

Chapter Two

Points of Agreement and Disagreement

In late 2008, after eight months of intensive negotiations, which included about 300 meetings among senior officials and the professional committees, the points of agreement and disagreement on the various issues were presented to the American team—David Walsh and Elliot Abrams—who in turn summarized the negotiations for the new US administration under President Obama.

During the entire period of negotiations, the staff of the negotiating team within the Prime Minister's Office had maintained an ongoing, systematic, and up-to-date assessment of the situation. This monitoring and updating of the assessment yielded a summary of points of agreement and of disagreement between the sides. Lia Moran-Gilad collated the information, which was then analyzed, synthesized, presented in tables, and frequently updated, providing the staff and the negotiating team with both an overall and specific perspectives of the different issues. Regular discussions between the professional echelons after meeting with the Palestinian negotiators also contributed to the ongoing assessment. In addition, the negotiating leadership held internal discussions to evaluate possible maneuvering that could narrow the gaps, including an analysis of consequences, models from other parts of the world, and consultation with relevant experts outside the public sector. The special relationship between then Brigadier General Kamil Abu Rukun—the deputy-head of the Peace Negotiation Team—and the Palestinian senior negotiators, was exploited during side-talks, when “out of the box” proposals were examined to narrow the gaps that the sides had not managed to bridge in the negotiating rooms.

Territory and Borders

The negotiations began with a discussion of the principles according to which the map would be drawn.

Israeli Principles

Two main principles guided the Israeli side: (1) recognized and secure borders that would provide protection for Israel and its citizens; and (2) consideration of the situation created on the ground over the last 40 years, particularly the Israeli settlements. These two principles shaped Israel's political and security considerations:

Political Considerations. Most of the Israeli settlers would remain in their homes in the settlement blocs, which would be annexed to the State of Israel. Israeli citizens living in the territory to be included in the Palestinian state would receive assistance and compensation from the State of Israel and would be moved to the settlement blocs or to Israel proper, while attempting to preserve their community frameworks. Israel also aimed to minimize to whatever extent possible the number of Palestinians living in the territories to be annexed to Israel.

Security Considerations. Israel sought borders from which it would be able to defend its territory, population centers, and strategic assets, taking into consideration (a) the topographical situation (i.e., territory that provides control over population centers, transportation routes, strategic assets, and military facilities in Israel); (b) separation and avoidance of friction between the populations; and (c) the creation of a border that includes an effective security barrier and supervised border crossings.

Other Considerations. Israel's other considerations were Palestinian independence, combined with reduced dependency on Israel; maximal territorial continuity for both sides, with concern for the day-to-day lives of inhabitants on both sides of the border; national interests, including water sources, holy places, archaeological, and environmental issues.

Palestinian Principles

The Palestinian principles included the establishment of a sovereign and independent state that would not be dependent on Israel, with maximal territorial continuity primarily between the north and south of the West Bank,

uninterrupted by the Israeli settlement blocs (such as the Ariel “finger”). East Jerusalem and its Arab neighborhoods would be recognized as the capital of Palestine. The Palestinian side demanded an overland connection between the West Bank and Gaza Strip, including an infrastructure corridor under full Palestinian control. Finally, the Palestinians requested full control of the international entry points into the Palestinian state by land, sea, and air.

It was agreed that the principle of territorial and transportation continuity would apply to both sides. Regarding the overland connection between the Gaza Strip and the West Bank, the two sides did not agree upon the exact size of the territory nor on the issue of sovereign control. Prime Minister Olmert refused to give up Israeli sovereign control as he did not want to create any territorial discontinuity between the Negev and the rest of Israel and suggested that the majority of the route between the West Bank and the Gaza Strip be underground. The Israeli side was prepared to grant special status to this territory, as in the case of Route 443 and the route between Jerusalem and Kiryat Arba and the Jewish settlements in Hebron. The Palestinians demanded sovereignty over the route between the Gaza Strip and the West Bank and viewed it not just as a traffic conduit but also as an infrastructure corridor between the two parts of the Palestinian state. After the two sides discussed the principles, they began presenting the maps.

The Border

The Palestinian side demanded that the starting point of the negotiations should be the June 4, 1967 border, which would constitute the basis for demarcating the Palestinian state (with, of course, a willingness to make small adjustments as part of a swap of territory). In contrast, the Israeli side refused to view the June 4, 1967 boundaries as the reference point for determining the border, since it could not be reconstructed due to the changes on the ground and also because it was not internationally recognized as an agreed-upon border. Nonetheless, Israel agreed to a formula suggested by US Secretary of State Rice in a meeting of the negotiating teams in Washington in August 2008. She proposed that the territory discussed would include all the areas captured by Israel in June 1967, including East Jerusalem. As for the “no man’s land,” although legally not considered occupied territories, it was decided that it would be equally divided in calculating the territories of the two states. The total size of all the territory, including Judea and

Samaria, the Jordan Valley, the northern Dead Sea area, and the Gaza Strip was 6,205 sq km.

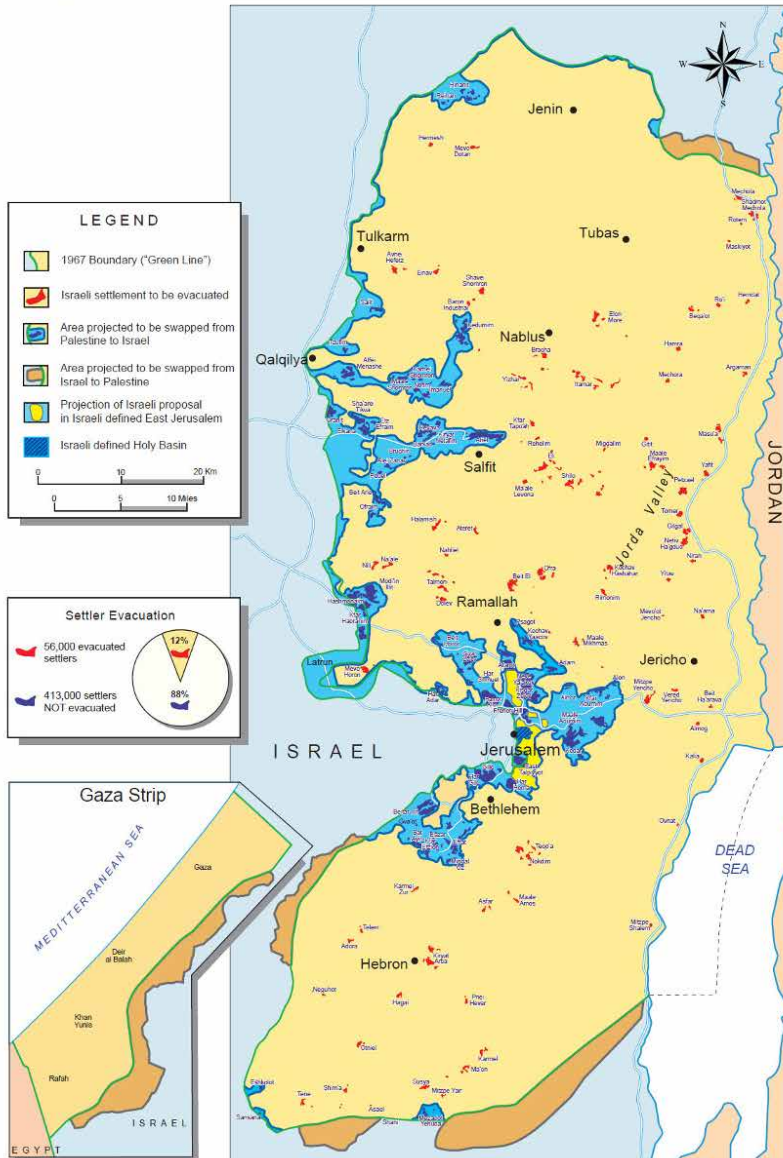
Swap of Territory

The Palestinians agreed to a minimal swap of territory at a ratio of 1:1 with respect to quantity, quality, and proximity to the Green Line; that is, a swap of territory equal in size and value. Thus, they did not agree to accepting territory in the Judean desert in exchange for high-quality territory that Israel would receive in central Samaria. In the Territory and Borders Committee, the Palestinian side consistently presented an official position on a territorial exchange consisting of up to 2% of the territory of Judea and Samaria. The map that they offered (see Figure 7) included Gush Etzion (although reduced in size), the Jewish neighborhoods in Jerusalem, and the Israeli settlements over the Green Line as part of Israel's territory. These added up to 1.9 % of the territory calculated. However, in discussions between Erekat and Dekel, the Palestinians expressed a willingness to agree to a swap of territory of up to 4%, on condition that the Palestinian public would approve it in a plebiscite. From the start, the Palestinians dismissed the idea of leaving Israeli settlements and citizens within the Palestinian state. They also rejected the evacuation of Palestinians living within the blocs that would be annexed to Israel.

In the map discussions, the Israeli side was the first to table a map (see Figure 8). The map showed that Israel would annex 8% of the territory of the West Bank and offer the PA territory in exchange at a ratio of 2:1 (not 1:1) from within the State of Israel—in the South Hebron Mountains, in the Lachish region, in the settlements around the Gaza strip, and in a small part of the Beit Shean Valley. The Israeli side presented several other proposals, the most far-reaching of which Prime Minister Olmert offered to President Abbas on September 16, 2008, as part of a package of core issues that he hoped would lead to the finalizing and signing the agreement. It called for Israel's annexation of 6.5% of the territory, with the Palestinians being compensated with 5.8% of territory from within Israel and also a corridor linking the Gaza Strip and the West Bank that would be equivalent to the remaining 0.7%. As a result, President Abbas could present the exchange of territory as being 1:1, according to the size of the territory conquered in 1967.

