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PREPARING FOR THE END GAME: UNITED NATIONS MEMBERSHIP FOR PALESTINE

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Even as the direct negotiations between the PLO and the Israeli government are about to resume, thought needs to be given to the

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possibility that talks will fail and that an agreement will not be reached within the announced 12-month timeframe. This paper considers the option of a Security Council recommendation and endorsement of a General Assembly (GA) decision to accept Palestine as a member state at that time. It is an option that has been alternatively raised, discarded, and raised again by Palestinians in the event bilateral negotiations do not succeed.

Such an approach presents important advantages not only to Palestinians but also to the international community as a whole. The United States and European states fully back the Fayyad government's efforts to build the attributes of a state and have endorsed the timeline set by the PA for the establishment of an independent state by the fall of 2011; United Nations membership is consistent with that goal. More broadly, such membership, as described here, could soon become the sole remaining viable strategy to achieve that objective and, more importantly, to

salvage the two-state solution in a way that addresses all sides' legitimate concerns.

Describing the approach

Over two decades ago, Palestinians declared a state on the 1967 borders. In 1988, the PNC -- the PLO's legislative branch -- voted to accept a two-state solution, eschewing its original goal of a secular democratic state in all of historic Palestine. Although that state was recognized by much of the Muslim, Arab world and by countries of the Global South, the recognition remained symbolic. The State of Palestine enjoyed none of the actual trappings of sovereignty and the PLO exercised no control over any part of Palestine at the time. As Saeb Erakat, a leading Palestinian negotiator, has noted, there is no reason to repeat that exercise.

Instead, the goal this time would be to obtain United Nations membership for that state along with a Security Council resolution in which it assumes responsibility for finalizing the terms of a two-state deal. Simultaneously, Palestinians would invite those nations which have yet to recognize Palestine as a state to do so, including the member states of the EU and the United States. In other words, Palestinians would gain functional recognition of their state in exchange for handing over to the UN Security Council the authority to determine the specific resolution of all final status issues.

The scenario could play out as follows. First, the PLO and Israel engage in direct negotiations with U.S. facilitation. If after a few months it became apparent that these talks could not produce an agreement because of the difference

between the positions of the two sides, the UN Security Council (at Palestinian and European urging) would take hold of the file. It would give itself until September 2011 to pass a resolution recommending to the GA that Palestine be granted UN membership and to come up with solutions to all permanent status issues, including the borders of Palestine. The PLO and Israel would be asked to submit to the Security Council their respective positions at their closest point in negotiations on all final status issues. The U.S. would also present to the UN Security Council the positions which it reached in its capacity as mediator. The Security Council could mandate one or several arbiters to present proposals that would bridge the gaps between the two sides.

At the moment of membership, the Palestinian government would begin to exercise sovereign responsibilities in areas under its control and would be allowed to enter into treaties with other states. As part of this effort, the PLO should request the Security Council to authorize the creation and deployment of a multi-national force to the Palestinian state upon its recognition to ensure the safety and security of both Israel and Palestine. The PLO would also pledge to maintain political neutrality in all disputes between Israel and any other state and to maintain only a police and coast guard if the multi-national force were deployed. Should disagreements remain between the states of Israel and Palestine that arbitration has been unsuccessful in resolving, those disagreements can then be submitted to the International Court of Justice.

Why Go Down This Road?

In the past, failure of negotiations has tended to be followed by frustration and mutual recrimination, leading to violence (post Camp David) or prolonged paralysis (post Annapolis). The intervention of the Security Council would minimize risks of confrontation while moving the process forward toward its resolution.

For Palestinians, the only acceptable outcome today is that of a comprehensive solution to the Israeli-Palestinian conflict that entails creation of an internationally-recognized state; other proposals periodically mooted (such as an interim solution or a state within provisional borders) would be viewed as illegitimate by the Palestinian body politic. UN membership coupled with a framework to resolve all outstanding issues thus meets a core Palestinian demand. Acceptance by the General Assembly of a state within the 1967 borders with minimal, specified land swaps, is also a means of addressing the issue of continued settlement construction. For it would make clear to Israel that settlement expansion is in direct contradiction of international law and international consensus and will not have an impact on the final resolution.

A decision by the General Assembly to admit Palestine and recognition by Member States would also begin to address the question of the West Bank/Gaza division and halt the drifting away of Gaza into a separate entity, an option that is dangerously gaining support in the absence of progress toward a two-state solution. As a further means of reversing the Palestinian divide, the PLO should pledge to conduct

internationally-supervised elections in a sovereign Palestinian state within several months of implementation of the Security Council's resolution and the international community should pledge to respect its results. This would provide all Palestinian parties a chance to contest elections in less abnormal conditions than occurred under occupation; would give an incentive to Hamas not to undermine the process; and would give Fatah the ability to run with a record of having helped to achieve Palestinian independence.

For Europeans, who have long been simultaneously proud and frustrated at being the largest providers of support for Palestinian institutions and society without enjoying commensurate political clout, this option offers the prospect of a genuine role. Pressuring Israel is problematic for most European politicians and is not believed to be helpful by a majority of European governments. By contrast, supporting the establishment of a Palestinian state through a UN process should fall within their comfort zone and would entrust them with an important role in providing the option with credibility and seeing it through. European states wishing to play a constructive part in peacemaking as a means of advancing their national interests would have an opportunity to do so without simply waiting in the back room with their checkbooks open. This approach also could prevent a scenario under which Europe supports the establishment of all the attributes of statehood yet must stop short of recognizing a state should it be unilaterally declared by the PLO. Indeed, some anxiety is already building in European political circles over the risk of repeating the political failure of 2006 when the

EU did everything to support the organization of democratic elections in Palestine only to turn its back on the outcome in the end.

The U.S. might balk at being divested of its heretofore virtual monopoly over the negotiations, yet this option would present the administration with a real prospect of resolving the conflict, a goal it has described as a vital national security interest. Nor, by virtue of its central role in the Security Council, would the U.S. lose its preeminence.

Of course, the U.S. and major European powers would need to be persuaded of the benefits of such an option not only to Palestinians, but to Israel as well. In this respect, giving the Security Council the authority to conclude the terms of an agreement would guarantee protection of core Israeli interests; the United States could not only exercise its veto against any document it deemed unsatisfactory but also inevitably would have a dominant role in putting together the agreement. For Israel, the incentive would be to achieve legitimacy and an end to the conflict sanctioned by the international community as a whole – anyone who rejected the outcome and refused to recognize Israel would thereafter be on the wrong side of the Security Council. In this sense, the option expands on the Arab Peace Initiative's promise of Arab world acceptance and recognition. By the same token, of course, Israeli rejection of the UN Security Council Resolution

would turn it into an international outcast, providing a measure of deterrence against an Israeli rejection and a further reason for it to agree.

Conclusion

Should the just-announced direct talks fail, the Security Council option provides all who are interested in concluding an agreement with a realistic, promising fallback other than renewed Israeli-Palestinian or Israeli-Arab confrontation. Ultimately, such an effort would require significant diplomatic maneuvering and initiative by a number of players, notably the PLO and Western countries seeking to achieve a two-state solution. The greater the level of coordination among parties, and the earlier it takes place, the greater the chances of success. Early mobilization around a role for the UN Security Council would help build momentum and the mere discussion of it might help the U.S. administration. Sounding the alarm bell about the urgency of a negotiated settlement has little impact without some form of leverage over the parties. The UN Security Council in the horizon provides precisely this kind of leverage.

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