

# ALIGNING A POLICY WITH PREFERENCE

Preserving a Path  
To a Two-State  
Solution

EINAT WILF





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policy  
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THE WASHINGTON INSTITUTE FOR NEAR EAST POLICY

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# 1

## INTRODUCTION

THE REPEATED FAILURE of Palestinian-Israeli negotiations to produce a peace agreement, and the growing sense that the two-state solution is in jeopardy, has prompted interest in the possibility that a more active international role might help enshrine the parameters of a two-state solution and salvage it as the prominent path to peace. This sentiment is particularly strong among some European countries, as evidenced by Sweden's October 2014 recognition of Palestine, France's (failed) December 2014 attempt to pass a draft UN Security Council resolution to that effect (see appendix 1), the continuing efforts of France and New Zealand to reintroduce similar resolutions, the wave of resolutions in European parliaments calling upon their governments to recognize Palestine, and the EU's November 2015 publication of guidelines for labeling of products made in the Israeli settlements. Periodic speculation also suggests that certain conditions might lead the United States to support such an effort or, at the very least, not prevent other countries from doing so.

This pressure toward a greater international role in preserving the two-state solution could well intensify given the growing sense that—considering some of Israeli prime minister Binyamin Netanyahu's pronouncements and the stances of certain influential Israeli ministers and diplomatic appointees—the current Israeli government is no longer committed to this path. The pressure is compounded by the flare-up of violence across Israel, the West Bank, and Gaza, the rise of the boycott, divestment, and sanctions (BDS) movement, and Palestinian Authority (PA) president Mahmoud Abbas's persistent refusal to negotiate directly with Israel, while he calls on the international community to take greater action.

While the intellectual discussion of a "one-state solution" gains traction in certain circles, another trend involves the international community's apparent growing indifference to the conflict. This latter tendency was striking in U.S. president Barack Obama's omission of the conflict from his September 2015 UN speech. Even in light of various divergent trends, and the remain-

ing wide gap between the Israeli and Palestinian sides, the two-state option continues to represent Western and international consensus as the preferred path to a just peace.

Proponents of a more active international role in advancing the two-state solution argue that it would explicitly enshrine parameters that the world already implicitly recognizes and, in doing so, ensure that any future negotiations would not start from scratch but rather build on previous progress. Enshrining such parameters, the thinking goes, would ultimately transform them into basic tenets of international relations, in the same way UN Security Council Resolution 242 (see appendix 2) turned the “land for peace” and direct negotiations formula into the foundation of the current international consensus on a two-state solution. Some even argue that a new Security Council resolution would serve to officially replace 242 as the basis for a new international consensus. It is further argued that while the parties are not expected to endorse these parameters, the very act of spelling out the necessary concessions would bring the conversation about permanent-status issues—dormant, and some would say even irrelevant, in both Israel and the PA in recent years—back to the forefront in both societies.

Given this environment, this paper aims to examine what policies might be pursued by the international community in general and Western governments in particular should they embark on a path that would align their current policies with their preference for a two-state solution to the Palestinian-Israeli conflict. The approach here is therefore intrinsically hypothetical and analytical, rather than prescriptive: that is, if various governments moved in the direction this paper explores, what tools would be at their disposal, what effects could be anticipated, and what policy combinations might be more or less constructive.

The analysis presented here does not make any assumptions about the motives, good or bad, wise or unwise, behind different official efforts along these lines. Moreover, the paper does not advocate or assume that all governments, or even just all European Union governments, would agree on all steps, nor that those steps would or should be codified in any internationally binding legal fashion, such as in a new Security Council resolution.

To examine what policies might be pursued, this study begins with three countries that have already taken active steps toward setting the terms for a two-state reality: Iceland, Sweden, and the Vatican.

# 2

## POLICYMAKING IN THE ABSENCE OF DIRECT NEGOTIATIONS

ON OCTOBER 30, 2014, the Swedish government directly recognized the state of Palestine. This was the first time a major Western and European nation had taken such an action. (Iceland recognized Palestine in December 2011, and Malta and Cyprus recognized Palestine in 1988, when the two island nations were not yet EU members.) In declaring its decision, the Swedish government argued<sup>1</sup> that its purpose was to contribute to a future where Israel and Palestine live “in peaceful coexistence with secure and recognized borders” (see appendix 3 for the full text of the statement).

Sweden’s decision took place amid a wave of votes in European parliaments calling on their governments to also directly recognize the state of Palestine. In June 2015, for its part, the Vatican formally recognized the state of Palestine by signing a diplomatic treaty with it. Archbishop Paul Gallagher, the Vatican’s foreign secretary, declared, much like his Swedish counterpart, that the agreement could provide “stimulus to bringing a definitive end to the longstanding Palestinian-Israeli conflict.”<sup>2</sup> Given the possibility that additional Western governments could follow the lead of Iceland, Sweden, and the Vatican and respond to their respective parliaments’ votes, it is imperative to carefully examine how, and whether, such actions could contribute to peace.

The decision by the Swedish government represented a fundamental break with Western policies toward the Palestinian-Israeli conflict and the two-state solution. Up until the moment of Sweden’s declaration, Western countries—the United States, Canada, Australia, New Zealand, Britain, European states, the EU, and the Vatican—broadly shared the same position regarding the promotion of peace between Israel and the Palestinians. This agreed upon position, which began with UN Security Council Resolution 242 but was later and more comprehensively expressed in the 2003 Roadmap peace initiative, has as its goal “a final and comprehensive permanent status agreement that ends the Israel-Palestinian conflict” (see appendix 4 for the Roadmap preamble).

The Roadmap emphasizes that the goal should be reached “through a settlement negotiated between the parties.” The agreement, once reached, would “fulfill the vision of two states, Israel and sovereign, independent, democratic, and viable Palestine.” The agreement would also “end the occupation that began in 1967” and would “include an agreed, just, fair, and realistic solution to the refugee issue” as well as a “negotiated resolution on the status of Jerusalem that takes into account the political and religious concerns of both sides, and protects the religious interests of Jews, Christians, and Muslims worldwide.” The agreement was likewise expected to lead to “a comprehensive Arab-Israeli peace” that includes “acceptance of full normal relations with Israel and security for all the states of the region.”<sup>3</sup>

Since the Roadmap was introduced, notable events, such as the unofficial Geneva Accord in 2003 (see appendix 5 for the preamble), Israel’s disengagement from Gaza in 2005, and several rounds of unsuccessful talks between Israel and the Palestinians, while all failing to bring about peace, served to further shape and specify the manner in which Western countries view the desired outcome of a negotiated peace deal. For example, on borders, after Israel withdrew fully to the 1967 lines in Gaza, the issue of one-to-one land swaps became more firmly entrenched as a way to reconcile the existence of Israeli settlement blocs beyond the pre-1967 ceasefire lines in the West Bank with the Palestinian demand that these lines serve as the internationally recognized border.

Correspondingly, the idea that the future state of Palestine should be demilitarized and that a transitional Israel Defense Forces (IDF) presence should be stationed on the Jordan River was received favorably when suggested within a U.S. proposal for security arrangements following the establishment of a Palestinian state.<sup>4</sup> The 2013–2014 round of talks led by U.S. secretary of state John Kerry also introduced the idea of allowing settlers to choose between relocating to Israel and staying where they were as loyal citizens of Palestine, although such an option has yet to become entrenched as a strong preference by Western countries.

On what is known as the Palestinian “right of return,” or the demand of Arab refugees and displaced persons from the 1947–1949 war and their millions of descendants to forcefully return to Israel with full citizenship, more-concrete numbers were introduced in repeated rounds of negotiations and, although never agreed upon, became considered by Western countries as “fair and realistic.” Further, whatever precise numbers were discussed, they were to be seen as reflecting “an end to all claims.”

More than twenty years of negotiations, then, while failing to deliver peace or anything close to it, *have* yielded a broadly agreed upon set of preferences by all Western countries, allowing for differences in policy and tone. These preferences could be summarized as follows:

1. The establishment of an Arab Palestinian state side by side with the Jewish state of Israel—referred to in this paper as the question of *status*.
2. Recognized borders based on the 1967 lines with allowance for land swaps to adjust for the large settlement blocs, as well as a land connection between the West Bank and Gaza—referred to in this paper as the question of *borders*.
3. Jerusalem as the capital of both Israel and Palestine, generally meant with West Jerusalem as the capital of Israel, including residential Jewish neighborhoods in East Jerusalem in return for land swaps; residential Arab East Jerusalem as the capital of Palestine; and the Holy Basin, including the Old City, under special arrangements that secure religious freedom and access for all—referred to in this paper as the question of *Jerusalem*.
4. An “agreed, just, fair, and realistic solution to the refugee issue,” which is generally taken to mean that the currently registered five million refugees—a figure including the several tens of thousands of the original displaced persons and refugees still alive and their millions of living descendants—would become citizens of the state of Palestine, with those residing in Jordan, Syria, and Lebanon offered options of either immigrating to the newly established state of Palestine, remaining as full and equal citizens in their host countries, or becoming naturalized in third countries, including Israel, with Israel agreeing to absorb somewhere between several thousand and tens of thousands of displaced persons, refugees, and descendants over several years, and that this would represent an “end to all claims”—referred to in this paper as the question of *displaced persons, refugees, and their descendants*.

These four main questions have constituted the core of Palestinian-Israeli talks over the past two decades. Moreover, until Iceland, Sweden, and the Vatican directly recognized Palestine as a state, *all* Western countries shared the Roadmap position that “a final and comprehensive” deal should be “negotiated between the parties” and that the solution is to be “agreed.”

The preference for a negotiated agreement meant that despite substantial differences in tone, Western countries abstained from taking steps that would circumvent negotiations. Although Western countries had clear preferences on the desired outcome, they did not take major steps to reflect those preferences. In many cases, this meant that Western countries' official policies on the four major issues were not necessarily aligned with their preferences. For example, even if a particular Western country thought a Palestinian state desirable, it did not recognize Palestine, arguing that such a state should emerge as the outcome of a negotiated peace agreement. This meant that up until the decisions by Iceland, Sweden, and the Vatican, Western countries held back from establishing "facts on the ground" that would "prejudice" the outcome of the negotiations in one direction or another.

Sweden's decision, although preceded by Iceland's in December 2011, represented a dramatic break from traditional Western policies. While Sweden continues to call on the sides to negotiate an agreement and declared that it will "support renewed negotiations on a final status settlement,"<sup>5</sup> the country's action reflected a frustration that "peace talks have again stalled." Indeed, Sweden's action came at a point when more and more countries had concluded that the preference for process—negotiations—had failed to lead to the preferred outcome—a comprehensive permanent-status agreement that ends the conflict. Iceland, Sweden, and the Vatican have turned the Western position on its head: *rather than support negotiations that lead to a certain outcome that would support peace, they supported a certain outcome in the hopes that it would lead to negotiations that would bring about peace.*

It remains to be seen to what extent and in which manner Western governments will seek to follow Iceland, Sweden, and the Vatican and "prejudice" the outcome in a way that aligns their policies with their stated preferences. In the past, the preference of Western countries for negotiations has led them to maintain that they do not wish to prejudice the final outcome by promoting policies that favor one side's position over the other. Yet Western governments, increasingly frustrated by the continuing failure of negotiations to achieve a resolution, might choose to reverse this equation and, in effect, prejudice a desired outcome to the conflict by more closely aligning their policies with their preferences. Expressing such frustration, France's foreign minister, Laurent Fabius, declared during the French parliament's discussion on voting for Palestinian recognition that

in view of the current deadlock, we think it's legitimate to opt for an approach enabling us to give negotiation a genuine and perhaps a final chance...Support—some will say pressure—is required from the international community to help both sides make the final, essential gesture and take the ultimate step that will lead to peace. That's what the French government is focusing on right now.