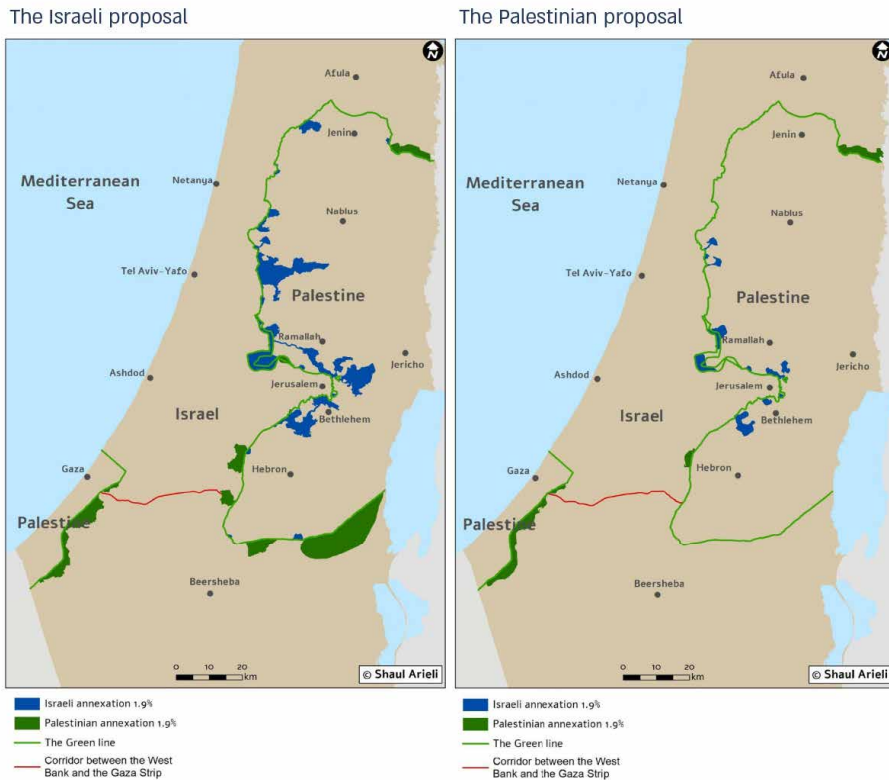
Figure 8. The Map Presented by Israel at the Start of the Negotiations in the Territory and Borders Committee¹⁰

Israeli proposal for territory



¹⁰ This map was also reconstructed by the Palestinian side, as Israel did not share a copy with the Palestinians. See the Palestine Papers, (2008, June 15).

Figure 9. The Revised Israeli Map (l) Presented by Prime Minister Olmert to President Abbas Versus the Palestinian Map (r), Which Was Identical to That Presented at the Start of the Negotiations



Maps produced by Shaul Arieli.

The Palestinian side rejected the Israeli map presented by Olmert (see Figure 9), based on the claim that it took away important territory and water sources from the Palestinian state and significantly expanded Israel's territory beyond that of the settlements. Therefore, the Palestinians again presented their initial map (see Figure 9) based on the swap of 1.9% of the territory and rejected the idea of leaving any settlements east of Route 60, which divides the West Bank from north to south and was presented as the "backbone" of the Palestinian state. Thus, they significantly reduced the size of the settlement blocs. In exchange, the Palestinians demanded a territorial swap of 1:1 in terms of quantity and quality, in reference to the northern

Jordan Valley (south of Beit Shean), in the Jerusalem corridor (to the north and south of it; in other words, the narrowing of the corridor), in the area of Latrun, and other areas.

Given the gaps between the positions, an attempt was made to “disaggregate” the discussion into smaller units of territory and to build the discussion from the bottom up. Thus, for example, the first discussion to take place considered Gush Etzion, based on the desire to understand what a settlement bloc was and what it entailed: What would it include? What would be its size? How many routes of access would it have? Would it have an interface with the Palestinian state? As these more pinpointed discussions revealed gaps between the positions, it became impossible to progress toward agreement in these discussions.

A status meeting with Secretary of State Dr. Rice took place in Berlin on June 24, 2008, on the sidelines of the conference of donors, with the participation of Abu Ala, Erekat, and Khaldi from the Palestinian side and Dekel and Becker from the Israeli side. Rice expressed disappointment with the lack of progress on the issue of territory and asked whether there was a way out of the deadlock. Dekel suggested a tour of the territory by the Territory and Borders Committee teams, based on the idea that creative solutions would emerge.

On the instructions of Secretary of State Rice, it was decided to hold a joint tour to achieve a more practical discussion and to find solutions that could break through the impasse. Creativity and the bridging of gaps were needed even before the first tour began. Thus, when the Palestinian team, headed by Dr. Samih al-Abid, arrived at the Hizme crossing and joined the members of the Israeli Territory and Borders team (Dekel, Tirza, Abu Rukun, and Arad), the Palestinian legal advisor, Khaled Elgindy, warned his group that they were not permitted to join the tour since, according to him, a visit by the Palestinian team to Maaleh Adumim could be interpreted as Palestinian recognition of the city’s legitimacy, even though it had been included in the itinerary prior to the tour. In the end, the tour set out after Dr. al-Abid obtained permission a second time from Abu Ala; this would be the first of many such

incidents. Nonetheless, the tours created a common language and a level of personal familiarity between the teams.

In the tour of Gush Etzion, the Palestinian team realized that Palestinians cultivated land within the boundaries of the settlements. The members of the Israeli team were surprised to learn that the situation on the ground was unknown to the Palestinian team, which had been working on the maps and studying the territory for about a decade. The teams sat down together on a hill and discussed the matter, at the end of which it was agreed not to draw the border on the basis of private land or cultivated fields and that the landowners and the farmers would be compensated individually.

The tours helped to clarify some of the Israeli positions: Israel would not annex territory populated by Palestinians and therefore it was not necessary to evacuate any Palestinian settlements; in practice, only Israeli settlers would have to be evacuated and resettled, and solutions could be found for providing transportation continuity in areas of friction.

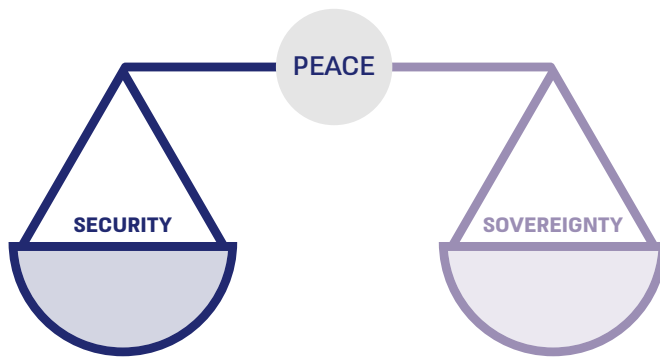
The Israeli side presented the claim that the number of Israelis to be evacuated from their homes would not exceed 20% of the Jews living in Judea and Samaria. From Israel's perspective, it could not evacuate more than 20% as it needed to gain broad public support and minimize harm to the inhabitants themselves. The heart of Israeli settlement in Judea and Samaria forms a triangle, whose vertices are Modiin Illit–Beitar Illit–Maaleh Adumim and its surroundings, an area that includes Jerusalem and greater Jerusalem. According to the calculations of the Israeli team, over 75% of the settlers were living within this triangle. Therefore, the Israeli team did not compromise on this issue on the maps either. On the map that Olmert presented to Abbas, the number of settlers to be evacuated rose from 70,000 to about 85,000, primarily due to the Palestinian demand that settlers and settlements would not remain within the Palestinian state.

The Palestinian side was shocked at the scope of building in the settlements, especially Maaleh Adumim, Beitar Illit, and Ariel, and found it hard to accept. It appears that the Palestinian negotiators began to realize that Israel would not evacuate these settlements. The Palestinian side reiterated their position that the Israeli settlements were illegal and that they had acquiesced to Israel

by agreeing to recognize the majority of the Jewish neighborhoods in East Jerusalem as part of the capital of Israel, in addition to being willing to accept a territorial exchange in lieu of the territory in the settlement blocs.

Throughout the process, the Palestinians did not stray from their basic position regarding the swap of territory and expressed opposition to the principle of a tradeoff between security and territory. In other words, the Palestinians felt that their demand for sovereignty trumped Israel's need for security (see Figure 10), even if they recognized that Israel had that need.

Figure 10. Palestinians' Demand for Sovereignty Versus Israel's Demand for Security



In discussions held on the side, the Palestinian representatives opined that Israel's demand for a minimal evacuation of settlers resulted from political and economic considerations rather than that of security. Indeed, **despite Israel's emphasis on security and the need for defensible borders, when drawing the maps, the Israeli side gave precedence to political and settlement considerations over security concerns.**

With the negotiations not producing any tangible results and the approach of the UN General Assembly meeting in September 2008, Secretary of State Rice wished to significantly progress in the negotiations and therefore proposed a bridging of the gaps according to an approach of "borders first." The idea was "Maaleh Adumim in exchange for Ariel"; that is, Israel would receive Maaleh Adumim and would concede Ariel. After some consideration, Prime Minister Olmert rejected the proposal, as did Palestinian president Abbas. Another attempt to achieve agreement on the maps occurred

after Prime Minister Olmert presented President Abbas with his proposal for closing the gaps on the core issues in November 2008. In this meeting, Abbas asked to receive the map drawn by Olmert on a napkin as an illustration [see Figure 11]. Olmert refused to give him the map without prior consensus over its main points, but Abbas rejected this demand, partly because his team was not present at the meeting. Therefore, it was arranged that a meeting of experts would take place in Washington where Olmert's final map would be presented and the Palestinian response would be submitted. However, the Palestinian side cut off contact and it was not possible to set a date to present the maps. The background to this situation was a deterioration in the security situation in Gaza and the escalation that led to Operation Cast Lead.

Figure 11. Olmert's Map Drawn During the Meeting with Abbas

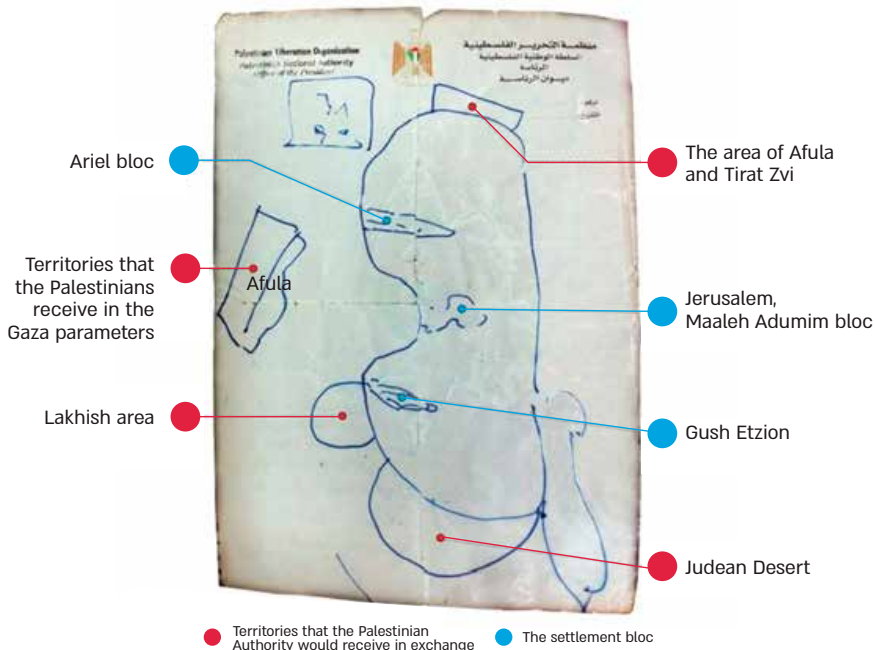


Figure 12. Territory and Borders: Summary of Positions



Security

The Israeli approach to security in a permanent settlement was and still is that Israel has chosen the way of peace, in part, **to achieve stable regional security and calm and prosperity for its citizens. The implication is that a peace treaty should not harm Israel's ability to defend itself and its citizens.** The assumption was that the Israeli public would not support an agreement that would increase the security risk to Israel's citizens and to its strategic home front.

