

EUROPEAN UNION POLICY ON THE  
ISRAELI-PALESTINIAN CONFLICT:  
FROM PAYER TO PLAYER?

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## INTRODUCTION

By any measure, the European Union is serious about resolving the Israeli-Palestinian conflict. There is longstanding, broad involvement by EU institutions and national governments. The conflict is a frequent issue on the agenda of the European Council, which brings together the heads of state or government of all member states. It is always an item on the agenda of foreign ministers. Diplomats meet to deal with the Middle East issue at working levels even more frequently. A senior EU official, the EU Special Envoy to the Middle East Peace Process, deals with the conflict daily. Assistance to the Palestinians and related development projects are major foci of EU funding, for which the European Commission is responsible. The European Parliament often takes an interest in some facet of the conflict, be it the content of Palestinian textbooks or imports from Israeli settlements in the occupied territories.

All EU member states have their national views of the conflict, which they hold with varying degrees of intensity and specificity. All member states (with the exception of the very smallest) are represented on the ground through embassies in Tel Aviv and either through consulates-general in Jerusalem or representative offices in Ramallah. The European Commission is represented locally as well. Britain and France in particular retain a sustained interest. Eighty some years ago, they were the major architects of the modern Middle East. Today, they have seats as permanent members of the United Nations Security Council.

A caveat is in order. This is a paper about *European Union* policy toward the Israeli-Palestinian conflict, not the policies of some European states or European policy as an aggregate of the policies of individual European states. Nor is this a paper about what in EU parlance is called “external relations”, the dimension of economic and trade relations with non-EU states run by the supranational European Commission, although I do refer to that dimension on occasion. My focus is on policy as agreed upon by the EU member states through the institutions of their foreign policy cooperation and coordination. Prior to the ratification of the Maastricht Treaty in 1993 such cooperation was known as the European Political Cooperation (EPC); since Maastricht it is known as

the Common Foreign and Security Policy (CFSP). It is evident that some member states influence the formulation of common policy much more than others, and differences among member states in their approaches are often significant and worth a study of their own. What interests me here, however, is the *common* outcome, not the individual inputs.

The EPC, established in 1970, concentrated on exchanging information, but also sought, and achieved, a modest degree of coordination among the views of member states on key foreign policy issues, which very much included the Middle East. As section 3 makes clear, a cornerstone of EU Middle East policy (the Venice declaration of 1980) was laid under the EPC. However, it is only with the advent of the CFSP that the ambition of acting, not just speaking, collectively was added to EU foreign policy.

“The aim of the CFSP is to enable the Union to speak with a single voice and to act effectively in the service of its interests and those of the international community in general”.<sup>1</sup> In practice, speaking with a single voice has most often meant adoption and publication of common policy statements, whether at the European Council or on the level of foreign ministers acting through their own council.<sup>2</sup> European Council declarations, adopted at the highest political level as they are, tend to focus on broader issues of principle, while the foreign ministers’ statements tend to be more detailed and operative. The rotating presidency is also empowered to issue policy statements on behalf of the EU. Typically these are quick reactions to unfolding events and tend to have a short shelf life.

To enhance the capability of the EU to act collectively, a specific foreign policy instrument (joint action) as well as the office of a special envoy were created. One of the first special envoys was dedicated to the Middle East peace process.

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<sup>1</sup> Presidency conclusions, Brussels European Council, 29 October 1993.

<sup>2</sup> Until 2003 the foreign ministers met in what was known as the General Affairs Council (GAC). In 2003, the GAC was split into two councils with separate agendas (General Affairs and External Relations) under the joint acronym GAERC. CFSP issues are dealt with in the External Relations Council.

The Middle East is at least as vital for Europe as Mexico is for America, and the EU – as it slowly defines itself – will increasingly attempt to assert its position.<sup>3</sup>

The above statement, while not European in origin (it comes in fact from an American, Zbigniew Brzezinski), reflects perhaps better than any European Council declaration the dominant view among major EU decision-makers as to the importance of the Middle East for Europe in a post-Cold War world. Russia has receded as a threat. The Middle East, however, is near; it is economically, socially and demographically important for Europe and it is a source of constant and violent trouble, much more than Mexico is for the United States. Moreover, with Cyprus acceding it in 2004 and Turkey perhaps in the 2010s, the EU will soon physically border the Middle East.

From the very beginning of the CFSP, the Middle East was identified by the European Council as one of the five priority areas where joint action should be undertaken.<sup>4</sup> The beginning of the CFSP more or less coincided with the relaunch – at Madrid and Oslo - of the Middle East peace process in the early nineties. Thereafter, the Israeli-Palestinian conflict has invariably found its way to the presidency conclusions, as the various declarations adopted at the end of each European Council are collectively known. It has also been the subject of a number of self-standing declarations by the European Council.

Javier Solana, the EU High Representative for the CFSP, recently defined resolution of the Arab-Israeli conflict as “a strategic priority for Europe”, without which there will be little chance of dealing successfully with other problems in the Middle East.<sup>5</sup> Solana’s view was subsequently endorsed by the European Council, which tasked him and the presidency, in coordination with the Commission, to present concrete proposals on a strategy towards the Middle East. An interim report entitled “An EU Strategic Partnership with the Mediterranean and the Middle East” was presented to the EU foreign ministers in March 2004. While the interim report is rather thin on concrete proposals, it is emphatic in saying that it will not be possible to build a common zone of

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<sup>3</sup> Zbigniew Brzezinski, “Hegemonic Quicksand”, *The National Interest*, Nr 75 (Winter 2003/2004).

<sup>4</sup> Presidency conclusions, Brussels European Council, 29 October 1993. The other areas identified for joint action were Promotion of stability and peace in Europe, South Africa, Former Yugoslavia, and Russia.

<sup>5</sup> “A Secure Europe in a Better World”, report to the Thessaloniki European Council, 20 June 2003.

peace, prosperity and progress – the overall EU objective for the Mediterranean and the Middle East – unless a just and lasting settlement of the Arab-Israeli conflict is in place.<sup>6</sup> A final report will be submitted to the European Council for adoption in its June 2004 session.

Common engagement is expressed most concretely in economic assistance to the Palestinians, provided by the European Commission and bilaterally by member states. Israel, as a developed economy, does not receive aid from the EU, nor has it requested any. Support to the Palestinian Authority established under the Israel-PLO agreement of 1993 through EU aid programs for the development of the occupied territories was quickly identified as one of the areas suitable for EU initiatives.<sup>7</sup> The EU collectively has been and is the single biggest donor of aid to the Palestinians.<sup>8</sup> The EU is also a major contributor to the United Nations agencies assisting the Palestinians, specifically UNRWA.<sup>9</sup> The status of the EU as the leading donor is noted in a somewhat self-congratulatory manner in declaration after declaration.

The total international aid effort (the EU and all others) of around \$500 million a year on an average since 1994 has doubled since September 2000, the start of the *intifada*, the Palestinian uprising against Israeli rule. Aid to the inhabitants of the occupied territories (the West Bank and Gaza) has risen to an annual \$315 per person, the highest rate of per capita expenditure in the history of foreign aid. Unfortunately, the focus of the aid has at

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<sup>6</sup> For the text of the interim report, see the provisional agenda of the External Relations Council, 22 March 2004, document 7383/04 (Presse 80).

<sup>7</sup> Presidency conclusions entitled “Middle East Peace Process: Framework for Joint Action”, Brussels European Council, 10-11 December 1993.

<sup>8</sup> European Union aid to the Palestinians totaled 3.5 billion euros from 1994 through 2001. This sum includes grants from the European Commission, the 15 member states, contributions to UNRWA and loans from the European Investment Bank. Direct EU assistance to the West Bank and the Gaza Strip over the same period (not including contributions to UNRWA or EIB loans) amounted to 2.4 billion euros, which is more than 50 percent of overall international assistance. European Commission figures as presented at [www.delwbg.cec.eu.int/en/partnership/02/aid.htm](http://www.delwbg.cec.eu.int/en/partnership/02/aid.htm)

<sup>9</sup> European Union assistance to UNRWA (United Nations Relief and Works Agency for Palestine Refugees) over the period 1994-2001 totaled 1.03 billion euros. For the period 2002-2005 the EU has committed itself to provide another 237 million euros. UNRWA provides education, health, and relief and social services to 3.9 million registered Palestinian refugees in Jordan, Lebanon, Syria, the West Bank and the Gaza Strip. European Commission figures from op.cit and from [http://europa.eu.int/comm/external\\_relations/gaza/news/ip03\\_340.htm](http://europa.eu.int/comm/external_relations/gaza/news/ip03_340.htm).

the same time switched away from actual development aid to emergency humanitarian assistance as socioeconomic conditions in the occupied territories have steadily worsened as a result of ongoing violence.<sup>10</sup> Direct budget aid by the EU to the Palestinian Authority to simply keep it functioning became critical when Israel began to freeze transfers of taxes it had collected on behalf of the PA.

However, despite the EU's considerable investment of diplomatic attention and economic resources the perception in the region, in the wider international community and within the EU itself persists that the EU is not playing a political role which would be in any way commensurate with this investment. The complaint that the EU is a payer but not a player in the Middle East is a constant refrain in internal EU discussions. The sense of frustration is palpable.

Whether one shares this frustration or not (Israel certainly does not and the United States is probably ambivalent), the fact remains that even the European Union does not view its policy toward the Israeli-Palestinian conflict as effective. The CFSP aim of speaking with a single voice and acting effectively in the EU's interests in the Middle East remains largely unrealized.

It is this gap between ambition and perceived performance that this paper seeks to explore and address. I will seek to provide answers (some of which are necessarily speculative) to a series of questions. How accurate is the perception of EU ineffectuality? How does one judge the effectiveness of policy in the case of an international actor that is not a classical nation state? Are there pressures for change in present EU policy? Specifically, what are the implications of the institutional changes proposed in the draft constitutional treaty now under negotiation for EU policy toward the Israeli-Palestinian conflict? What are the implications of the enlargement by ten new member states scheduled to take place on 1 May 2004? What about the impact of further enlargement, especially the possible entry of Turkey, a (partly) Middle Eastern state?

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<sup>10</sup> As reported in the *Financial Times*, 25 November 2003.

Finally, this is in essence a policy paper. The last section of the paper therefore seeks to draw conclusions from what in my view has worked and has not worked as EU policy, and to provide some suggestions for more effective policy in the future.

## 1. THE CHARGE OF INEFFECTUALITY: GUILTY AS CHARGED?

In general, a policy's effectiveness is judged by results. A policy aim is set, it is pursued, and at some point it is judged to have reached its aim in whole or in part or to have failed totally or in part. Of course, in real life it is often hard to make clear-cut determinations such as these. Failures are particularly hard to admit. There is also the natural tendency, if the aim seems to stay out of reach, to suspend or postpone judgment as long as possible in the hope that the aim can still be achieved with the expenditure of more time, attention and/or resources. If problems persist, circumstances beyond one's control and the interference of other factors – or actors – can always be blamed, not always unjustly.

As the Israeli-Palestinian conflict is not yet resolved, "results" can only be judged in terms of *efforts* toward resolution of the conflict. The effectiveness of third-party efforts in an unresolved conflict situation therefore tends to be measured by *participation* in those efforts. These efforts normally include a role in mediation, preferably a leading role. They also include a role in initiating or facilitating contact or negotiations between the parties to the conflict. The perception of effectiveness is enhanced when both parties regard the third party's role as desirable or at least legitimate, and is even stronger when the parties are in no doubt about the political, diplomatic, economic and military clout the third party wields in respect of the parties. The visibility given by the media to any third party's efforts are indirect measures of legitimacy and influence and therefore of effectiveness as well.