Robert Serry, the former UN special coordinator for the Middle East peace process, told the Security Council that European votes on Palestinian recognition are “significant developments that serve to highlight growing impatience at the continued lack of real progress in achieving a two-state solution...governments are under increased public pressure to promote an end to the conflict once and for all.”<sup>6</sup> Thus, Western countries appear increasingly to share Abbas's claim in his 2015 UN General Assembly speech that “it is no longer useful to waste time in negotiations for the sake of negotiations; what is required is to mobilize international efforts to oversee an end to the occupation in line with the resolutions of international legitimacy.”<sup>7</sup>

Beyond the broadly shared frustration, Sweden justified “breaking rank” with the traditional Western position of not taking steps to circumvent negotiations by suggesting its own analysis for the failure of negotiations. The essence of Sweden's argument is that recognition of Palestine would “facilitate an agreement by making the parties in these negotiations less unequal.”<sup>8</sup> The underlying premise then is that negotiations have failed, at least in part, because Israel and Palestine are “unequal” and that recognizing the state of Palestine would make the Palestinians less unequal, and thereby contribute to the attainment of peace. Fundamentally, Sweden is arguing that recognizing Palestine *prior* to negotiations, rather than as the direct *outcome* of them, would help achieve peace. This premise could be debated, accepted, or rejected, but what remains in effect is that Sweden's action, and those of Iceland and the Vatican, represents an instance of establishing “facts on the ground” and *prejudicing a certain outcome, regardless of negotiations or agreements*.

If more Western governments chose to align their policies with their preference for peace by means of “two states for two peoples,” they might pursue a range of policies that would approximate such a reality on the ground, even if no such agreement has been made. The premise of such policies would be that of a “self-fulfilling prophecy.” That is, the underlying premise for aligning Western policies with preferences would be that *a future resolution of the conflict by means of two states for two peoples would become easier to attain if existing policies assume this is already the reality*.

Two questions thereby require further analysis:

1. What other possible policy steps might Western countries seek if they are on the path to aligning their policies with their preferences?
2. Are such steps more or less likely to bring about peace?

To answer the first question, this paper will explore the policy tools that Western countries have at their disposal should they choose to align their policies with their stated preferences to prejudice certain outcomes. The paper will begin by analyzing existing gaps between the stated preferences for outcomes and current policies. It will then look at the manner in which certain policies could close these gaps and the challenges associated with implementing those policies.

This paper neither explores nor recommends means of pressuring Israel and the Palestinians to adopt certain policies. It restricts itself to policies that are *entirely within the decisionmaking power and control of Western countries* and that enable them to align their policies with their preferences for a desired outcome. These are policies Western countries can pursue without requiring the Palestinian or Israeli side to respond to, accept, or reject their policy changes. The paper also restricts itself to “hard currency” concrete diplomatic and economic policies and positions that go beyond declarations and speeches.

Regarding the second question—whether such steps would contribute to peace—the paper will explore the possible implications of such actions by Western countries, and especially the implications of picking and choosing certain elements of a final-status agreement rather than addressing them all as a grand package. Should more countries take measures to align their policies with their preferences, such a path would have serious ramifications for the conflict and for the region. Even if some of the measures reviewed here would not be taken up by Western governments fully and immediately, this project is intended to consider the general ramifications of such measures and the consequences regarding any future agreement.

# 3

## THE WEST: CURRENT POLICIES

WHILE THE PREFERENCES of Western countries have been expressed in numerous formats and forums, as well as in joint declarations such as the Roadmap, official policies generally remain attached to the last “solid” internationally agreed upon point of reference, which in some cases means going as far back as the UN partition proposal of 1947 (see appendix 6 for the preamble). As a result, wide gaps have opened between policies based on what can be justified *de jure* and the preferences *de facto*, resulting in sometimes convoluted policy positions.

### STATUS

On the matter of status, the official position of all Western countries, except for Iceland, Sweden, and the Vatican (and Cyprus and Malta before joining the EU), is that an independent Arab state of Palestine *does not exist* and therefore should not be recognized as such. However, the clear preference of all Western countries is that such a state *should exist*. As a result, numerous policies have been taken to reflect that preference, including providing the Palestinians with as many trappings of a state as possible but without crossing the line to officially recognizing a state. For many years, especially since 1993, this has meant, for example, treating the PA as a state for purposes of official visits and viewing its diplomats abroad as ambassadors.

In recent years, this policy of recognizing the trappings of a state of Palestine without recognizing the state of Palestine itself was advanced even further when, on November 29, 2012, 138 countries voted in the UN General Assembly for recognizing Palestine as a nonmember observer state, with 9 voting against and 41 abstaining. The Western vote was split, with 19 countries voting in favor (Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, New Zealand, Norway, Portugal, Spain, Sweden, and Switzerland); 3 voting against (the United States, Canada, and the Czech Republic); and 14 abstaining (Australia, Bulgaria, Croatia, Estonia, Germany, Hungary, Latvia, Lithu-

ania, the Netherlands, Poland, Romania, Slovakia, Slovenia, and Britain) (see appendix 7 for the UN press release).

In a September 2015 follow-up, the General Assembly voted to raise the flags of nonmember observer states, effectively enabling the Palestinian flag to fly alongside those of UN member states. The vote passed with the support of 119 countries, with 8 voting against and 45 abstaining. The Western results were marked by several votes in favor from the 2012 measure now abstaining (Austria, Cyprus, Denmark, Finland, Greece, Liechtenstein, Portugal, Switzerland, and Norway), along with the Czech Republic, a 2012 “no” vote. Countries remaining in the yes column were Belgium, France, Iceland, Ireland, Italy, Luxembourg, Malta, New Zealand, Spain, and Sweden. Only two 2012 abstentions, Poland and Slovenia, switched to yes votes. As a whole, the Western tally remained split, with Australia, Canada, and the United States voting against.<sup>9</sup>

While these votes represent symbolic steps in the process of aligning Western policies with preferences on the status issue, they also exposed the gaps between Western countries regarding their actual policies and their differing perceptions as to the outcomes their diplomatic tactics would yield:<sup>10</sup> countries that voted against the 2012 and 2015 resolutions or abstained, such as the United States, Australia, and Germany, argued that the vote “placed further obstacles in the path to peace” (United States) and might “make a negotiated solution more difficult” (Australia) and “lead to further hardening of positions” (Germany).

Some countries that voted for the 2012 resolution, such as Switzerland, expressed hope for precisely the opposite outcome: that the vote would “unblock the current stalemate.” Also, while Canada voted against both resolutions because it “undermined the core foundations of the decades-long commitment by the international community” (i.e., to the process of negotiations), Spain voted in favor both times because the vote was “an expression of the international community’s firm and irreversible commitment to peace” (i.e., to this outcome).

Among the European countries that voted in favor of the 2012 resolution, varying justifications were given. Norway, for example, argued that Palestine was already “involved in many institutions as a functioning state” and that recognition was a natural outcome, while Finland described its vote in favor as “showing support to the moderate forces that were committed to the peace process.”

The one point of consensus among the Western countries voting in

favor both in 2012 and in 2015 was that the vote “endowed the Palestinians with obligations” (Switzerland). Many diplomats of the countries voting in favor of nonmember observer status have taken pains to emphasize that the vote should lead to a return to direct negotiations to fully resolve the conflict. It was understood that the vote was not meant to grant full sovereignty to the Palestinians, although it was a step in that direction. Diplomats have stated that voting for a state of Palestine in the UN is not the same as directly and unilaterally recognizing an independent state of Palestine, although many readily admit that this is a very fine line—but a line they insist on defending.

Iceland, Sweden, and the Vatican are the first Western countries to cross the fine line and fully align their policies with their preference regarding the status of the state of Palestine. When, on October 30, 2014, Sweden officially and directly recognized Palestine as a state already in existence, it argued that “the international law criteria for the recognition of the State of Palestine have been satisfied.”<sup>11</sup> According to the government of Sweden, this means “there is a territory, albeit with non-defined borders. There is also a population. And there is a government with the capacity for internal and external control.”

In the months following the 2012 UN vote, the parliaments of Ireland, Spain, France, Luxembourg, Portugal, and Britain passed nonbinding resolutions calling on their governments to directly recognize the state of Palestine. More parliaments are considering such votes, meaning that more countries might follow Iceland, Sweden, and the Vatican. If this were to happen, additional countries would have aligned their preference with their policies, recognizing the state of Palestine and thereby contending that it already exists.

WITH RESPECT to the question of status, the policies of Western governments strive—in varying degrees—to be aligned with their preferences. As of now, except for Iceland, Sweden, and the Vatican (and Malta and Cyprus before joining the EU), none are in full alignment.

## BORDERS

The official policy of all Western governments is that the ceasefire agreement lines of 1967 represent the limit to the internationally accepted area under Israeli sovereignty and that all territory beyond that, even if annexed by Israel, is not legally Israel’s. Since, for most Western countries, an official

state of Palestine does not exist and is not recognized—and even for those governments that do recognize the state of Palestine—the 1967 lines are not considered official and internationally recognized borders between the state of Israel and the state of Palestine. The official Western position recognizes the state of Israel to the west of the 1967 lines and the not-yet-state of Palestine to the east and south of these lines (the West Bank and Gaza). Sweden has argued that Palestine has a “nondefined border” but has indicated that this border is, or should be, the 1967 lines by referring in its recognition statement to Palestine as existing in the West Bank and Gaza.

With respect to Gaza, Israel has, in effect, accepted the 1967 lines by fully withdrawing to these lines in 2005. This means that on the question of Gaza, there is no longer a territorial dispute between Israel and the Palestinians. Even though Israel controls Gaza’s airspace and enforces a security blockade, these actions are declared as serving security purposes and Israel no longer makes a territorial claim on Gaza.

Whereas the question of settlements and Israeli territorial claims in Gaza is now moot, the West Bank is still very much in dispute, especially regarding the Jewish settlements. On this issue, no substantial policy difference exists among Western countries, even if they differ in tone. The West Bank settlements, regardless of where they are located, are considered by all Western governments to be illegal, or “in violation of the Fourth Geneva Convention” (Canada), or “contrary to international law” (U.S. Department of State). This means that all varieties of settlements are considered by Western governments to be equally illegal, including Jewish neighborhoods of East Jerusalem, the Jewish communities of Gush Etzion that were rebuilt on Jewish agricultural towns destroyed by Arab League forces in the 1948 war, and settlements on private Palestinian territory.

It is worth noting that, in January 2014, the Australian foreign minister made a comment that questioned this position and called on the international community to refrain from calling settlements illegal under international law, but it is not clear whether this is official Australian policy.<sup>12</sup> While it is true that strong legal and historical arguments can be made that Israeli settlement activity in the West Bank territories is not illegal, these arguments have been marginalized and the reigning consensus is that the settlements are not legal.

As such, all Western countries are opposed to further expansion of settlements and make their displeasure at any such activity well known. While the language differs, the tone is negative across the board. For example, French

president Francois Hollande stated that he “demands the entire and definitive halt to the settlement activity.”<sup>13</sup> The German government has been “urging an end to the construction,”<sup>14</sup> with the British adopting a similar tone.<sup>15</sup> Some countries, such as Spain, are no less negative but use passive rather than active language to express their regret and condemnation.<sup>16</sup>

Beyond the language and the clear expressions against settlements in general and settlement expansion in particular, European countries have in recent years taken punitive action to reinforce their view of the settlements as illegal. Such steps have included the banning of imports of dairy, eggs, and poultry from agricultural settlements in the West Bank; the September 2015 adoption by the European Parliament of a resolution, “The EU’s Role in the Middle East Peace Process,” that “welcomed” the EU’s commitment to “differentiation” between Israel and the “occupied Palestinian Territory”; and the November 2015 release by the European Commission of the “Interpretative Notice on Indication of Origin of Goods from the Territories Occupied by Israel since 1967.”<sup>17</sup> The “Interpretative Notice” emphasized that “the aim is to ensure the respect of Union positions and commitments in conformity with international law on the non-recognition by the Union of Israel’s sovereignty over the territories occupied by Israel since June 1967.”