At the start of the negotiations, the Israeli side presented the **basic assumptions of the Israeli position with respect to security arrangements:**

1. The Middle East was facing high level of uncertainty; it was difficult to predict where regional processes were going; there was mutual distrust between the Israeli and Palestinian sides, influenced by the ongoing multifaceted asymmetry between them, and therefore time was needed to build up trust.
2. Most of the Arab countries saw the resolution of the Israeli–Palestinian conflict as beneficial, but they refrained from becoming actively involved (for example, the Arab countries had even decreased their aid allocated to the PA). In this context, there were also the camps that opposed peace, primarily Iran and the Shiite axis, as well as the Arab oppositional axis and jihadist terror movements that have refused to recognize Israel's right to exist.
3. The lack of internal stability in the neighboring countries had reduced their motivation to help move toward a settlement between Israel and the Palestinians. In addition, Israel could not rely on these countries over time to meet its security needs.
4. The main question posed was whether the gap could be bridged between Israel's need for reliable security arrangements and the unwavering Palestinian position that did not want to harm the Palestinian state's sovereignty.

The Risks in the Event of an Agreement

Israel's greatest concern was that the Palestinian state would fail, and it would be taken over by Hamas or some other radical Islamic movement, and

the territory which Israel had evacuated would become a base for terrorist infrastructure and a platform for terrorist attacks against the State of Israel, as occurred in the case of the Gaza Strip.

The security arrangements therefore had to provide a solution to the following scenarios: terrorist attacks against Israel from or by way of the territory of the Palestinian state; the possibility of an armed conflict with the Palestinian state or some force operating from its territory; the intensification of friction from various sources—people, borders, crossings, traffic, commerce, economic relations, and so forth; negative developments in the region that would affect the Palestinian state and Israel’s security, such as the takeover of Jordan by extremists or a change in the kingdom’s regime; a situation in which military or semimilitary forces attack Israel via Jordan, the Sinai Peninsula, or the Palestinian state; and the use of disruptive means from Palestinian territory against Israel.

During the negotiations, it was unclear whether the PA and the PLO could impose the conditions of an agreement on the Gaza Strip. At the same time, Egypt did not demonstrate any willingness or effectiveness in preventing the smuggling of weapons into the Gaza Strip, in particular missiles and high-trajectory weapons. Therefore, it was necessary to prepare for a situation in which Hamas or some other radical Islamic movement would continue to control the Gaza Strip.

The two sides had a profound gap in how they approached the implications of the negotiations (see Figure 13). While the Israeli side felt that security would lead to peace and that stability and security arrangements were necessary conditions for the peace between the two states, the Palestinian side repeatedly claimed that peace would provide security.

Although the Palestinian team publicly recognized Israeli security needs and the need to maintain its security situation following an agreement, it refused to accept any agreement in which Israel’s security would be achieved at the expense of the Palestinian state’s sovereignty over its territory. This led the Palestinians to demand a full Israeli withdrawal from the territory of the Palestinian state—land, air, and sea—which, according to the Palestinians, took priority over Israel’s security needs.

Figure 13. The Gaps in the Parties' Approaches to Security

The parties' approaches		
"The day after"	A Palestinian state will not prevent the intensification of terrorist infrastructure against Israel	Peace will bring security
Who is responsible for security?	Responsible for its own security	Israel security demands—a pretext for continuing the occupation
Deployment	IDF presence in the West Bank; symbolic international presence	No Israeli presence in Palestine; an international military presence
Demilitarization and restrictions	Demilitarization—"prohibited" and "permitted" weapons Israel's control of air space	Palestinian forces between police and army with limited arms
Transitional period	According to Palestinian performance	Short duration and international supervision of implementation

Israel's security position rested on three pillars (see Figure 14): (a) **demilitarization** of the Palestinian state with respect to primary military capabilities and terrorist infrastructures, (b) creation of **security arrangements** that would provide Israel with conditional **strategic depth**, and (c) **bilateral and multilateral cooperation** to ensure compliance with the arrangements and to neutralize "spoilers" (i.e., forces or groups that oppose the peace agreement).

Figure 14. Israel's Vision for Security Arrangements

Demilitarization

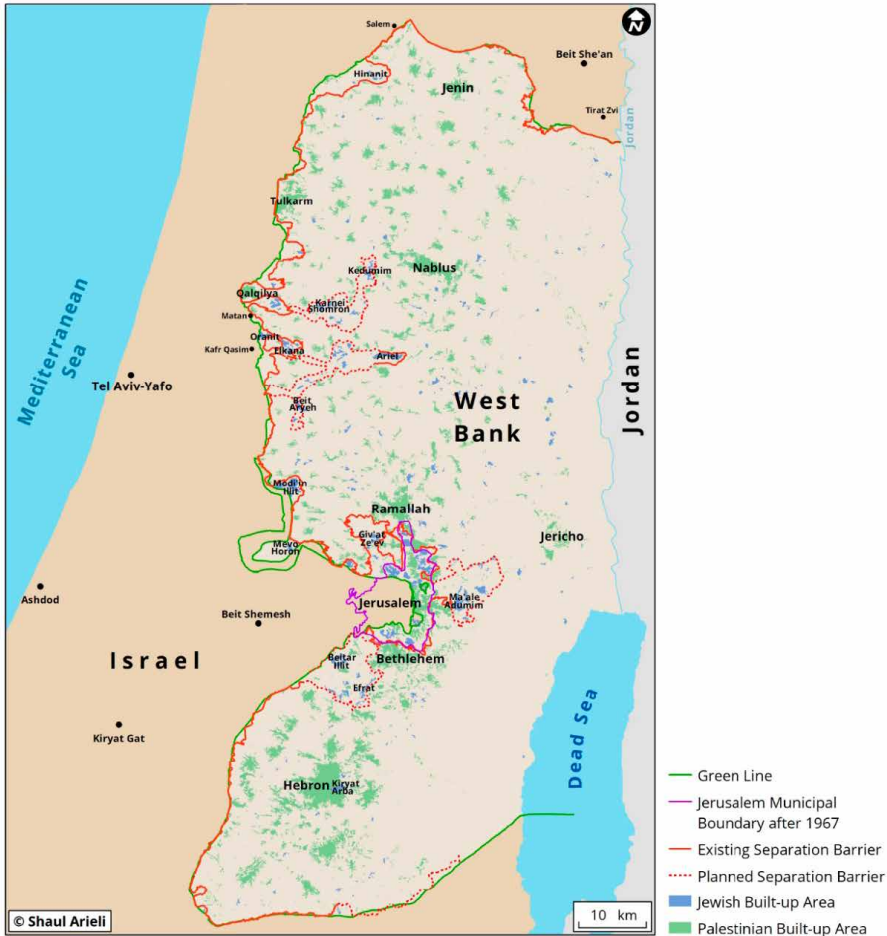
The Israeli position called for the demilitarization of the Palestinian state and the prevention of any aggressive action against the State of Israel from or by means of its territory. The Palestinians, however, did not agree to the demand that the Palestinian state should be fully demilitarized vis-à-vis the military capabilities that threatened Israel, and they opposed using the terms “demilitarize” and “non-militarized,” which had been used in the Clinton proposal. Nonetheless, they agreed to the demand to restrict their military capabilities and to limit the weapons that the Palestinian security forces would use. For example, they consented to the demand not to acquire military aircraft and helicopters, ground-to-air missiles, ground-to-ground missiles and rockets, and tanks. They also consented to the term “limited arms,” alongside a list of permitted and prohibited weapons provided in the appendix to the agreement.

A Closed Border That Includes a Security Barrier

The Israeli security position ruled out the idea of an open border—including in Jerusalem—that would allow the free and unsupervised flow of people and goods between the states. The route of the border was largely based on that of the Security Barrier (see Figure 15) with supervised crossings and security inspection. In contrast, the Palestinian side sought open borders that would allow the free flow of traffic, people, and goods, particularly if an economic agreement for free trade was reached or if a customs union was created.

Figure 15. The Route of the Security Barrier Presented in the Negotiations

Seam Zone and Separation Barrier, 2002–2020



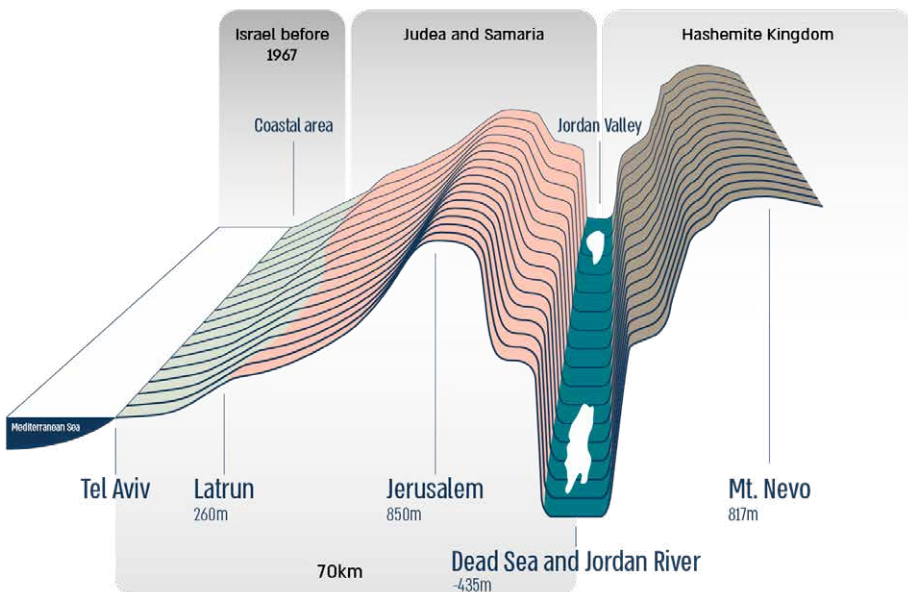
Map produced by Shaul Arieli.

