

Overview of Security Decidable Issues

Introduction: Maps and Technical Materials

Before commencing negotiations on the substantive issues, it is critical for both sides to agree on a common set of maps and technical information that would form the basis of subsequent discussion. The negotiators should be aware that technical material, while seemingly neutral and of lesser importance than the substantive disputed issues, may have a decisive impact on the resolution of the core issues in favour of one party or another. The Palestinian negotiators should request and obtain from the Israelis detailed qualitative and quantitative information on all security installations (bases, EWS, communications infrastructure etc.) such as they exist at the time of negotiations. They should also be prepared to share maps and other relevant materials in their possession.

Framework and Principles

Before tackling the specific core issues in dispute, Palestinian negotiators should set up a framework, including a set of principles, in order to guide the overall negotiations. For instance, agreeing that the future relationship between the two sides should be based on mutual trust and cooperation would work both as a confidence building measure as well as a positive framework through which the interests of the parties may be expressed. This principle may be extended by agreeing jointly on the need for a *bilateral (and possibly regional) security regime* in the future in order to best protect their common security interests. Agreeing on the principle that the relationship between the parties should be *consistent with UN and international law standards and obligations* with respect to the use of force helps frame the negotiations over such issues as emergency deployment in the language of international law and objective norms and practises.

Main Decidable Issues

I. Military Capacity of Palestine

The issues to be negotiated here relate to the military capacity of the Palestinian state. The Israelis are likely to initially demand a demilitarised state. The Palestinian negotiating position, however, should start from an objective assessment of the interests of both sides: It is in neither side's interest to have a Palestinian military with offensive capability, yet it is in both sides' interest to have a robust police and internal security infrastructure in Palestine. Having agreed to these premises, the negotiators can then focus on the specific instruments and means through which certain types and quantities of weapons, ammunition, and 'dual-use' equipment may be restricted. The negotiators have to agree on (a) specific qualitative and quantitative restrictions on equipment and personnel; (b) the instrument(s) through which to implement; and (c) the means of verification and dispute settlement.

II. Withdrawal of Israeli Military, Police and all other Forces and Removal of Military Infrastructure

As a matter of law (and common sense) the essential condition for ending the occupation and establishing the sovereignty of Palestine is the complete withdrawal of Israel from Palestinian territory, which includes airspace and territorial waters. Palestinian negotiators should therefore evaluate any Israeli proposal for retaining some residual military presence in Palestine based on the rights of an independent and sovereign state. Palestine may, however, be willing to consider limited arrangements to accommodate legitimate Israeli security concerns for the near term. Israel is likely to raise a number of demands that would permit various forms of Israeli military presence or control over Palestinian territory. Palestinian negotiators should be aware of, and prepared to respond to, all potential Israeli demands. They should only discuss these issues if raised by the Israelis first.

A. Use of Palestinian Airspace

Since independent nations do not routinely give foreign powers the right to military overflight, there is no legitimate reason for Israeli military overflight in Palestinian airspace. The onus is therefore on the Israeli side to demonstrate the need for any such arrangements. There are rebuttals available to the Palestinian negotiators against such arguments as the need to use the airspace for military training or as part of necessary security arrangements.

B. Placement of Early Warning Stations (EWS) on Palestinian Territory

This issue has been raised repeatedly in the past by the Israelis. Palestinian negotiators should point out that all Arab neighbours of Palestine (Jordan & Egypt) have signed and implemented peace treaties with Israel. Moreover, with the technology that is now available, such installations would not improve Israel's capability to detect an imminent threat from the East. In case of Israeli intransigence, or as a trade-off, the Palestinian side should be ready to limit and minimize any such installations by negotiating specific conditions for EWS, including location, fixed timeframe, limitations on use, number of personnel, third party or Palestinian access for inspection etc. There are various legal instruments that may be used to regulate and limit Israeli EWS installations, including leases and Status of Forces agreements (SOFA).

C. Maintenance of Israeli Military Presence in the Jordan Valley

The analysis here should follow the same lines as (B) above. There is no objective strategic rationale for Israeli bases or military control over the Jordan Valley, particularly in light of Israel's longstanding peace treaty with Jordan. One option to counter Israeli security concerns is to propose a third-party security role.

D. Emergency Deployment of Israeli Forces on Palestinian Territory

There is a choice between two approaches available to Palestinian negotiators: They may either take the position that international law and existing conventions and treaties are sufficient to deal with this matter if it arises, or they may wish to negotiate terms for

Israeli emergency deployment. If the latter option is chosen, the parties must agree on such matters as the definition of ‘emergency,’ the method by which Israel must find and declare such an emergency, notification requirements, a timeframe for end of Israeli deployment, and compensation for damage caused to Palestine.

E. Israeli Use of Palestinian Electromagnetic Spectrum

Objective technical analysis is available to rebut any Israeli demand for use of the electromagnetic spectrum based on military needs. (State-to-state file).

III. Security Arrangements pertaining to Civil Aviation

Palestinian interest is in having viable and efficient air services. International standards comprehensively regulate the civil use of airspace between states. There are, however, significant security concerns for both sides, and indeed for the international community that must be satisfied. These concerns include site-based procedures at the airport, overflight over Israeli territory, as well as general civil aviation procedures. Palestinian interests in civil aviation are driven by social and economic needs criteria, which are addressed in the transportation domain. The security concerns should be negotiated to accommodate transportation interests. Therefore, the negotiation of this issue should be conducted jointly with the transportation negotiation.