

Palestinian Guidelines for Coordination of the Israeli Evacuation and Withdrawal 27 February 2005

The Palestinian Authority and the international community have long insisted that the Israeli evacuation and withdrawal of the Gaza Strip and parts of the northern West Bank be coordinated with the Palestinian side. Indeed, as recently ~~as~~ February 9th, the Palestinian Authority announced at the Sharm al-Shaikh Summit that it is ready to coordinate all aspects of the evacuation and withdrawal with Israel and resume peace negotiations on all permanent status issues.

what is coordinative
Generally, one of the Palestinian objectives driving coordination efforts is to demonstrate the principle – which the PLO has long held – that bilateral engagement is preferable to unilateral actions from any of the sides. In this sense, coordination should generate renewed hope in a negotiated process. To achieve that, coordination should have four specific goals: 1) generation of a political process leading to complete withdrawal to the 1967 borders 2) a comprehensive and full evacuation of the Gaza Strip, 3) guaranteed and free movement between the Gaza Strip and the West Bank and, 4) a smooth and secure hand over process.

This document first presents **Palestinian positions on the Israeli evacuation and withdrawal**, followed by the procedural guidelines that Palestinians believe should govern the **coordination process with Israel**. Lastly, the paper offers a **Palestinian agenda for coordination with a proposed structure of Palestinian Israeli committees**. Additional topic-specific documents may be needed to outline more detailed positions on each of the agenda topics.

A. PALESTINIAN POSITION ON THE ISRAELI EVACUATION AND WITHDRAWAL

The following two positions on the evacuation and withdrawal will continue to be pursued by the Palestinian leadership through the political process – a process distinct from the coordination of the evacuation and withdrawal and they do not therefore appear in the Palestinian proposed agenda of the coordination.

1. The Israeli disengagement plan must be carried out in the context of the Roadmap

- In order to ensure that Israel's proposed disengagement does not delay or replace a political process leading to permanent status agreement, the Palestinian side, as well as the international community, has called for the evacuation and withdrawal to be part of the Roadmap through simultaneous implementation of both parties' Roadmap obligations.

2. The withdrawal from Gaza must not be carried out at the expense of the West Bank and East Jerusalem

- Settlers evacuated from Gaza and the northern West Bank must not be resettled in other settlements in the West Bank.

- [In the absence of a genuine settlement freeze, including “natural growth” and a re-routing of the Wall to the 1967 border, the plan is perceived to be aimed at further strengthening settlements in the West Bank. Current U.S.-Israel arrangements for a partial settlement freeze are insufficient as they allow for continued construction within the settlements’ master plans and for by-pass roads and other settlement infrastructure, as well as unlimited growth in settler population.]

The positions described below are directly related to developing a Palestinian position and agenda on coordination (see page 5 for the Palestinian proposed agenda).

1. Israel’s evacuation and withdrawal from the Gaza Strip and northern West Bank must be complete and comprehensive, if they are to have a tangible political, humanitarian and economic impact.
 - Israel must relinquish functional and political control over the territorial waters, airspace and land borders of the Gaza Strip, including port and land crossing points with Egypt. A third-party security role may be considered at Palestinian international gateways or the international perimeter for a transitional period. A third-party role can also be introduced to assist on customs, in order to support the PA in terms of capacity and to monitor implementation of the Paris Protocol.
 - Israel’s withdrawal from part of the northern West Bank must lead to maximum contiguity and freedom of movement, both within the evacuated area and between it and the rest of the West Bank.
2. Israeli evacuation and withdrawal must result in a link between the West Bank and Gaza Strip.
 - Coordination of the withdrawal from the Gaza Strip should include discussions on the creation of a territorial link connecting the Gaza Strip and the West Bank, to ensure territorial integrity and economic development of the whole of the Palestinian Occupied Territory. In the short term such a link should allow for the free, systemized and efficient movement of goods, people, and services (including vehicles).
 - Any short-term territorial link arrangements should also pave the way for a permanent territorial link under full Palestinian sovereignty and/or control, and minimally, must not prejudice such a permanent territorial link.
3. The Israeli evacuation and withdrawal must allow for economic development and reconstruction.
 - Border Crossing to Israel. After the evacuation, the Gaza Strip should be open to Israel. This will require publication of comprehensive procedures for the movement of both people and goods, with clear timelines and repercussions for breach through the crossing points between the Gaza Strip and Israel. Facilities at the crossing points should be improved, using the best available technology, in order to ease and streamline procedures. Such a system should conform to several basic principles, including non-

discrimination, transparency, accountability and the systemization of movement.