Conditional Strategic Depth

Given that Israel stood to lose control of the area east of the border and especially the topographical superiority provided by the ridges of Judea and Samaria (see Figure 16) as well as Israel's lack of strategic depth and the close proximity of the Palestinian state to Israel's population centers, Israel's position was that security arrangements must include the following:

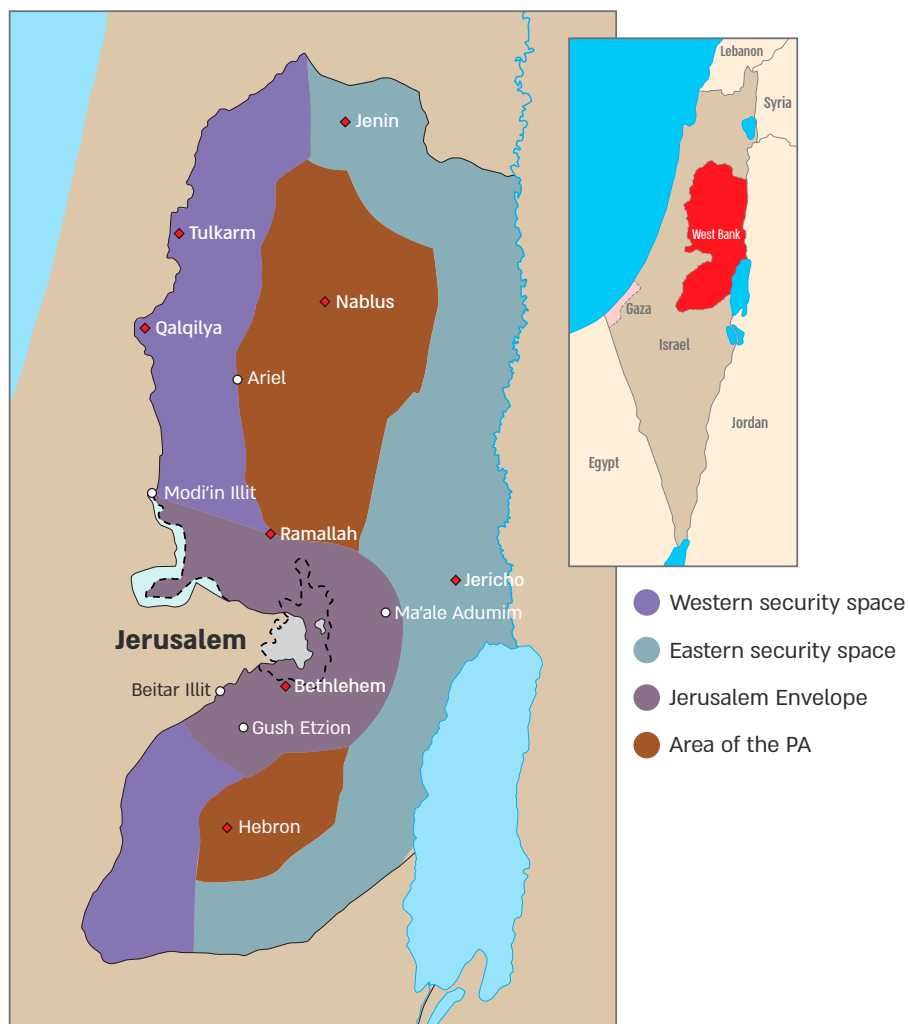
- deployment of the IDF for an extended period in the Jordan Valley to prevent the smuggling of weapons prohibited by the agreement and the penetration of state and non-state players hostile to Israel into the Palestinian territory.
- a unified airspace with ultimate security control in the hands of Israel. Splitting the airspace would be impossible, as it is only 70 km wide. To protect Jerusalem from aerial threats from the east, Israel would need to intercept enemy planes already as they cross the Jordanian border.
- a unified electromagnetic space, jointly managed and such that Israel's needs would be met (given its topographic inferiority and the fact that electromagnetic waves do not stop at borders).
- warning stations placed in the Palestinian state, which would increase Israel's warning time, primarily against aerial threats, ballistic missiles, and ground-to-ground missiles and rockets
- control and effective supervision of the security around the borders of Palestinian state (security envelope), including the Palestinian state's external and international entry points.

Figure 16. Topography as an Essential Component in Security Arrangements



The Palestinian side opposed unified aerial and electromagnetic spaces over which Israel would have ultimate control. As an alternative, Erekat again raised the idea of a NATO aerial presence, primarily consisting of early warning aircraft. The Palestinian side also opposed the deployment of IDF forces in the Jordan Valley for an undefined period, namely until the strategic situation had changed or until the Palestinian side had proved its effectiveness but was willing to compromise for IDF deployment for a period of three years, in parallel to its demand for the implementation period. In contrast to the positions of the military leadership, Prime Minister Olmert was prepared to make concessions on the presence of IDF forces in the Jordan Valley after the implementation period and was willing to have them replaced by a combined international/Jordanian force (an idea that Jordan opposed). With regard to early warning stations, the Palestinian side agreed to three stations on the condition that they be operated by American forces and without any symbols identifying the stations as being Israeli. The Palestinians also opposed Israeli supervision of the security envelope (see Figure 17), namely at the Palestinian state's international borders and crossings. At most, they would agree to supervision by an international or a neutral third-party mechanism.

Figure 17. The Concept of the Security Envelope and Security Zones in the West Bank



Security Cooperation

The Israeli position called for the establishment of an infrastructure that would facilitate three-layered security cooperation: (a) bilateral cooperation between Israel's security forces and the Palestinian security mechanisms; (b) a multilateral mechanism for cooperation that would include—alongside

the sides to the agreement—an international force to be established according to the agreement. Its purpose would be to supervise and verify the implementation of the security arrangements and prevent the creation of terrorist infrastructures in the territory of the Palestinian state; (c) a mechanism for regional security cooperation between Israel, Palestine, the US, and the Arab states, and especially Jordan and Egypt, which would support the arrangements between Israel and the Palestinians.

The Palestinians agreed to establish a bilateral mechanism as well as regional security arrangements that did not compromise their sovereignty but they would do so only after the creation of a Palestinian state. At the same time, they presented a demand according to which an international force would be deployed to separate between the IDF and Palestinian forces. According to this demand, the mandate of the force would include supervision and verification of the implementation of the agreement on both sides of the border and not only on the Palestinian side. In their view, the international force—which could be based on NATO forces—could allay Israel's fears that a threat could come from the East and that the Jordan Valley could become a smuggling route (like the Philadelphia Corridor between the Gaza Strip and Egypt).

The Role of the Palestinian Security Forces

The Security Committee, led by Major General (res.) Amos Gilad and General Hazzem Attallah, the commander of the Palestinian Police, agreed on the roles of the Palestinian security forces: (a) maintaining law and order; (b) fighting terrorism and crime; and (c) protecting borders and preventing smuggling and infiltration of terrorists and members of extremist groups.

However, the Palestinian side conditioned their agreement that there would not be any Israeli security presence within the boundaries of the Palestinian state (on land, air, and sea) and that an international force would be present on the Palestinian side. Israel rejected this condition.

Military Alliances

The sides agreed to a prohibition against joining any military alliances with states or non-state players that were hostile to the other side.

A Threat Combined With Capabilities and Hostile Intentions

After many years of dealing with the threat of terror, one of the important lessons Israel learned was that it was difficult and almost impossible to deter terrorist organizations or extremist groups and therefore their capabilities—whether terror, semi-military, or full military—had to be neutralized. Therefore, Israel adopted a security approach that called for a continuous and long-term effort to dismantle the terrorist infrastructures, an activity that required high-quality and accurate intelligence and full military freedom of action, including entry into Palestinian city centers and villages, to search for explosives laboratories, lathes for producing rockets and other weaponry, as well as stockpiles of weapons and ammunition and neutralizing them. It also involved arresting terrorists and intercepting suicide bombers before they were able to harm civilians. These conditions could be met only on the basis of the Palestinian state's willingness to maintain close cooperation between the security forces and to accept the formula set down by then IDF Chief of Staff Lieutenant General Gabi Ashkenazi in coordination with General James Jones, the American envoy sent to evaluate the security arrangements, which was “to the extent that the Palestinian security mechanisms do more, we will do less.”

In retrospect, the Israeli security concern, as presented in the Annapolis discussions, proved to be justified during the decade of regional upheaval in the Middle East, which began three years after Annapolis; however, there was no appropriate remedy for the situation of a nonfunctional Palestinian state. Moreover, Israel took a much harder line on security. Based on consensus between Prime Minister Netanyahu and the security establishment, **Israel felt that a long-term military presence in the Jordan Valley and freedom of operation on land and in the air throughout the West Bank, for managing the prolonged struggle and confrontation against the terror infrastructure and preventing its growth, was essential and would remain so after the establishment of a Palestinian state.**

Figure 18. Security: Summary of Positions

Refugees

Refugees was the most charged issue to be discussed, partly due to the Palestinian narrative, which has placed moral and legal responsibility exclusively on Israel for having created the refugee problem and perpetuating it. As a result, the negotiations on this issue were handled differently than the other core issues. Although the discussions involved a small number of participants on both sides, representatives of the countries that “host” the refugees—such as Jordan—and the Arab League, in addition to American advisors, were also present (although informally).

At the beginning of the discussions, it became clear that both sides sought a comprehensive, just, and agreed-upon solution to the issue. Although this motif seemed to indicate that cooperation and progress toward consensus was possible, the two sides differed in their interpretation, which led to major disagreements. The Israeli side emphasized that the solution to the problem of the Palestinian refugees would be found as part of the “two-states-for-two-peoples” vision within the boundaries of the Palestinian state; that is, the Palestinian national home. Moreover, the Israeli position was that Israel was not responsible—and certainly not exclusively—for the refugee problem and instead wanted to bundle its solution together with resolving the problem of the Jewish refugees who had been expelled from the Arab countries in 1948.

In contrast, the Palestinian team claimed that a solution to the Palestinian refugee problem should be based on the “right of return” according to its interpretation of international law, of UN Resolution 194, and of the Arab Peace Initiative from 2002.¹¹ It also rejected the Israeli offer and demanded Israel’s recognition—both moral and legal—of having created and having perpetuated the problem. Furthermore, the Palestinian side made it clear that Israel’s recognition of its responsibility for the refugee problem, including the fulfilment of the “right of return” of an acceptable number of refugees (on an agreed timeline) to the state of Israel was a necessary condition for the Palestinians to agree to a resolution of the issue.

11 Israel uses the term “Arab Peace Initiative” to refer to the Annapolis process and the Roadmap. The Arab Peace Initiative refers to solving the refugee problem based on “just and agreed” terms established by UN resolution 194, which Israel has refused to accept as a reference point.

As expected, the discussion of resettling the refugees—or the “right of return,” as it is more popularly known—was an explosive one.

The Palestinians expressed major reservations with respect to the Israeli statement that the Palestinians have the right to Palestinian citizenship according to Palestinian law and that Palestine is the homeland of the Palestinian people. The Israeli side had to calm down the Palestinian representative, Ziyad Clot, a refugee according to his own self-definition, who threatened Saeb Erekat that he would leave the team if he showed any flexibility toward the idea that the solution to the refugee problem is the granting of citizenship in the Palestinian state rather than return to the territory of the State of Israel.