Even though Western governments consider the settlements illegal, some, especially the United States, Canada, and Australia, have acknowledged that any future peace agreement would have to consider the “facts on the ground” regarding the large settlement blocs, most of which are adjacent to the 1967 line. They believe that the manner in which this will happen should be negotiated and agreed upon between the sides. This was most prominently acknowledged by President George W. Bush in his April 14, 2004, letter to Prime Minister Ariel Sharon, which said that

in light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities. [See appendix 8 for the full text of the letter.]

Western governments broadly accept that nearly all the West Bank and Gaza should belong to the future state of Palestine and that the areas where the large settlement blocs lie would belong to Israel, in exchange for land else-

where (land swaps), so that, in effect, the state of Palestine would control precisely the same *amount of area* that comprises the West Bank and Gaza, if not *precisely the same area*. While there is no agreement as to which settlement blocs should be assumed “forgone” for Israel and to the precise size of the land swaps, estimates, based on previous rounds of negotiations, range from 2 to 9 percent of the West Bank’s land area.

Even the Arab League expressed its support for the notion of land swaps when in April 2013 a delegation of its foreign ministers and ambassadors accepted the principle of “comparable” and “minor” land swaps as part of a permanent-status agreement. Speaking on behalf of the Arab League, Sheikh Hamad bin Jassim al-Thani, Qatar’s prime minister and foreign minister, explained to journalists that the League supports Israel and the Palestinians swapping territory rather than conforming to the 1967 borders.<sup>18</sup>

No Western government currently pursues a policy that fully acknowledges the possibility of land swaps. In this sense, Western policy is “overshooting” by taking action that strictly insists on the 1967 lines. For example, when the EU pursues policies that differentiate between the West Bank and Israel in its economic agreements, it does not include the settlement blocs as part of Israel and makes no allowance for the possibility of land swaps. In fact, the European countries and the EU seem to be moving toward intensifying measures that differentiate between “legal Israel” and “illegal Israel” along the 1967 lines, without any consideration for the possibility of land swaps. Similarly, while the United States acknowledges, in principle, that not all settlements are alike and some will permanently belong to Israel, it engages in “overshooting” by condemning Israel equally for all settlement building, regardless of location.

WITH RESPECT  
to the borders,  
the alignment  
of Western govern-  
ments’ policy with their  
preferences could be  
described in some cases as  
“overshooting.”

## JERUSALEM

The official position of all Western governments is that Jerusalem is *not* the capital of the state of Israel. In addition, all Western countries continue to treat, in principle, the whole of Jerusalem as belonging to no one. Western countries continue to formally adhere to the position put forward in the 1947 UN partition proposal of Jerusalem as a *corpus separatum* deserving

separate international status. For example, the U.S. Department of State does not register American nationals born in Jerusalem as having been born in Israel.<sup>19</sup> However, the expressed preference of all Western governments is for Jerusalem to serve as the capital of *both* the state of Israel and the future state of Palestine, with West Jerusalem and some Jewish neighborhoods of East Jerusalem to be part of Israel, and the Arab neighborhoods of East Jerusalem to be the capital of Palestine—a preference most notably put forth in the Clinton Parameters following the 2000 Camp David negotiations. Regarding the one-square-kilometer area of the Holy Basin, which includes Jerusalem’s Old City and some adjacent sites, the preference is for some form of special status and governance that would ensure freedom of religious practice and access for all. This preference is repeatedly reiterated when religious tensions and questions of access to holy sites in the Basin lead to flare-ups of violence.

Some European declarations treat East Jerusalem as the future capital of Palestine without making distinctions—neither between Jewish and Arab neighborhoods nor between the Holy Basin and residential areas. In addition, many countries have consulates in East Jerusalem that form part of the “Consular Corps of the *Corpus Separatum*,” with their members effectively serving as ambassadors to Palestine. Sweden itself has announced that it will not open an embassy in Ramallah and that its bilateral diplomatic relations with the recognized state of Palestine “can be managed by the consulate in Jerusalem, which is a satisfactory solution for us.”<sup>20</sup>

The official policy of Western governments rests on the 1947 UN proposal for Jerusalem as a *corpus separatum*, but the preferences are more directly related to the 1967 lines, distinguishing between an Israeli West Jerusalem and a Palestinian East Jerusalem. This creates a situation whereby East Jerusalem is considered under illegal occupation and sometimes referred to as “occupied Palestinian territory” or “occupied East Jerusalem” but residential West Jerusalem, which no country effectively disputes as belonging to Israel, is not considered a legitimate location for Israel’s capital. *Israel is judged by 1947, but the Palestinians are judged by 1967.* The case of Sweden makes this distinction most glaring: Sweden now has, in effect, an official embassy to Palestine located in East Jerusalem even as it con-

IN JERUSALEM, given that the situation has departed most substantially from the 1947 UN partition proposal, policies are glaringly inconsistent with preferences and in some cases clearly discriminate against Israel.

tinues to refuse to move its official embassy in Israel from Tel Aviv to West Jerusalem. This means the de jure status of West Jerusalem as belonging to Israel and serving as its capital is held hostage de facto until the situation of East Jerusalem is resolved.

## **DISPLACED PERSONS, REFUGEES, AND THEIR DESCENDANTS**

The official policy of all Western governments is to treat the question of Palestinian displaced persons and refugees from the 1947–1949 war and their millions of descendants as a final-status issue that the governments do not want to prejudice. On the specific issue of “right of return,” most Western governments do not hold an official policy and do not weigh in on the purported legality of such a right, reiterating a call to resolve the issue between the parties in an agreed, just, and realistic manner.

The solution that all Western governments consider “just and realistic” includes the following stated preferences:

- Palestinian displaced persons, refugees, and their descendants will have the right to live in and become citizens of the state of Palestine. This will effectively mean that their right is to self-determination in a state of their own, where they can then legislate a law of return. Such a law would then allow Palestinians around the world to exercise their “right of return” to the newly established state of Palestine, but that “right” would not be for any other place, country, or territory.
- The countries today home to the largest populations of refugees and displaced persons and descendants—Jordan, Lebanon, and Syria, although many fewer in Syria as a result of the civil war—would be encouraged to absorb and fully integrate as many of the descendants as wish to live there.
- Third countries, including Israel, would also each take a share of the displaced persons, refugees, and their descendants, with numbers for Israel generally quoted in the several thousands, with the clear stipulation that any such numbers would be finite and represent an “end to all claims.”
- Compensation would be provided to displaced persons, refugees, and their descendants, to which the state of Israel, along with Western and Arab countries, would contribute. In this context, the possibility has been raised of parallel Arab compensation for descendants of Jews

expelled from Arab countries in revenge for the establishment of the state of Israel, but this is yet to become broadly accepted.

In direct contradiction to this set of preferences, all Western governments are substantial contributors to the UN Relief and Works Agency for Palestine Refugees in the Near East, for a total of more than \$1 billion a year. While UNRWA serves important social and welfare functions, such as the provision of health care, assistance, and education to descendants of Palestinian displaced persons and refugees, it also engages in political practices, such as automatically granting all descendants of the original displaced persons and refugees the status of refugees themselves—regardless of their actual situation. This has led to the registration of nearly five million descendants, the majority of whom are either Jordanian citizens or citizens of the PA residing in the Gaza Strip or West Bank. The organization also teaches the “right of return” in schools, telling the descendants of the originally displaced persons and refugees that they have the individual and uncontested right to forcefully return to areas that are part of the state of Israel. In their support for UNRWA, Western governments, even if unintentionally, are in effect condoning UNRWA’s political practices—practices that depart sharply both from Western official positions and preferences.

In conversations, diplomats have rejected the notion that supporting UNRWA financially means support for a literal implementation of the “right of return” and have tended to downplay the seriousness with which the Palestinians treat this right. However, a groundbreaking October 2014 report by the International Crisis Group<sup>21</sup> underscores the extent to which Western diplomats underestimate the importance that the Palestinians attach to this demand. It also underscores the “almost supernatural significance” Palestinians attribute to UNRWA as embodying international support for their demand for a “return to Palestine.” Unique in understanding and supporting UNRWA’s political function is Norway, which officially states that it views UNRWA as “a guarantor that the rights of Palestine refugees, including the right to return, are not forgotten.”<sup>22</sup>

The case of Sweden is again particularly instructive. Sweden is one of the largest single-state donors to UNRWA and, therefore, effectively supports UNRWA’s practice of registering descendants of displaced persons born and living in the West Bank and Gaza as refugees from Palestine. Since Sweden has recognized the state of Palestine and argues that it exists and that the territories of the West Bank and Gaza are Palestine, it is difficult

to explain how it can continue to support registering those living and born *in* Palestine—and never displaced from it—as refugees *from* Palestine. This can only be explained if Sweden accepts that Palestine is not limited to the West Bank and Gaza and will supersede what is today the state of Israel. This means that Swedish recognition of Palestine, as long as it continues to be paired with support for UNRWA’s practice of registering those born and living *in* Palestine as refugees *from* Palestine, is incompatible with the promotion of peace by means of two states for two peoples.

## SUMMARY

This review of the alignment of policies with preferences of Western countries demonstrates that, except in the case of Iceland, Sweden, and the Vatican on the question of status, *in no major policy area are the policies of Western countries fully aligned with their preferences, and in most cases they are misaligned or even contradictory to their stated preferences.*

In light of this assessment, should more countries seek to take steps that promote a certain outcome rather than wait for this outcome to be negotiated between the parties, several policy options could emerge by closing the gaps between their stated preferences and their existing policies. The purpose of the following section is to explore which policy tools are available to Western countries on this path, and highlight diplomatic and political challenges that need to be factored in if such a path is followed.

WITH RESPECT to the issue of Palestinian displaced persons, refugees, and their millions of descendants, the policies of Western governments are in direct contradiction to their preferences and are actively hindering them; in the case of Sweden, its policies, taken together, effectively support a goal that seeks the elimination of Israel as the nation-state of the Jewish people.

# 4

## IF POLICIES ALIGNED WITH PREFERENCES

IN CONTRAST TO the launch of permanent-status negotiations in 2000, today the international community and the parties themselves have a better understanding of both the substance of the permanent-status issues and the realistic options associated with each, should a peacemaking context emerge. This, however, does not amount to a consensus on the contours—let alone the details—of a preferred final peace deal. If Western countries sought to align their policies with their preferences, they would have to delve into details and consider the specifics of various options to craft coherent policies.

### STATUS

The issue of status—that is, the recognition of the state of Palestine—is the one for which Western countries are most likely to seek to align their policies with their preferences, given that it requires the least consideration of details and is relatively straightforward to implement. Such implementation can be done through any of three major policy tools—listed here in decreasing order of likelihood of use:

1. Supporting Palestine in various UN bodies as the PA continues on the path of seeking to upgrade its status in the UN and its associated bodies.
2. Fully and bilaterally recognizing an already existing state of Palestine, as Iceland, Sweden, and the Vatican have done and as several European parliaments have voted requesting their governments to do.
3. Voting for a UN Security Council resolution that recognizes the state of Palestine and admits it into the UN as a full member state.

