won't say no to whatever the Egyptians present to him in Amman on Oct 5.

GM: Can we be helpful?

SE: You should call them and make sure that whatever they put in the paper won't result in return of the siege. We don't want any surprises.

GM: You know the content of the paper?

SE: No but given past experience we can't take any risks. Whatever they offer AM he will have to say yes – yes to any agreement that does not bring back the siege.

GM: I talked to Omar Suleiman last week. We discussed two issues: one, the right to call elections belongs to AM, it does not require Hamas agreement; two, whatever is agreed on security forces restructuring ...

SE: Yes – it has to be consistent with the PA Basic Law.

GM: We made the argument more directly: the PA has done an outstanding job in the WB. We are strongly opposed to a situation that gives control over it to Hamas.

SE: Just make sure that you see the material before they present it. You know Meshal has been working hard in Cairo.

GM: A hypothetical: what if the paper says you participate in the Gaza force but they don't in the WB.

SE: Fine. As long as it doesn't violate the Basic Law: you cannot have factions, militias – it's one authority, one gun.

GM: Our argument is directly on the merits: it is unacceptable to the US, after the financing and training we've carried out – this defeats the purpose.

SE: By Oct 25 AM will announce the elections. Time doesn't have to be Jan – can be later. We are flexible on monitoring by Arab League and others. Whatever we do we cannot undermine the legitimacy of the Salam Fayyad government. If we need to reach an accommodation with some security forces, fine, but they can't be back in the WB. You know very well how Washington is about these things, so make sure to see the paper.

GM: I will try to get a copy as soon as possible and will call Omar Suleiman, even if we don't get the paper. I will ask him and tell him what we discussed. Is there an issue other than the security forces?

SE: I don't know, but I don't want surprises. Any agreement as long as it does not re-impose the siege.

GM: We have reviewed in complete details the Annapolis discussions. Jonathan has all his notes. So the words we used [in the paper handed to the Palestinian side on "Goals" on the 1967 issue] are taken verbatim from Annapolis. They were repeated several times by Sec Rice.

SE: Is this from the July 30 meeting – the minutes? Or from the letter from Sec Rice to the new administration?

JS: I have my notes and Sec Rice used this language several times [goes over meeting notes].

SE: [reads from minutes of July 30 meeting] On territory ...

GM: We are looking at Annapolis because that is what you said is important, and the discussion was on territory, not border.

SE: Why can't we use Rice's language?

JS: She said many things at different times. She said things about swaps and that Gaza-WB connection would affect the final outcome on swaps ... so if you prefer a different formulation ...

SE: Back then I told my assistant Zeinah Salahi to take down verbatim account of what the secretary said.

RD: Reference to "67 border" is different from "territory" – saying the discussion is on land occupied in 67 means that this negotiations are restricted to only that. So what about the

swaps? And what is the baseline to determine the swaps? The PLO made the compromise in 1988 to establish a state on 22% of mandate Palestine. This is the 1967 border. Now you are saying that the topic of negotiation is land occupied in 67 – as the starting point. This is not the same thing.

GM: I don't agree with this analysis as a lawyer or a judge. It is obvious that swaps would have to be on the Israeli side – I won't condone an Israeli proposal that precludes swaps on the Israeli side. Anything else?

RD: In a normal context of a courtroom perhaps. But our experience with the Israelis is a pattern of attempts to erode the terms of reference. The 67 line is the basis of the two state solution for us.

SE: The Israelis always exploit our weakness. They will go over every word we have agreed to. We have to agree to these terms and whenever we don't we are attacked – while Israel does not implement anything and gets away with it.

GM: Anything else on the language?

RD: Reference to "land" should at least be "territory" and linked to sovereignty – ie a sovereign state – so that it is clear that we are talking about land, airspace, resources, territorial waters ... Also, at least it should say "the entire territory" or "all the territory".

SE: Another thing is the sentence on 242 and 338. It says "territorial and security". Why? Is it to exclude refugees?

GM: We are not excluding refugees. It states refugees as one of the issues in the next paragraph.