- The Gaza Strip should also be open to the world through Israel (especially in transition until operation of the international crossings is feasible). Therefore, the preferential transit movement of people, services and goods from/to the Gaza Strip through Israel must be established.
- With regards to movement between the West Bank and Israel (or through Israel) Palestinians categorically reject the introduction of crossing points between the West Bank and Israel that are not on the 1967 borders. In addition, any proposed changes to the border regime between the West Bank and Israel that *are* on the 1967 borders should be determined through bilateral negotiations, as any unilaterally determined or imposed changes would result in an impermissible unilateral change to the Oslo agreements.
- Movement of Goods. The transport of goods within the OPT, and between the OPT and Israel or the rest of the world, should be addressed urgently. Such movement should replace the “back-to-back” system, which is detrimental to economic recovery and development, with a “door-to-door” system. Alternative, more efficient systems exist for door-to-door movement, causing less damage to Palestinian businesses and economy.
- Palestinian Labour in Israel. Israeli suggestions that Palestinian labour would no longer be allowed to enter Israel by 2008, in contradiction to the spirit of the Paris Protocol, are unrealistic and harmful to economic development or recovery. Given the present state of the Palestinian economy, the OPT is unable to immediately absorb this segment of the labour market into its economy.

4. International law must govern the status of the evacuated settlement properties.

- Reparations. Principles of state responsibility require a state responsible for an internationally illegal act to put an end to its actions and to make full reparation for the injury caused. Those reparations can take the form of either restitution of the property to its original state or compensation. Consequently, the Palestinian side may either require that Israel, upon its withdrawal, dismantle all the illegal settlements and the supporting facilities and infrastructure, or that Israel leave these intact and pay compensation for the costs to be incurred by the Palestinian side in dismantling. The Palestinian side may also choose to dismantle some of these structures and leave some of them intact and adjust its compensation claim accordingly.
- Future use of Structures. According to international law, it is for the Palestinians to determine the fate of the settlement structures and infrastructures located on land slated for evacuation. Therefore, it is for the PA to identify those structures it wants Israel to leave behind and to inform the Israeli side accordingly. In accordance with international law, the Palestinian determination may not be subject to negotiation.
- No Israeli Compensation. Because Israel’s settlement activity in the occupied Palestinian territories constitutes a breach of international law, Israel cannot

claim any compensation for the investments it made in the settlement properties and industrial estates.

- Damages payable to Palestine. Regardless of the Palestinian position taken with regard to dismantling or maintaining the assets, Israel must also pay compensation for any damage caused by the settlements' construction, including damage to or loss of public or private property, lost profits, and damage to or depletion of natural resources.
- Inventory of Assets. Israel must provide an inventory of all the assets, both moveable and immovable, currently in the settlement properties. The inventory must include (a) an assessment of the working order of all properties (including foundations, water and sewage tanks, dumping sites, generators, other moveable equipment, etc.); (b) an assessment of the environmental condition of each site, and the identification of any contamination of land (solid waste) or water (wastewater); (c) and maps of the site, including public utility networks, and plans of standing buildings.
- No further Israeli role. Following the withdrawal and evacuation, the PA will exercise full exclusive control and management over all economic and infrastructural assets, including water resources. Israel may make no determinations regarding the management of the economic assets and structures.

5. The Israeli evacuation and withdrawal must be accompanied by an end to all attacks on Palestinian lives and their livelihoods.

- Ceasefire. Israel must commit not to carry out any military operations in the Gaza Strip and the PA must similarly commit not to allow any attacks on Israel from the Gaza Strip. Security cooperation will be required to ensure the success of those commitments. A third-party role, acceptable to both sides, should be arranged to facilitate and monitor the cooperation arrangement.

6. The international community role should support Palestinian control over the whole of the Gaza Strip, economic recovery and security arrangements.

- Third Party Role. Palestinians welcome third-party involvement at international gateways, crossing points and on the territorial link, as well as during the withdrawal process and in the disposition of assets. Such a presence should not compromise Palestinian sovereignty or decision-making ability, and should be with the consent of, and in partnership and coordination with, the PA. Israel should have no veto power over arrangements made exclusively between the PA and the international community (see point 1.)
- Dispute Resolution. Third-parties should develop and implement, in coordination with both sides, a dispute resolution mechanism, including the regulations and rules governing such a mechanism.

