



*INSS Insight* No. 450, July 24, 2013

## **Resumption of Negotiations with the Palestinians: Illusion or Reality?**

**Shlomo Brom**

In a press conference in Amman, Jordan on July 19, 2013, US Secretary of State John Kerry announced that Israel and the Palestinians had reached an agreement constituting a basis for renewing the negotiations on a permanent status agreement. It was agreed that within a week, a preparatory meeting for negotiations would be held in Washington with Secretary of State Kerry, Saeb Erekat for the Palestinians, and Minister Tzipi Livni and the Prime Minister's envoy Yitzhak Molcho for Israel participating. The agenda and framework of the renewed talks are to be finalized at the meeting.

By creating a delicate balance in four areas of contention, Secretary of State Kerry has succeeded in bridging the gaps regarding the conditions set by the two sides for opening negotiations and the inability to reach an agreement on the terms of reference for the negotiations.

1. Israel does not agree to base the negotiations on the 1967 lines with an agreed territorial swap, but the United States will make a commitment to the Palestinians that it has adopted this principle.
2. Similarly, while the Palestinians have not agreed to recognize Israel as a Jewish state, the United States will make a commitment to Israel that it has adopted this principle – which balances the previous commitment to the Palestinians.
3. Israel has not agreed to a comprehensive freeze on construction in the settlements, but there is an understanding between Kerry and the Palestinians that he will work to limit construction to the settlement blocs and tenders that have already been issued. In practice, there is already a tacit freeze on government construction in all settlements, including neighborhoods in Jerusalem beyond the Green Line.
4. Israel has acceded to the Palestinian request to release those prisoners serving long prison terms since before to the start of the Oslo process, all convicted of murder, except those who are Israeli citizens. According to Israeli sources, this involves 82 prisoners, while according to Palestinian sources, the number is closer to 250. The latter number suggests that prisoners from the period following the

:

start of the Oslo process who have committed less serious offenses will also be released. The prisoners will be released gradually during the negotiations. Their release is an important issue for the Palestinian public, and the agreement about their release helped Abbas in his decision to restart the negotiations.

It was agreed that the negotiations will continue for at least nine months, and there is no binding end date. The two sides have agreed not to take unilateral action during the negotiations, which means that the Palestinians will refrain from using UN recognition of a Palestinian state to take unilateral steps in UN organizations during this period. There is also an understanding between Kerry and the Palestinians that in the initial stage, the negotiations will focus on border and security issues. It is not clear whether Israel has given up its demand that negotiations be held on all subjects at the same time.

The devil is in the details, and therefore it is important to recognize that resumption of actual negotiations has not been agreed on, and this in fact depends on the successful conclusion of the “talks about talks” in Washington. There are still likely to be many obstacles, such as a lack of agreement on the agenda and the order of topics to be discussed; a Palestinian demand that the Arab Peace Initiative serve as the basis for the talks; and possible differing interpretation of the understandings with Kerry, which could thwart the resumption of the negotiations.

The renewal of negotiations was made possible by the fact that neither side was prepared to be accused by the United States and the international community of recalcitrance and of thwarting the resumption of negotiations, or to pay the ensuing price. One of the factors perhaps influencing Israel was the European Union regulation excluding the territories from agreements signed with Israel. In spite of claims to the contrary by Israeli government spokesmen, there is reason to believe that the European move helped restart the negotiations and did not sabotage them. The Israeli government was alarmed by the possibility that the delegitimization of Israel would expand as a result of Israel’s rejectionist image.

The Palestinians were influenced by American threats to cut US financial support for the Palestinian Authority if the Palestinians persisted in their refusal, but also by the strong support given by the Arab League to PA President Mahmoud Abbas, which means that there is a regional umbrella for his moves. The Arab League delegation that met with Kerry in Amman reiterated that in its understanding, the meaning of establishing borders based on the 1967 lines, which appears in the Arab Peace Initiative, is that there may be agreed-upon swaps of territory of equal size and quality. It is also possible that the

:

revolution in Egypt, which overthrew the Muslim Brotherhood government and thereby weakened Hamas, which was counting on Egyptian support, allowed Abbas to feel stronger politically and thereby have the freedom to decide to resume the negotiations, without fear of a heavy domestic political price.

Both parties believe that the gaps between their positions are wide, and therefore, from their perspectives, there is no chance that the other party will accept an agreement that suits its minimum conditions. In fact, they were dragged into negotiations in which they have no faith. This will likely have two main effects. First, such sentiments often become self-fulfilling prophecies because they smother any motivation to exert substantive efforts. Second, the two parties will interact less with each other and more with the United States in order to convince it that the failure of the talks lies with the other party. While this might generate some flexibility, it is hard to believe that the talks will be concluded successfully when the American mediator wants them to succeed more than the parties themselves.

Setting a nine-month time frame could encourage the parties, especially Israel, to hold negotiations for the sake of negotiations, and not in order to reach an agreement, because the other side, which has committed to this time frame, cannot threaten to walk out. This could reinforce the lack of public confidence in the negotiations and the rampant cynicism on both sides, which would mean that the brewing crisis is only postponed.

One possible way to avoid a crisis at the end of the nine months would be an agreement between the parties to discuss not only the permanent status agreement, but also transitional steps toward a settlement. This means steps that will improve the situation of the Palestinian population and strengthen the Palestinians' ability to build an infrastructure for their future state and economy by expanding their powers and the territory under their control. Such an agreement would give the two sides room to continue with the discussions, demonstrating to their respective constituencies that there is actual progress.

At this stage, the agreement on a basis to restart the negotiations does not threaten the integrity of the Israeli government. Naftali Bennett's right wing Habayit Hayehudi party does not intend to leave the coalition, because its leaders do not believe that the negotiations will lead to an agreement. However, there may be crises caused by compromises in Israel's positions during the negotiations, even before an agreement is reached. This does not threaten the survival of the Netanyahu government, because the opposition parties have pledged their support, and it is even possible that some,

:

particularly the Labor Party, will join the coalition if Habayit Hayehudi leaves. The right wing opposition to Netanyahu within the Likud will have a hard time working against him because it has no alternative to Netanyahu. This means that there are no serious internal political constraints, certainly at this stage, on the Prime Minister's freedom of action. Thus the international community, including the United States, will have difficulty accepting Israel's claims that it cannot conduct effective negotiations because of internal political considerations.