While the Israeli side insisted that the establishment of a Palestinian state as the national home of the Palestinians should be the solution to the problem of the Palestinian refugees and that the State of Israel should not be the destination of those returning, the Palestinians insisted that fulfilling the right of return to the State of Israel was fundamental and added that there could not be any agreement without settling a number of refugees in Israel and according to a defined timetable. Although later, the Palestinian side showed some flexibility in their readiness to accept the responsibility of both Israel and the international community for the refugee problem, no consensus was achieved.

Attempting to bridge the gap, Prime Minister Olmert expressed his willingness to President Abbas to accept 5,000 refugees into Israel, at a rate of 1,000 per year for five years, as a humanitarian gesture. However, the Palestinian side again emphasized that it could not agree unless Israel was ready to allow the return of a much larger number of refugees. The lowest number of refugees mentioned by Erekat was 80,000. President Abbas agreed to the principle that Israel, as a sovereign state, should have the right to decide who would be allowed entry and who would be eligible for citizenship. Furthermore, the two sides agreed that most of the refugees would be resettled in Palestine, in the “hosting” countries where they currently resided, or in third-party countries willing to accept refugees. The Israeli side did not relate to the question of where the refugees would be settled on their return to Palestine, since this was an internal Palestinian matter.

Despite the fundamental lack of agreement and the differing narratives of the refugee issue, the teams also dealt with the subjects of refugee compensation and rehabilitation. The Israeli side expressed willingness that the refugees should be rehabilitated and compensated by an international mechanism. Essentially, Israel agreed to the American proposal formulated by the team of US Secretary of State Rice, which would create an international mechanism to deal with the refugee problem. The Palestinian side at first was opposed to this initiative; however, given the determination of Secretary of State Rice, a consensus was reached on the issue. Thus, the two sides agreed that an international mechanism should be established to end the refugee situation, and it would be the exclusive body for dealing with the refugees' demands, resettlement, rehabilitation, and compensation. Moreover, the sides agreed that the international mechanism would constitute a tool with which to implement the bilateral agreement regarding compensation and resettlement of the refugees in Palestine.

A great deal of thought was given to the design of this international mechanism. It was clear that its role would be to gather information, to find a solution for every refugee, to give a value to their property, and to deal with their claims; however, it was not decided who would be allowed to make a claim—individuals, families, states—and whether it would be possible to claim for suffering and how Israel would contribute to this mechanism. Moreover, the two sides did not discuss the economic implications for the host countries as a result of the international mechanism nor the connection between the agreement that was to be reached in the negotiations and the mechanism. Furthermore, no timetable was determined for the mechanism's activities or when its mandate would come to an end, nor for the subcommittees that would operate within it. Thus, the two sides did not give any real answer to the question of when the sensitive refugee issue would be fully resolved.

In any case, the Israeli side sought to define this mechanism as a professional body rather than a political one. Therefore, the US was supposed to appoint the head of the mechanism and the heads of the committees, while ensuring that the steering committee would not include the countries involved in the mechanism; however, the question as to the identity of those organizations involved in the mechanism's operations—existing organizations or perhaps new ones—was not resolved. In addition to establishing the mechanism, the teams also agreed to the dismantling of the United Nations Relief and

Works Agency (UNRWA). The purpose of the mechanism was to aid the Palestinian state and not to operate in place of UNRWA; therefore, it was agreed in principle that UNRWA would be dismantled within a few years after the agreement's implementation.

One of Israel's interests in this context was the right of Israelis who had left Arab countries to claim compensation for property that they had left behind. Another important interest was, of course, that claims against Israel be withdrawn and that the "closure" of the refugee issue take place on a practical level by changing the status of the refugees to permanent residents and by ensuring their rehabilitation in the host countries.

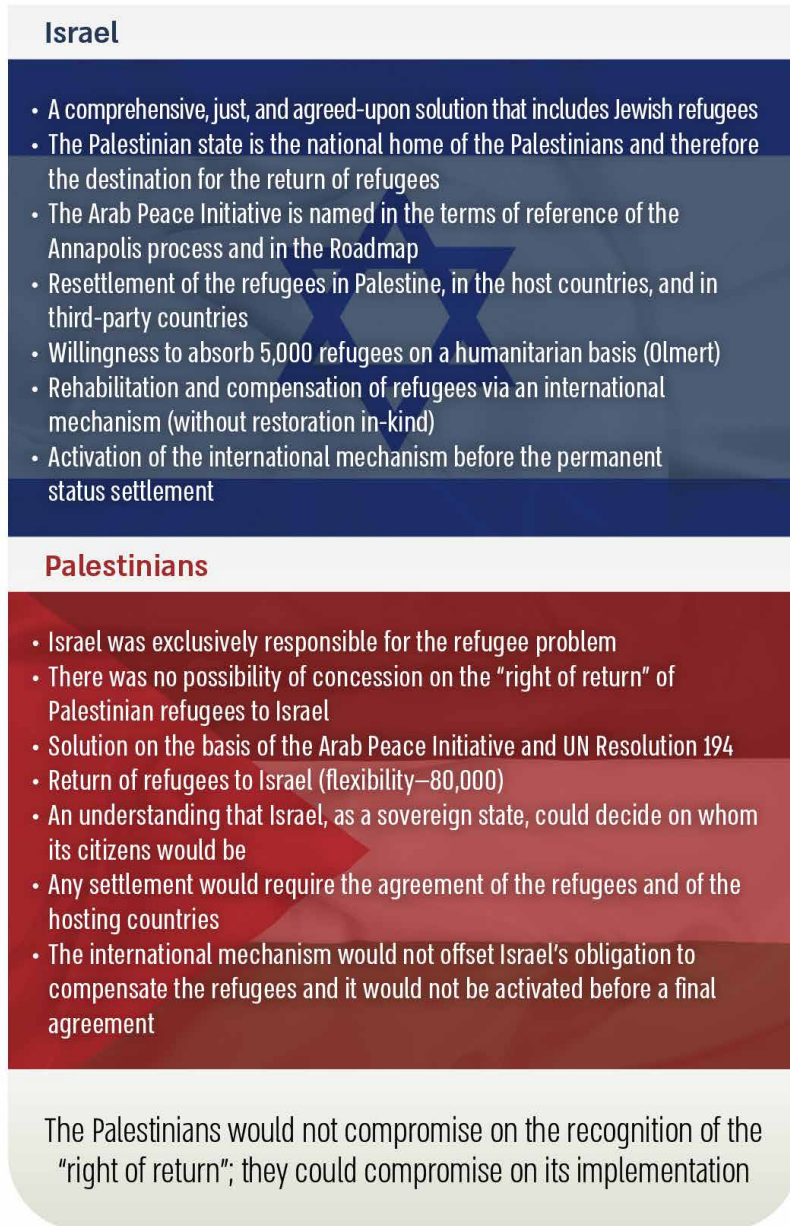
The Israeli team sought to ensure that anything agreed upon would be implemented as quickly as possible so the Palestinians could not delay implementation and refuse to agree to the end of claims until a just and complete solution of the refugee problem had been achieved. It could be claimed that a consensual definition of an "end to the conflict" related to the mutual claims of both sides; however, that was not the case here. More accurately, an agreement on an "end to the conflict" and the end of claims by the two sides was intertwined. Agreeing to an "end to the conflict" would not necessarily lead to the end of claims, although agreeing to the end of claims would lead to an "end to the conflict." In other words, to achieve an end to claims, it was imperative to find a solution and reach a settlement for every claim that each side held against the other. Although this could have been implemented by establishing principles to resolve the claims, in the case of the refugee issue and its connection to the "end to the conflict" in the Israeli-Palestinian context, it was necessary to have a procedural mechanism for discussion, so that the claims were channeled into one agreement only and could not be discussed within the framework of other agreements. Moreover, neither side could make additional claims to the one claim that would be raised before the international mechanism. The Palestinian side felt that this mechanism would constitute a tool for implementing the bilateral agreement and that the sides would have no additional obligations in this matter. However, in practice, the implication was that Israel could have obligations to third parties such as Jordan.

On the Israeli side, it was thought that Israel should not take part in the international mechanism itself and that its role would end with transferring funds to the mechanism as a limited contribution to the international effort. The

Palestinians, however, insisted that the Israeli contribution to the mechanism should cover the claims for “restoration in-kind” and for any compensation upon which the two sides would agree. Their demand was that Israel would return the refugees’ property “in-kind” and would compensate for material and nonmaterial damage caused to the refugees. The Palestinians also demanded that the issue of compensation to the host countries be discussed by the countries themselves. Needless to say, Israel opposed the Palestinian idea of “restoration in-kind,” compensation for nonmaterial damage, and for the “hosting of refugees.”

In April 2008, Foreign Minister Livni decided that Israel would not give its financial contribution directly to the refugees but instead to the Palestinian state. Israel’s providing of the funds would constitute its acceptance of being responsible for the refugee problem to some extent, but it would be conditional on the Palestinians declaring that they too were responsible for the refugee problem.

The Israeli team was particularly challenged by the Palestinian demand that Israel would hand over the custodial documents for abandoned assets to the international mechanism. Dekel and Moran-Gilad held a meeting with the Custodian General, during which it became clear to the Israeli side that property was a more complex issue than it had originally understood. Furthermore, no land survey had been carried out within Israel where millions of acres are defined as “abandoned assets,” which are privately owned or under the ownership of the Supreme Muslim Council.

Figure 19. Refugees: Summary of Positions

Jerusalem

Although the issue of Jerusalem was not explicitly mentioned in the Annapolis work plan (Palestine Papers, 2008, June 30), it was recognized at the Annapolis Summit that the negotiations would deal with all core issues, without exception. In addition, when the sides decided on the format of the agreement, according to the issues raised for discussion and the committees established, the Palestinians demanded that the issue of Jerusalem be placed at the top of the agenda for the discussions (Palestine Papers, 2007, December 3). In the understandings reached between Prime Minister Olmert and President Abbas, they agreed that the discussion of Jerusalem would take place later in the negotiations rather than at the start, since both of them felt that it was preferable to start with issues that had a relatively greater chance of reaching agreement, rather than immediately exposing the distance between the sides on the highly sensitive issue of Jerusalem. Abbas seemed to have understood the political and coalitional constraints facing the Olmert government. Yet, despite these early understandings, the Palestinian side raised the issue of Jerusalem in meetings between Abu Ala and Livni (Palestine Papers, 2008, January 27), and in the trilateral meetings between the heads of the negotiating teams and US Secretary of State Rice and her staff (Palestine Papers, 2008, June 15). Although the Israeli side chose not to respond (Palestine Papers, 2008, January 27), these attempts to raise the issue of Jerusalem did allow the Israeli side to better understand the Palestinian and American positions and to start the work of formulating an Israeli position.