### **Effectiveness of EU Participation in the Middle East Peace Process**

Effectiveness of participation in the efforts to resolve the Israeli-Palestinian conflict can be looked at in various ways and from various angles. In terms of this paper, however, it is most pertinent to measure effectiveness against the objectives the European Union itself has set for its participation. These have been most clearly operationalized in the mandate of the EU Special Envoy to the Middle East Peace Process. The terms of the

mandate were approved by the European Council in October 1996.<sup>11</sup> The Special Envoy to the Middle East Peace Process is one of seven special envoys the EU has appointed to deal diplomatically in its name with various crises around the world. They all operate under the guidance and authority of the rotating presidency and report to the foreign ministers in council. For resources they rely on the Commission (budget) and member states (seconded personnel). The first Special Envoy to the Middle East Peace Process, Ambassador Miguel Moratinos from Spain served in this position for almost seven years. He was succeeded in July 2003 by Ambassador Marc Otte from Belgium.

The appointment of a Special Envoy to the Middle East Peace Process was prompted by events on the ground. The European Council justified its decision by noting that “the situation created by the deterioration in the Peace Process has underlined the need for the European Union to contribute actively to advancing the Peace Process, commensurate with its substantial political and economic engagement in the region”.<sup>12</sup> While the special envoy’s mandate has obviously been designed specifically with his role in mind, the tasks listed are broad and provide a yardstick to measure the overall effectiveness of EU participation.

The tasks given to the special envoy fall into five categories:

- Contacts with the parties and other relevant actors
- Advice and good offices to the parties
- Role in implementing agreements reached by the parties
- Developing and pursuing the EU’s own initiatives, and
- Monitoring parties’ compliance (or noncompliance) with international norms and their possible actions prejudging a final peace settlement.

In 2000, the mandate was expanded to include developing cooperation on security issues with the Palestinians as well as contributing to a better understanding of the EU’s role among opinion leaders in the region. These new tasks provided *ex post facto*

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<sup>11</sup> For the full text of the mandate see presidency conclusions, Dublin European Council, 5 October 1996.

<sup>12</sup> Ibid.

underpinning for two initiatives the special envoy had already undertaken, namely the EU-Palestinian Permanent Security Committee (1998) and the EU-Israel Forum (1999).

### **Contacts with the Parties and Other Relevant Actors**

Working contacts with all the parties to the peace process (including Syria and Lebanon), other countries in the region (including Iran), the United States and other interested countries (in particular Russia but often also Japan, Norway and Canada) as well as relevant international organizations (the United Nations and the Arab League in particular) are the bread and butter of any kind of a political role for the EU. Contacts can take the form of visits as well as local representation. There has never been a shortage of visits to the region by a whole host of actors acting on behalf of the EU or its member states. Most of the member states and the Commission are also represented locally.

As a rule, high-level contacts with the parties or others have not been a problem for the EU or its member states which are, by and large, seen by others as relevant interlocutors. The problem is rather the multiplicity of visitors and the consequent danger of mixed or missing messages. A particular source of confusion and mixed messages can be a member state's temptation to distinguish bilateral relations from the common policy agreed at EU level. EU policies are often criticized as representing the lowest common denominator between member states' policies. That is certainly true in the sense that any common policy is necessarily a compromise.

However, common policy-making also affords individual member states the luxury of anonymity. For smaller member states in particular there is often a temptation to agree to a particular policy at the EU level but to explain it away as EU policy, not really one's own, when that policy is criticized by one party or another in bilateral contacts. Expected criticism can also be deflected by simply not making any reference to common EU policy at all in one's own statements to the party in question.

The appointment of the special envoy has helped to regularize frequent contact with the parties and others. Ambassador Moratinos maintained his residence in nearby Cyprus and traveled frequently, almost weekly, in the region. In that sense, he certainly increased the visibility of the EU's political role in the region. He also developed a close working relationship with the special envoys of other interested outside players, particularly the United States, the United Nations and Russia.

However, the appointment of the special envoy has also added one more actor to the multiplicity of EU actors already noted. The special envoy's relationship with the Commission is somewhat ambiguous. According to the special envoy's mandate, "the tasks of the envoy will be without prejudice to the role of the Commission which will be fully associated in these tasks".<sup>13</sup> But to what extent should the two consult each other on policy initiatives, and how should the full association of the Commission in the special envoy's work be interpreted, and by whom? In practice, these ambiguities have not proven a serious source of disagreement.

Nor has the relationship between the rotating presidency and the special envoy always been an easy one, especially when the Presidency is in the hands of a small member state. The envoy represents continuity, while the presidency changes every six months. On the ground, the envoy of necessity deals with the ambassador of the EU member state holding the local presidency in each country. There have sometimes been attempts to subordinate the local presidency to the special envoy or to circumvent it, with predictable friction.

The creation in 1999 of the post of High Representative for the Common Foreign and Security Policy added yet another EU actor. It also diminished the role of the special envoy in contacts with the parties when the first occupant of the post, Javier Solana, decided to focus a large part of his activities on the Middle East. Solana participated in the Sharm-el-Sheikh summit in October 2000 which, at President Clinton's initiative, decided to set up a fact-finding commission to inquire into the causes of the *intifada* and

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<sup>13</sup> For the full text of the mandate, see presidency conclusions, Dublin European Council, 5 October 1996.

to suggest ways to end it. Solana was chosen to represent the EU on what later became known as the Mitchell committee after its chairman, Senator George Mitchell. The follow-up to the Mitchell committee's report in May 2001 gave birth (with the later addition of Russia) to cooperation among its four members who became known as the Quartet.

The Quartet quickly developed a two-tier structure, with political-level principals (foreign minister of the current presidency and Solana for the EU) as decision-makers and special envoys (Moratinos and then Otte for the EU) as working-level representatives. The parties, especially Israel, soon began to reserve their highest-level contacts for Solana. Given the overall strains in the EU-Israel relationship, the special envoy's access to top Israeli decision-makers has never been easy, let alone assured (unlike with the Palestinians). With the arrival on the scene of Ariel Sharon in early 2001, the special envoy's access to the prime minister and other ministers withered. Finally, the dispute about meeting or not meeting with Arafat (whom Moratinos and after him Otte have continued to meet, in line with agreed EU policy) further eroded contacts with the Israeli government. This is not only true of the special envoy but many political-level visitors from member states as well.

EU contacts with the United States on the Israeli-Palestinian conflict are nowadays largely channeled through the Quartet which has regularized contact and consultation between the US and the three others on this issue for the first time. It has also produced a common policy initiative (the roadmap) for the first time. The Quartet clearly is a more important policy vehicle to the EU than it is to the United States given the EU's ambition to play the kind of political role in the Middle East that the US already plays, Quartet or no Quartet. For the US, the Quartet offers, at a minimum, a useful means to pre-empt and discipline diplomatic freelancing by the other members, the EU in particular. Bilateral contacts from the highest level on down between the US and EU member states of course continue.

### **Advice and Good Offices to the Parties**

The European Union's declarations as a means of setting the agenda for itself and others are discussed in section 3 . However, these declarations also contain specific advice in terms of concrete proposals to the parties that, in broad terms, can all be subsumed under the title of "advice and good offices".

One consistent strand in EU advice to the parties over the years has been the belief in the desirability, even necessity, of third-party involvement. While conceding the pre-eminent role of the United States in peacemaking and thus supporting, as a rule, US peace initiatives, the EU also claims a role for itself. The EU justified this from the very beginning by "the traditional ties and common interests which link Europe to the Middle East [and which] oblige them to play a special role".<sup>14</sup>

In keeping with the conception of its legitimate role, the EU has time and again offered its services to the parties in their search for a solution. The Palestinians, as the weaker party, prefer third-party involvement as a matter of course. Israel, on the other hand, has consistently opposed what it calls internationalization of the conflict, and it has either opposed any third-party involvement or, if necessary, preferred the United States alone in that role. On occasion, Israel has also specifically opposed any EU role. The only real exception to general Israeli policy were the secret negotiations in Oslo (1993) in which Norway was used as an intermediary instead of the United States. However, even Oslo was quickly followed by the reassertion of US primacy as the mediator.

Since the European Union knows that, unlike the United States, it has no possibility of acting alone as peacemaker, its preferred means of third-party involvement over the years has been the idea of an international peace conference. Until the early 1990s, the EU consistently advocated a conference under United Nations auspices; such a conference was indeed held in Geneva following the October 1973 war but with no results. When the United States, following the 1991 Gulf war, launched its initiative for a regional

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<sup>14</sup> See Appendix.

Middle East peace conference, the EU insisted on participating in the conference (in addition to participation of several EU member states). In the end, it had to make do with an observer status. The conference in Madrid was co-chaired by the United States and the Soviet Union (soon to be Russia). Nonetheless, the EU did play a prominent role (certainly a more prominent one than Russia) in the subsequent efforts to implement the commitments agreed at the Madrid conference.

No international peace conference with a comprehensive mandate and participation has been held since Madrid. With the difficulties in implementing the Madrid commitments and those subsequently made in the context of the Oslo interim agreements, the EU has on occasion raised the possibility of convening a “Madrid II”. The idea of an international conference gained new currency in EU thinking with the outbreak of the *intifada* and the establishment of the Quartet. Israel has tended to oppose the convening of any international conferences (including Madrid) as part of its general opposition to the internationalization of the conflict. However, the Sharon government in 2002 did advocate a regional conference that would have brought to the table “regional states opposed to terrorism” and the United States. This was a rather transparent attempt to exclude not only Syria and the Palestinians (if represented by Arafat) but the EU as well. In the end, nothing came out of it.

The roadmap of the Quartet does provide for two international conferences. Moreover, both of them would be convened by the Quartet, albeit “in consultation with the parties”. The first would seek to support Palestinian economic recovery and launch a process leading to establishment of an independent Palestinian state with provisional borders. Convening the second would be contingent on success of the process launched by the first. The second international conference would thus endorse agreement reached on an independent Palestinian state with provisional borders and formally launch a process with the active, sustained and operational support of the Quartet, leading to a final, permanent status resolution in 2005, including on borders, Jerusalem, refugees, settlements. The second conference would also support progress toward a comprehensive Middle East

settlement between Israel and Lebanon and Israel and Syria, to be achieved as soon as possible.

If these two conferences are ever convened, the EU will have an undisputed political role in the peace process for the first time in the history of EU involvement in the Middle East. Whether that EU role would actually amount to anything more than being a formal co-convenor of both conferences is anybody's guess. The ambition to play a substantive role would surely be there, however.

Another recurrent proposal for third-party involvement that the EU has championed concerns international monitoring. Ideas for monitoring the implementation of any agreements the parties might conclude have ranged from observing ceasefires to an actual international presence on the ground. Proposed mandates have ranged from traditional peacekeeping to peace enforcement under Chapter VII of the UN Charter. After publication of the Mitchell committee report, the EU suggested a third-party mechanism to overcome any obstacles that might impede the implementation of the report's recommendations, and later repeated its call for an impartial surveillance mechanism.<sup>15</sup> Faced with Israeli opposition the United States decided to try to advance implementation on its own (the Tenet and Zinni missions) but with no appreciable results. Features of the Tenet plan were later incorporated into the Quartet roadmap.

International monitoring of its commitments – a type of internationalization – has been anathema to Israel. The lone exception is an unarmed police operation, the Temporary International Presence in Hebron (TIPH), whose mandate is restricted to witnessing incidents and reporting them to the parties and participating states, with no follow-up to their findings whatsoever.

Israel regards the existing United Nations military presence in the area at best marginally useful (UNDOF), unnecessary (UNTSO) or ineffectual to the point of occasional harm to

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<sup>15</sup> Conclusions of the General Affairs Council, 16 July 2001 and 8 October 2001.