With respect to the policy tool of supporting Palestine in international bodies, to date the Palestinians have indicated their intention to join at least sixty UN bodies and treaties, and have so far submitted requests to join at least fifteen. While the legal status and procedures for joining each UN body and treaty are different, Western countries would likely be asked to vote for

admitting Palestine on several occasions and might increasingly do so to emphasize their preference for the existence of a state of Palestine. For example, the director of the UN Educational, Scientific, and Cultural Organization (UNESCO) allowed the Palestinian request for membership to come to a vote in October 2011. The state of Palestine was admitted as a full member, with 107 voting in favor, 14 against, and 52 abstaining. In January 2015, the state of Palestine moved to join the International Criminal Court (ICC) at The Hague and in April was admitted as the 123rd member, based on its upgraded status as a result of the 2012 UN vote.

The policy tool of recognizing Palestine in international bodies is likely to be used by many Western countries because even with numerous and repeated UN votes for a state of Palestine, and Palestinian admittance to the ICC, this policy tool remains within the current Western policy of acknowledging the trappings of a state of Palestine without officially recognizing the state itself. The only country that faces challenges in implementing this policy is the United States, which currently has legislation mandating a complete cutoff of financing to any UN agency that accepts the Palestinians as a full member. This policy has led the United States to lose its UNESCO voting rights, which are tied to payment of dues.

On the second policy tool, direct recognition of Palestine: with more governments declaring that they are considering this tool, it might also become more widespread, especially if the continuing sense is that the negotiations remain stalled. While this represents a “breaking of ranks” with the traditional consensus of Western policies, it does bring Western policies into full alignment with preferences. In fact, it could eventually become the new consensus, with countries adopting the Swedish argument that the step promotes rather than hinders peace.

On the third policy tool, a UN Security Council resolution: despite the failure thus far to secure Security Council support for an official vote on a proposal that would recognize the state of Palestine and set a deadline for “ending the Israeli occupation of Palestine,” the Palestinians are expected to renew this effort with the support of Security Council members France and New Zealand. Even with a Security Council makeup deemed more supportive of votes relating to Palestine, for such a vote to pass, the veto-wielding Western countries, and especially the United States, would have to either support the resolution or abstain from vetoing it.

In this context, it is worth noting that increasing numbers of Israeli public figures are supporting recognition of Palestinian statehood. In October 2014,

more than three hundred Israeli public figures signed a letter to British MPs encouraging them to vote in their parliament in support of recognizing Palestine. The letter, initiated by former director-general of the Israeli Foreign Ministry Alon Liel, was signed by six winners of the prestigious Israel Prize, former Israeli ministers and Knesset members, and former Israeli attorney general and Supreme Court justice Michael Ben-Yair.<sup>23</sup>

In an August 2015 *New York Times* op-ed, Hilik Bar, a Knesset member who is secretary-general of the Labor Party, argued that Israel should recognize a Palestinian state at the UN because “the dispute should no longer be about whether there will be two states, but about the details of an agreement.”<sup>24</sup> Such statements by Israeli public figures provide positive reinforcement to Western states and diplomats who believe recognizing a Palestinian state would be beneficial to Israel and the cause of peace.

**C**OMPLETE alignment of Western policies with preferences on status would mean fully recognizing a state of Palestine directly as well as in the UN Security Council.

## BORDERS

Should Western governments align their policies with their preferences on borders to avoid the current “overshooting,” they would need to make preliminary judgments on which settlement blocs they would consider as properly belonging to Israel. Currently, no international consensus exists about what constitutes a “bloc” and which of the blocs would be part of Israel in a final peace deal. But if Western governments sought to employ a coherent and aligned policy on this issue, they would have to put forth a map and chart a proposed border. In attempting to do so, Western governments would probably find reaching a consensus difficult, and would likely accept only the most minimal assessment of 2 to 4 percent of the West Bank land area for the settlement blocs.

Once Western governments have cleared the hurdle of putting forth a proposed map and borders, their policies could then be fine-tuned and rebalanced to distinguish between the state of Israel—including the settlement blocs—and the state of Palestine. This would mean that any building within the recognized borders of Israel would no longer be considered illegal and would not lead to any negative consequences. With respect to Jewish settlements within Palestine, Western governments could condition export of products from Jewish communities in areas designated within the state of

Palestine on the Palestinian government's agreement. This policy might be expanded to people as well, with Israeli citizens living in areas designated for Palestine being requested to obtain Palestinian passports for travel to Western countries, treating them in effect as citizens of Palestine.

Depending on Israel's actions—such as withdrawals from the areas designated as Palestine—Western countries might choose not only to recognize the state of Palestine within clear borders but also to designate some parts of Palestine as fully free, partly free, or under occupation of a foreign power, so as to indicate that recognition of Palestine as a state does not automatically imply that it is fully sovereign and free of foreign military occupation.

Even if a more coherent and aligned policy would require putting forth a map and delineating a border, the far greater likelihood is that Western countries would find the effort too difficult and continue on the current path of treating all settlements beyond the 1967 line equally. This is a less coherent policy in that it does not account for the established possibility of land swaps as a means toward incorporating the settlement blocs into Israel. This means correspondingly that this policy departs substantially from what a final-status agreement would look like and is “overly strict.” However, considerations of ease of implementation seem at this juncture to overrule coherence.

## JERUSALEM

Should Western governments decide to align their policies with preferences on the issue of Jerusalem, they would leave behind the 1947 partition proposal and pursue policies based on the 1967 lines. This means that policies would enshrine the international consensus that the capitals of both states would be in Jerusalem. Indeed, the more Western countries insist on the 1967 lines in differentiating Israel from the West Bank, the more it becomes nonsensical to continue treating West Jerusalem according to the 1947 proposal.

This means that in practice, West Jerusalem would be universally recognized and accepted not only as belonging to Israel but also as serving as the capital of the state of Israel. All countries would move their embassies to West

**FULL ALIGNMENT** of Western policies with preferences on borders would mean recognizing a state of Palestine in the West Bank and Gaza, less the settlement blocs and accounting for land swaps, while bringing the settlement blocs into Israel in all bilateral and international agreements and subjecting treatment of all persons and products in Palestine to the policies of the government of Palestine.

Jerusalem to demonstrate this preference. In parallel, Western governments would recognize residential Arab East Jerusalem as the capital of the state of Palestine, with embassies moved there or existing consulates upgraded to fulfill the role. In addition, taking the Clinton Parameters as a guide, the Jewish neighborhoods of East Jerusalem would be accepted as belonging to Israel—just like the settlement blocs—with designated swaps.

With respect to Jerusalem's core, in the absence of a negotiated agreement that would determine questions of sovereignty or lack thereof over the Holy Basin, policies would emphasize securing freedom of religious observance and access to all and maintaining the web of arrangements of the status quo. The concept of the *corpus separatum* could then remain but be limited to the Holy Basin.

**FULL ALIGNMENT** of Western policies with preferences on Jerusalem would mean limiting the treatment as *corpus separatum* to the Holy Basin only, recognizing West Jerusalem as the capital of the state of Israel, including the Jewish neighborhoods of East Jerusalem, and recognizing East Jerusalem—without the Jewish neighborhoods and the Holy Basin—as the capital of the state of Palestine.

## DISPLACED PERSONS, REFUGEES, AND THEIR DESCENDANTS

Should Western governments decide to align their policies with their preferences regarding the issue of the Palestinian refugees and their descendants, they could implement several policies that would address UNRWA's political practices. As voluntary donors to UNRWA, Western governments have substantial leeway in shaping the agency's practices. Any notion that Western governments cannot affect UNRWA's policies because its mandate is the charge of the General Assembly, where they are outnumbered, ignores the broad and open-to-interpretation terms of the General Assembly mandate, as well as the dependency of UNRWA, as an organization not budgeted by the UN, on the funding of Western donor countries.

If Western governments recognized a state of Palestine in the West Bank and Gaza, or even if they merely continued to pursue policies that differentiate between Israel and the West Bank and Gaza, any continued support for UNRWA's current policies would mean that Western countries support the idea that those living *in* Palestine are also refugees *from* Palestine. This would not only make no sense, it would also send a devastating message regard-

ing the idea of a peace based on the solution of two states for two peoples. It would mean the idea of a “Greater Palestine” to one day supersede Israel enjoys the support of Western countries and that a state of Palestine in the West Bank and Gaza does not represent the limits and final demands of the Palestinian people.

Even if the state of Palestine were recognized as existing under foreign occupation, that in itself would not justify registering people living in those areas as refugees, as they would still be living in their own state with the vast majority of them, being descendants, never having been displaced from their homes. To promote a coherent policy aligned with their preference for a solution based on two states for two peoples, Western governments could then insist, in their role as voluntary UNRWA donors, that UNRWA no longer register anyone living *in* Palestine as a refugee *from* Palestine.

With respect to the refugees and descendants living in Jordan, Lebanon, and Syria, Western countries could recognize the granting of Palestinian citizenship for all purposes, including travel. This means that the refugees and their descendants would become citizens of Palestine residing in Jordan, Syria, and Lebanon, enabling the latter three countries to preserve their existing demographic interests pending a final peace agreement.

Western governments could then pursue policies intended to enable those Palestinian citizens to enter the state of Palestine, be integrated into their host countries, or be naturalized in a third country, including Israel. UNRWA would enter a gradual process of effective dissolution, with hospital, education, and welfare operations in the West Bank and Gaza transferred to the state of Palestine and operations in Jordan, Syria, and Lebanon restricted to social services with the goal of transferring these operations to the host countries.

To the extent that the citizens living outside the recognized state of Palestine are prevented from entering the state, they could be recognized as refugees from the state of Palestine in the West Bank and Gaza with no claims whatsoever to being refugees from any areas within the state of Israel. The issue of compensation could, and should, be pursued separately.

A misperception prevails that ending refugee status, including for descendants, would forfeit their right to compensation for lost property. *There is absolutely no connection between refugee status and the right to compensation.* The descendants of the Arab refugees from the 1947–1949 war have the right to compensation for property that belonged to their ancestors and was lost due to the war. The fact that the descendants of the Arab

refugees are granted “hereditary refugee” status has no bearing on the right to compensation. If Western governments want to send a clear message that ending registered refugee status will not threaten the right to compensation, they could support projects intended to map and assess the proper compensation due to all descendants. In addition, some of the funds currently going to UNRWA might be redirected to the purpose of compensation.

## SUMMARY

In summary, if Western governments were to pursue policies more closely aligned with their stated preferences for a two-state outcome, they would have at their disposal several major policy tools—from recognizing a state of Palestine to moving their embassy to West Jerusalem to recognizing currently registered refugees as citizens of Palestine. *These tools are entirely within Western countries’ control and do not require their rejection or acceptance by Israel or the Palestinians.*

Before looking into the implications of such potential policy changes, one note must be made regarding the military occupation of the West Bank and the control Israel exerts over three of Gaza’s four borders. While no international support exists for Israel’s continued military occupation of the West Bank or its partial control of Gaza’s borders, there is broad support for Israel’s security concerns regarding the Palestinian use of Gaza and the West Bank as launching pads for attacks against Israel. As such, modest support can be found among Western countries for demilitarizing the Palestinian state and allowing a transitional Israeli military presence on the Jordan River. Western governments could make clear that even if they recognize Palestine, they still consider it, or parts of it, under military occupation and that any future agreement would have to be based on a demilitarized Palestinian state.

