

Parameters¹: Model Framework for Israeli-Palestinian Negotiations²

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I. Goal of the Negotiations

The Palestine Liberation Organization and the State of Israel (“the parties”) seek a just, lasting and comprehensive peace, consistent with the United Nations Charter, that will fulfill U.N. Security Council resolutions 242 and 338 and constitute the end of the Israeli-Palestinian conflict and all claims related to it. As a result of negotiations, the State of Palestine and the State of Israel will live side by side in peace and security. Israel will recognize Palestine as the national home of the Palestinian people and all its citizens, and Palestine will recognize Israel as the national home of the Jewish people and all its

¹ An earlier version of this appeared in Daniel Kurtzer, editor, *Pathways to Peace: America and the Arab-Israeli Conflict* (N.Y.: Palgrave Macmillan, 2012), 209-214.

² U.S. Secretary of State John Kerry has been constructing a Palestinian-Israeli peace process on four pillars: direct negotiations, economic state building, security and building regional support. In recent weeks, he has talked about submitting a framework to help guide the direct talks between the parties. A U.S. draft may carry any one of several different titles: parameters, terms of reference for negotiations, framework or the like. The title will reflect the purpose for the document. A negotiating framework will need to be complemented by additional frameworks covering state building and economic relations, and security for all parties.

citizens. Each state will affirm the importance of maintaining and strengthening peace based on freedom, equality, justice and respect for human rights and dignity. Each state will work to eliminate incitement against the other state, as well as efforts to delegitimize the other state. The parties will agree to the full and orderly implementation of the terms of the agreement, in accordance with agreed means, methods, sequencing, timelines and provisions.

II. Territory and Borders

In fulfillment of Security Council Resolution 242, Israel will withdraw from territories occupied in the 1967 war.³ The parties will negotiate the withdrawal and the border of the two states based on the June 4, 1967, line.⁴ The final border will reflect minor and agreed-upon boundary modifications, including 1:1 land swaps, reciprocal in terms of both quantity and quality.⁵ The outcome of negotiations will be a secure, recognized and defensible border⁶ that ensures the territorial integrity, contiguity and viability of both states.⁷

III. Security⁸

The agreement will base Israeli-Palestinian security relations on mutual trust and advancement of joint interests and cooperation. The agreement will stipulate that each state will refrain from the threat or use of force or weapons -- conventional and nonconventional -- against each other, or of other actions or activities that adversely affect the security of the citizens, residents, territorial integrity or political independence of the other. The two states also will refrain from organizing, instigating, inciting, assisting or participating in acts or threats of belligerency, hostility, subversion or violence against the

³ This language is drawn from Resolution 242, which says, inter alia: "...1. Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles: (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict..."

⁴ This principle is a principal Palestinian demand, but its wording and the 242 language allow for the border to be negotiated and agreed, which is an Israeli demand. In fact, there is no agreed location of the lines of June 4, 1967. The 1949 Armistice Agreements indicated lines on a map where forces had agreed to a ceasefire in place, but small changes took place over the years.

⁵ The outcome of the negotiations, under this formula, would mean that the State of Palestine would get the equivalent of 100 percent of the territory occupied in 1967, which represents about 22 percent of the total area of Palestine/Eretz Israel, but this territory would not necessarily be the exact lands occupied.

⁶ Resolution 242 requires "secure and recognized" borders. Israel has since focused on the defensibility of the borders as well. The United States, in various policy statements over the years, has accepted the "defensibility" of borders as a principle.

⁷ The issue of contiguity and viability is important to the Palestinians.

⁸ The section on security, which is longer and more detailed than other sections, reflects the centrality of security for both parties. Since 2008, the United States has devoted considerable attention, under the direction of senior U.S. military officials, to understanding and trying to address the security requirements necessary in a final agreement.

other. The parties also will agree to take necessary and effective measures to ensure that acts or threats of belligerency, hostility, subversion or violence against the other party do not originate from, and are not committed within, through or over their territory (hereinafter “territory” includes airspace and territorial waters).

The agreement will provide that all disputes between the two states will be settled by peaceful means, including but not limited to negotiations, mediation and/or arbitration. The agreement also will provide for a liaison system to facilitate implementation of the security provisions.