Israeli interests (UNIFIL).<sup>16</sup> Any international military presence in the context of a peace agreement between Israel and the Palestinians will most likely be similar to the US-led Multilateral Force and Observers (MFO) peacekeeping operation, which monitors the implementation of the Israeli-Egyptian peace agreement in the Sinai. The MFO is the only peacekeeping operation in the region that Israel fully supports, mostly because it is founded on a US security commitment and the presence of US troops. Interestingly, it is the concept of the MFO that is taken as a model for international monitoring in the non-official Geneva accord proposal presented by Israeli and Palestinian political figures in October 2003.<sup>17</sup>

The establishment of the office of the Special Envoy to the Middle East Peace Process in 1996 has led to a sustained EU effort to observe at close quarters any negotiations between the parties that might be underway, to the extent that the parties, and the United States, have permitted such presence and observation. Ambassador Moratinos made it a policy to shuttle frequently between the relevant capitals to sound out views and carry any messages that one party might wish to send to the other party. This was more often the case with Syria and Israel, which lack any formal channels of communication, than with Israel and the Palestinians, who have been in direct and open contact with each other since 1993.

The special envoy invariably sought to be present to offer EU encouragement, support, and ideas at the various negotiations and other get-togethers that have littered the Middle Eastern landscape since 1996 (Hebron, Wye River, Sharm-el-Sheikh, Shepherdstown, Camp David, Taba, Aqaba to name a few).

Moratinos did have a role at the margins of the signing of the Hebron Protocol (January 1997) defining the modalities for Israel's partial withdrawal from that West Bank city. A

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<sup>16</sup> United Nations Disengagement Force (UNDOF), established in 1974, monitors the ceasefire between Israel and Syria in the Golan Heights. United Nations Truce Supervision Organization (UNTSO) was established to supervise the 1949 armistice agreements between Israel and Egypt, Jordan, Lebanon and Syria respectively until permanent peace agreements could be concluded. United Nations Interim Force in Lebanon (UNIFIL), established in 1978, monitors the Israeli-Lebanese border on the Lebanese side.

<sup>17</sup> For the text of the Geneva accord, see *Ha'aretz* (English edition), 27 October 2003.

letter of assurances from the EU evidently helped Arafat to sign the Protocol. Whether it was decisive for getting the agreement, as Moratinos claimed at the time, is debatable. Nevertheless, his sense of success did lead him to propose a series of EU initiatives soon afterwards (see below).

Specifically, at the conclusion of the Taba talks in January 2001, Moratinos assumed on behalf of the EU a role as a depositary of the progress made. While the Palestinians endorsed this, Israel did not recognize any such role for the EU and in fact decreed any progress reached at Taba null and void in the absence of final agreement.

With the start of the *intifada*, the special envoy's efforts at conflict resolution slid quickly to a role in conflict management, often in the form of efforts to calm the situation by relaying messages from one side to another. Moratinos's staff also played a role in arranging local ceasefires between the Israeli military and Palestinian armed factions. While the Israeli military has unofficially co-operated in these efforts, the Israeli government has not officially recognized the EU's role.

### **Role in Implementing Agreements**

The European Union already had elements of a common policy toward the Middle East in the 1970s, which were brought together and developed comprehensively for the first time in the Venice declaration of 1980 (discussed below). The EU did not, however, seek or play any role in the process that led to the peace treaty between Egypt and Israel or in its subsequent implementation. No third party except the United States played a role in the actual peace negotiations. The United States hosted the talks and mediated the result at Camp David in 1978. There was and is no EU participation in the peacekeeping operation set up to monitor the implementation of the peace treaty in the Sinai (MFO). In the absence of common foreign and security policy coordination within the EU, the question did not even arise at the time. However, individual EU Member States decided

to participate in the MFO and their participation was characterized as a positive contribution by the European Council.<sup>18</sup>

From the start, the European Union conceded that the bilateral track of the Madrid Conference would be mediated by the United States. Negotiations between Israel and the Palestinians were indeed held in Washington until 1993 when they were superseded by the agreement reached in Oslo in secret parallel negotiations under Norwegian mediation. Negotiations between Israel and Syria could not be started at Madrid because of Syrian objections. Efforts to reach a peace agreement between the two were made intermittently outside the Conference framework through US shuttle diplomacy and much later, briefly and unsuccessfully, as direct negotiations at Shepherdstown, West Virginia in January 2000.

Having no political role on the bilateral track the European Union sought instead to make “an active practical contribution to progress in the multilateral phase of the negotiations on regional cooperation”.<sup>19</sup> The multilateral track set up by the Madrid conference covered five functional issues of relevance to the whole Middle East (arms control and regional security, regional economic development, water, refugees and the environment). However, as there was no agreement on setting up a bilateral negotiating track between Israel and Syria, Syria (and Lebanon) boycotted all meetings of the multilateral track.

The European Union managed to secure the chairmanship (“gavel holder”) of one of the corresponding five working groups, the one on regional economic development, or REDWG. There was some encouraging movement toward greater realization of the potential benefits of cross-regional economic cooperation. Progress soon stalled, however, because of the lack of progress on the bilateral track between Israel and the Palestinians. Even the concrete achievements, such as the agreement to establish a regional bank, have remained on paper. REDWG and all the other working groups are moribund but technically still exist and could be revived if so desired.

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<sup>18</sup> Presidency conclusions, Brussels European Council, 30 March 1982.

<sup>19</sup> Presidency conclusions, Maastricht European Council, 9-10 December 1991.

As already noted, the secret parallel talks between Israel and the Palestinians in Oslo mediated by the Norwegian government led to the recognition by Israel of the PLO as the sole representative of the Palestinians and an interim agreement signed by the two sides in Washington in September 1993, followed by another interim agreement two years later. These agreements set up an autonomous Palestinian Authority in the bits and pieces of the occupied territories of the West Bank and Gaza that Israel was to vacate in three successive “redeployments” of its military forces. They also provided for a simultaneous negotiating process on all the disputed “final status” issues, which was to result in a comprehensive and permanent peace agreement by May 1999.

While the EU was not involved in any of the contacts or negotiations leading to the Oslo agreements, the setting up of the Palestinian Authority was a major turning point in EU involvement. The EU and its member states had been involved in economic and humanitarian assistance to the Palestinians since 1971 but mostly through the United Nations, UNRWA in particular. However, after the signing of the first interim agreement in 1993 the EU began very quickly a large-scale, multipurpose economic assistance program in support of the Middle East peace process focused on reconstruction and development of the areas under the Palestinian Authority. By 1994 the EU had already become the largest international donor, and it remains the economic mainstay of the Palestinian Authority to this day. The EU also concluded an association agreement with the PLO in 1997.

As the largest donor, the EU quickly asserted its wish for a leading role in coordinating all international aid to the occupied territories within the ad hoc liaison committee (AHLC) set up in 1993 for that purpose. Despite opposition from Israel and lack of support from the United States, it did manage to claim part of the chairmanship (originally Norway’s alone) of the AHLC.

The EU also played a major role in implementing one key feature of the Oslo agreements, the election in 1996 of the president of the Palestinian Authority as well as members of

the Palestinian Legislative Council (the Palestinian parliament). The EU helped to organize and fund the elections. It also monitored the elections to see that they were conducted in a free and fair manner, and helped coordinate the overall international effort in this regard. However, in terms of visibility the EU role was almost totally eclipsed by the US decision to name former President Jimmy Carter as its election monitor.

### **Developing and Pursuing the EU's Own Initiatives**

The European Union's own initiatives of direct relevance to the conflict have tended to concern its conceptualization and the principles of its resolution rather than operative details of the negotiating process between the parties. In contrast to the US, the hallmark of EU policy has been declarations rather than shuttle diplomacy.

So far there has been only one EU initiative which directly targeted the negotiating process itself. After the success he claimed at Hebron in early 1997 - when talks between Israel and the Palestinians to implement the Oslo agreements, particularly the provisions concerning further redeployments of the Israeli military from the occupied territories, were not making progress - the special envoy proposed a code of conduct, which was a set of mutual commitments the parties should abide by in their negotiations so as to facilitate progress. The proposed code was discussed on and off over a number of months, with the Palestinians indicating general agreement and Israel raising objections while not totally rejecting it. The latter's objections had more to do with denying a political role for the EU than the contents of the code itself. The idea was quietly dropped.

Before the code of conduct initiative, Moratinos had floated the idea of an Israeli-Palestinian security committee, which Israel had rejected, not wishing any kind of EU involvement on security issues. The following year, half of the idea resurfaced as the EU-Palestinian Permanent Security Committee, with the task of providing training and expertise for the Palestinian Authority. The special office of EU Security Adviser

(EUSAO) was later established to assist the committee in its task until the *intifada* forced its discontinuation in 2002.

Free-trade agreements known as association agreements have been concluded with both Israel (1995) and the PLO (1997). Ratification of the agreement with Israel was held up by a number of EU member states for political reasons (lack of progress in the peace process) until 2000. The agreement with the PLO has remained a dead letter because of Israeli objections. On the basis of an earlier Israel-PLO agreement (the Paris economic protocol), Israel considers that the two form a “customs envelope” which cannot be set aside by the EU-PLO agreement.

This disagreement prompted an EU initiative for an EU-Israeli dialogue on the Palestinian economy. The dialogue began in June 1997 and has continued intermittently to this day. It aims to assist the implementation of the economic protocols between Israel and the Palestinians concluded as part of the Oslo agreements. The showpiece of EU-funded implementation was the construction and opening of the Gaza airport – until Israel destroyed it during the *intifada*, claiming military necessity.

The EU has also had difficulties in applying the association agreement’s rules of origin. The EU does not consider products originating in Jewish settlements in the occupied territories to be covered by the agreement; hence it is obliged to deny them duty-free status. However, for political reasons, the EU postponed taking the decision to actually apply this legal obligation for years. With the *intifada* and a growing EU unhappiness with Israeli policies, the political reasons for not upsetting the peace process began to matter less and the need to enforce the EU’s own rules more.

From Israel’s point of view, determining the international borders is a final status issue that the parties, not the EU, will decide. It therefore considers the EU position one that prejudices the final status negotiations. After protracted and acrimonious negotiations failed to find a technical solution to the dispute, Israel essentially gave up contesting the EU position without giving up its own position of principle. Settlement products no

longer enter the EU duty-free. Economically, the issue is not significant for either side. Politically, however, it is of signal importance. The EU managed to successfully use a stick in its relations with Israel for the first time.

As this paper frequently indicates, the EU-Israel political relationship is difficult. While there is no need here to delve into the manifold reasons for these difficulties it is apposite to note that the special envoy believed that at least part of the problem had to do with misunderstandings concerning the EU and its role. As a consequence, and with support from member state ambassadors in Tel Aviv, Moratinos initiated in 1999 an “EU-Israel Forum” which would – as the EU foreign ministers noted in welcoming the proposal - bring together “personalities from the EU and Israel for a dynamic exchange of ideas and views on a broad range of common interests, values and policies.”<sup>20</sup> With funding from the Commission the Forum has organized meetings and conferences both in Israel and Europe. It is difficult to say whether anything in terms of Israeli perceptions of the EU has changed as a result, but the effort continues on a modest scale.

In terms of multilateral EU initiatives, most attention and resources have undoubtedly been expended on the Euro-Mediterranean Partnership (the so-called Barcelona process). The EU launched this partnership in late 1995, in parallel with the peace process started at Oslo and with the aim of supporting the Mediterranean countries in their efforts to progressively transform their region into “a zone of peace, stability, prosperity and co-operation”.<sup>21</sup> Patterned after the Conference on Security and Co-operation in Europe (CSCE, now OSCE), the Barcelona process has a mandate to cover a broad range of political, social and cultural issues (security issues are subsumed under political issues). Regular meetings take place on all issues. All Mediterranean countries, with the exception of Libya, participate. Unlike the CSCE or the multilateral track of the Middle East peace process, the United States and Canada are not participants. Their exclusion was not unintentional. The Barcelona process was purposely launched as a Middle East initiative within which the EU, and not the US, was to wield preponderant influence.

