



JAMES A. BAKER III
INSTITUTE FOR
PUBLIC POLICY
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Getting to the Territorial Endgame of an Israeli-Palestinian Peace Settlement

A Special Report by the Israeli-Palestinian Workshop of the Baker Institute's
Conflict Resolution Forum



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chaired by Edward P. Djerejian, Founding Director

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Contents

Foreword, 5

Executive Summary, 7

*Chapter 1: The United States' Role in Negotiating the Israeli-Palestinian
Territorial Issue, 15*

*Chapter 2: Guidelines for a United States Strategy to Get to an Israeli-
Palestinian Territorial Agreement, 35*

Appendix I: Palestinian Narrative, 45

Appendix II: Israeli Narrative, 53

Appendix III: Maps – Israeli and Palestinian Territorial Proposals, 61

Appendix IV: Maps – Contested Areas, 71

Appendix V: Maps – Territorial Options, 99

Acknowledgments, 107

Foreword

For the past year and a half, the James A. Baker III Institute for Public Policy at Rice University under the aegis of its Conflict Resolution Forum hosted an Israeli-Palestinian workshop to explore the possible contours of a final status agreement between the Israelis and the Palestinians on the territorial components of peace. The Baker Institute convened two teams of experts, each representing Israeli and Palestinian points of view.

The focus of this workshop is to provide policymakers in Washington, Jerusalem and Ramallah with the results of a Track II bottom-up approach highlighting the differences and areas of possible agreement between the Israeli and Palestinian positions on key issues, including Israeli settlements, borders, land swaps, territorial contiguity, safe passage and other relevant issues. A primary assumption of all of the parties is that the territorial component of peace cannot be negotiated and addressed in isolation from the other final status issues, including Jerusalem, Palestinian refugees and security, as well as significant issues such as the normalization of relations and the economic components of peace. Nevertheless, the purpose of this exercise is to concentrate on the territorial component with the assumption that if progress could be made on this critical issue, it could facilitate forward movement in Track I negotiations on the other final status issues. The Israeli and Palestinian teams were able to establish some common criteria and guidelines for assessing the territorial issues and the Israeli settlements.

Accordingly, the two teams provided narratives and submitted different maps containing territorial swap scenarios. An initial Israeli map suggested a territorial swap of 7.03% each, accepting the 1:1 provision laid down in the Arab Peace Initiative. The teams also referred to reported positions put forward by then-Israeli Prime Minister Ehud Olmert. An initial Palestinian map suggested a territorial swap, on the basis of a 1:1 exchange, of 1.9%, reflecting reported positions put forward by Palestinian Authority President Mahmoud Abbas. Under the aegis of the Baker Institute, three territorial options in between these positions of the parties were discussed. The conceptual maps with these three territorial options were reviewed in the course of our discussions and are included at the end of

this report. The Palestinian and the Israeli teams discussed, also, the important need to differentiate between “space and time” — namely, exploring the concept of phasing the dismantlement and relocation of settlements over various periods of time.

Drawing on the deliberations of the Israeli and Palestinian participants in this workshop and the proposed options for a final territorial agreement, the report finds that a United States bridging proposal on the territorial component of peace could be introduced at the right time and, depending on actual political circumstances, serve as a guide to enable gradual progress, step by step. The contours of a territorial bridging proposal are outlined in this report, as well as the need to prepare the necessary planning tools to achieve a successful outcome.

It is evident that the Israeli settlements are one of the most contentious issues in any final Israeli–Palestinian peace agreement. The sensitivities of the Israeli and Palestinian teams during the course of the discussions in the Baker Institute’s workshop underscored this reality and the hard challenges that official negotiators will face. Serious differences between the parties remain, and they are reflected in the report and the appendices outlining Palestinian and Israeli considerations and concerns. Therefore, this report does not represent a consensus reached by the Israeli and Palestinian teams. Nevertheless, specific points of convergence were reached during the deliberations and some differences were narrowed.

In actual negotiations, strong political will on the part of the leadership of all the parties and a viable and sustained negotiating process will be necessary to help bring the parties to a final agreement. Indeed, no real progress will be made without the direct and sustained involvement of President Barack Obama, Secretary of State Hillary Clinton and Special Envoy for Middle East Peace George J. Mitchell.

In their capacities as members of the working group, the Israeli and Palestinian participants, who are well connected to their respective leaderships, did not represent officially their governments. They are former officials both civilian and military, academics, experts from various organizations, and individuals from the private sector. Due to the present status of prospective negotiations, the participants are constrained in their ability to publicly identify themselves. In this respect, the proposed territorial options involving a possible United States bridging proposal are put forward by the Baker Institute and do not necessarily commit the Israeli and Palestinian teams and individual participants to specific outcomes.

Edward P. Djerejian

Founding Director

James A. Baker III Institute for Public Policy

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Executive Summary

The Project's Goals

Under the aegis of the James A. Baker III Institute for Public Policy's Conflict Resolution Forum, a United States-Israeli-Palestinian working group engaged in a Track II exercise to prepare guidelines to get to the territorial endgame, and thus hopefully make it possible to reach an agreement on the envisaged final borders between Israel and the emerging State of Palestine. In order to do so, the following issues have been addressed:

- Evaluation of the possible territorial endgame with a specific focus on Israeli settlements and possible territorial swaps;
- Anticipation of difficulties of the concerned parties to reach the envisaged territorial endgame;
- Description of some of the specifics needed — “the toolbox” — to achieve progress; and
- Definition of a proposed United States strategy aimed at reaching the goal of a territorial agreement in two complementary ways. First, specific steps that achieve steady, visible progress on the way to a two-state solution. And, second, an overall strategy for pursuing negotiations to reach a final agreement.

Terms of Reference

The very size of the Occupied Territories is a disputed issue between Israel and the Palestinians. According to the official Palestinian calculation, the total area of the Occupied Territories is 6,207 square kilometers (sq km), which includes the Gaza Strip (367 sq km), the whole of the West Bank, including East Jerusalem and the No Man's Lands (5,652 sq km), and the Dead Sea territorial waters (188 sq km). The Gaza Strip is 360 sq km according to the CIA Factbook. Concerning the West Bank and Jerusalem there are different assessments ranging from 5,809.4 sq km (Israeli Ministry of Defense) to 5,906.6 sq km (Center for Middle East Peace & Economic Cooperation [United States]). The CIA Factbook puts the area at 5,860 sq km.

Agreed Criteria and Guidelines for a Territorial Agreement

In the first chapter of this report, “The United States’ Role in Negotiating the Israeli-Palestinian Territorial Issue,” the Israeli and Palestinian teams participating in the Baker Institute workshop agreed among themselves on certain criteria and guidelines in assessing the territorial issues and the Israeli settlements.

- When considering the annexation of settlement areas to Israel, the distance of the area from the cease-fire line of June 4, 1967, should be as minimal as possible.
- The contiguity of Palestinian territory should be secured; likewise, an effort should be made to provide contiguity of territory between Israel and settlements that will be incorporated into sovereign Israeli territory.
- In assessing individual settlements, security, demographic, economic, agricultural, infrastructure, water, environmental, religious and cultural factors, inter alia, should be taken into consideration.
- Palestinian natural resources as well as environmental needs should be fully taken into account, and the territorial separation should enable the State of Palestine to plan for future development.
- Finally, the number of settlers included in settlements to be part of territorial swaps should be as large as possible, to reduce the need to evacuate too high a number of settlers, whereas on the other hand, the area for swaps should remain as minimal as possible in order not to prejudice Palestinian territorial requirements.

In addition, both sides stated the need for right of safe and secure passage through each other’s sovereign territory, particularly for Palestinians to move back and forth from the West Bank through Israeli territory to Gaza. The Israelis specified the need for Israelis’ right of passage for Route 90 (north/south) and for Route 443 (west/east).

Regarding Jerusalem, the teams remained divided and maintained their different approaches. The difference of approach relates less to the Jerusalem area itself, but rather how to deal with Jerusalem as an issue standing on its own, or as an integral part of the territorial question. A major specific difference concerns the counting of the number of settlers.

The Israeli team limited its participation in the project to the territorial issues, without reflecting upon possible final status solutions for the Jerusalem question. As in Track I negotiations, “Jewish neighborhoods within the boundaries of the Jerusalem municipality, beyond the June 4, 1967, line, would become part of Israel, and Palestinian neighborhoods would become part of Palestine.” The Israeli population in this area would be left out of the counting of settlers, and the settler community would be about 280,000.

According to the Palestinian team, the territorial area of Jerusalem had to be dealt with in the same way as the entire West Bank and, therefore, the Israeli population in the Jerusalem municipal area living beyond the June 4, 1967, line should be counted together with the other settlers, reaching a settler number of approximately 485,000.

Both teams agreed to reflect upon the areas within Jerusalem beyond the June 4, 1967, line. It was acknowledged by both teams individually that metropolitan Jerusalem represents the socioeconomic center of both Israeli and Palestinian life, comprising an important part of the national economy of both nations. Therefore, both sides will each require not only a physical presence in its own capital city, but adequate space for residential, governmental and commercial development, employment creation and social services, as well as the necessary transportation links to each of its outlying suburban areas and its hinterland.

The Israelis suggested that to address essential Israeli and Palestinian interests in Jerusalem, a general master plan for the development of the Palestinian side of the Metropolitan Jerusalem area is needed. Such a plan should, where possible, align with the Israeli master plan. Where this is impossible, Israeli plans in the area would most likely have to be curtailed.

Regarding the No Man's Land in the Latrun Salient (46.4 sq km), which both sides view as their own, the Israelis and Palestinians held fast to their different positions.

Territorial Options

In carrying out this project, five different maps were prepared. An initial Israeli map suggested a territorial swap of 7.03% each (see Appendix III), accepting the 1:1 provision laid down in the Arab Peace Initiative (unlike the Clinton parameters, which had offered Israel a better ratio). A Palestinian map suggested a territorial swap, on the basis of a 1:1 exchange, of 1.9% (see Appendix III). These maps represented, respectively, the reported official positions put forward by then-Prime Minister Ehud Olmert and Palestinian Authority President Mahmoud Abbas. The Palestinian and Israeli teams then submitted different working maps during the course of the meetings. In working together, although without specific agreement of either the Israeli or the Palestinian team, the Baker Institute workshop developed three territorial options in between these two positions by the parties, and working maps with these options were reviewed.

Option One proposes an exchange of land of 4.0% (251 sq km) of the West Bank territory (see map in Appendix V). This would necessitate the evacuation of 115,142 Israeli settlers from their present residences.

Option Two proposes an exchange of land of 3.4% (212 sq km) of the West Bank territory (see map in Appendix V). Altogether, this would necessitate the evacuation of 120,182 Israeli settlers from their present residences.

Option Three proposes an exchange of land of 4.4% (274 sq km) of the West Bank territory based on the following conceptual guideline (see map in Appendix V). On December 23, 2000, United States President Bill Clinton defined the basic parameters for a territorial agreement that would accommodate 80% of the settler community in settlement areas to be incorporated in a 1:3 land swap to Israel, while making it necessary to evacuate 20% of the

settler community. The number of settlers has since risen from 200,000 to approximately 280,000.¹ This option takes into consideration the new facts on the ground, making it necessary for Israel to evacuate 100,780 Israeli settlers. In order to be in line with the Arab Peace Initiative, this proposal also suggests (differently than the Clinton parameters) a 1:1 swap.

The three options are presented in the attached maps in Appendix V. The 3.4% map relates and respects the immediate needs of the settlements that will remain in place, but the Israeli concern is that it leaves no space for the relocation of some of the settlements into settlement areas, whereas other settlements will be relocated into Israel proper. The 4.0% as well as the 4.4% options take this into consideration, and permit some of the settlers that are expected to be evacuated to relocate in settlement areas that will be incorporated into Israel. A serious Palestinian concern is that such relocation will necessitate the enlargement of settlement areas at the expense of Palestinian land.

During the course of the deliberations between the two teams, and in discussing and debating the three middle options, the Palestinians advocated a compromise territorial solution of between 3.4% and 1.9%, and the Israelis did the same for a compromise territorial solution ranging from 4.4% to 7.03%. The Palestinians focused their arguments on the critical issue of the territorial contiguity of the Palestinian state, whereas the Israelis put forward their case concerning the serious political and security issues involving the relocation and dismantlement of large numbers of settlements.

The Palestinian and the Israeli teams discussed, importantly, the need to differentiate between “space and time” — namely, exploring the concept of phasing the relocation and dismantlement of settlements over a period of time. Such “phasing” could help alleviate political and security considerations, especially for the Israelis. The Palestinians contended that in respect to certain Israeli settlements, especially those that were considered to be the most contentious, phased relocation and dismantlement could be considered over different periods of time. This compromise, they said, would give the Israelis time to build relocation sites for settlements that were to be dismantled. During the discussions, periods ranging from five to 15 years were mentioned.

Anticipating the Difficulties of the Concerned Parties to Reach the Endgame

The Israeli settlements are one of the most contentious issues in any Israeli–Palestinian final peace agreement. The sensitivities of the Israeli and Palestinian teams during the course of the deliberations of the Baker Institute’s Israeli–Palestinian working group underscored

¹ Haaretz’s new settlements correspondent, Chaim Levinson, claims that, for the first time, the number of settlers living in the West Bank has crossed the 300,000 mark. Quoting a report issued by the Civil Administration, Haaretz says that the Jewish population of the West Bank at the end of June 2009 was 304,569 as compared to the population at the end of 2008 of 297,745. According to the report, the settler population grew by 2.29% during the period, three times greater than the rate in the rest of Israel. In addition, the population living in outposts grew by 4.4% during the period.

this reality and the hard challenges that official negotiators will face. Serious differences between the parties remain, and these differences are reflected in this report. Nevertheless, specific points of convergence were reached during the deliberations and some differences were narrowed. The major considerations and concerns of both the Israeli and Palestinian teams are contained in separate Israeli and Palestinian narratives in the appendices at the end of this report.

Contested Areas

The Baker Institute project teams identified 11 specific contested areas that pose serious problems to a territorial settlement. The size of the area, the number of Israeli settlers and the main topics to deal with were considered. These contested areas were discussed extensively during the workshop's meetings. They revealed serious differences involving the strategic implications that certain settlements have on sovereignty and security interests that would affect any territorial agreement.

During the deliberations, the most heated exchanges and differences involved a number of key Israeli settlements: those around Jerusalem, including Ma'ale Adumim and the E-1 corridor, Giva'at Ze'ev and Har Homa; Qarne Shomron (19 km inside the West Bank); Ariel; Gush Etzion and Efrat and their impact on Bethlehem; the Green Line and the Latrun Salient. The Palestinian team identified five out of the 11 contested areas to be the most difficult: Ma'ale Adumim/E-1, Har Homa, Efrat, Giva'at Ze'ev and the Latrun Salient.

Issues of Concern

As stated above, territorial Option One would require Israel to evacuate 115,142 settlers; under Option Two, 120,182 settlers; and under Option Three, 100,780 settlers from their present places of residence. This would put to an end to 41 years of settlement drive, based on Israeli ideological and security motives. Such a move necessitates a major political, organizational and financial effort on behalf of Israel. There is also the real possibility that Israeli settler resistance to the evacuations and relocations could go beyond political opposition to physical and violent actions. The Israeli government will have to make a clear and determined effort to maintain law and order.

The security situation could be substantially worsened by the spoiler effect created by radical militant Islamic forces, including Hamas, Palestinian Islamic Jihad and some undefined radical splinter groups that could exploit the situation for their own political ends. There is no reason to assume that these militant provocations and acts will come to an end during the implementation of, or even after, the conclusion of a bilateral Israeli-Palestinian agreement. The Palestinian Authority will have to exert strong political will to assure security, and will need, in addition to Israel carrying out its obligations, substantial international and regional support from Arab states and the international community to guarantee a secure and stable environment. This could facilitate Israel moving forward to carry out a policy of settlement containment, evacuation and relocation.

Proposed Guidelines for a United States Strategy to Reach the Endgame

This report also contains a section on “Guidelines for a United States Strategy to Get to an Israeli–Palestinian Territorial Agreement.” It includes the wider strategic objective and the territorial component within the context of United States President Barack Obama’s June 4, 2009, speech in Cairo, what considerations should be kept in mind in pursuing a final territorial agreement, the anticipated difficulty of getting to an agreement, building on progress made, the necessary components of any agreement on territorial issues, and three target points or milestones that should be considered in any United States policy and action plan.

During the deliberations of the workshop, it was suggested the parties should work with the Clinton parameters and the Arab Peace Initiative, make the text of the Clinton parameters less ambiguous, and propose agreement for a 1:1 swap, in line with the provisions of the Arab Peace Initiative.

Toward a United States Bridging Proposal

Drawing on either one or all three of the proposed options for a final agreement, this report suggests that a United States bridging proposal could be introduced at the right time as a guide to enable gradual progress.

Given the important gaps between the parties and the range of territorial compromises between 1.9% and 7.03% discussed in the Baker Institute Israeli–Palestinian workshop, as well as the reported discussions of officials on both sides over the last several years, this report suggests a bridging proposal for a territorial compromise within the range of 3.4% to 4.4% may be politically feasible in a negotiated settlement with active United States participation. It is to be anticipated that in any negotiations, the Israelis would advocate a range from 4.4% upwards, while the Palestinians would advocate a range of territorial options from 3.4% downwards, as occurred in the Baker Institute workshop. The concept of “space and time” would play an important part in any compromise solutions.

The three specific territorial options that were considered are represented in the attached maps in Appendix V.

- Option One: 4.0%
- Option Two: 3.4%
- Option Three: 4.4%

Further, three United States policy actions were suggested:

- A close oversight and monitoring function;
- Assistance to the parties to reach progress on a bottom-up approach; and
- Preparation of the parties for the final bridging proposal.

Developing Planning Tools

The United States will have to assist in regional planning in order to be able to oversee and assess Israeli relocation proposals and parallel Palestinian actions.

Three different regional planning concepts should be prepared: 1) A plan for relocating and compensating those Israeli settlers residing in settlements that will not be annexed by the State of Israel; 2) A master plan for the metropolitan area of Jerusalem; and 3) A plan for regional economic development of the emerging State of Palestine, providing for its integration in the area, and good neighborly relations with Israel. The parties contended that without resolution of these key areas, there will be no solution. It should be noted that the Israeli team offered to explore the idea of evacuating the Ariel settlement and relocating it closer to the 1967 border.

In addition, the government of Israel will have to be asked to prepare a plan for settlement evacuation and relocation. The Palestinian Authority will have to prepare a plan for the reintegration of areas to be evacuated by Israeli settlements into the fabric of Palestinian urban and rural planning.

The importance of these plans and their relevance for the negotiating effort is self-explanatory. They will make it possible to define realistic time frames and to identify several (not all) upcoming problems proactively. Additionally, the efforts should make it possible for the United States to mobilize international and regional support and, most important of all, to achieve step-by-step progress toward a two-state solution.

Developing Policy Tools

Guidelines will be needed for introducing a United States oversight function for Israeli settlement activities. The purpose will be to assess gradual progress, including planning the sequence of settlement evacuation/relocation and providing ways and means to assist the parties concerning agreements and disagreements.

Concluding Observation

This Baker Institute report is a Track II effort aimed at providing official negotiators another insight into the issues, obstacles and possibilities for agreement between the Israelis and the Palestinians on the territorial component of a final status settlement. The territorial component of an Israeli-Palestinian settlement is a critical final status issue, along with Jerusalem and the Palestinian refugees. All these issues will need to be addressed for any tangible progress to be made and for any final peace agreement to be viable and sustainable.

It is the assessment of this report that, despite all the considerable difficulties, a territorial settlement is possible. What is required in no uncertain terms is strong political will and commitment on the part of United States, Israeli and Palestinian leadership, as well as strong regional and international support.

The United States' Role in Negotiating the Israeli-Palestinian Territorial Issue

There are four challenges posed by territorial compromise:

- Defining “terms of reference” for the United States and the concerned parties;
- Defining, together with the parties, mutually accepted guidelines for the envisaged territorial border between Israel and the future State of Palestine;
- Preparing a detailed territorial bridging proposal; and
- Preparing the necessary policy planning tools to achieve a successful outcome.

“Terms of Reference”

The “terms of reference” relate to four documents and initiatives, as well as to what has been achieved in bilateral negotiations since the initiation of the Annapolis process.

United Nations Security Council (UNSC) Resolution 242, of November 22, 1967, which relates to the “inadmissibility of the acquisition of territory by war,” requires “the withdrawal of Israeli armed forces from territories occupied in the [recent conflict]” (i.e. the Six Day War of June 1967), while it at the same time demands:

“termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace, within secure and recognized boundaries, free from threats or acts of force.”

And United Nations Security Council Resolution 338 of October 22, 1973, which called on the parties “to start immediately after the cease-fire the implementation of Security Council Resolution 242 (1967) in all of its parts.”

The Clinton parameters (presented to the parties on December 23, 2000, by United States President Bill Clinton in an effort to conclude permanent status negotiations), the text of which reads as follows regarding territory:

“Territory: Based on what I heard, I believe that the solution should be in the mid 90%’s, between 94–96% of the West Bank territory of the Palestinian State.

The land annexed by Israel should be compensated by a land swap of 1–3% in addition to territorial arrangement such as permanent safe passage.

