

Minutes from Berlin Meetings
Post Annapolis
Tuesday, 24th June 2008
Berlin

MEETING: BILATERAL (PALESTINIANS – ISRAELIS)
Intercontinental, 11h30am

Attendees:

Palestinian

- Ahmed Querei (AA)
- Dr. Saeb Erekat (SE)
- Zeinah Salah (ZS)

Israeli

- FM Tzipi Livni (TL)
- Tal Becker (TB)
- Udi Dekel (UD)
- Alon(?)

Meeting Summary (*not verbatim*):

[Meeting opens with a discussion of internal Israeli politics, and the vote that will happen the next day.]

TL:

- [Notes that Shas is holding out for allowances for the children. If they get it, they will vote against the dissolution, if they don't – they will support it. Meanwhile the finance minister has promised to quit if Shas gets the allowances.]
- Barak wanted to fix a date for the preliminary vote for early elections, to give Kadima an opportunity to change its leadership. But then Olmert said if they vote for early elections, he will fire the ministers. He passed a note in the cabinet meeting.
- If that happens, Monday there will be a no-confidence vote. 15 out of 19 support the elections(?) from labor. It is in the interest of Kadima to have stability, not to change the government.]
- I think that we can keep this process as a living one one way or the other. If there are elections – I don't think that there will be – in a coalition led by Kadima, clearly they will go on. The right alone is not enough – you need center something. The *process* itself is something that is being supported.

[Side discussion of Sarkozy's speech. All sides thought it was positive. Discussion then turned to Mohammed Shtayyeh and his Le Monde interview.]

TL:

- How do you see the ceasefire?

AA:

- Any release of prisoners for Hamas should be after a release for Abu Mazen. Those released should not be criminals, but real prisoners. [You need to show that violence does not yield results.] It may affect the negotiations. Please put this in your consideration. Particularly the old prisoners from before Oslo.

TL: [Starts to ask a question but is interrupted.]

AA:

- I want to speak about real prisoners that will be influential in the negotiations. That AM is doing his best and is able to release real prisoners.

TL:

- I don't know what will happen with Gilad Shalit but clearly the discussion started with Egypt and will be seen as a victory of some sort for Hamas. Two questions: 1. is it possible to create benchmarks between us? So that we can do the release (once some event happens)?

AA:

- You mean like kidnapping an Israeli?

TL:

- You know when you are smiling you ask the most difficult questions.
- 2. is there any possibility that AM can be involved in this, I don't know how, but so he can get the credit?
- Is it crazy? Right after the kidnapping there were some talks [i.e. about AM brokering the deal through the Egyptians].

SE:

- It wasn't just right after it happened – for a whole year we tried. But then Hamas sent messages to you through the press and Hamas decided they'd get more by keeping the card in their hand. We agreed on the truce based on many things – Rafah, and that AM brokered it – no one mentioned that!

TL:

- I made the point myself to the Egyptians! It's their fault!
- On Rafah it worked – we worked together to come up with something creative for Rafah.

SE:

- The message – today two Palestinians were killed in the West Bank. Palestinians will read the truce – Hamas got Israel to promise not to kill our fighters, but we (Fatah, the PLO, etc.) cannot protect anyone in the West Bank! If you make it look like Hamas can protect their fighters, and get prisoners released, yet AM, AA

can't get anything, we won't be left with much of a choice but to withdraw from the negotiations!

AA:

- [You are basically delegitimizing the PLO in favor of Hamas.] It can't be done without real generous steps from Israel.

TL:

- [Aside about Amr Moussa who made difficult statements in the Berlin security conference earlier in the morning about settlement expansion and that everyone is just "chatting" in the negotiations.]

AA:

- If you release 1000 prisoners it will be...!!!

TL:

- The prisoners that Hamas wants are the most difficult ones – blood not just on their hands, but all over! I said Israel goes into Gaza, because they are attacking Israel; they target Israel, use terror and continue the ongoing smuggling of weapons. If they stop we can stop. If they want the crossings, you need also Shalit. You are also connected with the Rafah crossing. Maybe we can find a way to link these.
- The other track is the bilateral track. Not linked to kidnapping soldiers, it's just related to – excuse me for saying so – but good behaviour.
- But it is related not just to numbers, but to quality. So even if we release for you, if Hamas gets what they want they will still get more than you!