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<sup>20</sup> Conclusions of the General Affairs Council, 11 October 1999.

<sup>21</sup> Presidency conclusions, Essen European Council, 9-10 December 1994.

Despite the EU's best intentions and efforts to keep the Barcelona process separate from the Middle East peace process, however, the latter has tended to "contaminate" the former.<sup>22</sup> The Arab states are reluctant to move forward on Barcelona issues with Israel as long as the peace process is not moving forward. Israel, on the other hand, berates the Arab states for making this linkage, but does not consider that it really belongs in the same category as the less-developed Arab countries around it, and would much prefer a privileged bilateral relationship with the EU. Israel has from time to time contended that the EU has promised it as much and has referred to the presidency conclusions of the European Council at Essen in 1994 in this context.<sup>23</sup>

Indeed, the conclusions note that "[t]he European Council considers that Israel, on account of its high level of economic development, should enjoy a special status in its relations with the European Union on the basis of reciprocity and common interests". The EU has not followed up on this statement for political reasons but also because, economically speaking, Israel already enjoys a special status with the EU through its association agreement and even more so through being admitted, as the only non-member state, into the five-year EU framework programs on research and development.

### **Promoting Compliance with International Norms and Monitoring Unilateral Actions**

The twin tasks of promoting compliance with international norms and monitoring non-compliance are separated in the special envoy's mandate but in practice they overlap to a large degree. "International norms" in this context refer to the basic norms of democracy, including respect for human rights and the rule of law. Unilateral actions are actions by either side which might prejudice the outcome of the permanent status negotiations, the final peace agreement.

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<sup>22</sup> The European Commission frankly acknowledged as much in its Communication from the Commission: The Role of the European Union in the Peace Process and its Future Assistance to the Middle East, Brussels, 16 January 1998.

<sup>23</sup> Essen, op.cit.

The EU necessarily takes different approaches to the Palestinians and Israel with respect to promoting compliance with international norms. Israel is a state that has entered into a number of treaty obligations relevant to respect for human rights and the rule of law, even if in some cases it has different interpretations of those obligations than practically everyone else. The 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, which defines the rights and obligations of an occupying state, is a case in point. Israel is a party to the convention but contests its applicability to the West Bank and Gaza on the grounds that these are “disputed” territories between itself and their pre-1967 possessors, Jordan and Egypt respectively. However, neither Jordan nor Egypt any longer claim these territories as their own. Resolution 242 (1967), which Israel has accepted, also refers to the West Bank and Gaza as “territories occupied in the recent conflict”. Even more importantly, Israel considers itself a democracy along the lines of Western democracies, such as the member states of the European Union. Therefore, there are clear standards against which Israel’s observance of human rights and other commitments can be measured.

The case of the Palestinians is different. They are a people under occupation and the Palestinian Authority is not a state; hence the Palestinian Authority cannot accede to international treaties. The authority of the PA was severely limited in the best of times, and after more than three years of *intifada* it is even more limited. These limitations do not mean that the Palestinian Authority should not be held accountable for its compliance with international norms when it is clearly responsible. This is what the EU has also done through assistance programs designed to promote understanding of human rights law and practice as well as democratic norms and the rule of law in general. It has also consistently protested the use of the death penalty in the Palestinian areas, and has on occasion managed to prevent executions.

The European Union has few means to promote Israel’s compliance of international norms except to make its views known privately and publicly (through declarations and other statements) in the event of transgressions. The EU has, on a case by case basis, supported proposals to convene a conference of the parties to the Geneva conventions to

discuss Israeli practices and has also voted, likewise on a case by case basis, for resolutions critical of Israeli human rights practices at the United Nations.

The primary means the European Union employs to monitor both human rights compliance as well as unilateral actions prejudicial to a final settlement are the Human Rights Watch, the Jerusalem Watch and the Settlement Watch. These are semiannual reports compiled by representatives of local EU member state missions from public sources detailing developments on the ground in the three respective areas of concern. The Human Rights Watch is mostly concerned with Israeli and Palestinian actions in the occupied territories. The Jerusalem and Settlement Watches overlap in the sense that both are concerned with detailing Israeli settlement activity, the one in East Jerusalem and in its environs and the other in the rest of the West Bank, Gaza and the Golan Heights.

The watches, began in the mid nineties, have been controversial with Israel from the start. They were originally conceived as non-public reports that would be used to guide EU policy on these issues, but given their chronological and non-analytical nature, the value they have added to policy-making has been minimal. The watches have also been made available not only to the EU but the parties themselves. Israel has never officially accepted to receive them. The executive summaries of the watches have been published on the Council website since 1998; nonetheless the watches have received little attention in the media, whether in the region or in Europe, in comparison to the publications of non-governmental human rights organizations such as B'Tselem in Israel or Amnesty International. It would be difficult to argue that the investment in these watches in terms of time and resources is well spent.

Clearly, unilateral actions that can most prejudice the outcome of any permanent status negotiations relate to settlement activity. Settlements and their connecting (bypass) roads dislocate Palestinian life and diminish the land available to an eventual Palestinian state. The EU Settlement Watch and the Jerusalem Watch have documented settlement activity for a number of years now but have obviously not had any influence on Israel in this

regard. Interestingly, the only EU action so far that has had some influence was taken outside the context of the Israeli-Palestinian conflict altogether, as a matter of enforcing EU-Israel association agreement obligations. As noted above, application of the rules of origin has denied products exported from the settlements duty-free benefits in the EU market.

## 2. PARTICIPATION IN PEACEMAKING: LITTLE POWER, LESS GLORY

What conclusions then can be drawn from the record of EU participation in Middle East peacemaking outlined above? When judging the effectiveness of EU participation, one necessarily has to address the EU's actual role in mediation, the legitimacy of its efforts, its willingness to influence the political behavior of the parties by resorting to either inducements or sanctions, as well as the relative impact of the policy instruments it has at its disposal to influence the parties.

### **Mediation Blues**

The record is quite clear that the EU, whether represented by the Commission, the special envoy, the high representative or the rotating presidency, has at no time had a significant role in mediating between Israel and the Palestinians. The United States is and remains the pre-eminent mediator, acceptable to both sides. Israel, as a rule, does not consider the EU an acceptable mediator. Furthermore, it is only when the US, for one reason or another, chooses not to mediate actively that openings may be created for others. Given Israeli opposition, even then the "other" is likely to be a non-EU state (such as Norway). Furthermore, in the event of successful mediation by another actor the United States, because of its pre-eminent position, will likely take over the mediation sooner or later, often sooner (Oslo agreements).

As noted above, the EU's capacity to mediate is definitely hampered by the multiplicity of actors who speak in its name. It is difficult to carry out a sustained mediation effort in conditions of overlapping authority and changing personalities. It is virtually impossible to carry out such an effort in secret given that anyone mediating on behalf of the EU needs to receive his or her mandate from an institution or institutions representing all member states, and needs to report back regularly.

The EU's moral authority to mediate is also undermined by all too frequent, some would say chronic, incoherence of policy. In addition to those many specifically authorized to speak for the EU on foreign policy, the European Parliament often weighs in with its own views. The role of the parliament is widely misunderstood to be more than it actually is: on foreign policy, it is a barometer of public opinion, not a decision-maker. More significantly, member states may engage in initiatives of their own which are not necessarily coordinated or even in line with existing EU policy. Recent Italian actions to ostracize Arafat to please Israel are a case in point. The incoherence and damage to EU credibility were compounded by the fact that Italy held the rotating presidency at the time.

While the EU has not pursued go-it-alone mediation, participation in the Quartet has for the first time provided it with a potentially significant role in mediation. This is an achievement that should not be underrated, even if the Quartet is more of an ad hoc than permanent body, and it has not been successful in having its joint proposal, the road map, implemented.

### **Challenged Legitimacy**

In Israel's eyes, the EU has a continuing problem of legitimacy as a participant in the Middle East peace process. Israel has made it clear time and again that, in its view, the EU's approach to resolving the conflict favors the Palestinians. It has therefore consistently sought to exclude EU participation in the negotiation or implementation of any political agreements between Israel and the Palestinians, including the roadmap. The EU denies that its policy is not balanced. The problem is that both are right, given their different premises. For the EU, balance is premised on the notion that there are general rules of behavior under international law to which both parties must be held accountable. If one party transgresses more than the other, observing that fact does not constitute imbalance in judgment: balance has been tilted by the transgressing party, not the observer. For Israel, balance means that Israel should never be criticized more than the Palestinians, whatever its actions. Balance for Israel also means that the EU should be

more like the United States in its judgment, and preferably follow, not precede the US in its judgment.

There is a standing call from Israel for better relations with the EU (a call that is often echoed by the United States). Good relations between the two would obviously be desirable; however, as long as Israel's premise is not to change its own policy but to seek to change EU policy to make it more tolerant of Israeli transgressions (invariably described as "self-defense" by Israel), the price is too high. The Israeli demand directly challenges "the unswerving commitment of the Union as a civil power to resolving conflicts by means of diplomacy, peaceful solutions and multilateral institutions".<sup>24</sup>

While this quotation from a recent European Parliament resolution is taken somewhat out of context in that it refers to joint Quartet efforts to implement the roadmap as testifying to that commitment, not to Israeli policies as such, it is nonetheless an apt illustration of how the EU sees its role in the context of the Middle East conflict.

For the European Union as a global actor, the issue of its legitimacy must be looked at in a broader context than Israel. There are no reasonable grounds for the EU to look upon Israel and its actions as being, for whatever reason, *sui generis*, to be judged differently from anybody else's. To do so would undermine the moral authority of the EU's views and subject it to charges of practicing a double standard (much as the United States is subject to that charge on account of its policy toward Israel).

Furthermore, even if, hypothetically speaking, the EU were to disregard those moral costs and begin to heed Israeli pleas, the resulting "balance" in the EU's approach would not change the fact that the only mediator for Israel that counts remains the United States. Despite the Palestinians and other Arabs' regularly issued formulaic appeals to the EU to play a larger role in the peace process, the United States counts more to them as well. They know that it is the US and not the EU that has the ability to influence Israel, if it so wishes.

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<sup>24</sup> European Parliament resolution "Peace and dignity in the Middle East", 23 October 2002

### **Many Carrots but Few Sticks**

Another conclusion concerns clout, the willingness to influence the political behavior of the parties in the desired direction. In this, the record of the European Union is rather mixed. There is no doubt that, as the largest donor, the EU has influence with the Palestinian Authority, and has managed to influence Palestinian behavior as far as economic management and reform are concerned. It is far more difficult to gauge the extent of political influence, although the special envoy could undoubtedly claim numerous instances of where the EU has made a difference. These have tended to be cases of crisis management at the local level, and the successes (e.g. arranging a local ceasefire) have tended to be shortlived. With Israel, it is hard to pinpoint any definitive achievement beyond the local instances of crisis management – which Israel has carefully left officially unacknowledged. This is not surprising, given the tenor of the overall relationship.

The basic problem with EU clout is the imbalance between carrots and sticks. The EU early on agreed to very substantial economic assistance to the Palestinians, but it took a long time for the EU to impose effective conditionality on the disbursement of that assistance, and then the conditions relate to more transparent and accountable economic management: no political conditionality has been imposed, nor have actual sanctions been used.

In Israel's case, the fact that the EU is the biggest source of imports for Israel and the second biggest export market (after the US) has not been seriously brought up as a potential means of political leverage, despite intermittent Israeli fears. Indeed, Israel has retained its status as the only non-EU country to be a full member of the EU's framework program for research and development. The only instance so far concerns the issue of EU imports from Israeli settlements in the occupied territories; even then it was a matter of the EU Commission enforcing a legal obligation, not a political decision by EU foreign ministers to deliberately use economic clout for political purposes.

### **Too Much Focus on the Middle East**

All of the above points to a final, rather paradoxical conclusion: the European Union has been more successful with respect to Israel and the Palestinians with policy initiatives that are part and parcel of its overall external relations approach rather than specifically designed with the Middle East in mind.