The parties should also consider the swap of leased land to meet their respective needs. There are creative ways for doing this that should address Palestinian and Israeli needs and concerns.

The parties should develop a map consistent with the following criteria:

- Eighty percent of the settlers in blocks;
- Contiguity;
- Minimize annexed areas;
- Minimize the number of Palestinians affected”

The Arab Peace Initiative, presented at the Arab League Summit in Beirut in 2002, calls on Israel to make a “complete withdrawal from the occupied Arab territories, including the Syrian Golan Heights, to the 4 June 1967 line and the territories still occupied in southern Lebanon; attaining a just solution to the problem of Palestinian refugees to be agreed upon in accordance with the U.N. General Assembly Resolution No. 194; and accepting the establishment of an independent and sovereign Palestinian state on the Palestinian territories occupied since 4 June 1967 in the West Bank and Gaza Strip with East Jerusalem as its capital. In return the Arab states will do the following: Consider the Arab–Israeli conflict over, sign a peace agreement with Israel, and achieve peace for all states in the region; and establish normal relations with Israel within the framework of this comprehensive peace.”

The Road Map to Peace, a United States-backed proposal formally introduced by United States President George W. Bush in June 2003, speaks about “clear phases, timelines, target dates, and benchmarks aiming at progress through reciprocal steps by the two parties in the political, security, economic, humanitarian and institution-building fields, under the auspices of the Quartet (the United States, European Union, United Nations and Russia)” toward a two-state solution. The basic premises of the proposal have been accepted by the Palestinians and Israelis. The Annapolis Conference of November 27, 2007, was initiated as an integral part of the Road Map to Peace.

Not listed as a “term of reference” is President Bush’s letter to Prime Minister Sharon on April 14, 2004. It is not included as a “term of reference” because the Obama administration has not adopted it as such. United States Secretary of State Hillary Clinton stated on June 17, 2009, at a press conference at the State Department with Israeli Foreign Minister Avigdor Lieberman that “in looking at the history of the Bush administration, there were no informal or oral enforceable agreements. That has been verified by the official record of the administration and by the personnel in the positions of responsibility.” Bush’s letter

refers to realities on the ground as follows: “As part of a final peace settlement, Israel must have secure and recognized borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.”

Israeli proposals reportedly have included a territorial deal annexing 7.03% of West Bank territory, in return for an over 5% swap, a safe passage between the West Bank and Gaza, and Palestinian participation and rights in the water desalination plant in Hedera. The Palestinians proposed a 1:1 swap of 1.9 % territory of the West Bank. The Palestinian position consistently has been that they are entitled to all of the territory occupied by Israel since 1967, including East Jerusalem. However, the Palestinians have proposed a 1:1 swap of 1.9% of the Occupied Territories.

In September 2008, Prime Minister Ehud Olmert reportedly offered President Mahmoud Abbas 93.5% to 93.7% of the Palestinian territories, or 6.5% to 6.3% of the Palestinian territories to be annexed, along with compensating territorial swaps and proposals on other final status issues (Newsweek, June 13, 2009).

Accordingly, the range of a territorial deal could be somewhere in between 1.9% to 7.03%, with territorial swaps to compensate for annexed areas. Three territorial “middle options” were considered between these maximal positions in this Israeli-Palestinian workshop.

Both sides have pursued the logic of the road map, speaking about benchmarked phasing to be adopted in dealing with the territorial component of the conflict. The Palestinians specified that this does not include the option of “a state with provisional borders.”

In accepting common interpretations of the documents referring to the territorial solution, both sides will contend that they had to make serious concessions. Israel will most likely claim that it can evacuate no more than 20% of the settlers and will be only capable of carrying this out in agreed upon benchmarked stages, according to the logic of the Road Map. Likewise, the Palestinians will assert that they will only be able to agree to any territorial deal in line with the Arab Peace Initiative, withdrawal from all territories occupied in June 1967, and agreed territorial swaps in order to take into consideration realities on the ground, with any swaps only to be considered to the extent that they are seen to be in Palestinian interests. They will also cite the illegality of the Israeli settlements according to the Fourth Geneva Convention, Status and treatment of protected persons, Section III: Occupied territories; Article 47:

“Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention

by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.”

Guidelines for a Territorial Settlement

The Israeli and Palestinian teams succeeded in defining principles on how to draw guidelines for the envisaged territorial settlement:

- When considering the annexation of settlements to Israel, the distance between them and the Green Line (the cease-fire line of June 4, 1967) should be as minimal as possible;
- The contiguity of Palestinian territory on the West Bank should be guaranteed by more than just bridges and tunnels; a similar effort shall be made to provide contiguity of territory between Israel and settlements that will be incorporated into sovereign Israeli territory, not merely by tunnels and bridges. The Palestinian team commented that contiguity of Palestinian territory should include East Jerusalem and that Palestinian interests in contiguity for the creation of a Palestinian state should supersede Israeli interests in contiguity of settlements;
- The territorial agreement shall enable the State of Palestine to control under its sovereignty its natural resources for economic, as well as for environmental purposes;
- The territorial settlement shall enable the State of Palestine to plan for future development; and
- The territorial agreement needs to accommodate the right of safe passage through the sovereign territory of the other.

Contested Areas

The Baker Institute project teams identified 11 specific contested areas that pose serious problems to a territorial settlement. The size of the area, the number of Israeli settlers and the main topics to deal with were considered. These contested areas were discussed extensively during the workshop’s meetings within the context of the three territorial options in the report. They revealed serious differences involving the strategic implications that certain settlements have on sovereignty and security interests that would affect any territorial settlement. Specific comments and critiques by the Palestinian team are contained in Appendix I. The Palestinian team identified five of the contested areas to be the most difficult: Ma’ale Adumim/E-1, Har Homa, Efrat, Giva’at Ze’ev and the Latrun Salient. Commentary by the Israeli team is contained in Appendix II. These papers provide insights into the political sensitivities, content and tenor of the discussions during the workshop and underscore some of the contentious issues and differences in substance and methodology between the parties that negotiators will have to deal with.

The areas identified are presented in their geographic order from north to south, as well as the swap areas and safe passages. It should be noted that under all three territorial options discussed for the purposes of this report, the settlement of Tsofim would be evacuated (see map in Appendix IV on page 77).

The Shaked–Khinanit Reihan Settlement

(See map in Appendix IV on page 75.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 19.2 square kilometers (sq km), representing 0.31% of the Palestinian territory. Presently 1,494 Israeli settlers reside there.

Option 3.4%

The area will not be annexed by Israel.

Main Topics

A consensus to evacuate these Israeli settlers might be achieved. Israeli residents are not ideologically driven. A plan to relocate the settlements within Israel proper might well be accepted and prepared by the government of Israel. As an alternative concept, the area might be developed as a joint Israeli–Palestinian industrial park, and a long-term lease arranged for with specific provisions for joint economic activities. Regarding the phasing of Israeli settlement evacuation, the entire area of the northern West Bank could be dealt with in the early phases and would have to include the evacuation of Mevo Dotan and Hermesh, which are situated east of the Shaked–Khinanit Reihan area.

Issues for Consideration

- The Israelis suggest that if the idea of turning this area into a joint industrial area is rejected, the settlements Mevo Dotan and Hermesh could also be relocated in Israel proper.
- According to the Israelis, north of the Shaked–Khinanit Reihan area, beyond the Green Line, is an illegally built-up area that is functionally part of the Israeli Arab town Um el-Fahm. Measures to deal with these illegal activities will have to be considered. The Palestinians did not consider this relevant.
- The West Bank Barrier at the southern end of the Shaked–Khinanit Reihan area could be shortened, according to the Israelis, and would create additional agricultural land for Palestinian farming. The Palestinians pointed out that the West Bank Barrier is not a criterion they recognize.

The Alfei Menashe Settlement

(See map in Appendix IV on page 79.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 10.4 sq km, representing 0.17% of the Palestinian territory. Presently 6,600 Israeli settlers reside there.

Option 3.4%

The size of the area annexed is 9.9 sq km, representing 0.16% of the Palestinian territory.

Main Topics

The exercise participants agreed that this area might be incorporated into Israel as part of a territorial agreement but differed in how they envisioned doing so. The gap in the positions is reflected in the area map in Appendix IV on page 79.

Issues for Consideration

- The Israeli team argued that space must be provided for relocation of other settlements into this area, and stressed their desire to create relatively easy access from Israel proper to the area. The Palestinians stated their position concerning this principle that it is simply unacceptable and that settlers do not have an acquired right to live in settlements on Palestinian land.
- According to the Israeli team, the existing location of the barrier allows for a controlled expansion of Alfei Menashe.
- The Israeli team claims that contiguity of Palestinian territory and the flow of traffic are taken care of by the construction of a Palestinian overpass road.
- The Palestinian team is concerned about the impact of such roads on the contiguity of Palestinian territory and, inter alia, about giving up land reserves.
- The present road connection to Alfei Menashe passes unnecessarily through Palestinian areas; the construction of a road from Nirit is needed.
- According to the Israelis, the development of the Alfei Menashe area will have to be integrated in a wider planning effort in planning for the evacuation of the Karnei Shomron area; and the sides will have to decide on the amount of land reserves that might accompany any annexation of Alfei Menashe.

The Karnei Shomron Settlement

(See map in Appendix IV on page 81.)

Option 4.4%

The size of the area to be annexed is 37.5 sq km, representing 0.61% of the Palestinian territory. Presently 14,362 Israeli settlers reside there.

Option 3.4% and Option 4.0%

According to these options, the area will not be annexed by Israel.

Main Topics

The Palestinians noted that under the 4.4% territorial option, the settlement of Karnei Shomron would be annexed and that this would be untenable, especially since the distance of the settlement from the Green Line is approximately 18 km, and communication lines would be cut off.

The Barkan industrial park could offer an important opportunity for Israeli–Palestinian cooperation.

This proposal offers Israelis, as well as the Palestinians, a contiguous connection to Barkan.

From the Israeli point of view, a decision to relocate this area will be only possible if a successful conflict–ending Israeli–Palestinian peace agreement is accompanied by similar accords with most of the other Arab states. The Palestinians do not consider this Israeli position to be logical.

Issues for Consideration

- There is a need to construct Palestinian roads, as well as pursue an integrated economic development plan.
- Both the Israeli and Palestinian sides will need to agree upon detailed security arrangements to prevent future friction.

The Elkana–Oranit Settlement

(See map in Appendix IV on page 83.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 13.0 sq km, representing 0.21% of the Palestinian territory. Presently 14,204 Israeli settlers reside there.

Option 3.4%

The size of the area annexed is 12.6 sq km, representing 0.2% of the Palestinian territory. At present, 14,204 Israeli residents live in this area.

Main Topics

Some agreement exists between the Israeli and Palestinian teams that this settlement area could be part of an agreed territorial understanding.

The differences relate to a small area east of Oranit, the width of the corridor to Elkana, the area south of Elkana and the Etz Efraim area in the east.

Regarding Etz Efraim, and according to the Israeli team, the settlement was built on Israeli–owned private land and it is located inside the barrier. The traffic connection between Saniriya and Masha’a has been taken care of.

According to the Israelis, the width of the corridor creates a more secure connection between the cluster and Israel.

Most important in the Israeli view, the cluster offers space necessary for resettlement. The area would be ideal for the relocation of parts of the Karnei Shomron area.

Issues for Consideration

- The preparation of a plan for the entire area will be required to permit the parties to determine how to move ahead.
- On the basis of such a plan, it should be possible to evaluate the time needed to rebuild the Karnei Shomron area in this cluster. In such a scenario, rules of engagement during the time of planning at and after the moment of decision making, the support structure, construction of roads and other infrastructure, etc., would need to be developed. The Palestinians do not accept the premise of annexing undeveloped Palestinian land for the purpose of relocating settlers from other evacuated settlements.
- Beyond the Elkana cluster, the Barkan industrial park could be opened to Palestinian participation immediately, and the possibility of a long-term lease of the area considered as part of a final status agreement.
- For Azun and Atmeh, feasible traffic arrangements must be developed.
- The real issue, it was argued, is not the cluster itself, but what will happen to its east.

The Green Line and Ben Gurion International Airport

(See map in Appendix IV on page 85.)

The size of the area is 28 sq km. Under all three options, it accounts for 0.45% of the Palestinian territory. The area is uninhabited and uncultivated.

Main Topics

According to the Israeli team, this area offers a suggested site to rebuild the city of Ariel. Other settlements, such as Beit Arie and Ofarim, will have to be relocated in this area. Again, a regional planning concept will be important. The Palestinian team suggested creating another development plan to relocate Ben Gurion Airport which, they argue, could save Palestinian land and satisfy Israeli security concerns. Accordingly, Ariel could be rebuilt on the current airport land.

The Israelis argue that this area is of essential security importance to Israel, as it will serve as a buffer in the protection of civilian air traffic to the Ben Gurion International Airport. Moreover, the Israeli team asserted that this is an essential area due to Israel's narrow width of less than 10 miles from where 80% of the country's population lives and where much of its commercial and business activities are located.

The Palestinians contend that the annexation of large amounts of uninhabited land, particularly the 28 sq km along the 1967 border in Salfit/Ramallah districts is highly damaging to Palestinian interests. Moreover, the Palestinian team stated that in light of the fact it contains no Israeli settlements or settlers and has no essential security value, there is no reasonable justification for its annexation by Israel.

Issues for Consideration

- To provide for the relocation of Beit Arie and Ofarim, an effort should be made to prevent the barrier from including Beit Arie, as otherwise its relocation will become highly improbable. The Palestinians here again object to the premise of annexing undeveloped Palestinian land for the purpose of relocating settlers from other evacuated settlements.
- According to the Israeli team, security arrangements for this area will have to be particularly effective. Provisions will have to be agreed upon to permit civilian aircraft flying in and out of Ben Gurion Airport to use the airspace beyond the future border.

The Modi'in Ilit Settlement

(See map in Appendix IV on page 87.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 25.2 sq km, representing 0.41% of the Palestinian territory. Presently 47,900 Israeli settlers reside there.

Option 3.4%

The size of the area annexed is 26.9 sq km, representing 0.43% of the Palestinian territory.

Main Topics

The gap between both parties appears to be minimal in this area. Also here, settlements to be evacuated may be relocated. Again, the Palestinians object to the premise of annexing undeveloped Palestinian land for the purpose of relocating settlers from other evacuated settlements. Security issues will have to be addressed carefully since the proximity between the Palestinian and the Israeli built-up areas is very close.

The Latrun Salient

(See map in Appendix IV on page 89.)

In all three options, the size of the area to be annexed is 38.2 sq km, representing 0.62% of the Palestinian territory. Presently 1,200 Israeli settlers reside there.

Main Topics

This area controls a main traffic axis between Tel Aviv and Jerusalem, including Road 1 for car traffic, and the train line, presently under construction. The Palestinians suggest creating another development plan to relocate the highway and train in Israel proper.

The proximity to the Green Line creates a relatively wide degree of potential agreement between the Israeli and Palestinian positions. However, two difficulties have to be taken into account. Before the Six Day War, part of the area was a no man's land. Accordingly, the Israelis relate to the area as an integral part of Israel, and do not relate to it as part of the

West Bank. The Palestinians do not accept this point of view at all, and consider this area to be an occupied Palestinian area like the rest of the Occupied Territories. The Palestinians argue that the Israeli position constitutes the gratuitous annexation of a large amount of uninhabited Palestinian land, which contains no settlements and settlers. Second, before the Six Day War, three Palestinian villages were situated in the area. The villagers were put on buses and driven to Jordan and the villages were destroyed. For the Palestinian side, the reconstruction of these three villages is of great importance.

In Israel, a consensus prevails that this area will have to be fully under Israeli sovereignty. If a compromise can be reached that the no man's land should be divided on a basis of 50:50 between the parties, the Israelis contend that the 50% belonging to the Palestinian side should be calculated in defining the swap area, whereas otherwise, Israeli concerns will have to be fully taken care of. The Palestinians contend that within the option of dividing the Latrun Salient on a 50:50 basis, 50% must be added as part of the calculation that Israel is asking to annex from Palestine.

Issues for Consideration

- The maintenance and further construction of road and railway lines in the area are of major concern to the Israeli side, and the Israelis say that it is important to plan the Palestinian road and railway network in a complementary manner, as to avoid unnecessary friction.
- According to the Palestinians, the Latrun Salient represents one of the most valuable water producing zones in the West Bank which, they claim, is essential to the viability of a future Palestinian State. Therefore, the more land Israel is allowed to annex in this area, the more adverse the effect on Palestinian water security. The Israelis stated that water resources will have to be dealt with within a separate comprehensive agreement dealing solely with this issue.
- Israel would like to further construct and retain continued travel rights over the major road and planned railway in this area. Palestinians might envision development of infrastructure in this area in a totally different fashion. If Israeli and Palestinian negotiators were to agree to continued Israeli use or development of the roads and rail lines in this area, efforts could be made to ensure they equally serve Israeli and Palestinian needs.

The Giva'at Ze'ev Settlement

(See map in Appendix IV on page 91.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 15.6 sq km, representing 0.25% of the Palestinian territory. Presently 13,200 Israeli settlers reside there.

Option 3.4%

The size of the area annexed is 12.8 sq km, representing 0.42% of the Palestinian territory.

Main Topics

In this area, the gap between the Israeli and Palestinian position is substantial. The Palestinians propose a line, which would necessitate the evacuation of Giva'at Ze'ev, Giv'on and Har Shmuel. The Palestinians contend that the proposed annexation of Giva'at Ze'ev, along with its four satellite settlements (Bet Horon, Giv'on, Giv'on HaHadasha and Har Shmuel – pop. 12,900 settlers) would consolidate East Jerusalem's isolation from the north. Also, the Palestinians expressed serious concern that the proposed annexation of Giva'at Ze'ev would cut off Ramallah from many of the localities it serves in this area, affecting approximately 50,000 Palestinians, as well as from its natural socioeconomic ties to East Jerusalem itself.

From the Israelis' point of view, the Palestinian position is a non-starter for several reasons. A large number of residents live in this area, while occupying a relatively very small area. Settlers from areas more to the north and east will have to be relocated into this area, which makes the width of the area and its connection to Jerusalem a necessity. All three territorial options ensure contiguity for the Palestinians in respect to links to East Jerusalem and the villages of the northwestern Jerusalem district and Ramallah. The Giva'at Ze'ev area protects part of Road 443, which connects Tel Aviv to Jerusalem. According to the Israelis, within Israel there is a consensus position regarding this area. According to the Palestinians, the Israeli justification that Giva'at Ze'ev “protects parts of 443 Road” is untenable, as it suggests continued Israeli control over a road that falls entirely within Palestinian territory.

Issues for Consideration

- The Israeli team suggested that ways and means to cut off the northwestern edge of the Giva'at Ze'ev area – particularly the Beit Horon region – and permit the extension of Giva'at Ze'ev only toward Emek Hayalot could be considered.
- Also, the Israelis suggested that, in order to link the Palestinian east-west connection between the al-Jib and Bir Naballah area in the east and Beit Ijza in the west, a trench road cutting the Giva'at Ze'ev area already exists. To ease Palestinian traffic, the road might be widened.
- According to the Palestinians, the proposed annexation of large amounts of uninhabited (or sparsely populated) Palestinian land in this area, has no reasonable justification.

The Ma'ale Adumim Settlement and E-1

(See map in Appendix IV on page 93.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 25 sq km, representing 0.4% of the Palestinian territory. Presently 33,800 Israeli settlers reside there.

Option 3.4%

The size of the area annexed is 26.9 sq km, representing 0.43% of the Palestinian territory.

Main Topics

Among the contested issues with respect to Ma'ale Adumim are the size of the settlement and the contiguity of traffic connections to Jerusalem in order to guarantee the viability of the area. According to the Israeli team, Ma'ale Adumim is by all standards an Israeli town and, they argue, the Palestinian side may well accept the fact that no Israeli government would be capable of relocating its residents.

However, the Palestinian team stated categorically that the proposed annexation of Giva'at Ze'ev, Ma'ale Adumim and Har Homa would completely isolate the urban center of Palestinian East Jerusalem and severely restrict its social and economic development. The annexation of these settlements, in the Palestinian view, would simultaneously fragment and disable the entire metropolitan system of Jerusalem. Also, strategically, an important consideration for the Palestinians is the halting of any settlement expansion eastward toward the Dead Sea.

The Palestinian proposal would — in the Israeli view — create a highly vulnerable situation, and would de facto permit the Palestinian side, at any moment of crisis, to cut off Ma'ale Adumim from Jerusalem. The Israelis suggested that the eastern part of the area could become part of the State of Palestine. They stated that the Mishor Adumim industrial park could provide important employment opportunities. The Israeli team recommended that the industrial park become a jointly managed Israeli–Palestinian industrial area that might be given on a long-term lease to Israel. The Palestinians questioned why the industrial areas are always on the Palestinian side of the border, and suggested using Talpiyot as a joint Israeli–Palestinian industrial area.