AA:

- [If things continue like this, it is pretty clear that AM/we will lose the next elections – prisoners, settlements, roadblocks – none have been removed.]

TL:

- Our choice was between a massive operation, you would have stopped negotiations, or something else which undermines AM. It is lose – lose for the PA!

AA:

- It legitimizes resistance, missiles, etc.

TL:

- Yes – how can we work together to cut the losses? Esp. with this gathering today.

TB:

- Projects in Gaza – business as usual in Gaza [is what the international community is saying].

TL:

- So we need to make sure that Gaza and Hamas are not legitimized until they meet the conditions [i.e. not support new projects in the Gaza Strip, etc.].

AA:

- The Quartet conditions, early elections, forming a government – these are AM's conditions.

TB:

- Are you telling this to the European governments?

TL:

- We need to make sure that the Europeans, etc. don't start with projects in Gaza, etc.

AA:

- What do you want to do with Condi?

TL:

- I asked [i.e. not to come] – we have no time – complicated internal situation – etc. In our former meeting we raised borders and security.

AA:

- Now refugees. Why not more on territory and security?

TL:

- They know our positions.

AA:

- It hasn't changed?

[Side discussion on field tours. AA asks if technical team went to Maale Adummin today. UD responded no, because Pal team wanted to go to Wadi Fukin. Discussion that field visits would be accelerated – with two full days next week to do entire map. UD argued it takes time. TL said, take your time but do it over one or two days next week – the area is not that big.]

TL:

- On security - last meeting was substantive. Then both sides got busy.
- We need to address refugees. You wanted to address water also.
- I don't know if it's the right time to do it, but I wanted to speak to you about the process and what is needed – a timetable, not dates, but process.
- [Explains that there are basically three phases – now negotiating on the terms of a peace treaty. Once we've agreed that, we need to discuss the implementation protocols that will define the transitional period. Then there are issues that we may decide to defer until post statehood because they are essentially state to state

issues that are not urgent or essential. Simultaneously Roadmap implementation will continue.]

- We can reach an agreement, only when it addresses the interests of your people and our people in a real way.

SE:

- Let's have a meeting on just this. This is important – but let's go back to the question Abu Ala asked.

TL:

- Refugees?

SE:

- [What to say to Rice.] 1. Tell her failure is not an option for any of us.

TL:

- The problem is how do you define failure?

SE:

- Failure is post- Camp David 2000. 2. We are agreeing on things. 3. You talked about security and territory, today on water and refugees.

[Side discussion on OLM interview in an Arab newspaper where he notes we are working towards a comprehensive agreement and that he is against a state with provisional borders.]

TL:

- I agree that post-Camp David is a failure that none of us want. The best option is to reach an agreement. The worst is to try and fail [i.e. an administration on the way out does a big push (like Clinton)]. The medium – better than the worst – is that the peace process will continue.
- The Russians, in Sept –

TB:

- The Quartet meeting in September they are talking about it as possibly being an assessment of the peace process by the international community.

SE:

- Amr Moussa wanted to do this in the Arab League and we said no.

TL:

- Do we want it? Ok or no?

AA:

- Why not?

TL:

- Pros and cons...

AA:

- The Palestinian track and the Syrian track. [Side discussion on Syrian track.] If now until August, there are indications of progress, then the whole world will support the multilateral negotiations. This will give hope to the regions. [i.e. transparency may help.]

TL:

- The downside – if the gathering is one where we come and say all is good, we have the structure, support the multilateral track – fine. The problems come when we start on territory – 1.9%, 7.3%, etc.; security – limited arms/demilitarized; refugees with the mechanism, etc. Jerusalem – I cannot speak about it now. We'll say that there are gaps, etc. [Public opinion will be up against us on all the issues.] This will end up at the end of Camp David. We're all going to be judged by the extremists.

AA:

- By September, we should have some progress.
- If we go and we are supportive of the process and each other then it could be good.

[Discussion that if the parties will go, it must be an agreed agenda etc. Discussion turns to water – TL promises to come to the trilateral with an answer to the Jordan River Basin issue.]