A political role in the Middle East peace process continues to elude the EU. After years of attention and effort on part of the special envoy and the high representative, the EU is now represented in the Quartet. This is a significant step but is as yet of uncertain impact and duration. Economic assistance to the Palestinian Authority has brought the EU influence with the Palestinians, but the investment has been huge: Palestinians now receive more development aid per capita than much poorer countries. On both issues, the EU has been the *demandeur*. Of course, the Palestinians requested economic aid from the EU, but given its broader political motivation, the EU was just as eager to offer them aid.

With regard to association agreements with the EU, it is Israel and the Palestinians who are the *demandeurs*. They both want to benefit from free trade and other opportunities the EU can offer, and they have non economic links to Europe, whether through colonial experience, emigration, migration, culture or religious affinities. The EU sees them as neighbors who need to be integrated within a broader zone of stability and prosperity without necessarily becoming EU members. The motivation here is exactly same as in the Balkans and Eastern Europe, although becoming an EU member is more of an option in those regions. The vision for non-member neighbors is “Wider Europe”, snappily captured in the slogan, “everything but institutions”. Participation in all EU activities is possible short of actual membership. The chosen means are association agreements, which both Israel and the Palestinians (PLO) have already negotiated with the EU.

All of the association agreements are essentially free-trade agreements, but they also contain political obligations (respect for human rights, for example) and joint institutions for political dialogue (Association committee at officials’ level, Association council at

foreign ministers' level). Through these agreements the EU can potentially exercise much more influence for political ends than hitherto. The rules of origin dispute with Israel is clear evidence of that.

The Euro-Mediterranean Partnership, the Barcelona process, is a hybrid of the Middle East-centered approach and the integrationist approach exemplified by association agreements and the Wider Europe initiative. As a policy initiative the Barcelona process has the same motivation, but suffers from a certain artificiality as well as a lack of concreteness in the benefits to the partners. The artificiality stems from the fact the Barcelona partners do not really represent a region, a community, but a collection of countries in an amorphous region. Israel does not think that it belongs - for economic and cultural reasons. The Arab states do not think that Israel belongs - for political reasons. Furthermore, the benefits to the partners are not as tangible as in bilateral association agreements, and progress toward them is slow because of political "contamination". Nevertheless, the Barcelona process remains an important framework for exclusive EU influence in the long term, post-conflict perspective.

### 3. THE CHARGE OF INEFFECTUALITY: WRONGLY ACCUSED?

It is clear from the foregoing analysis that when effectiveness is defined as participation in the efforts to resolve the Israeli-Palestinian conflict, the European Union has not been particularly effective. The EU has problems with its capacity to mediate, with its legitimacy, and with its political will, best demonstrated by an unwillingness to use politically the considerable economic clout that it has.

What if the EU is accused of the wrong crime, however?

Effectiveness could also be defined differently. While direct participation in the diplomatic efforts to resolve the Israel-Palestinian conflict is undoubtedly a just measure of effectiveness, is it the only measure, and more importantly, is it the right measure for the European Union? Does it take sufficiently into account the nature, indeed the unique nature, of the EU as an international actor? Would it possible to argue that EU policy in the Middle East is in fact a relative success if judged *on its own terms*?

Effective mediation requires a centralized direction capable of pursuing a coherent policy in a sustained manner, often in secrecy, over time. These are attributes that nation states normally possess. Norway had them in the run-up to the Oslo agreement, and Switzerland has them now, as its role as facilitator of the Geneva accord attests. The European Union certainly does not possess them.

The self-image of the European Union contradicts my flat assertion. The general feeling within the multiplicity of EU actors is that the EU should definitely be able to play a more significant political role in the pursuit of Middle East peace than, say, Norway or Switzerland. The EU should not “just” be content with its considerable economic role. It should not “just” be a payer but a player. Hence the frustration, when it is not a player as traditionally defined.

If, however, one sets aside the traditional definition of direct participation as criterion of effectiveness and looks at how the European Union has conducted its foreign policy/external relations not only in the Middle East but in general, the picture is somewhat different. A case for the existence of an EU policy with real impact on the Israeli-Palestinian conflict can then indeed be made, but on different terms.

### **It's the Declarations, Stupid!**

Despite its Common Foreign and Security Policy, the European Union does not have a foreign policy in the traditional sense. Declarations by the EU, frequent as they are, are often denigrated as vague expressions of the least common denominator or vapid reminders of the continued, sorry existence of the EU's unfulfilled foreign policy ambitions. One Israeli colleague of mine was fond of paraphrasing Descartes in this connection. "I declare, therefore I exist."

Such an attitude betrays a lack of understanding of what EU declarations represent and a serious underestimation of their normative impact over time. Declarations are how the EU *makes* foreign policy. Declarations do not just give common expression to pre-existing policies, they are the means to create new policy as occasion demands.

In foreign policy the EU tends to react more than act (another charge of those who denigrate EU declarations). This is certainly true. However, the fact that new EU foreign policy is most often created and expressed in response to what others do does not render it ineffective *per se*. Much depends on the nature and consistency of the reaction. Given the institutional character of EU foreign policy making, there is in fact much more consistency (and indeed repetition) in EU declarations than in those of many democratic states where power changes hands regularly, often with a marked impact on foreign policy.

In order to assess the impact of European Union declarations, it is instructive to follow the development of EU policy on one pivotal issue over time as expressed in European

Council declarations from 1980 through 2003.<sup>25</sup> That issue is the role and nature of the Palestinians and their aspirations as the other main party to the Israeli-Palestinian conflict. What follows is the story of the gradual transformation of nameless refugees with no representatives to a Palestinian people with a recognized representative and right to national self-determination in their own state.

### **The Mother of All Declarations**

The European Council meeting in Venice on 12-13 June 1980 adopted the “Venice Declaration on the Middle East” (see Appendix ). It was the most explicit EU policy statement on the Middle East so far, and it set out the baseline on the issues that need to be considered in resolving the Israeli-Palestinian conflict. Its importance lies as much in defining those issues as in proposing solutions, and also in the reactions it engendered. Israel denounced it. The US was unhappy to say the least. The Palestinians praised it, partly because of the adverse Israeli reaction but mostly because it really was a significant opening in their direction. Israel had not really taken notice of EU declarations so far, preferring to pay attention to the policies of individual EU member states, particularly France and Britain. By 1980, Israel’s relations with France had already been difficult for quite some time (since the 1967 war). Israel saw the Venice declaration as largely a French creation (which it was), as it has tended to see EU Middle East policy in general to this day.

The principles of land for peace and the right to existence and security of all States in the region, including, Israel, had been incorporated in UN Security Council resolutions 242 (1967) and 338 (1973). However, those resolutions merely considered the Palestinians to be refugees and did not even refer to them explicitly as Palestinians. The land-for-peace principle was related to existing states alone; no provision was made for a non-state (Palestinians) in this connection, the assumption being that Israel would return (the)

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<sup>25</sup> I may have inadvertently overlooked a few of the dozens of European Council declarations issued since 1980. It proved quite difficult to access reliably all the declarations issued since 1980 due to their inexact titling and rather random distribution across various data bases. Missing a few declarations over a time span of more than twenty years does not, in my view, invalidate the overall conclusions drawn from them.

occupied territories to their previous possessor states (Egypt, Jordan and Syria) in exchange for peace and recognized borders. The Egyptian-Israeli peace treaty of 1979 recognized the existence of Palestinians but merely as inhabitants of the occupied territories for which autonomy could be considered in due course.

The Venice declaration announced that the time had come to promote the recognition and implementation of two principles universally accepted by the international community. One was well known and well accepted except by the Arab states, and indeed by Palestinians at the time: the right to existence and to security of all states in the region, including Israel. The other was more of a novelty: “justice for all peoples, which implies the recognition of the legitimate rights of the Palestinian people”. The declaration went on to emphasize the break with previous thinking:

A just solution must finally be found to the Palestinian problem, which is not simply one of refugees. The Palestinian people, which is conscious of existing as such, must be placed in a position, by an appropriate process defined within the framework of the comprehensive peace settlement, to exercise fully its right to self-determination.

In other words, the Palestinian problem was seen as distinct from the Arab-Israeli conflict, as an Israeli-Palestinian conflict of which the refugee issue was one aspect but not the only aspect. Logically, the other aspects revolved around the fact that the Palestinians were not only a people but they themselves knew that they were a people (and not just refugees). As a people they had the same right as any other people, the right to self-determination. The distinctiveness of the Israeli-Palestinian conflict was further accentuated by the indirect reference to a separate negotiating track (“an appropriate process”) within the framework of the overall peace settlement which was presumably still to be negotiated by Israel and the relevant Arab states.

The declaration added that the achievement of these objectives (one of which was the just solution to the Palestinian problem) required the involvement and support of all the parties concerned (including very much Israel), and that these principles (one of which was the right to existence and security of Israel) are binding on all the parties concerned

and thus on the Palestinian people – and in a further break with previous thinking – on the PLO, which would have to be associated with the negotiations. What “association” meant was left unexplained, though it clearly implied recognition of the PLO as a legitimate negotiating partner even if the actual negotiation for the Palestinians were to be conducted by someone else. This is in fact what happened at the Madrid conference in 1991 and in the subsequent Washington talks when the Palestinians were included in the Jordanian delegation and ostensibly had no connection with the PLO. In practice, the Palestinian negotiators in Washington received their instructions from the PLO in Tunis.

The Venice declaration was balanced in its demands on both sides but it did elevate the Palestinians (as represented by the PLO) to the same level as the State of Israel, which was totally unacceptable at the time to Israel and to the United States. Equally unacceptable was the indirect recognition of the PLO as a valid negotiating partner. It took the United States another eight years (till 1988) to gingerly initiate direct contacts with the PLO. Israel only recognized the PLO as the sole representative of the Palestinians thirteen years later (1993), as part of the first Oslo agreement. At the time of the Venice declaration, Israel was busy fighting the PLO as terrorists and setting up village councils in the occupied territories to represent the Arab population vis-a-vis the Israeli authorities. Only a few years earlier Prime Minister Golda Meir had declared that she, too, was a Palestinian. In other words, no such people existed except when all inhabitants of British-ruled Palestine, including Jews such as herself, were by definition Palestinians.

### **Subsequent Declarations**

The Venice declaration remained the reference point for the EU throughout the eighties. Indeed it is specifically referred to as defining EU policy on the Middle East conflict as late as 1989,<sup>26</sup> and in many ways it is still valid today. What it says about Israeli settlements in the occupied territories, for example, could unfortunately be inserted in any

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<sup>26</sup> Presidency conclusions, Madrid European Council, 27 June 1989.

EU declaration today. The settlements continue to be a serious obstacle to the peace process, and they are just as illegal under international law today as they were in 1980.

In later declarations throughout the eighties, the EU continued to reaffirm its position in favor of associating the PLO with the negotiations, but did not elaborate what it meant by that until 1989. In its Madrid declaration that year the European Council, in advocating an international peace conference under UN auspices, also considered that the PLO should participate in this process, not just be associated with it. The declaration also welcomed the efforts by the United States in its contacts with the parties directly concerned, notably its open dialogue with the PLO.<sup>27</sup>

Nor was the idea of what the full exercise of self-determination by the Palestinian people actually entailed developed further, though declarations from 1982 on began to assert that the Palestinian people should have the possibility of exercising their right to self-determination “with everything that it implies” (*avec tout ce que cela implique*).<sup>28</sup> This was the first indirect reference to the fact that one, and in fact the most salient implication of the right to self-determination is the right to have one’s own state. The PLO issued a unilateral declaration of independence in November 1988 *in absentia* in Algiers, and soon thereafter “Palestine” was admitted to the United Nations as a member state with certain qualifications. The EU did not and does not recognize a unilaterally declared Palestine (although a hundred or so non-aligned states did), and the PLO declaration had no impact on EU policy as such.