On both of these elements, ending Israel’s military occupation and addressing Israel’s security concerns, Western governments lack policy options that can be enacted without the consent and agreement of Israelis and Palestin-

**F**ULL ALIGNMENT of Western policies with preferences on refugees and their descendants would mean recognizing all currently registered refugees as citizens of Palestine, thereby ending their status as refugees from Palestine, as well as transferring UNRWA’s operations to the host countries, including Palestine, and redirecting UNRWA donor funds toward compensation to the refugees.

ians. This paper, as noted, only examines policies under the complete control of Western powers. While the tools discussed here are diplomatically powerful, they cannot remove even one soldier from the West Bank or remove a single rocket from Gaza or disarm a West Bank attacker. Ultimately, even if Western governments fully align their policies with their states' preferences, the military situation on the ground will remain the one issue within the full control of the two sides and will have to be negotiated directly between them to achieve a true and durable peace.

# 5

## IMPLICATIONS OF SUCH POLICY ALIGNMENT

SHOULD WESTERN governments choose to more fully align their policies with their preferences for a two-state outcome, this would represent a substantial change to the diplomatic environment in which the actors make their decisions. The extent of the change and the implications depend heavily on whether Western countries will seek to form a consensus prior to implementing the new policies and whether they would employ a “package” or a “pick-and-choose” approach in aligning their policies with their respective preferences. Iceland, Sweden, and the Vatican have already demonstrated one path by both breaking with consensus and employing a pick-and-choose approach, picking and choosing to address only the status of the Palestinian state among the various policy options.

Through their actions, the governments of Sweden, Iceland, and the Vatican have signaled that they do not think there is a need for consensus. They have demonstrated that individual countries, or blocs of countries, could adopt their own sets of positions and begin realigning their policies accordingly. The benefit of this approach is that it is easy to implement, requiring no prior coordination with fellow Western countries. It likewise enables a country such as Sweden to position itself as a policy leader but avoid delving into the details of more complex issues such as borders, Jerusalem, and those of displaced persons, refugees, and descendants. However, this approach carries its own risks since it could create further confusion—and possibly even contradiction—in the international community. Rather than enshrining agreed parameters, the approach could highlight the lack of consensus.

### IS CONSENSUS NECESSARY?

The breadth of Western support for a given set of revised parameters on the core issues in the Palestinian-Israeli conflict will influence the margin of maneuverability for Israel and the Palestinians when formulating their responses. Opposing such parameters would be easier for the parties if they perceive them as representing the views of only few and peripheral countries.

In particular, the parties will be looking at whether such parameters are supported by their respective traditional allies. The more such allies are seen as firmly backing these ideas, the harder it would be for the parties to dismiss them. It is likely then that Palestinians and Israelis would mobilize their supporters to create and exploit fissures in the Western consensus—particularly political actors within their respective traditional allies—to exert political pressure against the moves.

Israel and its supporters will seek to mobilize opposition in the United States and among traditional European allies, while Palestinians and their supporters will seek to mobilize opposition among sympathetic European audiences. Diplomatic positions could quickly become domestic political challenges for countries that partake in an international coalition. Thus, the challenge facing the Western countries would relate not only to creating an inclusive coalition but also to maintaining such a coalition for a reasonable period of time against diplomatic and political challenges.

The ease of reaching a broad consensus of preferred permanent-status outcomes relates to the size and like-mindedness of the coalition behind such an initiative. On this count, a small coalition of like-minded states, while easier to create, could adversely affect the pursuit of peace if seen as lacking all, or a convincing majority of, international stakeholders. Conceptually, creating a coalition of the key stakeholders is not impossible. Not only did such a coalition launch the 1991 Madrid process and the 2003 Roadmap, but the success of the P5+1 in crafting the recent set of agreements with Iran might inspire Western countries and the international community to attempt such an effort in the Palestinian-Israeli conflict.

While this paper looks only into the preferences and policies of Western countries, such countries are likely to solicit at least some Arab participation in building a broader international coalition with impact. Even though much of the Arab world has been in turmoil since late 2011, the 2002 Arab Peace Initiative provides a basis for such participation (see appendix 9 for the translated text of the resolution). By putting forward their own set of ideas for resolving the conflict, and by offering Israel incentives to reach a peace deal, the Arab countries rendered themselves more substantive players in any international attempt to resolve the Palestinian-Israeli conflict. Palestinians have since come to rely more heavily on Arab political support and validation. Within Israel, significant voices, including that of Prime Minister Netanyahu, have increasingly called for a more active role for Arab states. In the last round of negotiations, U.S. secretary of state Kerry recognized this

expectation by constantly engaging Arab leaders, including on meaningful issues. Since Western countries have a strong preference that an agreement between Israelis and Palestinians lead to “a comprehensive Arab-Israeli peace” that includes “acceptance of full normal relations with Israel and security for all the states of the region,” these Western countries, by pursuing policies that assume an existing on-the-ground situation characterized by two states for two peoples, might create conditions that make it easier for Arab countries to gradually pursue more normal relations with Israel while minimizing the risks, thereby increasing the likelihood not just of a Palestinian-Israeli agreement but also the grand goal of Arab-Israeli peace.

In the absence of an international or even Western coalition, unilateral U.S. parameters could have their own impact by virtue of America’s position as the leading international actor in the peace process and the wider region. But by the same token, any U.S. action would raise an additional set of challenges. Namely, any potential U.S. parameters would need to be met with immediate, enthusiastic support from the major international stakeholders, a response that in turn would require a high degree of coordination and prior buy-in from the latter. Notably, the amount of effort needed for such precoordination would approach the effort needed to build a formal international coalition.

## A PACKAGE APPROACH

Regardless of whether the alignment of policies with preferences is taken by a broad or narrow coalition, there remains the question of whether countries that do embark on this path implement a package approach that aligns policies with preferences on all four core issues (status, borders, Jerusalem, refugees) or only on one or two issues.

The governments of Sweden, Iceland, and the Vatican have chosen the status issue as the one on which to align their policies with their preferences. Despite the questions this raises on their other policies with respect to borders, Jerusalem, and the displaced persons, refugees, and their descendants, Sweden, Iceland, and the Vatican have refrained, at this point, from aligning their policies with their preferences on these other core issues. Through their action on status, Iceland, Sweden, and the Vatican have clearly demonstrated a preference for one side—the Palestinians. In fact, Sweden has clearly declared that it is acting in this way because it believes the situation is “unequal” and that recognizing Palestine would make it less so. Sweden

has thus not only broken rank with the Western position of privileging the negotiations process over outcomes, but it has broken rank even further by privileging one specific outcome to the benefit of one side.

Sweden's pick-and-choose approach can only be justified if indeed the analysis behind it is correct—namely, that the failure of negotiations is due to Israeli strength and that, therefore, strengthening the Palestinian side is key to successful negotiations leading to the desired outcome. The issue then becomes less about aligning policies with preferences and more about strengthening one side against the other in the negotiations process. Since good arguments can also be made that the failure to make peace emerges from the continuous Arab Palestinian denial of the Jewish people's right to self-determination in their ancient homeland and that only Israeli strength can ultimately lead to the abandonment of this denial and therefore to peace, a pick-and-choose policy that strengthens one side against the other could instigate a “diplomatic arms race” whereby each side will seek to convince the Western community that achieving peace requires strengthening its side and weakening the other.

If countries were to align their policies with their preferences to useful effect, *the only coherent and helpful manner in which to proceed is the package approach*. This means that once governments have chosen to align their policies with their preferences, they should do so fully and across all core issues. *Only a package approach would send a clear message that the purpose of aligning Western policies with preferences is to secure the preferred outcome rather than favor either side over the other*. A package approach would mean that Western countries would align all their policies with their preferences regardless of which side would appear to benefit. Such policies would be concerned less with the question of “balance,” as Sweden expressed it, and more with whether they are making a future agreement, *as a whole*, more or less likely—that is, whether they are advancing their preferred outcome, even in the absence of a negotiated process: *the countries would then seek to “prejudice” the outcome rather than favor either side*.

## HOW ALIGNMENT COULD CONTRIBUTE TO PALESTINIAN-ISRAELI PEACE

Should Western countries choose to fully align their policies with their preferences as a complete package, the implication would be to *fundamentally alter the conditions under which Israelis and Palestinians operate and under which they consider their own policies with respect to the conflict*. Implemen-

tation of these policies as a package would most likely produce confusion for both sides, as each would find many of its demands being met but others being denied. Obviously, the sides are likely to laud policies that benefit them and protest those perceived to be to their detriment.

In changing the conditions under which the two sides consider their own policies, the most important implication of aligning Western policies with preferences would be to substantially reduce the perceived downside and risk for both sides regarding the concessions required to achieve peace based on two states for two peoples. In the past, Western policies have focused on trying to *increase the prospect of an upside* for both sides so that the benefits would outweigh the expected losses and overcome perceived risks. This was also the underlying premise of the Arab Peace Initiative. In parallel, Western countries have been careful not to give the sides any benefits up front, thinking that these are best left as bargaining chips for negotiations. For example, most Western governments have repeatedly tied their full recognition of a state of Palestine to a negotiated agreement with Israel, making this an Israeli bargaining chip and an Israeli concession to be made in negotiations. Alternatively, Western governments have been condoning the indefinite and exponential increase of descendants registered as refugees, thereby reinforcing the “right of return” as a Palestinian bargaining chip and a concession to be made in negotiations.

This means that Western policies to date have served to increase *both* the perceived upside and downside. However, as Daniel Kahneman and Amos Tversky’s 1979 paper on prospect theory has demonstrated, humans are far more averse to loss than they are drawn by benefits. In other words, they place greater value on what they stand to lose than on the equivalent benefit and their actions reflect this calculus. This certainly explains the behavior of Israelis and Palestinians over time. Both sides have repeatedly chosen to minimize loss over seeking benefit.

The profound implication of *aligning Western policies with preferences would be to operate more in line with prospect theory and the inclinations of the negotiating sides*. Western countries would be giving over a large share of the benefits to the sides in advance with no expectation in return—an upside less valuable to the sides than previously perceived. But they would also be taking away the bargaining chips from the sides, thereby substantially limiting the perceived loss, which the sides fear. For example, if all Western countries fully recognize the state of Palestine, directly and in the UN and the Security Council, for Israel to do so would no longer be much of a concession, with the risks and sense of loss in doing so thereby reduced. If Western countries recognize all Palestinians as

citizens of Palestine, and no longer as refugees, for Palestinians to concede the “right of return” would not mean much anymore to anyone but themselves, and the risks and sense of loss in doing so could be reduced. The situation following Western countries’ implementation of the policy changes could then lead to Israelis and Palestinians having less of an upside in reaching an agreement, but also much less of a downside and far fewer risks.

## A NEW INTERNATIONAL PARADIGM?

This paper has examined policy options open to Western countries in the absence of direct Palestinian-Israeli negotiations, designed to maintain the relevance of the two-state solution as a path to peace. It has done so by exploring the gaps between the stated preferences of Western countries and their current policies. It has also argued that the success of such an approach depends to some extent on the existence of a broad Western and even international consensus and, more important, a consistent, simultaneous package approach to all core issues.

The challenge is that these conditions are in part negatively correlated. To begin with, sufficient Western consensus can be achieved by formulating highly general parameters, as in the Roadmap, and by picking and choosing only certain policies, most likely those perceived as least sensitive. However, the more general the principles and less intently the package approach is pursued, the less likely any Western policy will affect the conversation both on the diplomatic and political levels.