MEETING: BILATERAL (PALESTINIANS – AMERICANS)

Hotel Adlon Kempinski, 2h30pm

Attendees:

Americans:

- Secretary Rice (CR)
- David Welsh (DW)
- Eliot Abrams (EA)
- Jonathan Shwartz (JS)

Palestinian

- Ahmed Querei (AA)
- Dr. Saeb Erekat (SE)
- Zeinah Salahi (ZS)

Meeting Summary (*not verbatim*):

[Meeting opens with a short discussion about Amr Moussa's comments in the security conference.]

CR:

- [Notes the minimum conditions for Hamas.] Respect for the other party's right to exist, renounce violence, and respect the Palestinian agreements that have been in effect for decades!
- Tell me where you are – then tell me what you want to talk about in the trilateral.
- [Notes some of these meetings are important to make progress and some to show that there is movement.]

AA:

- We met with TL this morning. We talked about two issues – the Tahdiya and the prisoners – if Israel will release prisoners to Hamas, some of them old [i.e. pre- Oslo], they will kill us! It will give legitimacy to Hamas. Everyone will think that this is the way. Before you do anything for Hamas – release to AM. Otherwise we cannot continue [the negotiations etc.].
- The second – it is also time to freeze the settlements. If they do these two things, with your momentum [lists meetings CR has attended/facilitated] this will show seriousness. I am afraid of what Amr Moussa said today. You can come and say if Palestinians agree, I support it. But to come [and speak against one party...] Also, OLM was in Egypt – I don't know what they talked about but this creates problems for us. [Notes Sarkozy positively. And notes the difficulties in internal Israeli politics].
- On borders – nothing new. On security – we talked – we prepared a paper. I think that they will like it. Today we will talk about refugees, water. We wanted to talk about Jerusalem –

CR:

- But probably not today.

AA:

- Ok. For now, not for tomorrow.
- We agreed to meet Sunday and Monday. We will see.
- [Notes OLM interview.]

CR:

- I told TL and I'll tell you. What I have to do is to prevent what people like Amr Moussa said – “we need to hear the details and if Annapolis fails we need to go to a unity government” – this is bad for all of us. [In our last meeting] I learned a lot about the link between borders and security. I want to go back to Gaza – our understanding – the opening of Rafah is based on the Nov 2005 agreement. Other crossings are mentioned there too – [we want to maintain] the Palestinian element – we are working with the Egyptians on this, to not let Hamas get the credit.

AA:

- If the people see progress in the West Bank and see the situation in Gaza improve for the people, the people will be – Hamas does not have the same popularity as before. If people think that the peace talks achieve more than the kassams...

SE:

- In Gaza we're in a lose – lose situation as the Palestinian Authority. [Notes that once Hamas is honoring the truce, they won't have the funerals of martyr's to rally people around, and it will become very apparent how badly their policies have failed.] How do we handle it? We can't do more than damage control.
- [They are going to release 450 prisoners – we want it, but without something similar for AM they will put us in an impossible situation. She mentioned benchmarks...]

AA:

- I said do you want me to kidnap another Shalit?

CR:

- On Gaza – I don't think that it has to be a lose- lose. If there were high civilian casualties, that would be a huge loss. Rafah – everyone knows that the 2005 agreement is with the Palestinian Authority and not Hamas.

SE:

- If there is an area 10-15 km around Rafah, where the PA can be there. I spoke to TL about it, She thinks it is a good idea. AG is against it. He doesn't think it will work.

DW:

- Europeans came to us and said that they heard from you guys about a meeting with everyone – Egypt, plus Hamas to talk about Rafah. The Europeans won't do it – they won't go into an agreement with Hamas as a partner.

SE:

- I discussed it with Marc Otte – we're on the same page.

CR:

- We'll try to get the word out.

JS:

- On the pre-1993 prisoners – why were they not released?

AA:

- We agreed with Rabin, that they would all be released, gradually. But they were never released.

SE:

- We tried. Israel hides behind the “ blood on their hands”. But now with Hamas – as TL said they have blood all over.

CR:

- When the Israelis come – we will talk about the time line. From now to the UNGA, the UNGA to the end of the year.

SE:

- Failure is not an option. TL asked me what failure means. I said post- Camp David.