The Brussels declaration of June 1982 first made the argument (since repeated many times) that Israel will not obtain the security to which it is has the right by the use of force and *faits accomplis* (i.e. settlements) but that it will only find that security by satisfying the legitimate aspirations of the Palestinian people. By 1983 the demand that the Arab states, Israel and the Palestinians should mutually recognize their existence and

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<sup>27</sup> Ibid. Soon thereafter, the open US dialogue with the PLO came to an abrupt halt. The US blamed the PLO for certain acts of terrorism and did not resume the dialogue until after the Oslo agreement in 1993.

<sup>28</sup> Presidency conclusions, Brussels European Council, 29 June 1982

their respective rights began to appear in EU declarations.<sup>29</sup> By 1989, the EU demanded that the Arab states normalize their relations with Israel on one hand and that Israel recognize the right of the Palestinian people to self-determination on the other.<sup>30</sup>

With the Madrid conference in 1991, one objective of EU policy was realized: the Palestinians were recognized by all as a distinct negotiating party from other Arabs and from Arab states, although at Israeli insistence the Palestinian delegation to the conference had to be formally subsumed under the Jordanian delegation. The PLO was not formally recognized as a negotiating partner but was associated with the formal Palestinian negotiators in practice. It was not until the Oslo agreements from 1993 on that the PLO was recognized as the representative of the Palestinian people by Israel as well.

From 1993 until the Oslo process began seriously foundering in 1996, the EU concentrated on making practical contributions to the implementation of the various agreements by, inter alia, supporting the Palestinian Authority, monitoring elections, launching the Barcelona process and participating in the multilateral track negotiations of the peace process. By the summer of 1997 the EU was alarmed enough to issue a declaration entitled “European Union Call for Peace in the Middle East”.<sup>31</sup> Known as the Amsterdam Call, it took a number of steps beyond existing EU positions:

We call on the people of Israel to recognize the right of the Palestinians to exercise self-determination, without excluding the option of a State. The creation of a viable and peaceful sovereign Palestinian entity is the best guarantee of Israel’s security. At the same time we call upon the Palestinian people to reaffirm their commitment to the legitimate right of Israel to live within safe, recognized borders.

For the first time, the EU formally raised the possibility of a Palestinian state alongside Israel. While it was referred to only as one option and rather negatively at that (without

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<sup>29</sup> Presidency conclusions, Brussels European Council, 22 March 1983, and Dublin European Council, 4 December 1984.

<sup>30</sup> Presidency conclusions, Madrid European Council, 27 June 1989.

<sup>31</sup> “European Union Call for Peace in the Middle East”, Amsterdam European Council, 16-17 June 1997.

excluding), these qualifications were in fact contradicted in the next sentence which referred to a sovereign entity. Obviously, an autonomous entity can be less than a state; a sovereign entity being less than a state would be a contradiction in terms. It is indicative of the expected Israeli reaction that the EU addressed its call to the people of Israel instead of its government.

As the situation on the ground continued to deteriorate and the target date for completing permanent status negotiations set by the Oslo agreements (4 May 1999) crept closer, there were more and more frequent Palestinians threats to declare unilaterally an independent State of Palestine (once again) and Israeli counter threats of reoccupation of territories under Palestinian control. To avert such a development the EU took the final step toward unequivocally supporting the establishment of a Palestinian state. In its Berlin declaration of 25 March 1999,

The European Union reaffirms the continuing and unqualified Palestinian right to self-determination including the option of a state and looks forward to the early fulfillment of this right. It appeals to the parties to strive in good faith for a negotiated solution on the basis of the existing agreements, without prejudice to this right, which is not subject to any veto. The European Union is convinced that the creation of a democratic, viable and peaceful sovereign Palestinian State on the basis of existing agreements and through negotiations would be the best guarantee of Israel's security and Israel's acceptance as an equal partner in the region. The European Union declares its readiness to consider the recognition of a Palestinian State in due course in accordance with the basic principles referred to above.<sup>32</sup>

The Berlin declaration was fiercely criticized in Israel and the US kept its distance as well. President Clinton in fact did not go any further than his predecessor Jimmy Carter twenty years earlier by continuing to refer to a "homeland" for the Palestinians. But less than two years later, under the Bush administration, the United States took the initiative at the UN Security Council to formally endorse the concept of two states as the solution (resolution 1397). The Quartet roadmap, formally accepted by Israel (although with reservations), endorses the same concept and sets a target date for its accomplishment (by 2005).

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<sup>32</sup> Presidency conclusions, Berlin European Council, 25 March 1999.

The European Union has since moved on to define (unlike the road map) the contours of the two-state solution. At Seville in June 2002, the EU laid out its practical vision for what in its view a two-state solution should look like:

The objective is an end to the occupation and the early establishment of a democratic, viable, peaceful and sovereign State of Palestine, on the basis of the 1967 borders, if necessary with minor adjustments agreed by parties. The end result should be two States living side by side within secure and recognized borders enjoying normal relations with their neighbours. In this context, a fair solution should be found to the complex issue of Jerusalem, and a just, viable and agreed solution to the problem of the Palestinian refugees.<sup>33</sup>

These parameters for a two-state solution correspond in broad terms to what was negotiated at Taba in January 2001, and have now been negotiated in detail in the Geneva accord by non-governmental figures on both sides. Since the US position has not (yet) moved beyond the general formulation of support to a two-state solution, no specific parameters for a solution have been included in the roadmap. It is difficult to envisage any change in the US position in this regard without some shift in Israel's determined rejection of the approach pursued at Taba. In the meantime, events on the ground since Seville have continued to take a different direction. The EU soon began to express the concern that continued settlement building in the occupied territories "threaten[s] to render the two-state solution physically impossible to implement".<sup>34</sup>

### **The Impact: Convergence Within and Setting the Agenda Without**

While EU member states continue to diverge as far as policy toward the Israeli-Palestinian conflict, and especially toward Israel, is concerned, it is clear that the common declarations have brought about a gradual *convergence of member state perspectives and policies*. They have not only expressed already existing common policy: the repetitive process of negotiating declarations in a consensual atmosphere has helped to make policy on issues where common policy has not existed heretofore. The process has often begun by agreement on the least common denominator in order to

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<sup>33</sup> Presidency conclusions, Seville European Council, 21-22 June 2002.

<sup>34</sup> Presidency conclusions, Copenhagen European Council, 12-13 December 2002.

achieve a common declaration in the first place; later, it is built upon to express more detailed and ambitious views. The progression from recognition of the Palestinians' right to national self-determination (Venice) to noting all its implications (Brussels), affirmation of state as one option for national self-determination (Amsterdam), unequivocal support for a Palestinian state (Berlin), and finally commitment to certain parameters for such a state (Seville) is a telling example of evolution of EU policy through successive declarations.

EU declarations concerning the Israeli-Palestinian conflict have also been instrumental in *setting the agenda for the international community* as a whole. They have had *normative* influence. They have not replaced the relevant UN Security Council resolutions as the framework for an eventual solution, nor has that ever been their intention. EU declarations have reiterated time and again the principles already incorporated in the relevant UN resolutions, and thereby reinforce their continuing validity. Just as importantly, they have built on UN resolutions by giving concrete and often detailed expression to the values inherent in the phrasing of those resolutions, notably the notions of a just and lasting peace.

EU declarations have also gone beyond existing UN resolutions by first articulating the objectives for peace and the means of reaching them, notably the objective of a two-state solution and the necessity of establishing a viable, democratic and peaceful Palestine as the means to that solution. Resolution 1397, unlike resolutions 242 and 338, did not antecede EU declarations; it followed them, and not only chronologically.

It can be argued that more or less everything that the EU has propounded in its declarations on the Middle East has also been said, often much earlier, in UN General Assembly resolutions. That is indisputable but also largely irrelevant. The UNGA resolutions in question have most often been initiated by one party to the Israeli-Palestinian conflict, the Palestinians, or its supporters in the Arab and Muslim world or the non aligned movement, and adopted with a more or less automatic majority. Despite numerical strength they suffer from the perception of bias, and not without reason. While

Israel might say and does say the same of most EU declarations, EU declarations do enjoy more international legitimacy because the European Union is generally perceived to be a genuine third party and it has the collective moral, economic and political weight in the world which numerical majorities in the UN General Assembly simply lack.

On the other hand, it is clear that EU declarations have not had any direct impact on negotiations between Israel and the Palestinians. They have not caused the European Union to be invited to the table, nor have they as such become a blueprint for any peace plan. The contrast with President Bush's speech of 24 June 2002 and its direct link with the consequent Quartet roadmap a few months later is instructive. It is also clear that EU declarations have complicated relations with Israel and have probably made Israel more determined to prevent EU participation in the peace process, although even that may change if Israel were to define its interests differently in the future.

## 4. PRESSURES FOR CHANGE

How is the European Union going to define its policy toward the Israeli-Palestinian conflict in the future? It is going to be more of the same or something different? The answers to those questions largely depend on internal developments within the EU as well as external pressures, particularly the EU's relationship with the United States. The biggest internal developments of the next few years relate to the adoption and entry into force (by 2006 at the earliest) of a new constitutional treaty for the EU that subsumes all previous treaties and creates new foreign policy actors, as well as the entry of ten new member states on 1 May 2004.

### **The Implications of the Constitutional Treaty: No Big Deal?**

It is appropriate to begin with a truism. The European Union is not a state, but a set of international institutions in which member states have pooled some of their sovereignty. In "classical" foreign policy, member states have so far not shared their sovereignty as they have in some other policy areas, including large areas of external relations where the European Commission has supranational powers to act for member states. All member states retain the right and varying capacity to conduct their own foreign policies, though of course with the strong presumption that their individual policies do not contradict commonly agreed EU policy (CFSP). The diplomatic resources needed to implement the CFSP remain overwhelmingly at the discretion of member states. As Chris Patten, the present Commissioner for External Relations, has observed, "This [the CFSP] did not leave us with a single foreign policy. Nor should it – foreign policy is too close to the core of what it means to be a sovereign nation state".<sup>35</sup>

The European Union is also a work in progress. This is true of the common foreign and security policy as well. Part of the problem with the general effectiveness of EU foreign policy has been the division between the "classical" CFSP (a purely intergovernmental

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<sup>35</sup> Chris Patten, "Let's add political clout to economic might", *Financial Times*, 28 November 2003.

responsibility) and external policies, such as development cooperation (a Commission responsibility). This bifurcation of authority is evident with respect to EU policy toward the Israeli-Palestinian conflict as well.

Another problem is the rotating presidency of the European Council, although it must be noted in all fairness that smaller member states tend to dispute that rotation is a problem. Every six months, a new member state takes over as the supposed face and voice of the European Union at the highest level. A presidency may be very efficient in discharging business at hand (as smaller member states often are) but there is undoubtedly a problem with continuity and visibility. The collective presidency, especially that of a small member state, is often overshadowed by more permanent individual actors on the scene, such as the high representative, Commission president or leaders of major member states or, in the case of the Israeli-Palestinian conflict, even by the special envoy.

The draft constitutional treaty that is presently being negotiated between member states (including the ten states that will soon become members) seeks to address these two problems. If the draft is accepted, the European Council will be headed by a person instead of a country; instead of a rotating presidency, there will be a semi-permanent president appointed by member states for a term of two-and-a-half years (renewable once).

In foreign policy, the main idea is to merge the roles of the high representative for CFSP and the commissioner for external relations. This would be done by creating the post of a double-hatted EU foreign minister who would chair the meetings of the foreign ministers of member states (now chaired by the foreign minister of the member state in charge of the rotating presidency) and would also be a member of the Commission. However, the EU foreign minister would be foreign minister first and commissioner second. He or she would be answerable to – and get his or her instructions from – fellow foreign ministers, not fellow commissioners.