Beyond a certain point, the value of expending the political and diplomatic capital necessary to carry through such an initiative is brought into question. Additionally, the parties themselves are prone to strongly argue that excessive vagueness forces them to make potential concessions without concrete gains. Also, if this approach is aimed at moving from a mere statement of preferences to concrete action, then failure to go into some degree of specificity makes it impossible to operationalize policy formulations. It used to be said that “constructive ambiguity” is necessary for making peace

IF PROSPECT THEORY is a good predictor of human behavior, and Israelis and Palestinians, like most humans, crave the upside less than they fear the downside, reducing both, rather than increasing both, means that the Israelis and Palestinians would be more likely to reach an agreement rather than less, which has been the dominant preference of Western governments all along.

between Israel and the Palestinians. After twenty-five years of attempting this approach, such ambiguity appears to be destructive in the Palestinian-Israeli context. What is likely needed in its place is “constructive specificity.” But the more specific the policies, the more difficult implementing a package approach and building an international or even Western consensus can be.

The two-state paradigm is indeed under tremendous stress. Opinion polls have consistently indicated a growing sense among both Palestinians and Israelis that while such a solution is desirable, it is unachievable. Uncoordinated and muddled action could add to the confusion surrounding the meaning of a two-state solution. A limited coalition that does not include all major stakeholders would chip at the sense of Western and international consensus over the desired outcome of Palestinian-Israeli peace. An initiative that fails to simultaneously address all core issues and enables individual countries to pick and choose policy choices most convenient and easiest to address could instigate a “diplomatic arms race” rather than make a meaningful contribution to peacemaking.

For the United States in particular, any such initiative must be seen in its wider regional context. Unwillingness to exert the requisite diplomatic and political capital to create an acceptable coalition that would employ a package approach would inevitably raise additional questions about the U.S. willingness or ability to lead in the Middle East. Inability to sustain U.S. commitment to the substance of such an initiative would feed an existing narrative that paints the United States as unwilling to back its positions with effective power and action.

The primary motivator for the advocates of spelling out Western policies and positions regarding permanent-status issues and fully aligning Western policies with these positions is the desire to halt the erosion of the two-state solution. To ensure that such an approach does not hasten the very scenario it aims to prevent, success for the international community under U.S. leadership requires approaching this matter in a clear-eyed way and addressing all permanent-status issues equally, consistently, and simultaneously, with a high degree of specificity, cognizant of the challenges and willing to bear the costs of overcoming them.

## Appendix 1

# Palestinian Statehood Resolution Aimed at End- ing the Israeli Occupa- tion by 2017

REAFFIRMING ITS PREVIOUS resolutions, in particular resolutions 242 (1967), 338 (1973), 1397 (2002), 1515 (2003), 1544 (2004), 1850 (2008), 1860 (2009) and the Madrid Principles,

Reiterating its vision of a region where two democratic states, Israel and Palestine, live side by side in peace within secure and recognized borders,

Reaffirming the right of the Palestinian people to self-determination,

Recalling General Assembly resolution 181 (II) of 29 November 1947,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force and recalling its resolutions 446 (1979), 452 (1979) and 465 (1980), determining, inter alia, that the policies and practices of Israel in establishing settlements in the territories occupied since 1967, including East Jerusalem, have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East,

Affirming the imperative of resolving the problem of the Palestine refugees on the basis of international law and relevant resolutions, including resolution 194 (III), as stipulated in the Arab Peace Initiative,

Underlining that the Gaza Strip constitutes an integral part of the Palestinian territory occupied in 1967, and calling for a sustainable solution to the situation in the Gaza Strip, including the sustained and regular opening of its border crossings for normal flow of persons and goods, in accordance with international humanitarian law,

Welcoming the important progress in Palestinian state-building efforts recognised by the World Bank and the IMF in 2012 and reiterating its call to all States and international organizations to contribute to the Palestinian institution building programme in preparation for independence,

Reaffirming that a just, lasting and peaceful settlement of the Israeli-Palestinian conflict can only be achieved by peaceful means, based on an enduring commitment to mutual recognition, freedom from violence, incitement and terror,

and the two-State solution, building on previous agreements and obligations and stressing that the only viable solution to the Israeli-Palestinian conflict is an agreement that ends the occupation that began in 1967, resolves all permanent status issues as previously defined by the parties, and fulfills the legitimate aspirations of both parties,

Condemning all violence and hostilities directed against civilians and all acts of terrorism, and reminding all States of their obligations under resolution 1373 (2001),

Recalling the obligation to ensure the safety and well-being of civilians and ensure their protection in situations of armed conflict,

Reaffirming the right of all States in the region to live in peace within secure and internationally recognized borders,

Noting with appreciation the efforts of the United States in 2013/14 to facilitate and advance negotiations between the parties aimed at achieving a final peace settlement,

Aware of its responsibilities to help secure a long-term solution to the conflict,

1. Affirms the urgent need to attain, no later than 12 months after the adoption of this resolution, a just, lasting and comprehensive peaceful solution that brings an end to the Israeli occupation since 1967 and fulfills the vision of two independent, democratic and prosperous states, Israel and a sovereign, contiguous and viable State of Palestine living side by side in peace and security within mutually and internationally recognized borders;
2. Decides that the negotiated solution will be based on the following parameters:
  - borders based on 4 June 1967 lines with mutually agreed, limited, equivalent land swaps;
  - security arrangements, including through a third-party presence, that guarantee and respect the sovereignty of a State of Palestine, including through a full and phased withdrawal of Israeli security forces which will end the occupation that began in 1967 over an agreed transition period in a reasonable timeframe, not to exceed the end of 2017, and that ensure the security of both Israel and Palestine through effective border security and by preventing the

- resurgence of terrorism and effectively addressing security threats, including emerging and vital threats in the region.
- A just and agreed solution to the Palestine refugee question on the basis of Arab Peace Initiative, international law and relevant United Nations resolutions, including resolution 194 (III);
  - Jerusalem as the shared capital of the two States which fulfills the legitimate aspirations of both parties and protects freedom of worship;
  - an agreed settlement of other outstanding issues, including water;
3. Recognizes that the final status agreement shall put an end to the occupation and an end to all claims and lead to immediate mutual recognition;
  4. Affirms that the definition of a plan and schedule for implementing the security arrangements shall be placed at the center of the negotiations within the framework established by this resolution;
  5. Looks forward to welcoming Palestine as a full Member State of the United Nations within the timeframe defined in the present resolution;
  6. Urges both parties to engage seriously in the work of building trust and to act together in the pursuit of peace by negotiating in good faith and refraining from all acts of incitement and provocative acts or statements, and also calls upon all States and international organizations to support the parties in confidence-building measures and to contribute to an atmosphere conducive to negotiations;
  7. Calls upon all parties to abide by their obligations under international humanitarian law, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;
  8. Encourages concurrent efforts to achieve a comprehensive peace in the region, which would unlock the full potential of neighborly relations in the Middle East and reaffirms in this regard the importance of the full implementation of the Arab Peace Initiative;
  9. Calls for a renewed negotiation framework that ensures the close involvement, alongside the parties, of major stakeholders to help the parties reach an agreement within the established timeframe and implement all aspects of the final status, including through the provision of political support as well as tangible support for post-conflict and peace-

- building arrangements, and welcomes the proposition to hold an international conference that would launch the negotiations;
10. Calls upon both parties to abstain from any unilateral and illegal actions, including settlement activities, that could undermine the viability of a two-State solution on the basis of the parameters defined in this resolution;
  11. Calls for immediate efforts to redress the unsustainable situation in the Gaza Strip, including through the provision of expanded humanitarian assistance to the Palestinian civilian population via the United Nations Relief and Works Agency for Palestine Refugees in the Near East and other United Nations agencies and through serious efforts to address the underlying issues of the crisis, including consolidation of the cease-fire between the parties;
  12. Requests the Secretary-General to report on the implementation of this resolution every three months;
  13. Decides to remain seized of the matter.

## Appendix 2

# UN Security Resolution 242

November 22, 1967

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
  - i. Withdrawal of Israel armed forces from territories occupied in the recent conflict;
  - ii. Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;
2. Affirms further the necessity
  - a. For guaranteeing freedom of navigation through international waterways in the area;
  - b. For achieving a just settlement of the refugee problem;
  - c. For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;
4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

## Appendix 3

### “Sweden Today Decides to Recognise the State of Palestine”

THE GOVERNMENT WILL decide today to recognise the State of Palestine. This is an important step that confirms the right of the Palestinian people to self-determination.

Sweden’s traditionally close ties with the state of Israel are now complemented by an equivalent relationship with the other party in the two-state solution that Israelis, Palestinians and a united international community see as the path to lasting peace in the Middle East.

Our decision comes at a critical time. Over the last year, we have seen how the peace talks have again stalled, how new settlement decisions on occupied Palestinian land have hampered a two-state solution and how violence returned to Gaza. Today’s recognition is a contribution to a better future for a region that for far too long has been marked by frozen negotiations, destruction and frustration.

By recognising the State of Palestine, we want first of all to lend our support to the moderate Palestinian forces—those who will manage the complex Palestinian state-building process and those who will soon again have to sit at the negotiating table.

Secondly, we want to facilitate an agreement by making the parties in these negotiations less unequal. The objective is to enable Israel and Palestine to live within mutually recognised borders, with the 1967 borders as the basis and Jerusalem as the capital of two states, and where any land swaps will only be accepted if negotiated by the parties.

And thirdly, we want to contribute to creating more hope and belief in the future among young Palestinians and Israelis who might otherwise risk being radicalised in the belief that there is no alternative to violence and the status quo. We want our recognition to say the same thing to the six-year-old child in Gaza who has already experienced three wars as to six-year-olds in Israel: we still believe in a peace agreement based on the state of Israel living side by side in peace and security with a democratic, cohesive and viable Palestinian state.

The government considers that the international law criteria for the recognition of the State of Palestine have been satisfied.

There is a territory, albeit with non-defined borders. There is also a population. And there is a government with the capacity for internal and external control.

In addition, the international community has deemed Palestine to be well positioned for the establishment of a state; in other words, it has the capacity to assume the obligations of a state.

It is true that the Palestinian Authority does not have full control over Palestine, neither in the West Bank nor in Gaza. As far as Gaza is concerned, following the formation of Palestinian technocratic unity government and the reconciliation agreement between Hamas and Fatah, the capacity for internal cohesion has been enhanced. Not to recognise Palestine because of the Israeli occupation would be contrary to the international law principle of “no fruits of aggression.”

The government’s assessment that the international law criteria have been fulfilled is shared by international law experts, including Professor Ove Bring, Professor Said Mahmoudi and Professor Pal Wrangé, who recently wrote an opinion piece on this subject, in *Dagens Nyheter* (20 October).

Sweden has previously recognised states—Croatia in 1992 and Kosovo in 2008—even though they lacked effective control over parts of their territory. Palestine is similarly a special case. Now as then, there are strong political arguments for why recognition—a decision regarding Palestine already taken by more than 130 states—is the right way to go.

In 2009 EU member states reiterated their readiness to recognise a Palestinian state, when appropriate. We are now ready to lead the way. In view of the difficult situation in the region and in light of the international law analysis, the government sees no reason to further delay a Swedish decision. We hope that this may show others the way forward.

Sweden’s recognition of the State of Palestine will be followed by enhanced efforts to support the development of democracy and human rights in Palestine. Recognition also entails greater responsibility. We will make clear demands on Palestine, just as we do on Israel. These will include fighting corruption, respecting civil and political rights and increasing the influence of women. Obviously, this also means a complete renunciation of violence.

There are those who will argue that today’s decision is premature. If anything, I

fear it is too late. The government will now, together with the other EU countries, the United States and other regional and international actors, work to support renewed negotiations on a final status settlement. Such a settlement must be negotiated in accordance with the principles of international law and guarantee both the Palestinians' and Israelis' legitimate demands for national self-determination and security.

Israel and Palestine are already living side by side. The goal is to be able to do so in peaceful coexistence with secure and recognised borders. The purpose of Sweden's recognition is to contribute to such a future.