CD:

- We have between now and the UNGA in September to see how much we can unlock. At the UNGA, you will be under enormous pressure to get the support of the international community.
- [We will talk to TL – maybe you can come to the US. Not together, but on separate bilateral trips in July.]
- Jonathan is keeping a record.

AA:

- So that one day you can intervene? [i.e. in the process with a paper or something]

[All move to the trilateral room.]

MEETING: TRIILATERAL (PALESTINIANS – AMERICANS - ISRAELIS)
Hotel Adlon Kempinski, 3h00pm

Attendees:

Americans:

- Secretary Rice (CR)
- David Welsh (DW)
- Eliot Abrams (EA)
- Jonathan Shwartz (JS)

Palestinian

- Ahmed Querei (AA)
- Dr. Saeb Erekat (SE)
- Zeinah Salahi (ZS)

Israeli

- FM Tzipi Livni (TL)
- Tal Becker (TB)
- Udi Dekel (UD)

Meeting Summary (*not verbatim*):

CR:

- [Thanks all for joining, even though it was difficult.]
- We will resume on security. Talk some on refugees. Then something on water – which we couldn't get to last time.
- We are trying to make sure that I have a good mental record. But first, I want to talk about the calendar. From now until the UNGA, then the UNGA to the end of the year. What will you say to the international community? There is the possibility of coming to the Quartet together. No one will let the process fail. Before we go on, I'll let you guys if you have any opening comments.

AA:

- Go back to territory and borders – we are discussing; we formed a committee to go around to all the blocks of settlements.
- About water – there are two kinds of water – water aquifers – we need to see how to share the aquifers – and the surface water, like in the Jordan Valley. There is little – but we have to share that too. If we start an expert committee...

CR:

- Before you continue – with refugees, if TL – do you have preliminary comments?

TL:

- When we explain to the international community [we sound better than when we talk to each other – because they comment on how we use the same words.] On security – it is best to just outline – if you want to explain your needs... [to the Pals]. Demilitarization, the airspace, the seaspaces, to supervise and control the crossings between the Palestinian state and the third parties. [Notes lessons of Gaza, Rafah, etc.] We have some special security needs. We have to discuss the outcome of the needs.
- On water – in our last meeting, I promised you an answer. Let's speak about everything. We have some issues with respect to our agreement with Jordan – which we need a little time to check. But meantime we can start with the aquifers.

SE:

- We agreed to have a committee of experts [TL: agreed] to collect data [TL: agreed] for them to come and tell me that because of Jordan we can't discuss! So please don't exclude anything in the collection of the data.

TL:

- You described something that was true. I think it's an answer that was based on a mistake [i.e. the position at the technical committee]. I sent that message to the experts. We can talk about water without waiting for [linking it to] territory etc.

CR:

- Do you have the expertise among you?

[All say yes.]

UD:

- WE agreed that first we have to understand the situation – but [notes that for allocation discussions, you need to involve others in the region].

CR:

- [Notes she worked on the water treaty between the US and Mexico.] Sounds to me that you agreed several things:
 - You will discuss everything.
 - You need data.
 - The aquifers and other sources of water...
 - With respect to other parties – you can go as far as you can until you reach a problem and you need others involved.

AA:

- Next week we will have extensive meetings on water.

TL:

- Next week will be the tours.

CR:

- Are you keeping a calendar?

AA:

- Yes.

AA:

- Security – [MISSING]; no hostile military alliances.

SE:

- We know that the day after we will be independent, sovereign, etc. One thing we will do is take into account Israeli interests.

CR:

- Is there an agreed list [of issues]?

SE:

- Nothing is agreed. [SE summarizes the three major elements of Palestinian security, reading from security team's paper.] The security forces will be governed by international standards.

UD:

- What are international standards with respect to security?

SE:

- Law and security are linked [like the conference today].

CR:

- We use this term a lot. Standards for detaining and trying people, etc. Security forces should not act with impunity, etc.

SE:

- Whatever is agreed will be agreed with you – not others. We want to learn from the experiences from other countries.
- 2. We know that we'll have limitations – so we need the help of the third party. [Notes examples of smuggling and capacity building. Notes that there are lessons that were learned from Gaza.] Never again – excuse the term, but that's how serious we are.
- We'll agree the tasks/mandate with you.
- As far as your concerns – short of your military presence – what can we do? EWS? Can someone else operate them for you? We don't want [anyone] to feel threatened from us! [We will worry about the security of the Israel soldiers if they stay from people rallying against them – the Palestinians will cooperate if it is third parties.]