Prior to presenting Olmert's "package" of core issues, which included a proposed arrangement for Jerusalem, the negotiating team wrote a position paper. It was based on previous papers produced primarily by the Jerusalem Institute for Policy Research and by an Israeli-Palestinian group as part of the track-two diplomacy under the auspices of the Canadian government. The position paper, written under the direction of the prime minister, focused on the option of demarcating a "special zone" named the "Holy Basin" or the "Historic Basin." According to this idea, there would be no division of sovereignty between the sides in this special zone, and administrative authority would be granted to an international third party. The position paper included an exact drawing of the zone's boundaries, a plan for movement

and entry/exit points, access and transportation routes, the construction of a model for security and municipal control, a definition of the residents' status, the implications of an open border as opposed to supervised borders, and so forth.¹²

The Palestinians repeatedly stressed that Jerusalem was a key issue in reaching an agreement, according to the principle of two capitals for two states. According to their claim, a Palestinian state without East Jerusalem as its capital would not be sustainable and would have neither the support of the Palestinian population, the Arab states, nor the Muslim world. To that end, the achievement of a stable agreement on Jerusalem would require agreement on borders, a division of sovereignty, and a series of arrangements and rules for cooperation that would guarantee a physically undivided and "open city" (Palestine Papers, 2008, June 15).

The Palestinian position on borders in Jerusalem was based on the principle of the June 4, 1967 demarcation line, with modifications according to the principle of a territorial exchange and a clear division of sovereignty. The Palestinians presented their position in the Territory and Borders Committee session on May 4, 2008, despite the aforementioned Israeli position that it was impossible to discuss the borders in Jerusalem before resolving the issue of control and sovereignty of the city. The Palestinians insisted on their right to present their version of Jerusalem's borders and indeed they provided a map that included the border and the exchange of territory, according to the principle of "one to one" in quality and quantity (Palestine Papers, 2008, May 4).

On the Palestinian map of the Jerusalem municipal area (see Figure 20), the Jewish neighborhoods beyond the Green Line were within the territory of Israel and its capital, and they included Gilo, East Talpiyot, Neve Yaakov, Pisgat Zeev, Ramot Alon (Ramot), Ramat Shlomo, French Hill, Ramat Eshkol, Maalot Daphna, and the Jewish Quarter in the Old City, as well as the Western Wall, although only the exposed part (Palestine Papers, 2008, May 4). The Palestinians made clear that they would oppose Israel's annexation of the Har Homa neighborhood, which was established after the Oslo Accords, and which they believed was intended to prevent Palestinian access to Jerusalem

12 In conversations with Secretary of State Rice, she related to many of the points that were raised for discussion (Palestine Papers, 2008, August 25).

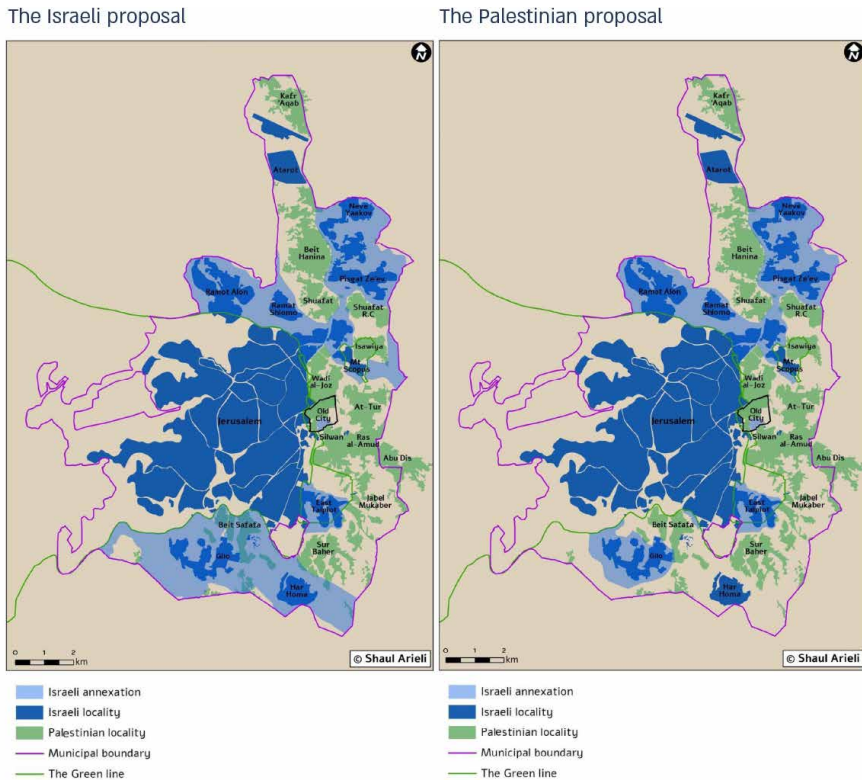
from Bethlehem. Similarly, they opposed the annexation of Maaleh Adumim, which cut off the southern part of the West Bank from the northern part, and of Givat Zeev which they viewed as a barrier between Jerusalem and Ramallah (see Figure 21). The Palestinian map also showed traffic routes that would be under their control. For example, they opposed Israeli sovereignty over the traffic route connecting Gilo to the Pat neighborhood, since the Arab neighborhoods of Beit Safafa and Sharafat would be in the territory of the Palestinian capital (Palestine Papers, 2008, May 4).

From the Palestinians' point of view, they had made a genuine concession to the Israeli side. Erekat didn't miss an opportunity to emphasize that this was the first time that the Palestinians had agreed to the annexation of the Jewish neighborhoods by Israel and added that 'We are building for you the largest Jerusalem in history' (see Palestine Papers, 2008, May 2). In exchange, the Palestinians demanded territory as part of a swap in the Jerusalem corridor (the areas of Nataf and Tsur Hadassah). However, the Israeli side refused to hand over territory in the Jerusalem corridor, which is already quite narrow and envelops Jerusalem from three directions.

The Palestinian side and President Abbas of the PA presented their approach that Jerusalem should be an "open city" to ensure the continued connection and freedom of movement between the two parts of the city and the sharing of infrastructure. Furthermore, they had a vision of two separate municipal entities, one for East Jerusalem—the Palestinian capital—and the other for West Jerusalem—the Israeli capital. Abbas raised the idea of a "supreme municipality," that would be responsible for shared infrastructure, coordination of municipal services, and cooperation between the two capitals. He even agreed that it would have an Israeli mayor. Previously, in a meeting between Foreign Minister Livni and Abu Ala, the latter explained the meaning of an "open city" as "to have Israeli check up for those coming into the city from the Israeli side, and a Palestinian check up for those coming into the city from the Palestinian side, with different models of coordination and cooperation in municipal services related to the infrastructure, roads, electricity, water, sewage and the removal of waste material" (Palestine

Papers, 2008, January 22). Livni responded that Israel's security interests require clear and supervised borders in Jerusalem.

Figure 20. Map of the Municipal Area of Jerusalem: Israeli Proposal Versus the Palestinian Proposal

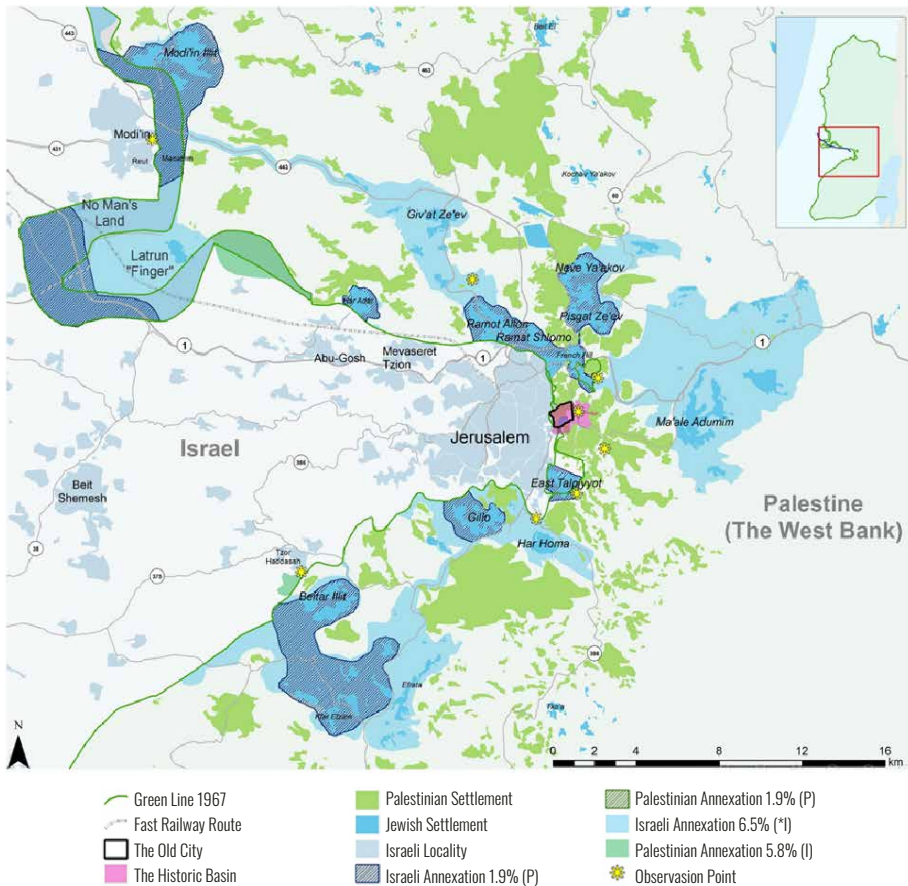


The Olmert plan for Jerusalem, which was included in the overall work plan for the core issues, was first presented to Abbas on September 16, 2008, when it was already clear that Olmert would not be running for prime minister in the elections scheduled for early 2009. According to the plan (Figure 20), all of the Jewish neighborhoods—including Har Homa—would remain under Israeli sovereignty (according to the map Olmert presented, Maaleh Adumim and Givat Zeev would also remain under Israeli sovereignty, see Figure 21), and the Arab neighborhoods would be under Palestinian sovereignty, some or all of which would be within the boundaries of the Palestinian capital. In addition, the Holy Basin (or the Historic Basin), which

included the Old City, the City of David, and Mount Scopus (the Jewish cemetery), would constitute a special zone. Both sides would suspend claims to sovereignty in this area. Instead, the two sides would adopt a functional solution and would agree to grant administrative authority over the zone to a third party—a kind of international trusteeship. In addition, a council of trustees consisting of five nations—Israel, Palestine, Jordan, Saudi Arabia, and the US—would serve as a steering committee for discussing disputes and determining administrative guidelines for the special zone, and it would oversee the freedom of worship for all religions in the area. Its source of authority would be the agreement that the two sides would sign and a UN Security Council resolution would provide this council with international ratification. A timetable was not defined, and the agreement would apply as long as the sides did not decide to change it (Shiffer, 2009).

