

State-to-State Files

- 1. Administration of Justice**
- 2. Agriculture**
- 3. Archaeology**
- 4. Energy**
- 5. Health**
- 6. Monetary Affairs**
- 7. Telecommunications**
- 8. Tourism**
- 9. Transportation**

The Palestinian leadership decided the nine State-to-State files were not to be subject to the framework negotiations on permanent status. There is a strategic negotiations advantage if State-to-State subjects enter the negotiations when the negotiations begin on the Comprehensive Agreement on Permanent Status (CAPS). In general, State-to-State files will be addressed in the CAPS and not the Framework Agreement on Permanent Status (FAPS).

However, three issues will likely arise in the context of the FAPS negotiations in the context of Israeli interests and must be protected in the context Palestinian interests for the eventual CAPS negotiations.

Archaeology

All holy sites and archaeological sites in the OPT, Jewish, Muslim, Christian or otherwise, will be completely under the control and sovereignty of Palestine. Access for religious or archaeological tourism to these sites may be granted to Israel.

Israel may attempt to retain control as it requested in the Interim Agreement over some sites in the West Bank where they make claims of religious (Jewish) heritage. Such a request is not in keeping with Palestinian interests and must be rejected. The Palestinian experience proved that Israel uses such claims to “holy sites” as a pretext to control land and ultimately results in:

1. restrictions on Palestinian freedom of movement;
2. limits on Palestinian rural and urban expansion and development; and
3. expansion and creation of settlements.

After the conclusion of the Interim Agreement, Israel maintained its control over a number of holy sites in the West Bank including ones in Areas A. Israeli control over these sites created friction with Palestinians and resulted in the creation of military areas around such holy sites. For example, restrictions were imposed on Palestinian use of roads that led to and near these sites, such as Joseph's (Yousef's) Tomb in Nablus.

If we look at the settlements in the West Bank, most of them were created around archaeological sites where Israel makes claims of Jewish heritage, such as the Silo¹ settlement in Nablus and Kiriath Arba' settlement in Hebron . Israel will continue to use its claims of religious heritage in such sites to justify control over lands in the West Bank and will likely request or justify the annexation of settlements.

Therefore, If there is a land swap where holy sites/archeological sites in the West Bank are transferred to Israel, Palestine must insist on management rights over the sites. This request is not unique. Israel has previously been granted such rights in the Interim Agreement and there one can look to the Republic of Cyprus as another example where the United Kingdom maintains sovereignty over the Sovereign Base Areas after concluding the Independence Agreement for Cyprus in 1960. Palestinian control over archaeological sites, especially ones with religious significance, would enable the Palestinians to satisfy Israeli and Palestinian interests to such sites in the settlements while also nullifying the request for settlement annexation, especially since swap principles cannot be applied to archaeological sites since there is no agreed criteria for equal swaps in size and value.

Electromagnetic Sphere

The electromagnetic sphere (EMS) is a Palestinian natural resource no different from water, natural gas and land. Absolutely no concessions must be made with respect to Palestinian sovereignty and control over Palestine's EMS (as was done in the Interim Agreement).

It is likely Israeli requests will be made for spectrum for agreed security activities in the West Bank. These requests could be satisfied by allocating some radio frequencies for Israel but without giving Israel control over the EMS as they previously requested in Camp David and Taba. Should the parties agree to Early Warning Stations (EWS) and/or military overflight in Palestinian air space there needs to be clear agreement on the following issues in order to allocate appropriate radio frequencies:

1. specific location and area of the EWS;
2. number of personnel to be deployed in the EWS;
3. security needs of the EWS;
4. equipment to be installed at the EWS;
5. technologies to be used in the EWS;
6. number of military training flights to be undertaken in Palestinian airspace;
7. type(s) of aircrafts to be used in the training;
8. required communications that would be needed;
9. times of the training;
10. communication equipments and technologies to be installed for aircraft related training.

The allocation of the radio frequencies for Israeli security uses must be:

¹ Silio is a Canani site, which Israel claims to be a Jewish synagogue.

1. undertaken by the Palestinian Ministry of Telecommunications as the manager of the Palestinian EMS;
2. for a limited period of time;
3. negotiated in a commercial context at market rates or in exchange for equivalent uses of Israeli spectrum;
4. Subject to change by the Palestinian Ministry of Telecommunications if new technologies are introduced that allow for less use or no use of the EMS to satisfy the same Israeli interest;
5. undertaken in a way that does not jeopardize Palestinian civil and security use of the EMS.

Any concession to the Palestinian position which deviates from the above guidelines for the allocation and the conditions of the allocation of frequencies for Israel will be detrimental to the viability of the Palestinian telecommunications sector (for commercial and national security purposes).

From a telecom perspective, it is not in Palestinian interests to agree to Israeli security requests for “emergency deployment in the Jordan Valley”. Any agreement or concession on this issue will completely undermine Palestinian control of the EMS, especially if any agreed “emergency deployment in the Jordan Valley” is not limited in terms of:

1. area(s) of redeployment;
2. number of personnel to be redeployed;
3. equipment to be used;
4. communication technologies needed for the mission; and
5. period of redeployment.

Thus, the more area(s) used for redeployment, the more personnel and equipment requested, and the increasing variety of communications technologies, for longer periods of time, the more difficult it becomes for Palestinians to maintain control over the Palestinian EMS. Undermining Palestinian control over the EMS will result in fundamental disruptions to the Palestinian provision of telecom services² and accordingly huge commercial and national security losses.

Civil Aviation

Palestinian interests favour absolute sovereignty and control over Palestinian air space and air traffic control. This is of importance to enable satisfying Palestinian interests in regards to:

1. uninterrupted air traffic in and out of Palestine;
2. generating revenues from the use of Palestinian airspace;
3. allowing for the use of the Palestinian air space by countries that do not have diplomatic relations with Israel especially from Moslem and Arab countries. This

² The services include, mobile communications, fixed communications, international telecommunications, radio and TV broadcasting and internet services.

is of high importance if we consider the expected traffic for tourism (particularly religious pilgrimages).

However, if reciprocal rights are agreed, and Palestinian interests are satisfied, including the ones mentioned above, joint air traffic control could be considered.