

**Minutes from 3<sup>rd</sup> Negotiation Team Meeting**  
*(In Preparation for Annapolis)*  
*19<sup>th</sup> October 2007, 11am*  
*King David Hotel, West Jerusalem*

**Attendees:**

***Palestinian***

- Ahmed Querei (AA)
- Dr. Saeb Erekat (SE)
- Yaser Abd Rabbo (YAR)
- Akram Haniyeh (AH)
- Dr. Saadi Kronz (SK)
- Zeinah Salahi (ZS)

***Israeli***

- FM Tzipi Livni (TL)
- Yoram Turbovich (YT)
- Shalom Turjeman (ST)
- Gen Amos Gilad (AG)
- DG Abromovich (Abr)
- Tal Becker (TB)

**Detailed minutes:**

TL:

- Best to start in terms of seeing what we want in the paper regarding subjects.

AA:

- 1. Terms of reference; the Road Map (RM), the Arab Peace Initiative (API), etc..
- 2. All of the [core] issues – we should deal with them one by one
- 3. How to resume after the conference. This means a negotiation timetable, when to start, when to finish regarding permanent status.

TL:

- I want to add the role of the international community and the Arab world in supporting the process. We have some ideas on this, you can help.
- We should start with the preamble.

AA:

- [Asks if SE would like to open; SE defers] It should say what this document is, have short sentences, discuss the terms of reference – international legitimacy, the RM, API.
- Two or three paragraphs. To precede a comprehensive permanent status treaty.

SE:

- Also, do we want it issued by us here before the conference? Or issued at the conference? [Side discussion over this point.]

TL:

- This is important because we'll have third parties – maybe they will disagree with the substance.

SE:

- We can't do anything regarding the other third parties if we don't agree.
- I think we should look at what we've already agreed upon.
- [reading from a draft declaration] The representatives of the Government of the State of Israel and the Palestine Liberation Organization (PLO), meeting at...

TL:

- Is it still the PLO? I don't know. [Side discussion on this issue and being sidetracked by it.] The idea is to make progress – I ask a question because I don't know the answer. At the end of the meeting I am sure that we will each have a list of things to think about.

YAR:

- Everything we discuss now is in principle. Nothing is agreed until everything is agreed.

SE:

- We are committed under Article 1 of the Interim Agreement that your government only signs with the PLO.

TL:

- I'd like to hear from you why that is important.

YAR:

- Because the PLO has the right to speak on behalf of all Palestinians; for Palestinians here and Palestinians outside. The PA can only speak for those in the West Bank and Gaza Strip.

AH:

- The PA cannot discuss refugees.

YAR:

- For example, only the PLO can commit to bring back 4million refugees to Israel.
- Also, for the purposes of continuity. The first agreement started with the PLO, it should continue with it.

AH:

- Also, according to the Declaration of Principles the PA has no foreign relations – it cannot sign agreements.

TL:

- But we'll agree things that Israel and the PA need to implement on the ground. For example, the PA needs to fight terrorism. We need something to link the PLO and the PA otherwise it is like signing with the speaker of the house in Israel. No ability to implement.

AA:

- But the PA is an arm of the PLO. The PA is established as an arm of the PLO.

TL:

- So the PA must implement PLO decisions?

AH:

- Look at the precedents of Wye River and Hebron.

SE:

- Not a single agreement has been signed between the government of Israel and the Palestinians that was not signed by the PLO. Sharm il Sheikh, Wye River, Hebron...

TL:

- I'm familiar with the past, but I want to be sure we can implement.

YT:

- We can make it jointly and severally [i.e. the PLO and the PA are jointly and severally signatories to the treaty]<sup>1</sup>.

TL:

- The RM was adopted by who?

SE:

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<sup>1</sup> INTERNAL NOTE: This is not acceptable from a Palestinian perspective. Legally it does not make sense – practically since the PA is the direct result of an agreement with the PLO, and can be bound by the PLO. In addition, the PA's rights and responsibilities are limited by those granted to it in Oslo. It cannot be responsible "severally" because it is not and has not been recognized as a representative of the whole of the Palestinian people (unlike the PLO which has been recognized by the Israel and the international community as the sole representative), and also does not have the legal ability to sign treaties. Also, as noted in the discussion, all previous agreements were signed by the PLO. The PLO is the only entity which can represent the refugees and agree anything pertaining to that issue. Accepting the PA as a party to the agreement with Israel may serve to undermine the Palestinian position on refugees, and lead to an agreement which omits that issue entirely. In addition, it has repercussions on the ability of Israel to force Palestinians to accept a state with provisional borders, as one of the last remaining requirements for statehood under international law is the ability to enter into international agreements. It also implies that the PA is at parity with the PLO, rather than subject thereto.