SE: Why this language?

JS: There are other elements in 242... "just resolution to the refugee issue"

GM: How about "including, but not limited to territorial and security" ...

SE: We need to be clear. Israel exploits vagueness given our weakness – they will make sure that this serves them.

MA: Just leave it as 242 and 338.

SE: Regarding 67 why not just take it verbatim from Rice's statement. [Repeats the paragraph] On record: the base is entire territory that was occupied in 67 including the Dead Sea, East Jerusalem and No Man's Land [recounts discussion with Tal Becker on splitting NML equally]

JS: She was referring to the base of discussion in the territory negotiation ...

GM: Not the substance.

SE: With respect – it is substance.

RD: Regardless, there needs to be a baseline for negotiation over territory, and the only baseline we have that is recognized in international law and that the international community considers as the line separating Israel from occupied territory, is the 67 line.

SE: Why is there no reference to the Roadmap? The parties obligations?

DH: Why do you need that? The president used the language from the RM in his speech.

SE: In PS negotiations I won't abandon RM phase I obligations.

GM: I want to remind you that we need language that both sides can agree to. If something is not clear it does not mean they can force it on you. That's what negotiation is about.

SE: They will [impose]! Before the Gaza disengagement I told Shalom Turjeman you are my masters – you can do what you want. But let's cooperate on the disengagement – otherwise we're doomed. Instead they said SE does not want Israel to withdraw and brought in Dahlan. And the result is Hamas.

GM: Why would you engage at all then with them if that's how you think they will act?

SE: I want to negotiate – yesterday and today to reach peace, but not under these terms and conditions.

GM: I know what you've said about us, your characterization of US politics – a phone call from Malcolm Honlein and all that. I reject your characterization regarding me and the president.

SE: No – that is not what I said. I want your administration to be different.

GM: The reality is: No negotiation is not in your interest. So we are trying to come up with a statement to give you a ladder to climb down on this issue – just like you asked a week ago. Now you are arguing over the colour of the ladder. And you are drawing unfounded inferences.

SE: I remember Obama telling all of us – the Arab and Muslim world in his speech in Cairo – about a full settlement freeze.

GM: You guys are now trying to come up with a history that Obama somehow invented the freeze. You and the Arabs have been calling for a freeze long before Obama. He did not pull it out of the air and impose it!

SE: You wrote it in your report.

GM: You established it as a precondition. We tried very hard, and we know what you think of us because we failed. Fine. So you can look back 10, 20, 60 years from now without negotiations or we can try to move forward.

SE: I have my BATNA, Senator. People keep telling me the consequences of this, and the consequences of that ... We have ongoing discussion in the PLO and Fatah Central Committee. If this is what we have, then we will no longer be talking about two states, but one state. I did not come here to complain, but to try to help move forward. Many people strongly objected to AM going to NYC and me coming to Washington. As AM's representative, a man of honesty and dignity – I am here to tell you what he tells the executive committee. I am not the decision maker. The ladder is 2 states on the 67 border with agreed swaps. I am saying agreed – so Israel has a veto. I need something to take back as the end game. I remind you that my 'ticket' as a partner in the peace process was to recognize Israel on the 67 border – remember Baker's words ... standing shoulder to shoulder ... now you're asking me to negotiate which part of 67 will be in the state? Israel violates all aspects of international law and the Geneva Conventions over decades – so I resort to swaps – a new idea – for the sake of peace and the two state solution. Maybe after I join the Zionist movement, recognize the Jewish state and agree to a state on 40% they will agree. That will not happen.

GM: What you just said is the best argument for taking up this text. President Obama is not like previous administrations. In US politics there never was and there never will be a president as determined to resolve this conflict. So you can argue over words and delay indefinitely, so you lose the most important thing – this opportunity: the presence of a US president completely committed to achieving the objective you want. However, as MR has said, the solution has to be agreed between the two parties. If you think Obama will force the option you've described, you are seriously misreading him. I am begging you to take this opportunity.

