

Progress meeting on Refugees

Held on Sept 14, 2008 [11 AM-12 PM], King David Hotel, Jerusalem

Attendees:

Palestinians: Dr. Saeb Erekat (SE); Zeinah Salahi (ZS); Ziyad Clot (ZC)

Israeli: Tal Becker (TB); Udi Deckel (UD), Kamil Abu Rukun, Lee Arad

Summary (not verbatim):

SE and TB first discussed T. Livni's recent statement on the transfer of the Israeli Arabs to the Palestinian State. TB indicated that the declaration was twisted by the Jerusalem Post: T. Livni only said that Israeli Arabs should be given the choice to live in the future Palestinian State if they wish, since the future State of Palestine is expected to be the expression of the Palestinian people's right of self determination.

SE indicated that the impact of this declaration was terrible as it was picked by numerous Arab newspapers. He recommended that the Israelis also contact these newspapers to rectify the statement.

SE expressed his regrets regarding Abu Alaa's declarations on the Israeli "package" proposal acknowledging that this was a breach of the parties' understanding that their talks should remain confidential. He recognized that this was a mistake but mentioned that Abu Alaa had not been involved in the discussions during the last 4 months and that it is now very unlikely that he will be involved in the future. TB asked why Abu Alaa made such statements: according to SE, it was probably made to harm Abu Mazen, especially on the refugee issue. SE also informed the Israelis that he was expected to give an interview to the Palestinian TV where he will say that what Abu Alaa stated is only partly true. SE added that, with the exception of refugees, everything had already been published in Haaretz. TB acknowledged that so far the parties have succeeded to avoid the blame game. All in all, he said that he thinks that the requirement of confidentiality was more often respected than breached. He added that he thought it is important for SE to distance himself from Abu Alaa's declarations.

SE: Udi and I are in agreement. I was summoned to travel to Washington DC last week. The US wanted a Presidential statement. We want to stick to the declarations made at Charm el Cheikh: *"Agreement on all issues, no bridging proposals etc."*

I didn't like what I heard in Washington and didn't think it was good for us. David Welsh explained to me that Saudi Arabia in particular wanted something to be issued. We said "no" as President Abu Mazen told me we should honor the agreement we have with the Israelis.

Now, there is this Security Council Resolution issue. J. Wallace provided me with the main principles of the text. To be honest, I don't like it.

The US want us to put our respective proposals in writing and hand it over confidentially to the next administration.

UD: David Welsh prepared something for the next administration .

SE: I have not seen the document but David said that we will see it.

TB: we have not seen it either.

[...]

UD: There is difference between offering a “package” deal and our discussions on territory. You have not presented a counter offer to us.

SE: Yes, we did. On territory, we have offered 1,9% of the WB.

UD: this is not a counter offer to our “package”. It deals only with territory.

SE: But we have made detailed offers on refugees, territory, Jerusalem etc. We have submitted detailed papers on all issues.

UD: I don't think it's good idea to discuss together in the US. You see it as an honest offer. We don't see it that way. It's not helpful to go there and give a joint presentation in the US.

SE: I shut down the US President presidential statement. President Abu Mazen honors his agreement (Charm El Cheikh). Abu Alaa leaked. I am sorry. But he hasn't been involved for months.

Udi, I am not asking you to be me. I know you can't. But I'm trying to be less suspicious of you and would like you to do the same. At this point, I would like us to understand the opposite side's point of view.

UD: Yes, but we have a code of conduct.

SE: Sure. Let me remember you that it was broken by Ehud Olmert first who began to make his “offers” through the press...

TB: I think that the code of conduct was more often respected than breached.

SE: We had more than 220 meetings

UD: 252, according to our accounts. And this does not include all your meetings with Tal {laughs}

SE: We need to guarantee the irreversibility of the process. I may change. Abu Mazen may change. But how do we do to preserve the continuation of the process. How do we do to make it irreversible. You have to trust us. Now, it's up to us to take our responsibilities to a new level. All the people who are present here are very decent people.

UD: I agree. Our primary concern is to make sure that the process goes forward.

TB: do you know the nature of the US report? What do they plan regarding the handover?

SE: They didn't tell me what they are doing.

ZS: I'm not even sure they know what they are doing. {TB & SE agree}

SE: Did anything come up from your meetings with Ehud Olmert in Washington DC?

TB: I was there for Sabban. We oppose the idea of the Presidential statement. I think the issue is not on the table anymore. Now, this idea of a Security Council resolution is problematic for us: I will discuss it with you privately, Saeb.

SE: I was informed of the initiative by an Arab Prime Minister. I was surprised.

TB: Apparently, they have already coordinated with the Russians.

UD: Let's move to refugees. Saeb?

SE: I will let TB present the status of our discussions.

TB: I wish to introduce the general themes. The way the talks were conducted on refugees was intimate, serious and avoided pressure. We have advanced methodically, issues by issues. I think that these negotiations on refugees could serve as a model to a certain extent: we didn't draft right away but started to discuss in February. I think it was useful that Saeb and me had long discussions before we began to draft. Only after these discussions, the exchange of drafts between the two sides began.

SE: However, at this stage, the main decisions remain to be made.

TB: the idea is to present to our respective leadership these issues which need to be decided.