- The PLO.

AA:

- The Executive Committee.

SE:

- We should say that we are determined to bring an end to bloodshed, sorrow and decades of conflict, have agreed on the following framework for peace between the Palestinians and Israelis, which is the cornerstone for peace throughout the region based on all UN resolutions pertaining to the conflict, the RM, with President Bush's vision and the API.

TL:

- We will speak about the TOR in a minute – first regarding words, then the TOR. We need to talk in specificity. Which resolutions?

SE:

- We know the resolutions: 242, 338, 1515, 194, 1397...

TL:

- We know enough to know each other's sensitivities. It's not fair to say UN resolutions in general.

SE:

- If we say specifics I have to list 194.
- Israel and the PLO shall negotiate in good faith with the goal of concluding a Treaty of peace.

TL:

- We should include the discussions that the leaders made before, and that this is the result.

SE:

- We will include a reference to Abu Mazen and Olmert in the second sentence.

TL:

- [reading from a document] We should mention our mutual interest in the establishment of a viable Palestinian state living side by side in peace with Israel.<sup>2</sup>

AH:

- You should say the state of Palestine like you said in the UNGA address.

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<sup>2</sup> INTERNAL NOTE: The problem with this language is what it omits by noting that the only "mutual interest" is the establishment of a Palestinian state rather than addressing all permanent status issues, most notably the issue of the refugees.

TL:

- I understand that point. The recognition of the two states based on the understanding that we face – the idea/determination to reach a historic compromise which should be implemented in actions – education, media, etc.

SE:

- We can say “establish a culture of peace between the two nations”.

TL:

- To stop incitement. We can say it in a positive point of view. The ultimate goal that peace requires historic reconciliation guided by the fundamental principle that two states of Israel and Palestine living side by side in peace and security, each a homeland of its people and the fulfillment of all national aspirations for its people. Israel for the Jewish people, and Palestine for the Palestinians.

[Palestinian team all protest adamantly.]

TL:

- We have 20% of [our population is] Palestinian.

AA:

- We'll have our sovereignty, you'll have yours. Each state will act in accordance with international law, etc. You don't need us to recognize yours as a Jewish state.

TL:

- The creation of the Palestinian state is the fulfillment of national aspirations –

SE:

- Why don't we say: Israel for Israelis, and Palestine for Palestinians.

TL:

- ... is the fulfillment of its national aspirations in the territory of Palestine.

AA:

- This is a problem – the Arabs will not agree [referring to the recognition of Israel as a Jewish state].

TL:

- We need two sentences:
- Peace requires historic reconciliation. It requires an agreement that will deal with all open issues, guided by the fundamental principle of two states, Israel and Palestine, living side by side in peace and security with each state consisting of the homeland of its people and the fulfillment of their national aspirations in its own territory. Israel as the homeland for the Jewish people. Palestine as the homeland for the Palestinian people.

YAR:

- There is a problem with saying the homeland for the Jewish people.

SE/AA:

- There is a problem with the language on national aspirations.<sup>3</sup>

YAR:

- You know, why – I like to speak frankly - openly. We want to see at the end that there will actually be a Palestinian state that will fulfill the national aspirations [referring to viability].

TL:

- I won't ask you to say this unless you agree that.... but at the end of the road this is the vision -- historic reconciliation and agreement on all outstanding issues.

YAR:

- Just stop before the last two sentences.

SE:

- I want to guide this. It's not our goal to overload our wagon now.
- I mention relevant UN resolutions – you think 194. You say national aspirations in your territory and I think right of return. If I were Israel I would rush to get an end of claims. If I were an Israeli negotiator I would have two sentences – end of conflict and end of claims!

TL:

- This is the goal of the peace process. This is the vision – President Bush's vision! Why did we agree to a Palestinian state? To do this!