SE: I don't disagree with anything you said. But, what am I asking? Am I asking you to say Jerusalem as capital for two states? Refugees right of return? Equal swaps? solution based on water rights? Third party role in security? Not to support more interim periods or state with provisional borders? I am not asking you to state any of that! All I ask is to say two states on 67 border with agreed modifications. This protects me against Israeli greed and land grab – it allows Israel to keep some realities on the ground. I am avoiding stating any outcomes in the ToRs – I am just protecting the end game! When you say "discuss" about the "land occupied in 67" – discuss is meaningless – it doesn't say anything about the end game. The Bush administration agreed ...

GM: Again I tell you that President Obama does not accept prior decisions by Bush. Don't use this because it can hurt you. Countries are bound by agreements – not discussions or statements.

SE: But this was an agreement with Sec Rice.

JS: It is not legally binding – not an agreement.

SE: For God's sake, she said to put it on the record. It was the basis for the maps.

GM: When you enter negotiations and say “Nothing is Agreed Till Everything is Agreed” then there is nothing unless you have an agreement on everything.

SE: In that case there will be nothing but parallel discussions on all issues. I told you before why we had this rule – in order to discuss everything without fear of impact on trade offs. There are other examples – like what we did with General Jones – I said we will have demilitarized state – without an army. So all that is gone. We have to start from scratch.

GM: You have to decide whether you want a nothing agreed rule before you start negotiation. Personally I think it's a sensible approach. The rule means what it says – words have plain meaning – you can't cherry pick parts of the discussion.

SE: So you spent earlier this week discussing these issues with the Israelis. 8 hours? This was subject of discussion...

GM: That's why it's in brackets [the 67 language]. They didn't agree to it. We thought it gave you what you wanted. We had a similar discussion with them. They will not agree to it. We told them they will have to agree.

SE: Senator, I said I will convey to the leadership. I am trying to see what I can do to make it more passable. So I will take what I hear and report it verbatim – not in a negative way.

GM: I would like you to be positive.

SE: I told you we have nothing but you and Obama ...

GM: It's Obama, not me ...

SE: It's also you. 295,000 Americans would want your job, don't be humble.

GM: Reminds me of Churchill's remark about Atlee: “He is a humble man, with much to be humble about”. This is a long and difficult road. It is frustrating for all. The interests of the Palestinian people are a state in two years as you are planning. Our objective is to get that done. We believe it's in everyone's interest.

SE: [reiterates AM's strategic vision and the regional dimension] We were happy with Obama's election and your appointment. We have been looking at the bigger picture and analyzing the situation. So please understand where we are coming from. We find ourselves in the eye of the storm. We want to discuss peacemaking. We pray every day that Israel will come to the point where they realize that a Palestinian state on the 67 border is in their interest. They're not there yet – even though the majority (70%) of the people both on the

Palestinian and Israeli side believe in the two state solution. That's why we are frustrated. We want to help the Israelis.

GM: Any other comments on the paper?

SE: There are many. I will take it back to the president and will respond. For example, there is no reference to the RM and 1515. If Israel is hesitating about a reference to the RM...

GM: We didn't include the RM – you said before you didn't want the language from the RM.

SE: It's the obligations, not the wording ["end the occupation the started in 67"] Is what you gave us the full text? Where is the full text?

DH: I can go over the rest of the text line by line – on the steps required from each side. Afterwards I can read out to RD the text on Goals and Character of negotiations. So the structure is:

- Steps by all sides
- Monitoring
- Palestinian steps:
 - Security related (these you have been and continue to carry out)
 - Institution building (we have some ideas on that)
 - Incitement

The Israeli paper is mainly on the moratorium. There is a commitment to take meaningful steps to create a positive context for negotiations. We know neither side will be satisfied with the other side's steps. We will monitor all steps by all sides. On the settlement moratorium – it's not complete yet. We have not agreed on the start date and the duration, but hope to agree soon. The duration will probably be 9 to 12 months, and we want it to start soon. Settlement outposts will be removed (specific ones) ...

SE: So not the RM obligation. This is a new RM!