I have listed the points of agreement and disagreement:

Points of agreement

- 1- the structure of the article: after several months of discussion, we have accepted the Palestinian proposal with minor modifications.
- 2- Our understanding is that the following issues are at stake:
 - a. Responsibility – it's a major concern for the Palestinians
 - b. The destination choices: we agree that different destination options will be offered to Palestinian refugees. The return to Israel remains an issue of disagreement. The position of the Israeli PM and T. Livni are different on this.
 - c. An international mechanism will have to be created. Regarding the mandate of the mechanism and its goals, we agree on:
 - i. compensation (disagreement on restitution –it's a non-starter for Israel)
 - ii. rehabilitation
 - iii. settlement choices (except return)

- iv. bring a definitive end to the issue
- v. gradual dismantlement of UNRWA
- vi. IM should be the exclusive forum
- vii. the establishment of an International Fund
- viii. the principle that Israel will contribute to this Fund
- ix. the principle that they will be no obligation beyond the Treaty:

d. We also narrowed some textual differences.

Points of disagreement:

- 1- The preamble: Palestinians insist on the reference to resolution 194 and the API. Israel wants a reference to the 2 States for 2 peoples. I guess this will become clear when all the other political issues will be resolved.
- 2- For Israel, in the context of a complete resolution of the refugee issue, a sign has to be given to our domestic audience regarding the Jewish refugee matter. The article on refugees will have to be sold to an Israeli opinion.
- 3- Responsibility: we understand that this is very important for the Palestinians. As long as we keep talking I think that we can find an acceptable wording for both sides.
- 4- Palestinian citizenship: in the Israeli view, all Palestinian refugees should be provided with Palestinian citizenship according to Palestinian law.
- 5- Regarding compensation, there are two main issues of disagreement:
 - a. Restitution is a non-starter for the Israelis. We have a strong legal case to prove this.
 - b. Regarding compensation, we have decided not to make counter proposal on the different forms of indemnification. We could have done it but we would prefer to remain vague in order to prevent a dispute that could not be sorted out. Our view is that the priority should remain to use the funds for rehabilitation.
- 6- The level of details in the bilateral agreement. We think the details should be left to the mechanism. There was a phase where the US were ready to put a proposal on the table. We were able to avoid that, but we didn't oppose the idea of a US-led mechanism. But I understand that you could not accept it.
- 7- We disagree to refer to the Custodian of Absentee Property.
- 8- We also disagree on the way to refer to the Israeli financial contribution.
- 9- Finally, compensation for Host States is not acceptable for us. Let me clarify: we are not against compensation for the future (rehabilitation).

SE: I think we have the ingredients for a settlement and that the work done could serve as a serious basis for the agreement.

ZS: I have 2 questions: - first, the reference to Jewish refugees: how do you view it?

TB: We don't want the Palestinians to be involved in this. We would just need to insert a sign in the article indicating that the next step will be the resolution of the Jewish refugee issue. This is not a tactical move. It is just needed for the Israeli audience.

UD: Yes, we don't want the Palestinians to be involved on this.

ZC: If this is not a tactical move, why don't you clarify what you would be looking for the reparations of the losses of the Jewish refugees. Eventually, in the future, we might be inclined to play a role towards Arab States to make sure that Jewish refugees' properties are restored, or that they are duly compensated for...

{TB smiles}

UD: No, we don't want the Palestinians to be involved in this.

SE: as far as I'm concerned, the issue is not on the table. This is not my responsibility.

ZS: How do you envision the second round of negotiations? Will it be bilateral? Multilateral?

TB: I don't know. The IM will be the engine.

SE: I hardly disagree on anything that was said. The decisions will be left to the leaders. EO & AM have been discussing the returns. I think we have worked constructively. The refugee issue is part of the package and linked to the resolution of the other files. We are set on a text. This will all fall together once there is the package. I am fine, unless there is any other question?

ZC: Yes. I have in fact many questions but I would like at least to convey that we have one major concern on our side. In our view, the level of details included in the draft article is clearly insufficient. This draft will hopefully serve as a basis for further talks but it is insufficient to enable reaching a bilateral agreement which can be enforced. Without an annex to complement it, this is not satisfactory.

Let me take two examples: first, there is no definition of Palestinian refugees in the article. Who are we talking about? Can the parties seriously leave this question to the IM? Postpone it to another round of negotiations?

Second example: Israel's financial contribution. How do you foresee this? You wish to keep the draft as it is; therefore the question of the determination of the level of funding coming from Israel will be deferred. To the mechanism? I understand that you may not wish to participate in it. Will it fall within the responsibilities of the Arab Host States, the international community etc. to define the financial contribution of Israel ???

We can offer a very practical way to deal with this: in the near future, we could decide to break down the provisions of the draft article and define what decidable issues are bilateral and should therefore fit in the annex.

We cannot defer everything to the mechanism. Israel will have to make a small effort here. Do you really expect that we will move forward, that the Arab Host States will show some signs of flexibility and accept their share of the burden if you don't accept to discuss seriously the issue in details?

TB: When do you think that the mechanism will be agreed?

ZC: We will have to agree on it bilaterally while making sure that the other participants and the international community endorse the proposal.

TB: But we cannot agree on everything. It will increase the risk of blocking the resolution process.

ZC: I agree that some specifics can be left to the IM. But we have presented to you the political decisions which need to be taken to ensure that the mechanism can function. I am afraid there is not other option but to make sure that we tackle them. This is our role.

TB: As I said, we first discussed the matter with Saeb back in February: we have agreed initially with SE that a reasonable balance should be found on the level of details which would have to be included in the Treaty.

SE: I would like to insist that Jordan is on board with us on refugees. We have coordinated with them as they are a strategic partner. However, compensation for host states is essential for them.

TB: Your strategic partner may have his own interests too.

UD: Thank you. It seems that the article reflects the discussions. It is probably the best example as to how to best proceed as it isolates the decisions to be made by the leaders. We look at this as the paper of the agreement. The mechanism will be in charge of the implementation. If we identify some other needs we can agree on some other implementation arrangements.

END