The agreement will stipulate that the two states will not join or assist any alliance that requires either state to launch aggression or other acts of military hostility against the other. The agreement will prohibit each state from allowing the entry, stationing and operating on its territory, or through it, of military forces, personnel or matériel of a third party, in circumstances that may adversely prejudice the security of the other party. The two states will agree to take necessary and effective measures and will cooperate in preventing and combating terrorism, subversion and violence of all kinds or any other act of violence emanating from their territory; to disband any force, militia or group aiming to incite or carry out violence against the other; and to prevent the formation of any such force, militia or group. The parties will agree to take necessary and effective measures to prevent the entry, presence and operation in their territory of any group or organization that threatens the security of the other state by the use of, or incitement to the use of, violent means.

The State of Palestine will develop and maintain adequate internal security forces and will limit arms and equipment to levels and types needed to maintain internal security and enforce the rule of law within its borders.⁹ No armed forces, arms or other implements of war, or dual-use material may enter, be stationed, transit or be deployed in the State of Palestine except as agreed by the parties. International monitors will observe, monitor and report on implementation of these provisions. The monitors will have enforcement authority as agreed.¹⁰

The agreement will provide for a timetable for implementation of security arrangements that will, among other things, include early-warning and related facilities, and international observers, monitors and forces as required to oversee and ensure implementation of the security provisions of the agreement.

The State of Palestine will be responsible for security at its borders and points of entry.¹¹ Palestinian border security and control over international passages, including future land, sea and

⁹ This provision represents a “positive” way of describing the State of Palestine as nonmilitarized; that is, not having a standing army but rather having the means to deal with internal security.

¹⁰ Israel has insisted on stationing its own forces at some places in the West Bank, for example, along the Jordan River, indefinitely. Israel has traditionally opposed international forces as substituting for its own capabilities.

¹¹ Israel insists on Israeli control, or an Israeli role, in supervising the borders between Palestine and other states, so as to exercise control over the entry of undesirable elements.

airports;¹² and entry into the State of Palestine will be monitored by an international body, which will work in close cooperation and coordination with the parties and neighboring states.

The parties will reach agreement on control over the airspace, maritime areas and electromagnetic spectrum. Each state will recognize the right of vessels of the other to innocent passage through its territorial waters in accordance with the rules of international law.

IV. State-to-State Relations

Israel and Palestine will conclude the necessary agreements and arrangements to ensure good, neighborly state-to-state relations in the spheres of economy, water, environment, coordination in exploiting natural resources, police and law enforcement coordination and cooperation, and the like. The two states undertake to support and encourage people-to-people activities aimed at achieving reconciliation between the Israeli and Palestinian peoples.

V. Relations with Neighbors

Israel and Palestine will seek to embed their agreement in a broad regional security and political structure encompassing Jordan, Egypt and other regional states. In this respect, Israel and Palestine respect the Arab Peace Initiative and believe that it can become a launch pad to transform the vast human and natural resources of the region into a model for coexistence and cooperation among nations.

VI. Israeli Settlements

In accordance with an agreed implementation timeline, all Israeli settlers and all Israeli civilians will be evacuated from the territory of the State of Palestine. In accordance with the laws of the State of Palestine, individual Israeli citizens may apply for residency and/or citizenship in the State of Palestine. The parties will reach agreement on the disposition of all fixed assets and infrastructure within Israeli settlements, with the goal of transferring such assets and infrastructure in good condition to the State of Palestine in return for fair and reasonable compensation.

VII. Refugees

In fulfillment of U.N. General Assembly resolution 194¹³ and in view of the suffering experienced by Palestinian refugees, such refugees will have the right to return to the State of Palestine, consistent

¹² Israel insists on control over, or shared control over, Palestinian air space and territorial water.

¹³ The Palestinians' traditional position insists on the "right of return" of refugees to their original homes in Palestine according to their interpretation of Resolution 194. Israel and the United States do not recognize such a "right of return." U.N. General Assembly resolution 194 of Dec. 11, 1948, states in paragraph 11: "Resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

with the absorptive capacity and laws of that state. Those refugees who choose not to exercise their right to return to the State of Palestine or who are prevented from returning by the State of Palestine will be assisted in resettling in their countries of current residence or in other countries willing to receive them, while respecting the sovereign rights of those states. The State of Israel will offer a program of family reunification, including citizenship, for a limited number of refugees.

