

Progress on Security Negotiations October 2008

Overview:

Initially, when the technical committees were activated in February 2008, no formal technical committee on security was established. So, at the early stage, security issues were raised in the plenary sessions with the attendance and participation of the technical experts. Following a general discussion of the issues and a detailed presentation by the Palestinian side of its vision on the future security sector of the Palestinian state, it was decided in the plenary that the technical counterparts would meet to discuss the details and report back to the plenary. Hence, a *de facto* security committee was formed, which has met several times since then.

The Israeli side, led by Gen. (ret.) Amos Gilad at the technical level, adopted a casual approach to the meetings, which it hosted over lunch, and at times, dinner, usually at a Tel Aviv hotel. The Palestinian side, led by Gen. Hazem Atallah, adopted a formal approach and attempted to steer the discussion toward agreeing to an agenda and trying to get the Israeli side to systematically present its positions and demands.

In addition to the lack of seriousness, and at times, of professionalism on the Israeli side, the meetings were rendered even less productive by the constant reversion to debating the current security situation on the ground, notably in Gaza. A senior official of COGAT attended a majority of the meetings and regularly used the venue as a vehicle to raise issues clearly outside the scope of permanent status negotiations.

While the Palestinian technical team regularly brought key areas of disagreement to the plenary for resolution and guidance going forward, neither the plenary nor the technical meetings themselves managed to go beyond fundamental differences, both in substance and approach, between the two sides.

Agenda:

No agreement was ever reached on a common overall agenda, let alone specific agendas for a given meeting. This is due in part to the casual approach taken by Gen. Gilad, whereby a significant part of the meeting consisted of conversation over a wide range of topics, many of which not related to the permanent status issues at hand. The failure to agree on an agenda is also due, at a more substantive level, to the refusal of the Israeli side to state explicitly and systematically its positions and demands regarding the security arrangements it was seeking. Rather, it adopted a piecemeal and *ad hoc* approach, focusing attention on the current security problems of the PA, in particular with respect to Gaza, rather than the long term objectives required for the success of the two state solution. The closest the Israeli side got to enumerating its demands came in the form of a list which Tal Becker introduced as a "without prejudice" clause to discussion on demilitarization (August 14, 2008).

Progress and Achievements:

It is difficult to speak of any progress on substance at either the political or technical level. Three key differences remain, and may have perhaps been further amplified in the course of the meetings, both at the technical and political level. These are:

- **Israeli security presence and control:** For the Palestinian side full withdrawal is a requirement without which other security issues cannot be meaningfully discussed. The Israeli side insists on the need for its military in/over parts of the Palestinian state, and to exercise control over such matters as the airspace, border crossings, and the electromagnetic sphere.
- **Third party role:** Israel rejects a third party role to carry out security functions that the Palestinian security forces cannot perform. It insists that only Israelis can adequately address Israeli security concerns.
- **Palestinian security sector:** The Israeli side continued to insist on “demilitarization”, but refused to define exactly what this implies, other than demanding that the Palestinian state have no military capability of any kind, its police force being restricted to equipment and weapons to be agreed upon. Demilitarization is unacceptable in principle to the Palestinian side, which expressed willingness throughout the technical meetings to discuss the functions and needs of the security forces, in order to reach agreement on arms limitations, contingent on full Israeli withdrawal and the deployment of an international presence.

As the Israeli side continued to express hard positions regarding withdrawal and the deployment of the international presence to perform certain functions, no meaningful discussion could take place on the issue of arms limitations from the Palestinian perspective, both at the technical and political level.

There were, however, some minor achievements with regard to agreement (in principle and without detail) on bilateral and regional cooperation, as well as on restrictions on alliances.

There were also some positive achievements with respect to process, mainly regarding the introduction of the discourse of Palestinian interests and concerns, procedural preferences regarding appropriate committees for dealing with certain issues, as well as alternative ways of meeting Israeli concerns:

- The Palestinian side presented a clear vision regarding the future structure and functions of the security sector. While this was not agreed by the Israeli side, elements of it became part of the discussion and were being used by the Israeli side (even if only in characterizing their demands on demilitarization).
- The Palestinian side presented an outline of the roles and functions for the international presence as a substitute for Israeli presence and control. The Israeli side

eventually added "Arrangements on third party role" as one of the elements of a security agreement (in the list read out by Tal Becker).

- The linkage to other aspects of the negotiations (particularly regarding airspace and EMS) were clearly identified by the Palestinian side, as well as the need for the appropriate experts and forums to address the issues. While the Israeli side continues to insist that they are primarily security related, it has not rejected the linkage pointed out by the Palestinian side and the need to coordinate with the civilian aspects.

Main Problems and Obstacles:

1. Israeli Military vs. Political Leadership: While the plenary is headed on the Israeli side by a politician, the technical experts are primarily answerable to the Israeli Ministry of Defence. This has a number of negative repercussions on the process and substance of the negotiations. In particular, with respect to process, there was frequently a contradiction between the approach taken at the plenary and the established positions of the IDF / MoD. The technical officials often used this as a tactic, by taking an issue off the table, despite political direction to address it, by claiming "professional" and operational reasons that are beyond the understanding of civilian politicians. At a substantive level, this dichotomy resulted in the unwillingness of the Israeli technical experts to engage on permanent status issues at all, because they perceived their priority starting from the immediate situation, and all future scenarios were contingent and irrelevant from an operational perspective.

