

SWG MEETING
10 January 2007
AGENDA

1. Introductory remarks: Lt. Gen. Keith W. Dayton

Talking Points:

- General thanks and welcome.
- Rafah Crossing must be open to full capacity with normal operations.
- Rafah is a Palestinian-Egyptian crossing and Israel has no right to close it.
- Each closure of Rafah is an Israeli breach of its commitments under the APRC.

2. Follow Up from the 14 November Meeting

a) Customs Protocol

Talking Points:

- (ISR should talk first, as they are expected to respond to requests for their signature on Customs Annex.)
- We look forward to the full implementation of the APRC, including the provisions which have yet to be implemented, including the imports of goods from Egypt through KS, the movement of exports to Egypt through Rafah, and the movement of cars at Rafah.
- Israel should immediately sign the Customs Protocol and open KS for imports from/through Egypt. This would greatly increase the security at the crossing.
- There is no reason or excuse for Israel not signing the Customs Protocol and opening KS.

b) RCP Scanners and Equipment

Talking Points:

- (EUBAM issue to update on.)
- We urge Israel to allow in the equipment and scanners.
- It is in everyone's best interest to have better equipment and scanners at the Rafah crossing. It will only increase the security, efficiency and effectiveness of the crossing.

c) Handling Large Sums of Cash

Talking Points:

- [If it hasn't been done already, this would be a good time for US to ask GOE if the Palestinian understanding as to procedure to be applied on the Egyptian side of the crossing.]
- There is no legal basis for the prevention of large sums of cash through the crossing as long as it is declared.
- Palestinians are applying Israeli import policy at the crossing, as per the Paris Protocol.
- Palestinian Customs forms and official procedures for declaring money brought in have been shared at the last CEC meeting.

d) Persons of Concern List

Talking Points:

- [ISR was supposed to hand over some sort of list of people to be treated with extra scrutiny at the crossing.
- If a discussion on this issue ensues, **it should be noted that this WILL NOT BE TREATED AS A NEGATIVE LIST**. It will be seen only as a notification that the persons on the list should be treated according to the procedure outlined in the APRC.]
- Agreement already provides for procedures for dealing with persons of concern.
- Palestinians encourage Israel to provide sufficient information regarding the persons of concern should they ever use this provision.
- Palestinians ask that Israel provide information regarding such persons directly to the Palestinians.

If the issue of the Registry is raised:

- [We are still examining the completeness of the Registry Update, to see if it includes “***all information needed to update the Palestinian population registry, including all information on Palestinian ID card holders who are currently outside the country***” as agreed in the APRC and the Protocol on Security Implementation Procedures.]

e) Egyptian LNO for RCP

Talking Points:

- We hope that the GOE will send a Liaison Officer to the LO.
- As noted previously, improved communication relying on the Liaison Office will greatly improve operation of the Crossing, and will allow the parties to deal with problems and crises more effectively.

f) Goods of Concern

Talking Points:

Security Protocol states:

All cars, goods and other items transiting through the Rafah Crossing will be subject to security checks, including screening. Any and all weapons and explosives found during these checks will be confiscated. *The PA will discuss the disposition of the confiscated material with the US Security Coordinator. The security working group referred to in the APRC will, on an urgent basis, elaborate detailed procedures consistent with international standards to prevent the movement of weapons and explosives through the Rafah Crossing.*

The PA will work with the EU-BAM to establish and implement procedures for dealing with unidentifiable or potentially hazardous materials at the Rafah Crossing. These procedures will be consistent with international standards and practices.

Background: The provisions quoted above were purposefully negotiated to restrict the scope of the SWG to weapons and explosives. In particular, the inclusion of chemicals and “dual use” equipment was flatly rejected by the Palestinian side for the following reasons:

a. Sovereignty: Expanding the scope of the SWG forum would give Israel a say on a broad range of restrictions on the movement of goods between Gaza and Egypt. The Agreement therefore narrowly defines the scope to apply only to specific categories with arguably legitimate security risks. Regardless, this was a very heavily negotiated provision, and Palestinians objected to Israel’s inclusion even in the weapons and explosives discussion until the very last moment (i.e. it is in the letter of interpretation Palestinians sent to the US). The current US draft represents a very significant compromise on the part of the Palestinians. Palestinians have always made very clear that they are happy to discuss these procedures bilaterally with the EUBAM and to implement procedures that are in accord with international standards.