Issues for Consideration

- According to the Palestinians, the inclusion of Ma'ale Adumim, and even a portion of the E-1 area, is particularly alarming, as it would severely disable prospects for economic rehabilitation and development, as well as restrict growth of the future Palestinian capital. In addition to taking half of the land earmarked for East Jerusalem's future growth and development, the Israeli proposal for Ma'ale Adumim/E-1 deprives Palestinians of vital road links (Roads 1 and 60) and extends some 11 km into the West Bank, nearly half the distance to the Jordanian border, thus effectively severing the West Bank in two, and potentially disrupting the Palestinian connection to Jordan and the broader Arab world via the east.
- The Israeli team suggests supporting the construction of several alternative road connections both to the west and to the east of Ma'ale Adumim. In essence, this means planning for two or three ring roads east of Jerusalem.
- A critical issue of concern is the E-1 master plan within the northwestern area. Israeli construction in the E-1 area could well be a potential deal breaker.
- The Israeli team said that the inclusion of E-1 in the Ma'ale Adumim area would make a bridging proposal more viable without causing serious damage to the Palestinian side.

- However, in the Israeli view, for any such proposal to address essential Israeli and Palestinian interests, a general master plan for the development of the Palestinian side of the metropolitan Jerusalem area is needed. Such a plan should, where possible, align with the Israeli master plan. Where this is impossible, Israeli plans in the area would most likely have to be curtailed.

The Beit Safafa Village and Har Homa Settlement

(See map in Appendix IV on page 95.)

Option 4.0% and Option 4.4%

The size of the area to be annexed is 13.1 sq km, representing 0.21% of the Palestinian territory. Presently 7,800 East Jerusalem residents live there (including Sharafat).

Option 3.4%

The size of the area annexed is 7.1 sq km, representing 0.11% of the Palestinian territory.

Main Topics

This area is seen by the Israeli side as an integral part of the Jerusalem municipal area and should, therefore, be dealt with along the parameters laid out by President Clinton in regard to Jerusalem that “Arab areas are Palestinian, and Jewish ones Israeli.” This creates complex dilemmas regarding Beit Safafa, which is largely populated by Arab inhabitants, although many of them are Israeli Arabs, who have moved there from northern Israel. Beit Safafa was split from 1948 to 1967, and the Green Line runs through it. In that area, special arrangements are needed. The majority of Israeli Arabs mentioned rent in Beit Safafa. According to the Palestinians, the settlement of Har Homa would have an impact on East Jerusalem from the south, primarily by severing Jerusalem from its historic, religious and socioeconomic connection to Bethlehem. Furthermore, the proposed annexation of Har Homa would severely restrict Bethlehem’s natural development/expansion to the north and, in combination with Gilo, would enclose the villages of Beit Safafa and Sharafat in a virtual enclave. The Palestinians further contend that Beit Safafa and Har Homa are unacceptable for swaps. The Israelis argue that Bethlehem’s expansion to the east, west and south is not harmed in any way in the territorial options.

Har Homa poses another problem. The Israeli residential area was planned and constructed after the Oslo II agreement was signed (September 1995). Moreover, Jerusalem municipality plans provide for further construction north (Giva’at Hamatos), west and east of Har Homa. Thus, any compromise proposal will have a direct impact upon ongoing Israeli attempts to change the reality on the ground, as long as no agreement has been concluded.

Issues for Consideration

- Here again, the Israeli team suggested any bridging proposal would have to rely largely on coordinating Jerusalem metropolitan development plans between Israel and the Palestinians and clearly defining the acceptable rules of engagement.

- In this context, it will also be necessary to define the necessary trade-offs that take into account each side's fears and ambitions regarding Jerusalem.

The Gush Etzion Settlement

(See map in Appendix IV on page 97.)

Options 3.4%, 4.0% and 4.4%

The area proposed under all three territorial options is 42 sq km or 0.68 % of the Palestinian territory. Within the area proposed there are presently 51,863 residents.

Main Topics

The main issue, in the Israeli view, is the viability of the area, as well as sufficient space to allow for the relocation of settlements from the entire area of the southern West Bank. Moreover, the inclusion of Efrat, with more than 8,000 residents, is an issue of contention. Here, Palestinian demands confront a united Israeli consensus, according to the Israeli team. According to the Palestinians, the proposed area to be annexed, which would extend nearly nine kilometers into the West Bank, would severely hamper prospects for short-term economic rehabilitation, as well as long-term economic development in both Bethlehem and metropolitan Jerusalem as a whole. Moreover, they contend the inclusion of Efrat settlement is especially problematic and ultimately unworkable. According to the Palestinians, the harm posed to Palestinian interests by the settlement of Efrat, and its smaller companion settlement of Migdal 'Oz, is grossly out of proportion to their size, and is hence far too severe to allow their annexation. Doing so, they argue, would rob Palestinians of crucial road links, most notably Road 60, which connects Bethlehem to Jerusalem and to Hebron (and ultimately Gaza), thus further restricting access to jobs, markets, essential public services, and increasing travel distances/times and transaction costs.

The Israelis acknowledge that the inclusion of Efrat in this area (under present conditions) impedes south-north traffic on the main road for Palestinians, along Route 60, from Hebron to Jerusalem. The Israeli proposal makes it necessary to find proper solutions for traffic contiguity for Nakhlin village, Wadi Fuqin and Jaba. The Israelis claim that all three territorial options provide for Bethlehem's expansion to the north, south and east.

Issues for Consideration

- Any bridging proposal would have to contain clear solutions for solving the flow of traffic for both sides and, hence, include suggestions for further road construction.
- It will be also necessary to prevent the expansion of Efrat. On the other hand, early plans could be supported for the expansion of Beitar Illit, as part of a plan for settlement relocation. The Palestinians reject the implication of this.
- Bethlehem's urban growth (along with that of its sister towns of Beit Jala and Beit Sahour) would be severely restricted from the north and south, the two primary areas allocated for its expansion and development. In addition, the annexation of large amounts of inhabited land would deprive Bethlehem of a substantial portion of its cultivated lands, according to the Palestinians.

Suggested Swap Areas

The suggested swap areas are indicated on the following maps in Appendices III, IV and V:

- On page 63, Israeli Proposal – 7.03%
- On page 65, Palestinian Proposal – 1.9%
- On page 67, Palestinian Map with Swap Areas
- On page 73, Territorial Scenarios
- On page 101, Territorial Option 1 – 4.0%
- On page 103, Territorial Option 2 – 3.4%
- On page 105, Territorial Option 3 – 4.4%

Main Topics

The swap areas are largely barren or uncultivated and uninhabited, which may be seen as a disadvantage, but could allow for the planning of industrial complexes and/or new cities. On the Israeli side, discussing the issue of swap areas is seen to be a politically explosive issue. Any premature discussion will tend to encourage the Israeli Local Councils affected, as well as other interest groups, to take immediate action to prevent suggesting these areas for a territorial swap. The issue of swaps is also politically costly and explosive for Palestinians.

Some Israeli politicians will tend to propose that Israeli Arab areas adjacent to the West Bank should become part of a territorial exchange. The Palestinian leadership rejects this concept, whereas some Israeli leaders are aware of the negative effects such a move would create.

The value of the swap areas in the public Palestinian perception could increase substantially if those areas are included in a wider regional development plan and are made economically viable. The suggested swap areas are situated on the geographical axis connecting the Gulf area, via the Saudi Arabian peninsula with Southern Jordan (the Qaraq area), and the southern West Bank, via Israeli sovereign territory to the Gaza Strip and from there to Egypt and North Africa. It was suggested that the United States negotiating team could prepare guidelines for a regional economic development plan that would benefit all concerned parties and could attract greater involvement of the Gulf Cooperation Council states in Jordanian and Palestinian economic development, including the development of the underdeveloped areas that Palestinians will receive from Israel as part of the swap.

Safe Passages

Palestinians seek to ensure secure and “safe passage” between Gaza and the West Bank. Israel’s main interests for transit rights inside Palestine are mainly for free movement on road 443 to Jerusalem; interest for other transit rights are at best secondary or tertiary. Evidently, the importance of the land connection between the West Bank and Gaza is not matched by transit rights merely on 443, and other transit areas will have to be agreed. A territorial bridging proposal that may be acceptable to both parties will have to include

rights of passage via the sovereign territory of the other party for both sides with built-in assurances to each side.

The Palestinian's team position is that:

- Israel recognizes a right to free and unimpeded transit and communication between the West Bank and Gaza and agrees to facilitate and preserve this right in perpetuity;
- The parties shall establish a permanent land corridor linking Gaza to the West Bank, along the Beit Hanoun-Tarkumiya route, with both terminals located on the border;
- Palestine shall have full sovereignty over this land corridor, which shall permanently be under Palestinian jurisdiction, permanently open, and shall be of sufficient width to allow for multiple lanes, a rail connection, and pipelines, electrical and communications cables, and associated installations, equipment and infrastructure, below or above ground (including for water, telecom, gas and oil);
- In addition to the permanent land corridor, Palestine and Israel shall establish other permanent and secure land and air routes and additional safe passage arrangements for free and unimpeded passages of persons, vehicles, goods and/or infrastructure facilities linking the West Bank and the Gaza Strip (infrastructural facilities shall be understood to include, inter alia, pipelines, electrical and communications cables, and associated installations, equipment and infrastructure).

The Israeli team's position is that:

- It would prefer an agreement that fully respects the sovereignty of each side on its territory and mutual arrangements for transit via the territory of the other side, as will be agreed upon.
- A second option would be to agree that the corridor between the West Bank and Gaza will remain under full Israeli sovereignty, but is managed by the Palestinian side, according to an agreement regarding a special judicial status. Evidently, such an arrangement will have to be mirrored by parallel understandings regarding a special judicial status for Israeli transit rights through Palestinian sovereign territory.
- If neither the first nor the second option is chosen, the Palestinian side might suggest to obtain Palestinian sovereignty with all of the infrastructure facilities needed; under such an option the corridor would equal a 3% land swap.

A Suggested Bridging Proposal

The United States negotiating team may have to prepare a territorial bridging proposal, independent of the decision when and under what circumstances to submit such a proposal to the parties. Having a clear picture where the territorial agreement might be and taking the concerns of both parties into consideration will serve multiple purposes:

- It will assist with in-depth planning for possible solutions to the problems that will come up for both parties;
- It will help to plan possible trade-offs;
- It will provide necessary guidelines for United States policymakers to relate to ongoing developments on the ground and influence them in a manner constructive to a future agreement; and
- It will demonstrate the seriousness of the United States' commitment to pursuing a two-state solution.

Drawing on either one or all three of the territorial options for a final agreement set forth in this Baker Institute report, a specific United States bridging proposal could be introduced along the following lines.

Given the important gaps between the parties and the range of territorial compromises between 1.9% and 7.03% discussed in the Baker Institute Israeli-Palestinian workshop, as well as the reported discussions of officials on both sides over the last several years, *a bridging proposal for a territorial compromise within the range of 3.4% to 4.4% may be politically feasible in a negotiated settlement with active United States participation. It is to be anticipated that in any negotiations the Israelis would advocate a range from 4.4% upward, while the Palestinians would advocate a range of territorial options from 3.4% downward, as occurred in the Baker Institute workshop.*

The three specific territorial options that were considered are represented in the attached maps in Appendix V.

- Option One: 4.0%
- Option Two: 3.4%
- Option Three: 4.4%

[NOTE: In the workshop's deliberations, the Ariel settlement is assumed to be evacuated in all three of these territorial options. The Israeli side stated that it would consider relocating Ariel (consisting of approximately 16,800 settlers¹) to areas that are close to the 1967 cease-fire line on its eastern side.]

Further, three United States policy actions were suggested:

- A close oversight and monitoring function;
- Assistance to the parties to reach progress on a bottom-up approach; and
- Preparation of the parties for the final bridging proposal.

¹ Central Bureau of Statistics: http://www.cbs.gov.il/population/new_2009/table3.pdf.

Developing Additional Tools

A Cautionary Note

No doubt, in Track I negotiations, a carefully conceptualized United States territorial bridging proposal will be a major asset. However, United States policy planners must be aware that untimely leaking of the emerging concept can cause major damage, as policy stakeholders in Israel and the Palestinian Authority would undoubtedly mobilize against the plan.

The best way to deal with possible spoiler activities by the parties is to state openly that the United States has consulted with the parties and other Middle Eastern stakeholders regarding the territorial outcome, is considering a range of territorial possibilities and that United States' ideas are designed to facilitate discussion and negotiations. Nevertheless, the United States will rely fully upon the parties themselves to negotiate bilaterally and reach an agreement between them. In addition, an effort should be made to keep related policy–planning activities as confidential as possible.

Developing Planning Tools

As shown above, a territorial agreement between Israel and the Palestinian Authority will not only necessitate substantial concessions and sacrifices on behalf of the concerned parties, but will similarly have to prepare for the relocation, depending on the specific proposals and compromises, of a large number of Israeli settlers from their present residences, enable them to build new homes and provide the necessary physical, institutional and financial infrastructure. On the Palestinian side, the physical, governmental and economic infrastructure for the emerging State of Palestine – in areas under their control and beyond – will have to be created.

In order to be able to discuss how to get from here to there, and how to manage rational and irrational fears, a detailed planning effort is required to deal successfully with a broad range of impending problems.

Regarding physical planning, there is a need to commission three regional development plans focusing on each of the following:

- A plan for relocating and compensating those Israeli settlers residing in settlements that will not be annexed by the State of Israel, including the eventual relocation of Ariel and the Karnei Shomron area in settlement areas close to the Green Line. The Palestinian team rejected this, stating that this should be part of Israel's plan for settlement evacuation and relocation;
- A master plan for the Palestinian metropolitan Jerusalem area (in coordination with the Israeli metropolitan plan for the Israeli side of the same area); and
- A regional economic development plan for enabling the international community, including the Arab Gulf states, to develop in full cooperation with Jordan, and the Palestinian Authority, the development of the Palestinian economy and its integration with the wider region of the Arab Middle East and beyond.

In addition, the government of Israel will have to be asked to prepare a plan for settlement evacuation and relocation; whereas the Palestinian Authority will have to be asked to prepare a plan for the reintegration of areas to be evacuated by Israeli settlements into the fabric of Palestinian urban and rural planning.

The importance of these plans, and their relevance for the negotiating effort, is self-explanatory. It will make it possible to define realistic time frames and to identify several (not all) upcoming problems ahead of time. These efforts also should make it possible for the United States to mobilize international and regional support, and — most important of all — to achieve step-by-step progress toward a two-state solution.

Developing Policy Tools

Having gained an in-depth understanding of where the territorial endgame could be, United States policy planners will be in a better position to formulate the next steps with the help of the following policy tools:

Guidelines for Monitoring and Oversight Functions

In pursuing the two-state solution, United States monitoring and oversight functions regarding Israeli settlement activities would be an absolute necessity. The Palestinians would add enforcement functions. An understanding of where the territorial endgame is, will permit the United States to adapt a differentiated approach regarding settlement activities; take strong action against any physical, financial or other support for settlement activities in areas that are designed to become part of the State of Palestine; and take a less severe approach in areas that will eventually be incorporated into the State of Israel. The Palestinians rejected this and commented that until a peace agreement including an agreement on a final border is implemented, Israeli construction within the 1967 border constitutes settlement activity and is thus illegal.

Guidelines for Planning for Gradual Progress

Part of the bottom-up approach toward achieving a two-state solution could permit for Israeli-initiated relocation of settlements. The United States may decide to ask the government of Israel to prepare, on its own behalf, a strategic proposal for settlement relocation. The United States' awareness of the endgame will be of great importance in this context. On the one hand, it may become possible for the United States to accept the anticipated demand of the Israeli government and the settlers to prepare and construct an alternative residence, before asking the settlers to leave their present habitation. On the other hand, it could provide the United States with the necessary knowledge to reject relocation proposals that might undermine a possible agreement on the territorial issue.

Guidelines for Planning the Sequence of Settlement Evacuation/Relocation

The basic phases of settlement relocation could be planned along the following sequence:

1. Legislation of law on evacuation and compensation;
2. Israeli statutory planning for relocation;
3. Agreement or basic coordination of a relocation plan with the United States and the Palestinian Authority;

4. Relocation starts from areas where settlers have alternative residences. The Palestinians stated that evacuation must also occur in accordance with Palestinian interests, e.g., evacuating violent settlers first, evacuating settlements that most harm Palestinian interests first, etc.;
5. Construction of alternative residences for further settlement evacuation will have to be in agreed stages and refer to different areas;
6. Israel Defense Forces maintain security control over areas before, during and after evacuation, as negotiated between the parties;
7. Toward the end of evacuation and with the consent of the parties, international coordination functions should be introduced to prepare for maintenance of real estate and orderly transition and the controlled phasing in of Palestinian security forces in coordination with Israeli security authorities;
8. Orderly withdrawal of Israeli forces, with agreed upon international monitoring, oversight, liaison and crisis management mechanisms in place to vouch for stability and good neighborly relations, which rely mainly on the responsibility of Israel and Palestine.

Assist the Parties to Define Areas of Agreement and Disagreement

A more top-down approach of possible negotiations between the parties could aim at a joint effort to define areas of agreement and disagreement regarding territorial issues. This could be done either in official negotiations (which appears unlikely) or, more practically, the United States could help the parties achieve a quiet understanding in this context. Basically, what this means is consolidating what has been agreed and, in informal discussions, seeking to define common ground to arrive at agreements on remaining contested issues.

Guidelines for a United States Strategy to Get to an Israeli–Palestinian Territorial Agreement

Background

United States President Barack Obama outlined a strategy for United States engagement in the broader Middle East in his landmark speech at Cairo University on June 4, 2009. He addressed United States relations with the Muslim world and called for a new beginning, citing key issues including extremism, nuclear weapons, democracy, religious freedom, women’s rights and economic development and opportunity. In terms of key regional challenges, the president addressed the Arab–Israeli issue, Iraq, Iran, Afghanistan and Pakistan.

A central component of this strategy is resolution of the Arab–Israeli conflict and forward movement on comprehensive peace between Israel and all its Arab neighbors. On the central issue of Israeli–Palestinian negotiations, President Obama made clear his view that “the only resolution is for the aspirations of both sides to be met through two states, where Israelis and Palestinians each live in peace and security. That is in Israel’s interest, Palestine’s interest, America’s interest and the world’s interest. That is why I intend to personally pursue this outcome with all the patience that the task requires. The obligations that the parties have agreed to under the road map are clear. For peace to come, it is time for them — and all of us — to live up to our responsibilities. Palestinians must abandon violence. Resistance through violence and killing is wrong and does not succeed ... Now is the time for Palestinians to focus on what they can build. The Palestinian Authority must develop its capacity to govern, with institutions that serve the needs of its people. Hamas does have support among some Palestinians, but they also have responsibilities. To play a role in fulfilling Palestinian aspirations, and to unify the Palestinian people, Hamas must put an end to violence, recognize past agreements and recognize Israel’s right to exist.”

Concerning Israel, the president stated, “At the same time, Israelis must acknowledge that, just as Israel’s right to exist cannot be denied, neither can Palestine’s. The United States does not accept the legitimacy of continued Israeli settlements. This construction

violates previous agreements and undermines efforts to achieve peace. It is time for these settlements to stop. Israel must also live up to its obligations to ensure that Palestinians can live, and work and develop their society. And just as it devastates Palestinian families, the continuing humanitarian crisis in Gaza does not serve Israel's security; neither does the continuing lack of opportunity in the West Bank. Progress in the daily lives of the Palestinian people must be part of a road to peace, and Israel must take concrete steps to enable such progress.

“Finally, the Arab States must recognize that the Arab Peace Initiative was an important beginning, but not the end of their responsibilities. The Arab–Israeli conflict should no longer be used to distract the people of Arab nations from other problems. Instead, it must be a cause for action to help the Palestinian people develop the institutions that will sustain their state; to recognize Israel's legitimacy; and to choose progress over a self-defeating focus on the past.

“America will align our policies with those who pursue peace, and say in public what we say in private to Israelis and Palestinians and Arabs. We cannot impose peace. But privately, many Muslims recognize that Israel will not go away. Likewise, many Israelis recognize the need for a Palestinian state. It is time for us to act on what everyone knows to be true,” the president concluded.

Recommendations

In order to achieve this critical goal, the United States will have to maintain and build a close and supportive alliance with Israel, on one hand, and Arab states in the region, on the other hand. Making headway toward a two-state solution will be a key element in reaching this strategic objective.

The most central element in pursuing a two-state solution between Israel and the Palestinians is the achievement of an agreement on the territorial components of a negotiated peace between Israel and the future State of Palestine — the subject of this report. Supportive enabling conditions will have to be defined in an ongoing dialogue with the concerned parties.

United States policymakers and negotiators will have to prepare themselves to develop two complementary approaches. First, they must work with the concerned parties to create progress on the ground toward a two-state solution. This would involve the Palestinian Authority obtaining more control of West Bank territories, commensurate with decreasing Israeli presence and activities there. Second, the United States should prepare a bridging proposal regarding the final territorial agreement between Israel and the future State of Palestine, defining the envisaged border between them.

The way in which these two approaches complement each other is as follows. Only headway on the ground providing for sustainable, secure and stable conditions will permit the

Israeli public to develop sufficient confidence that a two-state solution is feasible, while permitting the Palestinian Authority to make short-term gains. Only the knowledge that this incremental progress will lead to the establishment of a sovereign State of Palestine and solve other outstanding issues of conflict will permit the Palestinian public to offer the necessary legitimacy and support.