CR:

- I've heard two very interesting presentations – there are lots to discuss. It sounds like there is a place to start – what are the functions of the security forces? I heard a good list. [Notes most of the basics from the Palestinian paper.] You can start the discussion next time. I had a question – on the day after how do you see it?

TL:

- [Explains timeline again. Notes that transitional arrangements are not just about security.]

TB:

- We have an article in the agreement – steps towards a Palestinian state.

TL:

- We just want to be discussing in the same language.

[Notes joke from the earlier meeting, where TL noted that infrastructure was one of the issues that needed to be discussed when discussing transitional arrangements. AA noted that they wanted “the state to come furnished”!]

CR:

- It's important to start now – you can see if there are things you need to do now. Like the SF work with Barak – that's basically Roadmap implementation. We said – like we said in Iraq and Afghanistan – once the Iraqis or Afghans step up,

we step back. Since everything is subject to the Roadmap, you might as well start so you will be further along. You need to do things [to Pals], I don't know what you need to do for the settlers [to Isrs]. We're going to talk in a minute about refugees. You also need a list of what the international community will need to do for an agreement.

AA:

- We're talking about five main issues, and the sixth is coming. We need to start working more through the experts.

TB:

- We see structure as this agreement, with implementation protocols. Not a 1000 page treaty after.

UD:

- Sorry to go back to security. Up until now you heard only the titles. Now we need to talk about the details. Not just outlining the objectives. [We talked about the challenges, we discussed the objectives, now we need to define the missions. We need enough details in the agreement itself to know what we need to do.]

CR:

- I agree. [TL: We all agree.] We hope that they [the security people] will meet and say, what do we have to do? For example on fighting terrorism – we used to always say you guys know a lot more about that than us. Now we can't say that anymore, unfortunately. It takes active intelligence, it also takes hearts and minds so that someone doesn't end up in a madrassah and instead goes to a boys and girls club. Maybe you can begin to develop subarticles on security. For example, one on terrorism – what does it take to fight? Then Palestinians will know what they need to do, etc. In our experience, fighting terrorism is about the civil and the military working together.

AA:

- I don't agree with UD. We know the duties. We don't want permanent agreements with conditions. I commit myself to fight terror – but how is not to be in the agreement.

CR:

- I want to understand. We have this kind of an agreement with Iraq and with Afghanistan. Why would you not want to define what it means to fight terror?

AA:

- We agree to fight it – but ten pages of details on it should not be in the agreement.

UD:

- We have with Egypt a security appendix.

TL:

- [If it's about selling it to the people, we can put it in an annex.]

AA

- I don't want to hide my obligations! But I can't write in the agreement that we will close shops, etc.

TL:

- [I appreciate your good faith in discussing this, I see that you appreciate and consider Israeli security concerns, and your words about Gaza. They were even moving. But it's not enough.] I need to go to my people. At the end of the day they will criticize us anyway and say that this is just on paper. [I understand what you say about your dignity, but...]

AA:

- No no, we are not trying to hide our obligations.

SE:

- This is just what Tal was saying – that we can put the details in the implementation protocols. [CR nods.]

TL: [Notes the details of their agreement on the Sinai.]

CR:

- I hear several things – one is that you will have a concept of security. You will probably have a security appendix. But what I heard UD say is that it will maybe be useful to start having a discussion on how to do this, in the meetings. For example, I can imagine that you will want to have some sort of counter-terrorism task force, with us, with others... etc.

[Discussion turns to Refugees. TL invites TB to speak on their behalf so as to not “ruin” the good mood of the room.]

TB:

- Our aim is to have a single document on refugees. To clean up the rest of the text, so that what is left is to isolate all of the decisions that the leadership has to make.
- We have agreement on:
- Comprehensive solution. At the heard is the international mechanism to assist in three things: 1. options for the resettlement of refugees. Here there are some options that we agree on, and one big one that we don't. We agree that a Palestinian state is part of the solution, but we disagree over whether all refugees will have Palestinian citizenship under Palestinian law. We agree to look at third countries as well. The role of the mechanism...

SE:

- Return.