The draft constitutional treaty does not extend the Commission's powers for "external action" (as the draft calls it) from what they are today, and it explicitly maintains each member state's right of veto in matters of common foreign and security policy. There is a corollary proposal to double-hatting in the sense that the draft proposes establishment of an EU diplomatic service. The service would consist of officials from the Council secretariat, the Commission and the diplomatic services of member states, and would work for the foreign minister. The high representative for CFSP, in his strategy paper to the Thessaloniki European Council in June 2003, proposed a similar pooling of member state diplomatic resources with those available in EU institutions.<sup>36</sup>

While the final shape of the constitutional treaty is as yet unknown, on the basis of the draft it looks likely that the center of gravity of EU foreign policy making will remain with the governments of member states acting mostly by unanimity in the council of foreign ministers (GAERC) and the European Council. The European Commission's role will not grow; it may even erode. Commissioner Patten's observation of foreign policy being too close to the core of what it means to be a sovereign nation state looks likely to hold true for quite some time yet.

The creation of the posts of president of the European Council and foreign minister will contribute to a greater sense of continuity and higher visibility for EU foreign policy. However, it will not do away with the multiplicity of actors authorized to act for the EU on foreign policy matters. In fact, the split personality of the foreign minister as Commissioner may even bring new complications. On the other hand, the creation of a new diplomatic service drawn from the Commission, Council secretariat, and member states with the mission to serve the foreign minister should help to promote joined up policies.

The national or personal agendas of the persons chosen to fill the jobs of EU president and foreign minister, should they exist, may be an added policy complication, especially on highly charged issues such as the Israeli-Palestinian conflict. In that sense, much

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<sup>36</sup> Solana, *op.cit.*

depends on the persons selected to these two jobs. Nonetheless, it is difficult to imagine that the broad policy lines set out by the highest representatives of the member states in European Council declarations over the years, and shared by the European Parliament (which will gain more power under the constitutional treaty), could be significantly changed by any one person, however forceful, and certainly not in the short term.

The greater worry should perhaps be that growing intergovernmentalism within the European Union may also fuel the tendency, which is ever present, of member states or groups of member states acting on their own in the name of the EU. Any perceived ineffectuality or failures on the part of the president of the European Council or the EU foreign minister could give added impetus to such divisions. Intergovernmentalism may also encourage other states in the tendency to ignore the commonly agreed EU policy and seek to influence member states individually as if there were no common policy. This tendency has of course existed throughout the history of the EU. However, if US commitment to European unity is indeed weakening (see below), the consequences for the EU could be serious indeed.

### **Enlargement by Ten New Members: A Bigger Deal?**

As of 1 May 2004 the membership of the European Union will grow from the present fifteen states into twenty-five.<sup>37</sup> The new member states, most of them from Central and Eastern Europe, will bring different outlooks, historical experiences, and perhaps even different ambitions into the EU. The most salient difference between old and new member states is that only fifteen or so years ago eight out of the ten new member states were communist countries, and three of them (the Baltic states) were actually part of the Soviet Union. That totalitarian experience, lasting between fifty and forty years as the case may be, left a political and ideological legacy that is very different from that of the present member states, despite the shared sense of Europeanness. The expected entry of Bulgaria and Romania (in 2007 or shortly thereafter) will only reinforce the weight of

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<sup>37</sup> The new member states as of 1 May 2004 are Cyprus, the Czech Republic, Estonia, Hungary, Malta, Latvia, Lithuania, Poland, Slovakia and Slovenia.

that legacy within the EU, and that legacy has definite implications for EU policy in the Middle East, both direct and indirect.

The possible entry of Turkey into the European Union will be a different kind of challenge, bringing into the EU a predominantly Muslim country (even if a secular state) bordering the Middle East. If in December 2004 the EU decides to begin accession negotiations with Turkey and the negotiations begin shortly thereafter (summer 2005 or so), Turkey as an acceding country will have an influence on EU policy in the Middle East long before it actually becomes a member. Turkey has a de facto military alliance with Israel and historically has had difficult relations with Arabs, its former Ottoman subjects. For the EU, these facts may prove a liability or provide an opportunity. They certainly matter either way.

For the eight new ex-communist member states, the legacy of direct relevance to EU policy toward the Israeli-Palestinian conflict has to do with the residual bitterness of having been more or less forced to toe the pro-Arab Soviet line in their bilateral relations with Israel and the Arab states. All of them (the Baltic countries of course excepted) had diplomatic relations with Israel before 1967 but had to break them in the wake of the Soviet decision to break relations. All of them (including the Baltic countries) have experienced Jewish emigration from their countries to Israel and have communities of compatriots in Israel, and after 1967 it was difficult for them to maintain contact in either direction; in some cases (Hungary, Poland) these number in the hundreds of thousands.

At the same time, these countries were made to maintain artificially large presences in the Arab countries for Soviet purposes (barter trade, intelligence, arms sales, military and secret police training) and to adopt the Arab position on the Israeli-Palestinian conflict as part of their respective foreign policies. In return, the Arabs, including the Palestinians, were friendly to the communist regimes in Central and Eastern Europe and often diplomatically supported them on issues unrelated to the Middle East.

The indirect, and arguably more important, legacy is gratitude to the United States for standing against communism and finally helping deliver regime change in these countries, and the consequent willingness to follow its lead on any number of issues. As Radek Sikorski, a former Polish deputy minister for defense and for foreign affairs, has pointed out:

These are countries that have good historical reasons to feel comfortable with US leadership. Thanks to President Woodrow Wilson, Poland was resurrected and Czechoslovakia created after World War I. Ronald Reagan supported dissident movements behind the Iron Curtain while many West Europeans appeased the Soviet Union. The United States insisted on confirming the permanence of borders in Europe at the time of German unification, and it insisted that NATO embrace Central Europe when the EU was dragging its feet. Central Europeans' feelings of gratitude are enhanced by the fact that the current generation of their leaders, whether post-Communist or post-dissident, were brought up on Radio Free Europe broadcasts and Fulbright scholarships.<sup>38</sup>

The importance these countries place on a close relationship with the United States also leads them to consider Israel more in the context of that relationship than as party to the Israeli-Palestinian conflict. Having good relations with Israel is seen as a means to impress Israel's ally, the United States. While it is difficult to point to any concrete advantages that may accrue to these countries as a result, it is clear that recognition as friend of Israel in the United States – especially if that recognition is conferred by Israel itself – cannot hurt politically and may open doors which otherwise would remain shut.

Israel seems well aware of the opportunity to develop closer relations with the new EU member states that their belief in its usefulness in the United States presents. There is certainly a belief within the Israeli government that relations between Israel and the incoming member states are better than relations with today's member states.<sup>39</sup> My own conversations with Israeli colleagues confirm this impression.

The Israeli-Palestinian conflict was not at issue in the recent disagreement between some EU member states, France and Germany in particular, and the so-called Vilnius Ten

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<sup>38</sup> Radek Sikorski, "Losing The New Europe", *Washington Post*, 7 November 2003.

<sup>39</sup> Rafi Schutz, Our best friends, *Ha'aretz* (Hebrew edition), 17 December 2002.

(incoming eight ex-communist members, plus Bulgaria and Romania). This ill-tempered spat about Iraq did, however, publicly confirm the willingness of the incoming eight to follow the lead of the United States even when that position put them squarely in opposition to major EU member states and, incidentally, on the same side as Israel.

Many of the Central and East European countries are now governed, or at least intellectually dominated, by people who were actively opposed to the previous regimes in their countries (post-dissidents, as Sikorski calls them). Curiously, the issue of human rights abuses in the Israeli-Palestinian conflict, which is such a prominent part of the criticism directed against Israel by present EU member states, does not seem to resonate to the same degree in Central and Eastern Europe. It is as if human rights abuses are only abuses if perpetrated by communists.

Again, this point of absence seems to have been picked up by official Israel. Rafi Schutz, director of the Central European Division in the Israeli Foreign Ministry, notes that these countries, unlike present member states, have not adopted “a narrow interpretation of the human rights values, which only takes note of the stronger side in the conflict”.<sup>40</sup> Schutz also cites the absence of three other factors among the eight incoming member states (growing Muslim communities, colonial guilt, and economic interests in Arab countries) that he sees as explaining, at least partially, their sympathy toward Israel as opposed to the antipathy of present member states.

The eight new members bring with them to the EU a different legacy: post-communist feelings of gratitude toward the United States (and lingering resentment toward “appeasing” West Europeans), a search for a close relationship with the United States also through the Israeli connection, a general susceptibility to Israeli and American pressure, as well as an insensitivity to human rights concerns beyond one’s own environment. They have, as part of their accession agreements, agreed to all of the policies the EU has so far adopted (the so-called *acquis communautaire*). The *acquis* includes common foreign and security policy and therefore also all of what the EU has so

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<sup>40</sup> Ibid.

far agreed on in the Israeli-Palestinian conflict. In that sense, the newcomers cannot tilt or go back on what already is EU policy, if present member states were to disagree, which they certainly would.

The new member states can influence more what kind of new *acquis* the EU will be in a position to adopt in the future. As members of a Union with competence over a multiplicity of policy areas, they will, however, also have to consider the impact of whatever policy they advocate on the Israeli-Palestinian conflict on their other, quite unrelated and perhaps more important interests, knowing full well that they will need the support of other members to pursue those interests. A multiplicity of interests tends to breed caution. In the short term, the influence of the new, excommunist member states, if they choose to exercise it, is likely to be conservative, not innovative, guided by a balancing act between their old communist-era legacy and their new EU interests.

### **The American Connection: Strong but under Strain**

It is a credo of European Union policy on the Middle East that the EU recognizes American leadership and seeks to complement American efforts with its own. This is *Realpolitik*. The United States is clearly the pre-eminent outside power in the Middle East, and the EU cannot supplant it even if it wished to do so. But the credo also announces that the EU has its own ambitions which the EU regards as a priori complementary. Complementarity is not a matter of negotiation between the EU and the United States. It is a given, defined by the EU alone.

The United States has traditionally taken a rather narrow view of what it regards as complementary EU efforts, which have been more tolerated than appreciated. While support for US ideas has been welcome, even sought after, willingness to consult or consider the EU's ideas has been much more limited. The Clinton administration saw any political role for the EU in the Middle East as strictly secondary, and not really necessary, unlike the economic role which was appreciated and relied on. The Clinton administration's "peace processors", led by Dennis Ross, consistently made it clear to the EU and the parties that any mediation in the conflict was a US responsibility.

Israel enthusiastically shared that view. The Palestinians (and the Arab states) paid lip service to the EU's role but could not really insist. The Ross team never recognized that the EU's special envoy had or should have had a role in mediation, and certainly not anything comparable to theirs. From their perspective, the special envoy was useful for information gathering and sharing but not for consultation, let alone joint negotiation. US pre-eminence as the "honest broker" was jealously guarded. The EU's role was to be a payer, not a player.

Interestingly, the Bush administration's attitude toward the EU's role and its ideas has been much more relaxed. It seems not to care so passionately about the Israeli-Palestinian conflict as such, or about preserving the exclusive US role in the peace process, and therefore about excluding the EU.

It was during the Bush administration that the concept of the Quartet was born. As noted previously, the Quartet was established following the release of the Mitchell committee report in the spring of 2001, and it quickly evolved into a standing consultation mechanism, drafting common positions and engaging in collective crisis management. After President Bush's speech of 24 June 2002 (a unilateral US initiative), the Quartet was put to work to turn it into a workable peace plan. Hence the roadmap.

The Quartet and its roadmap have been signal successes for the EU. This is the first time during the EU's involvement in the peace process that it has a role to play in mediation efforts that is recognized by the United States. In that sense, the EU is no longer simply a payer. It is difficult to imagine that the Clinton administration would have acceded to what the Bush administration has. It may well be that the Bush administration does not consider the Quarter a particularly important or groundbreaking initiative.