Considerations to be Kept in Mind in Pursuing a Final Territorial Agreement

In dealing with the territorial issue, and deciding whether or not to submit a United States bridging proposal to the parties, as suggested in this report, basic awareness of the following is necessary:

- Every Israeli and every Palestinian cares about every square kilometer of the envisaged deal.
- For both sides, the ideological attachment to the land poses major difficulties for any compromise. The Palestinians perceive that, by agreeing to the 1967 cease-border lines as a future border, they have given up 78% of their homeland and got only 22% for themselves. The Israelis perceive that by agreeing to a territorial compromise solution over Judea and Samaria, which they view historically as until 135 A.D. the heart of the Jewish presence in Eretz Israel, they are making a substantial sacrifice for peace. For Israelis, the recognition of their historical right is viewed as a centerpiece of the legitimacy of the right of the Jewish people to its homeland.
- For Palestinians, the territorial component of peace must allow for a contiguous Palestinian state with free access between the West Bank and Gaza. For Israelis, giving up control over the West Bank poses a major potential security threat. Israel's experience gained after the unilateral withdrawals from Lebanon in 2000 and from the Gaza Strip in 2005 has increased fears and suspicions in this context.
- Both leaderships — in case they shall agree to accept a United States bridging proposal, or relate to it, at least, as acceptable terms of reference — will face major political opposition and will be very much aware that such a step could threaten their political positions. In order to create a greater degree of legitimacy, they most likely will have to commit to hold a referendum on whether to accept or reject the envisaged territorial agreement. Even in case the leaderships on both sides obtain majority support within their governments and legislative institutions in support of a territorial agreement and/or a United States bridging proposal, both sides will have to be prepared for outbreaks of violent opposition from Israelis and Arabs opposed to a settlement.

The Difficulty of Getting to an Agreement

In developing a negotiating strategy to achieve a territorial agreement between the parties, basic awareness of the following five issues is a precondition to success.

The Interconnection Between the Territorial Issue and Other Permanent Status Issues, Jerusalem, Refugees and Security

Both parties may accept the rule that “nothing is agreed upon, until everything is agreed upon.” An important consideration for this approach is the assumption that potential trade-offs can be obtained by looking at all the major permanent status issues, at the same time. This has a major impact on United States policy planning, at large, as well as on the timing of submitting a possible bridging proposal. An alternative approach that was raised in informal discussions in the Baker Institute’s meetings was the possibility of implementing some measures during the negotiations themselves where agreements have been reached, thereby, demonstrating to various constituencies on both sides that progress is being made on the ground. This could be a confidence building measure. An example that was floated informally was the return of a number of Palestinian refugees into the Palestinian territories (not into Israel). The idea here is to begin normalizing some final status issues before a final status agreement is reached.

The Security Component

In getting to an agreement, the security component will be of overriding importance for Israel. This creates an important asymmetry United States policy planners have to be aware of. Whereas, Israel can offer security to the future State of Palestine, the Palestinians initially and alone cannot offer security to Israel. For this purpose, regional security arrangements, backed by the international community, are necessary. Without obtaining sufficiently satisfactory solutions, no Israeli government can be expected to finalize the necessary territorial concessions. The initial work of retired United States General James Jones was in this direction and should be advanced further, as well as the work of Lieutenant General Keith Dayton, the United States security coordinator for the Israel–Palestinian Authority.

The Settlement Component

In getting to an agreement, the Israeli settlements will be of overriding importance for the Palestinians. Also here, a certain asymmetry will have to be dealt with. Whereas the Palestinians will insist on the illegality of all settlements, for the government of Israel to “turn the tide” and start curtailing settlement activities and preparing for settlement evacuation, it will have to differentiate between settlements and settlement activities in areas close to the former cease-fire line and those in areas farther away.

The Israeli Fear of a Palestinian Ploy

Resulting from a series of failed negotiations with the Palestinians, Israeli decision makers and negotiators will tend to fear a Palestinian tactic of demanding Israeli concessions and then, whenever agreement appears to be close, raising Palestinian demands. In more vernacular language, the Israelis fear that the Palestinians will “move the goal posts during the game.” This fear is exacerbated, if one accepts that peace negotiations should pick up from the point they were left off. Whereas Israel was willing during the Annapolis negotiations to go marginally beyond the Clinton parameters on the territorial issue, the Israelis criticize the Palestinians for demanding far more extensive concessions.

The Palestinian Fear of an Incremental Approach

Palestinians fear that any incremental headway toward a two-state solution will become permanent, and, therefore, will actually prevent a resolution of all outstanding issues — effectively denying them the attainment of a viable and contiguous Palestinian state. Similar to the Israeli fear of a Palestinian ploy, this Palestinian fear is based on past experience.

Build on Progress Made

In preparing for United States involvement in Israeli–Palestinian negotiations it is important to anticipate the areas of possible agreement and plan how to get there. The pursuance of this approach entails creating a positive ambiance between the parties in order to pre-empt the danger of a renewed crisis and the flare up of violence that might impede progress toward a two-state solution.

To underpin these two aims, United States policy has to foster the continuation of progress made on four important tracks: the continuation of the negotiations on all permanent status issues; bottom-up progress toward increased Palestinian governance in West Bank areas; increasing United States oversight functions of Israeli settlement policies and activities; and the pursuance of the United States–Israeli strategic dialogue.

Continuing Permanent Status Negotiations

Over the course of the latest negotiations, progress has been achieved. The parties together accepted the rule that “nothing is agreed upon until everything is agreed upon.” The logic of this concept is to maintain the possibility of viable trade-offs in regard to territory, Jerusalem, refugees and security. This approach does not exclude, as noted above, the possibility of implementing measures on certain issues by mutual consent where agreements have been reached as a confidence building measure.

The Bottom-Up Strategy

Lieutenant General Keith Dayton’s mission successfully trained Palestinian security forces in Jordan, worked together with the Palestinian Ministry of Interior Affairs to create a united Palestinian security force and oversaw the deployment of Palestinian forces in Jenin, Hebron and Nablus in full coordination with the Israeli security authorities. USAID and the Blair mission offered additional support in order to promote an increased sense of law and order with employment creation, increased private investment and the pursuance of economic growth at large. This bottom-up approach should be continued, while adding these other components:

- Prepare for an Israeli agreement to transfer a certain amount of “area C” territory (West Bank areas under full Israeli security and administrative control) to “area B” (areas under Israeli security and Palestinian administrative control);
- Encourage the government of Israel to stop settlement activities and to start planning to evacuate settlements; and
- Remove most of the internal West Bank movement restrictions.

Increase United States Oversight Functions Regarding Israel’s Settlement Policy

Based on the follow-up to United States President George W. Bush’s April 14, 2004, letter to Israel’s Prime Minister Ariel Sharon, as well as the Dov Weissglass letter to United States Secretary of State Condoleezza Rice, and the requirement of both concerned parties to implement road map obligations, the United States began to establish oversight functions regarding Israel’s settlement policy. These oversight functions relate to Israeli government-supported, as well as illegal, settlement activities and toward government funding for settlers and settlement purposes. It is of great importance to carry out fully such oversight functions, while developing an agreed strategy with the government of Israel, on how “to turn the tide” and prepare for settlement evacuation, while, at the same time, the Palestinian Authority implements its road map obligations.

United States Secretary of State Hillary Clinton stated in reference to President Obama’s May 18, 2009, meeting with Israeli Prime Minister Benjamin Netanyahu that, “The president was very clear when Prime Minister Netanyahu was here. He wants to see a stop to settlements — not some settlements, not outposts, not natural growth exceptions. We think it is in the best interests of the effort that we are engaged in that settlement expansion cease. That is our position, that is what we have communicated very clearly not only to the Israelis but to the Palestinians and others, and we intend to press that point.”

Pursuing the United States–Israeli Strategic Dialogue

In 2008, General Jones, heading a team of combined United States security agencies, led a dialogue with a parallel Israeli team to define Israel’s security needs and upgrade United States–Israeli security cooperation and coordination, while pursuing a parallel dialogue with Jordan and Egypt, aimed at defining parameters for a sustainable regional security structure, necessary to underpin a two-state solution.

This dialogue laid the foundations for preparing with all concerned parties the basic components of the necessary security equation that will make a final territorial agreement between Israel and the Palestinian Authority possible.

Necessary Components of Any Agreement on Territorial Issues

Any bridging proposal the United States will prepare to achieve agreed progress toward a final territorial agreement will have to take under consideration the following components:

- The proposed substance of the territorial agreement;
- The proposed trade-offs regarding Jerusalem, refugees and security;
- Benchmarked implementation phases;
- Supportive security arrangements;
- United States and other international monitoring and oversight functions, as well as assistance for implementation for either side; and a
- Necessary arbitration mechanism.

Target Points/Milestones

In preparing a United States policy and action plan, roughly three milestones should be kept in mind. The first milestone would be immediate action aiming to conclude basic understandings with the present government of Israel and the Palestinian Authority to sustain achievements made. The second milestone would be short-term action to establish the basic foundations for achieving a breakthrough toward a two-state solution and creating enough confidence in the process by all concerned parties to prepare for the third milestone. Namely, when the strategic equation for a grand bargain will have been sufficiently prepared, the United States could submit a bridging proposal for the final territorial agreement between the State of Israel and the State of Palestine.

Milestone No. 1: Immediate Action to Sustain Achievements Made

- Achieve a commitment from the parties to continue bilateral negotiations following up on the Annapolis framework.
- Prepare a comprehensive strategy in a dialogue with the government of Israel. This will have to include a coordinated policy on how to involve key Arab and Muslim states in promoting the peace talks and how to deal with regional issues, including Iran.
- Prepare a comprehensive strategy in a dialogue with the Palestinian Authority. This will also have to include a coordinated policy on how to involve key Arab and Muslim states in promoting the peace talks and dealing with regional issues. The policy must also deal with Hamas and build a wide regional front, in support of a reconciliation process that will aim to strengthen President Mahmoud Abbas.
- Start a dialogue with Syria on its own merits and in order to provide for a constructive contribution by Syria to a comprehensive peace settlement.
- Work with the Palestinian Authority and supportive Arab nations in close coordination with Egypt and Israel on stabilizing the Gaza Strip cease-fire, and develop an agreed international monitoring, oversight and liaison mechanism to sustain the cease-fire. This will necessitate further progress in pursuing the internal Palestinian reconciliation process.
- In order to achieve a sense of progress in negotiations and encourage the bottom-up approach, suggest that Israel and the Palestinian Authority sign a “letter of intent” regarding understandings already obtained in negotiations on the issues of economy, development and water. Establish with the parties a plan on how to move from the present state of affairs toward implementing the concepts agreed upon.
- Continue and expand the process overseen by Lt. General Dayton of further deployment of Palestinian security forces and an enhanced build up of other Palestinian government capacities on the ground in different areas of the West Bank, while decreasing the Israeli security presence there.
- Develop a bilateral United States-Israeli dialogue to identify an acceptable strategy for settlement evacuation and increased United States monitoring and oversight functions regarding settlement activities.

- Ask the government of Israel to legislate a law on evacuation and compensation and start statutory planning for the relocation of settlements.
- Oversee and monitor Israeli government activities to achieve law and order among the Israeli population in the West Bank.

Milestone No. 2: A Strategic Buy-In

This process is aimed at creating substantial progress toward a two-state solution. Four target points are suggested:

- Promote an intimate dialogue with Israel and the Palestinian Authority regarding territory, Jerusalem, refugees and security by identifying common ground and possibilities to bridge existing gaps.
- Develop with Israel and Arab allies a coordinated strategy on how to relate to the Arab Peace Initiative as agreed terms of reference to pursue a phased process of achieving a comprehensive Israeli–Arab peace.
- Bring about an agreement on stabilizing the cease-fire in Gaza, establishing an international monitoring and liaison mechanism to diffuse possible obstruction and promote the internal Palestinian reconciliation process.
- Aim at achieving an understanding between Israel and Syria, in coordination with a parallel Israeli–Palestinian understanding, as how to sequence peace negotiations and the comprehensive peace negotiation process.

In order to create a visible momentum toward a two-state solution, two other important goals should be reached:

- The beginning of a process of settlement evacuation/relocation and
- The definition of agreement and non-agreement on the final demarcation of the border between Israel and the State of Palestine, with an understanding on how to move ahead in implementing what has been agreed upon, while managing the area of non-understanding, under agreed conditions.

In order to start an agreed process of settlement evacuation/relocation, the following policy could be pursued. Based on United States tactics developed in preparing the Madrid Conference of October 1991 and the Wye River negotiations of October 1998, as well as the techniques of earlier shuttle diplomacy, the contours of a first agreement regarding Israeli settlement evacuation could be hammered out by the United States. Having received during Milestone No. 1 an Israeli strategic concept for settlement evacuation/relocation, the United States would ask the Israeli government to define its optimal concessions and necessary enabling conditions. With this understanding, the United States would discuss with the Palestinian leadership — and possibly other Arab interlocutors — under what conditions they would come on board. Having laid out the prevailing common ground, a negotiating round would be called for to close the deal. The Palestinian side would require Israeli commitment to a substantial settlement evacuation and territorial contiguity, as well as free passage between the West Bank and Gaza. The Israeli side would require acceptance of the relocation area, a sustainable secure environment, consolidation of settlement areas and partial headway in regional cooperation.

In order to assure further progress toward a comprehensive permanent status agreement, as well as an understanding on how to handle, in the meantime, prevailing disagreement on the final contours of the territorial deal, acceptable rules of engagement would have to be negotiated.

Rule No. 1 would entail continuing a comprehensive bottom-up approach, and including in this strategy the evacuation/relocation of a first number of settlements, as agreed.

Rule No. 2 would define the conditions for an Israeli, Palestinian and Arab buy-in to create a secure and stable regional environment in a phased approach of moving ahead along the road map and the Arab Peace Initiative. This could include a multiannual plan for Israel to evacuate/relocate settlements from West Bank territory, as well as a commitment to prepare with the United States a bridging proposal on the final contours of the territorial agreement.

Rule No. 3 would define the conditions upon which the United States would submit the territorial bridging proposal, and steps would be taken to define internationally the final borders of the State of Israel and the State of Palestine.

Milestone No. 3: Getting the Policy Package in Place

Under Milestone No. 2, four target points have been described. Once these four target points are attained, the United States negotiating team would be in a position to move toward the “deal-making moment.” This should make it possible to encourage the parties to either conclude an agreement, or to submit a United States bridging proposal that would relate to all the components of a permanent status agreement.

Appendix I: Palestinian Narrative

The territorial proposals consist of three different scenarios, claiming to represent land swaps of 4.0% (Option 1), 3.4% (Option 2) and 4.4% (Option 3) of the total area of the occupied Palestinian territory (OPT). Below is the Palestinian team's assessment of the Israeli team's interpretation of these proposals, with a particular focus on Option 2 (3.4%).

I. General Observations

A. Problems in Methodology

In addition to some discrepancies and/or inconsistencies in the calculation of land areas/percentages¹ and settler populations, the data contained in the proposals suggest a more fundamental problem in methodology. In particular, the calculations used in the Israeli proposals, certainly with respect to the settler population and possibly the settlement areas, appear not to be based on the 1967 border as the baseline, which is fundamentally inconsistent with both international law and the universally accepted terms of reference for the peace process.

For example, whereas the total Israeli settler population in the occupied Palestinian territory (OPT) currently stands at about 485,000, the Israeli proposals are based on a total of about 290,000 settlers, which excludes the approximately 188,000 settlers in Israel's unilaterally (and illegally) expanded municipality of Jerusalem, as well as another 6,700 Israeli settlers in the Latrun No-Mans-Land (NML) and other unrecognized settlements. This assumes both East Jerusalem and the Latrun NML to be part of Israel, which of course they are not, and that more than 40% of the settler population is simply not on the negotiating table.

It is not clear whether the Israeli team applies this faulty baseline to its land calculations as well, since we do not know the exact area used to calculate percentages of Palestinian land

¹ For example, in all three options presented, the total land areas provided for each of the 11 land swap areas in the West Bank do not match the stated totals.

to be annexed to Israel (i.e., the denominator). Although the percentages provided in the proposals appear to be based on a total area of about 6,200 km², which is close to the official Palestinian calculation of 6,207 km², it is not clear whether this figure includes either East Jerusalem or the Latrun NML (or, for that matter, the Dead Sea).² From the maps provided, which show the areas proposed to be annexed in a different color, it seems that the 1967 line, including East Jerusalem and the Latrun NML, is treated as the baseline. On the other hand, given that in all three scenarios the stated totals do not match the calculated totals, as well as numerous other inconsistencies, it is impossible to know for certain.

Also problematic from the Palestinian point of view is that illegitimate criteria are used to rationalize the annexation of Palestinian territory. For example, the Israelis cite the need to annex undeveloped Palestinian land in order to absorb settlers evacuated from other settlements. This is a wholly unacceptable justification to annex more Palestinian territory, not to mention illogical since it would be less costly to absorb the evacuated settlers into existing communities in Israel. In any event, Palestinians will not accept to simply swap one settlement for a new one. An equally unacceptable criterion for annexation is the presence of the Wall. Since the Wall is both illegal and extremely damaging to Palestinian interests, the route of the Wall cannot serve as a basis for determining land swaps or border modifications.

B. Substantive Problems

All three scenarios are highly problematic from the point of view of Palestinian interests and the goal of establishing a viable and contiguous Palestinian state. Indeed, all of them include roughly the same settlements and are relatively similar in the amount and location of Palestinian land that is to be annexed to Israel, albeit with some notable exceptions.

For example, all three scenarios include four of the five most problematic settlements/‘blocs’ — Ma’ale Adumim, Giv’at Zeev, Har Homa and Efrat — each of which poses serious and direct threats to Palestinian territorial contiguity and overall viability. In particular, the annexation of Giv’at Zeev, Ma’ale Adumim and Har Homa would completely isolate Palestinian East Jerusalem (the future Palestinian capital) from the north, east and south. Although the fifth problematic settlement, Ariel, is not included in any of the proposals per se, Option 3 includes the equally untenable settlement ‘bloc’ of Qarne Shomron, which extends some 19 km into the West Bank, in addition to the other four.

Apart from the addition of Qarne Shomron to Option 3, there are two other notable differences among the proposals: the settlement of Beit Horon (~1,000 settlers) in Ramallah district and the settlement ‘bloc’ of Rehan–Hinanit–Shaqed (~1,500 settlers) in Jenin district, both of which are included in Options 1 and 3 but not Option 2. All other differences appear largely to be the result of minor modifications within a given area (mostly of

² According to the official Palestinian calculation, the total area of the OPT is 6,207 km², which includes the Gaza Strip (367 km²), the whole of the West Bank, including East Jerusalem and the NMLs (5,652 km²), and the Dead Sea territorial waters (188 km²).

undeveloped land), or of “trade offs” between the various scenarios, which is another problematic aspect of the Israeli proposals.

Thus, while Option 2 proposes to annex less West Bank land overall than either Option 1 or Option 3, these reductions are offset somewhat by arbitrarily increasing the size of particular settlement ‘blocs.’ For instance, whereas Ma’ale Adumim is included in all three scenarios, its size in Option 2 (26.9 km²) is larger than in Options 1 and 3 (25 km²). Moreover, while Options 1 and 3 incorporate all of the “E-1 Plan” area, which effectively severs East Jerusalem from the rest of the West Bank, Option 2 incorporates “only” about half of the E-1 area (though largely with the same effect). The same is true of Modi’in ‘Illit, which is expanded from 25.2 km² under Options 1 and 3 to 26.9 km² under Option 2, primarily in order to include a large tract of undeveloped Palestinian land west of Ni’lin village that is inexplicably added to the ‘bloc.’

Thus rather than merely seeking to satisfy Israeli interests in a straightforward and objective manner, the proposals appear also to be engaged in a rather cynical exercise of pitting Palestinian interests against one another.

II. Option 2 (3.4%)

While Option 2 may be the least harmful of the three scenarios, there are nevertheless a number of significant problems with this scenario as well. As noted previously, Option 2 includes four of the five most problematic settlements/‘blocs’: Ma’ale Adumim, Giv’at Zeev, Har Homa and Efrat. Each of these poses serious, and in some cases insurmountable, threats to Palestinian contiguity and viability, particularly in relation to East Jerusalem, the future capital of a Palestinian state.

There are five main problem areas in the 3.4% scenario, each of which is addressed in greater detail below:

- Metropolitan Jerusalem;
- Western Bethlehem region (“Gush Etzion”);
- Qalqiliya region (“Alfei Menashe” and “Elkana-Oranit”);
- Salfit/Ramallah region (“Green Line”); and
- Latrun area (“Modi’in ‘Illit”).

A. Metropolitan Jerusalem

The Jerusalem area represents the single most problematic aspect of the Israeli interpretation of the proposal overall. For Palestinians, Jerusalem is not only a cultural and religious symbol of Palestinian nationhood; it is also the economic, social and political center of Palestinian life. When speaking of the need to preserve Jerusalem as a Palestinian capital, we are referring to it not just as an urban center, but as a cohesive, integrated metropolitan unit.

Metropolitan Jerusalem, which includes Ramallah and Bethlehem, represents the socioeconomic center of Palestinian life, comprising roughly one-third of its national economy. As with any other state, Palestine will require not only a physical presence in its capital city, but adequate space for residential, governmental and commercial development, employment creation and social services, as well as the necessary territorial contiguity and transportation links to its outlying suburban areas and rural hinterland.