TL:

- Return is people who lived there and now want to return. But you say for all Palestinians [i.e. decedents] and not just Palestinians who left. It is the broadest definition of refugees in the world. When you create your own law of return for all Palestinians, this will be the beginning of the end of the conflict. [Pal side notes the law of return in Israel.]

TB:

- [A phasing out of UNRWA with the implementation mechanism.] 2. Rehabilitation/ assistance for integration. Jordan is asking for retroactive rehabilitation assistance.

[Long discussion on whether this was appropriate.]

TL:

- But when we raised the Jewish refugees, you said this was outside the scope of what you could discuss. Do you represent Jordan on this?

CR:

- This is not an issue you can decide on your own – and it's one where the international community will not want a precedent.
- Compensating for past help [is problematic]. For rehabilitation, resettlement, going forward – I see. But retrospectively, the international community will have a view.

AA:

- If the Jordanians are satisfied with [the peace agreement – it is important].

CR:

- Also, there is a question of if the compensation will go to the refugees or to the states. If the US is going to have a major role, we have a problem with funding the states for refugees.
- Jordan now we are paying for some of the Iraqi refugees, through helping to cover some of the costs. For example Lebanon – Lebanon won't give so many Sunnis citizenship. The living conditions [are awful.]... maybe the international community can contribute. We can start working quietly on this issue.

TB:

- Compensation – we agree that there will be compensation; that we mechanism will establish the criteria, timetable and the mechanism for payment; that the mechanism is the only source; and that Israel will contribute.
- We disagree on restitution in kind – actual houses to owners; the kind of compensation and descriptive language there (i.e. total, comprehensive, etc.) and defining what it's for (i.e. material, non material damages).

- We have a major area of disagreement about responsibility. In our point of view this is basically asking us to take on their narrative. No more responsibility with respect to refugees outside the agreement.

CR:

- Is this what I've heard about "end of claims"?

TB:

- Well this is related, but it is not it. There is a separate clause for that, and for refugees.

SE:

- We need to not anger Jordan if they are going to help us and support the agreement. I can't speak on behalf of Jordan. We are getting Arab states to look after their interests.

CR:

- Those are good points. I spoke to people around the table at Camp David (Americans) and they disagree about a lot but they all agree that there was not enough Arab Support. Jordan, Egypt etc. and Syria not to obstruct.
- We would start thinking quietly about what the international community should do at the level of Jonathan. With your permission we'd like to start looking at this. Jordan is our ally.

[SE and ZS note large amount of NSU work on the subject. CR invites us to brief them, esp Jonathan, on the issue.]

TB:

- I forgot to mention that we agree that there will be an international fund.

CR:

- Maybe we will be able to find countries that can contribute in kind. Chile, Argentina, etc. (i.e. give land).

AA:

- They are focusing on the easier stuff.

TL:

- This way when it comes to us we'll just have the hard questions.

CR:

- On territory – you are going on the field tours. You know you have to discuss the swaps, the safe passage. You are discussing the whole of the territory – you know what the denominator is. Refugees looks like it is going well. We'll look at the mechanism. Security you'll look at – UD how did you put it? [UD: Challenges, objectives, missions].

- UNGA on September 20th, September 19th it starts.

SE:

- TL said something about Moscow and I agree 100% with it. I don't want to get to the UNGA and have everyone evaluate us because then everyone will attack us. We only need meetings that will support us.

CR:

- I think that the Russians understand. All that we will talk about about Moscow is a date.

TL:

- [You don't want there to be unrealistic expectations. So you need to include something in the statement like "in agreement with both sides".]

CR:

- There are three different things: 1. the Quartet meeting today. The Russians just want a sense of if people want to go. 2. keep in mind the schedule of the UNGA. [Not to go and discuss the details, x vs y percent.] Just intensify the meetings between now and August. Don't think about what you want to tell people now. [You can just say intensive meetings, etc. lists more process points.]

TL:

- Can it be said that the agenda etc. will be in agreement with the parties?

DW:

- The statement will be nothing that detailed, but we will say in agreement with the parties.

CR:

- I don't plan to come to Israel the week of the 7th. [Notes possible July visits to DC, separately, by the parties.]
- The Pressline? We met, discussions continue. Serious, in depth. Looking for ways that the international community can help.