According to the Israeli proposal, the entity administering the special zone would be given a specific mandate accepted by both sides. Apart from municipal administration, it would have the authority to maintain stability, prevent terror, maintain law and order, regulate traffic, and protect the rights of residents and business owners in the special zone. The special zone would have controlled entry—from both the Palestinian and the Israeli sides—and it would maintain the principle of freedom of worship. Abbas chose not to respond to this proposal but preferred to study it and to consult with his staff. The Palestinians raised a number of questions, some of which were presented by Erekat in his meeting with Dekel.

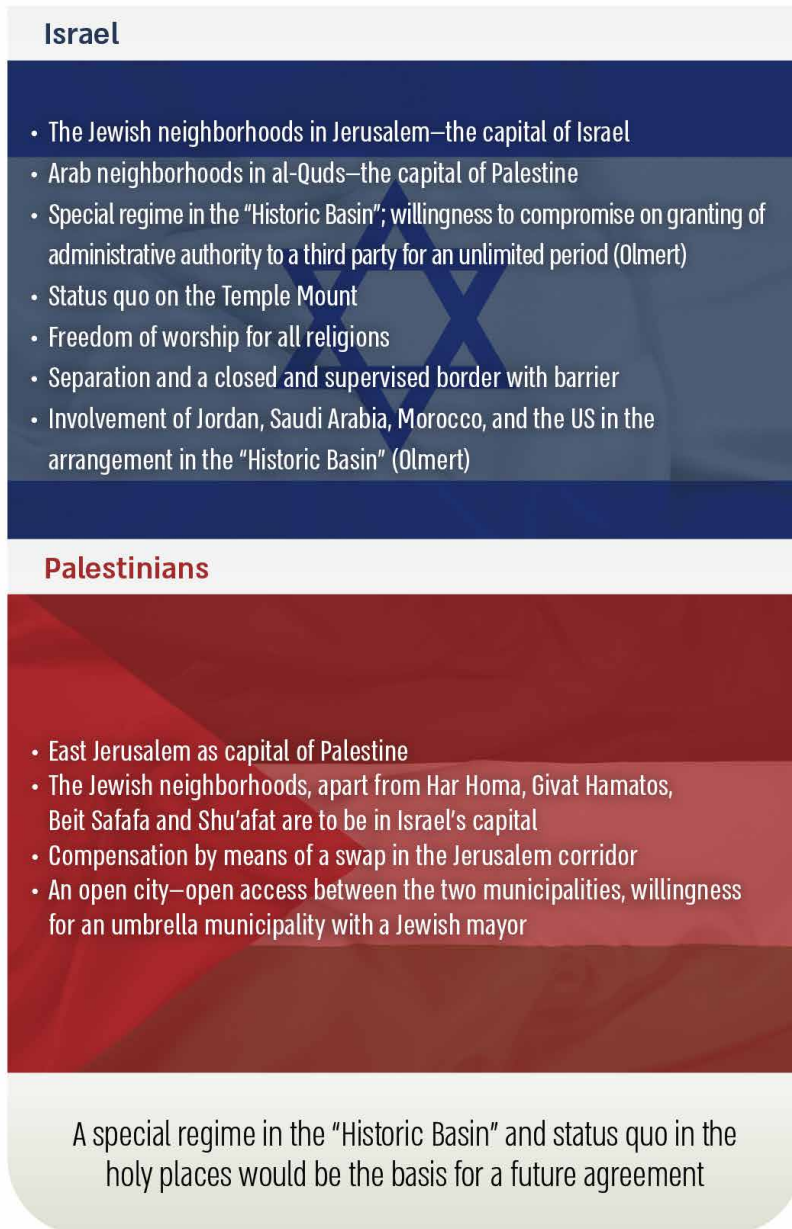
The Palestinians demanded clarifications on the issue of sovereignty; they requested the expansion of the special zone also to areas of West Jerusalem (the Muslim cemetery in Mammilla); they wished to know the type of border (open or closed; gate/wall) there would be in Jerusalem; what would be the timetable for implementing the special zone and would negotiations continue for a final-status arrangement in Jerusalem; how would the existing situation be preserved until the final-status decisions are made; and they also raised issues related to excavations and archaeology.

Figure 21. Map of Outer Jerusalem: Israeli Proposal Versus the Palestinian Proposal

Map produced by Shaul Arieli.

In another meeting between Olmert and Abbas, which took place two months later, Abbas decided not to raise the questions but did demand a detailed map of the Olmert proposal. The two sides decided to hold a special meeting to present the map to the Palestinian side, which would be attended by the negotiating teams and Shalom Turgeman, the prime minister's political advisor. This meeting did not take place and each side claimed that the other side avoided holding it.

Figure 22. Jerusalem: Summary of Positions



Additional Committees

Water

The main goal of the negotiating teams that dealt with the water issue was to reach a consensus on dividing up joint water sources. Professor Uri Shani led the Israeli side of the committee while Fadel Kawash led the Palestinian side. Water as a core issue in the negotiations required close coordination with the teams dealing with borders, security, economic issues, and environmental quality. From the Israeli perspective, it was necessary to ensure a pragmatic and implementable agreement, accompanied by effective monitoring and enforcement mechanisms that would prevent unauthorized drilling, overpumping, and polluting, which would violate the agreement. The Israeli side saw the transitional agreement (September 28, 1995) as a sound basis for a permanent agreement with the Palestinians, who, from their point of view, had arrived at the negotiating table “afresh” and refused to use the previous understandings with Israel on this matter.

The differences between the sides regarding the data on the water situation were significant. The two teams had numerous discussions on the quantities and the management of water sources, water quality, and waste treatment, as well as quality of the environment and water security, without reaching any consensus or resolution. Both teams presented differing estimates of the quantity of water in the reservoirs and disagreed on the principles for its allocation. The Palestinians repeatedly demanded that the committee should discuss the definition and demarcation of joint water sources and the rights of the sides and suggested joint management that would be based on international law. In addition, the Palestinian team defined the joint water sources as comprising the Jordan basin (including the Sea of Galilee), the Carmel aquifer, and the coastal aquifer. The Israeli team insisted that these sources were not shared and expressed willingness to share—in addition to the mountain aquifer—the waters of the Jordan River, south of the Bezek river. The Palestinians proposed establishing a team of experts who, in parallel to the negotiating team, would prepare data on the water sources, claiming that the data would serve as a professional basis for the work of the negotiating team. Israel expressed willingness to create a subcommittee of experts, but no agreement was reached on its mandate.

In the end, the committee's task culminated before the two sides made any real progress, since the two sides had clung to their positions. The Palestinians refused to discuss the final issues as long as an agenda was not agreed upon and as long as Israel was unwilling to discuss the Jordan basin. Israel indeed refused to discuss the Jordan basin and the aquifers, as it did not consider them shared water sources.

Economic Relations

The goals of the heads of the negotiating teams for economic relations—Yarom Ariav on the Israeli side and Samir Houlaila on the Palestinian side—were identical; namely to create a situation of two independent and stable economies, with a potential for growth. The discussion between the teams focused on numerous topics, including trade agreements, external exits/entrances, joint border crossings, agriculture (also discussed by the “state-to-state” committee), commerce in services, employment, the effect on relations with other countries, fiscal/taxation policy, monetary policy, as well as investment and industrial zones. Indeed, the two sides agreed on the principles for the basis of two independent economies, economic cooperation, and cooperation on the basis of a free trade zone. The Palestinians demanded that they be given absolute priority in the export of agricultural produce to Israel, Palestinian labor, and the approval of Palestinian services to be provided within Israel. The Israeli side conditioned the acceptance of the Palestinian demands on the existence of an effective economic border, with crossing points and terminals, whose operations would be subject to security considerations. The sides agreed that they would assist each other in widening the circle of trade and were willing to use aerial, land, and sea corridors for the transit of Palestinian goods via the Israeli ports. In addition, the two sides agreed that they would discuss a free trade zone as an option for organizing economic relations between the sides.

Salam Fayed, then the Palestinian prime minister, requested that the implementation of the agreement for a separate customs union be deferred, out of concern that the Palestinian state would not meet the conditions for tax collection from the Palestinian public and therefore he preferred to maintain the single customs in order that Israel continue to collect the tax and so that the revenue sources of the Palestinian state would be preserved.

Culture of Peace

A culture of peace was the only issue on which the two sides—led by Daniel Taub on the Israeli side and Sufian Abu Zaida on the Palestinian side—reached an agreed-upon draft of the clause in the agreement.

The sides agreed to a mutual obligation of preventing incitement and anchoring its prohibition in law. They also agreed that tolerance would be encouraged in school textbooks, including religious tolerance, with explicit reference to Judaism, while incitement in school textbooks and in curricula would be immediately addressed. In addition, the two sides concurred that they were committed to encouraging the electronic and written media, as well as religious leaders, to get involved in promoting a culture of peace.

Part of the consensus included options for the development of dialogue and cooperation on academic, cultural, scientific, and other levels. In addition, the two sides discussed establishing a joint mechanism for supervising and verifying implementation and assistance from relevant international bodies, such as UNESCO. The importance of the committee was manifested by the change in attitude between the sides, in terms of joint thinking about educating the next generation. The representatives of the committee traveled to Northern Ireland—a region that had experienced a prolonged and bloody conflict—to learn from that experience and about implementing in practice this important clause.

After the sides reached a full agreement, Dekel suggested to Erekat to begin the implementation of what they had agreed upon, with emphasis on education for peace. Foreign countries and various nongovernment organizations were willing to assist in realizing the desire to build up relationships between individuals and between peoples. However, Erekat rejected the proposal based on the principle of “nothing is agreed on until everything is agreed on.” The attempts to persuade the Palestinian side that education for peace, the creation of a conducive atmosphere, and “people to people” activities are crucial for the advancement of the agreement all failed.

“State-to-State”

This committee discussed a variety of “soft” issues comprising day-to-day functioning of a country, such as healthcare, tourism, archaeology, social welfare, and agriculture, including also veterinary issues and the protection of plants. Due to the broad range of subjects, this committee, headed by Yossi Gal on the Israeli side and Saeb Erekat on the Palestinian side, was divided into subcommittees, each one focused on a single issue and comprised of a large number of experts.