7. The Israeli evacuation and withdrawal lead to a smooth and secure hand over process.

- Operationally, the sequence and timetable of the Israeli evacuation and withdrawal must be shared with the Palestinian Authority. This will diminish

Formal
comprehensive
ceasefire.

DEVELOP

the possibility of violence and permit the Palestinian security apparatus to plan properly for securing the evacuated areas.

8. The Israeli evacuation and withdrawal can support the improvement of the interim agreement.

- Generally, the PA can use the coordination to improve or change certain aspects of the Interim Agreement such as water, energy, telecommunication arrangements, or the Paris Protocol.

Water

- Palestinian Israeli water rights are not yet resolved. Reallocation and management of shared water resources are required. Equitable utilization of the existing shared watercourses is the first required step, to be followed by the development of “independent water sources”. In addition, the Gaza Strip is facing a major problem in term of both quantity and quality. Article 40 of the Interim Agreement requires Israel to provide an additional 5 MCM/year to Gaza. This water should be made available as soon as possible.

Electricity

- The Commercial Agreement on electricity must be completed to ensure the continued provision of electricity to the Gaza Strip and to the West Bank.
- Assets in settlements must be transferred to Palestinian control, particularly those assets constructed specifically for Palestinian customers and subsequently used to benefit the settlements
- Interconnection points and projects of joint interest must be coordinated – such as the 161 KV line between Israel and the Gaza Strip.
- Construction of electricity transmission lines along the territorial link between the West Bank and Gaza Strip must be coordinated with Israel to ensure the safety and integrity of all lines.
- Construction of electricity transmission lines within the West Bank to properly integrate the different distribution networks within the West Bank and with the Gaza Strip
- An interconnection agreement between Palestine and Israel should be concluded to allow immediate use of the full capacity of the Palestinian electricity generators. The interconnection agreement will cover the swapping of electricity with Israel and wheeling electricity to the West Bank through the Israeli network.
- Once infrastructure is constructed across the border with Egypt, there should be no need for coordination with Israel on Egyptian imports of electricity.
- Where Palestinian development of electricity infrastructure nears the border with Israel, ie within the security zone (Security Perimeter) there must not be coordination with Israel unless the construction of the Palestinian infrastructure has any impact on Israel. Similarly when such construction crosses the border points into the Gaza Strip.
- All Israeli restrictions on maintenance and development of the Palestinian energy sector must be lifted.

Telecommunications

- The current situation in which Israel controls the allocation of spectrum to Palestine and collects all international calls revenue fails to create conditions for a vibrant telecoms sector contributing to job creation and GDP. The PNA can use the coordination to improve or change certain aspects of interim agreement including a switch to a coordinated management of the spectrum in Gaza and the West Bank to allow for the expansion of Jawal, for additional mobile operators to compete with Jawal and to introduce other mobile services in Gaza and the West Bank. The coordination and bilateral negotiations should pave the way for separating the Palestinian and Israeli networks and allowing for an international gateway for Palestine and the activation of the 970 country code worldwide.

Trade Relations

- The Paris Protocol's creation of a semi customs union cannot be aborted now as this would create separation of the economies of the West Bank and the Gaza Strip and create two trading policies within the OPT. However, the Paris Protocol and its implementation can be improved. The Paris Protocol needs to become part of the Israeli legal framework. Currently there is some contradiction between the Israeli law and the Paris Protocol. Furthermore, specific provision of the Paris Protocol can be improved to allow for example for Palestinian participation in international institutions such the WTO and the WCO. Other more specific examples, the tax clearance system of import tax, purchase tax, VAT tax, income tax can be tightened against tax leakage. Also on way of an example, the standards provisions can be improved, double taxation addressed and a strong dispute-settlement mechanism created.

B. PROCESS GUIDELINES FOR THE COORDINATION PROCESS

In order to ensure an orderly, timely, and secure transition, the PNA expects Israel to abide fully by its commitment to coordinate all aspects of the evacuation process with the Palestinian Authority. To that end, the PNA believes the parties should adhere to the following basic guidelines for coordinating the process.

1. All aspects of the withdrawal/evacuation process should be coordinated jointly between the two sides, including border regime, international crossings, security matters, the evacuation of settlers, the transfer of assets, and the withdrawal of Israeli forces.
2. Only those aspects that directly implicate the two sides on the ground should be coordinated (i.e., internal Palestinian matters are not subject to coordination with Israel).