The proposed annexation of Giv'at Zeev, Ma'ale Adumim and Har Homa would severely restrict the urban, social and economic development of East Jerusalem, completely isolate its urban center from the rest of Palestine, and fragment the entire metropolitan system of Jerusalem both territorially and demographically.

1. "Historic Basin"

Based solely on the information provided in the report's maps, it is not entirely clear what exactly is being proposed in the so-called "Historic Basin," which includes the whole of the Old City, as well as the Mt. of Olives, Silwan and Sheikh Jarrah neighborhoods of Jerusalem. However, anything short of full Palestinian sovereignty over these areas (with the possible exception of the Jewish Quarter, which could potentially be part of a future land swap), would be unacceptable to Palestinians. These areas are occupied Palestinian areas located at the heart of Palestinian East Jerusalem and will house Palestinian governmental institutions. Moreover, they are densely populated with an overwhelming Palestinian majority and include many Christian and Muslim holy sites, pivotal to Palestinian religious and cultural heritage as well as to future Palestinian economic development (in particular in the tourism sector).

2. Ma'ale Adumim/E-1

Taking half of the land earmarked for East Jerusalem's future growth and development, the annexation of Ma'ale Adumim, and even a portion of the E-1 area would severely restrict growth of the future Palestinian capital and disable prospects for economic rehabilitation and development. In fact, the annexation of Ma'ale Adumim alone (outer limit area = 11 km²) would still result in the elimination of precious reserves for East Jerusalem's own expansion and development.

For Metropolitan Jerusalem to be viable there must be contiguity between East Jerusalem and its primary suburban areas, namely Eizariya, Az-Za'ayim, Issawiya, Anata, Hizma and Ar-Ram, which would not be possible if Ma'ale Adumim is annexed and connected to Israel, with or without E-1. Even if Ma'ale Adumim is annexed without the E-1 area, it would still need to be connected to Israel by a road, in which case, the parts of Issawiya, At-Tur and Eizariya villages that lie within E-1, and which comprise the ideal location for East Jerusalem's future expansion and development, would still be physically cut off from the city by the connecting road. This would be exacerbated by the numerous and multi-layered "security" restrictions that Israel would likely seek to impose along such a road.

Moreover, given its location in the geographic center of the West Bank and along the Jerusalem–Jordan Valley corridor — extending some 11 km into the West Bank, nearly half the distance to the Jordanian border — and its relative size, any scenario that calls for Ma’ale Adumim’s annexation, with or without E-1, would result in the isolation of East Jerusalem from the east, and effectively cut the West Bank in two.

Similarly, the Israeli proposal for Ma’ale Adumim/E-1 deprives Palestinians of vital road links (Roads #1 and #60), and potentially disrupts the Palestinian connection to Jordan and the broader Arab world via the east.

Thus, it should be clear from the analysis that while E-1 (or parts thereof) exacerbates the problems created by Ma’ale Adumim, it is the settlement of Ma’ale Adumim itself that poses the greatest threats to the viability of East Jerusalem, and hence to a Palestinian state.

3. Har Homa

The settlement of Har Homa would have a similar impact on East Jerusalem from the south, primarily by severing Jerusalem from its historic, religious and socioeconomic connection to Bethlehem, which date back more than 2,000 years. This is more than merely symbolic since both Bethlehem and Jerusalem, and the link between them, rely heavily on tourism (particularly religious tourism) and associated economic activities for their economic survival.

Furthermore, the proposed annexation of Har Homa would severely restrict Bethlehem’s natural development/expansion to the north and, in combination with Gilo, would enclose the villages of Beit Safafa and Sharafat in a virtual enclave.

Over and above the many practical problems associated with the annexation of Har Homa, the settlement also poses important political and moral problems as well. Har Homa, was established in 1998 at the height of the Oslo peace process. Moreover, whereas it was not populated at the time of the Camp David/Taba negotiations in 2000–01, it has since undergone massive and targeted growth (with an average annual growth rate of 85%), in an apparent attempt to exploit the “Clinton parameters” in Jerusalem. As such, it is a classic example of Israeli bad faith, and Palestinians would be loath to include it in any land swap proposal on that basis alone.

4. Giva’at Ze’ev

The proposed annexation of Giv’at Zeev, along with three of its satellite settlements (Giv’on, Giv’on HaHadasha and Har Shmuel — pop. 12,900 settlers), jutting up to 9 km into the West Bank, would consolidate East Jerusalem’s isolation from the north. Hence, like both Ma’ale Adumim and Har Homa, it cannot be included in any future land swap.

In particular, the proposed annexation completely disrupts the historic connections between East Jerusalem and the Palestinian villages of northwestern Jerusalem district (At-Tirah, Al Qubeiba, Beit ‘Anan, Beit Duquq, Beit Ijza, Beit Iksa, Beit Surik, Biddu and

Qatannah — pop. 30,000) and, coupled with the proposed annexation of Pisgat Ze'ev settlement, of north Jerusalem district (Al Jib, Beit Hanina al Balad and Bir Nabala — pop.10,000), thereby cutting East Jerusalem off from its main agricultural hinterland and isolating these villages in two semi-enclaves from their main socioeconomic hub in East Jerusalem.

Similarly, the city of Ramallah would be cut off from many of the localities it serves in this area, affecting approximately 30,000 Palestinians, as well as from its natural socioeconomic ties to East Jerusalem itself. The proposed “trench road” between Biddu and Al-Jib to serve as the main link connecting Ramallah and the northern suburbs of Jerusalem with the western villages simply cannot meet the needs of the very large Palestinian population in this area (which is several times larger than the Israeli settler population). Furthermore, it does nothing to remedy the severing of the link to East Jerusalem. In any event, to the extent that any “special” or “alternate” roads are to be built, they should be for settlements included in the swap (i.e., only after such a swap is agreed).

The proposed annexation of settlements in this area includes large tracts of undeveloped land and would severely limit the expansion of Ramallah to the south and of many of the Palestinian villages in the area, depriving them of both prospective residential development areas and agricultural lands, on which they rely for their livelihoods, with no reasonable justification. The inclusion of the area around Nabi Samwil village north of Ramot Allon settlement is especially problematic, particularly since no explanation is offered regarding the fate of the approximately 300 Palestinians now living there. Nor is there any justification for the inclusion of Emeq Ha-Ayalot, a settlement “neighborhood” that is currently under construction and hence uninhabited.

Lastly, the Israeli justification that Giv'at Ze'ev “protects parts of 443 road” is also untenable, as it suggests continued Israeli control over a road that, even under the report's scenario, falls entirely within Palestinian territory.

B. Western Bethlehem (“Gush Etzion”)

Although Bethlehem is an integral part of Palestinian Metropolitan Jerusalem, for purposes of clarity, it is considered separately in this analysis. The proposal in western Bethlehem district (“Gush Etzion”) poses similar problems as in Jerusalem. In addition to extending nearly 9 km deep into the West Bank, the proposed area to be annexed would severely hamper prospects for economic development in both Bethlehem and Metropolitan Jerusalem as a whole. The inclusion of Efrat settlement is especially problematic and ultimately unworkable.

The Israeli proposal would severely restrict Bethlehem's urban growth (along with that of its sister cities, Beit Jala and Beit Sahour) from the north and south, the two primary areas allocated for its expansion and development. Although some expansion can take place to the east, the available space is limited by valuable agricultural land and nature reserves, and is too small to sustain the kind of expansion that Bethlehem would require. Meanwhile,

Bethlehem's urban, residential and commercial development cannot take place to the west as this would encroach on its valuable agricultural hinterland.

In addition, the annexation of large amounts of undeveloped land would deprive Bethlehem of a substantial proportion of its cultivated lands (i.e., valuable cash-crops), as well as badly needed space for urban and economic development (particularly cultural/religious and landscape tourism). This is particularly true of the large tract of undeveloped land between Wadi Fukin, Nahhalin, Jaba' villages that is inexplicably and unnecessarily incorporated into the area to be annexed by Israel.

The Case of Efrat

The harm posed to Palestinian interests by Efrat and its smaller companion settlement of Migdal 'Oz is grossly out of proportion to their size, and is hence far too severe to allow their annexation. Doing so would rob Palestinians of crucial road links, most notably Road # 60, which connects Bethlehem to Jerusalem and to Hebron (and ultimately Gaza), thus further restricting access to jobs, markets, essential public services and increasing travel distances/times and transaction costs.

In addition, the annexation of Efrat/Migdal 'Oz would nearly double the amount of active Palestinian cultivation that is lost, which is essential to the regional economy, as well as restrict Bethlehem's development/expansion to the south.

C. Qalqiliya Area ("Alfe Menashe" and "Elkana-Oranit")

The proposed annexation of Alfe Menashe settlement would limit Qalqiliya city's urban and rural development to the south and the east, as well as that of a number of villages surrounding the settlement (Ras at Tira, 'Izbat Jal'ud, 'Izbat Salman, 'Isla and An Nabi Elyas), taking up significant tracts of undeveloped land. It would also disrupt the connection between Qalqiliya city and the Palestinian villages in southern Qalqiliya district ('Izbat Jal'ud, Ras at Tira, Ad Dab'a, 'Izbat Salman, Al Mudawwar, 'Izbat al Ashqar, Kafr Thulth, Beit Amin, 'Azzun 'Atma and Sanniriya — pop. 13,000), separating the city from its agricultural hinterland and the villages from their main socioeconomic hub. The proposed "overpass road" between Izbat Salman and Ras 'Atiya to serve as the link connecting Qalqiliya city and the southern villages and beyond simply cannot meet the needs of the large Palestinian population in this area. Furthermore, as mentioned earlier, to the extent that any "special" or "alternate" roads are to be built, they should be for settlements included in the swap (i.e., only after such a swap is agreed).

The proposed annexation of Oranit, Sha'arei Tikva, Elkana and Etz Efrayim settlements would include large tracts of undeveloped land, which cannot be justified by any legitimate Israeli interest, disabling the residential and agricultural expansion of at least eight Palestinian villages in the area ('Azzun 'Atma, Beit Amin, Sanniriya, Masha, Az Zawiya, 'Izbat Salman, Al Mudawwar and 'Izbat al Ashqar — pop. 14,000). Furthermore, it would disrupt the contiguity between these villages. Azun Atma (pop. 1,800) would be particularly hard hit, being located in an enclave totally isolated from its lands and neighboring towns and villages.

Perhaps most importantly, this entire region is a prime water productive zone. Hence, the proposed annexation would severely undermine Palestine's water security.

D. Ramallah/Salfit Area ("Green Line")

The annexation of large amounts of uninhabited land, particularly the 28 km² along the 1967 border in Salfit/Ramallah districts is damaging to Palestinian interests. Moreover, in light of the fact it contains no Israeli settlements or settlers, there is no reasonable justification for its annexation by Israel.

E. Latrun Area ("Modi'in 'Illit")

The main problems with the Israeli proposals in the Latrun area are threefold: (1) the existence of crucial and cheaply extractable water resources in the area; (2) the annexation of the sites of three Palestinian villages destroyed and depopulated by Israel in 1967 (Imwas, Yalu and Beit Nuba); and (3) the gratuitous annexation of a large amount of undeveloped Palestinian land, which contains no settlements/settlers.

The Latrun area represents one of the most valuable water productive zones in the West Bank, which is essential to the viability of a future Palestinian state. Therefore, the proposed annexation would adversely affect Palestinian water security and its overall viability.

Secondly, with regard to the depopulated villages of Imwas, Yalu and Beit Nuba, the return of these villages to Palestinian sovereignty is of paramount importance to Palestinians, particularly if they are to feel that their painful compromise of accepting to exercise their right to self-determination on only 22% of their historic homeland was not in vain.

Lastly, as noted previously, since the annexation of uninhabited land does not meet any legitimate Israeli interests, either with regard to settlements or security, it is therefore gratuitous, and hence untenable.

Appendix II: Israeli Narrative

I. Project Substance and Purpose

As the Baker Institute report contains three maps, the Israeli team wants to emphasize that the proposals went far beyond the concessions offered on the Track I level, with respect to both the Clinton parameters and former Israeli Prime Minister Ehud Olmert's proposal to President Mahmoud Abbas.

The basic rule of engagement in a Track II exercise purports that both teams are obliged to make an effort in bridging the prevailing gap. In this case, since the gap in positions that emerged on the Track I negotiations is a result of substantial concerns of both sides (rather than of negotiating tactics), the need for a mutual outreach appeared essential. Whereas the original project proposal acknowledged swaps of up to 12%, the Israeli team understood that the final agreed swaps will range between 5%-7%.

II. The Size of the West Bank

The CIA World Factbook places the value of the West Bank, East Jerusalem and the No Man's Lands at 5,640 sq km. However, the size of the West Bank is a disputed issue between both parties. During the 1999-2001 negotiations and to a lesser extent during the recent Annapolis negotiations as well, the parties were divided on the question of "the territorial 100 percent and the demographical 100 percent." Several geographical elements could be figured, or not, into the calculations of border demarcation. These include the Israeli jurisdiction line of "Judea and Samaria,"¹ East Jerusalem, the Latrun No Man's Land, and the No Man's Lands in Jerusalem, the northwestern quarter of the Dead Sea and the Gaza Strip.

¹ Israel annexed East Jerusalem in 1967 and asserts that while Israeli sovereignty is not applied in the Latrun No Man's Land (as articulated by a recent State reply to a local court), it is not by default part of any Palestinian entity — Israeli maps thus acknowledge only the "Judea and Samaria Jurisdiction Line" that surrounds the expanded municipal boundary of Jerusalem.

In the past, Israel asserted that territorial calculations of percentages should consider only the land mass of Judea and Samaria without East Jerusalem, the No Man's Lands, the Gaza Strip or the Dead Sea. Accordingly, the term "settlers" refers only to those Israelis living beyond Israel's self-declared sovereign line — in effect those residing in Judea and Samaria without the population of Jewish neighborhoods in East Jerusalem or those in towns established in the Latrun Salient.²

Palestinians assert that they are entitled to all the lands occupied by Israel following the Six Day War in 1967, including all of the items above, totaling 6,207 sq km (in their calculations). Respectively, all Jews that reside in these areas are considered settlers, including those living in East Jerusalem and the No Man's Lands.

Whatever the decision is, transparency and constancy as to calculations should be maintained throughout the process. For the purpose of presenting maps demonstrating border options, the Baker Institute report contains the following formula: the total land out of which calculations are figured is 6,180.5 sq km. This figure is based on the 6,205.2 sq km (representing the sum of all the territorial elements outlined above), minus 24.75 sq km (representing half of the No Man's Lands involved — meaning, the No Man's Lands are split in half for sake of the calculations).³

III. The Three Baker Institute Options:

Option 1 proposes an exchange of land of 4.0% (251 sq km) of the West Bank territory. This option, as suggested by the Baker Institute, does not constitute an optimal Israeli position — and is hereby explicitly denied and unequivocally rejected — taken in reference to Palestinian needs. This would necessitate the evacuation of 115,142 Israeli settlers from their present residences.

Option 2 proposes an exchange of land of 3.4% (212 sq km) of the West Bank territory. This option, as suggested by the Baker Institute, constitutes (a deniable) optimal Palestinian position, taken in reference to Israeli needs. Altogether this would necessitate the evacuation of 120,182 Israeli settlers from their present residences. As above, this alleged Israeli understanding is explicitly denied and unequivocally rejected.

Option 3 proposes an exchange of land of 4.4% (274 sq km) of the West Bank territory seemingly (but erroneously) based on the Clinton parameters. On December 23, 2000, United States President Clinton defined the basic parameters for a territorial agreement, and related to the need to accommodate 80% of the settler community in settlement blocs to be incorporated in a 1:3 land swap to Israel, while making it necessary to evacuate 20%.

² Israel asserted during the 1999-2001 negotiations that its political interests required it to "maintain 80 percent of the settlers in settlement blocks." Indeed, such a criteria, without a clear definition, appeared in the 2000 Clinton parameters.

³ In real terms, Israel will likely annex most, if not all, of the No Man's Land, but the land swap will take into consideration the "Palestinian" half of the No Man's Lands.

Had this been accepted in December 2000, this would have made the evacuation of 59,717 settlers necessary. As since then the number of settlers has risen from 200,000 to 282,000, this option proposes to penalize both sides for not accepting the United States proposal at the time, by dividing the 82,000 by half, making it necessary for Israel to evacuate approximately 100,780 Israeli settlers (59,717 plus 41,000). In order to be in line with the Arab Peace Initiative, this proposal also suggests (differently than the Clinton parameters) a 1:1 swap. In the exact words of President Clinton: "... the solution should be in the mid-90% 's, between 94-96% of the West Bank territory of the Palestinian State. The land annexed by Israel should be compensated by a land swap of 1-3% in addition to territorial arrangements such as a permanent safe passage."⁴

In reference to the various options of the Baker Institute report,⁵ the Palestinian team submitted an assessment of the three proposals, focusing mainly on methodology, substantive problems and the 3.4% option. The Israeli team rejects this and finds it inconsistent with the project's guidelines as well as with the Israeli positions as reflected throughout the exercise. The following will address in detail each comment put forward by the Palestinian team.

IV. Methodology Problems:

Two major problems were raised with respect to the methodology used in the Baker Institute report (questions regarding the territory calculations and disagreements as to the number of settlers presented):

- a) Different sources attach different attributions to each of the above areas. For example, the CIA World Factbook places the value of the West Bank, East Jerusalem and the No Man's Lands at 5,640 sq km, while an internal Israeli document figures the same area to be 5,611 sq km. The Baker Institute calculation's term of reference was the Abu Mazen figure (6,205 sq km), which includes the Gaza Strip, the Dead Sea, the West Bank and No Man's Land. From this number, we subtracted half of the disputed No Man's Land ($49.5/2=24.75$ sq km), which both sides view as their own, reaching a total of 6,180.25 sq km ($6,205-24.75=6,180.25$).
- b) As for the disagreements to the number of settlers, all three of the Israeli team proposals apply to the number of settlers residing in areas that are referred to. Since this paper did not deal with the municipality of Jerusalem, the settlers residing there were not counted. It is of great importance to note that the logic of negotiations is that the Jerusalem municipality is treated with a different principle: Israeli neighborhoods to Israel while Palestinian neighborhoods to Palestine.

⁴ The Clinton parameters — published in Haaretz newspaper on January 1, 2001.

⁵ The original document can be found in Annex 3.

V. Substantive Problems:

- a) A comprehensive peace with 22 Arab states is the only formula in which the Israeli public would consent to far reaching concessions that would amount to a territorial swap of between 4.5%–5.5%.
- b) The work of both teams (Israeli and Palestinian) was based on a mutual understanding and acceptance of four principles:
 - i) To make sure swap areas are as close as possible to the Green Line (particularly settlement blocs).
 - ii) To maximize territorial contiguity for both Israel and Palestine in any swap scenario.
 - iii) Natural resources as well as environmental needs should be fully taken into account.
 - iv) Further development needs should be respected.
- c) It should be noted that the Baker Institute report suggests two substantial concessions in favor of Palestinian demands and interests:
 - i) President Clinton’s guidelines for a territorial compromise agreement (December 23, 2000) were as follows: “Based on what I heard, I believe that the solution should be in the mid-90%’s, between 94–96% of the West Bank territory of the Palestinian State. The land annexed by Israel should be compensated by a land swap of 1–3% in addition to territorial arrangements such as a permanent safe passage.”⁶ President Clinton further emphasized the core of the territorial arrangement in his subsequent January 8, 2001, speech at the New York Israel Policy Forum, as follows:

“... there can be no genuine resolution to the conflict without a sovereign, viable, Palestinian state that accommodates Israeli’s security requirements and the demographic realities. That suggests Palestinian sovereignty over Gaza, the vast majority of the West Bank, the incorporation into Israel of settlement blocks, with the goal of maximizing the number of settlers in Israel while minimizing the land annex; for Palestine to be viable must be a geographically contiguous state.

“Now, the land annexed into Israel into settlement blocks should include as few Palestinians as possible, consistent with the logic of two separate homelands. And to make the agreement durable, I think there will have to be some territorial swaps and other arrangements...”

In order to align with the provisions of the Arab Peace Initiative, the Baker Institute report accepted the Palestinian demand for a 1:1 territorial swap

⁶ The Clinton parameters — published in *Haaretz* newspaper on January 1, 2001.

formula, in contrast to the conditions put forward by President Clinton. The Baker Institute team decided to override the Clinton parameters in favor of the Palestinian position, assuming that any final territorial agreement between Israel and the Palestinians would only be possible within a wider regional context. As such, Israel will be concluding peace with the 22 Arab states. This would be under the condition of Israel concluding parallel peace agreements with Syria and Lebanon.⁷

- ii) The Baker Institute report rejects any potential Israeli demand to swap areas that are inhabited by Israeli Arab citizens adjacent to the West Bank.
- d) Accepting these positions of the Baker Institute report, Israeli experts stipulated that the following understandings should be respected:
 - i) Settlement blocs that will be incorporated into Israel (as part of an agreed territorial swap) will have to grant undisturbed contiguity and provide the necessary space for natural expansion.
 - ii) In order to apply the principle of fairness and evenhandedness, the Israeli team offered to explore the idea of evacuating the Ariel settlement and relocating it closer to the 1967 border.
- e) Parallel to the Baker Institute report's demands from the Israeli experts, we stipulate that the final territorial borders will have to embrace two core principles:
 - i) As an act of good faith, the Israeli side will consider relocating Ariel (consisting of approximately 16,800 settlers⁸) to areas that are close to the 1967 cease-fire line on its Eastern side. Other settlements will also be partly relocated into agreed upon settlement blocs.
 - ii) In evacuating settlements from Palestinian territory, some of which are to be relocated east of the 1967 cease-fire line, uninhabited areas adjacent to the former cease fire line will have to be swapped and included as part of the recognized Israeli territories.