## Appendix 4

### 2003 Roadmap Peace Initiative: Preamble

#### *A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict*

THE FOLLOWING is a performance-based and goal-driven roadmap, with clear phases, timelines, target dates, and benchmarks aiming at progress through reciprocal steps by the two parties in the political, security, economic, humanitarian, and institution-building fields, under the auspices of the Quartet. The destination is a final and comprehensive settlement of the Israel-Palestinian conflict by 2005, as presented in President Bush's speech of 24 June, and welcomed by the EU, Russia and the UN in the 16 July and 17 September Quartet Ministerial statements.

A two state solution to the Israeli-Palestinian conflict will only be achieved through an end to violence and terrorism, when the Palestinian people have a leadership acting decisively against terror and willing and able to build a practicing democracy based on tolerance and liberty, and through Israel's readiness to do what is necessary for a democratic Palestinian state to be established, and a clear, unambiguous acceptance by both parties of the goal of a negotiated settlement as described below. The Quartet will assist and facilitate implementation of the plan, starting in Phase I, including direct discussions between the parties as required. The plan establishes a realistic timeline for implementation. However, as a performance-based plan, progress will require and depend upon the good faith efforts of the parties, and their compliance with each of the obligations outlined below. Should the parties perform their obligations rapidly, progress within and through the phases may come sooner than indicated in the plan. Non-compliance with obligations will impede progress.

A settlement, negotiated between the parties, will result in the emergence of an independent, democratic, and viable Palestinian state living side by side in peace and security with Israel and its other neighbors. The settlement will resolve the Israel-Palestinian conflict, and end the occupation that began in 1967, based on the foundations of the Madrid Conference, the principle of land for peace,

UNSCRs 242 [see Appendix 1], 338 [calling for a ceasefire to the 1973 war] and 1397 [seeking to end the second Palestinian intifada], agreements previously reached by the parties, and the initiative of Saudi Crown Prince Abdullah—endorsed by the Beirut Arab League Summit—calling for acceptance of Israel as a neighbor living in peace and security, in the context of a comprehensive settlement. This initiative is a vital element of international efforts to promote a comprehensive peace on all tracks, including the Syrian-Israeli and Lebanese-Israeli tracks.

The Quartet will meet regularly at senior levels to evaluate the parties' performance on implementation of the plan. In each phase, the parties are expected to perform their obligations in parallel, unless otherwise indicated.

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Source: <http://www.un.org/News/dh/mideast/roadmap122002.pdf>

## Appendix 5

### 2003 Geneva Accord: Preamble

THE STATE OF ISRAEL (hereinafter “Israel”) and the Palestine Liberation Organization (hereinafter “PLO”), the representative of the Palestinian people (hereinafter the “Parties”):

- |             |  |
|-------------|--|
| Reaffirming | their determination to put an end to decades of confrontation and conflict, and to live in peaceful coexistence, mutual dignity and security based on a just, lasting, and comprehensive peace [emphasis added] and achieving historic reconciliation; |
| Recognizing | that peace requires the transition from the logic of war and confrontation to the logic of peace and cooperation, and that acts and words characteristic of the state of war are neither appropriate nor acceptable in the era of peace;               |
| Affirming   | their deep belief that the logic of peace requires compromise, and that the only viable solution is a two-state solution based on UNSC Resolution 242 and 338;   |
| Affirming   | that this agreement marks the recognition of the right of the Jewish people to statehood and the recognition of the right of the Palestinian people to statehood, without prejudice to the equal rights of the Parties’ respective citizens;           |
| Recognizing | that after years of living in mutual fear and insecurity, both peoples need to enter an era of peace, security and stability, entailing all necessary actions by the parties to guarantee the realization of this era;                                 |

Recognizing	each other's right to peaceful and secure existence within secure and recognized boundaries free from threats or acts of force;
Determined	to establish relations based on cooperation and the commitment to live side by side as good neighbors aiming both separately and jointly to contribute to the well-being of their peoples;
Reaffirming	their obligation to conduct themselves in conformity with the norms of international law and the Charter of the United Nations;
Confirming	that this Agreement is concluded within the framework of the Middle East peace process initiated in Madrid in October 1991, the Declaration of Principles of September 13, 1993, the subsequent agreements including the Interim Agreement of September 1995, the Wye River Memorandum of October 1998 and the Sharm El-Sheikh Memorandum of September 4, 1999, and the permanent status negotiations including the Camp David Summit of July 2000, the Clinton Ideas of December 2000, and the Taba Negotiations of January 2001;
Reiterating	their commitment to United Nations Security Council Resolutions 242, 338 and 1397 and confirming their understanding that this Agreement is based on, will lead to, and—by its fulfillment—will constitute the full implementation of these resolutions and to the settlement of the Israeli-Palestinian conflict in all its aspects;
Declaring	that this Agreement constitutes the realization of the permanent status peace component envisaged in President Bush's speech of June 24, 2002 and in the Quartet Roadmap process;

Declaring	that this Agreement marks the historic reconciliation between the Palestinians and Israelis, and paves the way to reconciliation between the Arab World and Israel and the establishment of normal, peaceful relations between the Arab states and Israel in accordance with the relevant clauses of the Beirut Arab League Resolution of March 28, 2002; and
Resolved	to pursue the goal of attaining a comprehensive regional peace, thus contributing to stability, security, development and prosperity throughout the region;...

## Appendix 6

# UN General Assembly Resolution 181: Preamble

November 29, 1947

The General Assembly,

Having met in special session at the request of the mandatory Power to constitute and instruct a Special Committee to prepare for the consideration of the question of the future Government of Palestine at the second regular session;

Having constituted a Special Committee and instructed it to investigate all questions and issues relevant to the problem of Palestine, and to prepare proposals for the solution of the problem, and

Having received and examined the report of the Special Committee (document A/3640(1) including a number of unanimous recommendations and a plan of partition with economic union approved by the majority of the Special Committee,

Considers that the present situation in Palestine is one which is likely to impair the general welfare and friendly relations among nations;

Takes note of the declaration by the mandatory Power that it plans to complete its evacuation of Palestine by 1 August 1948;

Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future Government of Palestine, of the Plan of Partition with Economic Union set out below;

Requests that

The Security Council take the necessary measures as provided for in the plan for its implementation;

The Security Council consider, if circumstances during the transitional period require such consideration, whether the situation in Palestine constitutes a

threat to the peace. If it decides that such a threat exists, and in order to maintain international peace and security, the Security Council should supplement the authorization of the General Assembly by taking measures, under Articles 39 and 41 of the Charter, to empower the United Nations Commission, as provided in this resolution, to exercise in Palestine the functions which are assigned to it by this resolution;

The Security Council determine as a threat to the peace, breach of the peace or act of aggression, in accordance with Article 39 of the Charter, any attempt to alter by force the settlement envisaged by this resolution;

The Trusteeship Council be informed of the responsibilities envisaged for it in this plan;

Calls upon the inhabitants of Palestine to take such steps as may be necessary on their part to put this plan into effect;

Appeals to all Governments and all peoples to refrain from taking any action which might hamper or delay the carrying out of these recommendations, and

Authorizes the Secretary-General to reimburse travel and subsistence expenses of the members of the Commission referred to in Part 1, Section B, Paragraph I below, on such basis and in such form as he may determine most appropriate in the circumstances, and to provide the Commission with the necessary staff to assist in carrying out the functions assigned to the Commission by the General Assembly.

The General Assembly,

Authorizes the Secretary-General to draw from the Working Capital Fund a sum not to exceed 2,000,000 dollars for the purposes set forth in the last paragraph of the resolution on the future government of Palestine.

## Appendix 7

# UN General Assembly Accords Palestine “Non-Member Observer State” Status

UN PRESS RELEASE

Sixty-Seventh General Assembly  
General Assembly Plenary  
44<sup>TH</sup> & 45<sup>TH</sup> Meetings (PM & NIGHT)

Objective to “Breathe New Life” into Peace Process, Says Palestinian  
President; Israel’s Delegate Counters, Without Direct  
Negotiations, Peace Remains “Out of Reach”

VOTING BY an overwhelming majority—138 in favour to 9 against (Canada, Czech Republic, Israel, Marshall Islands, Micronesia (Federated States of), Nauru, Panama, Palau, United States), with 41 abstentions—the General Assembly today accorded Palestine Non-Member Observer State status in the United Nations.

“The moment has arrived for the world to say clearly: enough of aggression, settlements and occupation,” said Mahmoud Abbas, President of the Palestinian Authority, as he called on the 193-member body to “issue a birth certificate of the reality of the State of Palestine.” Indeed, following Israel’s latest aggression against the Gaza Strip, the international community now faced “the last chance” to save the long elusive two-State solution, he said, adding: “The window of opportunity is narrowing and time is quickly running out.”

Palestine came before the Assembly because it believed in peace, and because its people were in desperate need of it, he said, speaking ahead of the vote. Its endeavour to seek a change in status at the United Nations did not aim to terminate what remained of the long stagnant peace negotiations; instead, he said, it was aimed at trying to “breathe new life” into the process. Support for the resolution would also send a promising message to millions of Palestinians “that justice is possible and that there is a reason to be hopeful,” he stressed.

The text upgraded Palestine’s status without prejudice to the acquired rights, privileges and role of the Palestine Liberation Organization in the

United Nations as the representative of the Palestinian people, in accordance with the relevant resolutions and practice. The Palestinian Liberation Organization was recognized as an observer entity in 1974. By other terms of the resolution—the adoption of which coincided with the observance of the International Day of Solidarity with the Palestinian People and with the Assembly’s annual debate on the Question of Palestine—Member States echoed the “urgent need for the resumption and acceleration” of the peace negotiations.

Israel’s representative, also taking the floor before the vote, emphasized that the “one-sided” resolution did not advance peace, but instead pushed the process backward. “There is only one route to Palestinian statehood. There are no shortcuts. No quick fixes,” he said. The route to peace ran through direct negotiations between Jerusalem and Ramallah. “Israel is prepared to live in peace with a Palestinian State, but for peace to endure, Israel’s security must be protected,” he added.

He said that certain vital interests of his country, including recognition of the Jewish State and an agreement to end the conflict with Israel once and for all, did not appear in the text. Indeed, the only way to achieve peace was through agreements that had been reached by the parties and not through United Nations resolutions. He added that, as long as President Abbas preferred symbolism over reality, as long as he preferred to travel to New York rather than travel to Jerusalem for genuine dialogue, any hope of peace would be out of reach.

“There can be no substitute for negotiations,” agreed United Nations Secretary-General Ban Ki-moon, who also addressed the Assembly following the resolution’s adoption. The decision to accord Palestine non-Member Observer State status was the prerogative of Member States, he said of the action, reiterating his belief that the Palestinians had a legitimate right to an independent State, and that Israel had the right to live in peace and security. “I call on all those concerned to act responsibly” and intensify efforts towards reconciliation and towards a just and lasting peace, he said.

General Assembly President Vuk Jeremi said that in today’s interconnected world, “what happens between the River Jordan and the shores of the Mediterranean has become the key to the security and well-being of [all] mankind.” Notwithstanding the efforts of some of the most courageous statesmen of the twentieth century, a negotiated comprehensive settlement that would enable Israel and Palestine to live side by side in peace and security had yet to materialize “[a]nd so we still witness [...] enmity, estrangement, and mistrust—as parents continue to bury their children.”

He appealed to both sides to work for peace; to negotiate in good faith; and ultimately, to succeed in reaching a historic settlement. "I have no doubt that history will judge this day to have been fraught with significance—but whether it will come to be looked upon as a step in the right direction on the road to peace will depend on how we bear ourselves in its wake," he declared.