Indeed, the way the Quartet was more or less sidelined from further action by the US after the publication of the roadmap seems to confirm that. From the EU point view, however, the Quartet is a foot in the door, and from now on, the door can swing in only

one direction, as far as the EU is concerned. Whether the Bush administration would share that view, if it ever decides to move from its conflict-management mode to active mediation, is open to question. Indeed the dramatic post-9/11 shift in US policy (discussed below) may yet lead it to a more negative view of the EU in general.

The Bush administration also took a step the Clinton administration never managed or dared to take regarding the final outcome of a negotiated settlement to the conflict. This again had more to do with the aftermath of 9/11 than any appreciation of the EU's avant-garde role, but it is nonetheless significant. The US did not have to innovate on its own. Bush became the first American president to officially endorse the two-state solution, a position the EU had taken a number of years earlier and had urged unsuccessfully on the Clinton administration. Not only did President Bush endorse the concept but, at US initiative, two states as the preferred outcome to the conflict was also confirmed in a UN Security Council resolution. Resolution 1397 (2001) has now joined the land-for-peace resolutions (242 and 338) as the universally recognized benchmarks for solving the conflict. The two-state solution as the goal was reaffirmed in the roadmap and an indicative timeline (by 2005) was added. At Russia's initiative – in which the United States joined – the roadmap was also endorsed in a UN Security Council resolution (1515) in 2003.

On the level of process and ideas (or at least the single key idea), the United States under Bush has thus moved closer to the European Union, although the US has not acknowledged that fact publicly and probably would not even wish to acknowledge that fact privately. However, there are countervailing pressures that are driving the EU and US apart on the practical resolution of the Israeli-Palestinian conflict, even if there is greater agreement between the two on EU participation and general principles.

The watershed was the terrorist attacks of 11 September 2001. The subsequent “war on terrorism” the United States is now waging has brought it much closer to Israel than either is to the European Union, and the US has more and more come to side with Israel against the Palestinians. Terms Israel detests like “honest broker” and “even-handedness”

are now purposely avoided. Unlike the EU, the Bush administration has basically accepted the Israeli contention that the proximate cause of Israel's continuing conflict with the Palestinians is terrorism against Israel; that terrorism and the Palestinian leaders who either practice it or condone it must be removed from the scene as a precondition for progress toward peace; and that only if terrorism recedes and the present leaders, particularly Arafat, are replaced, can reciprocal steps by Israel be expected.

This approach, long advocated by Israel, was at the heart of President Bush's speech of 24 June 2002. At the urging of the other members of the Quartet, the roadmap modified this *reductio ad terrorem* approach somewhat by outlining steps which both sides should take in parallel.<sup>41</sup> However, to the extent that it does so, Israel objects. The US has let these objections stand, with the resulting stalemate. Implementation of the roadmap has not even begun.

The EU Seville declaration laid out an approach that varied significantly from the US one in its formulation of specific parameters for a solution.<sup>42</sup> The fact that the Bush speech, given just two days after the Seville declaration, made no reference to the EU's ideas while adopting Israeli ones is also significant. When the time came to announce a major shift in US policy, the EU simply did not count. The differences have since been papered over, at least for the time being, by the roadmap which simply omits any parameters for a two-state solution.

While these differences between the US and the EU are serious, they are basically driven by Israel and would be instantly narrowed were Israel to change its policy. More damaging in the long run to the idea of complementarity between EU and US efforts would be any widening of the values gap which the US war on terrorism and particularly

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<sup>41</sup> I owe this appellation to Alain Dieckhoff who used it to characterize President Bush's State of the Union speech of January 2002. In my view, the characterization fits Bush's Middle East speech of 24 June 2002 just as well. Alain Dieckhoff, *The Israeli-Palestinian new war of attrition: a European perspective*. A paper prepared for the IISS/CEPS European Security Forum, Brussels, 11 March 2002.

<sup>42</sup> Zbigniew Brzezinski notes the importance of the Seville declaration in this regard and later goes so far as to worry that "Indeed it is in the Middle East that European foreign policy, for the first time since the Suez debacle of 1956, could explicitly define itself *against* America". Brzezinski, *op.cit.*

the Iraq war have exposed. This gap pertains to attitudes as to the legitimate use of force under international law and respect for human rights in the context of fighting terrorism in particular. In its war on terrorism the US has tacitly accepted and even made use of some Israeli practices of dubious international legality (e.g. extra-judicial killings of terrorist suspects, designation and incarceration without trial of suspected terrorists as unlawful combatants) which the EU has consistently condemned.

In addition to the emerging values gap, the US war on terrorism and the Iraq war have also exposed a potential shift in US thinking about the desirability of a European Union, let alone a stronger European Union, as an international actor.<sup>43</sup> Emphasizing ad hoc coalitions of the willing rather than organizations as the preferred partners of international cooperation and divisive rhetoric about “new” versus “old” Europe may well be transitory phenomena. However, for the first time in living memory there is concern in Europe that traditional US support for European unity and the EU as its primary expression is under challenge in the US.<sup>44</sup> Interestingly, this concern is shared by knowledgeable figures in the “new” Europe as well.<sup>45</sup>

While Europeans note that official US policy in favor of European unity has not changed, they also note that there are influential voices close to the Bush administration which say that US interests would be better served by disunity in Europe and that the US should consequently only deal with individual member states and ignore the EU. Not surprisingly, given the strong neoconservative support for Israel, this view comes close to the kind of *divide et impera* policy which Israel has consistently sought to pursue in its

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<sup>43</sup> Financial Times Associate Editor Gerard Baker sifts the evidence of changing US views of European integration under the Bush administration and concludes – not very reassuringly - that “so far, the United States does not seem to have concluded that European integration is inherently threatening to its interests”. He calls the present US approach to it “passive disengagement”. Gerard Baker, “Does the United States Have a European Policy?”, *The National Interest*, Nr 74, Winter 2003-2004.

<sup>44</sup> For example, former French Prime Minister Lionel Jospin gave expression to this very worry in a lecture at Harvard University, 4 December 2003. Theo Sommer, Editor-at-Large of the influential German daily *Die Zeit*, speaking at the Boston Committee on Foreign Relations, 3 February 2004, went even further, characterizing Bush administration policy toward European integration as “hostile”.

<sup>45</sup> Former Polish Foreign Minister Bronislaw Geremek in a discussion at Harvard University, 3 December 2003.

political relations with the EU and its member states, with occasional but normally short-lived successes (Berlusconi's Italy being the latest Israeli favorite).

## 5. PLANNING FOR THE FUTURE

What then does the European Union need to do to improve its spotty performance in the Middle East? How does the EU become a real player and not just remain a payer to whom the players present the bill afterward? While there is no one answer to these questions, there are lessons that can be learned and suggestions inferred that can provide guideposts for a more effective policy.

First of all, the EU must play to its strengths, not its weaknesses.

The mixed success of the European Union's participation in resolving the Israeli-Palestinian conflict points up a number of lessons for the future. The EU remains the largest payer, but it has made only limited progress toward becoming a political player comparable to the United States. The gap between ambition and performance remains wide. The basic reason is the vast imbalance of political and military power between the two in general and in respect to the parties to the conflict in particular. That is not likely to change anytime soon.

A second, equally structural reason is the character of the EU itself. Not being a nationstate, the EU lacks central direction of policy because of its multiplicity of actors. The sustainability of declared policy initiatives suffers for the same reason. Nor are these features of EU policy likely to fundamentally change any time soon. The new constitutional treaty may in time bring more coherence and continuity to the central direction of policy, but the president of the European Council and the foreign minister will have to share the stage with other actors.

On the other hand, the European Union's agenda-setting activities, as expressed primarily through European Council declarations, have been relatively successful. These declarations reflect what the EU considers itself to be, independently of the Israeli-Palestinian conflict. Proceeding from that basis, the EU has helped to determine and

specify the international community's values, concerns, and objectives in relation to that conflict.

Similarly, initiatives that apply the European Union's mandate in general but are not geared to deal with the Israeli-Palestinian conflict in particular seem to have a better chance of success. The EU as a huge market and a partner in scientific and technical cooperation and in many other policy areas is attractive to Israel. For the same reasons, but even more importantly as the primary source of economic assistance, the EU is also attractive to the Palestinians. The EU does have carrots with which to influence the parties. It also has sticks. At a minimum, carrots can be withdrawn.

What then are the requirements of a more effective EU policy than heretofore?

There are four that appear necessary to me.

1. *Stay the overall course.* EU policy toward the Israeli-Palestinian conflict must continue to apply the same values and principles it upholds in its common foreign and security policy in general. Normative diplomacy, agenda-setting is an EU strength. The Israeli-Palestinian conflict is not *sui generis*, and should not be viewed as such. EU policy must not be swayed by Israeli (or American) pressure to be "more balanced" or by subtle appeals to cultural relativism by the Palestinians. Continued friction with Israel (and the US) is an acceptable price to pay for policy coherence of the EU as a global actor. Treating the Middle East as a special case subject to different rules or moral evaluations would harm the credibility of EU policy elsewhere and lay it open to charges of employing a double standard.
2. *Also use sticks.* EU policy toward the Israeli-Palestinian conflict has relied heavily on carrots: economic incentives to the parties to cooperate in resolving the conflict. But the same instruments (an Association agreement with Israel, assistance programs to the Palestinians) that provide incentives also provide

disincentives to unwanted behavior, if used. The denial of freetrade benefits to imports from settlements in the occupied territories has sent the first tangible signal to Israel that the EU is serious about settlements being illegal under international law and a serious obstacle to peace. More steps, such as banning imports from the settlements altogether, should be considered. Likewise, stricter conditionality on assistance to the Palestinian Authority has made some difference in transparency and accountability, and should be continued.

3. *De-emphasize the importance of participation in the peace process.* The EU should play its full role within the Quartet and any other multilateral efforts of that kind, but without illusions. Israeli opposition (along with traditional American reluctance) is the key obstacle to any significant political role for the EU in the peace process, and that is not likely to change. Israel has very good reasons to reserve the role of mediator for the United States, its ally, regardless of who is in power in Israel. The Palestinians know that only the United States has real influence over Israel. For the same reasons, any amount of “balance” in EU policy would not bring the EU a real role in peacemaking, while such an opportunistic shift would assuredly compromise EU credibility. Staying the present course does not exclude an important EU role in implementing whatever peace agreement is finally achieved, just as it did not exclude the EU’s role with respect to implementing the Oslo and subsequent agreements. After all, the EU is the biggest payer.
4. *Also focus on the day after.* Lowering diplomatic ambitions for peacemaking in the short term leaves intellectual room to prepare for the post-peace situation. Once there is a final peace agreement, the EU’s role will inevitably be much more important than it is today, and the EU should prepare to make the most of its future influence. For Israel and the Palestinians, the EU is big (in terms of economic and other resources), it is close (especially with Cyprus and Turkey as members), and it has uniquely broad powers of attraction. The EU has Middle East interests and ambitions across the board, while the United States has

narrower interests: assuring Israel's security and maintaining reliable access to the region's oil and gas resources and, since 9/11, fighting terrorism. Bilateral association agreements, the Euro-Mediterranean Partnership (Barcelona process) and the Wider Europe initiative already provide the EU with appropriate platforms for pursuing its long-term objectives.

There is no panacea to making the EU a player in the Middle East, but responding to these four requirements would bring the EU much closer to a more credible and realistic, and hence effective policy in the short as well as the long term. This in turn would constitute a foundation on which to build toward a role for the EU as the pre-eminent nonregional partner to the post-conflict Middle East.

## APPENDIX

For the full text of the Venice Declaration on the Middle East adopted by the European Council on 13 June 1980, click on the link below:

<http://domino.un.org/UNISPAL.NSF/0/fe015e8b1a1e5a685256d810059d922?OpenDocument>