VI. Specific Areas

As for the areas specified, the following considerations should be taken into account:

“Historic Basin”

As raised in previous discussions of the two working teams, due to the sacredness of this area to all three religions (Muslims, Christians and Jews) a special regime is in need. Such a regime will have to ensure the freedom of worship and access to all three religions and the

⁷ See: <http://usembassy-israel.org.il/publish/peace/archives/2001/january/me0108b.html>.

⁸ Central Bureau of Statistics: http://www.cbs.gov.il/population/new_2009/table3.pdf.

development of joint tourism. Indeed, our main objective is to ensure the freedom of access in this area with no need for visas.

Maale Adumim/E-1

Maale Adumim is the largest Jewish city in the area of the West Bank (33,800 settlers);⁹ therefore it is only appropriate that it will be continuant to the Israeli part of Jerusalem. The importance of access in this area to the Palestinian population, specifically between East Jerusalem and its primary suburban areas was acknowledged. Moreover, it was suggested to plan for the construction of several alternative road connections to both the west and the east of Maale Adumim, as well as roads from the north to the south.

As for the inclusion of the E-1 area, we mentioned the danger arising from the Palestinian proposal which creates a highly vulnerable situation in which the Palestinians can cut off Maale Adumim from Jerusalem at any moment of crisis.

Har Homa

Har Homa is seen by Israelis as an integral part of the Jerusalem municipal area. Thus it should be dealt with along the parameters laid out by President Clinton in regards to Jerusalem, that “The general principle is that Arab areas are Palestinian and Jewish ones are Israeli.”¹⁰ The Baker Institute applied these parameters in this case since they were given two years after the establishment of this settlement.

With regards to Bethlehem’s expansion and access, the potential to expand to the east, south and west is not harmed in any way by the Baker Institute report’s propositions. Thus, the claim brought on later of hampering short-term economic prospects has no basis. Access from Bethlehem to East Jerusalem is possible through Road 60, a tunnel/bridge that can be constructed in the Har Homa corridor, or through Beit Tzahor, Herbat Mazmor and Sur Baher. Finally, regarding agricultural land, the area in dispute is mostly an urban area; therefore the claim of encroaching to valuable agricultural hinterland is not relevant.

Giva’at Ze’ev

Various issues were raised regarding the proposals of Giva’at Ze’ev:

A major emphasis was dedicated to the notion that this annexation severs the link between East Jerusalem and the villages of the northwestern Jerusalem district and Ramallah. Yet, all three of the Baker Institute report’s proposals ensure contiguity for the Palestinian population in the following manner:

- a) An access road already exists between Ramallah and Bir Nabalah.
- b) Access from Biddu and Al Jib to Ramallah and East Jerusalem is already possible through existing roads:

⁹ Ibid.

¹⁰ The Clinton parameters — published in Haaretz newspaper on January 1, 2001.

- i) a trench road connecting Biddu to Al Jib (currently this road serves the needs of the Palestinian population; if any problem arises in the future it is possible to expand it to a two-lane road).
- ii) Connecting A-Tira to Road 443 enables a quick passage to Ramallah.
- iii) A recently built road connecting A-Tira to Beit Ur and from there to Betuniah.
- c) The uninhabited land, specifically Har Shmuel National Park, was purchased by Jews nearly 100 years ago. In addition, as clarified in earlier stages, uninhabited land adjacent to the former cease-fire line will have to be swapped and included as to enable resettlement of the settlers evacuated.
- d) As to Nebi Samuel area, this settlement resides in Area C. Moreover, its strategic emplacement near Jerusalem is of high importance to Israel.

Efrat

As for the roads connecting Bethlehem and the north, Road 60 and other routes are already providing a proper solution regardless of Efrat. It is important to note in the context of Efrat, that this is a populated Jewish area, consisting of approximately 8,000 settlers.¹¹ Lastly, it is possible to solve the lack of roads leading to the south by one of three solutions:

- a) A tunnel for Palestinian use only under Road 60 as suggested by the Baker Institute report.
- b) Construction of three bridges for the Israeli population above of Road 60. More specifically, a bridge from Efrat to Neveh Daniel, a bridge from Efrat to Elazar and a bridge over the Gush Etzion Junction.
- c) Passage through the existing eastern village road.

Another claim brought upon by the Palestinian team was the restriction of Bethlehem's expansion. However, all three of the Baker Institute report's proposals enable further development and expansion to the north, east and south areas. Under all three options, the extension of the area of Efrat is kept to an absolute minimum.

Green Line

The reason for the annexation of this land is two-fold:

- a) This barren area can be an optimal place for the relocation of the evacuated settlers.
- b) The area is of essential security importance to Israel, as it will serve as a buffer in the protection of civilian air traffic flying in and out of Ben Gurion International Airport. Moreover, in terms of security, this is an essential area due to Israel's "narrow waists" of less than 10 miles from the areas where 80% of the country's population lives and where the vast majority of its national business activity is conducted.

¹¹ Central Bureau of Statistics: http://www.cbs.gov.il/population/new_2009/table3.pdf.

Latrun

The central rationale of annexing this territory is its key traffic arteries to Jerusalem. This includes Road 1, Road 3 (connecting Modi'in) and the fast train line that crosses the Ayalon Valley. As for the three depopulated Palestinian villages, these will be rebuilt in territories that will be given in return to the annexation of Latrun. Furthermore, Israel will acknowledge these villages through a memorial monument residing on Israeli territory.

Lastly, regarding the issue of water raised by the Palestinian team, the various issues dealing with water resources will have to be dealt within a separate comprehensive agreement dealing solely with this issue.

VII. Conclusion

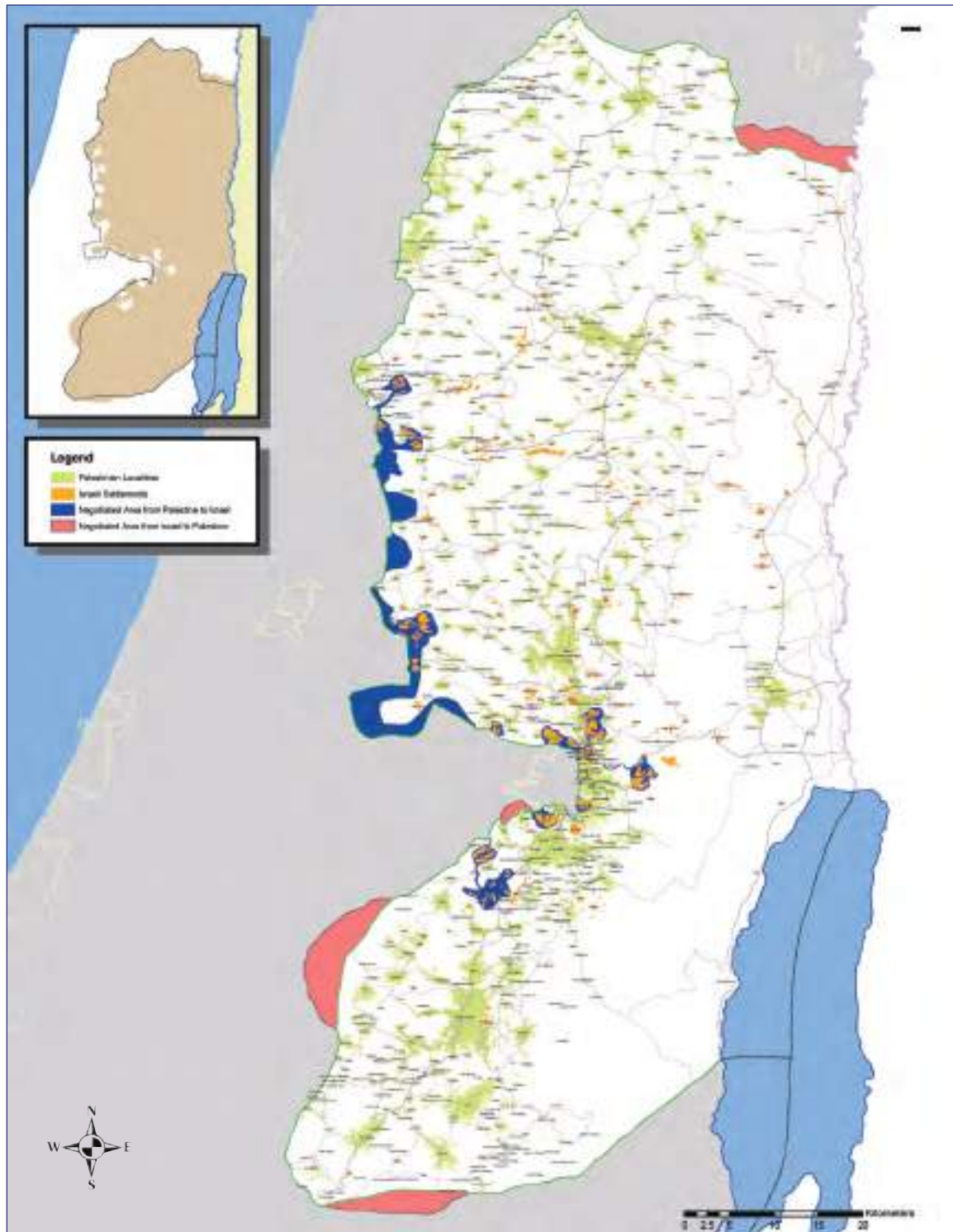
Though we find substantive remaining gaps between the parties, we believe that by taking the above notes into account and reflecting them adequately in the final report, the Baker Institute's work along with a brave leadership of both sides will make it possible to bridge these gaps, and reach an acceptable final agreement.

Appendix III: Maps – Israeli and Palestinian Territorial Proposals

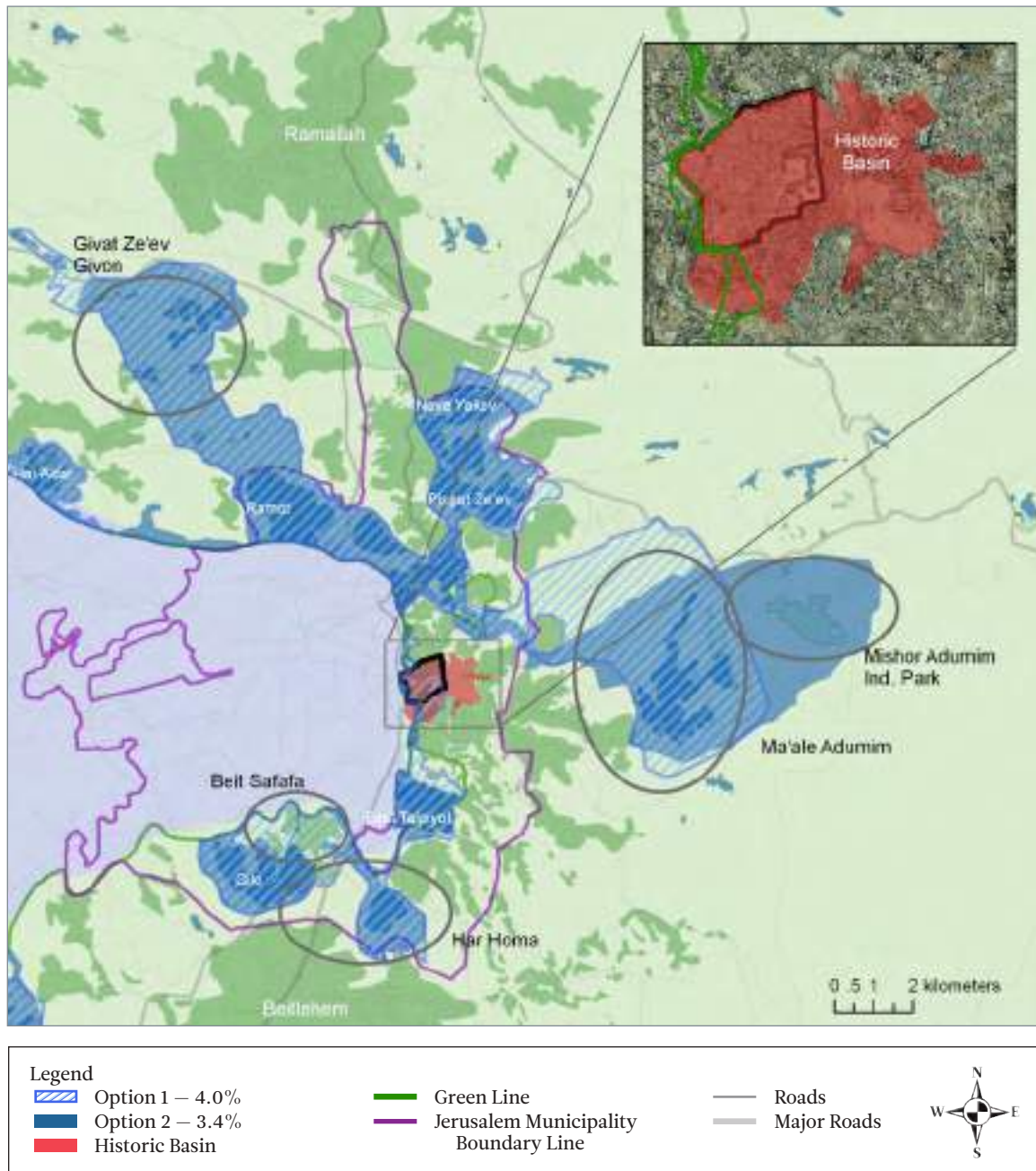
Israeli Proposal – 7.03%



Palestinian Map with Swap Areas



Jerusalem



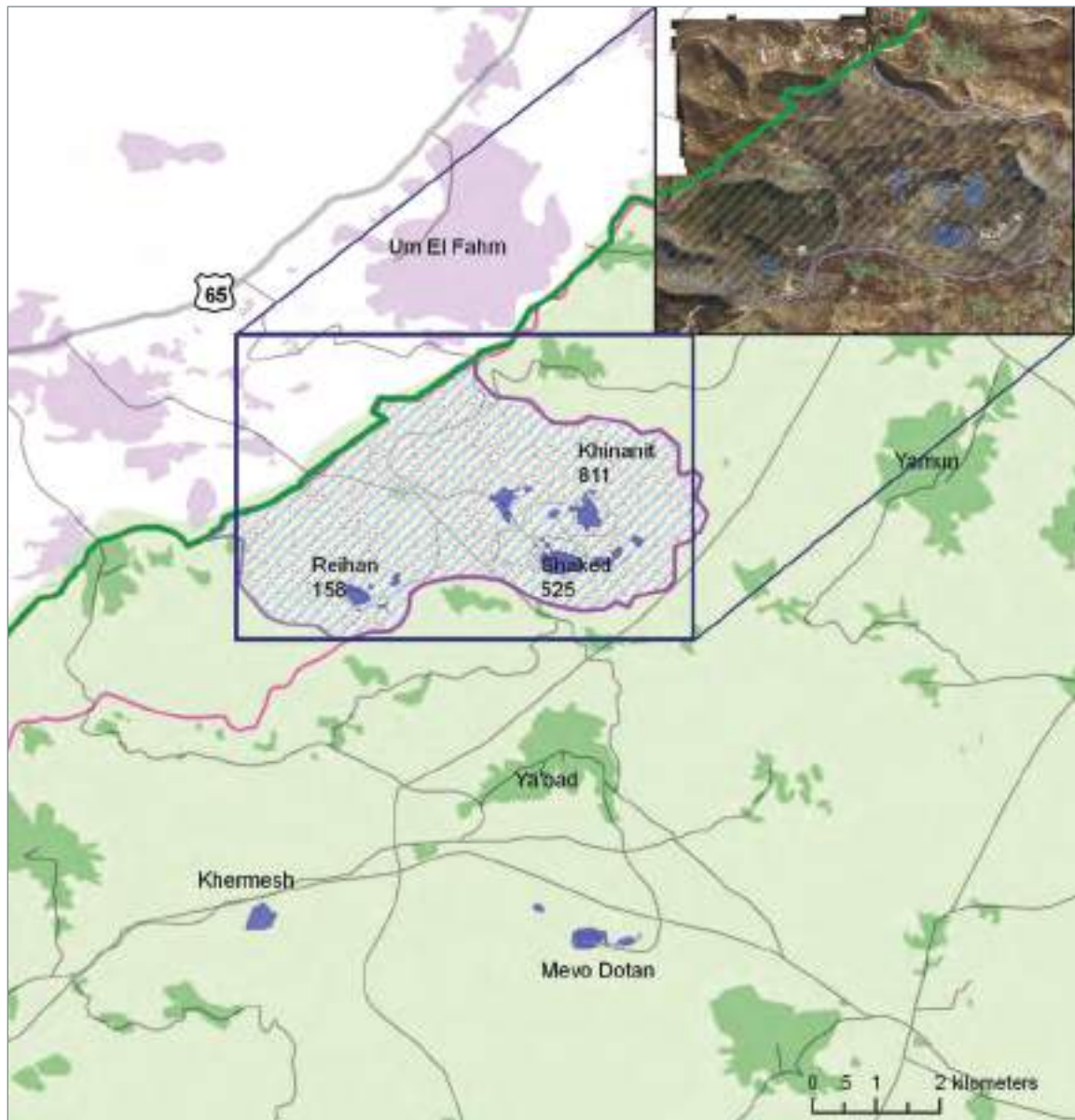
Appendix IV: Maps – Contested Areas

Territorial Scenarios



Shaked–Khinanit Reihan Settlement

1,494 Residents		
Option 1 – 4.0%	19.2 km ²	0.31%
Option 2 – 4.4%	19.2 km ²	0.31%