Among speakers who expressed their support for the resolution was Ahmet Davutoglu, Minister for Foreign Affairs of Turkey, who said that, for 65 years, the whole world had shut its eyes to the plight of the Palestinian people. During that time, no resolution towards a Palestinian State had been honoured. "The reality of Palestine," he said, "is a bleeding wound in the conscience of all humanity."

Further, he said, "our vision for justice, international order and human rights will not be achieved until the moment we [...] see the flag of the State of Palestine side by side with ours, as a full Member of the United Nations." The granting of non-Member Observer State status could act as a "booster" creating the long-needed momentum towards a negotiated, comprehensive solution. Calling today's vote a "first step," he urged all United Nations Members to fulfil their long overdue responsibility towards the Palestinians.

"The eyes of all the children of Palestine are directed towards us," said the representative of Sudan, who introduced the resolution. He called on all States to contribute today "to make history" and to "pave the way for the future" by casting their votes in favour. Doing so would be a victory both for the value of truth and for the Palestinian people themselves, he said.

However, other delegates, explaining their votes against the resolution, agreed with Israel's representative that the text would do nothing to advance positive relations between the two parties to the conflict. In that vein, the representative of the United States said that her delegation had voted against the "unfortunate and counterproductive" resolution as it placed further obstacles in the path to peace.

The United States felt strongly that today's "grand pronouncements would soon fade" and that the Palestinian people would wake up tomorrow "and find out that little about their lives had changed," save that the prospects of peace had receded. Therefore, the United States called on both parties to renew direct negotiations, and continued to urge all parties to avoid all provocative actions in the region, in New York or elsewhere.

Also speaking prior to this morning's action were the foreign ministers of Indonesia and Canada.

Speaking in explanation of their votes following action were delegates from France, Singapore, United Kingdom, Germany, Switzerland, Belgium, Bulgaria,

Serbia, Honduras, Denmark, Italy, Greece, Hungary, Austria, Australia, New Zealand, Czech Republic, Finland, Norway, United Republic of Tanzania, South Sudan, Netherlands, Japan, Costa Rica, Guatemala, Spain, Mexico, Georgia, Jamaica, Russian Federation, Papua New Guinea, Republic of Korea, Romania, Portugal and Mauritius.

Other speakers in the debate on the Question of Palestine were the representatives of Egypt, Iran (on behalf of the Non-Aligned Movement), Djibouti (on behalf of the Organization of the Islamic Conference), China, Kuwait, Nigeria, South Africa, United Arab Emirates, Brazil, Cuba, Venezuela, Malaysia, Syria, Morocco, Tunisia and Namibia.

The Head of the Delegation of the European Union also addressed the meeting.

The General Assembly will next convene on Friday, 30 November, at 11 a.m. to continue and conclude its debate on the question of Palestine and to take up the situation in the Middle East.

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See <http://www.un.org/press/en/2012/ga11317.doc.htm> for remaining text of the release, including comments by representatives of voting nations.

## Appendix 8

### Letter from President Bush to Prime Minister Sharon

April 14, 2004

Dear Mr. Prime Minister:

Thank you for your letter setting out your disengagement plan.

The United States remains hopeful and determined to find a way forward toward a resolution of the Israeli-Palestinian dispute. I remain committed to my June 24, 2002, vision of two states living side by side in peace and security as the key to peace, and to the roadmap as the route to get there.

We welcome the disengagement plan you have prepared, under which Israel would withdraw certain military installations and all settlements from Gaza, and withdraw certain military installations and settlements in the West Bank. These steps described in the plan will mark real progress toward realizing my June 24, 2002, vision, and make a real contribution towards peace. We also understand that, in this context, Israel believes it is important to bring new opportunities to the Negev and the Galilee. We are hopeful that steps pursuant to this plan, consistent with my vision, will remind all states and parties of their own obligations under the roadmap.

The United States appreciates the risks such an undertaking represents. I therefore want to reassure you on several points.

First, the United States remains committed to my vision and to its implementation as described in the roadmap. The United States will do its utmost to prevent any attempt by anyone to impose any other plan. Under the roadmap, Palestinians must undertake an immediate cessation of armed activity and all acts of violence against Israelis anywhere, and all official Palestinian institutions must end incitement against Israel. The Palestinian leadership must act decisively against terror, including sustained, targeted, and effective operations to stop terrorism and dismantle terrorist capabilities and infrastructure. Palestinians must undertake a comprehensive and fundamental political reform that includes a strong parliamentary democracy and an empowered prime minister.

Second, there will be no security for Israelis or Palestinians until they and all states, in the region and beyond, join together to fight terrorism and dismantle terrorist organizations. The United States reiterates its steadfast commitment to Israel's security, including secure, defensible borders, and to preserve and strengthen Israel's capability to deter and defend itself, by itself, against any threat or possible combination of threats.

Third, Israel will retain its right to defend itself against terrorism, including to take actions against terrorist organizations. The United States will lead efforts, working together with Jordan, Egypt, and others in the international community, to build the capacity and will of Palestinian institutions to fight terrorism, dismantle terrorist organizations, and prevent the areas from which Israel has withdrawn from posing a threat that would have to be addressed by any other means. The United States understands that after Israel withdraws from Gaza and/or parts of the West Bank, and pending agreements on other arrangements, existing arrangements regarding control of airspace, territorial waters, and land passages of the West Bank and Gaza will continue. The United States is strongly committed to Israel's security and well-being as a Jewish state. It seems clear that an agreed, just, fair, and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel.

As part of a final peace settlement, Israel must have secure and recognized borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.

I know that, as you state in your letter, you are aware that certain responsibilities face the State of Israel. Among these, your government has stated that the barrier being erected by Israel should be a security rather than political barrier, should be temporary rather than permanent, and therefore not prejudice any final status issues including final borders, and its route should take into account, consistent with security needs, its impact on Palestinians not engaged in terrorist activities.

As you know, the United States supports the establishment of a Palestinian state that is viable, contiguous, sovereign, and independent, so that the Palestinian people can build their own future in accordance with my vision set forth in June 2002 and with the path set forth in the roadmap. The United States will join with others in the international community to foster the development of democratic political institutions and new leadership committed to those institutions, the reconstruction of civic institutions, the growth of a free and prosperous economy, and the building of capable security institutions dedicated to maintaining law and order and dismantling terrorist organizations.

A peace settlement negotiated between Israelis and Palestinians would be a great boon not only to those peoples but to the peoples of the entire region. Accordingly, the United States believes that all states in the region have special responsibilities: to support the building of the institutions of a Palestinian state; to fight terrorism, and cut off all forms of assistance to individuals and groups engaged in terrorism; and to begin now to move toward more normal relations with the State of Israel. These actions would be true contributions to building peace in the region.

Mr. Prime Minister, you have described a bold and historic initiative that can make an important contribution to peace. I commend your efforts and your courageous decision which I support. As a close friend and ally, the United States intends to work closely with you to help make it a success.

Sincerely,  
George W. Bush

## Appendix 9

### Arab Peace Initiative

THE COUNCIL OF ARAB STATES at the Summit Level at its 14th Ordinary Session,

Reaffirming the resolution taken in June 1996 at the Cairo Extra-Ordinary Arab Summit that a just and comprehensive peace in the Middle East is the strategic option of the Arab countries, to be achieved in accordance with international legality, and which would require a comparable commitment on the part of the Israeli government,

Having listened to the statement made by his royal highness Prince Abdullah bin Abdul Aziz, crown prince of the Kingdom of Saudi Arabia, in which his highness presented his initiative calling for full Israeli withdrawal from all the Arab territories occupied since June 1967, in implementation of Security Council Resolutions 242 and 338, reaffirmed by the Madrid Conference of 1991 and the land-for-peace principle, and Israel's acceptance of an independent Palestinian state with East Jerusalem as its capital, in return for the establishment of normal relations in the context of a comprehensive peace with Israel,

Emanating from the conviction of the Arab countries that a military solution to the conflict will not achieve peace or provide security for the parties, the council:

1. Requests Israel to reconsider its policies and declare that a just peace is its strategic option as well.
2. Further calls upon Israel to affirm:
  - i. Full Israeli withdrawal from all the territories occupied since 1967, including the Syrian Golan Heights, to the June 4, 1967 lines as well as the remaining occupied Lebanese territories in the south of Lebanon.
  - ii. Achievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. General Assembly Resolution 194.
  - iii. The acceptance of the establishment of a sovereign independent Pales-

tinian state on the Palestinian territories occupied since June 4, 1967 in the West Bank and Gaza Strip, with East Jerusalem as its capital.

3. Consequently, the Arab countries affirm the following:
  - i. Consider the Arab-Israeli conflict ended, and enter into a peace agreement with Israel, and provide security for all the states of the region.
  - ii. Establish normal relations with Israel in the context of this comprehensive peace.
4. Assures the rejection of all forms of Palestinian patriation which conflict with the special circumstances of the Arab host countries.
5. Calls upon the government of Israel and all Israelis to accept this initiative in order to safeguard the prospects for peace and stop the further shedding of blood, enabling the Arab countries and Israel to live in peace and good neighbourliness and provide future generations with security, stability and prosperity.
6. Invites the international community and all countries and organisations to support this initiative.
7. Requests the chairman of the summit to form a special committee composed of some of its concerned member states and the secretary general of the League of Arab States to pursue the necessary contacts to gain support for this initiative at all levels, particularly from the United Nations, the Security Council, the United States of America, the Russian Federation, the Muslim states and the European Union.

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For purposes of comparison, the following is an earlier draft discussed by Arab foreign ministers on 25 March, 2002, in advance of the summit:

The Council of the Arab League, which convenes at the level of a summit on March 27–28, 2002, in Beirut, affirms the Arab position that achieving just and comprehensive peace is a strategic choice and goal for the Arab states.

After the Council heard the statement of Crown Prince Abdullah bin Abdul Aziz in which he called for the establishment of normal relations in the context of a comprehensive peace with Israel, and that Israel declares its readiness to withdraw from the occupied Arab territories in compliance with United Nations resolutions 242 and 338 and Security Council resolution 1397, enhanced by the Madrid conference and the land-for-peace principle, and the acceptance of an

independent, sovereign Palestinian state with al-Quds al-Sharif as its capital, the Council calls on the Israeli government to review its policy and to resort to peace while declaring that just peace is its strategic option.

The Council also calls on Israel to assert the following:

- Complete withdrawal from the Arab territories occupied since 1967, including full withdrawal from the occupied Syrian Golan Heights and the remaining occupied parts of south Lebanon to the June 4, 1967 lines.
- To accept to find an agreed, just solution to the problem of Palestinian refugees in conformity with Resolution 194.
- To accept an independent and sovereign Palestinian state on the Palestinian lands occupied since June 4, 1967 in the West Bank and Gaza Strip and with Jerusalem (al-Quds al-Sharif) as its capital in accordance with Security Council Resolution 1397.

In return, the Arab states assert the following:

- To consider the Arab-Israeli conflict over and to enter into a peace treaty with Israel to consolidate this.
- To achieve comprehensive peace for all the states of the region.
- To establish normal relations within the context of comprehensive peace with Israel.

The Council calls on the Israeli government and the Israelis as a whole to accept this initiative to protect the prospects of peace and to spare bloodshed so as to enable the Arab states and Israel to coexist side by side and to provide for the coming generations a secure, stable and prosperous future.

It calls on the international community with all its organisations and states to support the initiative.

The Council calls on its presidency, its secretary general and its follow-up committee to follow up on the special contacts related to this initiative and to support it on all levels, including the United Nations, the United States, Russia, the European Union and the Security Council.

## NOTES

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