3. In order to maximize efficiency, the work of all existing (i.e., post-Sharm el Sheikh) and proposed (i.e., disengagement) committees should be consolidated under a single Israeli-Palestinian coordinating mechanism.
4. Complimentary to the coordination process, the two sides should agree on the establishment of joint monitoring/verification and dispute-settlement mechanisms, either or both of which should involve third-party participation.
5. ?

C. PALESTINIAN PROPOSED AGENDA FOR THE COORDINATION

1. The scope of the evacuation
 - a. Territorial water and airspace of the Gaza Strip
 - b. Land border and crossing point of the Gaza Strip
 - c. Third party role
 - d. West Bank scope
2. System of movement between Israel and the OPT
 - a. Crossing points between Israel and OPT
 - Principles (including on security)
 - Location and design of crossing points
 - Management of crossing point (procedures, timelines, evaluation)
 - b. Movement of labour
 - c. Transit arrangements through Israel
 - d. Third party role
3. The territorial link
 - a. System (short term and medium term)
 - b. Third party role
4. Settlements' structures
 - a. Inventory of properties and moveable and immovable assets
 - b. Fate of structures
 - c. Agreement as to applicable law and legal treatment of the settlement properties
 - d. Compensation to Palestinians
 - e. Third party role
5. During and post evacuation security cooperation
 - a. Post evacuation security arrangements
 - b. Third party
6. Timetable and sequence of evacuation
 - a. Coordinating a security plan during transfer process
 - b. Designing the sequence
 - c. Agreeing the timetable and details for handover
 - d. Arrangements for the removal of hazardous waste, toxic materials, and all unexploded ordnances, field mines and other dangerous articles
 - e. Third party role

SHOULD WE COLLAPSE 5 AND 6 IN ONE COMMITTEE?

7. Utilities

- a. Water
 - Reallocation of existing shared water resources
 - The Gaza water crisis
 - Joint management
 - b. Energy
 - Supply and cost
 - Guarantees on continuous supply
 - Linking infrastructure:
 1. Gaza to WB
 2. OPT to Israel
 3. OPT to Jordan and Egypt
 - Palestinian generation capabilities – Access to Natural Gas Resources.
 - c. Telecommunications
 1. Electricity Supply Agreement
 2. Infrastructure transfer
 3. Construction of infrastructure in areas under Israeli control
 4. Reconciliation deal
 5. Interconnection agreement
 - d. Sewage and water treatment arrangements
 - e. Arrangements for environmental remediation where needed
8. Trade Relations
- a. Legal framework of the Paris Protocol
 - b. WTO and WCO
 - c. Tax clearance arrangements
 - d. Standards and certification
 - e. Dispute settlement mechanism
9. Dispute settlement
- a. Mandate
 - b. Third party role
 - c. Mechanism
10. Coordination structures/committees
- Steering committee to oversee all above issues and the various subcommittees. On the Palestinian side, this committee will be comprised of the heads of all the subcommittees mentioned below as well as a lead political negotiator. It is important that the Steering Committee has a clear reporting mechanism to the highest leadership on both sides.
 - One subcommittee on the scope of evacuation to discuss point 1. On the Palestinian side, the committee will be comprised of representatives from the security apparatus, the Ministry of Trade, the

Ministry of Finance and experts on borders issues. This subcommittee would be headed by the security representative.

- One subcommittee on movement issues to lead two discussions of points 2 and 3. On the Palestinian side, the subcommittee will be comprised of representatives from the Ministry of Trade, security apparatus, Ministry of Finance and the Ministry of Civil Affairs. This subcommittee will be headed by the Ministry of Finance.
- One subcommittee on settlement structures to discuss point number 4. On the Palestinian side, the subcommittee will be comprised of representatives from the dedicated PA administrative body that is to handle all matters related to transfer, management and disposal of settlement properties. That body will include representative from the various economic ministries (trade, agriculture, planning), the ministry of housing and public works, and the security apparatus. It will also include a lawyer to deal with compensation matters. This subcommittee will be headed by the Ministry of Planning.
- One subcommittee on security to discuss point number 5.
- One subcommittee on handover process to discuss point 6. On the Palestinian side, the subcommittee will be comprised of representatives from the security apparatus and the dedicated PA administrative body that is to handle all matters related to transfer, management and disposal of settlement properties. This subcommittee will be headed by the security representative.
- As for point 8, a subcommittee on trade relations would be formed with Palestinian representatives of the Ministry of Finance, Trade, and Standards Institute.
- Finally, a working group of few members will agree to a dispute settlements mechanism and present it to the steering committee.