Legend

- Option 1 – 4.0%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

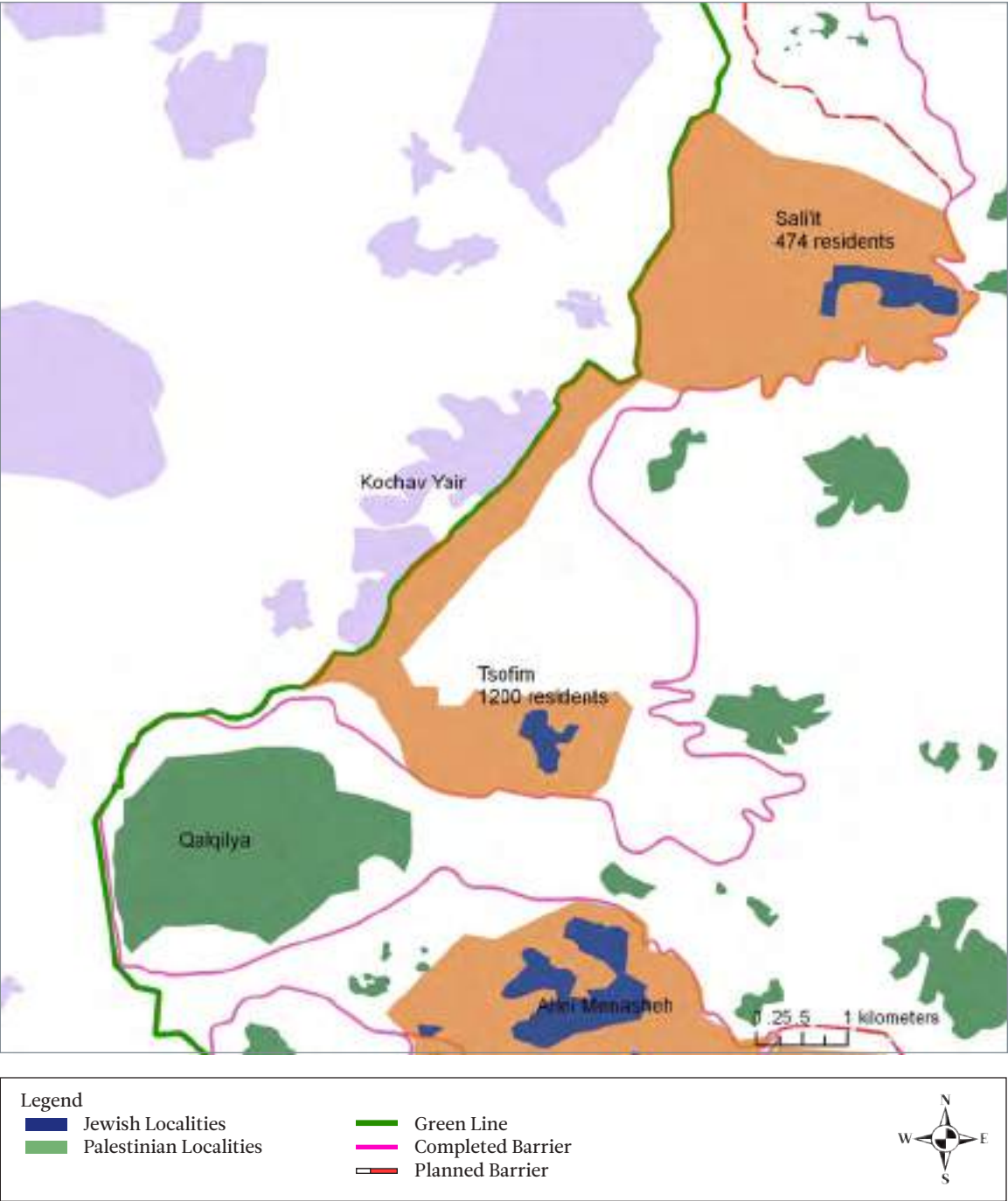
- Green Line
- Completed Barrier

- Roads
- Major Roads



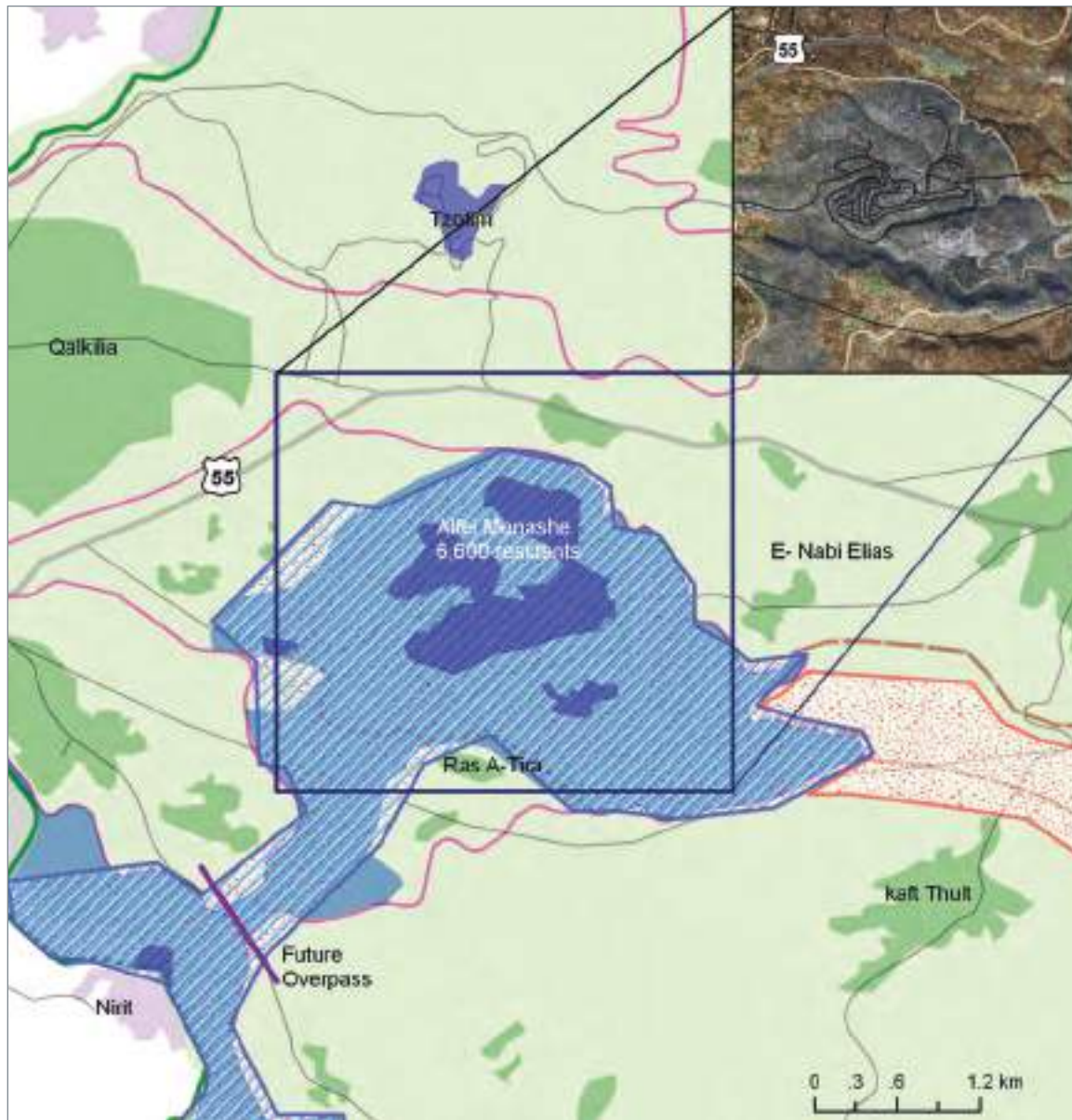
Tsofim Settlement

Area	12.6 km ²	0.20%
Israelis	1,674	



Alfei Menashe Settlement

6,600 Residents		
Option 1 – 4.0%	10.4 km ²	0.17%
Option 2 – 3.4%	9.9 km ²	0.16%
Option 3 – 4.4%	10.4 km ²	0.17%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

- Green Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Karnei Shomron Settlement

14,362 Residents

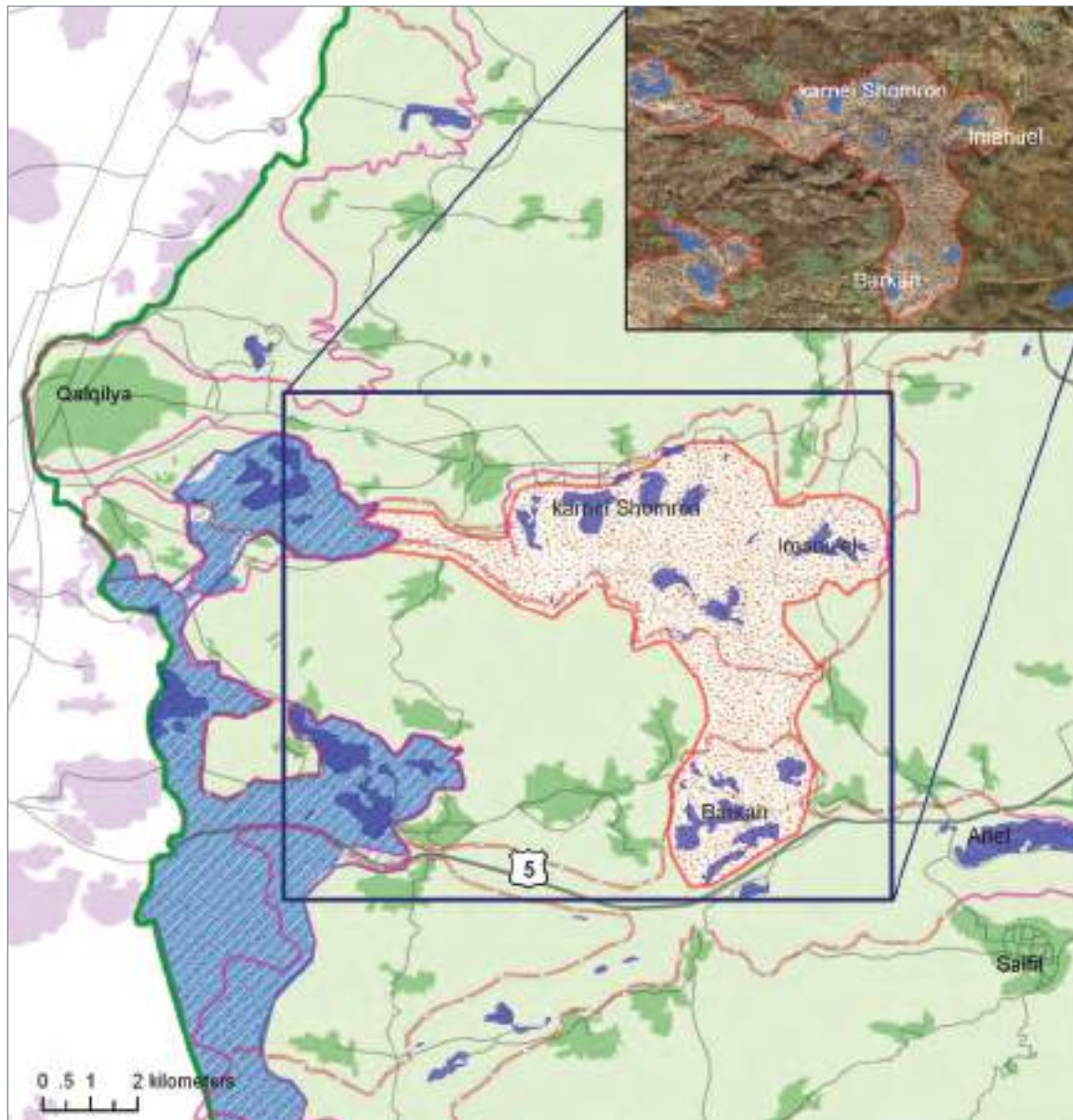
Option 1 – 4.0%

Option 2 – 3.4%

Option 3 – 4.4%

37.5 km²

0.61%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

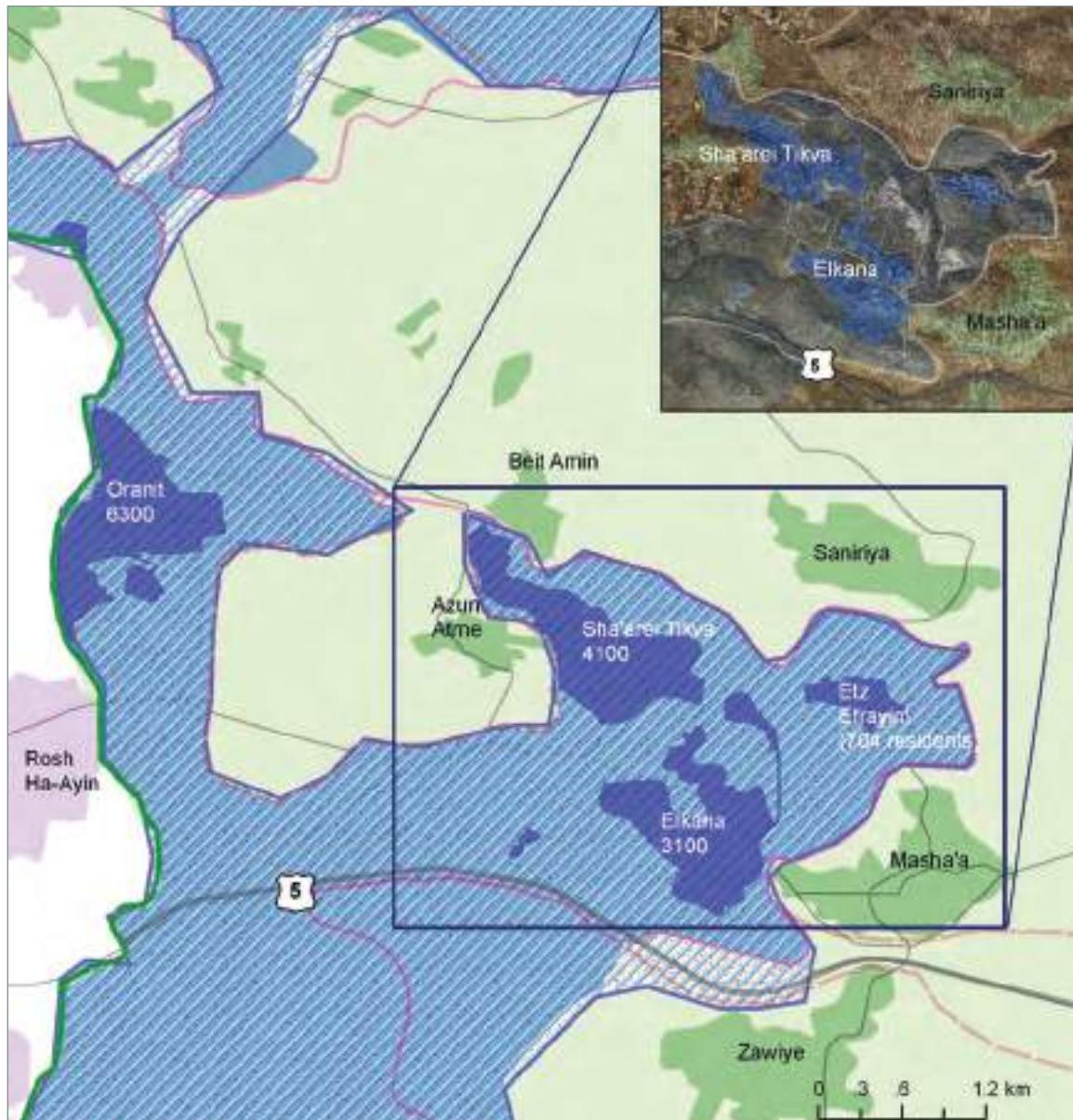
- Green Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Elkana–Oranit Settlement

14,204 Residents		
Option 1 – 4.0%	13.0 km ²	0.21%
Option 2 – 3.4%	12.6 km ²	0.20%
Option 3 – 4.4%	13.0 km ²	0.21%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

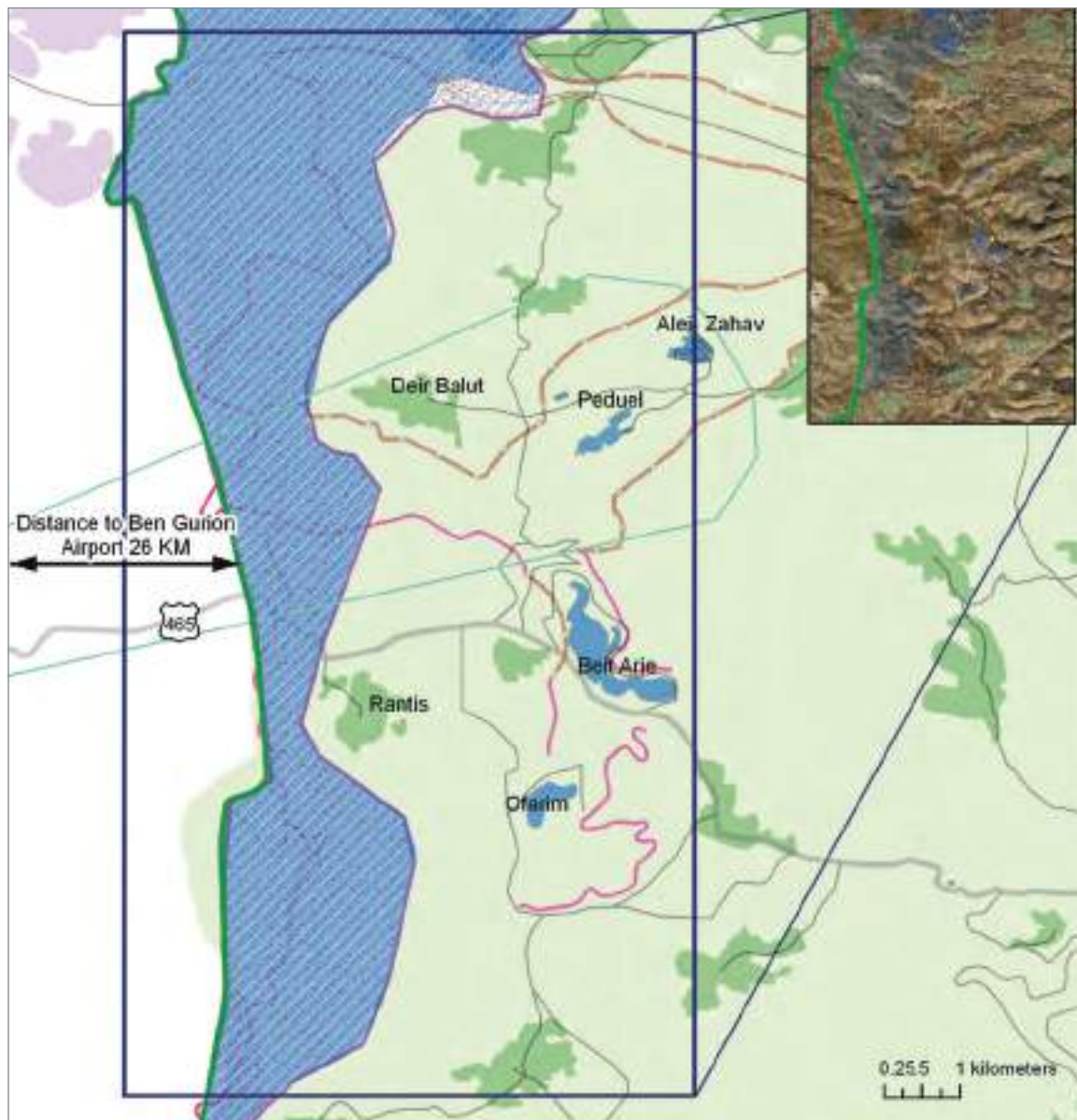
- Green Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Green Line and Ben Gurion International Airport

No Residents		
Option 1 – 4.0%	28.0 km ²	0.45%
Option 2 – 3.4%	28.0 km ²	0.45%
Option 3 – 4.4%	28.0 km ²	0.45%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

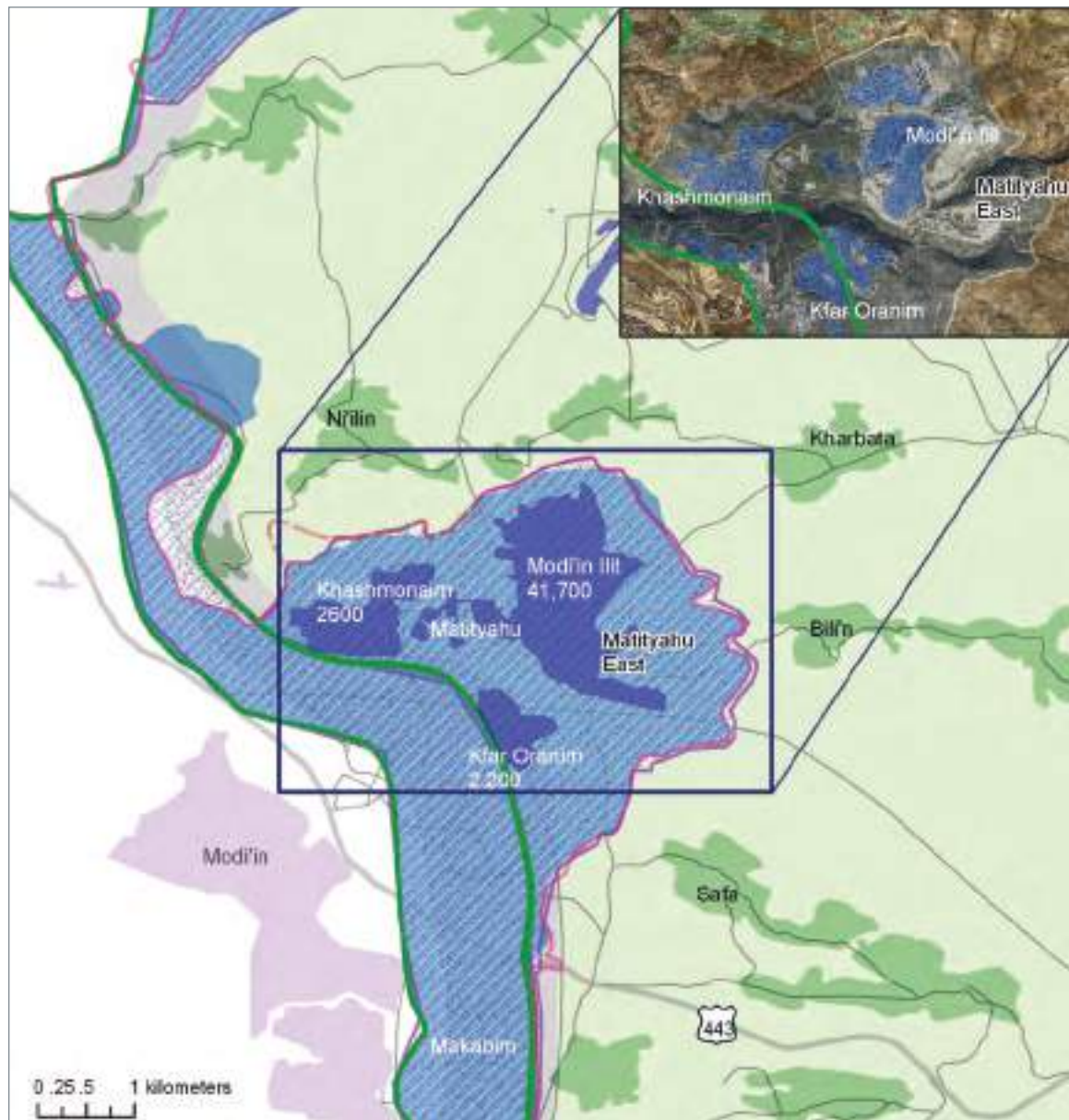
- Green Line
- Ben Gurion Airport
- Final Approach
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Modi'in Ilit Settlement

47,900 Residents		
Option 1 – 4.0%	25.2 km ²	0.41%
Option 2 – 3.4%	26.9 km ²	0.43%
Option 3 – 4.4%	25.2 km ²	0.41%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