The starting assumption of the State-to-State committee was that the existing agreements on related issues would remain valid, unless they agreed to change them. The goal was to determine whether these existing arrangements provided solutions in the emerging reality and to define issues that would require special arrangements.

Healthcare

The discussions of this issue progressed to the point of an exchange of drafts. Erekat explained to the teams that besides the area of Jerusalem, already in 1994 most of the healthcare responsibilities were transferred to the Palestinians and that he expected the Israeli side to remember this during the discussions. The Palestinians sought cooperation while in parallel wished to avoid dependency on Israel. Indeed, both sides had an interest in the existence of an independent Palestinian healthcare system, operating in cooperation and coordination with the Israeli one. The two sides shared points of agreement regarding the training of Palestinian staff in Israel, the modification of the vaccination program, the sale of healthcare services to Palestinians at low cost (in coordination with Israel’s Ministry of Finance), cooperation in treatment of sewage and waste water, coordination in responding to epidemics, and cooperation in the event of disasters. Israel’s desire to prevent the trickling of substandard pharmaceuticals from the PA into Israel ran into difficulties and the sides were not able to reach any consensus regarding the harmonization and regulation of the import and export of pharmaceuticals. Another issue that the sides did not resolve was preventing spoiled food and products that did not meet Israeli standards from entering Israel. Israel’s desire for mutual recognition of producer licenses and mutual inspection of food factories did not reach any conclusion either.

A dispute arose among the members of the Palestinian team itself when an NSU (Negotiations Support Unit) representative emphasized to the Israeli side that they could not be treated like an independent country and therefore a transition period of at least 10 years would be needed to build up medical capabilities. Erekat, who wanted a short implementation period of up to three years, responded that he would like to see progress in the various areas and that discussion with the Israeli side should be in terms of specific needs rather than slogans.

Tourism

The sides agreed to cooperate in developing, promoting, and marketing tourism packages and holding joint tourism fairs. Although the two sides expressed a willingness to cooperate in this area, irreproachable differences in their approaches quickly appeared. The Israeli team sought to both preserve and avoid harming the Israeli tourism industry given the relative advantage of Palestinian tourism, including lower costs of accommodation in the PA. Thus, for example, the Israelis demanded that only an Israeli licensed tour guide should actually lead tours in Israel. The Israelis were also cautious about security and preventing the illegal entry of hostile elements into Israel.

The Palestinians viewed tourism as a leading industry and wished to exploit it to strengthen their connection to the holy and historical sites in the region. They clung to the position that the employment possibilities should be expanded to Palestinians who could benefit from the tourism industry, including the opportunity to work as tour guides and bus drivers in Israel and to develop tourism infrastructures, even those that do not currently exist in Israel, such as casinos.

The issue of border crossings between the two sides and the desire to leave them open for free movement and thus to encourage tourism also came up in the discussions of the Tourism Committee; however, the subject of tourism did not develop into a discussion in the Border Crossings Committee. This emphasized the complexity of the positions and agreements presented in the different committees and the need to synchronize between them.

Archaeology

This issue proved to be one of the most complex and required “digging through layers of rock,” to overcome the bone of contention. The Israeli side considered the preservation of the Jewish people’s heritage and its historic connection to its homeland as particularly important as well as ensuring freedom of worship at the holy sites. The Israeli side also sought to maintain the number of visitors to the sites and to ensure that the Jewish historical and religious sites were properly maintained according to both the Antiquities Law and acceptable practices of archaeological sites around the world. The main concern of the Israeli professionals was that the sites in Judea and Samaria had not been preserved; rather, they had been subjected to destruction, looting, and trafficking of archaeological artifacts relating to generations of Jewish settlement in the Land of Israel.

The two sides agreed to provide access to important Jewish heritage sites and to share information on destruction, theft, and illegal trade of archaeological artifacts. The two sides also decided upon the division of findings between the state and the digger according to the Jordanian Antiquities Law, as well as to establish museums in Judea and Samaria by a trustee acting for both sides. The issue of preserving knowledge was also raised. The sides consented to a gradual transfer of findings according to the schedule of their publication (at the time, Israeli researchers were about to publish a number of books about findings from various digs and it was agreed that they would subsequently be handed over to the Palestinians). The two sides also concurred that digging licenses should be given according to accepted international standards and that a joint museum should be created for preserving knowledge.

The Palestinian side brought up the issue of the Dead Sea scrolls and their return to the Palestinian state—where they had been discovered—the Israeli team refused to discuss it.

Agriculture

The Israeli side was interested in agriculture primarily to protect Israel’s economy from competition and to avoid harming Israeli agricultural production. At the same time, it sought to facilitate the development of Palestinian agriculture, based on an understanding that agriculture was

an important component of the Palestinian economy. Israel viewed the Palestinian market as another export market for Israeli agricultural produce and as a gateway to other countries in the region.

The Palestinians considered Israel a major export market for their agricultural produce and sought preferential conditions for their agricultural exports to Israel. In addition, the Palestinians wanted to reduce Israel's supervisory restrictions imposed on the entry of Palestinian produce into Israel. This conflicted with Israel's desire to maintain the standards and norms regarding the protection of plants, including a demand for transparency from the Palestinians about the cultivation and handling of agricultural products imported by Israel. In addition, the two sides differed in their approach to preventing disease among farm animals. The Palestinians also requested that Israel not be involved in the transport of animals and produce between the Gaza Strip and Judea and Samaria.

Overall, the "State-to-State" Committee did not reach any agreement on the details of the various issues and found it difficult to avoid discussing issues that were being handled by other committees, such as the holy places and transportation.

Infrastructure

This committee was led by Hezi Kluger, the director general of the Ministry of Energy, on the Israeli side and Dr. Muhammad Shtayyeh on the Palestinian side. Although the objective of both sides was the gradual separation of infrastructure, which required the buildup of independent Palestinian capabilities, there were disagreements in this context. According to the Palestinians, the purpose of building up independent capabilities was to ensure freedom of decision in this area and to achieve freedom from security and planning restrictions. The Israelis did not accept this approach.

Although the teams discussed the issues of electricity, natural gas, liquefied petroleum gas, fuel, and quarries, and could have agreed on some of these issues, they were unable to reach a final agreement because the negotiations were suspended. During the discussions, it was heard that three reservoirs of natural gas had been discovered in the Mediterranean off the coast of Israel. The Palestinian side found it difficult to accept the offer by the Director General of the Israeli Ministry of Energy to supply natural gas to

the Palestinian state and to connect the Israeli, Palestinian, and Jordanian electricity systems to provide mutual backup.

The Israeli team got the impression that the Palestinians would find it difficult to separate from the Israeli energy sector. Moreover, it was unclear to the Israeli side how the Palestinians intended to go about achieving an independent energy sector.

Communications

Although communications is a civilian domain, this committee focused its discussions on numerous security elements, including managing the spectrum of frequencies, communication facilities and their location, international communication, and using the communication systems in the corridor between the Gaza Strip and Judea and Samaria, as well as preserving communication capabilities in the realm of satellites and postal services. For example, the two sides had a heated discussion about whether Palestinian mail would be delivered to the Palestinian state without Israeli inspection, delay, or payment of levies, when arriving via the external entry points, while the Israeli side insisted that Israel should have a certain amount of security inspection at the entry points.

The two sides had an equally contentious discussion of public broadcasts, the use of civilian communication frequencies, and particularly the allocation of frequencies to avoid mutual interference. The Palestinian side continually tried to steer the discussion—via the NSU legal advisors—toward adopting international conventions, while ignoring the unique conditions on the ground and the close geographical proximity between Israel and the Palestinian territory. The Israeli side insisted that building a Palestinian broadcasting station required coordination with Israel, to prevent electromagnetic interference (with the channels of the Ben Gurion Airport control tower, for example) while the Palestinian side maintained that they had the freedom to determine broadcasting frequencies, build broadcasting stations, and to control the quality of the systems. The two sides agreed verbally to try to prevent illegal broadcasting but did not reach any consensus on how to accomplish it.

The Border Crossing Points

The issue of border crossing points was a complex one since it involved a number of intersecting issues. The role, location, and number of border

crossings were a primary concern and were contingent upon reaching a consensus on the border between the two states. As the land crossings between the states consisted of transit of people, goods, and vehicles, the two sides wanted to locate them in close proximity to their economic interests, so that each side could manage its own interests in this area.

This committee was led by Kamil Abu Rukun on the Israeli side and Dr. Muhammad Shtayyeh on the Palestinian side. The main difficulty with operating the crossing points was that the Palestinian position called for a third party to operate them, to serve as a mediator between the Israeli and the Palestinian sides whenever needed; the Israeli side, however, was vehemently opposed to this demand.

This committee also discussed permits and restrictions on those passing through the crossing points, as well as the need to ensure the demilitarization of the Palestinian state, as it related to preventing the trafficking in prohibited weapons and the entry of terrorists and extremists. Regarding the latter issue, the two sides agreed that a third party could assist the Palestinians in managing the crossing points, their supervision, and inspection to prevent smuggling and infiltration, along the lines of the EU BAM model.¹³ Naturally, any discussion about the borders of Israel and the Palestinian state also necessitated examining their borders with Egypt and Jordan, and in this context, the two sides had to plan for a joint coordination mechanism to prevent smuggling and infiltration. In addition to the land crossing points, this committee also examined the air and sea crossing points.

Environmental Quality

This committee was led by Uri Livne on the Israeli side and Yusuf Abu Safaya on the Palestinian side. The committee discussed numerous topics concerning the prevention of pollution and cross-border environmental pollution. The negotiators sought to ensure that mechanisms for coordination and cooperation on environmental issues existed so they could maintain as high a standard of environmental quality as possible. Like the other committees, this committee

13 The European Union Border Assistance Mission at the Rafah Crossing Point (EU BAM Rafah) was the EU's second Civilian Crisis Management Mission in the Palestinian territories, the other being the European Union Police Mission for the Gaza Strip (EU COPPS). European policing forces and customs officials operated at the Rafah crossing between Gaza and Egypt from November 2005 to June 2007.

also had to break down the main issues into sub-issues, overlapping with discussions in parallel committees. For example, public health was handled not only by the Healthcare Committee but also by the Environmental Quality Committee, which addressed issues of solid waste, noise, air and water pollution, and pest prevention. Issues related to hazardous substances also overlapped with concerns of the Security Committee.

The main consensuses reached in the Environmental Quality Committee focused on the global environment and the desire to preserve biological diversity. To this end, it was demanded that the Palestinian side set up vocational training that would facilitate building capabilities to enable the adopting of international standards and regulations. In this context, it was made clear that environmental policies constituted an economic burden not necessarily at the top of the agenda of a country “in progress.” The Palestinian side would clearly need donations to address environmental issues, especially its infrastructure.