

**June 18, 2007**

**Palestinian Reservations to USSC Executive Summaries of  
Goods of Concern and Exceptional Categories Meetings  
Held on June 10, 2007**

While the Palestinian side has already submitted comments to the first draft of the summaries prepared by the USSC, the final document released by the USSC reflects some, but not all of our comments. This note is therefore to ensure that the record accurately reflects the Palestinian submissions as they were presented in the meetings of June 10, 2007.

**GOODS OF CONCERN**

1. Goods of Concern going to Kerem Shalom (KSCP): The USSC summary states that “the PA made the point that those [chemicals /items...] should be allowed to cross at Kerem Shalom.”

Comment: The PA submitted a solution for dealing with virtually all items on the Israeli proposed list by applying existing customs agreements (The Customs Protocol and the Paris Protocol). The proposed “Understanding” along with the 3 Appendices was a means of clarifying how the existing rules and regulations already address Israeli concerns with regards to all these items, and not to be considered as self-standing lists to be agreed with the GoI. The GoI did not object at any point with this approach and worked within its confines.

The application of this Understanding involves *a priori* the transfer of all materials falling outside the scope of what can be lawfully imported at RCP to KSCP for appropriate clearance. Therefore, the transfer to KSCP is not merely an assertion by the PA. Rather, it is the foundation upon which the entire proposal is based. Since the GoI never objected to this approach, the USSC statement quoted above misrepresents the consensus reached in the sub-working group.

2. The scope of items subject to regulation in the SWG: The summary does not include any reference to several Palestinian submissions with respect to the limits on the authority of the SWG to fixed categories of items.

Comment: Pursuant to the explicit terms of the Security Implementation Protocol (the legal instrument that establishes and sets out the authority of the SWG forum), the only items, other than those already excluded by application of existing laws, that may be regulated by the SWG are weapons, explosives and hazardous materials. Therefore the sub-working group simply does not possess the authority to consider any items on the Israeli equipment list, unless it could be demonstrated that those items (less than 200USD in value) could be weaponised.

3. Consultation with security experts: The Palestinian side only committed to raise the issue of potential weapons on the Israeli equipment list with its security officials to see whether they agreed that any of these items constituted weapons.

4. The Preamble to Procedures: During the meeting, the USSC expressed the opinion that the Palestinian reference to normalisation of operations at RCP was a political statement.

Comment: The summary fails to note that the Palestinian side emphasized that the reference to normalisation as a condition for full and professional implementation was not meant as a political issue. Rather, the PA explained, with the agreement of the EU BAM, that the lack of normalisation (regardless of any antecedent political or non-political cause) is indeed the major impediment to full and proper implementation of any given procedures at a practical level. Particularly as these procedures fall under the scope of bilateral agreements, the PA cannot be expected to be bound by terms that it cannot implement without the fundamental condition of normalisation.

#### HUMANITARIAN CASES

The summary omits any reference to basic submissions made repeatedly by the Palestinian side regarding the fundamental difference between the approach adopted by the parties:

The PA asserted in the sub-working group that under international practice, urgency by itself is never a decisive factor for decisions on humanitarian grounds for access. Rather, the PA advocated the international standard, applying to cases of necessity: medical treatment, family and protection of the individual.

The PA pointed out that the reason for GoI wishing to restrict the category in a manner inconsistent with any international standard is its desire to operate KSCP as the passenger crossing for non-PA ID card holders. This is contrary to the terms of the agreement and would give Israel permanent total control over access of all non-ID card holders to /from Gaza. It was the view of both the PA and GOI that agreement on the definition of humanitarian cases could not be reached as long as the two parties had different views over the use of KSCP for passengers and therefore that issue needs to be settled first at a political level (SWG) before attempting to bridge the gap in definitions.

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