b. Feasibility: Agreed procedures must be practically feasible and implementable given the reality on the ground. We cannot commit to procedures that we lack the tools to implement. Therefore, the Agreement excluded such categories as dual use equipment, which would require elaborate lists and extensive expertise to implement, and which would likely include many commonly used items.

c. Slippery slope: Introducing categories such as “unidentifiable / potentially hazardous materials” and “dual use equipment” in the discussion opens the door for Israel to submit lists of all sorts of regular household items as restricted substances and equipment. In past negotiations over the Security Protocol, Israel submitted a list that

included: jet skis, binoculars, scuba diving gear, and a number of commercially available chemicals. This list was dismissed by the Palestinians and illustrates the danger of expanding the scope of the SWG beyond weapons and explosives.

NOTE: The Security Protocol is very clear on this point. Israel may try to make arguments for the expansion of the scope of the SWG to include all of these matters, but the text of the agreement (and the limitations placed on the SWG therein) trump these arguments.

Points to raise:

- According to the Security Protocol, the appropriate forum to discuss weapons and explosives is the SWG, and the small working group designated therein. This does not include dual use or potentially hazardous materials. We **WILL NOT discuss either *dual use* or *potentially hazardous materials*** in the SWG forum. The Agreement is very clear on this matter.
- The **appropriate forum to discuss *unidentifiable* or *potentially hazardous materials* is BILATERALLY WITH THE EUBAM.** Once procedures are agreed, we will be happy to share them with the relevant parties, including in the working group forum.
- We also reiterate that implementation of procedures regarding any goods of concern are dependent on the proper equipment and training being available at the crossing.

3. “Goods of Concern” Sub-working Group Report

Talking Points:

- We thank the USSC for hosting this forum, and agree with the USSC report that the sub-working group is making progress, and that the work will take time as some of the issues are complicated.
- We are developing procedures, with the help of the EU BAM and based on international standards, regarding the confiscation, storage and disposal of prohibited substances.
- In order for this work to be meaningful, there is an urgent need for equipment and training. Without necessary capacity at the crossing, ranging from the ability to detect and properly inspect goods, to the ability to safely store and dispose of prohibited items, these procedures will remain merely an academic exercise.
- Therefore, we request and welcome the assistance of all parties regarding this essential matter, whether through the provision of equipment, or experts to help train and build capacity and expertise.
- REMINDER: The mandate of the sub-working group cannot be broader than the SWG, which is stated in the Security Protocol. Therefore, any discussion on lists of prohibited items or procedures to deal with them must be restricted to weapons and explosives. Work on procedures dealing with hazardous or unidentifiable substances will only be mentioned at the sub-working group for the purpose of information sharing.

4. New Issues:

a) Crisis Management Process between PA, GOI, GOE, and EUBAM

Talking Points:

- According to the Agreements, only the Palestinians can decide to suspend operation of the Crossing (except for the EUBAM in the context of a technical malfunction). Palestinians will not agree suspension procedures with Israel.
- The two primary causes of crises at the crossing are bad communication among the parties, and lack of normalization of the crossing.
 - a. COMMUNICATION: We are happy to discussed improved communication procedures, as well as improvement in the operation of the Liaison Office to better allow it to deal with crisis prevention and management.
 - b. NORMALIZATION: Israel is consistently closing Rafah in contravention of the agreement.
- The biggest security risk to Rafah is due to Israeli breach of the APRC by refusing to allow normal operation of the crossing, and to the continued Israeli closure of Kerem Shalom Crossing for imports from or through Egypt.
- The large amount of traffic caused by the sporadic opening of the crossing causes critical security concerns and has been a major cause of the recent crises.
- Palestinian performance, to the extent we have been allowed to operate, has been excellent and in accord with international standards.

b) EUBAM Mandate Extended past May '07**Talking Points:**

- We welcome the presence of the EUBAM. We urge, however, that the EUBAM make every effort to comply with all of their obligations under the agreements, including those related to capacity building.
- We also note that the role of the EUBAM remains monitoring, evaluation, training and capacity building, and not executory. The extension of the EUBAM mandate would also not include executory powers.

c) EUBAM Equipment for RCP**Talking Points:**

- [This should just be an update from EUBAM].
- We welcome the equipment in order to allow the crossing to open for all of its functions, including the normalized passage of cars.

5. Additional Issues?

4. Next Meeting: Time and Place