AA:

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<sup>3</sup> INTERNAL NOTE: As noted in the discussion, these two points are problematic for the following reasons:

- *“each state consisting of the homeland of its people and the fulfillment of their national aspirations in its own territory.”* This implies that the only fulfillment of national aspirations is in the territory of Palestine – in other words that the national aspirations of all Palestinians are limited to fulfillment within the state. While as a matter of law this would not include the right of return, there is a risk that it will be interpreted as agreement that the right of return will be practiced only in the Palestinian state.
- *“Israel as the homeland for the Jewish people.”* The problem is that this language is exclusive and similar to saying that Israel is a state only for the Jewish people. This negates the rights of all Palestinians therein, including any refugees who may wish to return to Israel under a peace agreement. In addition, it makes little sense as a matter of law or policy as this essentially asks Palestinians to recognize Israel as an inherently discriminatory state. You can reach a similar objective, without being discriminatory, by agreeing on implementation parameters that meet Israeli interests (i.e. by somehow limiting implementation of the right of return). Recognizing this language would risk domestic and international credibility for the Palestinian leadership because of its recognition of the discriminatory nature of the state, and create a ideological barrier to a fair solution. It will be a major concession uncalled for due to the availability of other means through which Israel's interests could be met.

- Maybe we can get one person from each side to sit and write a preamble.

TL:

- The idea was that we will not change papers. That we will draft together. 2 people, 3 people, 4 people...

YT:

- We need discussions on principle now.

SE:

- The purpose is to specify issues to get to the international conference and get the rest of the world to support us towards a treaty.

TL:

- This is part of a process. The meeting is part of the process. If you want the meeting to be the end of the process that's fine – then we go back to the RM.

ST:

- Saeb said no to specificity.

SE:

- [repeats 4 points from earlier]

TL:

- I think that the preamble should also address the day after.

AA:

- The elements it must include:
  - Must be between the PLO and Israel [YT: you will consider joint and several]
  - Refer to the meeting between Abu Mazen and Olmert
  - Include the TORs of the process
  - The ultimate goal is the two state solution
  - Reconciliation – two states, two people, etc.

TL:

- We also want to include education, cease incitement, “culture of peace”.
- Implementation based on implementation of the RM.

YAR:

- The RM is part of the TOR.

TL:

- No. There are two different things. Any agreement will be according to implementation of the 1<sup>st</sup> phase of the RM.

AA:

- We are not against the RM in implementation, maybe we will see it this way or another way. We can't keep putting conditions.

TL:

- The RM is reality – these negotiations cannot start unless 1<sup>st</sup> phase of the RM is implemented [meaning implementation of what is agreed cannot start unless 1<sup>st</sup> phase RM implementation is complete]. The idea of opening the dialogue was based on implementation of the 1<sup>st</sup> phase of the RM.<sup>4</sup>

AA:

- Implementation of the 1<sup>st</sup> phase of the RM from both sides.

YT:

- This is a condition for implementing all other parts.

SE:

- YAR and AA are not representing our view on who judges. It is the Quartet that judges.

TL:

- We are not arguing about the RM. I am not in love with it. But unless there is a change, implementation of the agreement will be based on the implementation of the 1<sup>st</sup> phase of the RM.

[It was made clear that this meant the RM as drafted, not with everyone's reservations.]

YT:

- We both heard this [in the meetings between Abu Mazen and Olmert].

TL:

- The RM as a condition for implementing, and the RM as part of the TOR. Let's put aside how each translate it. We are not going to change the RM. The RM is a condition for implementing and as a TOR.

AA:

- Abu Mazen and Olmert discussed. Abu Mazen showed that we implemented most of the 1<sup>st</sup> phase. Can we separate between two things? The 1<sup>st</sup> phase – we are committed – even before Annapolis. We are working very hard. Almost all of it is implemented – respected. It is just security – and we are working on this.

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<sup>4</sup> INTERNAL NOTE: Israeli arguments here closely reflect their 14 reservations on the text. It is problematic for many reasons, including that they seem to negate their own obligations to stop all settlement activity, stop humanitarian violations, etc. all of which are strongly worded in the RM. In addition, they seem to perceive that they themselves can judge Palestinian compliance with the security obligations noted in Phase 1. In any event, neither negotiations *nor* implementation should be conditional on the RM, as this gives Israel (and any spoiler) a built in veto to stop the process at any time.



AG:

- 1<sup>st</sup> phase says to tackle terror. Right now terror has a free hand. In Gaza....

YT:

- The two cornerstones they agreed. Everything is subject to the RM. (You are right – they didn't speak about a provisional state). We started to implement some. You have done some. We need results, not best efforts. Now that group that wanted to assassinate Olmert when we came to Jericho – they were released.