DH: ... within a specific time frame. The Israelis will remove additional road blocks and take steps to improve access and movement. MR has been devoting a lot of efforts on this.

SE: Will we have an input on this or do we sit and wait for Israel's generosity? You know I worked out with General Dayton the 16 or 17 most important checkpoints that need to be removed...

MR: We've been working from that – high impact checkpoints.

SE: Regarding movement and access, the important issue is the time it takes to move a product between, say, Jenin and Hebron – it's not about individual checkpoints. It should be

1.5 hours. If it is 3 or 6 or more then it may not be feasible for a farmer or a trader to move the product at all. So without removing the 16 major checkpoints it is just a PR and media story. Like when Frasier said he removed 2 road blocks.

GM: Our team in Jerusalem is working on this, with MR.

SE: You know there is an Agreement on Movement and Access – the AMA. Is that off the table? Is the new Israeli government not recognizing it?

GM: The AMA is not part of this.

MR: We are also working on other elements of trade facilitation.

[US side hands over paper on Palestinian Steps]

SE: Regarding not taking steps in international forums, I cannot accept this. I want my obligations under the RM – this is what we have been basing our work on. You are now doing this exercise over again. A new RM! Is it because Molcho and others want to avoid the RM? You know we've learned from the past. This time no one can say we didn't do it. Unlike the previous time with the Intifada nonsense. We are committed to rule of law, one authority, and full security cooperation regardless of political process ...

GM: Other issues we are working on are things like Wataniya, Rawabi.

SE: [Explains Wataniya issue] I can't even get the 4.8 minimum frequency. Next we will be sued in Qatar ... You don't know what it is like to live 24 hours a day under occupation. I had to come here on short notice so I flew from Tel Aviv. I was humiliated at the entrance, outside the airport ...

GM: I understand the frustrations.

SE: There are limits. What's in it for the Palestinian people? So this is a new RM. The Israelis managed to get rid of the RM of 2003.

GM: What's in it is a Palestinian state in 2 years and an end to what you described. On E1 the commitment is to maintain the status quo. [side discussion on the Bedouin camps in the area – Jahaleen, and the scope of the “status quo”]

SE: Why are you giving us fragments of the paper – why not the whole package?

GM: It's still a draft. The real problem is if it gets in the newspapers the next day.

SE: Since 93 our record is clean. We never leaked.

GM: I don't want to give you a draft that is not yet final.

SE: What else is there?

DH: Meeting, 24 months, multilaterals, character ... I will read it out to RD after the meeting.

SE: And he will read to you our draft ToR.

GM: Based on the discussion today I have come to two observations: 1. Jerusalem is an absolutely critical issue. Actions on the ground could have adverse effect on the ability to reach an agreement. 2. The only way is to get into negotiations to get leverage to urge and insist on restraint and to get a permanent status agreement.

For 60 years, the choices open to the Palestinian people have become less and less attractive. The circumstance under which they live worse and worse. There is not a shred of evidence that delay is going to provide better choices or improve daily life – and this is true with or without Barack Obama. But with Obama, it is absolutely clear that this is the last time. And believe me it is the best time.

SE: It is the last time for the two states. My option, the BATNA, if all this goes down, is the one state.

GM: That is your decision. But the fact is that you have a president committed to this issue. All that points to the need to begin negotiations as fast as possible. We won't have a perfect ToR, or perfect negotiations, or a perfect outcome. That's life. I understand the frustration and the burden of history but please don't let this opportunity slip by.

SE: For 60 years we have suffered. For 42 years our existence was denied. I had to exist as part of the Jordanian delegation. It took a long time for the Israelis to realize that to deny that we exist does not mean we don't exist. We have a long history of the peace process. We have the ToRs from 93. We have the RM. I know how much the Israelis hate the RM, but you should not let them off the hook.

MR: The RM continues to apply.

SE: So my obligations are “upgraded” and theirs are “downgraded”.

MR: It continues and we will continue to monitor.

[GM and SE agree to continue discussion. GM will be in the region the coming week]