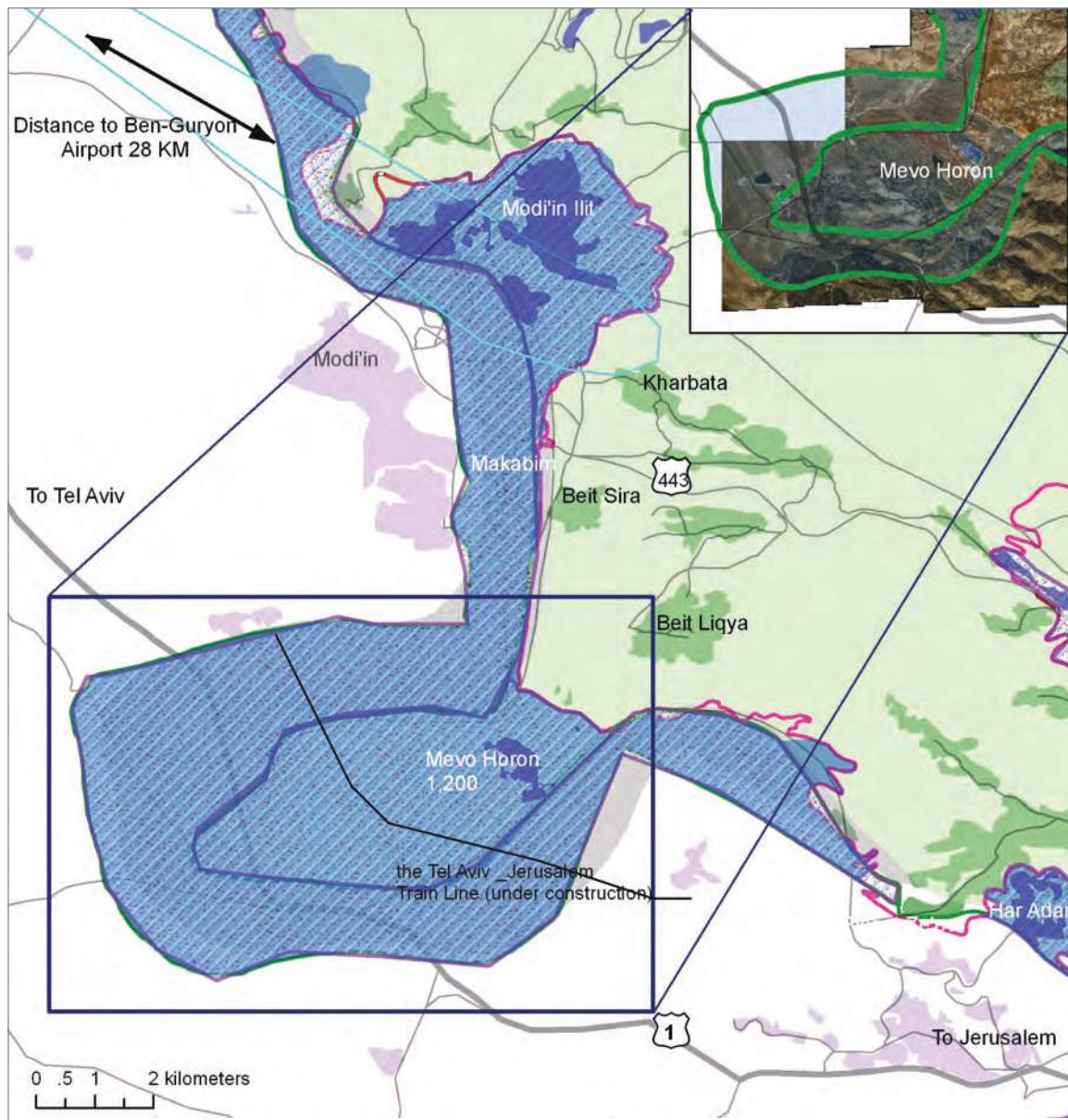
- Green Line
- Jerusalem Municipality Boundary Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Latrun Salient

1,200 Residents		
Option 1 – 4.0%	38.2 km ²	0.62%
Option 2 – 3.4%	38.2 km ²	0.62%
Option 3 – 4.4%	38.2 km ²	0.62%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

- Green Line
- Ben Gurion Airport Final Approach
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



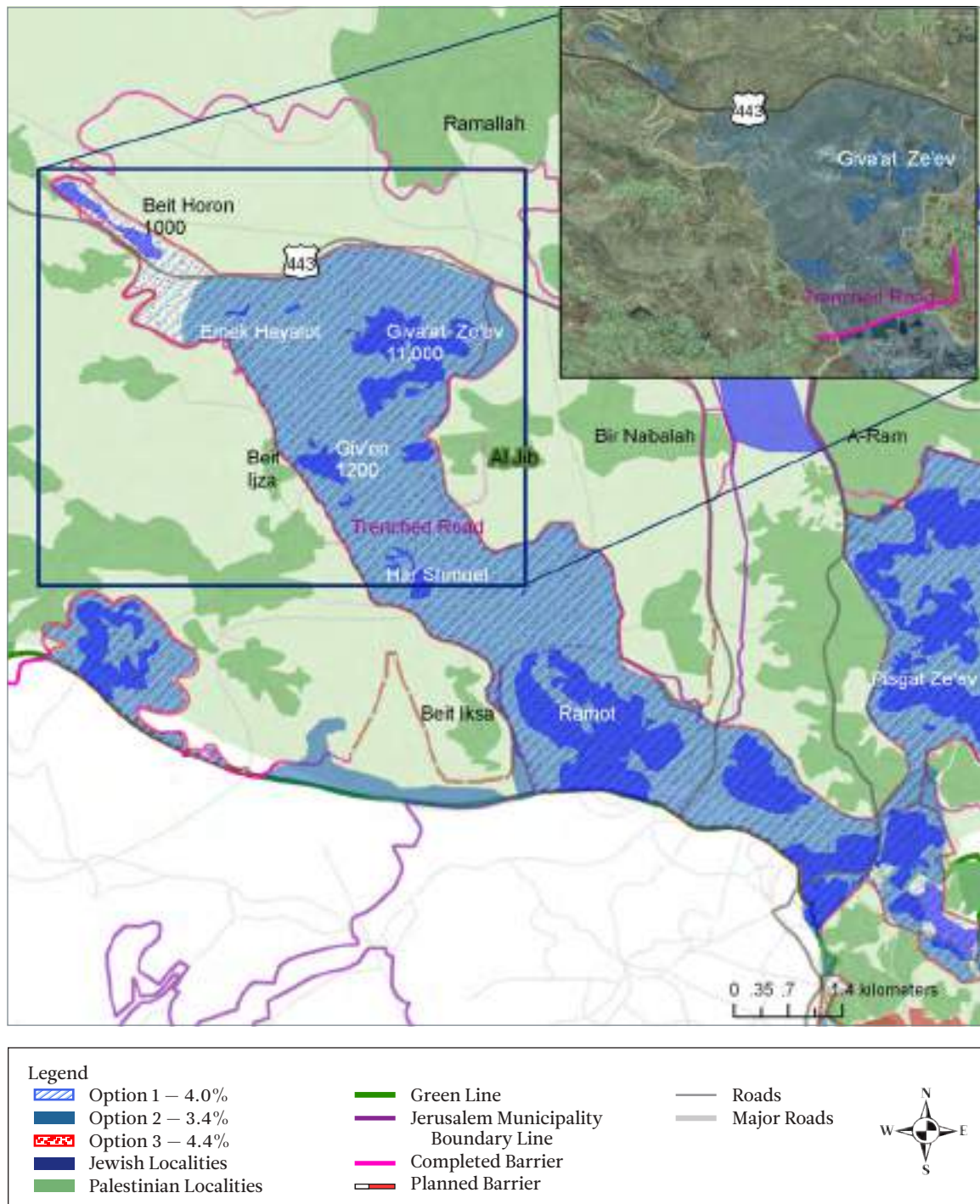
Giva'at Ze'ev Settlement

13,200 Residents

Option 1 – 4.0% 15.6 km² 0.25%

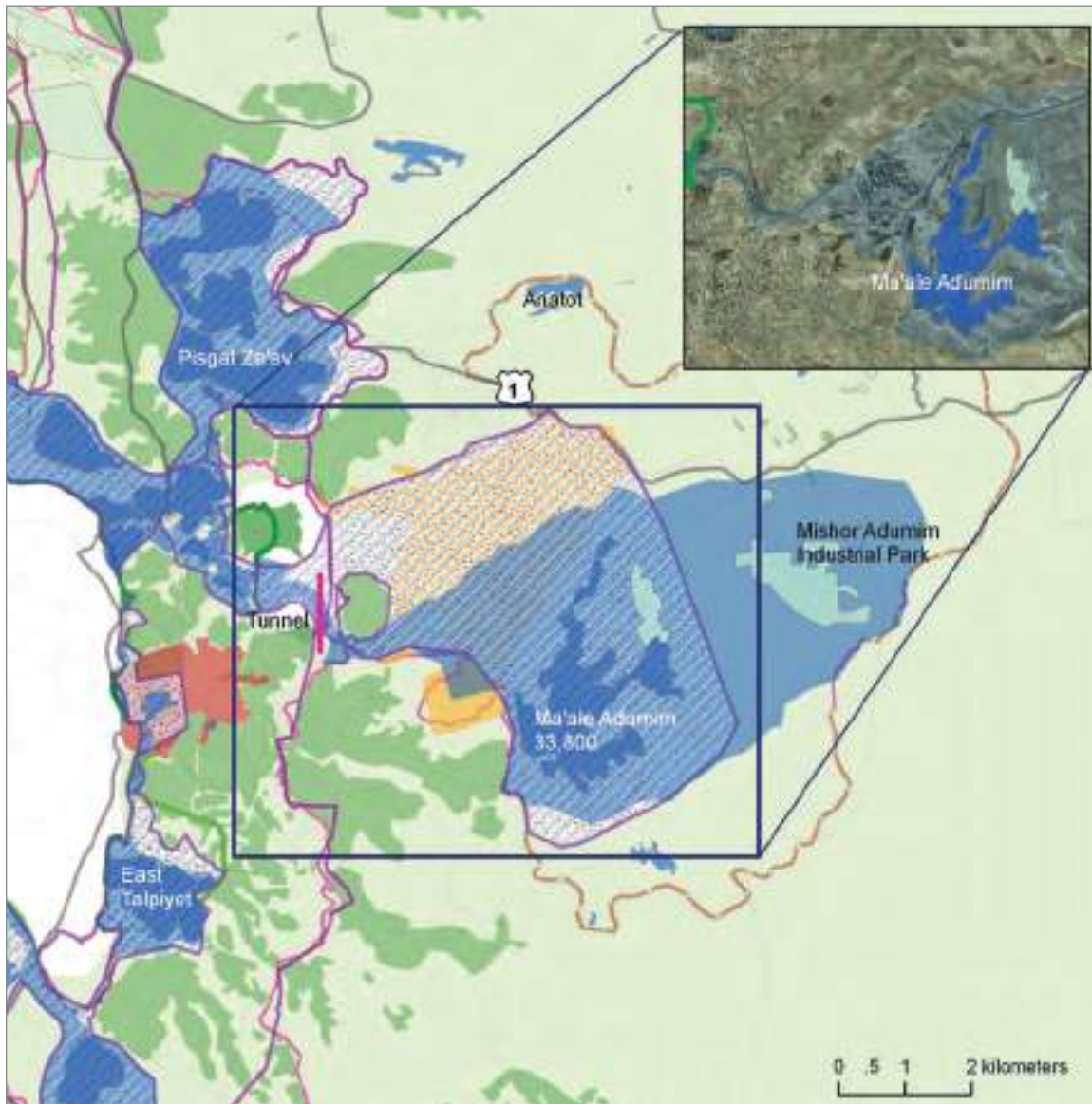
Option 2 – 3.4% 12.8 km² 0.42%

Option 3 – 4.4% 15.6 km² 0.25%



Ma'ale Adumim Settlement and E-1

33,800 Residents		
Option 1 – 4.0%	25.0 km ²	0.40%
Option 2 – 3.4%	26.9 km ²	0.43%
Option 3 – 4.4%	25.0 km ²	0.40%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- E-1 Masterplan
- Historic Basin

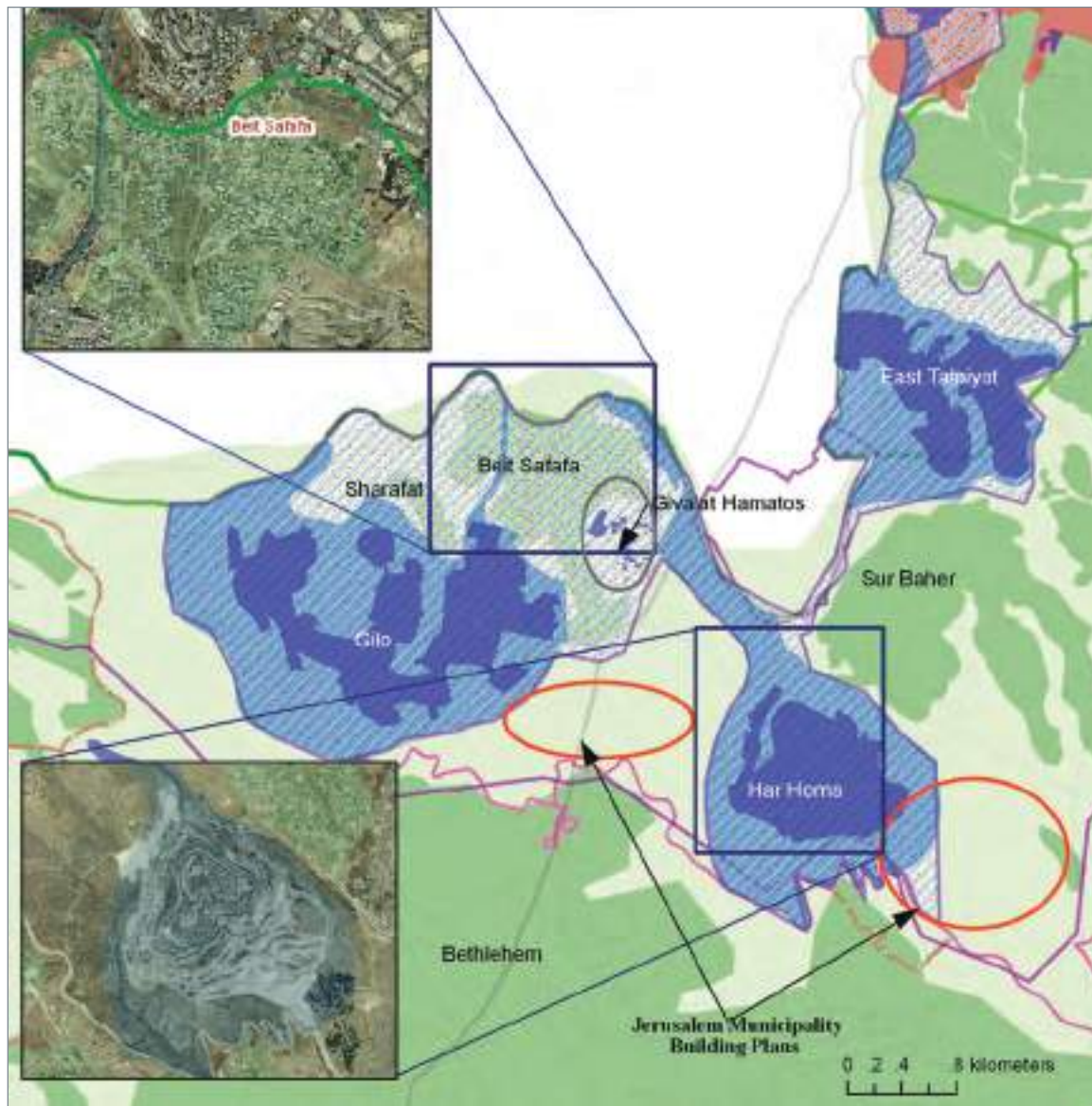
- Green Line
- Jerusalem Municipality Boundary Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Beit Safafa Village and Har Homa Settlement

Beit Safafa	Option 1 – 4.0%	13.1 km ²	0.21%
7,800 East Jerusalem Residents (incl. Sharafat)	Option 2 – 3.4%	7.1 km ²	0.11%
Har Homa	Option 3 – 4.4%	13.1 km ²	0.21%
5,697 Jewish Residents			



Legend

Option 1 – 4.0%	Green Line	Roads
Option 2 – 3.4%	Jerusalem Municipality Boundary Line	Major Roads
Option 3 – 4.4%	Completed Barrier	
Jewish Localities	Planned Barrier	
Palestinian Localities		
Historic Basin		

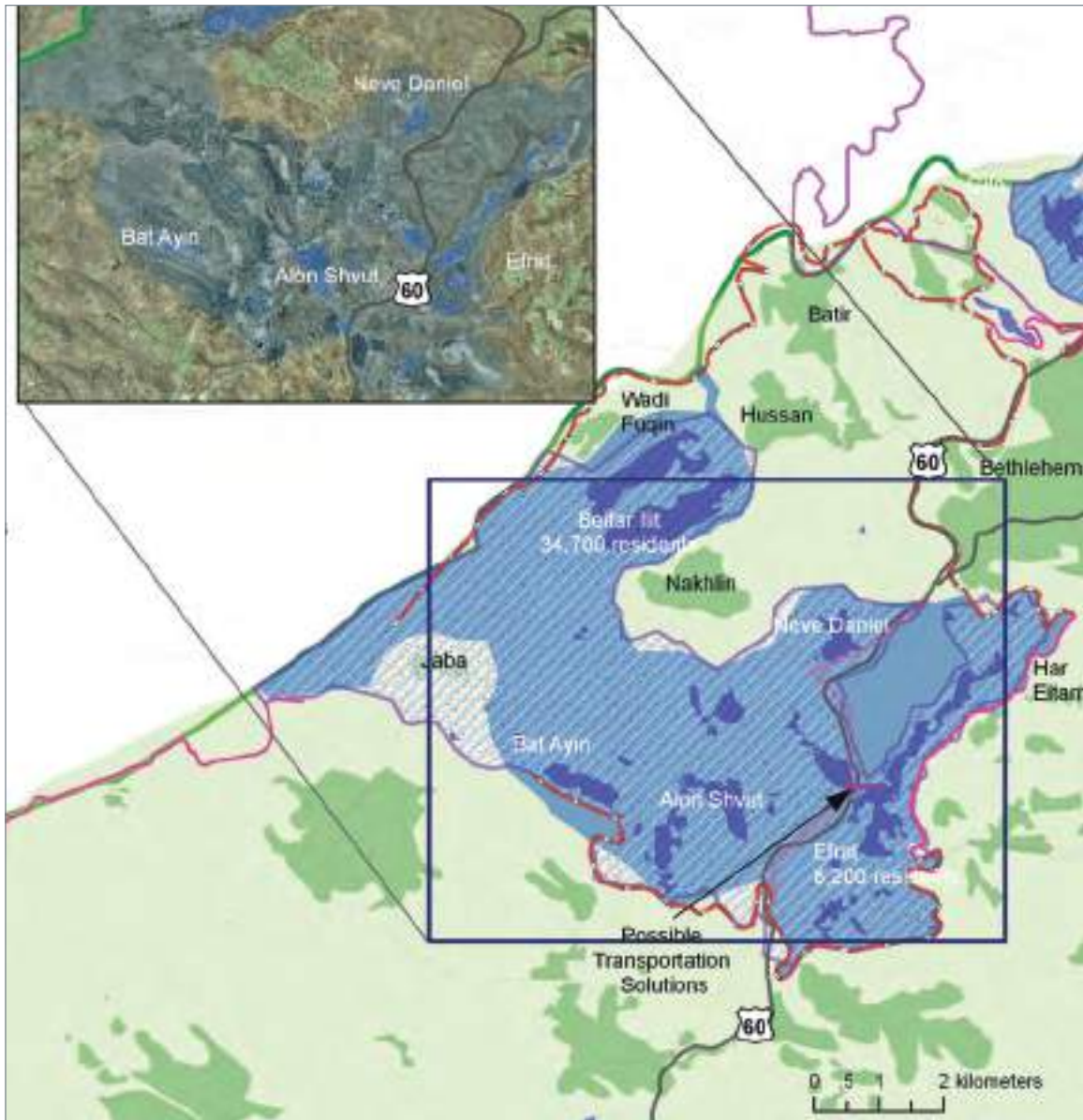
Gush Etziyon Settlement

51,863 Residents

Option 1 – 4.0% 42.0 km² 0.68%

Option 2 – 3.4% 42.0 km² 0.68%

Option 3 – 4.4% 42.0 km² 0.68%



Legend

- Option 1 – 4.0%
- Option 2 – 3.4%
- Option 3 – 4.4%
- Jewish Localities
- Palestinian Localities

- Green Line
- Jerusalem Municipality Boundary Line
- Completed Barrier
- Planned Barrier

- Roads
- Major Roads



Appendix V: Maps – Territorial Options

Option 1 – 4.0%



Option 2 – 3.4%



Option 3 – 4.4%



Acknowledgments

The Israeli–Palestinian workshop is part of the Baker Institute’s Conflict Resolution Forum. Learn more about the Baker Institute’s conflict resolution work, including previous reports from the Israeli–Palestinian Working Group and the United States–Syria Dialogue, at <http://www.bakerinstitute.org/programs/conflict-resolution>.