2. Internal Israeli politics and rivalry: Apart from the dichotomy between the military and political establishment, internal political rivalries in Israel had an impact on the seriousness and good faith of the technical negotiators on the Israeli side, who explicitly identified their superior as the minister of defence (Barak) and not Livni. This resulted in undermining the work of the committee for political purposes.

3. Lack of trust: The Israelis showed a marked lack of trust, not only with the PA and the PA security forces (citing Gaza constantly), but also with the ability and willingness of the international community to play a sufficient role as a third party security presence.

Issues Requiring Political Decision and Recommendations:

1. Dealing with the current impasse: As of the last security meetings (both plenary and technical) a clear impasse had been reached and is yet to be adequately resolved. Essentially, the Israeli side refuses agree in principle to full withdrawal and an effective third party role, but wants the technical negotiations to focus on the nature of and limitations on Palestinian security forces (that Palestine would not have an "army"). The Palestinian position is not to engage in details of arms limitations without an understanding regarding the issues of withdrawal and third party role, as there are bound to affect

discussion the type of restrictions Palestine may be willing to accept. The leadership should decide how to deal with this issue and instruct the technical level accordingly. One option is to maintain the current position with the aim of shifting the discussion to issues of withdrawal and third party role prior to discussion on arms limitation. Alternatively, if the leadership decides to instruct the technical committee to work on arms limitations, there needs to be clear guarantees that whatever is discussed will only be applicable in the context of full withdrawal and third party deployment.

2. **The “army “ issue:** The Israeli side has taken advantage of the ambiguous Palestinian position regarding need for an army to undermine the technical discussion by claiming that the Palestinians lack a coherent position. To avoid this situation, one of the following actions is recommended: (a) provide a clear, principled and interest-based position with respect to the military capacity needs of the Palestinian state; or (b) explain clearly the reason for the ambiguity, and how the assessment of military capability needs is contingent on other aspects of the agreement on security (NB. such an argument needs to be explicit and substantive in order to be strong).

3. **International presence – extent of role and functions:** While several of the functions of the international presence are clearly articulated by the leadership, a decision is needed regarding the potential scope of active roles that an international force or presence may be required to perform (military functions, executory powers, limits on rules of engagement).

4. **Issues that are principally civilian, but partly security – decision on process and forum:** The leadership should decide whether to insist that negotiations on such issues (civil aviation, electromagnetic sphere, territorial waters ...) should take place in the state to state or infrastructure venues, or whether to allow them to be items on the security agenda. While the recommendation is for these issues to be discussed outside the security committee given that it is dominated by the military on the Israeli side, in either case, the relevant experts should be brought in as needed.

5. **Agenda setting out all issues that need to be agreed:** It is recommended that a formal request be made at the plenary / political level that the Israeli side submit a detailed and exhaustive list of its demands with respect to security arrangements, and that it present these demands in the security committee at the technical level. This will help agreeing to an agenda and charting the course forward in the negotiations.

<p>Security (Plenary / Security)</p>	<p>International force</p>	<p>Agree to international presence with multiple responsibilities: protect borders; supervise crossings; build capacity; monitor and assist with implementation of agreement, including dispute resolution, and perform any other functions in place of Israel.</p>	<p>Inconsistent: MoD rejects any international presence on the grounds it is “useless”. Livni has shown more flexibility, suggesting that certain types of international presence may be acceptable, but not an international force or a presence with military functions.</p>
<p>Security (Plenary / Security)</p>	<p>Limitation on military capacity</p>	<p>Palestine will agree to arms limitations (“State with limited and appropriate arms”) based on definition of responsibilities: internal and defensive security policy, with the understanding that there is agreement on full Israeli withdrawal, no Israeli residual presence, and an effective third party presence to meet Palestinian security needs</p> <p>Do not need an army but need more than police to carry out responsibilities. However, agreement on this is contingent on Israeli agreement to withdraw fully from Palestinian territory, airspace and territorial waters.</p> <p>As per standard practice in arms limitations (as opposed to arrangements in demilitarized zones) any discussion regarding weapons and equipment should be to agree to prohibited items, not a list of allowed items.</p>	<p><i>[Note that Israel has not yet made a comprehensive presentation of all its security demands, or its security concept for the two state scenario, despite repeated Palestinian requests.]</i></p> <p>Blanket demand for “Demilitarized state”. No substance on what this means other than restriction of security capability to internal police function, and insistence on Palestine not having an “army”. Israel has not yet specified what it considers an “army” and whether that is different from <i>gendarmerie</i>, military police or border guard units</p> <p>General indication of restrictions sought by Israel (although these were not systematically presented):</p> <p>Limits on weapons and equipments in the form of a list of allowed items; mandatory service; reserves; military industrial complex; limits on certain industries; limits on size, training, purposes of the security forces.</p>
<p>Security (Plenary / Security)</p>	<p>Israeli presence / control</p>	<p>No presence of Israelis or control by Israel over borders, airspace, or territorial waters, border crossings, and electromagnetic sphere.</p> <p>Legitimate security concerns met by third party presence.</p>	<p><i>[Note: Israel has not yet made a comprehensive presentation of all its demands.]</i></p> <p>Military presence (specifically in the Jordan Valley / along the borders; early warning stations; Right to deploy in “emergencies”; Control over airspace (civil aviation); use of airspace for military operations; controls over EMS (unspecified); controls over territorial water; border crossings; arrangements for “strategic sites” / “special zones” (unspecified) ...</p>

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