TL:

- Implementation must be based on implementation of the 1<sup>st</sup> phase of the RM. Time works against those who are for a two state solution.

[Long discussion along the same lines continues.]

SE:

- I agree with YT that in their discussion, Abu Mazen and Olmert agreed on the implementation of the 1<sup>st</sup> phase of the RM. We have no objection to implementing the 1<sup>st</sup> phase.
- If we look at the timeline, it was supposed to be by December 2003.
- Second thing, if both sides are going to implement based on a timeline – we need to establish two issues with respect to the commitments on both sides. Many of the Palestinian side's commitments are ongoing – even after a state. Israel's – like a settlement freeze, a return to September 2000 lines – it's one decision.
- It is not AA's job to say we did this, it's not your job to say you did it. The 3<sup>rd</sup> party is there as a judge. My obligation on security is ongoing. We don't want to be hostages to one person who plans to do something bad. The key is judging. It is crucial.
- Phase 2 is an option, not an obligation. It is not an option for us. A state with provisional borders is not an option.

ST:

- Phase 2 is an option. A state with provisional borders is not.

TL:

- [Makes clear she knows Abu Mazen's position on a state with provisional borders.]
- There are those who say that you can agree all the documents in the world but the Palestinians cannot implement! I think we need to try. We are not talking about the state with provisional borders – just the 1<sup>st</sup> phase of the RM.

YAR:

- The RM shouldn't be used as a flag to raise and lower as we want. We are afraid that you are using it as a pretext. The RM should start to be implemented tomorrow. Even without an agreement. We will implement. We say both sides

start implementing according to the schedule in the 1<sup>st</sup> phase. Why keep it until we have an agreement? Then suspend the agreement based on implementing the RM!!!

AA:

- What Rabin's quote? "Continue working towards peace as if there is no terror, and fight terror as if there is no peace." Let's show people that this agreement is not conditioned.

TL:

- I want to say something and I feel strange in a way. After Hamas won, many said that we cannot have any dialogue. I said, maybe the moderates/pragmatists need to give hope to the people even though the RM says permanent status discussions will be at the 3<sup>rd</sup> phase. If the RM is vague – let's start discussions anyway. Go back to the 1<sup>st</sup> phase of the RM later. This is the basis for these talks. This is a condition.
- The disengagement made a difficult decision to uproot settlers. We cannot just throw the keys and hope that it all works out.

YAR:

- We are saying something more than you are saying. We know your security interests. It's ours too. Suppose we don't have an agreement. We want to implement starting tomorrow. We stop implementing an agreement before we implement the 1<sup>st</sup> phase of the RM? This will paralyze both! [TL gives an example of bargaining for an ashtray, where once you agree the price and buy it you get a glass for free. This is like agreeing the price, but you cannot get the glass until you actually hand over the money for the ashtray.]

SK:

- [returning from a phone call] I just checked with our security people. The three jailed people were not released.

SE:

- Both sides intend to continue the implementation of their obligations under the RM.

TL:

- There is a basic understanding that we will reach an understanding but that implementation will be according to the 1<sup>st</sup> phase of the RM. We don't want the West Bank to look like Gaza. We have a gap between the ability and the need to reach an understanding.

YAR:

- We checked about the security issue. What you heard is not true.

AA:

- We should reaffirm the RM. Reaffirm past commitments. The 3<sup>rd</sup> party will judge. [YT: [expressing disagreement] but we can discuss.] Immediately implement. On your side, you've increased the violations.

TL:

- I am not trying to run away. We will discuss. These CBM's – maybe some parts are in the RM. We have some other ideas. We need a sentence about the conditionality.

TB:

- Any political understanding...

TL:

- We are not supposed to be in discussions until the 3<sup>rd</sup> phase! We need in the preamble the conditionality.

YAR:

- We'll have a section on security – isn't this enough?

TL:

- Being a lawyer, any new understandings replace the old understanding. Especially if we say that the RM is not relevant.
- Let's move to other elements of the TOR. You go back to Abu Mazen and check. We can discuss other elements of the TOR in the next meeting? Security is not like settlements or the Wall [implying that they were not referring to that obligation in terms of implementation of the 1<sup>st</sup> phase of the RM].

AA:

- We need to discuss the core issues.

TL:

- This is important to agree first.

YT:

- The leadership agreed – we need to be consistent. Otherwise we are making a mockery.

[Next meeting was agreed for Wednesday evening.]