An international fund will be established to help defray the cost of compensation and resettlement of Palestinian refugees and Jewish refugees from Arab countries.¹⁴

VIII. West Bank and Gaza “Safe Passage”¹⁵

The parties will agree on the size, modalities and administration of a “safe passage” corridor that links the West Bank and Gaza. The corridor should be of sufficient size to accommodate a four-lane highway, a rail link and underground pipelines, cables and utility lines. The State of Israel will have sovereignty over the corridor but not administrative authority, and will exercise control over external security. The corridor will have sufficient access points to ensure effective emergency response, and it will be transected by an agreed number and location of crossings to ensure effective communication for Israel for all purposes. The State of Palestine will administer the corridor, bear responsibility for maintenance and upkeep, exercise control over security within the corridor, and monitor the people and goods transiting the corridor to assure effective security and law enforcement. The passage will operate continuously.

IX. Places of Historical and Religious Significance

Each state will provide freedom of access to visitors and worshippers to all places of religious and historical significance within their territories. The parties will agree on a list of such places in the two states. The two states will agree to protect and respect all sites of religious, historic and cultural significance. Each state will ensure adequate protection for freedom of access and worship. International monitors will oversee implementation of these provisions to all the sites so listed.

X. Jerusalem¹⁶

The agreement will provide that Jerusalem is a site of sacred, religious, historic and cultural importance and will establish the geographic limits of the city.¹⁷ The parties will agree to act in accordance with the dignity and sanctity of the city.

¹⁴ Palestinians argue against the inclusion of the issue of Jewish refugees in these negotiations, asserting this to be an issue between the Jewish refugees and the Arab states.

¹⁵ A safe passage was agreed in the Oslo Accords in 1993, but never spelled out, as a means of assuring territorial connectivity between the West Bank and Gaza.

¹⁶ A variety of possible solutions to the Jerusalem conundrum exists, reflecting the particular sensitivity of the city. The ideas noted here are drawn from an extended study of the issue, the Jerusalem Old City Initiative. See <http://www1.uwindsor.ca/joci/>.

The agreement will provide that Jerusalem will become the capital of the two states: Al-Quds as the capital of Palestine and Yerushalayim as the capital of Israel. The city should be undivided and free of permanent barriers and other physical obstructions that impede daily life. The parties will develop an agreed plan for the control of entry into and exit from the city and for its security.¹⁸

The parties will agree to establish a negotiating process and time frame to determine their boundary and to provide that:

- Outside the walls of the Old City, the parties will define their boundaries on the basis of demography; that is, predominantly Jewish neighborhoods will be included in the State of Israel, and predominantly Arab neighborhoods will be included in the State of Palestine.
- With regard to the Old City, pending an agreement between the parties on the boundary, they will establish by agreement a special regime to administer the Old City under an international administrator appointed by them.

XI. Water

The parties will agree on a fair and equitable distribution of water, including but not limited to underground aquifers, desalinated water and the Jordan River system. The agreement shall provide for cooperation in managing existing sources of water and searching for new supplies, including development of existing and new water resources, increasing water availability through regional cooperation as appropriate, and minimizing waste. The parties also will agree to cooperate to prevent contamination of water resources and to work together to alleviate water shortages. An international fund will be established to assist with desalination and other water-supply development and delivery infrastructure to satisfy the needs of Israel, Palestine and other riparian states of the Jordan River system.

XII. Implementation

The parties, with the assistance of the Quartet¹⁹ and other international organizations as appropriate, will establish an international mechanism to monitor and facilitate implementation of the agreement, and assure full compliance with all its terms.

¹⁷ In addition to an agreement between Israel and the PLO, Jordan also will have a role to play in deciding the future of the city, according to the Jordan-Israel Peace Treaty and agreements reached between Jordan and the PLO.

¹⁸ Creative work by architects and city planners has been done to deal with the complexities of a city that is the capital of two states, parts of which are under different sovereignty, a part of which is administered under a joint agreement without sovereignty, and which is undivided and free of permanent barriers. For one such effort, see <http://www.sayarch.com/peace-is-possible-visual-concept-and-website/638>

¹⁹ In 2003, the United States, European Union, United Nations and Russia joined together – as the Quartet – to develop a common approach to the Middle East peace process.